

Analysis of Opportunities and Challenges in the Implementation of Sharia Regional Regulations in the Era of Regional Autonomy in Luwu Regency

Muhammad Akbar

Constitutional Law Study Program, Faculty of Sharia, Institut Agama Islam Negeri Palopo,
Palopo City, South Sulawesi Province, Indonesia

Email: akbar@iainpalopo.ac.id

Abstract

The purpose of this study was to find out the opportunities for forming sharia regional regulations and the challenges faced in forming sharia regional regulations in Luwu Regency. Qualitative descriptive research, because it intends to find out the opportunities and challenges of implementing Sharia regulations in Luwu Regency. So that the Sharia regional regulations are seen as a solution to the problems of local government in general and Luwu Regency in particular. Data collection was carried out by observing, interviewing related parties, and collecting data from documentation deemed appropriate to the theme of this research. The results of the study show that: 1. Sharia Regional Regulations are statutory regulations established by the Regional People's Legislative Council with the joint approval of the Regional Head (Governor or Regent).

Keywords: Opportunities, Challenges, Sharia Regulation



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INTRODUCTION

Islamic law has a universal face in its understanding as Islamic law which originates from the Qur'an and the hadith of the Prophet Muhammad shallahu'alaihiwasallam. As provisions originating from the Qur'an and Hadith, Islamic law transcends space and time. It will show the same and similar face in any part of the world and at any time.

Meanwhile, the particularity of Islamic law immediately emerges when it is examined in various aspects and special characteristics in every Muslim country, for example, the application of Islamic law in Indonesia which has a distinctive system, substance, and format. The universality and particularity of Islamic law are also motivated by two dimensions of Islamic law itself, namely the divinity dimension and the human dimension. The divine dimension is an illustration that Islamic law is a direct provision from the revelation of Allah SWT so that its sacredness and holiness are maintained. The divine dimension of Islamic law makes it unrestricted by geographical, historical, sociological, or political barriers (Izad, 2020). Meanwhile, the human dimension is an illustration that the details of Islamic law are the result of the efforts of the Muslim community to understand Islamic teachings through a deep understanding of linguistic aspects and the purpose of enforcing Shari'a. The insaniyyah dimension of Islamic law is related to the Ijtihad of the scholars who have attempted to interpret and implement the vision of Islamic law and the context of the life of the Muslim community which are different and continue to develop. Therefore, from a human standpoint, Islamic law as a product of the ijthihad of these scholars does not rule out the possibility of continuing to be reviewed, revised, and perfected (Hefni, 2022). The divine and insaniyyah dimensions of Islamic law cannot be separated from the course of the history of Islamic law legislation in Indonesia.

As Sharia originated from revelation, Islamic law has been practiced by Muslims in Indonesia for centuries. However, as formal legislation, Islamic law cannot be separated from

the ups and downs of development as a result of the socio-political changes that have taken place in Indonesia (Ma'rifah, 2019). This condition is driven by the fact that the process of legislating a legal norm in a country will involve conflicting interests of various parties and socio-cultural issues so the discourse on Islamic law legislation is always an interesting and complex issue. There are three main considerations regarding the urgency of Islamic law legislation in Indonesia. First, Muslims in Indonesia are not only the majority population in Indonesia but also in the world. Therefore, the application of Islamic law in Indonesia not only rewards the majority population but is also able to become a barometer of Islamic law enforcement for other Muslim countries. Second, Pancasila, as the basis of the state, has provided an open space for implementing Islamic law for its adherents. This national legal development agenda opens up great opportunities for the absorption of Islamic legal norms as well as an effort to transform Islamic law into state legislation products. The agenda for the development of national law itself, in this case, is the process of legislation taking raw materials from Western legal norms (international, customary law, and Islamic law).

The divine dimension and the human dimension of Islamic law make it in line with the national legal development agenda mentioned above. Meanwhile, the complexity of implementing Islamic law in Indonesia is caused by the following factors. First, the application of legal-formal Islamic law in the form of laws cannot be separated from the existence of state authority. In its constitution, the Republic of Indonesia declares itself not an Islamic state but still gives Muslims the right to practice their religion. Therefore, the legal-formal application of Islamic law in Indonesia does not only require legal awareness from the Muslims themselves but formal legal foundations and arguments in the context of a modern state. Second, Islamic law has been implemented by Muslims in Indonesia for centuries. However, its implementation has not reached a complete form of Islamic law according to the guidelines of the Koran and hadith. Third, the breadth of Islamic law makes it able to adapt to Islamic developments. However, the character of Islamic law has not been optimally developed by the Muslims themselves. The course of Islamic law legislation in Indonesia itself shows a positive and progressive trend.

Procurement of regional autonomy is not just to guarantee the efficiency and effectiveness of government administration, or to accommodate the reality that the State of Indonesia is vast, has a large population, and is divided into islands. Regional autonomy is the basis for expanding the implementation of democracy and instruments in the framework of realizing people's prosperity and welfare. The amendments to the 1945 Constitution have provided several new paradigms for organizers.

RESEARCH METHOD

This study uses a descriptive qualitative research design, namely research that is intended to collect information about the status of an existing symptom, namely the condition of the symptoms according to what they were at the time the research was conducted. There are three approaches used in this research, namely normative theological approach, normative juridical approach, and empirical approach. This research will be carried out in Luwu Regency. Data sources in this study can be divided into two, namely primary data sources and secondary data sources. Primary data, namely empirical data obtained directly based on observations and interviews with respondents and information in the field or research location. In this case, a review of national law on the application of Sharia regional regulations. Secondary data, namely data that is used as a theoretical basis in solving and answering problems obtained through literature studies, documents, and various other written data obtained from Luwu Regency Government Institutions. The data collection

technique that the authors used in this study, namely the library research method (direct quotations, indirect quotations. Field research methods (observation, interviews, documentation). Data management and analysis techniques, namely describing those related to the opportunities and challenges of implementing Islamic regional regulations in Luwu district through inductive techniques, deductive techniques, and comparative techniques.

RESEARCH RESULT AND DISCUSSION

Sharia Regional Regulations in the Era of Regional Autonomy

The presence of Indonesia as a nation-state is a unique phenomenon, especially when viewed from the perspective of its pluralism. Not only because there are so many different ethnicities, languages, and beliefs, but also in terms of economic adaptation, community forms, traditional political systems, and kinship systems make Indonesianness an interesting symptom of identity politics. In this situation, two challenges immediately arose when the Indonesian nation was established, namely how to create a country capable of embracing pluralism on the one hand and the other hand, able to accommodate this progress to a harmonious but dynamic stage. A nation that is upright and operates on the principles of solidarity, inclusivism, civility, mutual trust, and plurality.

From 1998 to 2003, the transitional order of post-Soeharto reforms, from a certain point of view, tended to grow more democratic, egalitarian, and emancipatory in the context of central and regional relations, as well as in relations of religion and the state in Bulukumba. It has become an important element of the external factors of the political system which has given fresh air to the growth of diversity and religious spirit, "Islamic symbols", and the competition for political vehicles for regional head elections at the local level in Indonesia.

Meanwhile, internally, there was a tendency to strengthen awareness and obsession with finding an alternative model for "secular government" or a model of repressive New Order political policies, towards certain religious groups, namely Muslim groups in various regions, which seem hypothetically to have been a factor in the rolling of democratization and political emancipation that cannot be ignored, given the growing spirit of highlighting religious identity and in some cases considered the rise of social capital in the monolithic post-New Order era.

A unique thing can also be seen when the emergence of Sharia regional regulations creates friction over anxiety about the meaning of Indonesia and the potential for discrimination which suggests that the existence of Sharia regional regulations will be the opposite of the spirit of Indonesian diversity, the spirit of tolerance, equality and respect for pluralism and multiculturalism, as if facing efforts to revive religious spirit such as regional regulations with religious nuances, to the point that the assumption that the end of the story of this regional regulation is the establishment of a religious state, or the rebuttal, religious symbols and akhlakul karimah, without coercion let alone physical violence.

After so many decades the issue of implementing Islamic sharia tended to disappear from the New Order national political scene, then in the reform era marked by the fall of President Soeharto from power on May 21, 1998, and the start of the process of democratization in Indonesia, ideas and efforts to implement Islamic sharia in Indonesia returned. voiced by Muslim activists and thinkers both through parliament and outside parliament.

The emergence of Islamic sharia regional regulations in various regions in Indonesia including in South Sulawesi, as a series of national events, namely the annual meeting of the Indonesian People's Consultative Assembly on 7-18 August 2000, in which the United Development Party (F-PPP) and the Bulan Bintang (F) -UN) is again fighting for the re-entry

of the 'seven words' in the Jakarta Charter into the formulation of Article 29 paragraph (1) of the 1945 Constitution.

However, this proposal again received opposition and pros and cons among parliamentarians, especially from nationalists and the public in general, which ultimately failed for the umpteenth time. The failure of the proposed amendment to Article 29 of the 1945 Constitution, especially paragraph (1), did not dampen the enthusiasm of supporters of the Jakarta Charter to continue to fight for the implementation of Islamic Shari'a both in state constitutional forums and in society.

There is an emic perspective, regarding the "historical necessity" put forward by the initiators of Sharia about why they are also fighting for the application of Islamic sharia in their regions. It is a historical fact that since the 14th century, Islam in South Sulawesi has been the role model of kings and their people. Islamic Sharia is the basis of orientation and way of life, perspective, and way of life. From a philosophical point of view, Islam in South Sulawesi has become a value system for people's lives. Actualization of Islam as the basic value of the life philosophy of the Bugis, Makassar, or Mandar people.

In other words, the presence of Islamic values has been entrenched and has been assimilated from generation to generation in the local cultural system. From a sociological point of view, the area of South Sulawesi shows that the people there are predominantly Muslim and are known to be very religious. This condition is a sociological argument for formally upholding Islamic Shari'ah. Islamic Sharia activists want to say that from a historical, philosophical, and sociological point of view, the formalistic enforcement of Islamic Sharia in South Sulawesi has become a historical necessity.

What is meant by a Sharia regional regulation or a regional regulation with religious nuances? First, there is the view that the type of Perda whose content is related to the general sense of morality in society. Although it concerns morals, this type of regional regulation concerns all religions. This type of regional regulation is mainly represented by regional regulations against prostitution and adultery which exist in almost all regions whose generic term is "anti-immoral" regional regulations. Indeed, there is an "Islamic connotation" here such as the use of the term "immorality" which is very typical of Islam, but the issue is not typical of Islam, it could also concern non-Islamic religions.

Concerning regional regulations of this type, some views cannot be criticized or rejected outright just because they take issue with aspects of terms that connote Islamic values or speak Arabic. For this type of regional regulation, the problem lies not there, but in whether this type of regional regulation can solve problems at the local level, such as a sense of security, improve the economy, or even add to problems; whether it can guarantee justice or even open opportunities for arbitrariness.

Second, the types of regulations related to fashion and other modes of clothing such as the obligation to wear the headscarf and other types of clothing in certain places. This type of regulation also appears a lot in various regions. Unlike the first, this fashion regulation is very typical of Islam so people will easily identify it as an Islamic sharia regional regulation. Anyone would say that the headscarf is important to show Islamic identity.

Third, the types of local regulations related to "religious skills", such as the requirement to be able to read and write the Koran as found in Indramayu, Bulukumba (South Sulawesi), and so on. At a certain level, the regional regulation on the obligation to study at Madrasah Diniyah Awwaliyah can be classified as a "religious skills" regional regulation.

This type of regional regulation is also very typically Islamic so those who are opposed to sharia regional regulations will say that it is obvious that Islamic interests dominate the emergence of these regional regulations. This regional regulation on reading and writing skills

of the Qur'an and diniyah is related to other activities. The ability to read and write the Koran is a requirement for marriage, promotion for civil servants, and even for obtaining public services. While the diploma diniyah is used as a condition to be able to continue to a higher level of education. Elementary school children who will continue on to junior high school must include a diploma diniyah.

The preamble to the 1945 Constitution of the Republic of Indonesia, which is commonly regarded as the crystallization of the values contained in the body of the Constitution, must be seen about Islamic values. This is important because the 1945 Constitution of the Republic of Indonesia, as the highest law in Indonesia, is the source of law for all laws and regulations under it, including regional regulations.

Since the 1998 reforms were rolled out and then followed by amendments to the 1945 Constitution, the relationship between the Center and the Regions underwent a significant change, the centralized pattern changed to a decentralized one. The rolling of regional autonomy in 1999 was marked by the birth of Law Number 22 of 1999 concerning Regional Government and Law No. 25 of 1999 concerning Financial Balance between the Center and the Regions, which has provided a very strong impetus for the regions to regulate their regions according to the aspirations of the people in the regions. The two laws were replaced by UU no. RI. Number 32 of 2004 concerning Regional Government and Law. RI. Number 33 of 2004 concerns the Financial Balance between the Center and the Regions. Then both were replaced again with RI Law Number 23 of 2014 concerning Regional Government and Laws. RI. Number 33 of 2014 concerns the Financial Balance between the Center and the Regions.

The Republic of Indonesia Law. Number 23 of 2014 explicitly states that regional governments regulate and manage their government affairs according to the principles of autonomy and assistance. Regional governments carry out government affairs that are their authority, except for matters which are determined by this law to be government affairs. Government affairs fall under the authority of the central government, namely foreign policy affairs, defense, security, justice, national monetary and physical affairs, and religion. 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 by statutory regulations.

With the existence of regional autonomy, the regions are competing to regulate all matters related to their regions into regional regulations, especially regional regulations regarding regional taxes and regional fees. On the other hand, some people in the regions want their regions to produce regional regulations with sharia nuances which are also increasingly widespread, giving rise to pro and contra attitudes.

On June 13, 2006, a total of 56 members of the DPR from the Prosperous Peace Party (PDS) and the Indonesia Democratic Party of Struggle (PDIP) submitted a memorandum rejecting and demanding that the President revoke various Regency/City Regional Regulations regarding anti-immorality which were indicated to contain Islamic sharia material. The enactment of this regional regulation is considered to have violated the constitution and Pancasila. However, on June 27, 2006, 134 other DPR members from the PPP faction (42 people), PKS (30 people), PAN (30 people), BPD (30 people), PG (6 people), PBR (8 people) and PKB (3 people) submitted a counter memorandum that rejected the anti-immoral regional regulations. Instead, they asked the chairman of the DPR to ignore the letter (dated 13 June 2006). The regional regulations, which are considered problematic by some members of the DPR RI, are not due to the reason impeding investment in the regions, but because it is suspected that the regional regulations are problematic because they contain Islamic Sharia material (Abbas & Murziqin, 2021; Sodikin, 2021; Roy Purwanto et al., 2022).

Based on the above considerations, before discussing some of the regional regulations that have Sharia nuances, we first observe the Preamble to the 1945 Constitution of the Republic of Indonesia. Indonesia apart from being the result of the hard work of the nation's heroes who persistently fought for it, is also due to the grace of Allah SWT. The full statement reads, "With the blessing of the grace of Allah Almighty and driven by a noble desire, so that a free national life, the Indonesian people hereby declare their independence." Strong belief in Islamic teachings has become the main source of the Preamble to the 1945 Constitution of the Republic of Indonesia, including Pancasila.

Based on the Law of the Republic of Indonesia Number 23 of 2014 concerning Regional Government, one of the articles regulates broad autonomy for Regional Governments to make Regional Regulations that are following their characteristics, including regional regulations with religious nuances known as Sharia Regional Regulations. The substance of regional regulations with Sharia nuances varies, each region with a majority Muslim population makes regional regulations in the framework of controlling society. According to moderate Islamic sites, as of June 2006 alone, there have been 22 regencies/cities throughout Indonesia that made regional regulations with Sharia nuances, including the Cianjur Regency Government, the Tangerang City Government in West Java, the Makassar City Government and the Bulukumba Regency Government in South Sulawesi, Government of Padang City (West Sumatra) and others.

There are still many regions that want to imitate making regional regulations with Sharia nuances, but there are also people who are allergic to hearing those regional regulations with Sharia nuances so it seems that there are pros and cons to these regional regulations with Sharia nuances. Below the author tries to put forward some regional regulations with sharia nuances. There are local regulations that prohibit alcoholic beverages; There is a regional regulation that requires residents who are Muslim to be literate in reading Arabic letters or stipulates eradicating illiteracy of the Qur'an, so that a pair of prospective husbands and wives, before marriage, is tested whether they can read the Qur'an or not. ; There is a regional regulation that stipulates "Friday taqwa", that is, at a certain hour, before the Friday prayer, activities are stopped, and then after that they are active again.

At the gate of East Lombok, the sentence is written, "You have arrived in the Bumi Selaparang area, obey the Law and Religious Shari'a." The area also stipulates, among other things, that every Muslim civil servant is required to pay 2.5% (two and a half percent) of his salary every month as zakat. There is also a regional regulation urging Muslim women to dress in Muslim clothing. Banten Regional Regulation, one of its substances is a prohibition for women and men to be alone in public places after 22:00, as well as the prohibition of prostitution.

There is one regulation stipulated by the sub-district head, namely the sub-district head in the Hulu Gurung sub-district, Kapuas Hulu district, which prohibits everyone in the sub-district from producing, selling, and drinking khamar. If someone violates these rules, they will be fined. The district regulation has received support from local traditional elders.

In Bulukumba Regency, South Sulawesi, since 2001 there has been a regional regulation that prohibits selling and drinking liquor. The impact, according to former Regent Andi Patabai Pabokori. "The murder and rape rates which used to be high, have fallen drastically, to around 85 percent. We did form a team whose job was to come to the villages to make the thugs aware, directed them to recite the Koran, so now there are no more thugs, no more student fights."

The Regent of Bulukumba Regency also stated that there was no intention that the Perda would open up opportunities for the application of provisions of Islamic criminal law such as

the punishment of cutting off hands for perpetrators of theft. "That is far from our intention, what is important for our area is how to increase faith, reduce crime rates and make society peaceful, nothing more." This was noted by Republika on Line (RoL). There are still various regional regulations that some people want Muslims to implement Islamic law, a law that Muslims believe is a perfect law.

Of the various regional regulations with Sharia nuances, Konstantin Punggawa and his friends from the Prosperous Peace Party faction objected to such regulations because they were seen as reviving the Jakarta Charter, namely "the obligation to carry out Islamic law for its adherents" so they submitted a petition to the chairman of the DPR to urge the DPR to the minister of home affairs canceled regional regulations with sharia nuances because according to him they contradicted statutory regulations.

In contrast to the attitude of Konstantin Punggawa and his friends, the non-Muslim community in Bulukumba Regency, South Sulawesi, supported the regional regulation with sharia nuances by unfurling banners when there was an Islamic Ummah Congress there. For the action taken by Konstantin Punggawa and friends, spearheaded by Patrialis mobilized dozens of DPR Members from various factions to sign a kind of counter-petition before the Speaker of the DPR expressing the stance that a Provincial Perda, ratification by the Minister of Home Affairs. Regency/City Regional Regulation, ratification by the Governor. Village regulations are ratified by the Regent, so the DPR is not authorized to evaluate them.

According to Patrialis Akbar, "The content of the regional regulation calls for goodness, why should it be an issue with cornering Islam." Furthermore, Patrialis Akbar revealed that the Nyepi Celebration and the regional regulations governing the procedures for the burial of dead bodies and the traditional feast that accompanies it in Tana Toraja were not disturbed, but, "Why is it only the Islamic law that is being touted?"

Another member of Commission III of the DPR RI, namely Lukman Hakim Syaefuddin from the United Development Party (PPP) at that time, expressed the opinion that Islamic values, like traditional and Western values, had lived in Indonesian society for hundreds of years so that these values could be absorbed into laws and regulations as long as it is for the common good.

Chosin Chumaedy, a Member of the Republic of Indonesia DPR from another PPP faction sees Perda with sharia nuances from that approach, (1) democracy, namely that the Perda has been constitutionally drafted, (2) authority, DPRD and Regional Government have the authority to make Perda, (3) in terms of benefits, namely that the Perda is precisely to educate the nation's generation towards goodness.

Tifatul Sembiring, Former President of the Prosperous Justice Party (PKS) expressed the opinion that the regional regulation, "Let's test it first, don't just play with the compass, because it also collects people's aspirations." He further said, "According to our records there are around 12,000 regional regulations that are currently problematic, but why haven't they been touched upon, even though sharia regulations, such as anti-immoral regional regulations, are the aspirations of the local community."

According to Vice President Jusuf Kalla, "The regional regulations with the nuances of Islamic sharia that are being debated are the affairs of the local government concerned. As long as it does not violate the law or the rules above it, the existence of the regional regulation is not a problem." Jusuf Kalla said, "In principle, all existing laws may not conflict with the Act or the rules above it."

Furthermore, according to Vice President Jusuf Kalla, many Indonesian laws have long been intended to implement Islamic law, such as the Hajj Law, the Zakat Law, and others.

Meanwhile, Rifai Ka'bah, one of the judges at the Supreme Court of the Republic of Indonesia believes that if there are parties who object to a regional regulation, those concerned can submit a request for review, a judicial review, to the Supreme Court.

From the pros and cons of regional regulations with sharia nuances, the factors that need to be considered in making regional regulations are (1) prioritizing justice, and (2) not contradicting the provisions of human rights and obligations as stated in the 1990 Constitution of the Republic of Indonesia. 1945, (3) based on the sovereignty of the people, meaning that it is the DPRD together with the government, the governor, or the regent/mayor who makes it. (4) the regional regulation does not conflict with the statutory regulations above it, (5) the regional regulation must be beneficial to society, especially in the field of order and security (Ardianto, 2018; Karlsson et al., 2020; Serkina, 2022; Zaazou, 2020).

Opportunities for Forming Sharia Regional Regulations in Luwu Regency

Opportunities for establishing Sharia regional regulations in Luwu Regency are influenced by several factors, namely;

Historical Factors

The formation of laws is a dynamic process that continuously changes under the dynamics of society which is influenced by the global demands of information technology. Therefore, the formation of laws in a comprehensive manner must pay attention to three dimensions, namely the past which is related to the history of the nation's struggle, the present which is related to the objective conditions that exist now, and the strategic environment by looking to the aspired future.

The history of the peaceful entry of Islam into Luwu is one of the indications that the Sharia Regional Regulation has a high chance of being implemented in the Luwu Regency. Even when we see that the first people to convert to Islam in Luwu were from aristocratic circles, this shows that the people of Luwu are compatible with the Sharia Perda. Therefore, the teachings of Islam in Luwu are very attached to the population so that a customary postulate appears which is still upheld by the people of Luwu, namely pattupri ada'e passanre ri syara'e which means upholding all good habits but still based on sharia. If the custom is following sharia then it is determined, if it is not appropriate then it is not determined.

Another historical evidence is that during the colonial period there was born from Luwu the freedom fighters who were very persistent against the colonialists who were all Islamic figures. Among them Andi Jemma, Opu Daeng Risaju, Abdul Kahhar Muzakkar. Therefore, from a historical point of view, Luwuq is a very strong Islamic base in adhering to true Islamic values.

Population Factor

The majority of the population of Luwu Regency are Muslims, this should be a consideration for establishing sharia regional regulations. Historically and sociologically, Islamic law has been rooted in the life practices of the people of Luwu. In addition, there is a strong desire from the Luwu Muslim community who want Islamic law to become their basic law, both civil and criminal. This is in line with the belief of Muslims that the sentence of shahada is evidence of the supremacy of Islamic law over them as is known in the theory of the credo or the theory of shahadah.

The shahadah theory above is in line with the theory of authority put forward by H.A.R Gibb that a person who has accepted Islam as his religion means that he has accepted the authority of Islamic law over him even though there are differences in the treatment of the authorities towards other legal systems cannot dampen the recognition and implementation

of different laws. had previously become the authority of society. Therefore, even though there is colonial law and customary law because Islamic law has become a personal authority owned by Muslims in Luwu, it will still be a role model for a strong legal system.

The results of statistical data for Luwu Regency show that the Muslim population dominates the area in Luwu Regency, so it can be concluded that this is a big opportunity for legislating Sharia regional regulations in Luwu Regency.

Juridical Factors

Islamic law in Luwu has been implemented by Muslims and has been applied normatively and formally juridically, namely the relationship between a Muslim and his God and the relationship between humans and other humans, humans and objects, and society. As a law originating from religion, Sharia regional regulations have strong binding power and are not only limited to rules that have a profane humanistic dimension but also have a transcendental dimension. Sharia regional regulations based on Sharia have characteristics that are universal and flexible and have very high dynamics due to their consistency and transformational characteristics. These two characteristics allow sharia regulations to remain relevant to social changes and changes in time so that sharia regulations in Luwu Regency have become an important part of the existing legal system in Luwu Regency.

This is evidenced by the development of Islamic mass organizations in Luwu Regency, namely PD Muhammadiyah Luwu, Nahdatul Ulama Luwu, DPD Wahdah Islamiyah Luwu, Indonesian Muslim Brotherhood (PARMUSI), Muballik Association of Luwu Regency (PERSAMIL), Luwu Islamic Community Forum (FUI)) and very supportive when sharia values can be applied as a rule. As stated by the Chairperson of PERSAMIL, the Persamil members consisted of 673 people spread across all sub-districts in Luwu Regency, all of whom supported and were at the forefront of socializing Sharia Perda when it was formed in Luwu Regency. That's why one of PERSAMIL's goals was to be formed in Luwu Regency. The same goes for other Islamic organizations.

Constitutional Factors

Pancasila and the 1945 Constitution provide an important position for religion in coloring the national legal system, as explained in article 29 paragraph 2 concerning the need to develop public legal awareness and legal awareness of the Indonesian people, who are predominantly Muslim, is proof of the role of Islamic law in Indonesia. Therefore, efforts to legislate Sharia regional regulations into existing laws in the regions are proof that the state wants legal aspirations that arise and are reduced from Islamic religious teachings.

Political Factors

The Indonesian political system provides a great opportunity for Islamic law in developing Islamic political aspirations, including efforts to legislate Islamic law. Nowadays, opportunities for Islamic parties are increasingly open to legislating Sharia regional regulations into regional regulations.

Factually, the presence of politics shows that although Islamic political aspirations are not the majority in Luwu, taking into account the existing political configuration is sufficient to provide opportunities for the birth of national legal products with Islamic nuances such as the issuance of Law Number 10 of 1998 concerning amendments to Law Number 7 of 1992 concerning banking, the issuance of Law Number 23 of 1999 concerning Bank Indonesia which further strengthened the position of shari'ah economic activities in Indonesia, the issuance of Law Number 17 of 1999 concerning the implementation of Hajj, the issuance of

Law Number 38 of 1999 regarding the management of zakat, the issuance of Law Number 18 of 2001 regarding Nangro Aceh Darussalam which gave special autonomy to the Special Region of Aceh to implement Islamic sharia, the birth of Law Number 3 of 2006 concerning as a result of amendments to Law Number 7 of 1989 concerning the Religious Courts which gave new authority in the form of sharia economic dispute resolution.

The head of the DPRD of Luwu Regency, in an interview with him, said that there had been a discussion about one of the regional regulations on the prohibition of khamr, although until now we have not been able to make a decision. This shows that the formation of Sharia regional regulations has great potential in Luwu Regency when viewed from a political perspective.

Scientific Factors

In addition to the Koran and hadith, ijtihaad is also a source of Sharia regulations. The scientific sources of law are universal and dynamic in the context of scientific studies. Ijtihad as a foundation for philosophical thought has encouraged very critical and academic Islamic studies, including in Luwu. The existence of the MUI in Luwu Regency which consists of Islamic mass organizations and experts in their respective fields is a forum for studying Islamic law sources so that they can produce a law that is relevant to the situation and conditions in Luwu Regency.

The Challenges of Establishing Sharia Regional Regulations

As a source of law that applies in the Indonesian national legal system, the position of regional sharia regulations as a source of law faces challenges in efforts to legislate Islamic law in the Luwu Regency. The challenge is not only from within the Islamic community itself but also comes from external Islamic law. For more details, the challenges of actualizing Sharia regional regulations in Luwu Regency can be found in several realities, including:

Structural Challenges

Structurally, the idea of actualizing Sharia regional regulations in Luwu is still being debated among Muslims in Luwu, some support and some reject it. As illustrated in several theories of the actualization of Sharia regional regulations in Luwu, namely through a formalistic-legalistic approach, a structuralistic and culturalistic approach, through an academic approach and even more extreme groups say that the proper method for actualizing Sharia regional regulations is to create an Islamic state. However, other parties are more concerned with political struggles and criticize cultural struggles by fostering public understanding. Meanwhile, hardline groups say that Islamic law must be upheld to the point, namely the actualization of Islamic law directly by eradicating every form of immorality in front of it and paying little attention to constitutional juridical struggles.

Referring to the theories of Sharia regional regulations actualization above, it can be understood that the biggest challenge to the actualization of Sharia regional regulations, especially in the form of formalization or legislation of Sharia regional regulations in Luwu Regency is the absence of a meeting point or proper integration of the actualization of sharia regional regulations concepts in Luwu Regency. Then this challenge was reinforced by the concern of the Luwu Regent to form a Sharia regional regulation. This is because there are concerns that the central government will not accuse the Luwu Regency government of wanting to create a new movement as was done by its predecessor, namely the DII/TII movement led by Abdul Kahar Muzakkar who is the biological father of the current Luwu Regent. And he also wants to show this nation that the descendants of Abdul Kahar Muzakkar

are not rebels as they claim to be. Although this concern is very weak because the formation of Sharia regulations in Luwu Regency is still constitutional. This desire gave a negative view of him from the community because the people chose him because of the hope that there would be Sharia values that adorn his government, including Sharia regional regulations. If efforts to legislate on Sharia regional regulations are to be implemented, then the approaches above need to be filtered and integrated with the Indonesian national legal system so that the strategy for fighting for Islamic law legislation can work well.

Because the legislation is a political product, Sharia regional regulations must get majority vote support from law-forming institutions, moreover in fact that Islamic political aspirations in the DPRD are not the majority group, so the legislative effort will face strong challenges. Even though the composition of DPRD members is currently predominantly Muslim, they are reluctant to fight for Sharia regional regulation legislation due to their low understanding of these Sharia regulations. Coupled with the more dominant group and personal interests in setting policy.

Because of this, the group for the formalization of Islamic regional regulations is of the view that a structural approach will have more binding strength, legal legitimacy, and power for the implementation of Islamic regional regulations and is considered more effective in efforts to improve the life system which currently tends to be destructive. In addition, Sharia regional regulations also have a close relationship with the community based on the assumption that Islamic regional regulations have characteristics such as takamul, tasamuh, and harakah which can maintain their existence in society.

Substantial Challenges

The substance of Sharia regional regulations includes very broad and complex legal material. For some circles, Sharia regulations are considered a legal system that is rigid and even frightening, especially the attitude of militancy (jihad) shown by some hard-line adherents of Islam who are commonly referred to as terrorist groups.

Particularly in Luwu Regency, partial Sharia law has been implemented, causing the effect and image of Islamic law to be unfavorable. Although on the positive side, the people of Luwu are still enthusiastic about practicing religion and creating peace and security when compared to other regions.

For Sharia regional regulations legislation in local law in Luwu Regency, the process of transforming the substance of Sharia regional regulations, which some people understand negatively, needs to be directed at studying aspects of the dynamics and elasticity of Sharia regional regulations in the contextualization of sharia regional regulations materials so that they are coherent with the contemporary context and the Indonesian social context.

For this reason, the material for the Sharia regional regulation that will be legislated includes legal material not in the public sector because there is concern that it could cause a conflict with material from other religious laws. Private or civil matters do not cover all fields because there are some private matters of sharia regulations which are very sensitive and if this is legislated it can lead to social and religious conflicts. Even so, efforts to legislate on Sharia regional regulations materials are still needed because this sentiment is an objective demand as proof of the implementation of Sharia regional regulations in Luwu District.

Systematic opposition to efforts to legislate Sharia regional regulations in Luwu Regency was raised by the substantial group. They are of the view that the actualization of Sharia regional regulations does not need to be exactly what is stated in the Al-Quran and Sunnah. Because legal instruments such as qisas, stoning, and cutting of hands are the only alternatives for creating justice and legal certainty in the early days of Islam as long as the

goal of actualizing Sharia bylaws can be achieved, then other laws are fine if applied. For example, the law on cutting off a hand is replaced by a prison law because both aim to limit the perpetrator.

Even a secular youth group calling itself JIL is calling for the deformation of Sharia regional regulations. According to them, formal regional Sharia regulations do not need to be enforced because the core of Islam is a commitment to religion in a substantive, not formal, legalistic manner. According to them, Indonesia is not a religious country, so it is not appropriate to implement Sharia regulations.

Cultural Challenges

The implementation of the Sharia regional regulation in Luwu Regency also faces challenges in terms of the culture of the Luwu people themselves. Historical facts show that the different culture of the people of Luwu Regency is caused by the existence of several legal systems that apply in Luwu. Therefore, culturally the actualization of Sharia regional regulations in Luwu Regency has encountered several obstacles and challenges, namely;

1. The national legal system which will be handed down to the regions including Luwu is based on three legal systems consisting of the continental European legal system (colonial law), customary law, and Islamic law. The enactment of these three legal systems is caused by several factors, namely;
 - a. There is a plurality of the population that enforces a legal system born of the habits and customs of the people of Luwu which are believed and obeyed, most of which come from Tana Toraja. This legal system was later referred to by the colonizers as customary law which applied formally and scientifically.
 - b. The religious factor, when Islam entered Luwu and there was a transformation of beliefs and beliefs from animism and community dynamism to Islam so that the majority of Luwu people embraced Islam, then since then Islamic law has been believed in and embraced and obeyed by the Islamic community so that Islamic law Islam is a living legal system in Indonesian society.
 - c. Colonial factors, Luwu which was colonized by the Dutch for approximately 350 years, the legal system applied the Dutch colonial legal system, and this legal system is known as the Western legal system.
2. There is resistance and opposition from non-Muslims who think the formalization or legislation of Sharia regional regulations in Luwu will place them as second-class citizens. It turns out that they still practice the facts of the early history of independence to this day, as the objections raised by the Christian group to the first precepts of the Jakarta Charter. This resistance was also shown by Christian Catholic groups and the Democratic Party of Struggle (PDI) when Law Number 14 of 1970 concerning Religious Courts was to be ratified before being promulgated into Law Number 7 of 1989. They demanded that the draft law be repealed because it was considered discriminatory and did not reflect unity and union. So did they in Luwu.
3. Low awareness and strong will or political will of the Luwu Muslim community towards the actualization of sharia regional regulations in the form of formalization or legislation of sharia regional regulations. This fact is reinforced by the low awareness of the Luwu Muslim community in supporting political parties as a means of political struggle in the context of Sharia regional regulations legislation in the existing legal system in the Luwu Regency.

This legal awareness and unification of political aspirations are hampered by the weak understanding of Sharia regional regulations among the public, the jurisprudence that is developing among the public is dominated by classical fiqh, limited sources of funds and resources to conduct a review of Sharia regional regulations and the unpreparedness of religious leaders to accepting the renewal of sharia regional regulations and the existence of conflicts between mazhabs that have not been resolved in the grassroots. For cultural groups, the view is that the enforcement of Islamic law should not only be a political commodity for certain groups. Apart from being culturally actualized, this cannot be separated from considerations that look at the reality of a pluralistic society which, if enforced, becomes a scourge for Islamic society itself.

CONCLUSION

Sharia regional regulations are laws and regulations established by the Regional People's Legislative Council with the joint approval of the Regional Head (Governor or Regent/Mayor) which contain Sharia rules both originating from the Qur'an and al-Sunnah as well as Ijtihad. Regional regulations are a type of legislation that emerged later in line with the emergence of the era of regional autonomy. After the reform, the concept of decentralization of government was felt when Law Number 22 of 1999 concerning Regional Government appeared, then followed by the enactment of TAP MPR Number III/MPR/2000 which regulated the recognition of regional regulations as a form of legislation in Indonesia. . Then these regulations were replaced by Law Number 23 of 2014 concerning Regional Government (Regional Government Law) and Law Number 12 of 2011 concerning Formation of Legislation (Law Number 12 of 2011).

Opportunities for implementing Sharia regional regulations in Luwu Regency are influenced by several factors, namely; historical factors, population factors, juridical factors, constitutional factors, political factors, and scientific factors. The challenges of making and implementing Islamic regional regulations are influenced by several factors, namely: structural challenges, substantial challenges, and cultural challenges.

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