

# The Politics of Law in Islamic Regional Regulation to Improve Regional Economy Competitiveness

M.Haris Hidayatulloh<sup>1</sup>, Ridan Muhtadi<sup>1</sup>, Moh. Nafik H.R.<sup>2</sup>, Sri Herianingrum<sup>2</sup>, Sri Iswati<sup>2</sup>, Irham Zaki<sup>2</sup> and Tika Widiastuti<sup>2</sup>

<sup>1</sup>Master Study Program of Islamic Economic Science, Post Graduate School of Universitas Airlangga, Surabaya, Indonesia

<sup>2</sup>Post Graduate School of Universitas Airlangga, Surabaya, Indonesia

**Keywords:** Politics of Law, Sharia Regional Regulation, Sharia Financial Economy.

**Abstract:** The global financial crisis in 2008 made sharia economic a highlight for economists and practitioners as an alternative to prevent economic crisis. Some regions begin to implement sharia economic, and provide legal regulations by formulating local regulations. This study aimed to analyze regional regulations on sharia economic and finance using juridical-normative approach. The approach was used to analyze contents, concepts and cases. This study found that sharia rule has made legal political changes, from the paradigm of incorporation of law into legal pluralism. Sharia economic regulations in Indonesia are important, considering the forecast of rapid financial industry and sharia business growth in East Java. The acceleration of sharia economy is necessary to create stability and regional economic development.

## 1 INTRODUCTION

Since the application of Act No. 23 of 2014 on the implementation of regional autonomy by Regional Government, the Government has a wide authority in managing its area. Sharia regional regulation, then known as Islamic Sharia Law, has been implemented by several regions in Indonesia.

Sharia law is a legal product of local government in several provinces, cities and districts in Indonesia inspired by sharia guidance. In this law, provincial and mayoral/district governments are provided with discretion in shaping public policy in the hope of resolving multi-dimensional problems.

Table 1: Category of sharia regional regulation in Indonesia.

No.	Category of Local Regulations	Quantity	Percentage (%)
1	Morality	170	40
2	<i>Zakat</i>	62	15
3	Faith	59	14
4	Islamic Finance	39	9
5	Islamic Education	27	6
6	Muslim Attire	25	6

No.	Category of Local Regulations	Quantity	Percentage (%)
7	Etc.	40	10
	Total	422	100

djpp.depkmham, 2016

Sharia-based regional regulations give rise to public policy in the fields of politics, law and economics (fields of production, distribution, consumption, economy, fiscal policy, etc.).

This study focused on the problems faced by some regions, particularly the regulation and policy of the local government based on sharia values for improving regional economy. Pisani & Buehler (2016) on “Why do Indonesian politicians promote sharia laws? An analytic framework for Muslim-majority democracies” argue that Muslim politicians expect Islam to be part of state law. Cammack & Feener (2012) on “The Islamic Legal System in Indonesia” find that Islam heavily influences the Indonesian legal system. Based on those two arguments, it is argued that local government can consider implementing sharia guidance in the process of policy-making in its efforts to accelerate economic improvement in the region.

## 2 METHODS

This study used juridical-normative approach, which is a method of legal research using positive law concept by examining library materials or secondary materials in the form of legislative literature that have implications on the issues discussed (Soerdjono and Sri, 1994; Roni, 1994; Amirudin and Zainal, 2004; Ibrahim, 2006; Achmad, 2009).

This juridical-normative study focused on the issue of local government policy by reviewing the pattern of sharia-based regulation on economic policy applied in some provinces in Indonesia, including Aceh and East Java

## 3 RESULTS AND DISCUSSION

### 3.1 Public Sector Government Policy

The difference between decision-making and policy-making can be illustrated in the following flowchart:

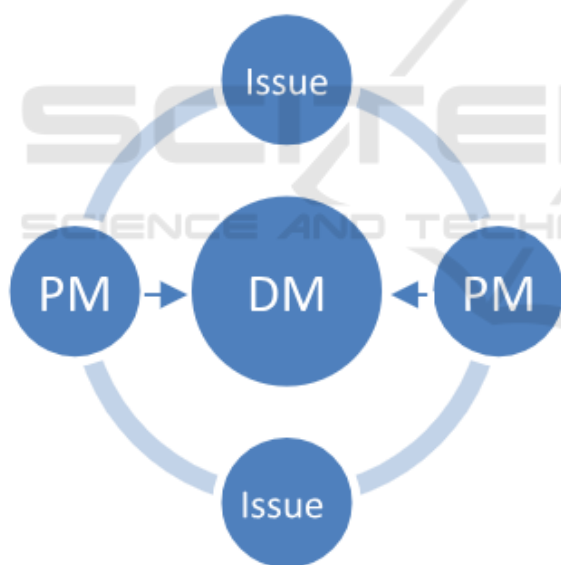


Figure 2: Flowchart concept of decision-making and policy-making (Faried, 2012:10).

The process of policy-making begins with problems and ends with problems. However, these problems will create new problems that drive current policy reformulation, and thus the process will continue to re-implementation and re-evaluation.

The scope of public policy review covers various fields and sectors, including economics, politics, social, culture, law and others. The coverage can also be seen from the hierarchy of public policy,

either national or regional, such as law, government regulations, presidential regulations, ministerial regulations, local/provincial government regulations, governor decisions, regulation/municipalities and mayoral decisions.

### 3.2 Application of Islamic Sharia in Autonomous Frame

The difference between decision-making and policy-making can be illustrated in the following flowchart. According to Fazlur Rahman (1997: 140-141), sharia is the religious values expressed functionally and in concrete meaning in life that aims to direct human life in goodness. The emergence of sharia law has consequences as a law ruled in a region that has absolute binding force to all society, government and private institutions as well as immigrants within the region. Sharia law is a special type of law, which originates from local custom or law prevailed within the territory. Sharia regulations are born as the result of Islamic political journey (Munawar, 2007:04).

Muhtada (2014: 38) classifies Indonesian sharia regulations into seven aspects: 1) Local regulations related to morality, 2) Local regulations related to zakat, infaq and shadaqah policies, 3) Local regulations related to Islamic education, 4) Local regulations related to the development of Islamic economics, 5) Local regulations on the faith of a Muslim, 6) Local regulations on Muslim attire, and 7) Sharia regulations in other categories. Local bylaws in this category are the local regulation of the great mosque, the hajj service, and culture of welcoming Ramadan.

There are several sharia regulations and formalization of Islamic sharia demands realized through local government policy in the form of Decree, Instruction and Circular Letter of Regent/Mayor. This study discussed the following regulations:

1. Aceh Province: Qanun No. 9 of 2014 on the Formation of Bank Aceh Syariah.
2. East Java Province: East Java Governor Decree No. 188/600/KPTS/013/2016 on Task Force of Sharia Economic Acceleration in East Java.

The existence of sharia law is a form of formal effort to strengthen Islamic identity. Therefore, the implementation of sharia law is an affirmation of Islam as a symbol of the spirit of struggle. Sharia law is a form of Islamization process in politics by emphasizing the welfare of Islamic principles.

### 3.3 Legal Politics Sharia Rules in Economics

Regional autonomy provides authority and responsibility to local governments, as the implications of various central government authorities granted to local governments. Therefore, the political will of policymakers to implement Islamic value in economic field will seek to create an Islamic economic system that is inherently a logical consequence of Islamic perfection.

Islam provides the principle of fiscal policy or the budget of income and expenditure that aims to develop a society based on the distribution of equal wealth by placing material and spiritual values at the same level that is inseparable from economic political control (*as-siyasatu al-iqtishadi*). Abdurrahman Al-Maliki (2009: 32) stated that this principle will ensure the fulfilment of primary needs (*al-hajat al-asasiyah*) of each individual as a whole, and assist them in meeting secondary and tertiary needs (*al-hajat alkamaliyah*) according to their ability.

Efficiency and effectiveness are the basis of government expenditure policy. In Islamic teachings, those factors are guided by sharia rules and determining priorities. According to al-Maliki (2009: 44), there are four cases that become the political principle of Islamic economics: 1) Everyone is an individual who needs fulfilment, 2) The fulfilment of basic needs is performed thoroughly (complete), 3) Mubah, the law for individuals seeking sustenance (work) with the aim to gain wealth and improve the prosperity of his life, 4) The noble values (sharia of Islam) must dominate (be the rule applied) all interactions involving individuals in society.

### 3.4 Aceh Government's Commitment to Islamic Economics

Aceh society has a long historical background in making Islam a guide for their lives. The society must obey Islamic values and the clerical orders because they are the heirs of the Prophet Muhammad. Culture is born from the reflection of the scholars, then practiced, developed, and preserved into customary law in the midst of government and sharia law.

Aceh society upholds the culture and prominent clerics with a respectable role in community life. The clerical consultative assembly (*Majelis Permusyawaratan Ulama (MPU)*) has a duty to provide input, consideration, guidance and

suggestions in determining regional policy from the aspects of Islamic law, either to the regional government or to the community in the region. In addition to having authority to formulate rules in accordance with Islamic sharia, based on Act No. 11 of 2006, Aceh government establishes an Islamic Sharia Office, which has authority to perform general and specific tasks of regional government, and responsible in the field of development and implementation of Islamic sharia. Islamic sharia law in Aceh covers worship, family law (*ahwal al-syakhshiyah*), civil law (*mu'amalah*), criminal law (*jinayah*), court (*qadha'*), education (*tarbiyah*), *da'wah*, *syi'ar* and defense of Islam.

Nanggroe Aceh Darussalam basically has regional autonomy specialized in the application of sharia economic. It is written in several regional regulations, such as Qanun no. 9 of 2014 and Qanun no. 88 of 2014. Qanun is a basic rule for the development of financial institutions based on sharia principles.

Qanun no. 88 of 2014 Article 21 states: Paragraph (1): Financial institutions operating in Aceh should be based on sharia principles; Paragraph (2): Conventional financial institution already operating in Aceh shall open a sharia business unit; Paragraph (3): Aceh government financial transactions and district/municipality governments shall apply sharia principles and or through the process of sharia financial institutions; Paragraph (4): Further provisions concerning sharia financial institutions shall be regulated in the Qanun.

Likewise in the public finance sector, the Aceh government already has a legal standing, in which Aceh's source of local government revenue derived from zakat funds of Aceh society. The Act no. 11 of 2006 on Aceh Government has three chapters mentioning zakat: Article 180 about zakat as a source of local government revenue; Article 191 mentioning Baitul Mal Wat Tamwil as the manager of zakat; and Article 192 mentioning zakat as tax deduction factor for taxpayers. The presence of these articles shows the importance of zakat for Aceh government.

### 3.5 East Java Government's Commitment to Islamic Economy

East Java has a huge potential as a basis of economic development and Islamic finance in Indonesia, with 96% Muslim population and has more than 6000 boarding schools. Bank Indonesia of East Java in collaboration with East Java government established Task Force of Sharia Economic Acceleration

through the Decree of Governor No. 188/600/KPTS/013/2016 on East Java Sharia Economic Acceleration on October 21, 2016. The unit has some activities, including organizing Sharia Economic Development and Acceleration Program in East Java based on the established road maps. Moreover, it develops coordination with various stakeholder elements involved. The unit also facilitates communities and economic actors to gain access to sharia-based financial institutions, as well as providing strategic policy recommendations to the Governor of East Java in terms of sharia economic development.

East Java has a potential to establish the Strategic Policy of Sharia Economic Development and Acceleration Program, namely: 1) Institutional synergy and synchronization between institutions related to PPAES, 2) Synchronization of central and local government policies, 3) Awareness and education of Islamic economics, 4) Management of Human Resources, 5) Building a business and network base, 6) Management and governance, 7) Fundraising by Islamic economic institutions to give more contribution in the economy of East Java.

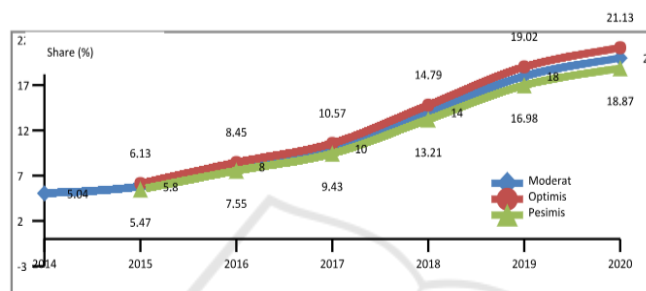


Figure 3: Target of sharia economic share in PPAES East Java.

Ten potential sources of funding for the economy of East Java are described in the Table:

Table 2: Total fund estimates 2018-2020.

No.	Information	2018		2019		2020	
		Rp.	%	Rp.	%	Rp.	%
1	Village Funding	5.958 M.	13,29	6.420 M.	10,28	7.287 M.	8,86
2	Local Government Budget	7.215 M.	16,09	12.446 M.	19,92	19.084 M.	22,89
3	Rural Bank's	184 M.	0,41	266 M.	0,43	359 M.	0,43
4	Industry	15.974 M.	35,62	21.411 M.	34,27	28.800 M.	34,54
5	Islamic educational institutions	5.827 M.	12,99	8.702 M.	13,93	12.183 M.	14,61
6	College	3.099 M.	6,91	4.338 M.	6,94	4.859 M.	5,83
7	Sharia Cooperatives	674 M.	1,50	1.089 M.	1,74	1.628 M.	1,95
8	Baitul Maal Wat Tamwil (BMT)	864 M.	1,93	1.037 M.	1,66	1.244 M.	1,49
9	Zakat	5.050 M.	11,26	6.769 M.	10,83	7.839 M.	9,40
10	Etc.	989 M.	2,16	1.088 M.	1,72	1.197 M.	1,41
	Amount	45.834 M.	100	63.565 M.	100	84.580 M.	100

There are five commitments of development and acceleration program of sharia economics in East Java: 1) Preparing human resources; 2) Raising awareness and commitment of sharia economic society; 3) Developing and strengthening sharia business base, network and linkages; 4) Improving the quality of management system and governance of sharia economic and financial institutions; and 5) The development of strategic policies that support the acceleration of sharia economic, with the Central and Regional Governments, Bank Indonesia and Financial Services Authority as the main actors.

#### 4 CONCLUSIONS

Nanggroe Aceh Darussalam and East Java are two provinces in Indonesia that make some policies in seeking the improvement of regional economy by applying sharia economic. However, the policies have not been widely socialized by the government, therefore the application still needs improvement. It is necessary in the future to increase effective performance among stakeholders, either through electronic media or printed media, in the process of socialization and education in order to increase

public knowledge and understanding of sharia law in the economic field. Wallahua'lam bisshowab.

Tabangun Aceh, *Aceh Menuju Ekonomi Islam*. Edition 48, Juli 2015.

## ACKNOWLEDGEMENTS

The researchers would like to thank to the related parties from Bank Indonesia, Financial Services Authority, Government of East Java and Government of Aceh who gave contribution to this research by providing data and information, including financial reporting agencies. We would also like to thank to some relevant policies for being analyzed into the results of the study.

## REFERENCES

- Achmad Ali. 2009. *Menguak Teori Hukum (Legal Theory) & Teori Peradilan (Judicialprudence): Termasuk Interpretasi Undang-undang (Legisprudence)*. Jakarta: Kencana.
- Amirudin dan Zainal Asikin. 2004. *Pengantar Metode Penelitian Hukum*. Jakarta: Raja Grafindo Persada.
- Al-Maliki, Abdurrahman. 2009. *Politik Ekonomi Islam*, Penerjemah: Ibnu Sholah. Bogor: Al- Azhar Press. Ali, Fariid. 2012. *Studi Kebijakan Pemerintah*, Bandung: Reflika Aditama.
- Cammack, Mark E Dan R Michael Feener. 2012. The Islamic Legal System In Indonesia. *Journal of Pacific Rim Law & Policy* Vol. 21 No. 1 2012.  
<http://www.djpp.depukumham.go.id>. Accessed on 6 May 2018.
- Muhtada, Dani. 2013. *The Mechanisms of Policy Diffusion: A Comparative Study of Shari'a Regulations in Indonesia*, Dissertation Submitted to the Graduate School. Department of Political Science, Northern Illinois University.
- Munawar, Ahmad. 2007. Fenomena Perda Syari'ah: Institusi Identitas pada Tingkat Local State, *Jurnal Sosiologi Agama*, Vol. I. No. 1 Juni 2007.
- Nafik HR dkk, Muhammad. 2016. *Edukasi Ekonomi dan Keuangan Syariah*. Program Pengembangan dan Akselerasi Ekonomi Syariah Jawa Timur Bank Indonesia KW Jatim.
- Pisani, Elizabeth Dan Michael Buehler. 2016. Why do Indonesian Politicians Promote Sharia Law? An Analytic Framework for Muslim Majority Democracies. *Journal of Third World Quarterly*.
- Rahman, Fazlur. 1997. *Islam*. Chicago: University of Chicago Press.
- Suryani. 2012. Development of Islamic Banking and the Projection of Economic Growth in Aceh Post-Implementation of Islamic Law. *Conference Proceedings, Annual International Conference on Islamic Studies (AICISXII)*.