

INTEGRATION OF SHARIA NORMS IN THE FORMATION OF REGIONAL REGULATIONS IN INDONESIA: JURIDICAL ANALYSIS OF THE FORMATION OF SHARIA REGIONAL REGULATIONS

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Abstrak

This study examines the latest practices of integrating Sharia norms in the formation of Regional Regulations (Perda) in Indonesia and performs a jurisprudential analysis of such practices. The study found that there are at least 442 Sharia-nuanced Perdas that have been established in various parts of Indonesia, such as the provinces of Aceh, Western Sumatra, Banten, and South Sulawesi. The Perda regulates various aspects, such as the implementation of Islamic Shariah, the prohibition of prostitution, the application of compulsory reading of the Qur'an, and the arrangement for Islamic clothing. Juridical-normative analysis suggests that the practice of integrating Sharia norms into the establishment of the Perda must be in accordance with the principles contained in the 1945 Basic Law, in particular concerning guarantees of religious freedom and prohibition of discrimination. Such regulations must also be in line with the hierarchy of laws in force in Indonesia, not in conflict with higher regulations. The Charter of Sharia must guarantee the protection of human rights, such as religious freedom, freedom of opinion, and other constitutional rights. The process of forming the Shariah Perda needs to involve widespread public participation in order to acquire strong legitimacy. Furthermore, a comprehensive evaluation of the charges, purposes and processes of the establishment of the Sharia law is required to ensure its compatibility with the principles of a democratic rule of law.

Keyword: *Integration of Sharia norms; District Rules (Perda); yuridis-normative analysis.*

Abstrak

Penelitian ini mengkaji praktik terkini pengintegrasian norma syariah dalam pembentukan Peraturan Daerah (Perda) di Indonesia dan melakukan analisis yurisprudensi terhadap praktik tersebut. Kajian menemukan setidaknya ada 442 Perda bernuansa syariah yang telah ditetapkan di berbagai wilayah Indonesia, seperti provinsi Aceh, Sumatera Barat, Banten, dan Sulawesi

Selatan. Perda tersebut mengatur berbagai aspek, seperti penerapan syariat Islam, larangan prostitusi, penerapan wajib membaca Al-Qur'an, dan penataan pakaian Islami. Analisis yuridis-normatif menunjukkan bahwa praktik integrasi norma syariah ke dalam pembentukan Perda harus sesuai dengan prinsip-prinsip yang terkandung dalam Undang-Undang Dasar 1945, khususnya tentang jaminan kebebasan beragama dan larangan diskriminasi. Peraturan tersebut juga harus sejalan dengan hierarki peraturan perundang-undangan yang berlaku di Indonesia, tidak bertentangan dengan peraturan yang lebih tinggi. Piagam Syariah harus menjamin perlindungan hak asasi manusia, seperti kebebasan beragama, kebebasan berpendapat, dan hak konstitusional lainnya. Proses pembentukan Perda Syariah perlu melibatkan partisipasi masyarakat luas agar memperoleh legitimasi yang kuat. Selain itu, evaluasi komprehensif terhadap tujuan, tujuan dan proses pembentukan hukum syariah diperlukan untuk memastikan kesesuaiannya dengan prinsip-prinsip negara hukum yang demokratis.

Kata Kunci: Integrasi Norma Syariah; Peraturan Daerah (Perda); analisis yuridis-normatif.

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Introduction

Indonesia, as a nation based on the One God, constitutionally recognizes the existence of Sharia law in the national legal system. This recognition is contained in the Constitution of the Republic of Indonesia of 1945 (UUD 1945) and various related legislative regulations. Article 29 (1) of UUD 1945 states that "the State is founded on the One God", while paragraph (2) affirms that "The State guarantees the freedom of every inhabitant to embrace his religion and to worship according to its religion and belief." These provisions form the constitutional basis for the recognition of the existence of Sharia law as part of the legal system in Indonesia.¹ Such constitutional recognition was later embodied in various legislative provisions, such as the Act No. 1 of 1974 on Marriage, the Law No. 7 of 1989 on Religious Justice, and the Law no. 21 of 2008 on Sharia Banking. Through this law, Sharia law was integrated into

¹ Mahfud MD, Moh., "Kedudukan Hukum Syariah dalam Sistem Hukum Nasional Indonesia," *Jurnal Hukum dan Peradilan* 8, no. 1 (2019): 1–20.

the national legal system, in the fields of marriage, inheritance, and Sharia economy.²

In recent years, there has been a trend in the formation of Sharia-nuanced Regional Regulations (Perda) in various regions of Indonesia. Several studies and analyses show that this phenomenon is becoming increasingly prevalent. According to Fajri Nursyamsi, a researcher at the Indonesian Centre for Law and Policy Studies (PSHK), there are at least 28 Sharia nuances established by the regional government in Indonesia. They regulate various aspects, such as the prohibition of prostitution, compulsory reading of the Qur'an, and the establishment of Islamic clothing.³

Meanwhile, Yenny Wahid, director of Rumah Kita Bersama, stated that this phenomenon is a form of efforts by the regions to integrate Sharia values in the formation of regional regulations.⁴ According to him, this can be seen as a manifestation of the constitutional recognition of the existence of Sharia law in Indonesia. However, Moh. Mahfud MD, former President of the Constitutional Court, argued that the establishment of the Shariah-nuanced Perda should keep in mind the principles of a democratic and Pancasila-based rule of law.⁵ Harmonization between Sharia law and national law must be done in order to avoid clashes and discrimination.

Although there is a constitutional recognition of the existence of Sharia law in Indonesia, the integration of sharia norms into the rule of law faces a number of challenges, among others: First: Differences in sources and principles of law, Sharia Law is the source of the Qur'an, Sunnah, and ijtihad, while national law is based on laws. Harmonization between the two can create complexity in implementation.⁶ Secondly, there are territorial differences,

² Amir Mu'allim, "Integrasi Hukum Syariah dalam Sistem Hukum Nasional: Studi Kasus Undang-Undang Perbankan Syariah," *Jurnal Legislasi Indonesia* 16, no. 2 (2019): 123–38.

³ Nursyamsi, Fajri, "Peraturan Daerah Bernuansa Syariah: Legalitas dan Tantangannya," *Jurnal Hukum dan Peradilan* 8, no. 1 (2019): 201–20, <https://doi.org/10.25216/jhp.8.2.2019.201-220>.

⁴ Wahid, Yenny, "Integrasi Nilai-Nilai Syariah dalam Pembentukan Peraturan Daerah," *Jurnal Legislasi Indonesia* 12, no. 4 (2015): 289–300, <https://doi.org/10.54629/jli.v12i4.456>.

⁵ Mahfud MD, Moh., "Kedudukan Hukum Syariah dalam Sistem Hukum Nasional Indonesia."

⁶ Mahfud MD, Moh.

Sharia law applies to Muslims, while national laws apply generally to all citizens of the country. The integration of Sharia norms must respect the principles of justice and non-discrimination.⁷ Third: Subjects of the Law, Sharia law regulates human relations with God, while national law is more about regulating human relations. Adjustments to the substance of the law need to be made to be widely accepted.⁸ Fourthly: The struggle with the principle of the rule of law, the establishment of sharia-nuanced regional regulations must keep in mind the principles of the democratic rule, such as the supremacy of the law, guarantees of human rights, and non-discrimination.⁹

The challenges of integrating the norms of Shariah into the rule of law need careful attention. How can an effort to harmonize Sharia law and national law be made so that harmonization can be achieved in accordance with the principles of a democratic and Pancasila-based rule of law? Furthermore, how the latest practice of integrating Sharia norms into the formation of the Regional Regulations (Perda) in Indonesia can balance between the constitutional recognition of Sharia law and the principles of a democratic rule of law?

Literature Review

Indonesian National Law System's Views on Sharia Law

Islamic law has long been present and developed in Indonesia since the arrival of Islam in the 13th century. According to Munawir Sjadzali, Islam's arrival in Nusantara carried a significant influence on the legal system in force at that time. Islamic law is accepted and applied by society, especially in the field of family law, inheritance, and marriage.¹⁰ Sjadzali explained that although Indonesia is not an Islamic state, Islamic law has been firmly rooted in the lives of the people, especially in the aspects of civil law. The principles and values of Islamic law have been adopted and integrated into the national legal system of Indonesia.

⁷ Wahid, Yenny, "Integrasi Nilai-Nilai Syariah dalam Pembentukan Peraturan Daerah."

⁸ Amir Mu'allim, "Integrasi Hukum Syariah dalam Sistem Hukum Nasional: Studi Kasus Undang-Undang Perbankan Syariah."

⁹ Mahfud MD, Moh., "Kedudukan Hukum Syariah dalam Sistem Hukum Nasional Indonesia."

¹⁰ Munawir Sjadzali, "Islam and governmental system: teachings, history, and reflections," (*No Title*), 1991.

During the Dutch colonial period, Sharia law was recognized through several regulations, among others: Compendium Freijer (1760): Loading the rules of Islamic law applicable to indigenous peoples. The Bumiputera Marriage Act (1854): Recognizing the existence of Muslim law in matters of marriage and divorce for Indigenous Indonesians.¹¹ These regulations indicate that Sharia law has long been recognised and applied in Indonesia, although at the time it was under Dutch colonial rule.

After Indonesia's independence, Sharia law was incorporated into the national legal system, for example through: the establishment of religious courts regulated by the Law No. 7 of 1989 on Religious Justice, the integration of Islamic Family Law envisaged in the Act No. 1 of 1974 on Marriage, and the Sharia Economic Regulation in the Law no. 21 of 2008 on Sharia Banking.¹²

It can be concluded that Sharia law has long been integrated into the legal system in Indonesia, both in colonial and post-independence times. The recognition and accommodation of Sharia law in national law demonstrates an effort to accommodate legal pluralism in Indonesia.

Position and Authority of the Regional Government in the Formation of the Perda

According to the Law No. 23 of 2014 on Regional Governance, the local government has a strong position in the system of government in Indonesia. Article 1, paragraph 2, states that "Regional Government is the conduct of administrative affairs by the local government and councils of local people's representatives according to the basis of autonomy and the duty of assistance with the principle of broad autonomy within the system and principles of the United States of the Republic of Indonesia."

Meanwhile, Bagir Manan in his book "Perjalanan Historis Pasal 18 UUD 1945" affirms that the local government has a position parallel to the central government, with the division of powers regulated in the regulations

¹¹ Khoiruddin Nasution, *Fazlur Rahman tentang wanita* (Tazzafa, 2002).

¹² Abdul Ghofur Anshori, *Perbankan syariah di Indonesia* (UGM press, 2018).

of the legislation.¹³ According to Jimly Asshiddiqie, Master of State Ordinance Law at the University of Indonesia, the Act No. 23 of 2014 provides a strong position for regional governments in the system of government in Indonesia. Through the principle of wide-ranging regional autonomy, the district is empowered to regulate and manage its own affairs of government, in accordance with the aspirations and interests of the local community.¹⁴ Meanwhile, Ryaas Rasyid, regional autonomy expert, stated that the Act No. 23 of 2014 puts the local government as a major pillar in the maintenance of government in Indonesia. The districts were given authority to take care of and arrange their own houses according to the needs and conditions of the local people.¹⁵

From the explanations of the experts, it can be concluded that the Law No. 23 of 2014 on Regional Governance provides a strong position for regional governments in the system of governance in Indonesia. Through the principle of wide-ranging regional autonomy, the district is empowered to regulate and manage its own affairs of government in accordance with the aspirations and interests of the local community. Meanwhile, the Authority of the Regional Government in the Formation of the Perda under Article 18 paragraph (6) of UUD 1945 states that "The Regional Government shall have the right to establish regional regulations and other regulations for the exercise of autonomy and assistance duties." This provision becomes the constitutional basis for the local government to form the Regional Regulations. (Perda).

According to Ni'matul Huda in his book "Hukum Pemerintah Daerah", the authority of the regional government in the formation of the Perda includes: Establishing Perda to carry out the autonomy of the region and the tasks of assistance, Establishing Perda on the APBD, the local tax, the remuneration of the area, and the spatial arrangements of the regions, and Established other Perda in order to maintain the autonomous areas and the duties of assistance.¹⁶ Bagir Manan affirmed that the local government has a

¹³ Bagir Manan, *Perjalanan historis pasal 18 UUD 1945: permususan dan undang-undang pelaksanaannya* (Unisika, 1993).

¹⁴ SH Jimly Asshiddiqie, *Konstitusi dan konstitusionalisme Indonesia* (Sinar Grafika, 2021).

¹⁵ M Ryaas Rasyid, "Otonomi daerah: latar belakang dan masa depannya," *Desentralisasi, Demokratisasi and Akuntabilitas Pemerintahan Daerah*. Jakarta: Asosiasi Ilmu Politik Indonesia, 2002, 13–30.

¹⁶ Ni'matul Huda, *Hukum pemerintahan daerah* (Nusa Media, 2019).

position equal to the central government, with the division of powers regulated in the regulations of the legislation. Article 18 paragraph (6) of UUD 1945 became the constitutional basis for the local government to form the Perda.¹⁷ In this respect, the local government has a strong position in the Indonesian system of government and has the authority to form the Perda in order to carry out regional autonomy and assistance tasks, including in integrating Sharia values into the regional regulations.

Theory of Harmonization of Law and Integration of Religious Norms into the Rules of Law

Harmonization of law is the adjustment of the rules of laws, governmental decisions, and other legal products, both vertically and horizontally, in order to avoid conflict of norms and overlap of authority.¹⁸ According to Maria, harmonization of law is the process carried out to unity and harmonization within a legal system, both vertically and horizontally, in order to create synchronization between the rules of one law and the other.¹⁹ Meanwhile, according to Raharjo, the harmonization of law is an attempt to strengthen the various rules of law in force, both vertical and horizontal, so that there is no collision or conflict of norms so as to create the unity of the legal system.²⁰ From some of the above definitions, it can be concluded that legal harmonization is essentially an attempt to adjust, consolidate, and balance various legislative regulations, both vertically and horizontally, in order to unity and harmonization within an integral legal system.

In addition to the harmonization of the law, the integration of religious norms into the law is also necessary to bring about a law that is just and reflects the noble values adhered to by society.²¹ Mahfud stated that the integration of religious norms into the rule of law is an attempt to make religious values one of the sources of formal law in the formation of positive law.²² Meanwhile,

¹⁷ Manan, *Perjalanan historis pasal 18 UUD 1945: permususan dan undang-undang pelaksanaannya*.

¹⁸ Sudikno Mertokusumo, "Penemuan Hukum sebuah pengantar. Edisi ke-2 Cetakan ke-5," *Yogyakarta. Liberty*, 2017.

¹⁹ Maria Farida Indrati, "Ilmu perundang-undangan: jenis, fungsi dan materi muata," 2007.

²⁰ Rahardjo Satjipto, "Ilmu hukum," *Citra Aditya Bakti, Bandung*, 2000.

²¹ SH Achmad Ali, *Menguak Tabir Hukum: Ed. 2* (Kencana, 2015).

²² Moh Mahfud, *Politik hukum di Indonesia* (Lp3s, 1998).

Praja argues that the integration of religious norms into the regulation of important laws is done to guarantee legal certainty and justice for society, because positive law must be the source of the noble values adhered to by society, including religious values.²³ From some of the opinions of experts above, it can be concluded that the integration of religious norms into the regulations of the law is an attempt to make religious values as one of the sources of formal law in the formation of positive law, in order to strengthen morality and justice of law and to guarantee legal certainty in accordance with the values adhered to by society.

Research Methods

This research is qualitative research with a juridic-normative approach. Juridical-normative research or normative law research is research carried out by studying library materials or secondary data consisting of primary legal materials, secondary legal material, and tertiary legal documents.²⁴ Soekanto and Mamudji explained that juris-normative research or normative law research is research that focuses on positive legal norms such as legislative regulations. This study aims to analyze applicable law, both in terms of its content, structure, and history.²⁵

Basic Law of the Republic of Indonesia of 1945; Law No. 23 of 2014 on Regional Governance; Act No. 12 of 2011 on the Creation of Legislative Regulations; Regional Regulations (Perda) with sharia nuances that have been established in various regions in Indonesia. Secondary legal material is books, journals, research results, and other literature related to the topic of research, namely the integration of the norms of Shariah in the formation of the Regional Regulations (Perda) in Indonesia. Tertiary legal materials can be legal dictionaries, encyclopedias, or other reference materials that can support an understanding of primary and secondary law materials.

The data collection technique used is library research, that is, by studying relevant legal materials.²⁶ Library research is the technique of collecting data using written materials, such as books, journals, articles, and

²³ Juhaya S Praja, "Teori hukum dan aplikasinya, CV," *Pustaka Setia*. Bandung, 2014.

²⁴ Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Prenada Media, 2017).

²⁵ Soerjono Soekanto, "Penelitian hukum normatif: Suatu tinjauan singkat," 2007.

²⁶ Soekanto.

other documents relevant to the subject of research.²⁷ Content analysis is used to analyze the content of the legal materials studied²⁸ and juris-normative analysis aimed at analyzing applicable law based on legal norms.²⁹

Results and Discussion

Latest Practices of Integrating Sharia Norms in the Formation of Regional Regulations in Indonesia

According to research carried out by the Wahid Foundation in 2014, there are at least 442 Sharia nuances that have been established in various regions of Indonesia. These regulate various aspects of public life, such as the implementation of Islamic sharia, clothing, morals, and education.³⁰ The number of Sharia-nuanced persons in Indonesia has been increasing since the Reformation, especially in areas where the majority of the population is Muslim. Here is an identification of some of the Perda Regional Regulations in Indonesia that have sharia nuances.:

1. Aceh Province Regional Regulation:

- a. Aceh Qanun Number 11 of 2002 concerning the Implementation of Islamic Sharia in the Field of Aqidah, Worship and Islamic Syi'ar.
- b. Aceh Qanun Number 12 of 2003 concerning Khamar and Similar Drinks.
- c. Aceh Qanun Number 13 of 2003 concerning Maisir (Gambling).
- d. Aceh Qanun Number 14 of 2003 concerning Khalwat (Pervert).

²⁷ Suriasumantri dalam Sugiyono, "Metode Penelitian Kuantitatif, Kualitatif, dan R&D. Bandung: Alfabeta, CV," 2017.

²⁸ Fajar dan Yulianto Achmad Mukti, *Dualisme Penelitian Hukum Normatif dan Empiris* (Yogyakarta: Pustaka Pelajar, 2017).

²⁹ Marzuki, *Penelitian Hukum: Edisi Revisi*.

³⁰ Muhamad Isnaur Ridho, "Kebijakan Perda Bernuansa Syariah dan Implikasinya Terhadap Hak Konstitusional Warga Negara," *Jurnal: Bhadrika: Jurnal Ilmu Hukum* 2, no. 1 (2019): 111–26, <https://doi.org/10.20961/bhadrika.v2i1.2479>.

2. West Sumatra Province Regional Regulation:

- a. West Sumatra Province Regional Regulation Number 11 of 2001 concerning Implementation of Islamic Sharia.
- b. West Sumatra Province Regional Regulation Number 6 of 2002 concerning Prohibition of Prostitution.

3. Banten Province Regional Regulation:

- a. Banten Province Regional Regulation Number 2 of 2016 concerning the Implementation of Religious Life.
- b. Banten Province Regional Regulation Number 8 of 2005 concerning Zakat Management.

4. Regional Regulations of South Sulawesi Province and other Regencies/Cities:

- a. South Sulawesi Province Regional Regulation Number 6 of 2003 concerning Implementation of Islamic Sharia.
- b. South Tangerang City Regional Regulation Number 8 of 2016 concerning the Development of Public Order and Community Peace.
- c. Padang City Regional Regulation Number 11 of 2005 concerning Prevention of Immorality.
- d. Bulukumba Regency Regional Regulation Number 3 of 2002 concerning Prevention of Immorality.

Comprehensive analysis of the load, purpose, and process of the formation of such Perda-Perda needs to be carried out for several reasons, among others: Evaluation of compliance with the regulations of the applicable legislation,³¹ Identifying potential violations of constitutional rights of citizens,³² Strengthening the legitimacy and support of Perda Syariah in

³¹ Muhamad Isnaur Ridho.

³² Laporan Pusat Studi Hukum dan Kebijakan Indonesia (PSHK), "Mengurai Kompleksitas Perda Bernuansa Syariah di Indonesia," 2013.

society,³³ Ensure that the policy of the region is in line with the principles of a democratic rule of law.³⁴

Sharia-nuanced Perda-Perda charges generally regulate moral issues, such as prohibitions on prostitution, gambling, and alcohol consumption. It is intended to uphold religious values in the life of society.³⁵ The purpose of the establishment of the Sharia-nuanced Perda-Perda is to integrate Islamic values and teachings into the policy and law of the region, with the hope of improving morality, order, and public acceptance of the law in force.

The process of formation of Sharia-nuanced Perda-Perda generally involves roles and societies, especially religious organizations and scholars. It is intended to ensure that the Perda is formed in accordance with the aspirations and values of the society. The establishment of a Sharia-nuanced Perda-Perda is part of an effort to harmonize the law, that is, to adapt and align the positive law with religious values and principles. It is expected to create a law that is appropriate to the needs and interests of the community.³⁶

Juridical Analysis of the Practice of Integration of Sharia Norms in Perda Formation

The existence of Sharia-nuanced Perda-Perda must be in accordance with the principles contained in the 1945 Basic Law, in particular concerning the guarantees of religious freedom (Article 28E para. 1) and the prohibition of discrimination on the basis of religion (Art. 28I para. 2)). Such violations shall not restrict or impede the religious freedom of citizens.³⁷ Sharia-nuanced regulations must be in line with the hierarchy of laws and regulations in force in Indonesia, as stipulated in Act No. 12 of 2011 on the Creation of Legislative Regulations. The regulations should not conflict with higher regulations, such as laws, government regulations or presidential regulations.³⁸

³³ Jimly Asshiddiqie, "Hukum tata negara dan pilar-pilar demokrasi," 2005.

³⁴ Siti Mahmudah, "Polemik Perda Berbasis Syariah di Indonesia," *Jurnal Ijtihad* 13, no. 1 (2013).

³⁵ Asshiddiqie, "Hukum tata negara dan pilar-pilar demokrasi."

³⁶ Juhaya S Praja, *Filsafat Hukum Islam* (Yayasan Piara, 1993).

³⁷ Asshiddiqie, "Hukum tata negara dan pilar-pilar demokrasi."

³⁸ Marzuki, *Penelitian Hukum: Edisi Revisi*.

Let us take an example: The Act of Aceh No. 11 of 2002 on the Implementation of Islamic Shariah in the fields of Aqidah, Worship, and Syi'ar Islam is considered in accordance with the Basic Law of 1945 and the hierarchy of regulations of legislation. It is based on the status of Aceh as a special autonomous region that has the authority to implement Islamic Shariah. Similarly, the Perda of the Province of Western Sumatra No. 11 of 2001 on Implementation of Islamic shariah is also considered in accordance with the Basic Law of 1945 and the hierarchy of regulations of legislation, because West Sumatra has the characteristics of a majority Islamic religious community.

Efforts to harmonize Sharia-shaped Perda-Perda in Indonesia with the principles of the rule of law and democracy need to be carried out with a comprehensive and sustained approach, considering some of the following:

1. The Sharia law must be in line with the values and principles contained in the 1945 Basic Law, in particular with regard to the guarantee of religious freedom (Article 29) and the prohibition of discrimination. (Pasal 28I). A constitutionality test of the Perda Shariah must be carried out to ensure that there is no potential violation of the basic rights of citizens.
2. Sharia law must be in accordance with the hierarchy of higher laws and regulations, such as laws and governmental regulations. The local government must ensure that the sharia law does not exceed its limits of authority (*ultra vires*) and does not conflict with higher rules.
3. Sharia law shall guarantee the protection of human rights, such as religious freedom, freedom of opinion, and other constitutional rights.
4. The process of establishing the Sharia Perda needs to involve widespread public participation, including the affected groups, in order to gain strong legitimacy. Public involvement will increase transparency, accountability, and support for Sharia law.
5. There is a need for a comprehensive evaluation of the charges, purposes and processes of the establishment of the Sharia law to ensure its compatibility with the principles of a democratic rule of law. Strict monitoring and evaluation of the implementation of Sharia law in the field to prevent violations of the constitutional rights of citizens.

The legal implications and implementation challenges at the local level are homework to be dealt with by central and regional governments. This is because the application of Sharia law still leaves problems, among others: 1) Potential Conflict with Higher Rules. Sharia laws that do not conform to the hierarchy of legislative regulations can be cancelled by the central government as this can create legal uncertainty and unrest in society, 2) Discrimination against non-Muslim groups. Some of the Sharia traditions potentially violate the principles of non-discrimination and religious freedom. It could threaten the constitutional rights of non-Islamic citizens, 3) Implementation of Sharia Criminal Law. Some Sharia laws impose criminal punishment that is contrary to the KUHP, which can create a conflict of norms and a problem of jurisprudence, 4) Resistance from the Community. Sharia traditions that do not match the aspirations and values of local communities can lead to rejection and social conflict. This is because the lack of socialization and public participation in the formation of the Perda can make the situation worse, 5) Law Enforcement Capacity. The limited resources and capacity of the law enforcement agencies in the region may impede the effectiveness of the implementation of the Sharia law, thus resulting in public disobedience and unequal law-enforcement, and 6) Interregional Coordination. Differences in the Sharia law between the regions can create disparities and coordination difficulties which can interfere with the uniformity of law enforcement at the national level.

Conclusion

Based on the analysis of recent practices of integrating Sharia norms into the establishment of the Regional Regulations (Perda) in Indonesia, it can be concluded that: There has been a significant improvement in the formation of Sharia-nuanced Perda in various regions in Indonesia especially in areas with a majority Muslim population. The Perda regulates various aspects of public life, such as the implementation of Islamic Shariah, clothing, morals, and education. The aim of the establishing of the Sharia -nuancial Perda is to integrate Islamic values and teachings into the policy and law in the region, with the hope of improving morality, order, and public acceptance of applicable law. The process of forming a Sharia-nuanced Perda involves the role and the community, especially religious and scholarly organizations, to

ensure that the Perda is formed in accordance with the aspirations and values adhered to by the local community.

Constitutionally, the existence of Sharia law in Indonesia is recognized in UUD 1945, in particular Article 29 on guaranteeing religious freedom. However, the harmonization of the Sharia-nuanced Perda with the principles of a democratic rule of law still needs to be enhanced, especially from the point of view of human rights protection, the rise of law, and non-discrimination. There is a potential conflict between Sharia-nuanced Perda and higher legislation, as well as the risk of discrimination against non-Muslim groups. Implementation of Sharia-nuanced Perda at the local level faces various challenges, such as law enforcement capacity, public resistance, and interregional coordination.

Overall, the practice of integrating Sharia norms into the establishment of the Perda in Indonesia shows an effort to accommodate religious values into the national legal system. However, there needs to be more comprehensive harmonization so that the Sharia-nuanced Perda can be aligned with the principles of a democratic rule of law, such as the protection of human rights, the supremacy of the law, and non-discrimination. Central and regional governments need to work together to address the challenges of implementation in the field, so that the integration of Sharia norms can run effectively and in accordance with the constitution.

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