

# The Politics of Sharia Economic Law in the Development of Sharia Financial Institutions in Indonesia

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**ABSTRACT.** The Sharia economy has grown rapidly in Indonesia. This is indicated by the increasing number of banks and non-banks that use Sharia principles. One of the alleged supporters of this development is the political economy of Sharia law conducted by the government. The problem is the role of law politics between the Sharia financial institutions regulation and the Sharia financial institutions development. This research aims to provide an objective picture as well as a recommendation for the strengthening of the Islamic politic of law and Sharia regulations. This research used the normative method, which is a study on regulation, research results, journals, data, and other references, that will be analyzed by the qualitative descriptive method. The results of the study found that the politics of laws and regulations of the Sharia economy have contributed to and established facilities for the development of Islamic financial institutions in Indonesia. The unity of law political and Sharia economic regulation has established public trust and provides opportunities and protection for the community, business people, customers, and Sharia financial institutions.

**Keywords:** Politics of law; Economy; Sharia finance;

## INTRODUCTION

Sharia banking as the first Sharia economic financial institution in Indonesia only began to be established in 1992, namely with the establishment of Bank Muamalat Indonesia, which existed without the support of adequate legal regulations. In the first decade, there was no significant development in the Sharia banking sector due to the absence of a legal umbrella and legality. strong institutions. Positive developments only occurred after the enactment of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking. The rapid development of Sharia Banks cannot be separated from the advantages that Sharia Banks have and offer. Sharia banks are banks whose operations are based on Islamic principles (Muhammad 2014: 46).

In this law, Sharia principles have been definitively accommodated, but the term Sharia banking has been confirmed with the enactment of Law Number 21 of 2008 concerning Sharia Banking. As the development of Sharia banking continues to increase, on the other hand, Non-Bank Sharia Financial Institutions are also showing increasing growth, such as Sharia Insurance Institutions, Sharia Capital Markets, Sharia Pawnshops, Sharia Financial Institution Pension Funds (DPLK), Sharia Cooperatives, Companies with Sharia Principles, Waqf Board, Ami Zakat Agency, and BMT. The birth of Law Number 21 of 2008 concerning Sharia Banking made the legal basis for Islamic banks quite clear and strong, both in terms of their institutions and in terms of their operational foundations. This condition cannot be separated from the influence of the existence of laws and regulations that support it.

In terms of terms, legal politics is sometimes also associated with public policy. Policy can be interpreted as general principles that function to direct the government in managing, regulating or

resolving public affairs, community problems, or areas of drafting laws and regulations. -invitation and application of laws/regulations, with a goal that leads to efforts to realize the welfare or prosperity of society (citizens) (Ne, et, 1975:1) At the empirical level, legal politics has been used by Mahfud MD in understanding the relationship between law and law. politics Mahfud MD presents a different approach to understanding a legal phenomenon, in this case, it is different from the classical approach which looks at law from a normative juridical perspective, Mahfud MD looks at law from a socio-political juridical perspective, which presents the political system as a variable that influences the formulation and legal performance. Based on the results of his research, Mahfud MD concluded that a particular regime's political process and configuration will have a significant influence on the legal product that is then produced. In countries with a democratic political configuration, the legal products have a responsive or populist character, whereas, in countries with an authoritarian political configuration, the legal products have an orthodox conservative or elitist character (Mahmodn, 2010:22).

In this case, it is understood that the need for legal development must be in line with the needs of society. When related to the legal politics of Sharia economics, this shows that the availability of Sharia economic legal institutions is an absolute necessity in the development of Sharia economic institutions. The availability of these legal institutions is part of the efforts of legal politics which are closely related to legal positivization. Legal positivization is understood as an effort to formalize a normative law. such as Islamic law becoming national law, so that it is understood that Positive Islamic law means Islamic law that is formalized into national law. Formal legal provisions that regulate the implementation of Sharia economic activities in Indonesia are all provisions that have gone through a positive process by the state. If an economic law has been formalized by the state, then the force for its enactment comes from the state, so that it has an overall effect on the Indonesian people and can be enforced to be implemented in economic activities. (Hamid, 2006:92) Lawrence M Friedman (2009:33) explains that law has a significant influence on people's lives because law is formed to achieve a goal. The reality of this statement can be seen in the course of Sharia economic law in Indonesia. Various studies on the relationship between Sharia law and economics show that progress in Sharia economics will not be successful without legal development that precedes it, so it is very accurate to say that between the legal system and the economic system, there is interaction and a relationship of mutual influence.

Based on this description, legal politics is seen as having a synergistic meeting point with the development of Sharia economic financial institutions. The synergy between legal politics and Sharia economics can strengthen the existence of Sharia financial institutions systematically so that in turn the national legal system and the national Sharia economic system can realize sustainable development. The role of legal politics in the development of Sharia economics must be seen in an integrative manner because each element is complementary and is in a functional relationship. Bearing this in mind, it is necessary to carry out research that aims to provide an objective picture of Sharia economic and legal politics and its role in the development of Sharia financial institutions as well as providing recommendations for strengthening Sharia legal politics and economic regulations.

## **METHOD**

This research uses normative methods. The normative approach is an approach that is based on the main legal material by examining theories, concepts, legal principles, and statutory regulations related to this research. The research approach is carried out on legislation (statute approach), historical approach (historical approach), comparative approach (comparative approach), and conceptual approach (conceptual approach). The analysis used in this research is qualitative descriptive analysis, namely describing the processed data in detail into sentences (descriptive). The qualitative analysis carried out starts with data analysis which in its in-depth analysis is

complemented by normative analysis. Based on the results of the analysis, conclusions are drawn deductively, namely drawing conclusions based on general facts and then drawing specific conclusions.

## **RESULTS AND DISCUSSION**

### **Politics of Sharia Economic Law in Indonesia**

The definition of legal politics is the process of making and implementing laws that can show the nature and direction of a law that is built and enforced. From this understanding, it is explained that legal politics is an official direction or line that is used as a basis and method for making and implementing laws to achieve the goals of the nation and state. Legal politics is an effort to make law a process of achieving state goals. Legal politics can also be said to be an answer to the question of what the law will do from the perspective of state formation to achieve state goals. Even though it is juridical, the application of Sharia economic law in Indonesia has a very strong basis, as in the provisions of Article 29 of the 1945 Constitution (Mashudi, 2013: 97).

The term Islamic economics has become widely used in Indonesia. Sharia economics or Islamic economics is an economic system that is different from the systems of capitalism and socialism. Islamic economics has the virtues contained in both systems and is free from the weaknesses that exist in both systems. Islamic economics not only prepares individuals with several conveniences in working together based on Sharia, but also provides high moral education in life (Afzaurrahman, 1996:10) Umar Chapra defines Islamic economics as knowledge that contributes directly or indirectly to the realization of human welfare continues to concentrate on aspects of allocation and distribution of resources with the main aim of realizing maqashid Sharia in line with the opinion of Syed Nawab Haider Navy in his book *Islam, Economy, and Society*, stating that the Islamic economy is a man-made system like other economic systems. This view places greater emphasis on the empirical aspects of Islamic economics which can be tested both theoretically and practically (Hamd 2006: 68).

The birth of these regulations and legislation has marked a new era of Sharia banking which already has a clear legal umbrella so that the legal basis for Sharia banking can be equivalent to the legal basis for conventional banks. This shows that Islamic economic politics in the realm of Islamic public finance has shown its support for financial implementation. public slam legally formal. Apart from that, the existence of the DSN MU institution is an institution that has strong authority in determining and maintaining the application of Sharia principles in operations in Sharia financial institutions, Sharia banking, Sharia insurance, and others. Politics The Sharia economic laws that have been implemented by the government have provided full support for the development of the Sharia economy in Indonesia. The Islamic economic system is seen as universal also because the values in Islamic economics can be applied to good financial governance (Republika, 1 August 2017).

### **Sharia Economic Regulations in Indonesia**

Sharia economic regulations are directed at providing good support for the growth and development of Sharia economic practices. In its function as a regulator, the government facilitates efforts to develop the Sharia economy by creating a competitive and healthy business environment. Apart from that, structuring Sharia economic regulations is carried out in order to balance supervision and facilities for the growth and development of the Sharia economy itself. The main objective of Sharia economic regulations is to maintain public trust in institutions and business practices based on Sharia principles and to provide protection to business actors, customers and Sharia financial institutions.

Based on the mandate of the National Conference of the Indonesian Ulema Council (MUI), in August 1990 a working group was formed to establish an Islamic-based bank in Indonesia, which

ultimately gave birth to Bank Muamalat Indonesia (BMI) in Jakarta. The deed of establishment of PT Bank Muamalat Indonesia was signed on November 1 1991, and on May 1 1992 Bank Muamalat Indonesia as the first Sharia bank began operating. Law Number 7 of 1992 introduced a banking system based on the principle of profit sharing. This was followed by the emergence of provisions in government regulation Number 72 of 1992 concerning banks based on the principle of profit sharing.

Apart from confirming the existence of Islamic banking in Indonesia, this law also regulates the institutions and operations of Islamic banks. As an implementation, a number of implementing provisions were issued in the form of a Decree from the Board of Directors of Bank Indonesia which provides a stronger legal foundation and broad opportunities for the development of Sharia banking in Indonesia.

### **The Reality of the Development of Sharia Economic Financial Institutions in Indonesia**

However, this development will not be significant if it does not have a supporting basis and policies, so that the Sharia economic growth target is difficult to achieve. The space for Sharia economic institutions to move must be guided by good regulations or arrangements to create a good growth atmosphere. The legal regulation in question is how the government is proactive in seeing the rapid development of the Sharia economy so that the rate of growth of the Sharia economy can be directed and have a definite track. This is where the role of legal politics is carried out by the government through creating regulations as checks and balances, such as creating policies that can support economic activities and Sharia economic growth both institutionally and in systems so that they remain focused. It is hoped that Sharia economic development will lead to achieving equitable prosperity for all Indonesian people.

Islamic economic law was born in Indonesia at least starting from the world Islamic economic movement. Several Indonesian Muslim scholars and scholars are starting to see the fact that capitalist and socialist economic systems cannot be expected too much because the negative impacts of these two economic systems have been proven. They also think it is necessary to develop an alternative economic system from these two economic systems. At least two efforts are being made, namely: first, combining the two economic systems into a new economic system, such as that which has been developed by China over the past two decades; secondly, to create an economic system that is completely different from the spirit of the two previous economic systems. It turns out that the second effort above was the choice as the entry point for the Islamic economic system in Indonesia. Initially, those who believed in and fought for the Islamic economic system as an alternative, just economic system were considered objects of ridicule. Until the early 1990s, ridicule and cynical views towards those who were persistent in fighting for the Sharia economic system were still loud, but slowly the struggle for recognition of the Sharia economic system as an alternative economic system began to be accepted (Iswanto, 2013: 85).

### **CONCLUSION**

The politics of Sharia economic law in the development of regulation of Sharia economic financial institutions in Indonesia. The role of legal politics can be seen in the process of positing Sharia economic regulations in Indonesia, where the government has formed directions, methods, and policies in formalizing laws relating to Sharia economics in Indonesia. The role of legal politics is carried out by the government through creating regulations as checks and balances, such as creating policies that can support economic activities and Sharia economic growth both institutionally and in the system so that it remains focused. The government's political will can accelerate the realization of the Sharia economic order as an economic system that is just and applies Sharia principles, thus creating a good growth atmosphere. An indicator of achieving the political

role of Sharia economic law is shown by the increasing number of Sharia financial institutions established in Indonesia.

The development of Sharia economic financial institutions in the current period looks better than in the previous period. This is demonstrated by the growth of the Sharia banking office network which has spread to almost all districts and cities in Indonesia. Likewise, Sharia business institutions are developing very rapidly as seen from the emergence of various companies that use Sharia principles, such as FIF Syariah, Al-Ijarah Indonesia Finance, and others.

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