

INDONESIA SHARIA ECONOMIC LEGISLATION AS A LEGAL FRAME POST REFORMATION

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ABSTRACT

This study aims to analyze the Indonesian government's political economy policy related to sharia economic law legislation with a legal and political approach since 1998. A fundamental change in the political economy is the policy of formalizing Islamic economic law with the birth of KHES based on the Decree of the Supreme Court's Chief Justice. KMA/097/SK/X/2006, which is strengthened by Law Number 3 of 2006 concerning the Authority of the Religious Courts regarding the Religious Courts which adjudicate marriages, inheritance, wills, and sharia economic dispute resolution. Primary data sourced from state regulations which obtained through document and be analyzed qualitatively by a socio-legal approach. Periodically, the development of the Islamic economy in Indonesia after independence consists of the Old Order period (1945-1966), the New Order period (1967 - 1991), the period of Bank Muamalah (1992-2000), and the Post-Reformation period (2001 to present). The historical development of sharia economic law displays a dynamic character that is unique to regulate socio-politics and culture as essential element that influences the steps and direction of Islamic sharia economic legislation in Indonesia. The results showed a trend of changing legal and political policies after the reformation by strengthening Islamic identity politics. Political reforms became the impetus for the birth of reform ideas and movements in the economic sector, including the sharia economy.

Keywords: Legislation, National Law, Political reformation, Religious Identity, Sharia Economic Law.

INTRODUCTION

An effort to reform economic laws become Islamic economics is the most substantial issue after Indonesia's financial crisis. Muslim's encouragement about the Islamic economy as the legal system then the Islamic economic system was born (Hasyim, 2019). The first Sharia economic legislation was Law number 7 of 1992 concerning Banking, then amended by Law number 10 of 1998 concerning Amendments to Law number 7 of 1992 concerning Banking, which explicitly mentions the term Bank based on sharia principles. Islamic banking in Indonesia began in 1992; the pace of development of Islamic banking was supported by policy No. 23 of 2008 (Widarjono et al., 2020).

The storm of the monetary crisis in 1997 impacted Indonesia, which resulted in an economic and political crisis that led to high unemployment, increased poverty, and the destruction of small and medium-sized businesses that were the people's foundation. The global

and Asian financial crises were marked by weak supervision of the private sector on financial markets by rating agencies and private investors (Noor et al., 2020).

The inability of the New Order government to overcome the economic and political crisis gave to a vote of no confidence from the Indonesian people, which impact on people power movement which led to the fall of Suharto who had been in power for 32 years on May 21, 1998 (Datta et al., 2011). Since the fall of the New Order government, the Indonesian people have entered a new era called the reformation era. Historians consider that a specific political shift after the New Order was a revival of Islamic economic regulation in Indonesia (Juwana, 2005).

Economic and political democratization demands the people obtain political access and equitable economic resources, and legal justice. Reform became a starting for the development of Islamic economic regulation in Indonesia. Various government policies and regulations were issued to provide answers to changes in all sectors of life, especially economic and political stability. Local politics become more open and determine the development in the area. The power of the New Order regime before the reforms has hampered the strengthening of Indonesian politics (Hasan, 2009). Corruption and political instability were the main factors that led to capital flight in Indonesia in 2008. The first quarter of 2009 to the second quarter of 2011 was an era of economic instability in Indonesia. In addition, the unfavorable global crisis has made the domestic economy increasingly unstable (Basorudin et al., 2020).

After the Reformation Era, the development of Sharia economic law has gained momentum to develop with alternative economic development models to improve national economic conditions (Asutay, 2007). The issue of applying sharia law in the context of economic activity in the public sphere is an indicator of growing awareness for Indonesian Muslims in understanding sharia at a practical level in their lives (Fealy & White, 2008). Muslims have different beliefs from one another, for example in terms of choosing a restaurant or choosing a bank, the majority view that sharia products have guarantees in Muslim beliefs (Usman et al., 2020).

Empowering the issue of sharia is empirically strengthened by the emergence of various economic activities in the name of sharia, such as sharia banks, sharia capital markets, sharia insurance, and sharia liens. The Indonesian Muslim community makes this phenomenon as an alternative economy in the banking world (Salim & Azra, 2003). The pioneering sharia economy in Indonesia began with Bank Muamalat with a profit-sharing system, which reflected Islamic banking in addition to seeking profit also promoting Islamic norms for economic problems (Rahmi et al., 2020).

Islamic economic system is not only oriented to the accumulation of wealth as much as possible, but also to build common good that is framed by religious morality. The principle of profit sharing in Islamic banking describes a mutually beneficial relationship for all parties that transact on the basis of the principle of mutual acceptance (Mukharom et al., 2020). The legality of Islamic banking is in accordance with Law Number 7 of 1992, strengthened by Law Number 23 of 1992, then Law Number 3 of 2004 concerning monetary policy with sharia principles. This law becomes the legal basis for national banking to implement a dual banking system, namely conventional and sharia banking.

This article focuses on tracking the historical dynamics of Islamic economic law in Indonesia by looking at the dimensions of the Islamic law's struggle in national law. This article uses a socio-legal approach by proving that there is a creative, dynamic, and productive dialogue between the ideas of the motivation of sharia economic law as part of the sociological aspirations

of the Indonesian Muslim with national law to be placed in the context of legal politics in Indonesia.

THEORETICAL REVIEW

Islamic economic law consists of legal theory in Islam. The term economy in economic activity is the opposite of waste, consumptive, and excessive behavior. Economics is a part of the overall norms made by the government as a personification of the people who regulate the lives of the economic interests of the people facing each other.

Economic law has been known in the United Kingdom since 1760 and then developed to other European countries, especially countries that divert economic activity from agriculture to industry. In France, economic law was developed from 1830 to 1850 by unifying and codifying French commercial law into civil code and codifying criminal code law. Economic law also applies in the Netherlands, which took over the Napoleon Code founded on *Burgerlijk Wetboek* and *Wetboek van Koophandel* (1838). When the Dutch colonized Indonesia, *Burgerlijk Wetboek* and *Wetboek van Koophandel* were enacted in Indonesia since 1848. Although economic law was already known in Indonesia as imposed by the Netherlands, economic law was not a particular concern.

According to Chapra, Islamic economics is a knowledge that helps to bring humanbeings into happiness through the allocation and distribution of limited resources in the line of Islamic teachings (Chapra, 2001). Islamic economics is a systematic attempt to understand economic problems and human behavior relationally from Islamic as moral-spiritual framework of business activities (Benhayoun et al., 2014). Islamic banking originates from the moral ethical of the Qur'an, so Islamic banking prohibits the practice of usury and obscurity for the sole purpose of profit (Baber, 2019).

The definition of Sharia economics as stipulated in Law number 3 of 2006 states that contained act and business activity carried out:

1. Islamic banks;
2. Sharia microfinance;
3. Islamic insurance;
4. Islamic reinsurance;
5. Sharia mutual funds;
6. Islamic bonds and Islamic mid-term securities;
7. Sharia securities;
8. Sharia financing
9. Islamic pawnshop,
10. Pension funds of Islamic financial institutions, and
11. Islamic business.

Human authority over the property in the rules of Islamic law is protected in the frame of preserving of wealth as one of the principles of *al-kulliyat al-khams*. Property owned by someone besides being an economic instrument also has social-humanistic content (Hasaballah, 1971). Therefore, in Islam, it is not allowed to practice a monopoly. Thus, property ownership by someone must be accompanied by moral accountability (Franzoni & Ait-Allali, 2018).

Property ownership in Islam is different from a liberal-capitalistic or communistic system. Liberal-capitalistic flow originates from *laissez faire* theory. *Laissez* views property

rights as absolute rights; each individual is free to seek, possess and use according to his own free will to provide a space for the birth of monopolistic practices and exploitation to oppress weak economic groups. While communism's economic system of communism does not recognize individual property rights, all property is owned and controlled by the State.

The State's presence in the context of economic law is based on the idea that the government is the embodiment of the will of the people who can become a source of glue for the diversity of people's aspirations. With its regulative authority, the state can portray itself as a guarantor for upholding community justice in carrying out their rights and obligations legally. The transformation of Islamic economic law in legislation must meet four foundations: philosophical, sociological, juridical, and political. Firstly, the philosophical foundation contains moral or ethical values that have the values of truth, justice, decency, and other matters that are considered acceptable. Secondly, the sociological basis that law must reflect the community's general beliefs or legal awareness. The law was born and formed by living law in the community, not just to record the situation immediately. Thirdly, the legal basis is a legal basis that forms the basis of the authority to form legislation. Fourthly, the political foundation is a political policy that becomes the next basis for the state government's policy and management. Law enforcement is strongly influenced by elements of legal culture, legal substance and law enforcement structures. The three of them constitute an inseparable unity in building a strong and effective law as a tool for social engineering (Sutrisno, 2019).

The development of Islamic economic values has two approaches. First, the *kauliya* verses approach, namely the word of Allah and the Sunnah of the Messenger of Allah which is then called the prescriptive normative approach. Second, the *kauniyya* approach is an empirical-positive approach based on empirical sources through the process of formulating economic values inductively by considering the benefit of humans, which is always moving dynamically. Both approaches can be used simultaneously because both are complementary to produce the basic values of Islamic economics comprehensively. As an activity of worship, Islam's economic or business activities must avoid harmful and prohibit things, such as usury, excessive attitude, reducing the scales, betrayal, and risk. The *kauliya* approach, which is based on the Quran and the Sunnah of the Messenger of Allah, becomes the source of ethics of all Islamic law, which pivots on the values of human benefit: justice and goodness. It is just that the normative sources of the Quran and Sunnah are general and abstract, so a more operational and applicable conception of law is needed through a long process of *ijtihad*. Therefore, the area of development of the conception of Islamic economic law moves dynamically at the level of *ijtihad* by using science, such as the science of Usul Fiqh. The work of *ijtihad* is the main instrument that will oversee the dynamics of Islamic economic law thoughts. *ngts.an singkatan 'gan kata yang sama.uh di bagian atasonomi syariah* The application of sharia economics is supported by the MUI DSN fatwa which has a position in transforming Islamic law into national law as the basis for the application of sharia economic law (Dakhoir, 2019). MUI has an important role in Islamic society, not only as Ulama, but also as a driving force, driving community development (Ghofur & Asiyah, 2019).

RESEARCH METHODS AND MATERIALS

This study focuses on the history of the development of sharia economic law regulations regarding various sharia economic laws and regulations that were born after the political and

economic reforms starting in 1998 marked by the strengthening of Islamic identity politics in Indonesia. The collected primary data was then analyzed qualitatively by approach showing the trend of changes in the sharia economic law policy of the Indonesian government after the reformation.

Research source from the regulation of changes in the Indonesian government's political economy policy after the 1998 New Order reform related to sharia economic law legislation. It is socio-legal research, by observing the political economy of law policies that have changed from the birth of various packages of sharia economic law legislation. Starting from Law No.3 of 2006, the Religious Courts' existence is not only adjudicating civil cases but also increasing sharia economic disputes.

RESULTS AND DISCUSSION

The History of Sharia Economic Law Legislation in Indonesia

Historically, Islamic economic embryos have emerged along with the arrival of the flow of trade brought by preachers to the archipelago. Trade activities that they carry out indirectly occur when transforming religious teachings in economic activities. When the Dutch arrived on the archipelago in the XIV century, Muslim traders had carried out economic resistance to the monopoly Dutch trade policy in jihad.

In the era before independence, Islam's economic reality was more dominant as the Ummah's economic movement, whose implementation was seen in the economic practices of Muslim traders by practicing Islamic business in daily life (Nagaoka, 2012). While in the era of independence, Islamic economic discourse has developed along with the Indonesian people's internal mobility and the opening of socio-economic and political issues. The discussion of Islamic economics generally includes three themes: first, the thought of Islamic theory about economics. Second, the concept of the Islamic economic system. Third, the economy of Muslims. Periodically, the development of Islamic economics in Indonesia after independence can be seen: the Old Order period (1945-1966); the New Order period (1967-1991); the period after the founding of the Muamalah Bank (1992-2000); and the Post-Reform period (2001 until now).

After the proclamation of the Republic of Indonesia's independence in 1945, the Government was confronted with the fact that Islamic law, which prevailed among Indonesian people, was unwritten and written in various fiqh books that differed from one another. In 1946, Law No. 22 of 1946 was stipulated to guarantee legal certainty in the registration of marriage, divorce, and reconciliation for Muslims. Besides, the judicial body also developed in 1957, namely the enactment of Government Regulation No. 45 of 1957 concerning the establishment of the Religious Courts in Java, Madura, and South and East Kalimantan. In the case of a verdict, the Religious Court judge is guided by 13 books as a legal reference resulting in differences in decisions between judges in Indonesia so that Law No. I of 1974 concerning Marriage and Government Regulation No. 28 of 1977 concerning land representation. Since then, Islamic law was made as written law, but Islamic laws have not been made written law such as inheritance law, wills, and grants.

The next development was the enactment of Law number 14 of 1970 concerning the Principles of Judicial Power, which places the Religious Courts as one of four judicial

institutions as executors of judicial powers that culminates in the Supreme Court. The discourse of Islamic economics has not been studied but only entered at the level of ideas contained in several political policies. The development of Islamic economics in the Old Order period was reflected in several policies, namely (1) Plans from the Economic Development Strategy Committee chaired by Muhammad Hatta in 1947, (2) Economic Urgency Plans chaired by Sumitro Djojohadikusumo and formed by Nasir's cabinet which was famous for the Benteng Fortress program. In 1951, (3) a Five-Year Plan drawn up by the State Designing Bureau known as the 1955 Djuanda Plan and the National Plan of National Development Planning or the Eight-Year Plan formed by the 1960 National Design Council.

In the early period of independence, the central figure in economics, especially in the development of the Islamic economy, was Muhammad Hatta, which was contained in a book entitled *Towards Independent Indonesia*. This book examines an economy free from the clutches of international capitalism, with the colonial economy becoming a national economy. His commitment to Islam's teachings influenced Hatta's thoughts by offering the concepts of social justice, cooperatives, without usury or bank interest. To advance the national economy, the government is trying to advance indigenous entrepreneurs in the real sector, and the government also nationalizing foreign companies to be owned by the State. Indigenous people in business who are majority a Muslim have placed the national economy within the national economic movement frame that intersects with religious zeal with the country's political-economic policy.

The development of Islamic economics in the New Order period (1967-1991) gave birth to Islamic economic thinkers, including Safrudin Prawiranegara, Ahmad Azhar Basyir, Zainal Abidin Ahmad, Halide, Mohtar Efendi, Didin S. Damanhuri, AM Saefudin, Daud Ali and M. Dawam Rahardjo. Their economic studies' central themes are related to economic flows, world economic order, justice, poverty, cooperatives, zakat, taxes, and Islamic banks.

The idea of Islamic economics in the New Order era entered a new phase that began in 1980, where the idea of Islamic economics was carried individually by specific figures and then moved into the collective consciousness. The picture of the birth of Islamic economists' collective awareness can be seen from the emergence of scientific forums that discuss Islamic economics, including:

1. National Seminar on Economic Development in Islamic View at the Sunan Ampel State Islamic Institute in Surabaya in 1982. This seminar produced a thought formulation that the Capitalist and Communist economic systems were based on material pursuits. Whereas the Islamic economy, its economic system, is based on spiritual morals and ethics.
2. The National Seminar on Islamic Research in Bandung in 1983 discussed the ownership in Islamic economics. This seminar's basic principle was to critique the capitalist and socialist economic system that positions ownership based on the concept of materialism.
3. The National Seminar on the Islamic Economic System in Ujung Pandang in 1982, which discussed the Islamic economic system initiated by Halide Professor of Economics, Hasanudin University Ujung Pandang.

According to Halide, the Islamic economic system is an economic system extracted from the Koran and the Sunnah that deals with economic affairs. Islamic economics can be used as a solution to solve the economic problems that hit the world. In contrast to Western economies, the approach is only based on materialistic calculations, profit, and loss, without religion's moral content. Although Halide's ideas are still normative-deductive, at the level of scientific discourse,

the idea of Islamic economics has entered the scientific realm and become the basis of Islamic economic development at the practical-operational level.

Various general economic policies issued by the New Order government in the period 1967-1991 included: (1) Foreign Investment Policy (PMA) and Domestic Investment (PMDN) in 1967, (2) First Five-Year Development Plan (1969), (3) Second Five-Year Development Plan (1974) (4) Third Five-Year Development Plan (1979), (5) Third Five-Year Development Plan (1984), (6) Fourth Five-Year Development Plan (1989), The PMA and PMDN policies are intended to attract as much private participation as possible both private and foreign and domestic to grow the business world as a solution to overcome the crisis.

On a macro scale, the Islamic economics experienced rapid development and progress after establishing the Islamic Development Bank (IDB) in Jeddah in 1975. It was able to attract attention and influence the mind map of global financial practices. Islamic economics' discourse and practice have an appeal among academics, professionals, and economic practitioners both at national and international levels. Studies on Islamic economics and finance continue to develop both in Muslim countries and in Europe.

In Indonesia, the emergence of the Islamic economy was marked by Muamalat Bank in 1992, based on Law No. 7 of 1992. Although the issue of Islamic economics was relatively late in entering, there was very strong enthusiasm for Muslims to study it. Islamic economic studies in various seminar forums, discussions run dynamically involving various universities, both public and private, both universities owned by Muslims or non-Muslims.

Islamic financial institutions have overgrown since 2000 until now spread throughout the province. The growth of Baitulmal wa Tamwil (BMT) as an institution engaged in financial services in micro-sharia until 2010 the number reached 1,400 BMT spread throughout Indonesia. Likewise, the development of Islamic banking is massive. Besides, there are also exciting developments related to the birth of Islamic banks in the framework of the dual banking system (Fathurrahman, 2010). In 2013, Indonesia's banking growth represented \$ 1.7 trillion in assets, a growth of 17.6 percent. The development of Islamic finance has large assets that will continue to experience more growth than conventional finance in the future (Azma et al., 2018).

According to Ma'ruf Amin as Indonesian vice president and former Chairman of DSN-MUI, at the Nash and Hujjah Syariyyah Compilation Seminar on Sharia Economics on July 11-12, 2006 stated that presence of Sharia economics in Indonesia was developing rapidly marked by the growth of Islamic financial institutions spread throughout Indonesia. A new form of banks has emerged in the mid of the 20th century which carries a set of principles, characteristics and objectives that set them apart from the existing conventional banks such as Islamic Banks, which relied on a clear philosophy, namely, adherence with the teachings of tolerant Islam. Islamic banks have adopted a new banking system that sets them apart from other banks which rely on the concept of usurious interest. Their activities involve collecting or creating a pool of funds from various sources and investing them in accordance to Islamic Sharia (Maswedah, 2020). The risk of macro conditions is naturally affected with the concept of Islamic businesses. First, the basic concept of Islamic business is that it must be fair, balanced, and maslahat. Second, the concept of Islamic business must be fair because of the principle of profit sharing (Muafi et al., 2020).

Besides, Sharia's position in Indonesia was getting stronger marked by the birth of Law number 10 of 1998 concerning amendments to Law number 7 of 1992 concerning Banking. This law recognizes the dual banking system in Indonesia conventional and sharia system. Besides,

Law number 3 of 2006 concerning amendments to Law number 7 of 1998 concerning the Religious Courts, which extended the Religious Courts' authority to settle cases related to sharia economics. Fatwa of National Sharia Council was also the operational basis of the sharia financial institution; however, it does not have binding power, only as a legal consideration of the judge in the decision. The authority of the Religious Courts as in Law number 3 of 2006 concerning the resolution of Shari'a economic disputes to require the presence of the Shari'ah Economic Law Compilation (KHES) based on PERMA Number 2 of 2008, September 10, 2008, as a guide and a firm grip for Judges of the Religious Courts to avoid disparities in Judges' decisions. It implies that sharia economic law legislation in Indonesia is very strategic in encouraging national economic growth (Yasin, 2016).

The Political Struggle of Sharia Economic Law to the National Sub Law

The development of society with a variety of dynamics requires social change that necessitates a change in the value system and law. Weber and Durkheim said that law is a reflection of the solidarity that exists in society. Rose also put forward a general theory of social change related to legal change. According to Rose, legal changes are influenced by three factors; first, there is the regular communication from technological discoveries, second, there is contact or conflict between people's lives, and third, there is a social movement.

The Indonesian legal system follows the Civil Law tradition, whose main feature is codified legislation. Meanwhile, although it has written sources on the Quran, Sunnah, and the Islamic jurists' legal opinions, Islamic law is generally not codified in the form of laws. Therefore, in Islamic law and customary law, it is often seen as unwritten law in the form of legislation.

Indonesia is a state that recognizes three legal systems: (1) Customary law is a rule or norm that lives in society and has punishments for those who violate it; (2) Islamic law is the law was brought by Middle Eastern traders that come from the Koran and Hadith, and Ijtihad. At present Islamic law in Indonesia covers marriage, divorce, and inheritance. (3) Civil law was originating from the Dutch colonial, and its existence was recognized under Law number 1 of 1946.

The approach that can be used to transform Islamic economics law into national law is used theory *Stufenbau des Rechts* by Kelsen. According to this theory, the enactment of law must be returned to that law higher position: (1) There is a legal ideal, which is an abstract norm; (2) There are norms which used as an intermediary to achieve goals; (3) There are concrete forms, as a result of intermediate application norms or their enforcement in court (Iswanto, 2013).

The process of legislation from a socio-legal point must create legal which includes five primaries: First, the legislators formulate a law that is clean, affordable and accessible and realistic. Second, government administration carries out and obeys the legislation and encourages citizens also to obey the legislation that has been made. Third, the majorities of people accept and view the law as, in principle. Fourth, disputes or conflicts are consistently brought to independent and impartial judges, who examine and decide cases based on these rules. Fifth, the judge's decision is obeyed.

Based on the above arguments, it is clear that the existence of Islamic economic law has been recognized since entering the Indonesian legal order. This recognition was demonstrated by the birth of the Compilation of Islamic Law in 1991. Although the scope of the Compilation of

Islamic Law is still limited to family law issues, this momentum at least provides a profound influence on the birth of the Compilation of Islamic Economic Law which can be used as a milestone for Islamic economic law in Indonesia.

Islamic law has enormous prospects and potential in the development of national law. Several considerations make Islamic law deserve to be a reference in the formation of national law, namely: (1) The existence and current laws such as the Marriage Law, the Religious Courts Law, the Law on Hajj Management, Zakat Management Law, and Nanggroe Aceh Darussalam Special Autonomy Law and several other laws that directly or indirectly contain Islamic law such as Law Number 10 of 1998 concerning banks which recognizes the existence of a Sharia Bank with its sharia principles, or Law Number 3 of 2006 regarding Religious Courts, which further expanded its authority, and Law Number 21 of 2008 concerning Sharia Banking; (2) The population of Indonesia, which is more or less 88 percent Muslim, will give significant consideration in accommodating their interests; (3) Awareness of Muslims in the practice of daily life. Many community religious activities have taken place so far are a reflection of their awareness of sharia or Islamic law, such as zakat and inheritance; (4) The political will of the Government in this case is crucial. Without the Government's political, it is quite tricky for Islamic Law to become part of the legal system in Indonesia.

Efforts to positive the Islamic law into National law are legal politics that involve the authorities to formulate the law through a government initiative to produce licensed products or laws that are discussed and approved by the People's Representative Council. Sharia Economic Law as part of Islamic law is a side with other legal systems. The Islamic financial system implemented in Indonesia includes bank and non-bank financial. Both of these institutional systems play an essential role in the Islamic economic arena in Indonesia. Both also have different scopes. Although they are different, their roles are crucial in achieving the objectives of Sharia economics in particular and the national economy (Nopriansyah, 2019).

The development of the Sharia economy in the wake of Indonesia's rapid political and legal reforms demands supporting legal instruments. Islamic economic law also cannot be separated from Islamic law itself. Thus, discussing Islamic economic law requires equal attention to the existence of Islamic law itself. In this position, the state has a significant and decisive role in the efforts to posit the Islamic economic law within the framework of national law.

The government's authority to make various regulatory policies in the economic field is based on the basic assumption that the state is a representation of public institutions whose main task is to protect various interests of the people based on the value of the mutual benefit. In this position, the state has the authority to intervene in individual ownership based on benefit. Thus, the value of the benefit is the existence of every government policy.

Islamic economic can be used as an essential part of the mainstream of national economic policy, it needs to be a systematic effort to create a sharia economic-political design. This design must include three main domains, namely the realm of regulation and the rule of law, the realm of institutional strengthening and expansion, and the realm of internalizing sharia economic values in the life of the state and society.

First the regulation, the existence of a set of laws and their derivative rules is crucial to be noticed. The stakeholders of Islamic economics must think of the design of regulations that can increase the acceleration of the role and growth of Islamic economics. Second, institutional expansion focuses on efforts to increase the size of the Islamic economic industry, namely how to make the market share of Islamic banking, Islamic insurance, Islamic capital market, Islamic

treasury, and Islamic microfinance institutions. It can increase from time to time or how to increase the collection and utilization of zakat, as well as creating a sharia economic education system that is well integrated into the national education system. Third, internalization of sharia economic values to all components of the nation is very important in creating a perspective on how to economize and do business in accordance with sharia guidance. Investment of Islamic economic values will affect the behavior of economic agents (Rusydiaana & Hasib, 2019). For example, when someone knows that honesty has implications for the value of worship to God, including the implication on whether or not alms, infaq and alms are received before God, then the behavior of treason, corruption, and like to reduce measurements and scales (Iswanto, 2013).

The urgency of Islamic economic legal regulation is philosophically based on the concept of collateral for five basic human needs, one of which is protecting wealth. Islam's respect for wealth implies the need for a state presence in regulating its citizens' economic traffic by making regulations in the form of Islamic economic law. The basis for the development of Islamic economic law rests on the Islamic economics' s design by referring to the value of God, the value of justice, the value of prophecy, the results or benefits (Kuran, 1995).

Transformation of Islamic economic law in the laws and regulations must at least meet four foundations, namely philosophical, sociological, juridical and political foundations. First, the philosophical foundation contains moral or ethical values that contain the values of truth, justice, decency and other values that are considered good. Second, the sociological basis that law must reflect the general beliefs or legal awareness of the community. The law was born and formed in accordance with the living law in the community not just to record the situation immediately (moment hospitalization). Third, the legal basis is the legal basis which forms the basis of the authority to form legislation. Fourth, the political foundation is a political economy that becomes the next basis for the state government's policy and management (Suhartono, 2013). Political economy is a branch of economics with a political approach, this field is important for understanding how the political development of a country is influenced by economic factors (Rosdi, 2015).

The approach that can be used as an effort to transform Islamic economic law into national law as the legal theory of Hans Kelsen, which states that the enactment of a law is returned to a higher legal position, namely the existence of legal ideals as abstract norms. The norms between those used as intermediaries to achieve goals and there are concrete norms as a result of the application of intermediate norms or enforcement in court (Suhartono, 2013).

The inculcation of values or ideological processes can be carried out through three approaches. First, the application of Islamic values in economic and business activities, such as practicing the principle of cooperation between business people and Islamic economic institutions. Second, public education through an effective and sustainable sharia economic campaign, including the planting of sharia economic values from an early age, and third, the development of an Islamic economic education curriculum at all levels of education, especially higher education, both undergraduate and graduate. If this approach can be carried out well with maximum attention to the three domains of Islamic economics that have been explained above, then the development of Islamic economics in Indonesia will be able to make a positive contribution to the development of the Indonesian nation.

Efforts to positive Islamic civil law are the realization of the dreams of some Muslims since ancient times. The birth of Supreme Court Regulation No. 02 of 2008 concerning the Compilation of Sharia Economic Law (KHES) is a response to new developments in the study

and practice of Sharia economics in Indonesia. At the level of sharia economic law enforcement, the Government issued Law No. 3 of 2006 concerning Religious Courts that contains Sharia economic dispute resolution in addition to marriages, inheritance, wills, grants, endowments and alms as an affirmation that the Islamic economic system as an alternative economic development for Indonesia's national economic security.

The approach that can be used as an effort to transform Islamic economic law into national law is to borrow the legal theory of Hans Kelsen (*stufenbau des rechts*) which states that the enactment of a law is returned to a higher legal position namely the existence of legal ideals as abstract norms, there are norms between those used as intermediaries to achieve goals and there are concrete norms as a result of the application of intermediate norms or enforcement in court.

The inculcation of values or ideological processes can be carried out through three approaches. First, the application of Islamic values in economic and business activities, such as practicing the principle of cooperation between business people and Islamic economic institutions. Second, through an effective and sustainable sharia economic campaign, public education, including the planting of sharia economic values from an early age, and third, the development of an Islamic economic education curriculum at all levels of education, especially higher education, both undergraduate and graduate. If this approach can be carried out well with maximum attention to the three domains of Islamic economics that have been explained above, then the development of Islamic economics in Indonesia will be able to make a positive contribution to the development of the Indonesian nation.

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CONCLUSIONS

The history of the dynamics of sharia economic law in Indonesia was born as a logical response between dialogue and the intersection of Islamic teachings with social-society. The characteristics and expressions of sharia economic legislation are manifested in a form that is in line with the diversity of local value wisdom wrapped in the concept of sharia so as to form sharia economic law.

The development of sharia economic law displays a dynamic character that is unique to Indonesia. Value regulation, socio-politics and culture are important elements that influence the steps and direction of Islamic sharia economic legislation in Indonesia. Various theories of the application of Islamic law in the Indonesian context are related to regulation by the owner of political authority which proves the above thesis. In the current development of Islamic law reform in Indonesia, Islamic law has appeared as one of the sub-systems in the Indonesian national legal system with the birth of various regulatory instruments in the form of laws or qanuns as positive law in Indonesia.

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REFERENCES

- Asutay, M. (2007). A political economy approach to islamic economics: Systemic understanding for an alternative economic system. *Kyoto Bulletin of Islamic Area Studies*, 1(2), 3–18.
- Azma, N., Aisyah, S., Izzah, N., & Rahman, M. (2018). The development of Islamic banking and financial institution in United Kingdom. *The Journal of Business Economics and Environmental Studies*, 8(2), 5–13.
- Baber, H. (2019). E-servqual and its impact on the performance of islamic banks in Malaysia from the customer's perspective. *The Journal of Asian Finance, Economics and Business (JAFEB)*, 6(1), 169–175.
- Basorudin, M., Kusmaryo, R.D.H., & Rachmad, S.H. (2020). Preventing capital flight to reach lucrative investment in Indonesia. *The Journal of Business, Economics, and Environmental Studies (JBEEES)*, 10(1), 29–36.
- Benhayoun, N., Chairi, I., El-Gonnouni, A., & Lyhyaoui, A. (2014). Islamic banking challenges lie in the growth of islamic economy despite of the free interest loans policy: Evidences from support vector machine approach. *ACRN Journal of Finance and Risk Perspectives*, 3(1), 19–31.
- Chapra, M.U. (2001). Islamic economic thought and the new global economy. *Islamic Economic Studies*, 9(1), 1-9.
- Dakhoir, A. (2019). The fatwa authorities of National syaria council of Majelis Ulama Indonesia in supporting The principle if syariah Compliance. *Journal of Legal, Ethical and Regulatory Issues*, 22(1), 1-5.
- Datta, A., Jones, H., Febriany, V., Harris, D., Dewi, R.K., Wild, L., & Young, J. (2011). *The political economy of policy-making in Indonesia*. Overseas Development Institute (ODI), London, UK.
- Fathurrahman, A. (2010). Prospects for the Development of Islamic Economics in Indonesia in the Perspective of Philosophy of Science. *Journal of Islamic Economics*, 4(2), 179–195.
- Fealy, G., & White, S. (2008). *Expressing islam: Religious life and politics in Indonesia*. Institute of Southeast Asian Studies.
- Franzoni, S., & Ait-Allali, A. (2018). Principles of Islamic finance and principles of corporate social responsibility: what convergence? *Sustainability*, 10(3), 637-654.
- Ghofur, A., & Asiyah, N. (2019). Public hearing and people aspiration in legalizing law: A case study of indonesian islamic banking act. *Journal of Legal, Ethical and Regulatory Issues*, 22(1), 1–11.
- Hasaballah, A. (1971). *Ushul al-tasyri' al-islami*. Mesir: Dar Al-Ma'arif.
- Hasan, N. (2009). The making of public Islam: Piety, agency, and commodification on the landscape of the Indonesian public sphere. *Contemporary Islam*, 3(3), 229–250.
- Hasyim, S. (2019). The political economy of sharia and the future trajectory of democracy in Indonesia. *ISEAS Perspective*, 108(3), 1–7.
- Iswanto, B. (2013). Islamic Economics and Legal Politics in Indonesia. *Mazahib*, 12(2), 77–91.
- Juwana, H. (2005). Reform of economic laws and its effects on the post-crisis Indonesian economy. *Developing Economies*, 43(1), 72–90.
- Kuran, T. (1995). Islamic economics and the Islamic subeconomy. *Journal of Economic Perspectives*, 9(4), 155–173.
- Maswedah, S.N. (2020). How investment deposits at islamic and conventional banks effect earnings per share? *The Journal of Asian Finance, Economics and Business (JAFEB)*, 7(11), 669–677.
- Muafi, M., Diamastuti, E., & Pambudi, A. (2020). Service Innovation Strategic Consensus: A Lesson from the Islamic Banking Industry in Indonesia. *The Journal of Asian Finance, Economics and Business (JAFEB)*, 7(11), 401–411.
- Mukharom, M., Heryanti, B.R., Astanti, D.I., & Aravik, H. (2020). Sharia economic legal contribution of economic development in Indonesia. *Journal of Islamic Economics Perspectives*, 1(2), 1-8.
- Nagaoka, S. (2012). Critical overview of the history of Islamic economics: Formation, transformation, and new horizons. *Asian and African Area Studies*, 11(2), 114–136.
- Noor, N.H.H.M., Bakri, M.H., Yusof, W.Y.R.W.A.N., Noor, N.R.A.M., & Zainal, N. (2020). The impact of the bank regulation and supervision on the efficiency of islamic banks. *The Journal of Asian Finance, Economics and Business*, 7(11), 747–757.
- Nopriansyah, W. (2019). Islamization of economy in Indonesia: From politics to law. *Hikmatuna*, 5(2), 182–193.

- Rahmi, M., Azma, N., Obad, F.M., Zaim, M., & Rahman, M. (2020). Perceptions of Islamic banking products: Evidence from Malaysia. *The Journal of Business Economics and Environmental Studies*, 10(3), 35–42.
- Rosdi, M.S.B.M. (2015). Conceptualization of Islamic political economy. *American International Journal of Social Science*, 4(4), 71–77.
- Rusydiana, A.S., & Hasib, F.F. (2019). Islamic banking selection criteria: Case in Indonesia using analytic network process. *Economica: Jurnal Ekonomi Islam*, 10(1), 165–188.
- Salim, A., & Azra, A. (2003). *Introduction: The state and Shari'a in the perspective of Indonesian legal politics. Dalam Sharia and Politics in Modern Indonesia*, Singapore: Institute of Southeast Asian Studies.
- Suhartono. (2013). *Initiated the shari'ah economic law legislation into the realm of the national legal system*.
- Sutrisno, E. (2019). Relations between legal culture and economic empowerment among marginalized group of farmers. *Journal of Legal, Ethical and Regulatory Issues*, 22(3), 1–9.
- Usman, H., Sobari, N., & Al-Hasan, F.A. (2020). The impact of sharia compliance on sharia hotel services and customers satisfaction. *The Journal of Business Economics and Environmental Studies*, 10(3), 5–12.
- Widarjono, A., Mifrahi, M.N., & Perdana, A.R.A. (2020). Determinants of Indonesian Islamic rural banks' profitability: Collusive or non-collusive behavior? *The Journal of Asian Finance, Economics and Business*, 7(11), 657–668.
- Yasin, M.N. (2016). The pluralism of islamic economic law: Dialectic of moslem and non-moslem in the development of sharia banking in Indonesia. *Journal of Indonesian Islam*, 10(1), 113–138.