

The Effectiveness of Sharia Regional Regulations in Madura on Strengthening Pancasila Values

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Abstract— Pancasila implementation is reflected through recognizing religious freedom in Indonesia. The implementation of religious freedom in Indonesia is very important to ensure that everyone can practice worship and religious values well without making the State of Indonesia a religious or theocratic state. This guarantee of freedom is affirmed in Constitution of the Republic of Indonesia of 1945, Article 28 E Paragraph (1), the development of Islamic laws which are part of the implementation of human rights resulting in Sharia Regional Regulations must remain in harmony with the values of Pancasila, Sharia Regional Regulation in Madura is effective because, firstly the majority of Madura citizen are Islam, secondly, Madurese people uphold the values that exist in Pancasila, thirdly, the Madurese people in their daily life strongly uphold religious values. Fourthly, Madurese people appreciates the Sharia Regional Regulations which are part of the identity of the Madurese people in practicing their activities in accordance with Islamic values.

Keywords: *Religion, Pancasila, Human Rights, Madura*

I. INTRODUCTION

Absorption of various provisions and values of Islamic law in government scope is one form of Pancasila implementation that recognizes the religious freedom in Indonesia, because the existence of freedom of religion is the right of a person to determine, believe and practice religious values which is a core of human rights that cannot be reduced for any reason. Therefore, the existence of religious freedom is recognized by the state as human rights principles and values which are internationally agreed.[1]

Therefore, the guarantee of religious freedom in Indonesia is very important to ensure that everyone can practice worship and religious values well without making the State of Indonesia a religious or theocratic state.[2] In addition, this guarantee of freedom is emphasized in Constitution of the Republic of Indonesia of 1945, Article 28 E Paragraph (1); Article 28 I Paragraph (1); Article 29 Paragraph (2) Article 31 Paragraph (5); and it is clearly stipulated in Article 18 of Law No. 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights. Moreover, the development of Islamic law adoption which is the result of human rights implementation resulting in Sharia Regional Regulations must remain in harmony with the values of Pancasila, Constitution of the Republic of Indonesia of 1945, and it should maintain the unity of Indonesia, therefore, the spirit of harmony, peace and respect the diversity can be maintained. So how is the effectiveness of Sharia Regional Regulation in Madura on

strengthening Pancasila values, Constitution of the Republic of Indonesia of 1945 and the Republic of Indonesia?

II. METHODOLOGY

This research employed normative juridical approach. It aims at studying the implementation of principles and norms in positive law.[3]

III. RESULT AND DISCUSSION

A. *Basic Principles of Rules and Regulations*

Margarito Kamis, firmly stated "Making rules should first always be connected with the rule of law and second it also should be connected with Constitution of the Republic of Indonesia of 1945". Therefore, the first principle used in this study is Pancasila because Indonesia use Pancasila as the concept of the rule of law. The second established principle is the basic principles of Constitution of the Republic of Indonesia of 1945, as it is confirmed in Article 3 Paragraph (1) of Law no. 12 of 2011 concerning Making Rules "Constitution of the Republic of Indonesia of 1945 is the basic law of the Rules." [4] It is explained further that "basic law" means the basic norm used as the source of law for Making Rules under Constitution of the Republic of Indonesia of 1945. The third principle is the formation of legislation through the National Legislative Program (Proleknas) and the Regional Legislative Program (Prolegda), can both be based on community aspirations which have been stated in Law No. 12 of 2011 Article 18 letter H and Article 35 letter D.

B. *The effectiveness of Rules and regulations*

Basically, effectiveness is the degree of success in achieving the goal. Effectiveness is intended to measure the achievement of predetermined target or goal. In the sociology of law, law has a function as *a tool of social control*, an effort to create a balanced condition. It aims to create harmonious circumstances between stability and change in the society.

In addition, law also function as *a tool of social engineering* which means law is a means of renewal in society. Law can contribute in changing people's mindset and perspectives from traditional into rational or modern mindset and perspectives. *Efektifikasi Hukum* is a process which aims to run law effectively.

In order to know the effectiveness of law, first of all it should be measured to what extent particular law is obeyed by the most of targeted object, thus it can be said that the law is effective. However, that effective law still can be measured its degree of effectiveness. It is because people tend to obey the law depending on their interests. As previously stated, there are various interests, including *compliance, identification, and internalization*.

C. *The Effectiveness of Syaria Regional Regulation in Madura*

The next stage after Sharia regulation have been ratified in Madura is the stage of implementing the regulation in the society. It will be found effective and ineffective problems regarding to the implementation of those Regulations. However, generally, Madurese people would not problematize those regulations because majority of them are Muslims,[5] and the other religions will adjust to those regulations.[6]

Madura is one of island located in Indonesia. There are four regions absorb and implement Islamic values rooted in the society. Those regions are Pamekasan, Sampang, Sumenep, and Bangkalan Regency.

In Pamekasan Regency, there are several regional legal products that formally apply Islamic values. Even since few years ago, this region has declared its identity as “Gerbangsalam”, a region that seeks to mobilize and establish Islamic nuances among its citizen way of life, both within government scope or in terms of social interaction among societies.

Some of the intended legal products include: Regional Regulation Number 18 of 2001 concerning Prohibition of Alcoholic Beverages. Regional Regulation Number 18 of 2004 concerning Prohibition of Prostitution. Regional Regulation Number 7 of 2008 concerning Management of Zakat, Infaq and Sadaqah. Regional Regulation Number 5 of 2010 concerning Hajj Operational Costs Grant. Regional Regulation Number 4 of 2014 concerning Al-Qur'an Reading Skills for Muslim Students. Regional Regulation Number 5 of 2014 concerning Control of Activities in Ramadan. Regional Regulation Number 14 of 2014 concerning Management of Hotels, Lodging and Boarding Houses. Regional Regulation Number 1 of 2017 concerning Implementation of Social Order. Regional Regulation Number 3 of 2017 concerning Implementation of Madrasah Diniyah. Regional Regulation Number 3 of 2015 concerning Organizing Entertainment and Recreation. Regent Regulation Number 14 of 2016 concerning Conducting Karaoke and Entertainment Businesses. Regent Decree No. 300 of 2009 concerning the Establishment of Gerbangsalam as a Model and Strategy for Da'wah.

Furthermore, the regional legal product in Sampang Regency which have an Islamic nuance as an embodiment of the implementation of Islamic law in the context of community life is the Circular Letter of Sampang Regent Number 451 / 024.1 / 434.013 / 2019 concerning Urge to Do Congregational Prayer for all Regional Device Organization (OPD) and all Sub-District Heads in Sampang Regency.

The next region is Sumenep Regency, Just like in Sampang Regency, it is quite difficult to find sharia-based legal product in Sumenep Regency. According to Ananta Yuniarto, S.H, M.SI, Head of Legal Section of Sumenep

Regional Representative Council (DPRD) explained that the only sharia-based legal product in Sumenep regency is Regional Regulations No. 7 of 2002 concerning the Sumekar Sharia Local Bank (BPR). Although they do not have many tabulations related to Sharia Regional Regulations, there are also some regulations that have indirectly applied Islamic values. One of them is the content of Regional Regulation No. 3 of 2002 concerning Public Order.

The last region is Bangkalan Regency. Bangkalan has been known as the center of Islamic classical science. Besides, the local government has declared that Bangkalan is a city of zhikir and solawat. The Sharia Regional Regulation implemented in this region is Regional Regulation concerning Management of Tourism. This regional regulation demands to implement Islamic values in all tourism spots in Bangkalan.

D. *The Effectiveness of Sharia Regional Regulations in Madura on Pancasila Vallues*

Indonesia has a concept of a rule of law state that has the characteristics of Pancasila, because Pancasila is the basic of state law, so the application the rule of law in Indonesia will be defined by the moral principles of the Pancasila perspectives[7].

Whereas, Sharia Regional Regulation in Madura is part of the laws and regulations which should be in line with the rules above it, and the highest rule is Constitution of the Republic of Indonesia of 1945, while Pancasila is referred as “*Staatsfundamentalnorm*”[8] because it will be the source of the legal order in making rules and regulations in Indonesia.

Therefore, there are several causes making Sharia Regional Regulations in Madura run effectively, firstly, the majority of Madurese people are Muslims, secondly, the Madurese people uphold the values that exist in Pancasila, thirdly, the Madurese people appreciate the Sharia Regional Regulations which are part of their identity as Madurese people in carrying out their activities in accordance with the values of Islam.

IV. CONCLUSION

The effectiveness of Sharia-based Tourism Regulations in Madura on Strengthening Pancasila Values runs well, because the majority of Madurese people are Muslim and uphold the values stated in Pancasila.

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