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Internalization of Islamic Law in the Formation of Regional Regulations in Lampung Province

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Abstract: *The Formation of Regional Regulations in Indonesia, including in Lampung Province, is an integral part of the government's efforts to regulate community life effectively and efficiently. Islamic legal values have become an important factor influencing the formation of regional regulations (Perda). Lampung Province, one of Indonesia's regions rich in cultural and religious diversity, demonstrates significant adoption of Islamic legal aspects in various local regulations. This research is a normative legal study based on literature with a legislative approach and legal interpretation analysis. The data analysis method used is content analysis. The results show that Islamic law significantly influences the formation of regional regulations in Lampung Province. This is reflected in several regional regulations that adopt Islamic law principles in various aspects of community life. The internalization of Islamic legal values in these regional regulations is concrete evidence of the adaptation and harmonization between Islamic law and the national legal context in Indonesia. This research implies the importance of considering religious aspects in formulating regional legal policies to achieve social justice and harmony among communities with various backgrounds and beliefs.*

Keywords: *Internalization of Islamic Law, Regional Regulations, Lampung Province.*

A. Introduction

Indonesia, as a country with a Muslim-majority population,¹ has a legal system that reflects cultural and religious diversity.² Indonesian law integrates Islamic law principles with aspects of positive law and customary practices, creating an inclusive legal foundation. The diversity of ethnicities, cultures, and religions in Indonesia serves as a hallmark and reflects a spirit of tolerance and inclusivity. A legal system encompassing Islamic, positive, and customary law is evidence of unity in diversity.

Islamic law plays a crucial role in shaping legal norms that reflect moral values and justice in Indonesia.³ Additionally, principles of positive and customary law contribute to forming a legal framework that embraces societal diversity. Recognition of this diversity is reflected in the legal domain and social, cultural, and political practices. The Indonesian state actively promotes harmony among religious communities, while its legal system, as an evolving construct, mirrors the values and demands of a heterogeneous society. Cultural and religious diversity is valuable in shaping Indonesia's dynamic and inclusive legal identity.

As a pluralistic nation, legal pluralism in Indonesia is inevitable. Although the legacy of the European positive law system from the Dutch colonial era is embedded in legal development in Indonesia, the characteristics of Islamic law and customary law play an important role that cannot be ignored in the law-making process in Indonesia.⁴ This is due to the existence of Islamic law and customary

¹ Ahmad Rajafi, *Progres Hukum Keluarga Islam di Indonesia Pasca Reformasi (Dimensi Hukum Nasional - Fiqh Islam - Kearifan Lokal)* (Yogyakarta: Istana Agency, 2020), 216; See also Martini and Abdul Rahman Hamid, *Sistem Hukum Indonesia* (Jawa Barat: CV Jejak (Jejak Publisher), 2023), 190.

² Dedi Sumanto, "Hukum Adat di Indonesia Perspektif Sosiologi dan Antropologi Hukum Islam," *Juris (Jurnal Ilmiah Syariah)* 17, no. 2 (December 31, 2018): 181–191, <https://doi.org/10.31958/juris.v17i2.1163>.

³ Wenda Hartanto, "Kesadaran Hukum Sebagai Aspek Dasar Politik Hukum Legislasi: Suatu Tinjauan Filsafat," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 4, no. 3 (December 31, 2015): 469–483, <https://doi.org/10.33331/rechtsvinding.v4i3.17>.

⁴ Suad Fikriawan, Syamsul Anwar, and Misnen Ardiansyah, "The Paradigm of Progressive Judge's Decision and Its Contribution to Islamic Legal Reform in Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (December 1, 2021): 249–262, <https://doi.org/10.24090/mnh.v15i2.4730>.

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law since before the formation of the Indonesian state.⁵ Both aspects are integral to Indonesia's legal richness, reflecting cultural roots and values deeply rooted in society since ancient times.

Due to the strong influence of Islamic law and customary law, the legal system in Indonesia recognizes three legal systems that have developed within it: the civil law system or Western law, the Islamic law system, and the customary law system.⁶ The application of the Western legal system in Indonesia is a result of the Dutch colonial rule for 350 years, while the application of the Islamic law system is due to the majority of the Indonesian population adhering to Islam. The position of Islam as the religion followed by the majority of the Indonesian population significantly influences their way of life. This differs from customary law, a heritage of legal practices since primitive times, ranging from customs to jointly believed provisions to be adhered to.⁷

The influence of Islamic law in Indonesia is reflected in the legal system and various aspects of community life. Islamic law, with its principles encompassing moral and justice aspects, significantly shapes social norms and behaviors. Besides serving as guidance in the legal realm, Islamic values also permeate educational institutions, families, and society in general.

Although Indonesia recognizes Islamic law as one of the three applicable legal systems, the inclusive rule of law principle remains highly regarded. Equality and justice before the law are the focus to create harmony among the existing legal diversity. With time, the

⁵ Syofyan Hadi, "Hukum Positif dan The Living Law (Eksistensi dan Keberlakuannya dalam Masyarakat)," *DiH: Jurnal Ilmu Hukum* 13, no. 26 (2017): 259–266; See also Fitra Mulyawan and Dora Tiara, "Karakteristik Hukum Islam pada Zaman Penjajahan Belanda dan Jepang," *Unes Law Review* 3, no. 2 (December 14, 2020): 113–125, <https://doi.org/10.31933/unesrev.v3i2.151>.

⁶ Shira Thani and Alvi Syahrin, "Contribution of Islamic Law in the Development of Corruption Criminal Law," *PalArch's Journal of Archaeology of Egypt / Egyptology* 18, no. 1 (2021): 456–465; See also M. Yasin al Arif, "Internalization of Maqasid Al-Syari'ah in Judge's Decision" (*1st Raden Intan International Conference on Muslim Societies and Social Sciences (RIICMuSSS 2019)*), Netherlands: Atlantis Press, 2020), 206–210, <https://doi.org/10.2991/assehr.k.201113.039>.

⁷ Rossa Ilma Silfiah, "Kontribusi Hukum Islam dalam Membangun Hukum Nasional Berwawasan Multikultural," *Arena Hukum* 13, no. 1 (April 30, 2020): 77–96, <https://doi.org/10.21776/ub.arenahukum.2020.01301.5>.

interaction between Islamic law, positive law, and customary law continues to shape Indonesia's legal framework to be dynamic and responsive to evolving societal demands.

Furthermore, according to JC, Islamic law in Indonesia has been recognized as living law since Islam first entered the archipelago in the 7th century. Van Leur.⁸ As living law, the influence of Islamic law cannot be denied in the formation of legislation in Indonesia. As an important component of Indonesia's legal heritage, Islamic law significantly shapes the national legal identity and values.

Referring to the National Long-Term Development Plan (RPJPN) 2005-2025, the development of state law must consider legal awareness in society and necessitate the formation of state law that aligns with the prevailing sociological and cultural values within society. This understanding indicates that the configuration of state law must follow the laws applicable in society. Islamic law, as a living part of the law within society and followed by the majority of the Indonesian population, plays a crucial role and has a tangible impact on the development of law in Indonesia.⁹

In connection with this, fundamentally, the strong influence of religion (read: Islamic law) in forming legislation is none other than because one of the state's foundations is the belief in the Almighty God.¹⁰ According to Jimly, state law must reflect the core of justice based on the belief in the Almighty God, which is embodied through the principles of norm hierarchy and norm elaboration. The source of norms based on justice by the Almighty God can originate from the Islamic Shariah system or values derived from Christian, Hindu, Buddhist, and Confucian cultures. If the values contained therein

⁸ Moeflich Hasbullah, *Islam & Transformasi Masyarakat Nusantara* (Depok: Prenada Media, 2017), 175; See also Sopyan Mei Utama, "Eksistensi Hukum Islam dalam Peraturan Perundang-Undangan di Indonesia," *Jurnal Wawasan Yuridika* 2, no. 1 (March 31, 2018): 56–68, <https://doi.org/10.25072/JWY.V2I1.166>.

⁹ Ali Imron Hs, "Kontribusi Hukum Islam terhadap Pembangunan Hukum Nasional," *Masalah-Masalah Hukum* 41, no. 3 (2012): 416–422.

¹⁰ Nadirsyah Hosen, "Religion and the Indonesian Constitution: A Recent Debate," *Journal of Southeast Asian Studies* 36, no. 3 (October 2005): 419–440, <https://doi.org/10.1017/S0022463405000238>; See also Jeremy Menchik, "Productive Intolerance: Godly Nationalism in Indonesia," *Comparative Studies in Society and History* 56, no. 3 (July 2014): 591–621, <https://doi.org/10.1017/S0010417514000267>.

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have been adopted, there is no need to mention the source of Shariah norms anymore, as its name has become the applicable law for the public.¹¹

Seen nationally, the contribution of Islamic law is evident in legislation, such as Law Number 1 of 1974 concerning Marriage, which has been amended by Law Number 16 of 2019, establishing Islamic law as the basis before the law applies. The Law Number 20 of 2003 concerning the National Education System (Sisdiknas) asserts that human development is based on the Almighty God, with considerations that make religious teachings the foundation of the national education system.¹² Furthermore, Law Number 13 of 2003 concerning Manpower includes the interests of Muslims to practice religious teachings at specified times.

Viewed locally, Regional Regulations as part of the legislation, which are local legal products, are essentially created democratically through the involvement of the Regional Representative Council (DPRD) and local leaders, Governors, and Regents/Mayors. Therefore, Regional Regulations are often referred to as "local law", which essentially equates to laws, the only difference being the scope of their application.¹³

Thus, the influence of Islamic law in legislation reflects religious values as an integral aspect of national legal development. This is also evident at the local level, where Islamic legal values, as a form of living law within society, play a significant role in forming Regional Regulations, especially in Lampung Province, as affirmed in Law Number 23 of 2014 concerning Regional Governments Article 237. This article indirectly depicts that the basic principle of the formation and content of Regional Regulations (Perda) refers to the provisions of legislation and legal principles that grow and develop within

¹¹ Jimly Asshiddiqie, *Menuju Negara Hukum yang Demokratis* (Jakarta: Sekretariat Jenderal dan Kepaniteraan, Mahkamah Konstitusi, 2008), 705.

¹² Hs, "Kontribusi Hukum Islam terhadap Pembangunan Hukum Nasional," 416–422.

¹³ Yuswanto and M. Yasin Al Arif, "Diskursus Pembatalan Peraturan Daerah Pasca Putusan MK No. 137/PUU-XIII/2015 dan No. 56/PUU-XIV/2016," *Jurnal Konstitusi* 15, no. 4 (2018): 710–731, <https://doi.org/10.31078/jk1542>.

society as long as they do not contradict the principles of the Unitary State of the Republic of Indonesia.

As part of the Republic of Indonesia, Lampung Province exhibits unique dynamics in facing the challenges of forming Regional Regulations (Perda) that reflect Islamic legal principles. Understanding and tracing how the internalization of Islamic law influences the formation of Regional Regulations in Lampung Province are key foundations for understanding the legal dynamics in this region. The formation of Regional Regulations reflecting Islamic values is a central issue in the debates within society and local governments. This research aims to significantly contribute to the literature on Islamic law and Indonesian national law.

This study is an advanced research effort to obtain fresh elements related to the issues under investigation. Some related studies include Silfiah's research, which attempts to examine the contribution of Islamic law to the development of Indonesia's multicultural national law.¹⁴ Furthermore, Imron's research investigates how much Islamic law contributes to developing Indonesia's national law.¹⁵ Unlike previous research, this study focuses on finding different results, focusing on the internalization of Islamic Law in forming Regional Regulations in Lampung Province. This study is significant in providing insights into the extent to which Islamic law is a determining factor in formulating the content of regional regulations and how these values are integrated within the legal context. Thus, this study provides a basis for understanding the role of Islamic law in shaping the legal foundation at the local level, while also promoting harmony between local regulations and the religious norms prevalent in society.

This research is a qualitative study focused on textual analysis as a source of data.¹⁶ This study also falls into the category of normative

¹⁴ Silfiah, "Kontribusi Hukum Islam dalam Membangun Hukum Nasional Berwawasan Multikultural," 92.

¹⁵ Hs, "Kontribusi Hukum Islam terhadap Pembangunan Hukum Nasional," 419.

¹⁶ Lexy J. Moleong, *Metode Penelitian Kualitatif* (Bandung: Remaja Rosdakarya, 2006), 36; See also Russell W. Belk, *Handbook of Qualitative Research Methods in Marketing* (United Kingdom: Edward Elgar Publishing, 2007), 21–35.

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legal research derived from library research, adopting legislative approaches and case studies by conducting legal interpretation analysis. Interpretative approaches are carried out through grammatical and systematic interpretation methods.¹⁷ The data analysis method used is content analysis, aiming to explore deeper information from written and printed content.¹⁸

B. Formation of Regional Regulations (Perda) in Lampung Province

As a product of representatives of the people together with the government, Regional Regulations (Perda) can be considered legislative acts, similar to laws, and other regulations in various forms can be identified as regulatory products.¹⁹ Furthermore, Regional Regulations can also be interpreted as local legal products formed through a democratic process via representative institutions, namely the Regional Representative Council (DPRD), and involving the Governor or Regent/ Mayor.²⁰

The existence of Regional Regulations reflects the implementation of the delegation of authority to regions to manage and regulate their affairs. This occurs because laws regulate some regional affairs and require further regulation through Regional Regulations.²¹ The process of forming Regional Regulations involves

¹⁷ I. Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum* (Jakarta: Prenada Media, 2016), 156; See also Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2021), 12.

¹⁸ Krippendorf Klaus, *Analisis Isi: Pengantar Teori dan Metodologi*, Terj. Farid Wajidi (Jakarta: Rajawali Pers, 1993), 15; See also Ali Abdul Wakhid et.al., "The Islamic Perspective Of Non-Muslim Leaders In Indonesian Muslim Majority Communities," *Akademika : Jurnal Pemikiran Islam* 26, no. 2 (December 14, 2021): 277–296, <https://doi.org/10.32332/akademika.v26i2.3753>.

¹⁹ Junimart Girsang and Mashudi Kurniawan, "Fungsi Pembentukan Peraturan Daerah oleh Dewan Perwakilan Rakyat Daerah," *Journal of Law and Policy Transformation* 2, no. 1 (July 18, 2017): 113–129; See also Ni'matul Huda and Riri Nazriyah, *Teori & Pengujian Peraturan Perundang-Undangan* (Ujungberung, Bandung: Nusamedia, 2011), 111.

²⁰ Yuswanto and Arif, "Diskursus Pembatalan Peraturan Daerah Pasca Putusan MK No. 137/PUU-XIII/2015 Dan No. 56/PUU-XIV/2016," 710–731.

²¹ Ad Basniwati et.al., "Kajian Hubungan Fungsional Pemerintahan Pusat dan Pemerintah Daerah dalam Penyelenggaraan Tatakelola Pemerintahan yang Baik," *Jurnal Sosial Ekonomi Dan Humaniora* 7, no. 2 (December 29, 2021): 123–131, <https://doi.org/10.29303/jseh.v7i2.38>; See also A. Zarkasi, "Pembentukan Peraturan

cooperation between the DPRD and regional leaders, both the Governor and Regent/Mayor, to create a legal framework that aligns with the needs and characteristics of the local area.

Alongside this, Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation includes Regional Regulations as part of the hierarchy of legislation. As stated in Article 7, the types and hierarchy of legislation include the Constitution of the Republic of Indonesia of 1945; Resolutions of the People's Consultative Assembly; Laws/Government Regulations instead of Laws; Government Regulations; Presidential Regulations; Provincial Regional Regulations; and District/ City Regional Regulations.

According to Laica Marzuki, highlighting the arrangement and hierarchy of legislation, placing Regional Regulations in the hierarchy of legislation as the lowest, below Presidential Regulations, is considered inappropriate.²² *Local Wet* or Regional Regulations are made to implement Laws, *wet* or *Gesetz*. However, the Law has not fully explained the essence of decentralization. Therefore, Regional Regulations should be placed below the Law or, at least, below Government Regulations (PP).²³

The authority to form Regional Regulations (Perda) concerning Regional Governments has been clearly explained in Law Number 9 of 2015 and the Second Amendment to Law Number 23 of 2014. Article 236, paragraphs (1) and (2) of the law affirm that "To implement regional autonomy and assistant duties, regions have the authority to form Regional Regulations; The formation of Regional Regulations as mentioned in paragraph (1) is carried out by the Regional Representative Council (DPRD) with the joint approval of the regional head". This indicates that forming Regional

Daerah Berdasarkan Peraturan Perundang-Undangan," *Inovatif Jurnal Ilmu Hukum* 2, no. 4 (April 1, 2010): 103–120.

²² Simon Butt, "What Makes a Good Judge? Perspectives from Indonesia," *Asian Journal of Law and Society* 8, no. 2 (June 2021): 282–323, <https://doi.org/10.1017/als.2020.27>.

²³ Huda and Nazriyah, *Teori & Pengujian Peraturan Perundang-Undangan*, 113.

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Regulations²⁴ involves cooperation between the DPRD and the regional head, emphasizing the importance of joint approval in formulating regulations appropriate to local needs and contexts.

Furthermore, this is reinforced by the provisions in Law No. 17 of 2014 in conjunction with Law No. 2 of 2018 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional House of Representatives. Article 317 paragraph (1) letters a and b stipulate that the provincial DPRD has the responsibility and authority to form provincial and regional regulations together with the Governor and discuss and approve draft provincial and regional regulations related to the provincial budget submitted by the Governor. Meanwhile, the authority of the District/City DPRD is explained in Article 366 paragraph (1) letters a and b, which stipulate that the District/City DPRD has the responsibility and authority to form district/city regional regulations together with the regent/mayor, as well as to discuss and approve draft district/city regional regulations related to the district/ city budget submitted by the regent/mayor.

Furthermore, in the formation of regional regulations, referring to the provisions of Article 1 number 1 of Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation (UU PPP), the process of making legislation involves several stages, such as planning, drafting, discussion, approval or determination, and promulgation.

In addition to referring to the regulations above, the formation of regional regulations also requires attention to several other laws. One of them is Presidential Regulation of the Republic of Indonesia Number 87 of 2014 concerning the Implementation Regulation of Law Number 12 of 2011 concerning the Formation of Legislation. Furthermore, Minister of Home Affairs Regulation of the Republic of Indonesia Number 80 of 2015 regarding the Formation of Regional Legal Products (Permendagri Number 80 of 2015) and Lampung Province Regional Regulation Number 6 of 2017 concerning the

²⁴ M. Yasin al Arif, "Implementation of Ministerial Regulations Based on Attribution Power in the Administration of Government," *Mulawarman Law Review*, August 17, 2023, 45–56, <https://doi.org/10.30872/mulrev.v8i1.1074>.

Formation of Regional Legal Products (Perda Number 6 of 2017) also serve as important references in this process.

Various applicable regulations clearly explain the authority to form Regional Regulations (Perda). In forming Perda, there is a collaboration between the Regional Representative Council (DPRD) and the regional head with joint approval. Additionally, the roles of the provincial DPRD and the district/city DPRD are to form regional regulations with the local regional head, including approving the draft of regional regulations related to regional revenue and expenditure budgets. The existence of Perda is expected to be the main driver for creating fundamental changes the region needs.²⁵

Furthermore, the process of forming regional regulations is also discussed by referring to several provisions, focusing on the stages of planning, drafting, discussion, approval or determination, and promulgation.²⁶ Thus, this discussion provides a comprehensive overview of the aspects of authority, process, and legal framework in the formation of Perda. These stages are as follows:

The first stage is planning. Planning for the drafting of Provincial Regional Regulations is carried out in the province's regional legislative program (Prolegda), as regulated in Article 32 of the Legislation Formation Law. Prolegda includes the program for forming Provincial Regional Regulations (Propemperda), dubbed the Draft Provincial Regional Regulation. The material regulated in Propemperda involves aspects of title, substance, and its relation to other legislation, as explained in Article 33 of the Legislation Formation Law. Propemperda is drafted by the regional government (Governor) and the Regional Representative Council (DPRD).

²⁵ Dayanto and Asma Karim, *Peraturan Daerah Responsif: Fondasi Teoretik dan Pedoman Pembentukannya* (Sleman, Yogyakarta: Deepublish, 2015), 3; See also Jazim Hamidi and J. W. Muliawan, *Optik Hukum Peraturan Daerah Bermasalah*, Cet. 1 (Jakarta: Prestasi Pustaka Publisher, 2011), 60–61.

²⁶ Monica Galuh Sekar Wijayanti, Retno Saraswati, and Indarja, "Pelaksanaan Fungsi Legislasi Dewan Perwakilan Rakyat Daerah Kota Semarang dalam Pembentukan Peraturan Daerah," *Diponegoro Law Journal* 5, no. 2 (March 30, 2016): 1–17, <https://doi.org/10.14710/dlj.2016.11113>; See also Muhammad Asrianto Zainal, "Proses Pembentukan Peraturan Daerah Kabupaten Muna Sulawesi Tenggara," *Al-Izzah: Jurnal Hasil-Hasil Penelitian* 13, no. 2 (2018): 210–223, <https://doi.org/10.31332/ai.v13i2.1052>.

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Preparing the Draft Provincial Regional Regulation (Propemperda) within the provincial, regional government begins with the Governor's assignment to the heads of regional agencies coordinated by the regional agency responsible for provincial law. Furthermore, the drafting of Propemperda follows the provisions outlined in Article 11 and Article 12, paragraphs (1), (2), and (3) of the Ministry of Home Affairs Regulation No. 80 of 2015. Propemperda may involve vertical agencies, including vertical agencies of ministries that administer governance affairs in the legal field and/or relevant vertical agencies corresponding to authority, content, or relevant needs.

Subsequently, after the drafting of Propemperda within the provincial region is completed, the results are submitted to the Governor by the regional agency responsible for provincial law through the provincial secretary, as regulated in Article 12 paragraph (4). After receiving the results, the Governor presents the results of the drafting of Propemperda to the Regional Regulation Formulation Agency (Bapemperda) through the chairperson of the Provincial Regional Representative Council (DPRD). Meanwhile, regarding the drafting of Propemperda within the Provincial DPRD, its coordination is regulated by Bapemperda.

The second stage involves drafting the Regional Regulation. After completing the planning of regional regulation formation, marked by the DPRD's decision on Propemperda, the next step is drafting the Regional Regulation. The drafting of the Regional Regulation, whether originating from the DPRD or the regional head, must include an academic manuscript. The academic manuscript is the initial step in drafting the Regional Regulation.²⁷ Drafting the academic manuscript by the heads of regional agencies involves the regional agency responsible for provincial law (Article 13 of the Ministry of Home Affairs Regulation No. 80 of 2015). Meanwhile, the academic manuscript originating from DPRD members, commissions, joint commissions, or Bapemperda is coordinated by

²⁷ Ni Made Jaya Senastri and Luh Putu Suryani, "Fungsi Naskah Akademik (NA) dalam Pembentukan Rancangan Peraturan Daerah," *Kertha Wicaksana* 12, no. 1 (February 22, 2018): 38–45, <https://doi.org/10.22225/kw.12.1.2018.38-45>.

Bapemperda. Both the Governor and the DPRD involved in drafting the academic manuscript may involve vertical agencies of ministries administering governance affairs in the legal field and third parties with expertise corresponding to the content to be regulated in the draft provincial regulation (Article 22 paragraph (4) of the Ministry of Home Affairs Regulation No. 80 of 2015).

Based on the description above, the academic manuscript becomes an essential foundation in formulating the draft Regional Regulation (Perda). The presence of the academic manuscript is an absolute prerequisite, serving as an indispensable basis in drafting the Perda.²⁸ Submitting the draft Perda to the Regional Representative Council (DPRD) requires the initiators to send it to the Regional Regulation Formulation Agency (Bapemperda) through the DPRD chairperson as an initial step before conducting the review. Bapemperda conducts its review function to harmonize, refine, detail, and solidify the concepts contained in the draft Perda. This process is underpinned by the provisions outlined in Article 35 of the Provincial Regulation of Lampung No. 6 of 2017. The review is crucial in ensuring the continuity and alignment of the draft Perda with applicable norms and provisions.

The harmonization results and the prepared academic manuscript are then presented to the DPRD chairperson. At least seven days before the DPRD plenary session, the DPRD chairperson must convey this information to all DPRD members. The DPRD chairperson presents the draft Perda at the DPRD plenary session. According to the provisions of Article 36, paragraphs (1), (2), (3), and (4) of the Provincial Regulation of Lampung No. 6 of 2017, three stages are conducted during the implementation of the plenary session, including the proposer provides explanations; Factions and other DPRD members provide opinions, and the proposer responds to the opinions of factions and other DPRD members.

The plenary session determines three possible decisions regarding the proposed draft Perda: approval, approval with

²⁸ M. Yasin al Arif and Panggih F. Paramadina, "Konstitutionalistas Perda Syari'ah di Indonesia dalam Kajian Otonomi Daerah," *As-Siyasi: Journal of Constitutional Law* 1, no. 1 (June 2, 2021): 49–62, <https://doi.org/10.24042/as-siyasi.v1i1.8953>.

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amendments, or rejection. If approved with amendments, the DPRD assigns the Initiator or Bapemperda to refine the draft Perda by Article 36 paragraphs (5) and (6) of the Provincial Regulation of Lampung No. 6 of 2017. In coordinating the drafting of the Perda in the DPRD by Bapemperda, the Governor forms a team through the Governor's Decision. The team involves relevant agencies, academics, researchers, and civil society organizations, led by the initiating regional agency appointed by the Governor. The draft Perda prepared by the team undergoes harmonization and conceptual refinement controlled by the Legal Bureau after being submitted by the initiator. The Legal Bureau may involve vertical agencies of the ministry in the field of law in harmonization, according to Article 39 of the Provincial Regulation of Lampung No. 6 of 2017. The regional secretary conveys the harmonization results to the initiator and the regional agency leaders to obtain initial approval. Each draft Perda approved by the initiator and the regional agency leaders is then submitted to the Governor for approval.

The third stage is the Discussion. The draft Regional Regulation (Perda), equipped with an academic manuscript, is submitted by the Governor to the DPRD chairperson or vice versa. In the context of this discussion, the Governor forms a team led by the Secretary of Regional Affairs or an official appointed by the Governor. The discussion of the draft Perda is carried out by the DPRD and the Governor to reach a mutual agreement, as regulated in Article 40.

The discussion of the draft Perda is conducted in two levels, namely Level I Discussion and Level II Discussion. Suppose the draft regulation originates from the Governor. In that case, Level I Discussion includes the Governor's explanation in the plenary session regarding the draft Perda, the general views of factions on the draft Perda, and the Governor's responses to the general views of factions. Conversely, if the draft regulation originates from the DPRD, Level I Discussion involves the explanation of the commission leaders, joint commission leaders, Bapemperda leaders, or special committee leaders in the plenary session regarding the draft regulation; the Governor's opinions on the draft regulation; and the factions' responses or answers to the Governor's opinions.

The fourth stage is the determination and promulgation. This stage is a crucial step in forming regional regulations (Perda). After receiving the registration number (Noreg) from the Minister of Internal Affairs following Article 107 of Minister of Internal Affairs Regulation No. 80 of 2015, the determination and promulgation of the draft Perda are carried out. The Governor signs the draft Perda in the determination stage. After completing the determination stage of the Perda, the next step is promulgation through the regional gazette by the regional secretary, as stipulated in Article 59 paragraph (1). This promulgation serves as a formal notice to the public regarding the enforcement of the Perda, which then becomes legally binding. Unless otherwise specified in the legislation, the regional regulation comes into effect upon promulgation. As part of evaluation and oversight efforts, the initiating regional agency must submit a copy of the promulgated Perda to the Regional Representative Council (DPRD) and follow up on its implementation within 3 (three) months after promulgation.

The stage of determination and promulgation of regional regulations (Perda) is a process that allows a draft Perda to become an official part of the regional legal system.²⁹ In the determination stage, the draft Perda is formally approved by the competent authority, usually the Governor, and then signed.³⁰ Subsequently, in the promulgation stage, the Perda that has been determined is officially announced to the public through designated media, such as the regional gazette or the official website of the regional government. This step provides legally binding force to the promulgated Perda.

²⁹ Abdul Rais Asmar, “Diseminasi (Promulgation) atau Penyebarluasan Rancangan Peraturan Daerah Anggaran Pendapatan dan Belanja Daerah (APBD),” *Ekspose: Jurnal Penelitian Hukum dan Pendidikan* 18, no. 2 (January 1, 2020): 921–927, <https://doi.org/10.30863/ekspose.v18i2.565>.

³⁰ Zainal Amaluddin and Erjan Saputra, “Pembuatan Peraturan Daerah Berdasarkan Undang-Undang Nomor 23 Tahun 2014 dalam Sistem Pembuatan Perundang-Undangan Menurut Undang-Undang Nomor 12 Tahun 2011 Perspektif Fiqh Siyasah Dusturiyah,” *Al-Sulthaniyah* 10, no. 1 (February 3, 2021): 60–75, <https://doi.org/10.37567/al-sulthaniyah.v10i1.387>.

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C. The Contribution of Islamic Law in the Formation of Regional Regulations in Lampung

Islamic law is one of the legal sources that significantly contributes to the formation of legislation. This contribution is not limited to the material aspects of the law, which include obligatory, recommended, neutral, disliked, and forbidden acts, known as the "*ahkam al khamsah*." The study of Islamic law extends far beyond merely discussing the *ahkam al khamsah*. Within the realm of Islamic law explored by scholars in this field, there is an understanding of the principles that form the basis of the existence of Islamic law itself. According to Juhaya. S. Praja, the principles of Islamic law reflect universal truths that are an integral part of Islamic law and serve as the primary foundation in its formation. These principles strengthen the foundation of Islamic law and all its related branches of knowledge.³¹

Islamic law principles have a universal nature, enabling them to serve as the spirit of Islamic law that can be applied and used as guidance in forming legislation. According to Rohidin, the principles of Islamic law include the principle of monotheism (*tauhid*), the principle of justice (*al-'Adl*), the principle of enjoining good and forbidding evil (*amar makruf nahi munkar*), the principle of equality (*al-Musawah*), and the principle of mutual assistance (*at-Ta'awun*).³²

In the principle of *tauhid*, implementing Islamic law is viewed as a form of worship. The implication of this principle is the prohibition of humans from equating fellow humans or other entities with Allah SWT. Implementing Islamic law becomes a process of devotion, worship, and submission of oneself to the Divine will. In this context, each must be obligated to establish laws per the teachings found in the Qur'an and Sunnah. Allah SWT is considered the highest source of law (*syâri'*), so any effort contrary to His teachings is deemed a rejection of truth and an act of injustice because it follows personal impulses and desires.

³¹ Juhaya S. Praja, *Filsafat Hukum Islam* (Bandung: Pusat Penerbit LPPM Universitas Islam Bandung, 1995), 69; See also Rohidin, *Pengantar Hukum Islam: Dari Semenanjung Arabia hingga Indonesia* (Bantul-Yogyakarta: Lintang Rasi Aksara Books, 2016), 22.

³² Rohidin, *Pengantar Hukum Islam*, 22–28.

The principle of justice in Islam encourages the preservation of justice and benevolence in societal life. Justice encompasses various aspects, such as justice towards oneself, individuals, laws, social justice, and the world in general. Justice in the context of Islamic law encompasses various dimensions of life, including human relations with God, oneself, fellow humans (society), and the surrounding environment. This fair attitude is expected to earn humans the title of being mindful of Allah SWT. This principle is emphasized in the words of Allah SWT, especially in Surah an-Nisa verse 35 and al-Maidah verse 8.³³

The principles of tauhid and justice give rise to actions that must be based on the *amar makruf nahi munkar* principle.³⁴ These actions implement the principles that drive Islamic law to guide humanity towards good, true, and pleasing goals to Allah SWT. In the philosophy of Islamic law, there is a term "*amar makruf*" which functions as social engineering, while "*nahi munkar*" serves as social control in law enforcement in social life.³⁵ Based on this principle, Islamic law recognizes command and prohibition.

Next, the principle of Equality (*al-Musawah*) emphasizes the inherent nobility of human beings, where human dignity is not determined by race or skin color but by the essence of humanity itself. Therefore, in the presence of God or the legal enforcement system, every human being, whether poor or rich, intelligent or less intelligent, has the same right to be treated fairly because Islam practices the principle of equality (*égalité*).³⁶ In Islam, this principle refers to the Quranic verse in Surah al-Hujurat verse 13.

³³ Zulfi Imran, "Poligami Antara Teori dan Praktek (Studi Analisis Konsep Adil dalam Surah An-Nisaâ Ayat 3)," *Sabilarrasyad: Jurnal Pendidikan dan Ilmu Kependidikan* 2, no. 2 (2017): 264–282; See also Srifariyati and Afsya Septa Nugraha, "Prinsip Kepemimpinan dalam Perspektif Q.S. An-Nisa: 58-59," *Madaniyah* 9, no. 1 (January 31, 2019): 41–61.

³⁴ Muhammad Yunan Putra, "Analisis Epistemologis dan Prinsip-Prinsip Dasar Pembentukan Hukum Islam," *Sangaji : Jurnal Pemikiran Syariah Dan Hukum* 1, no. 2 (October 6, 2017): 229–243, <https://doi.org/10.52266/sangaji.v1i2.205>.

³⁵ Adi Nur Rohman, "Hukum Islam dan Perubahan Sosial: Dinamisasi Perkembangan Metode Ijtihad Muhammadiyah," *Syaksia : Jurnal Hukum Perdata Islam* 22, no. 1 (July 19, 2021): 85–98, <https://doi.org/10.37035/syaksia.v22i1.4877>.

³⁶ Achmad Muzammil Alfian Nasrullah, *Pengantar Ilmu Hukum Islam* (Malang: CV. Literasi Nusantara Abadi, 2023), 26.

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The last principle is *Ta'âwun*, which stems from the root word *ta'âwana-yata'âwanu*, often translated as the attitude of mutual assistance, and is one of the main principles in Islamic Law. This concept leads to collaboration and assistance between individuals, strengthening the tauhid principle, especially to enhance goodness and piety towards Allah SWT. It emphasizes the importance of solidarity and cooperation within the Muslim community to achieve higher common goals, in line with religious teachings about devotion to Allah SWT and service to others.

The principles of Islamic Law, such as tauhid, justice, *amar makruf nahi munkar*, equality, and *ta'âwun*, have universal relevance that can serve as spiritual guidance in forming legislation. The principle of tauhid asserts that the implementation of Islamic law is worship to Allah SWT, demanding devotion and submission of oneself to His will as found in the Quran and Sunnah. As another principle, justice encourages maintaining justice and benevolence in all aspects of life, under religious teachings, to attain righteousness towards Allah SWT. Furthermore, the principle of *amar makruf nahi munkar* guides actions that lead to goodness and truth by upholding the principles of Islamic law in social life. As another principle, equality emphasizes equal rights for every individual regardless of their social or economic status. Lastly, the principle of *ta'âwun* emphasizes the importance of cooperation and solidarity in achieving higher goals, in line with devotion to Allah SWT and service to others.

In addition to those principles of Islamic Law, within the literature discussing Islamic Law, there is also the known concept of the objectives of Islamic law, often referred to as *Maqashid al-Shari'ah*. This concept is based on the understanding that Allah SWT, as the legislator (who establishes the Sharia), does not create laws and rules arbitrarily. Rather, these laws and rules are created with specific aims and purposes.³⁷

³⁷ Liky Faizal et.al., "Age Limit for Marriage in Indonesia from The Perspective of Maqashid Sharia," *Analisis: Jurnal Studi Keislaman* 22, no. 2 (December 30, 2022): 307, <https://doi.org/10.24042/ajsk.v22i2.14068>; See also Ghofar Shidiq, "Teori Maqasid Al-Syari'ah dalam Hukum Islam," *Majalah Ilmiah Sultan Agung* 44, no. 118 (August 27, 2022): 118.

The essence of the concept of *Maqashid al-Shari'ah* is to realize good and prevent evil or to bring benefits and ward off harm (*dar'u al-mafasid wa jalb al-masalih*). The equivalent term to the essence of *Maqashid al-Shari'ah* is *maslahah*, as Islam and *maslahah* are like twin siblings that cannot be separated.³⁸

Furthermore, according to al-Syatibi, the Shariah is established for the benefit of humans in this world and the hereafter. Building upon this understanding, al-Juwaini divides the objectives of legislation into three categories: *dharuriyat*, *hajiyat*, and *mukramat*. This thought of al-Juwaini was developed by his student, al-Ghazali, who explained the purpose of the Shariah about the discussion of *al-munasabat al-maslahiyat* in qiyas. According to al-Ghazali, benefits are achieved by safeguarding five essential needs of humans in their lives, namely *hifz al-din*, *hifz al-nafs*, *hifz al-mal*, *hifz al-nasl*, and *hifz al-'aql*.³⁹ Some scholars add *Hifz al-'Ird*.⁴⁰

Through the explanations above, it can be understood that Islamic Law has a fairly broad dimension, so the spirit of Islamic Law can be accommodated in forming legislation, especially in the Lampung Provincial Regulations (Perda Provinsi Lampung). Based on this understanding, to explain the contribution of Islamic Law in the formation of regional regulations in the Lampung Province, referring to previous research, it can be seen from two perspectives. First, from the perspective of Islamic Law as one of the sources of national law formation. Second, from the perspective of adopting Islamic Law as state law in the sense of being positive law that applies specifically in certain areas of law.⁴¹ This understanding is also in line with the views of Jimly Asshiddiqie, where the

³⁸ Musolli, "Maqasid Syariah: Kajian Teoritis dan Aplikatif pada Isu-Isu Kontemporer," *At-Turas: Jurnal Studi Keislaman* 5, no. 1 (September 23, 2018): 62, <https://doi.org/10.33650/at-turas.v5i1.324>.

³⁹ Faizal et al., "Age Limit for Marriage in Indonesia from The Perspective of Maqashid Sharia," 307; See also Maszlee Malik, *Foundations of Islamic Governance: A Southeast Asian Perspective* (London and New York: Routledge, 2016), 108.

⁴⁰ Jasser Auda, *Maqāsid Al-Sharī'ah: A Beginner's Guide* (London-Washington: International Institute of Islamic Thought (IIIT), 2008), 4–5; See also Jasser Auda, *Membumikan Hukum Islam Melalui Maqasid Syariah: Pendekatan Sistem*, Alih Bahasa Rosidin dan Ali Moen'im (Bandung: Mizan, 2015), 33.

⁴¹ Hs, "Kontribusi Hukum Islam terhadap Pembangunan Hukum Nasional," 418.

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actualization of Islamic Law can be distinguished into two forms: the effort to enforce Islamic Law through the formation of specific legal regulations applicable to Muslims, and the effort to make Islamic Shariah and jurisprudence a source of law for the drafting of national laws.

In the context of Islamic law as a legal source in the formation of Lampung Provincial Regulations (Perda Provinsi Lampung), it is important to understand the concept of legal sources as the foundation from which legal regulations originate, whether in written or unwritten form.⁴² More concisely, it can be referred to as the basis that influences the substance of legal regulations. In legal studies, these legal sources are known as substantive legal sources. Meanwhile, Islamic law, as a living law within society, has universal values and principles that can serve as substantive legal sources in forming Lampung Provincial Regulations, as stipulated in Law Number 23 of 2014 concerning Regional Governments Article 237. This article states that the principles and substance of Regional Regulations must adhere to the provisions of legal regulations and the legal principles that have grown and developed within society as long as they are not contrary to the principle of the Unitary State of the Republic of Indonesia.

Referring to the abovementioned understanding, Islamic law's contribution to forming Lampung Provincial Regulations can be seen through an analysis of relevant Lampung Provincial Regulations. There are at least three Lampung Provincial Regulations that are in line with the values of Islamic law, namely: Regional Regulation Number 3 of 2021 concerning the Organization of Public Order and Community Harmony and Protection of Society, Regional Regulation Number 13 of 2017 concerning Child Protection, and Regional Regulation Number 5 of 2012 concerning Religious and Cultural-Based Education.

⁴² Muhammad Yusrizal Adi Syaputra, "Kajian Yuridis Terhadap Penegasan Hiearaki Peraturan Perundang-Undangan di Indonesia dalam Perspektif Stufen Theorie," *Jurnal Mercatoria* 9, no. 2 (June 7, 2016): 95–103, <https://doi.org/10.31289/mercatoria.v9i2.433>.

The contribution of Islamic law in Regional Regulation Number 3 of 2021 is reflected in the principles used in the Regulation, namely the principle of equality of rights (egalitarian) as stipulated in Article 2 paragraph (2). This principle is in line with the principle of Islamic law that everyone has the same position before Allah SWT and before the law. The embodiment of this principle in the Regulation can be seen in the wording of articles addressed to everyone, whether government officials, legal entities, or the general public. Furthermore, referring to the provisions in Article 33, it is clear that Islamic law also serves as a legal source in forming this Regulation. This article prohibits individuals, officials, and legal entities from engaging in activities involving gambling, trading, and hoarding alcoholic beverages, as well as activities or providing places for drug abuse. The items mentioned are deemed unlawful in Islamic law or Fiqh because consuming these items or engaging in gambling will cause harm or mischief. Of course, this contradicts the principle of Fiqh, namely *dar'u al-mafasid wa jalb al-masalih*.⁴³

Furthermore, Regional Regulation Number 13 of 2017 aligns with the values of Islam that protecting children is part of the five objectives of Islamic law or *Maqashid al-Shari'ah*, namely *hifz al-nasl* (preserving lineage). Islam regards children as a trust from Allah SWT given to their parents. As a trust, children must be safeguarded and protected in all their rights, whether physical, psychological, intellectual, or in their dignity and honor. Protecting children is not only the responsibility of their biological parents but also a collective responsibility for all of us. This understanding forms the basis of the policy behind the enactment of this Regional Regulation, as stated in the considerations that children need protection and the fulfillment of their rights to live, grow, develop, and participate optimally under their dignity and humanity. Thus, it becomes clear that Islamic law is actualized in this Regional Regulation as a living law.

Furthermore, the contribution of Islamic law in this Regional Regulation is also evident in Article 8 paragraph (1), where local

⁴³ Syaikh Dr Iyad Kamil Ibrahim Az-Zibari, *Fikih Tadarruj: Tahapan-tahapan dalam Membumikan Syariat Islam*, Penerjemah: Masturi Irham dan Malik Supar (Jakarta Timur: Pustaka Al-Kautsar, 2019), 303.

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governments, communities, families, parents, and social institutions are obliged to ensure the protection of children in practicing their religion. Protecting religion is also a goal of Islamic law, namely *hifz al-din*. As a follow-up to the protection of religion, the implementation of children's worship according to their faith is also protected, as stipulated in Article 7, which states that every child has the right to protection to worship according to their beliefs.

In Regional Regulation Number 5 of 2012, religion plays an important role as a foundation in education to shape the quality and morality of human beings. Based on this understanding, Article 4 emphasizes that religious and cultural-based education aims to develop students who are faithful, devout, morally upright, competent, creative, independent, and become democratic and responsible citizens, developing attitudes, character, and actions that are honest, wise, and polite based on religious, moral, cultural, and ethical values. Through the affirmation of Article 4, it is clear that religion significantly influences the content of this Regulation. Religious-based education in the regulation refers to religions recognized by Indonesia, including Islam. Thus, the implementation of Islamic religious-based education is also related to the implementation of Islamic law itself.

Therefore, it can be concluded that Islamic law also becomes a consideration in implementing religious-based education, as Islam and Islamic law are inseparable. This is reflected in implementing education as regulated in Article 7, where provisions based on Islamic law are stipulated. For example, Article 7 paragraph (6) emphasizes that basic and secondary formal education must provide opportunities for students to perform obligatory worship during worship hours.

D. Conclusion

The study results conclude that Regional Regulations (Perda) are legislative products formed through a democratic process involving representative institutions, namely the Regional People's Representative Council (DPRD), and involving the Governor or Regent/ Mayor. The process of forming Perda involves cooperation between the DPRD and the regional heads, which is crucial for

formulating regulations according to local needs. In Lampung Province, Islamic Law also significantly contributes to the formation of legislation, with its principles such as tauhid, justice, amar makruf nahi munkar, equality, and *ta'awun* serving as spiritual guidance. The concept of *Maqashid al-Shari'ah* also provides a foundation for formulating laws to achieve goodness and avoid evil. Thus, the formation of Regional Regulations in Lampung Province is not only based on positive legal aspects but also considers the contributions and values of Islamic Law in creating regulations suitable for the social context and the community's needs.

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Sengaja Dikosongkan