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Regional ‘Sharia’ Regulations in Indonesia: Anomaly or Symptom? By Robin Bush

Introduction

Indonesia is often cited as the best example of a thriving and continually maturing democracy in Southeast Asia.¹ However, the phenomenon of regionally-based legislation linked to religious teachings, which in some instances curtails the democratic freedoms of citizens, appears to be an exception to the overall picture of reform. Despite the encouraging developments of a remarkably free press, successful elections at both national and regional level, and significant reforms of the judiciary, good governance remains a challenge for Indonesia at both national and local levels – corruption, while improving, is still a significant problem, a lumbering and inefficient civil service structure impedes efforts to improve effective governance, and economic growth is, at the end of 2007, barely making a dent on poverty (Ramage 2007). As we ponder the issue of regional ‘sharia’ related legislation, it behooves us to consider whether this is a phenomenon that presents itself as an anomaly amidst an otherwise thriving democracy, or rather, as an unsurprising symptom of low governance capacity.

This phenomenon appears to be linked to the devolution of legislative authority to the districts and provinces as part of the overall process of decentralization in Indonesia—while the formalization of Islamic law in Indonesia has been rejected at the national level time and time again, there appears to be an increasing number of districts, municipalities, and provinces passing local regulations, *peraturan daerah*, or ‘perda’, that are said to be influenced by sharia.² These regulations are frequently referred to in Indonesia as ‘Perda SI (Sharia Islam)’; however, the myriad problems with that label include the fact that one of the latest such draft regulations is in fact in the Christian area of Manokwari, Papua, and seeks to restrict the building of mosques and the wearing of Muslim headscarves.³ A second problem with the term is that not all of the perda relate to Islam, as we shall see shortly. For the purposes of this paper, I will use the term religion-influenced regional regulations, though as we shall see, even that is not entirely accurate.

¹ In fact, Indonesia is the only country in Southeast Asia that Freedom House categorized as ‘free’ (as opposed to ‘partially free’ or ‘not free’) in 2007. <http://freedomhouse.org/template.cfm?page=363&year=2007>, accessed August 23, 2007.

² See the entire issue of *Tashwirul Afkar* (2006) devoted to ‘Perda Syari’at Islam: Menuai Makna’ Ed. 20, Lakpesdam NU, Jakarta, and Salim, A. (2007), ‘Muslim Politics in Indonesia’s Democratisation,’ in R. McLeod and A. MacIntyre (eds), *Indonesia: Democracy and the Promise of Good Governance*, Singapore, ISEAS, pp. 115-137, and Nashir, H. (2007), *Gerakan Islam Syari’at*, PSAP, Jakarta, and many news articles on the subject.

³ See ‘Raperda Kota Injil Jangan Memecah Bangsa’, *Republika*, 30 March 2007.

Whatever you choose to call them, these regional regulations inspire strong feelings for a number of reasons: there are constitutional issues (the regional autonomy regulations stipulate that religion was one area that was to remain under the centralized jurisdiction of the Ministry of Religious Affairs); there are issues of discrimination (minority and women's activists claim that many of the regulations discriminate against non-Muslims and unfairly restrict women's activities); and there are governance issues (many proponents of the regulations say they are a necessary response to an ineffective legal, judicial, and law enforcement apparatus). Because these regulations garner such strong public responses, political leaders often make public statements either for or against the regulations, seeking to ride the tide of the public concern. It is notable however, that public statements on this subject recently have been more negative than positive – for example, on the same day in August, in two different Indonesian cities, public statements were made by no less than Vice President Jusuf Kalla, declaring that 'Perda sharia are insulting to Islam, to God, and offend the ulama,' and from the Speaker of the People's Consultative Assembly (MPR) Hidayat Nur Wahid, that 'demands to implement sharia...should not refer to the implementation of Islamic law, but instead focus on moral enhancement.'⁴ This 'anti-sharia perda' sentiment, particularly from these two public officials who have previously been sympathetic to Islamic-inspired bylaws, is significant and may indicate that the tide of support for such regulations is turning. This point will be discussed in more detail later in the chapter.

In order to better understand the driving forces behind this phenomenon, it is necessary to have a closer look at the phenomenon itself. While there is no comprehensive database cataloguing all of these regional regulations, my own count of a compiled list from various sources⁵ comes to 78 regional regulations (perda) in 52 districts/municipalities (kabupaten/walikota) – out of a total of 470 districts/municipalities in Indonesia. This does not include draft or proposed legislation (raperda) or Bupati edicts and implementing regulations, but it does include the implementing regulations, or Qanun, in Aceh.

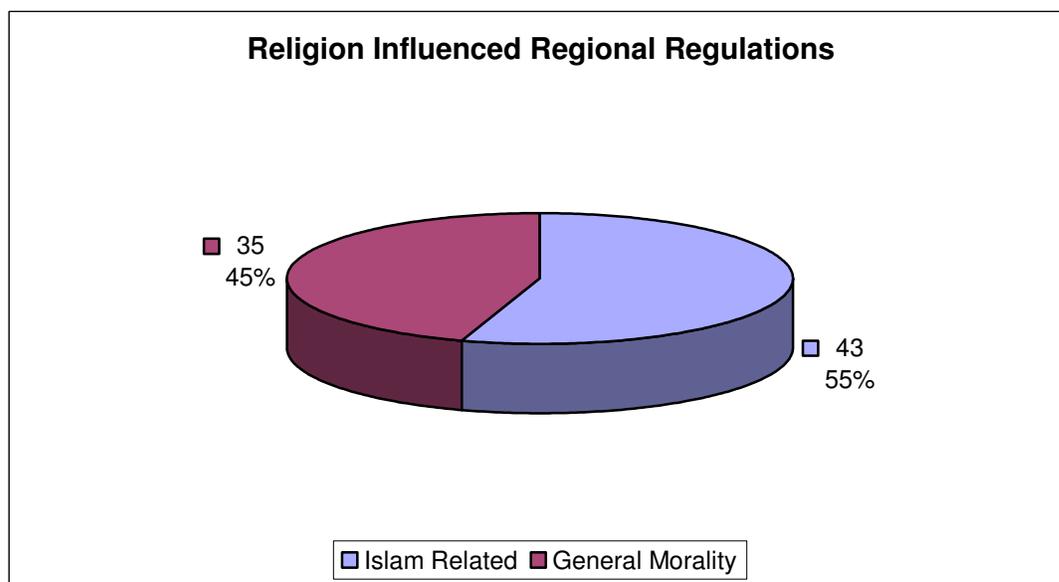
The 78 regulations mentioned above can be divided into several quite distinct categories, some of which have nothing to do with sharia. Arskal Salim proposes three categories for these regional regulations: 1) those relating to 'public order and social problems' – prostitution, gambling, alcohol consumption, etc.; 2) religious skills and obligations – reading the Qur'an, paying the zakat (alms or religious tax); and 3) religious symbolism – primarily the wearing of Muslim clothing (Salim 2007:126). Only categories two, and three can be said to be directly linked to Islamic teachings – first category relates to

⁴ 'Wapres: Perda Syariat Rendahkan Derajat Islam,' *Suara Karya*, Surabaya 30 Augustus 2007; 'Sharia Should Stress Morals, Not Law; Hidayat', *Jakarta Post*, Bandung, 30 August, 2007.

⁵ The compilation of regional regulations that I am using in this article is a fairly informal compilation that is by no means comprehensive, nor fully verified on a case by case, or even district by district level. As a result, the numbers, percentages and ratios that are used in this paper are meant to be indicative of comparative relationships rather than accurate or precise numbers in and of themselves. The data compiled here is drawn from the following sources: Salim, op cit, pp 128-129; Tashwirul Afkar, op cit, pp. 142-146; The Wahid Institute database (accessed in person in their Jakarta office, and via their website, www.wahidinstitute.org); Divisi Reformasi Hukum, Komnas Perempuan (National Commission on Violence Against Women).

‘morality issues’ that can be said to reflect the moral teachings of most religions and the majority of Indonesian society.

Of the 78 regulations currently on the books in Indonesia, 35 or nearly 45 % of the total, fall into the category of ‘morality’ regulations often referred to as anti-vice regulations - ‘perda anti-maksiat’ – outlawing prostitution, gambling, sale of alcoholic beverages, etc. For example, Perda 5/2004 restricts the consumption and sale of liquor in Tasikmalaya. Perda 21/2000 outlaws prostitution in Cianjur. Qanun 13/2003 prohibits gambling in Aceh.

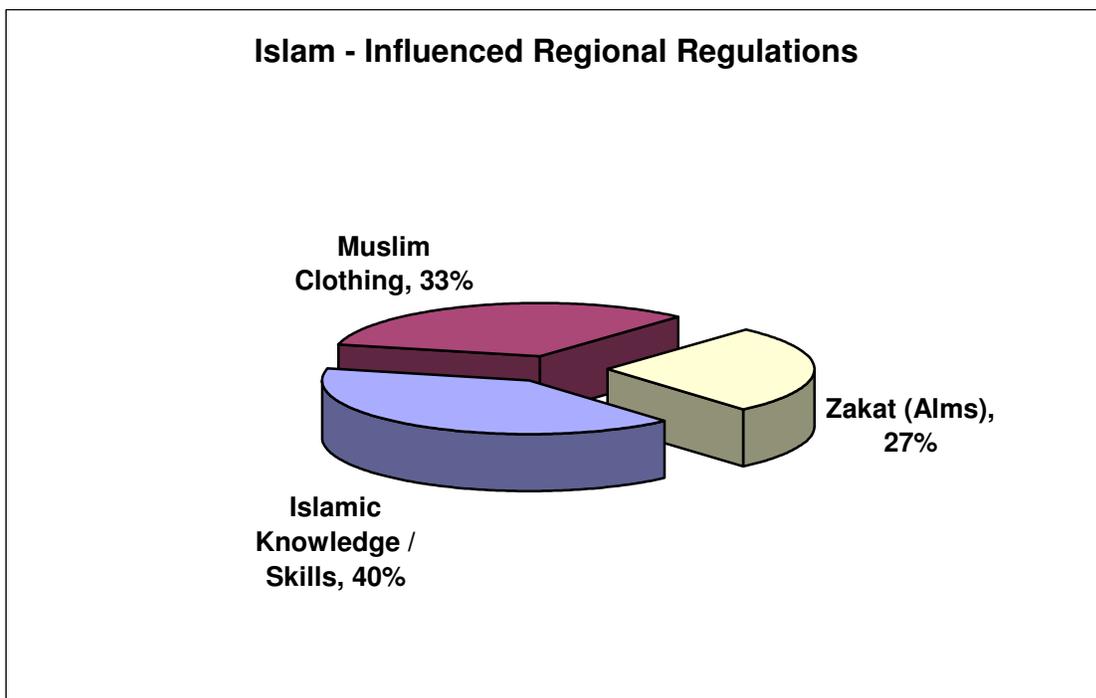


Of the remaining 55% of the religion-influenced regional regulations which could be considered linked directly to Islamic teachings or sharia, 14, or 33% require civil servants, students, or in some cases just Muslims in general, to wear ‘Muslim clothing’ – usually defined as wearing a jilbab for women, and a ‘baju koko’ for men. These regulations vary widely from district to district. For example, in Banjar, West Java Muslim civil servants are required to wear jilbab and baju koko on Fridays (2005; in Enrekang, South Sulawesi) Muslim civil servants and students must wear Muslim clothing every day (Perda 10/2005 – civil servants and students not complying are listed as absent on that day); and in Bulukumba, South Sulawesi all women (Muslim or not) must wear jilbab to receive the services of the village government, *kelurahan* (Perda 5/2003).

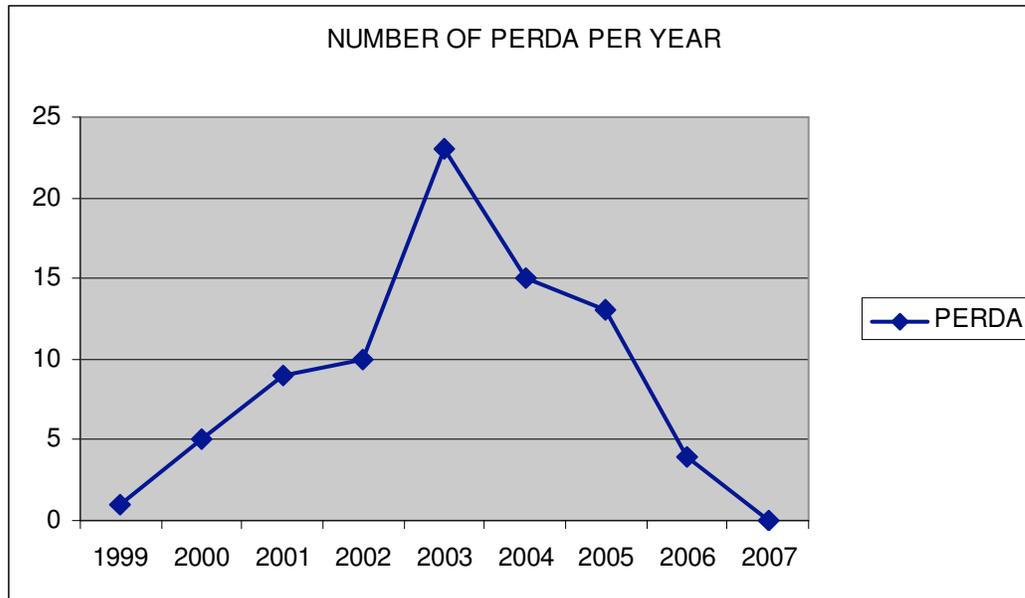
Also, of the regional regulations which can be said to be directly drawn from Islamic teachings, 17, or 40 % require demonstration of the ability to read the Qur’an for school children, university applicants, couples seeking to get married, and civil servants. In

Maros, students have to submit a certificate to indicate the ability to read the Qur'an before they can be passed on to the next academic level. (Perda 15/2004). In Sawahlunto, West Sumatra, couples must show that they can read the Qur'an before receiving a marriage license. (Perda 1/2003).

Eleven, or 27% of the Islam-related regulations seek to manage the zakat, or the alms giving. In Dompus this involved the creation of a body comprised of local MUI branch heads, ulama, and the local government to collect the zakat, distribution of which was at the discretion solely of the Bupati.



In addition to differentiating between the types of regional regulations on the books, it is also useful, when talking about trending and directions, to note that with 23 of the regulations issued in 2003, 15 in 2004, 5 in 2006 and none in 2007, it seems that the peak of the phenomenon may well have passed – see the chart below:



Despite the sharp downturn in enactment of new religious-influenced regulations since 2003, the public discourse and attention given to the regulations has, conversely, increased. International attention – both through the media and academic conferences -- was very high in 2006 and is continuing in 2007. Domestic attention to the issue has followed a similar pattern. 2006 in particular, saw the issue of religious-influenced legislation garner a great deal of attention and debate. In late 2005 a legislative committee was established to review a draft bill originating from the Ministry of Religious Affairs during the New Order and revived by the Indonesian Council of Ulama, MUI, in 2005, which aimed to ban ‘Pornography and Porno-action’. This bill spawned so much controversy throughout 2006 because of fears that it would outlaw expressions of local ethnicity and reduce Indonesia’s diversity to an Islam-influenced dress code, that it remains ‘under discussion’ to the present date.⁶ In the midst of the swirling controversy around that bill, in February of 2006, the now infamous ‘Tangerang incident’ occurred, in which ‘public order officers’ arrested a waitress and wife of a civil servant, as she waited by the roadside for a bus to take her home after work. She spent three days in prison under a charge of prostitution and lewd behavior, based on Perda 8, 2005, under which mere suspicion of or ‘appearance’ of being a prostitute is grounds enough for arrest.⁷ Activists took to the streets again, and several efforts to sue the mayor for defamation failed. TAKDIR, a legal aid NGO, brought the case to the Supreme Court in a request for

⁶ For an excellent recounting of the issues surrounding the bill, see Salim, op cit, pp 122-126. As of early January, the bill was still under discussion in committee, having undergone many changes. Perhaps one of the most significant was the change in the definition of a ‘child’ raising the cut-off age to 18 (consistent with other Indonesian laws), rather than the 12 as stipulated in the original bill. A second change was the elimination of the category ‘pornoaksi’ in response to pressure from women’s groups, though this was later returned to some sections of the bill. The latest draft being circulated in January 2008, however, was much less controversial in the sense that many of the ethnic dress and customs that had been outlawed in the original bill, were omitted from the revised bill.

⁷ ‘Perempuan, Perda, dan Domestikasi,’ *Kompas*, 4 March, 2006.

judicial review. In April 2007, in a surprisingly little-remarked-upon verdict, the Supreme Court rejected the request for judicial review of the Tangerang regulation against prostitution on the basis that the city government had followed all correct procedures in its formation, and as the municipality of Tangerang had a right to produce such regulation, the Court opined, there was no basis for judicial review of the content of the law.⁸ Women's groups and the NGOs that had brought the case to the Supreme Court for review were disappointed with this judgment, as they believed that the Court would have taken up not just the procedural issues of the formation of the regulation, but also its content.

In June of 2006, 56 legislators signed a petition to President Susilo Bambang Yudhoyono, requesting him to revoke 'sharia-inspired bylaws', as they were unconstitutional and not consistent with Pancasila, the state ideology. This move was led by Constant Ponggawa of Christian-based PDS (Prosperous Peace Party) and Nusron Wahid (Golkar), and was signed by legislators from PDIP, PD, and PKB⁹. Shortly after, this move was countered by a formal objection from 134 legislators, led by the head of the DPR fraksi from PAN, PPP, and PKS.¹⁰ The argument put forward by these legislators was that 'sharia' legislation was an effective means of combating gambling, alcoholism, and prostitution. The impasse only lasted for a couple of weeks; ultimately the two groups agreed to 'agree to disagree', but the debate that erupted in the DPR over the issue of the 'perda sharia' was significant for a number of reasons. First, it is almost unprecedented for legislators to advocate publicly and openly against these regulations. Islamist¹¹ groups have been effective in casting any opposition to these laws as 'unIslamic', a politically vulnerable position for a legislator to take.

Secondly, it was indicative of the fact, that similar to many issues relating to Islam and the state, the debate was not between Muslims and non-Muslims, but primarily amongst Muslims themselves. The range of opinion on this issue stretched from Abu Bakar Baasyir, head of MMI (Indonesian Mujahiddin Council) who calls for the establishment of an Islamic state in Indonesia, to Abdurrahman Wahid and Dawam Rahardjo, who insist that Islam not be regulated by the state. Proponents of 'perda sharia' often do so on the grounds that Indonesia is threatened by moral deterioration, and its citizens must be

⁸ See 'MA tolak Permohonan Uji Materiil Perda Pelacuran Tangerang' 16/4/07 on <www.hukumonline.com> and 'Crucial Issues Related to the CEDAW Convention', July 2007, at <http://www.iwraw-ap.org/resources/pdf/39_shadow_reports/Indonesia_SR_Komnas.pdf> accessed on August 21, 2007.

⁹ PDIP – Indonesian Democratic Party for Struggle; PD – Democratic Party; PKB – National Awakening Party; These parties are often categorized as 'nationalist' parties – while they include the NU-based PKB, for the most part these parties oppose an Islamist agenda.

¹⁰ PAN – National Mandate Party; PPP – United Development Party; PKS – Prosperous Justice Party; these parties tend to be more favorably inclined to an Islamist agenda. For a review of these events in the *Jakarta Post*, see 'Legislators take stand against sharia laws,' (JP, June 14, 2006, p 2); 'Govt waffles on demand to scrap sharia bylaws,' (JP, June 15, 2006, p.4); and 'Govt told to act fast against sharia laws,' (JP, June 16, 2006, p2).

¹¹ For the purposes of this paper, 'Islamism' denotes an effort to further Islamic politics or a political agenda in which Islam is the basis of political and legal frameworks within a society; this effort can be made through democratic channels and procedures, or through non-democratic, even violent means. The latter category is considered 'militant Islamism'.

protected from vices like gambling and prostitution.¹² Another argument frequently heard is that ‘secular’ democratic institutions, like the legal and judicial systems, are corrupt and ineffective, and a better alternative is Islamic law. Meanwhile, those Muslims who oppose ‘perda sharia’ most often do so on the grounds that they are discriminatory.¹³ Women’s groups especially find that the anti-prostitution laws often contain language that is restrictive of women and tends to penalize women while ignoring the male clients and brokers involved in the transaction.¹⁴

The lines that are drawn in the public discourse on the issue of these religion-influenced regional regulations appear at first glance to mirror a superficial ‘Nationalist vs Islamist’ divide in political party politics. As mentioned above, the 56 legislators who sponsored the ‘anti-perda syari’ah’ petition in the DPR all hailed from so called ‘nationalist’ parties – Golkar, PDI-P, and PKB, while the 134 legislators who responded in favor of the regulations came predictably from the ‘Islamist’ parties – PPP, PKS, PBB.¹⁵ However, this perception of pro and anti-sharia alliances does not withstand closer scrutiny, particularly of the parties and politicians actually issuing religion-influenced regulations at the regional level. As has been noted by researchers at the Wahid Institute, the vast majority of the regulations have been issued by Bupati or Walikota (regent heads or mayors) who come from Golkar, PKB, even PDI-P.¹⁶ Some of the most frequently cited examples are the Mayors of Padang (who recently proposed a bill requiring all school girls, Muslim and non-Muslim, to wear headscarves), Tangerang (of the infamous prostitution case), and Bulukumba (who required citizens to wear Islamic clothing to access local government services), who are all from Golkar.

Indonesian voters have been fairly consistent in their choices in national elections, and since 1999, the portion of the vote garnered by Islamist parties has never reached even the 25% level. In 1999 both Islamic and Islamist parties¹⁷ together took 38% of the vote, while the Islamist vote alone was 16%. In 2004 the Islamic and Islamist vote again was 38%, while the Islamist vote rose slightly 21% due to the gains made by PKS campaigning on a counter-corruption platform. After two years of direct local elections of mayors, governors, and regent heads (called *pilkada*) however, it would seem that the electoral record is even more unsupportive of an Islamist agenda. Up until June of 2007, less than 8% of local elections have been won by candidates hailing from an Islamist party or a coalition of Islamist parties. The biggest winners thus far have been the

¹² Rumadi (2007), ‘Mengawal Pluralisme di tengah Kegamangan Negara,’ in *Menyoal Komitmen Negara Terhadap Jaminan Kebebasan Beragama di Indonesia*, The Wahid Institute, Jakarta, pp 15-16.

¹³ See arguments in ‘Bersama Menolak Perda Diskriminatif,’ *Nawala*, The Wahid Institute Bulletin, No. 2/Th/II/Maret-Juni 2007.

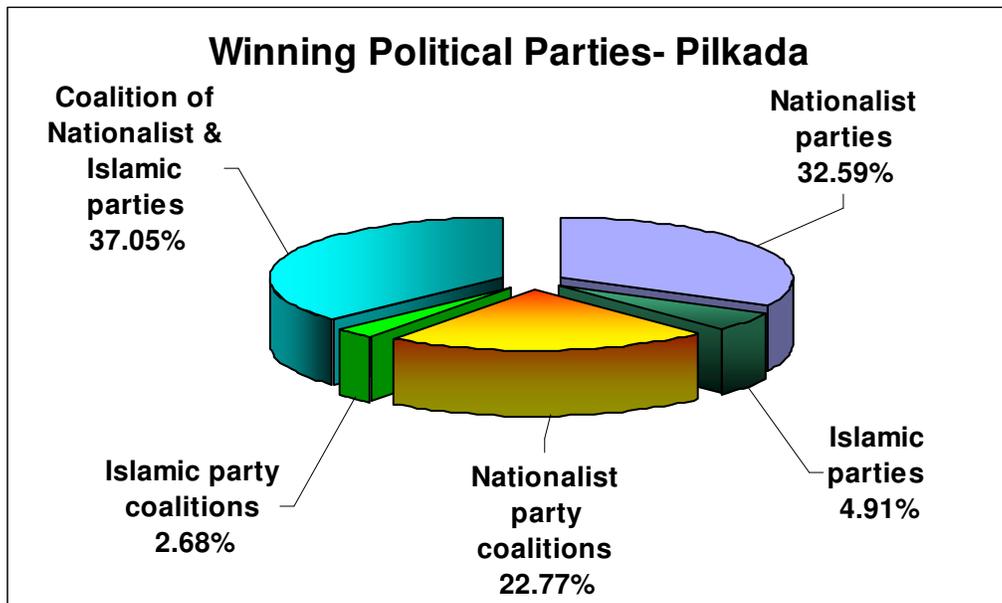
¹⁴ Mulia, M (2007) ‘Perminggiran Perempuan Dalam Perda Syariat,’ in *Tashwirul Afkar*, op cit, pp.21-44. Also see ‘Penyikapan Terhadap Perda-Perda Diskriminatif,’ Komnas Perempuan, Jakarta, 20 Juni 2006.

¹⁵ PBB – Crescent and Star Party.

¹⁶ Interview, Rumadi, 22 August, 2007.

¹⁷ Islamic parties are parties in which the support base is visibly Islamic (for example, NU or Muhammadiyah affiliated) but which do not seek to further a particularly Islamic political agenda; Islamist parties are those which seek to establish Islam as a political and legal basis within society; Examples of the former are the National Awakening Party and the National Mandate Party; examples of the latter are the United Development Party and the Crescent and Star Party.

candidates coming from a coalition of Islamic and Nationalist parties, at 37 %, followed closely by candidates coming from Nationalist parties, at 32.6%.



Source: JPPR (People’s Voter Education Network) with thanks to Jeremy Gross, The Asia Foundation’s Elections Program Manager.

So how can we explain the apparent absence of ideological consistency on the part of the parties and politicians pushing these religion-influenced regulations? And how do we explain the fact that despite the clear signal sent by Indonesian voters that they do not endorse an Islamist agenda, regional regulations that appear to support an Islamist agenda has apparently been seen by regional leaders as having political currency?

I believe there are four key factors at play to varying degrees in various localities. It is my argument that rather than a prevailing conservative or ideologically Islamist movement informing the emergence of these regulations, a more determinative factor is local politics and local capacity for good governance (or the lack thereof). Specifically, the four key factors are: a) history and local culture, b) corruption and the necessity to distract or obfuscate it, c) local electoral politics, and d) a lack of technical governance capacity at local levels. In many cases, all four factors are at play.

The Role of History and Local Culture

A quick glance at a map of Indonesia, pinpointing the municipalities, districts and provincial governments which have issued religious regulations illustrates the significant overlap between areas of high concentration of these regulations, and areas which have a history of affiliation with the Darul Islam (DI) movement. Twenty three out of the 53

districts and municipalities that have religious-influenced regulations on the books have a history of involvement in the DI/TII movement. And 50 out of the 78 regulations in my compilation have been issued in former DI/TII strongholds.



The DI movement was one of several ‘secessionist’ or insurgent movements in the early years of Indonesian independence. It was a regional movement, primarily led in West Java, Aceh, and South Sulawesi by local strongmen, and unified by disaffection with the central leadership of the young republic, and, to varying degrees, by a desire for an Islamic state.

It began in the late 1940s in West Java, under the leadership of Sekarmadji Kartosuwiryo, who in 1949 declared the Negara Islam Indonesia (NII). At this time the DI was said to have been supported by 4000 militia fighters who imposed Islamic law in Garut, Ciamis, and Tasikmalaya (Yunanto 2003:5). Kartosuwiryo was captured and executed by the state in 1962, but before that the movement had spread to Aceh, where Kartosuwiryo’s deputy, Daud Beureueh proclaimed the Islamic State of Aceh in 1953, and to South Sulawesi, where Lieutenant Colonel Kahar Muzakkar also in 1953 joined the DI movement and led a separatist struggle in South Sulawesi. Indeed, scholars continue to debate the degree to which the Darul Islam was driven by religious as opposed to secessionist motivations;¹⁸

¹⁸ See Effendy, B (2003) *Islam and the State in Indonesia*, ISEAS, Singapore, pp 33-38; Boland (1971) *The Struggle of Islam in Modern Indonesia*, Martinus Nijhoff, the Hague,

even so, the narrative and cultural identity that has been reinforced over the subsequent four decades is that these areas were strongholds of Islamic law and sought an Islamic state.

This historical relationship plays out in a couple of ways. In several cases, local Bupati are able to draw on a direct blood relationship with DI ‘heroes’ that are revered in the area – hence bolstering their own credibility and adding weight to their efforts in formalizing religious regulations. For example Abdul Aziz Kahar Muzakkar, the current Deputy Chair of the DPD representing South Sulawesi, and head of the KPPSI (Committee for the Preparation of Formalization of Sharia) is the son of Kahar Muzakkar of DI, and invokes his lineage frequently in both establishing his own credibility and in establishing sharia legislation in South Sulawesi (Imam and Patinjo, forthcoming; 148). A second way that the DI history is meaningful, is that it reflects a deeply rooted religiosity within the societies in those areas, which supported an Islamist secessionist movement in the first place, and which is more likely to be favorably inclined towards the formalization of Islamic law. In these areas, especially, the establishment of Islam-related regulations is at least partially, very often, rooted in ideological convictions.

The case of South Sulawesi, and in particular the districts of Bulukumba and Maros, is particularly illustrative. Bulukumba was the ‘pioneer’ in formalizing sharia in South Sulawesi. In fact, as early as 1998 the Bupati of Bulukumba had launched a program of intensive support programs for Qur’anic study groups (majelis taklim), mosques, and Islamic schools. As soon as the regional autonomy law was enacted, four key ‘sharia perda’ were passed – Perda 3/2002, restricting sales and consumption of alcohol, Perda 2/2003 on the management of zakat, Perda 5/2003 requiring civil servants to wear Muslim clothing, and Perda 6/2003, requiring ability to read the Qur’an for applicants to university and couples getting married. Next, the Bupati at the time, Patabai Pabokori, established 12 villages (desa) which were ‘pilot projects’ to become ‘Desa Muslim’ (‘Muslim villages’) which were meant to model the implementation of sharia (Ad’han and Umam 2006:60-66). So successful in formalizing sharia in his district was Pabokori that the KPPSI began to herald him as an example of a ‘good Muslim leader’, and began to encourage him to visit other districts to assist in replicating his success elsewhere. The district of Maros followed his example forthwith, establishing the same four regional regulations, and also establishing ‘Desa Muslim’. In these desa, as with the ‘Desa Muslim’ in Bulukumba, women not wearing jilbab are not allowed access to the village head’s office, or to local government services (ibid).

The Role of Corruption

International observers and domestic pundits alike predicted that decentralization would result Indonesia devolving into mini ‘fiefdoms’ which would have a multiplier effect on corruption. The combination of low governance capacity with massive new budgetary

pp 57-65; Nashir, H. (2007) *Gerakan Islam Syari’at*, PSAP, Jakarta, pp. 244-261; and Dijk, C. van, *Rebellion under the banner of Islam: the Darul Islam in Indonesia*. The Hague: Martinus Nijhoff, 1981

and policy authorities was, it seemed, a recipe for disaster. The reality has not been so grim, and the new political climate no longer guarantees impunity for corruptors. Hence there is a certain wariness that inhibits casual corruption. That said, corruption remains a huge problem for Indonesia, and regional officials, far away from Jakarta-based watchdog groups and NGOs, are still notorious. According to Rumadi, one of the leading analysts at the Wahid Institute, there is a close relationship in many cases between efforts to formalize sharia and corruption (Interview, 22 August, 2007). This is not to say that there is a causal relationship between the two, in either direction, but that it does appear that despite proponents' arguments that sharia is a solution for corrupt and ineffective 'secular' systems, districts with sharia regulations do not appear to be exempt from corruption.

In some cases, furthermore, the issuing of religious regulations aimed at camouflaging or distracting attention away from ongoing and pervasive corruption. Activists from the local NGO LAPAR identified 11 cases of corruption which implicate the office of the Bupati of Bulukumba directly, most of them for contracts that were given for construction of markets, the Islamic Center, the fisheries center, as well as involving housing allowances for DPRD members (Ad'han and Umam, p.68). Maros, the district discussed above, while boasting a large number of 'Desa Muslim', is also listed by Perak, a Makassar-based NGO, as the second most corrupt district in South Sulawesi (Imam and Patinjo, p. 166). Meanwhile, local activists point out, the region suffers from poverty and very poor government services. In 2005 there were almost 200 cases of malnourished children in Bulukumba alone; teachers were working for almost 6 months without a salary, and street lights in the municipality were not lit because the city government could not pay the electricity bills (Adh'an and Umam, p. 68).

The district of Dompu, Sumbawa, offers one of the best illustrations of this. As is the case in many districts where religiously informed legislation takes root, there is a history of Islam and local culture being tightly intertwined. The local legislature in 2002 passed a piece of regional legislation that outlined a strategic plan or vision for the district, which stated fairly generally the aim to establish Dompu as 'a prosperous and religious district by 2020'. Building on that legal platform, between 2003-2005 Bupati Abubakar Ahmad issued a number of implementing regulations or policy announcements (surat keputusan) that required, among other things, civil servants to wear Muslim clothing, Qur'an reading tests to be a criteria for admission to the civil service, universities, high schools, and junior high schools; and Qur'an reading tests to be a pre-requisite before receiving graduating diplomas from state high schools and universities, and before installing recently elected local legislators.

It is noteworthy that Bupati Abubakar drew on the expertise and assistance of both the local branch of the MUI (Indonesian Ulama Council) as well as officials from the Department of Religion, to craft these regulations and decrees. Despite his efforts to regulate adherence to religious values, Bupati Abubakar is currently in jail under corruption charges. (Interview, Akhdiyansah, researcher from Lensa NTB, August 27, 2007). These problems were in evidence several years ago – groups of citizens interviewed in early 2005 asserted that the requirement for a Qur'an reading test for

couples seeking to marry and for students could be ‘lifted’ for a certain fee; also no information could be obtained about how the district had used income received by the district from zakat and infaq (alms) which was supposed to be used directly for the poor (ibid).

The Role of Local Politics

It has become a rule of thumb since decentralization that almost everything in Indonesia is about local politics. This has become even more of a truism with the advent of the direct elections for district heads, governors, and municipalities (*pilkada*) which began in 2005. A common theme heard among domestic analysts of the religious perda phenomenon is that very often these religious regulations are used as political tools, to strengthen support amongst an incumbent leader’s constituency prior to an election (Zada 2006: 8-20). There are certainly plenty of examples to support this conclusion. The previous Bupati of Cianjur, Wasidi Swastomo, who had been accused by Islamist groups of being ‘soft’ on Christians after allowing the building of several churches, campaigned vociferously on a sharia platform prior to losing the election in January 2006.¹⁹ In Indramayu, the incumbent Bupati, Irianto Syafiuddin, distributed a Qur’an with his picture and a paragraph on his vision as a Bupati, on the front page prior to elections in 2005 (ibid).

This theory, that political leaders issue perda as a means of establishing their ‘Islamic’ credentials among their constituencies prior to elections also fits with the otherwise seemingly counter-intuitive pattern remarked upon earlier, that by far the vast majority of religious perda have been issued by Bupati coming from Golkar, PKB, even PDIP – in short the ‘nationalist’ parties, as opposed to the ‘Islamist’ parties – PKS, PPP, or PBB. Especially in areas that have a Darul Islam history, or where Islam is politically important, candidates from Golkar may feel the need to ‘prove’ their Islamic credentials. Or, similarly, as suggested by Rumadi, these Bupati are issuing what they think are populist policies and regulations, because indeed in many of these rural areas perda related to Islamic symbolism are often viewed favourably. (Notable exceptions to this are perda on zakat which are perceived to be oppressive of the poor, and perda which restrict women’s movement, especially their ability to go to market. In both of these particular cases strong popular dissent has caused the draft perda to be revoked.) Rumadi notes that while in many cases these Bupati do not have Islamist political agendas, and they are simply issuing what they think are populist regulations, because they correspond to a conservative Islamist agenda, it is easy for local Islamist groups to coopt these developments and infuse them with an ideological momentum that may have not been intended by the local governments, or their mainstream constituents (Interview, August 22, 2007).

The picture of the religious perda as a popular political tool takes on a new complexion when one recalls that the issuance of such perda appears to have peaked in 2003, and has

¹⁹ ‘Kala Agama Ikut Pilkada’, *Nawala The Wahid Institute Bulletin*, (No. 3, ThI, Augustus-November 2006) p.1.

been on a clear decline since then, and especially since 2005, when the pilkada began. Direct local elections have presented for citizens and communities the opportunities to hold their representatives accountable – for campaign promises, for effective policies, for good governance. And they have also placed pressure on newly elected Bupati – especially the 40% of Bupati who defeated incumbents in the pilkada thus far – to govern effectively, or risk removal from office.

One example of this was the experience of the province of West Nusa Tenggara and the municipality of Mataram, its capitol. In this case a draft bill against ‘social ills’, which included restrictions on alcohol sales and consumption and ‘protection’ of women by restricting mobility and fraternisation among males and females, was put forward by legislators in the 1999-2004 DPRD by PBB, PPP and some smaller parties. This legislation was supported by the then Mayor of Mataram, H. Mohammad Ruslan, of Golkar, in 2003 and 2004, when he felt the need to strengthen support from Islamist parties. His support for this draft bill continued until just prior to the pilkada of June 2005, when he had the matter ‘shelved’ – according to media reports at the time, as it was felt that it could be politically costly to him to be seen to be pushing this *maksiat* (‘immorality’) perda too strongly (Interview, Alam Surya Putra, 28 August, 2007). After the pilkada however, which saw Ruslan re-elected, he renewed his support for the perda to repay his perceived political debt to the Islamist parties. Debate about his perda continues within Mataram, however, as both women’s groups and NGOs view it as being harmful for the region economically (as a tourist area, alcohol sales are significant) and in the longer term have concerns about the formalization of religion generally (ibid). Also because the configuration of power has changed since the pilkada, with Golkar winning 10 seats in the local legislature and PBB taking only 1, there has been little political momentum to push this draft bill forward.

Role of Legal Literacy and Technical Governance Capacity

It may be that local governments are deciding that playing the ‘Islam card’ is not the populist, politically effective move it may have been three or four years ago, given the national electoral record and recent polling data showing low support for an Islamist or sharia agenda and given the strong domestic and international attention to governance performance. PPIM, the Center for the Study of Islam and Society, based at the State Islamic University in Jakarta, recently released polling data that sampled 1,173 people nationwide, from March-April 2007, on issues of Islam and nationalism. The results show strong support for a Pancasila, or nationalist-based state, rather than a religious-based state. For example, over 90% of respondents felt that religious affairs should be consistent with Pancasila and the Constitution. 85% of respondents felt that Indonesia’s state ideology is correctly based on the Pancasila rather than Islamic state ideology. (PPIM’s poll can be accessed via its website, at www.ppim.or.id.) Similarly, LSI (Indonesian Survey Institute) released data taken from polls conducted in early 2006, which when compared to previous annual polls between 2003 and 2005 show that on key

indicators (e.g. support for polygamy, and rejecting a female political leader) support for a sharia agenda peaked in 2005 and is on the downswing.²⁰

Komnas Perempuan (National Committee on Violence Against Women) released a statement in early 2006 which indicated that while a number of the religion-influenced regional regulations were discriminatory of women (16, to be precise), it was their opinion that these regulations were not being driven by a conservative or ideologically informed intent to suppress women. Rather, they said, that these regulations were more frequently the result of poor legal literacy and legal drafting skills on the part of the local government officials producing the regulations. Komnas urgently recommended capacity building interventions for both local government heads and regional legislators.²¹

Local NGOs and organizations advocating good local governance indicate that increasingly Bupati and local party leaders are welcoming assistance in drafting gender-sensitive or pro-poor budgets, and in formulating policy that will improve economic growth in their district. Furthermore, there is evidence that the involvement of Muslim organizations in this kind of good-governance advocacy is especially effective, and that the political influence of key Islamic constituencies can result in substantive pro-poor and pro-growth policies.

For example, in the neighboring district of West Lombok, since 2006 Muslim organizations have waged a campaign for higher budget allocations for health and education. YKSSI (a health advocacy NGO made up of Nahdlatul Ulama and Nahdlatul Wathon²² leaders) identified budget irregularities in the provincial budget of West Nusa Tenggara; they conducted a series of visits to key pesantren leaders to gain support, and then in August of 2006 held a large ‘tabligh akbar’ (religious rally) attended by 3000 Muslim leaders and community members, which resulted finally in pressuring the Deputy Bupati of West Lombok, H.M Izzul Islam, to sign an MOU committing to raise budget allocation for health and education. Subsequent to that, leaders from Muhammadiyah, NU, and NW have continued to organize together, and formed a Dewan Peduli Anggaran (Budget Council) which was launched in September 2007 in Mataram, and attended by 7000 religious leaders. This launch, called ‘Istigotsah Anggaran’, was held in concert with a regional conference of NU, and was opened by Hasyim Muzadi and attended by the Governor of NTB, and senior members of the provincial and regional legislatures and police.

Conclusion

In conclusion, the role of Islam remains as central as it always has been in Indonesia. The political weight and credibility of Muslim organizations, especially the mass-based

²⁰ <http://www.lsi.or.id/riset/81/sikap-publik-terhadap-penerapan-syariat-islam>

²¹ Komnas Perempuan, op cit. p5.

²² Nahdlatul Ulama is the largest mass-based Muslim organization in Indonesia, founded in 1926; Nahdlatul Wathon is a mass-based Muslim organization that holds to seminar doctrines, but is located primarily in Eastern Indonesia.

Muslim organizations, remains attractive to politicians and constituents alike. There are indications, however, that while piety and religiosity in Indonesia, and globally, are on the rise, an Islamist agenda seeking to formalize sharia within the legal system is waning in appeal. That, combined with the pressure felt by local government leaders to produce concrete results before the next direct elections, appears to be shifting the emphasis of local politics towards good governance measures and away from symbolic regulations.

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