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Critical Study of Sharia Regional Regulations on Women's Emancipation

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Abstract

Sharia regional norms include Islam's dominant status, the principle of regional autonomy, and the Constitution of Indonesia, which served as its foundation. This is because several Sharia regional restrictions, such as the need to wear the headscarf and the ban on curfews for women, are discriminatory against women. This study aims to (1) determine whether or not regional governments have the ability to create Sharia regional laws and (2) identify the legal basis for Sharia regional regulations that do not allow for women's liberation. This study will be evaluated descriptively, using normative research with a statutory approach. Our findings indicate that Article 29 and Article 18 (paragraphs 1 and 2) of the Constitution provide the constitutional basis for the power to create Regional Regulations. Since the indications, constraints, and contents that Sharia regional rules may apply are not defined in the Indonesian legal system, the formulation of regional laws and their application remains controversial. Because of this, women may feel uneasy with the Sharia Regional Regulations. Furthermore, the Ministry has the authority to nullify contracts that violate regional Sharia norms that oppose and do not accommodate women's liberation. To better safeguard women's rights within the framework of Islamic law, the legal scholarship critical of Sharia regional restrictions and women's liberation is crucial. This study can significantly contribute to improving the legal framework and delivering gender equality and social justice by providing a critical analysis of rules and their implementation.

Keywords: *Sharia Regional Regulation, Women Emancipation, Discrimination, Regulation, Law.*

INTRODUCTION

To plan, execute, and assess development initiatives by Islamic values and principles is what is meant by the "Islamic legal approach to regional development" (Suryani et al. 2023) in this context. The Pancasila State principles may be found in the Republic of Indonesia's 1945 Constitution and have the following Islamic interpretations: First, Islam's emphasis on a single God is reflected in the Republic of Indonesia's Constitution from 1945. Humanity, as the moral and ethical basis of the country, is based on the recognition that all people are beings that Allah SWT has honored. Third, solidarity is the country's social bedrock, embodying the family's spirit in its willingness to sacrifice for the common good. Fourth, discussion to obtain agreement among interested and morally responsible parties to Allah SWT as a core premise in the decision-making process and democracy as the nation's political reference. Fifth, the state's overarching purpose is the welfare of its citizens, which is achieved by ensuring that all members of society are treated relatively under the law and in the economy (Prihartono et al. 2023). Islamic law itself in Indonesia has become a source of law that influences the national legal system and regional legal systems (Muhtar et al. 2023).

The power to establish regional rules is one of the delegated powers by the federal government. Article 18(6) of the Constitution of the Republic of Indonesia, ratified in 1945, states that "the regional government has the right to establish regional regulations and other regulations to carry out autonomy and assistance tasks." In addition, this framework is codified in the Organic Law, namely in Article 236 of the predecessor of Law No. 23 of 2014, also about the Regional Government.

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The body of law, or subsystem, to which all laws and regulations belong. That's why it's essential to debate legal politics whenever the topic of law and regulation-making arises. Since statutory regulations are essentially blueprints or designs of political institutions, the concept of legal politics stems from the idea that laws and statutory regulations are part of a political product.

According to Mahfud MD, the law is the formality or crystallization of competing political wills that affect and shape one another. Along with one another. Additionally, Mahfud MD argued that the causal relationship between law and politics could be answered first; the law of determinants of politics, which states that political activities are regulated by and must be subject to legal rules, is the first step in answering the question of whether law influences politics or politics influences law. Second, political determinants of law, given that laws are the end products of competing and often conflicting political wills. Finally, political and legal systems may choose their fates as social subsystems (Mahfud 2005) .

For the legal development sector to keep up with the rule of law and produce a legal product responsive to society's dynamics and legal needs on a national scale, it requires an urgent and comprehensive reform in this age of reform. Numerous regions show the extraordinary spirit of Regional Autonomy with a substantial Islamic base recently calling for the practical implementation of Islamic Sharia. The Aceh Special Region, South Sulawesi, Gorontalo, Riau, Cianjur, Tasikmalaya, and Lebak Regulatory Regions, among others (Marbun 2005). Low levels of female freedom might be a source of tension. According to Komnas Perempuan, out of 421 discriminatory regional rules, 333 specifically targeted or limited women. What kinds of things, including what you may wear or where you can go, are governed by local ordinances. For instance, the Regional Regulation of the City of Tasikmalaya No. 12 of 2009 on the Development of Community Life Values by Islamic Religious Teachings and Social Norms of the Tasikmalaya City Community is sexist because it imposes restrictions on women's clothing that should be their own business.

Emancipation of women is both a social movement and a political agenda that seeks to advance women's rights. Emancipation is concerned with gender politics, power relations, and sexuality to comprehend the roots of sexism and racism better. Feminism, which has sought to explain gender disparity via numerous deeply ingrained societal processes, including sexism, patriarchy, and capitalism, is at the foundation of women's liberation. Liberal feminism, Marxist feminism, radical feminism, and socialist feminism are the four theoretical and essential feminist stances outlined by Alison Jaggar and Paula Rothenberg. Feminism's primary tool is violence against other people. As an alternative to the historically dominant male viewpoint in social theory, feminist theory draws attention to societal problems, trends, and topics that are either overlooked or misidentified. Feminist theory primarily examines the following: sexism, heterosexism, heteronormativity, heterosexism, heterosexism, objectification, structural and economic inequality, power and enforcement, and gender roles and norms (Chandrika 2019).

The concept of liberation originated in the West and subsequently made its way throughout the globe in various forms. As a result, most academics define and critique patriarchal and conventional Asian beliefs and gender inequity using concepts that originated in Asian countries. Asian patriarchal civilizations have undervalued women and denied them the right to freely express their concerns throughout history. (Campbell 2006). Realizing women's rights over the globe and learning to live at peace within the framework of patriarchy are important to the notion of women's liberation in this setting.

Raden Ajeng Kartini is integral to the conversation on women's liberation in Indonesia. In Indonesia, Kartini has been revered as a pioneer for women's rights since the nineteenth century. Kartini wrote about the plight of women and their fight for equality to her friends in the Netherlands. In 1911, Mr. JHAbendanon published a collection of Kartini's letters titled *Door Duisternis to Licht*.

Kartini gained worldwide recognition when she published a collection of her renowned letters in 1911 under the title *Door duisternis to Licht* (Kartini 1911). She had been relatively unknown outside of the Dutch colonial community until then, as shown by the over one hundred newspaper articles written on her between her birth and death in 1904. The most influential of Kartini's works were translated into English as *Letters of a Java Princess* in 1920 and into Indonesian as *Out of Darkness came light* for the first time in 1922 (Kartini 1922, 1938). Her works have been translated into various languages since 1911, including Arabic, Sundanese, Java,

Japanese, Russian, and French. Newspapers in Indonesia and the Netherlands published hundreds of pieces on her and the "Kartini school" she founded between 1911 and 1945 when Indonesia gained independence. Since then, several books, dissertations, and academic articles have been written on his life and correspondence (Delpher). The UNESCO Collection of Representative Works adopted it in the 1960s, with Eleanor Roosevelt providing a foreword to the English version and Orientalist Louis Massignon doing the same for the French edition (Kartini 1960, 1964) (Bijl and Chin 2000). In Indonesia, the issue of women's emancipation is still a grassroots issue that has the potential to become vertical and horizontal conflicts (Mustikawati 2015).

According to statistics from 34 provinces, the vast majority of the 443 Sharia Regional Regulations were passed between 1998 and 2013 in a limited number of districts in even fewer provinces. The provinces with the highest concentration of Sharia Regional Regulations are West Java (103), West Sumatra (54), South Sulawesi (47), South Kalimantan (38), East Java (32), and Aceh (25). To rephrase, just 6.7% of the Sharia Regional Regulations were reviewed (or 300 out of a total of 443), and this was done by only six areas (Buehler 2016)

The National Commission on Women (Komnas Perempuan) found that 421 government policies were implemented in 2016 via discriminatory regional regulations that targeted women and members of minority groups. Meanwhile, it has been determined that 151 local Sharia regulations are discriminatory (Ign and Bhaskara, n.d.). There were 154 discriminatory local laws based on gender that were included in the research. There were 19 at the provincial level, 134 at the district/city, and 1 at the regional/village. There were a total of 69 districts/cities in 21 provinces that simultaneously implemented one or more of the 80 discriminatory regional rules between 2003 and 2005. East Java, West Nusa Tenggara, South Sulawesi, South Kalimantan, and West Java are the six provinces with the lowest rates of regencies passing discriminatory local ordinances. As many as 64 of Indonesia's 154 regional bylaws are biased against women, Komnas Perempuan found. These bylaws make it harder for women to get the protection and legal certainty they deserve by making them criminals, fail to acknowledge their human right to a dignified means of subsistence, or outlaw forms of expression like how women choose to dress. This rule has been ruled unlawful because it violates people's basic liberties (Dhani 2022).

Whether sex differences may give rise to gender differences becomes crucial and intriguing when studying research on women's liberation. Because of these distinctions, women are frequently treated unfairly and unequally. To aid in societal analysis based on five factors, treatment, marginalization, subordination, violence, and gendered role conflicts (Saraini and Kholifah 2019).

The goal of the women's movement, then, appears to have originated with the rhetoric of "emancipation of women" and "liberation of women," which seeks equality with males in terms of legal and social standing. We can't deny that Asian women don't share their Western counterparts' drive for liberation (Kiribamune 1993). Even though males hold power in much of the world, Asian women face significant challenges in economics, governmental intrusion into private life, and cultural conditioning.

From the description above, this research try to answer (1) What is the regional government's authority in establishing regional Sharia regulations? (2) What are the legal implications for Sharia regional regulations that do not accommodate women's emancipation?

LITERATURE REVIEW

Human rights, and the fight for them, are hot topics at conferences and debates worldwide in the twenty-first century. This is a hot topic in Indonesia as well, particularly as it pertains to women and Islamic law. The following scholars, among others, have undertaken studies relevant to this topic.

According to the book "Sharia Regional Regulations in the Indonesian Legal System" by Muhtar and Kasim (2023), local administrations have the power to create Sharia-oriented regional rules (Regional Regulations). This book explores the intersection of religious law and state power via the lens of Sharia regional legislation (Hidayat, Nur, and Kasim 2023).

Research conducted by Mustika Saraini and Siti Kholifah (2018) focuses on the struggle for gender equality in Aceh Province, which is known as a province that implements Islamic law formally (Saraini and Kholifah 2019).

They observed how the regulations in the Aceh Qanun had a significant impact on promoting gender equality, particularly in the issues of divorce and the application of sharia law.

Additionally, women have equal rights to engage in politics. In his article "Women's Political Rights in the Perspective of Islamic Law" Moh. Fauzi addressed this issue. Fauzi argued that women should have equal rights in Islam, and that this includes the right to vote (Fauzi 2014).

Similarly to other human rights groups, Omotosho and Babarinde (2020), in the publication "Gender and Human Rights: An Evaluation of Women's Rights in Islam," contend that Islam grants equal rights to women. They wrote about how misconceptions about women's rights in Islam might impact public opinion (Omotosho and Asiyab 2020).

Andini Naulina Rahajeng's "Abortion in Islamic Law and its Interaction with Human Rights" (2020) addresses controversial topics like abortion by discussing the Islamic legal framework for abortion and how it interacts with other human rights (Rahajeng 2020).

Meanwhile, Sukron Ma'mun and Ibnu Akbar Malik (2023) in "A Socio-Historical Study of Women's Rights Advocacy in Islamic Legal Construction" contend that women's voices, experiences, and difficulties factor into the development of Islamic law (Ma'mun & Malik, nd).

The rights of women in Islam and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), 1979, are compared in "An Analytical Study of Women's Rights in Islam convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), 1979 with Special Reference to Pakistani Law" by Sajida Faraz et al. (2022). They claim that although both Islam and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) support equal rights for women, CEDAW is more specifically geared toward ensuring that women have equal protection under the law (Faraz et al. 2022).

Rossa Ilma Silfiah and Humiati in their journal discuss the relevance of gender empowerment in Indonesia to women's rights in Islamic law (Silfiah and Humiati 2023). They argue that gender empowerment, gender equity, and justice can be achieved by integrating women's and men's experiences, needs, and aspirations into various policies and programs.

The rights of women in Islamic law are a contentious topic. Because of their patrilineal social structure, most Islamic nations are led by males. Women's political participation is frequently restricted. Islam, however, stresses that women have equal rights to participate in public life and politics.

The previous research approached human rights, women's rights, and Islamic law from various angles. The author argues that this issue needs to be addressed by thoroughly examining Sharia regional legislation. Incorporating a human rights-based perspective and a gender-inclusive approach into developing Sharia regional legislation is crucial. Women's rights in Islam are often misunderstood. Thus, it's essential to correct these misconceptions and raise public knowledge that is both true and welcoming. Empowering women may be a significant step forward. Achieving gender equality and justice in society requires policies and programs considering women's and men's perspectives, experiences, and goals.

Overall, human rights, gender equality, and the sociocultural setting must be considered while critically examining regional sharia legislation and women's liberation. Progress toward women's liberation in the Islamic legal system is looked for by considering various existing ideas and studies.

METHODOLOGY

Normative legal studies such as these are grounded on the problems and themes that emerge from the inquiry. The research methodology used is philosophical and analytic, emphasizing logical viewpoints, critical and philosophical analysis, and the ultimate goal of producing discoveries as solutions to the primary challenges identified (Ishaq 2017). Descriptive analytical techniques will also be used to address the issue, such as laying out the relevant statutes and case law (Marzuki 2014). The purpose of this research, which takes a philosophical and analytic approach, is to shed light on municipal governments' role in shaping and enforcing Sharia regional

legislation to empower women. Hopefully, this study will lead to novel insights and stimulate more thought on the intersections of human rights, gender equality, and Islamic law.

DISCUSSION

Regional Government Authority in Forming Sharia Regional Regulations

A number of factors reveal the current morality of Indonesia's police force, including: selective enforcement, lawlessness, corruption among police officers, and uneven enforcement (Suwito et al., 2023). Islamic legal approaches to regional development in Indonesia face obstacles such as divergent interpretations, incompatibility with the national legal system, political influence, and the incorporation of Islamic principles into sustainable development, despite the introduction of Islamic-based development programmes (Suryani et al., 2023).

Constitutionalism is inseparable from the document itself since the constitution is founded on the consensus (context) of the people about the ideal form of the state. Politicians need the institutional framework of the state in order to protect and further the common interests of the political community as a whole (Supriadi, Pku, and Gontor 2015). Due to its late 20th-century birth (on August 17, 1945, to be precise), the United States borrowed ideas about nationhood and independence from a number of other nations (Iskandar 2016).

The 1945 Constitution of the Republic of Indonesia According to Paragraph 1 of Article 1, Indonesia is a Republic that functions as a Unitary State. Subsequently, Article 18 Paragraph (1) establishes the division of the Unitary State of the Republic of Indonesia into provinces, with each province further subdivided into regencies and cities, each of which has its own regional administration subject to the central government. To paraphrase paragraph (2): "Provincial, regency, and city regional governments regulate and manage their own government affairs according to the principle of autonomy and auxiliary work." Within each province are regency/municipality regions and regional administrations, further subdividing the state's territory.

The following are interpretations of the Constitution of the Republic of Indonesia from 1945, which is based on the Islamic worldview and incorporates the core ideas of Pancasila: To begin, the Republic of Indonesia's 1945 Constitution's articulation of Belief in One Almighty God as its spiritual underpinning is consistent with Islamic principles. Second, the notion of people as beings exalted by Allah SWT is expressed in Human Rights, which serves as the moral and ethical basis of the country. Third, national unity as the social basis, with a sense of kinship to help each other out and work together for the greater good. Fourth, the nation's political system should be based on democracy, with the goal of reaching agreement among all relevant parties in a way that is ethically responsible to Allah SWT. Fifth, justice as an overarching aim of the state, including its legal and economic dimensions, etc., and second only to the welfare of its citizens (MPR RI 2012). Article 29 paragraph (1) indicates that the State is founded on belief in one and only God, and paragraph (2) states that every citizen is guaranteed the right to embrace and worship in accordance with his or her own religious and philosophical convictions.

The Law on Amendments to Law Number 12 of 2011 Concerning the Formation of Legislation has established general guidelines for the formation of Regional Regulations. Legal clarity and the development of policies, rules, and regulations at the central level or higher laws need the presence of a regional regulation.

The issue of legality as one of the criteria of the Rechtsstaat is intimately connected to discussions about the legitimacy of Sharia Regional Regulations. To clarify what is meant by the concept of legality, consider that all governmental actions must be interpreted in light of existing laws. Legal precedent and the Constitution provide the basis for all governmental activity in this sense. Legislators have a crucial role in upholding the rule of law in this regard.

It follows that all government actions must always be constrained and limited by law if the legality concept is applied to the power to construct sharia regional laws. The purpose of this is, of course, to provide the public with more legal security and clarity. This, together with the concept of legality, gives rise to a number of other principles found in the hierarchy of laws and regulations that should be taken into account while formulating statutes, including local ordinances (MD 1999).

Mahfud MD argues that citizens should take an active role in the legislative process since law is the direct result of politics, making politicians powerful arbiters of the rule of law. Legal politics yields political agreements as the result of the interaction and competition of various political wills. What we currently think of as a universally binding body of rules and regulations emerged not from any higher authority than a struggle for political power. Therefore, practically speaking, if an individual or organization wishes to see certain values reflected in a legal product, they must be able to exert sufficient influence or persuade the legislature that these values are essential. Before Islamic law can become a national concept law, here is where the Islamic legal agenda will run up against it.

Having regional rules in place and managing regional government in accordance with the letter of the law is essential to the rule of law notion, which characterizes the area as a political entity in and of itself. The notion of regional autonomy allows for local governments to be structured in a way that best serves the interests of their constituents. Among the observables are facts about religiously motivated legal goods.

It is believed that sharia Regional Regulations may become instruments of the politics of religion, which will lead to social tensions and conflicts. When a regional law loses its religious authority, it might become just another policy made by the government of that territory. This contradictory symptom of "sharia politics" forbids lying and deceit in religion but religious tolerance is at its very foundation. There is no ambiguity about whether conformity with sharia regional norms is an indication of sincerity, awareness, and maturity, or is instead the result of other factors. Obedience may have originated from a natural response to governmental authority. Because of its nature and purpose, sharia can only be carried out with knowledge by its believers, if this is the case, it indicates a fundamental decline in sharia principles.

However, if the state enforces sharia principles, they will lose their religious authority and worth. Secular courts, whose job it is to address practical matters in the administration of justice and government in general, have survived and flourished in part because of the religious element of sharia and its concentration on regulating the connection between God and humans.

1. Article 29 paragraphs (1) and (2) provide an implied justification for sharia Regional laws, however there are no formal laws in Indonesia that directly address this topic. This is due to the fact that regional legislation under sharia might be seen as giving power to the regions rather than the federal government. Appropriate for use in Indonesia. The two main arguments against the constitutionality of sharia regional law in Indonesia are summed up by the author himself:

2. Second, Indonesian law does not have a concept of sharia regional norms.

3. 3.Regional indicators, restrictions, and topics subject to sharia law

Therefore, in order to provide for legal clarity, the layout of sharia regional norms should be governed by distinct laws and regulations. It is crucial to differentiate between sharia Regional Regulations and Regional Regulations-Regional Regulations in general while discussing the meaning of sharia Regional Regulations. 2). A region's sharia laws, whether they are enforced or created, must be kept within the confines of Indonesia's legal system and regulatory hierarchy. As the author sees it, this is crucial to ensuring that the regional sharia laws drafted are high quality and adhere to sound legal principles (Julyano and Sulistyawan 2019).

Qanuns, or regional Sharia rules, vary greatly from other regulations in both the procedure by which they are made and the premise upon which they are formed. As "qaw'id'mmah" (generic norms for constructing Islamic laws), the general laws (kullyah) that become legal documents in the Islamic Shari'a are known. Following the basic channels and texts determined in the Islamic Shari'a through the Al-Quran and Sunnah, which become the main source of law formation, qawaid'ammai is the basis upon which the Islamic Shari'a proceeds by giving a full mandate to "Uli al-Amr" (King or Government) to implement the laws.

When there is clear authority for a law, that legislation may be said to be certain, in accordance with the idea of legal certainty. Those seeking justice have some assurance that they will, under certain conditions, be able to, and will, in fact, get such justice via the application of the concept of legal certainty. This agrees with what Van Apeldoorn noted, that there are two parts to legal certainty: the ability to specify the law in precise words and

the guarantee of protection under the law. This indicates that the party seeking justice is curious about the applicable legal standards before initiating legal proceedings.

So, for sharia regional rules to be widely supported, they must be seen as an instrument for societal good, not a means of enslaving people. Community needs are central to the idea of sharia-based Regional Regulation legal development. Therefore, both the legislative process and the idea of creating a sharia Regional Regulation should continue to allude to the creation of sound laws and rules, with due regard for both formal and material considerations, as mentioned by Van der Vlies. The following are some of the prerequisites (Manan 1992) : The principles of (a) defined aims, (b) the appropriate organ or institution, (c) the requirement for rules, (d) the concept of implementation, and (e) the principle of context are all examples of formal principles. The accurate language and systematics principle (a), the principle of recognition (b), the concept of equal treatment under law (c), the principle of legal certainty (d), and the principle of law enforcement based on the specifics of each case (e) are all fundamental principles.

Islamic law is an embodiment (concretization) of the fundamental precepts of Pancasila, but it must still be applied with due regard for other Pancasila principles like the spirit of harmony, appropriateness, and harmony. The harmony of Indonesia's national legal system, which is grounded in Pancasila and the Republic of Indonesia's 1945 Constitution, must be preserved as sharia regional rules are implemented. The development of Sharia Regional laws, for example, still refers, in both substance and form, to statutory laws, so long as Islamic Sharia is implemented in Indonesia within the framework of the Unitary State of the Republic of Indonesia. A call to all nations. As a result, the sharia Regional Regulation is integrated into the domestic legal framework.

Additionally, in the process of forming these sharia regional regulations, it must always pay attention to national legislation, the application of the principles in Islamic sharia can be applied eclectically, which means that laws must be separated which do not conflict with the 1990 Constitution of the Republic of Indonesia. 1945 and other laws and regulations. Do not allow the jealousy and upheavals that the implementation of sharia Regional Regulations produces lead to anarchy in the national legal system, which is counter to the aims of national law.

In this case, excellent lawmaking principles call for the organization and drafting of sharia Regional Regulations. This is done to preserve the integrity of the corridor and the original intent of the sharia Regional Regulations. Furthermore, sharia regional ordinances in their duality must provide to the people's basic need. Thus, the construction of sharia regional rules is aimed at the requirements of the individuals who control moral concerns and social and governmental life.

LEGAL IMPLICATIONS OF SHARIA REGIONAL REGULATIONS THAT DO NOT ACCOMMODATE WOMEN'S EMANCIPATION

It is generally agreed that British thinker Mary Wollstonecraft (1759-1799) first used the word "feminism" to characterize the continuous fight for women's rights that began in the 18th century. According to Wollstonecraft's concept, women's rights are limited to what is required by law and culture. After males leave them, Wollstonecraft says that women's lack of knowledge is to blame for their failure to assert their rights. Women's traditional tasks in the home had to be fulfilled within the framework of the national legal system of the country at the time (liberal Feminism) in order to fully realize their rights as human beings (citizens), mothers, and wives.

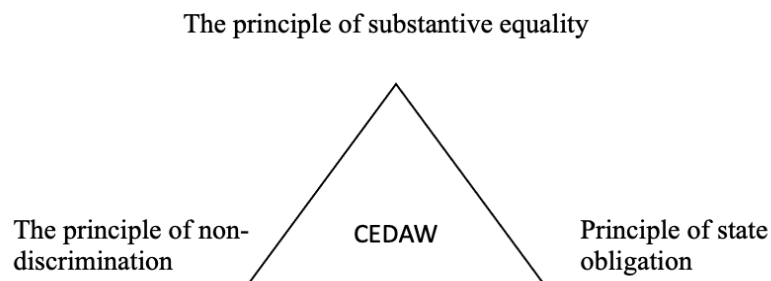
There has been a shift in how women's legal rights are seen throughout time. Despite the law's image as a neutral and unbiased instrument, it has seldom supported women in the past. Similar to how legislation is viewed to have not been founded in a vacuum but as the outcome of a war for social, cultural, and economic interests (Maryam, 2012), politics reflects the values and ideological norms adopted by society and the forces producing it. In contrast to Liberal Feminism, Marxist Feminism sees gender disparity as a product of capitalist social, political, and economic institutions rather than an individual flaw in society (Supardjaja, 2006).

Islamic feminism, as argued by Moghadam, is first and foremost a strategic discourse, with its practice primarily concerned with women's liberation and gender equality. However, it is evident that observers have the propensity to associate these techniques or discursiveness with ideologies that create or are anticipated to

produce social movements, international politics, or as opponents of women's liberation claim that these movements would fail. Therefore, the women's liberation movement is sometimes criticized for its "ideological divisions," "weak linkages," "internal conflicts," and "divisions that embrace the movement as a whole" or "frictions within the movement." (Schneider 2009).

Violence against women and girls may increase as a result of the debate over women's emancipation in Indonesia. It is a sign that progress has been sluggish in safeguarding women's human rights when women are mistreated, since this is frequently the result of discriminatory and gender-biased legislation and regulations. Because monitoring practices emerge as a result of people's understanding that is not yet responsive to the problems and aspirations of men and women, it is essential to always strive to formulate provisions that are gender-responsive in laws, regulations, and operational and technical policies.

Protecting and promoting the human rights guaranteed by the Law of the Republic of Indonesia No. 39 of 1999 respecting Human Rights is the shared duty of all people and the state. According to Article 1 number 1 of Law No. 39 of 1999, human rights are a set of rights that are inherent in the nature and existence of humans as creatures of God Almighty and are His gifts that must be respected, upheld, and protected by the State, the law, the Government, and everyone. According to Article 12 of the Universal Declaration of Human Rights, essential human obligations are those that prevent the full enjoyment and defense of human rights. Articles 2, 3, and 45 all state that "women's rights in this law are human rights." Articles 46-51 outline the specific protections that women are entitled to. The following chart illustrates the progress women have made toward equality and independence. (Wulan, Mudjiati, and Adams 2012):



Picture 1. The rights and emancipation of women

The three pillars on which the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) was established in 1979 are as follows:

1. The Principle of Substantial Equality
2. Nondiscrimination as the Second Guiding Principle
3. Third, Gender Equality and Women's Rights Movements and the Principle of State Obligations

This third principle, often known as the "prism of women's human rights," provides a framework for analyzing and eliminating all forms of discrimination based on a person's gender.

Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) has a particular approach to the principle of substantive justice, which means that a substantive or corrective approach does not only focus on equal treatment before the law but also on justice in the de-jure sense of the actual or real impact of the law. Diversity, distinction, disadvantage, and treatment are all given attention and consideration in the Substantive Equality Definition. The CEDAW Convention was created to end discrimination against women, and its guiding concept is nondiscrimination. Article 1 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) includes this guiding idea as a definition work. Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) Article 1 defines

violence against women as "...any distinction, exclusion, or painting made based on gender, which has the effect or objective of reducing or eliminating the recognition, enjoyment, or use of human rights and fundamental freedoms by women, regardless of their marital status, in the political field, the economic field, the social field, the cultural field, the civil field, or otherwise."

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) includes the following instances of State Obligations: Demand and 1) provide measurable results from laws, rules, and policies enacted to advance women's rights. Establish a conducive environment to increase women's access to and participation in the labor force by ensuring the actual implementation of this right via targeted temporary measures or guidelines. Third, the state really does something about women's rights rather than just talking about them. 4 Assurance that is not just theoretical but also implemented. Fifth, the state has to be monitored and controlled in both private and public settings.

Since women's freedom in state life is a separate phenomena with equal rights to men, a sharia Regional Regulation must be developed by the highest laws and standards. According to Article 6 paragraph (1) of Law Number 12 of 2011 about the Formation of Legislation, the following are fundamental principles of the content of legislation: a. safety; b. humanity; c. nationality; d. kindred; e. archipelago; f. Unity in Diversity; g. justice; h. equal standing before the law and government; i., legal certainty and certainty; and j. balance and harmony.

This is why Article 6, paragraph 1, letters g and h indicate that the "principle of justice" requires every statutory text to reflect the concept of proportionate justice for all citizens equally. However, the "principle of equality of position in law and government" means that no aspect of the substance of laws or regulations may be biased against anybody based on their religion, ethnicity, race, socioeconomic status, or gender. Social. Each text in Laws and Regulations should not include anything that gives or results in distinctions depending on background factors like religion, ethnicity, color, class, gender, or social standing since this would limit access to justice for certain people while benefiting others.

Some rules, legislation, policies, and proposals are not responsive to women's interests and have consequences for harassment and injustice against women, even if some laws and regulations ensure fairness and justice for women and men. For instance, while Article 27(b) of the Constitution of the Year 45 ensures every citizen's equality before the law, Article 34 of Law Number 1 of 1974 about Marriage designates the husband as the head of the family and the wife as a housewife, which has far-reaching implications for women in the workforce, who are not recognized as seekers under the law. Revenue source. Although the Tangerang Regional Regulation Number 8 of 2005, which prohibits prostitution, starts with the term "Everyone...", which seems impartial and objective, all 26 persons detained on the first day of its implementation were women. The reason for the Regional Regulation is that prostitutes are female.

Despite the initial optimism, the community continues encountering numerous challenges in carrying out these efforts, and tension (gaps) remains between the legislation and social reality. There are three (three) reasons for this: The first problem is that specific policies and laws are at odds with those that ensure women are treated fairly and justly. Second, some matters are "filed" away in the body of law. Consequently, Sharia regional ordinances whose substance governs women's existence face several challenges, including those already discussed. In theory, this issue divides groups and may lead to conflict and the marginalization of women (hrw.org, nd).

Some common worry patterns that women have to cope with are as follows:

One Yogyakarta mother explained how the school uniform mandate of 2014 had affected her adolescent daughter's experience in a public high school for the first time in 2017: The school and her instructors may not have mandated that she wear the headscarf, but they certainly made unwelcome remarks and restricted her freedom of expression because of it. Not to cover one's head in public. There is continual, subtle pressure. According to her, her daughter could cope with the first year. Still, the burden of wearing the headscarf became too much when she had an Islamic religious education instructor as her homeroom teacher.

Two, a nameless professor at a Jakarta state university told Human Rights Watch that she felt pressured to wear the headscarf even though the institution had no policy. To emphasize the importance of guests wearing

"Muslim dress," he pointed to a prominent placard on campus. It represents the daily stresses that make him feel uneasy. According to him, "modest dress" was all the school required. In March of 2020, she broke down under the weight of the constant stress. After that, she could teach at a private institution without fear of retaliation since she did not wear a headscarf.

In February 2020, ten female Scouts in Yogyakarta were killed as they tried to cross a river while wearing long skirts. According to the Yogyakarta Search and Rescue Team, long skirts impeded the victims' ability to swim safely.

Four, "I don't agree with the government's interference with the headscarf," said one Cianjur public official compelled to wear a headscarf and robe while working in a ward office. To make matters worse, there have been calls for the length of the headscarf to be increased, thereby restricting freedom of movement. Introducing new regulations, such as a curfew, fills me with dread.

Dahlia Madanih, who oversaw the region's dress code for the National Commission on Violence against Women (Komnas Perempuan), has said that "...other regions followed suit, forcing female civil servants [civil servants] and school children to wear the hijab" after one municipality began enforcing the obligation to wear the headscarf. Women who choose to wear the hijab are viewed as devout and virtuous. Wearing a headscarf is becoming mandatory in an increasing number of provinces in Indonesia, although this is in no way indicative of a rise in religiosity or morality. The widespread propagation of the idea that all women in Indonesia should cover their hair has resulted in several local ordinances requiring women to cover their hair in public and putting those who refuse to do so under significant societal pressure.

This implies that Islamic Regional Regulations on the notion of formation must adhere to the provisions in the introductory paragraph of Article 6 (1) of Law Number 12 of 2011 About the Formation of Legislation. The author has no problem with the application of Islamic law in Indonesia; rather, it is important to remember that Indonesia is constitutionally not an Islamic state but rather a Pancasila state, in which the founders of the Indonesian nation reached a compromise to protect the rights of the country's many ethnic groups, nationalities, languages, and religions.

The Ministry of Domestic Affairs has the authority to revoke Provincial Regulations due to Article 251 of Law Number 23 of 2014 regarding Regional Government, which grants the Minister of Home Affairs the authority to cancel Regional Regulations that conflict with higher laws and regulations. This power also applies to the Constitutional Court's Decision 137/PUU-XIII/2015. By evaluating regional regulations in court, the Supreme Court may invalidate them. Many federal, state, and local statutes and ordinances are subject to review by the Supreme Court. Invitation. Article 24A paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that "The Supreme Court decides to adjudicate at the cassation level, amends the statutory under the law, and other authorities granted by law." These decisions were made in accordance with the Constitutional Court's Decisions No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016.

The underlying legal aim of some municipal legislation gives them the appearance of being null and void. The Supreme Court and the Ministry of Home Affairs are in charge of nullifying outmoded municipal regulations. Article 250(2) of the Regional Government Law (Law No. 23 of 2014) grants the Central Government the power to nullify regional laws that are against the public interest. Disruptions in community cohesiveness, access to public services, public serenity and sweetness, and economic activity targeted at bettering people's well-being may result from punishment based on ethnicity, religion and belief, race, intergroup, and gender.

In light of the above, regional Sharia legislation that may discriminate against women may be nullified on the grounds of (a), (c), and (e) above. Therefore, when creating Sharia regional regulations that could be harmful to women, it is essential to not only follow the principle of creating statutory regulations but also to create content that does not contain the six elements of cancellation outlined in Article 250 paragraph (2) of Law Number 23 2014 Concerning Regional Government. This is done for the express purpose of keeping in place costly and time-consuming regional Sharia laws. Also, this stops the labeling of discriminatory and anti-women's-empowerment regional legal items that restrict women.

Sanctions against Regional Governments that are Still Enforcing Regional Regulations, Regional Head Regulations, and Regional Head Decisions that have been Cancelled/Revoked are outlined in Law Number 23 of 2014 concerning Regional Government, as amended by Law Number 9 of 2015 concerning the Second Amendment Based on Law Number 23 of 2014 concerning Regional Government. Let's say a province or district/city Regional Government official ignores a cancellation of regional regulations made by the Minister or the governor, who represents the Central Government. In such instance, disciplinary action will be taken against the employee and the review of the proposed Regional Regulations would be delayed.

Administrative punishment for regional leaders and Regional People's Representative Assembly members consists of a three-month suspension from any financial entitlements guaranteed by law or regulation. Sanctions, including delaying or withholding general allocation funds for the province in question, will be enforced if regional government administrators continue implementing regional regulations canceled by the Minister of Home Affairs. Administrative officials in a province or area may face legal consequences if a public outcry disrupts services.

The Regional Government Law No. 23 of 2014 was partially upheld on review by the Constitutional Court (MK). The Supreme Court's procedure for overturning regional regulations is different, however. According to Decision Number 137/PUU-XIII/2015, it is against the law for the governor or minister to nullify regional regulations (Peraturan Daerah) for a regency or city under the Constitution of 1945. Following the steps outlined below, the Supreme Court of Indonesia will conduct a judicial review of the Regional Regulations in accordance with Amendment Number Two to Public Law 14 of 1985, Regarding the Supreme Court and its Alterations (Arfana n.d.):

1. The applicant or his counsel must file a written request to the Supreme Court in Indonesian for a review of the Regional Regulation.
2. Two parties qualify to file such an application if they believe their rights have been violated by the implementation of a Regional Regulation:
 - a. individual Indonesian citizens;
 - b. community of customary law units as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia regulated in law; or
 - c. public legal entity or private legal entity.
3. The application must contain at least:
 - a. name and address of the applicant;
 - b. a description of the matter on which the application is based and clearly describes that:
 - 1) Regional Regulations that include substantive paragraphs, sections, or portions that are in conflict with supreme laws and regulations; and/or
 - 2) Second, the process of creating rules and regulations does not follow the relevant guidelines; and matters that are asked to be decided.
4. The Supreme Court must conduct the testing within 14 (fourteen) business days after receiving the application for testing.
5. The applicant or applicants are not admitted if the Supreme Court finds that they do not fit the standards, as stated in the judgment.
6. The ruling provides that the application is approved if the Supreme Court agrees that it is warranted.

The regional administrator is responsible for halting the implementation of any local laws that seem to have the legal aim of cancellation. The Supreme Court and the Ministry of Home Affairs should strike down outmoded municipal regulations. If a regional rule is found to be against the public interest, the Central Government may overturn it in accordance with paragraph (2) of Article 250 of Law No. 23 of 2014 Governing Regional Government.

Disrupting community unity, access to public services, public peace and harmony, and economic activity to better people's well-being, punishment based on ethnicity, religion and belief, race, intergroup, and gender may be.

Assuming (a), (c), and (e) above hold true, maybe discriminatory Sharia legislation at the municipal level can be overturned. Therefore, while developing regional sharia legislation that might adversely impact women, it is necessary to avoid the six factors of cancellation mentioned in Paragraph 2 of Article 250 of Law No. 23 of 2014 Concerning Regional Government. This is done to keep the costly and time-consuming Sharia laws in effect in the area. Because of this, locally adopted legislation that restrict women's rights and equality will not be stigmatized.

Law Number 23 of 2014 Concerning Regional Government, as amended by Law Number 9 of 2015 Concerning Second Amendment Based on Law Number 23 of 2014 Concerning Regional Government, governs sanctions against Regional Governments that are Still Enforcing Regional Regulations, Regional Head Regulations, and Regional Head Decisions that Have Been Cancelled/Revoked. If a provincial or district/city Regional Government official continues to enforce Regional Regulations that the Minister or governor as the Central Government's representative has canceled, the evaluation of the proposed Regional Regulations will be delayed, and the offending official may face administrative sanctions.

A member of the Regional People's Representative Assembly or a regional leader might be punished administratively by losing their financial benefits for three months. Suppose regional government administrators persist in enforcing regional rules that the Minister of Home Affairs has canceled. In that case, sanctions will be applied, such as delaying or withholding the general allocation budget for the relevant province. If a public uproar causes an interruption in services, provincial or local administrative authorities might be held legally liable.

Using linguistic norms, specifically "rules that work by looking at sentence structure in laws and regulations," is one of the ushuliyah rules for concluding a law (Luthfi & Fajrin, 2023). Law No. 23 of 2014 pertaining to Regional Government was the subject of a petition to the Constitutional Court (MK), which was approved in part. However, the Supreme Court follows a different method when striking down local legislation. Regency/City Regional Regulations issued under the Constitution of 1945 cannot be revoked by the governor or Minister, as stated in Decision Number 137/PUU-XIII/2015. In accordance with Law No. 3 of the Republic of Indonesia (2009), regarding the Supreme Court and its amendments, the following is the method for seeking a judicial review of Regional Regulations from the Supreme Court: Jointly annul such regional regulation with the regional head as soon as possible but in any case no later than 7 (seven) days after the decision to cancel the regional regulation has been made. However, if a decision is reached to repeal regional regulations, the regional head is required to stop enforcing them immediately and revoke them within 7 (seven) days.

Let's pretend the administrator of the Provincial Regional Government has valid legal concerns about the decision to repeal the Regional Regulation. Within fourteen (14) days after obtaining notice of the President's decision to annul the Regional rule or the governor's rule, the Region may file an appeal. Appeals from district/city Regional Government officials contesting the legitimacy of Regional Regulations are heard by the Supreme Court in accordance with the aforesaid judgement of the Constitutional Court. Let's say the Supreme Court rules that a particular Regional Regulation violates a more stringent rule, and that its wording also fails to meet the requirements of the relevant clauses. In such situation, the violating Regional Regulation must be revoked by the Regional Government and the Regional People's Representative Assembly within 90 days. The Supreme Court's decision to strike down a Regional Regulation cannot be challenged in the courts. If the Supreme Court's ruling is not executed by the administrative court Agency/Official who issued the statutory rules within ninety (90) days, the ruling will be null and void. If something happens, the law is no longer in effect and the rules don't apply (Nursobah 2021).

This indicates that regional policies that impose discrimination against women are subject to explicit cancellation legislation and punishments. Therefore, there needs to be a curriculum/module regarding women's rights in the various training/bimtek in order to increase knowledge of drafting laws and regulations regarding women's rights in Regional Regulations, approximately. In this scenario, the designer's involvement extends

beyond the creation of locally relevant content to the formulation of regional rules, particularly with respect to the harmonization of draft regional legislation to eliminate discriminatory and sexist tendencies in the field (Maryam 2012). This is done to forestall the adoption of sharia regional legislation that promote gender inequality and work against women's empowerment.

CONCLUSION

Articles 29 and 18, paragraphs 1 and 2 of the 1945 Constitution of the Republic of Indonesia, provide a clear sharia foundation for the regional government's jurisdiction in developing and creating regional rules. The need for a precise definition of the regional Sharia laws and content indicators that may be employed in regional Sharia regulations makes this an ongoing challenge. This is crucial since Sharia regional rules have unique qualities that set them apart from other regional regulations. Several features of regional laws tend to be discriminatory towards women, such as the necessity to wear Muslim clothing/hijab for schoolchildren and government workers and imposing curfews for women. This raises the question of whether or not Sharia regional regulations adequately address the problem of women's liberation.

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