



**Proceeding of**  
**The Annual Indonesian Scholar Conference In Taiwan**

# **The First Annual Indonesian Scholars Conference in Taiwan**

**20 March 2010  
Southern Taiwan University  
Tainan, Taiwan**

## President of Formmit's Speech

**Bismillahirrahmanirrahiim**

**In the name of Allah Most Gracious, Most Merciful.**

**Distinguished Guests**

**Prof. Dr. Mohammad Nuh, DEA**  
*Minister of Education, Republic of Indonesia*

**Dr. Tjahjo Pranoto**  
*Special Staff of Minister of Research and Technology, Republic of Indonesia*

**Mr. Suhartono**  
*Head of the Indonesian Economic and Trade Office in Taipei*

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*Japan Advanced Institute of Science and  
Technology - JAIST, Japan*

**Dr. Andreas Raharso**  
*Director, Global R&D Centre for Strategy Execution, Hay Group, Singapore*

**Best regards to all the participants**

**Assalamu'alaikum warahmatullahi wabarokatuhu**

**Peace be upon you**

**First of all, let us praise and express our gratitude to God the Almighty, thus only with His blessings we can all gather on this wonderful day, to be exact in the first Annual Indonesian Scholars Conference in Taiwan, titled *Improving national competitiveness by strengthening and accelerating independent research*, which is organized by Indonesian Muslim Student Forum in Taiwan (FORMMIT).**

**It is a great honor for me to stand here and give a brief speech as President of FORMMIT. I would like to express my heartfelt gratitude to all participants coming to this conference, and I do hope, through the forum that will be established, continuous cooperation will be created among Indonesian scholars.**

***Distinguished Guests  
Honorable participants  
Ladies and Gentlemen***

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## Keynote Speaker

# The Implementation of Islamic Syariat in The Indonesian Local Governments

(Case Study in 4 Regions)

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## I. INTRODUCTION

Indonesia that bases their ideology on Pancasila and 1945 constitution has a strong constitutional foundation for freedom to implement religious Syariat, including Islamic Syariat. This is stated in article 29 of 1945 constitution. Prof. Moh. Daud Ali, SH, cited Prof. Hazairin's opinion states that article 29 of 1945 Constitution contains various meanings like:

Community in Indonesia, there should not be any laws that contradict with Islamic laws for Muslim, there should not also be any laws that contradict with Christian rules for Christians, and that also applied for other religions;

the Republic of Indonesia has an obligation to implement the Islamic Syariat for Muslims and Christian Syariat for Christians and so forth;

Indonesia has the obligation to implement the Syariat in terms of providing facilities so that the laws that are originated from religious which are followed by Indonesians can be implemented especially when the implementation of the religious laws needs assistance from the government or states administration; and

Religious Syari'at does not need assistance from the government to be implemented because it can be independently implemented by the believers of the religions, and they can worship as their religion obligated to do.

Based on those principles, it can be concluded that juridical – normatively, there is no problem in the implementation of Islamic Syariat in Indonesia because constitution guarantees its existence, and historically the facts showed that in determining the national laws, one of the elements is religious laws or Islamic Syariat, other laws are society laws or Islamic laws that are considered as society laws.

Since the reformation in 1998 when the democratic opened widely in some areas in Indonesia, there has been an increasing awareness of Muslims to implement Islamic Syariat. It was started on the special autonomy given to

Aceh, and since 2001 until 2007, some provinces like Aceh had started to construct their local regulations that contain Islamic Syariat. Besides, there are also real facts that Indonesian laws are inherited from colonial which are proved to be failed to deal with recent world developments and to create peace in the society. Thus, Islamic Laws are considered as one of the alternative solution.

However, in the process of implementing the Islamic Law, there are many obstacles both juridical and political obstacles. Juridical, Prof. DR. Maria Farida Indrati has stated that some juridical weaknesses of syariat law are as follow; first is the use of the sentence "Basmallah" which causes horizontal conflicts in other provinces, they will demand the use of similar sentence used in other religions. Second is the implementation of personalita principles; the third is the use of Al Quran and Al Hadits as the basics of the laws and the fourth is related to the local content of the local regulations that is stated in article 12 of Regulation No. 10 of 2004 that is about the Construction of Regulations.

Based on the explanation above, this research is carried out to solve the problems about the legal assurance and legal arrangement of constructing local regulation that includes Syariat laws, so that there will not be any legal problems and legal insecurity. This research will map out possible legal problems and try to formulate the model of the harmonization of the local regulation with Islamic Syariat contain and the regulation from national laws.

## II. RESEARCH MODEL

### A. Research Types

This is a normative law research which studies the juridical aspect of the implementation of the local regulation with Islamic Syariat content in some regions in Indonesia in the perspective of Indonesian constitution, especially in the field of statutory laws. This research will investigate the problems possibly occurred when the local regulation with Islamic Syariat content is implemented in some districts, and this research will also formulate some law norms used to creat a harmony between the local regulation with Islamic Syariat content and the National Law System.



### B. Research Limitation and Approach Method

This research is a descriptive analysis research; a research that describes and explains facts gathered from this research in the form of normative facts about the implementation of the local regulation with Islamic Syariat content in some provinces in Indonesia accompanied with accurate analysis about the provisions of laws and regulations.

The approach method used in this research is based on the research design which is in the form of research of law. Therefore, the approach method used is juridical normative approach; an approach that reviews and analyzes the provisions of laws and regulations that become the basics of the implementation of the local regulation with Islamic Syariat content in some provinces in Indonesia.

### C. Data Collection Technique

#### Review of the Existing Rules (Review of the Common Law) or Literary Review

This review will not only be based on the existing laws and regulations, but also be based on the implementation instruments; those are the implementation instructions and technical instructions determined by the Local Government in the Local Regulations. This review is carried out by literature review – that is by tracing the juridical documents which are related to the administration of the local government, especially those of the secondary or documentary data. Besides using literary review, this research also uses other media to collect the data

#### Interview

To maintain the accuracy and to collect more data, this research will also use interview as its data collecting technique.

The research respondents are selected using non random sampling technique in the form of purposive sampling technique. Respondents are those who give responses to the researchers. The criteria for respondents are those who directly or indirectly understand the process of the construction of the local regulation with Islamic Syariat content. The respondents consist of some groups namely the bureaucrat group which consists of the governors and the staffs, the local legislative group which consists of Local Parliament, and the society groups that are for and against the local regulation with Islamic Syariat content.

The interviews carried out have two functions; to obtain primer data from the respondents and to collect data from reliable sources for accuracy and secondary data.

The interviews are structured interview using the interview guidelines in the form of questionnaire which is constructed in details so that no point will be left out. The questionnaire's guidelines are constructed based on the resource people's expertise. The interview result will then be used to formulate the problems in this research.

### D. Location and Time of the Research

This research is carried out in some provinces in Indonesia as a case study by studying the juridical conflicts happened locally and nationally that are caused by the implementation of the local regulation with Islamic Syariat content

The locations of the research are determined by the needs of the data collected in this research, and they are also determined by the research design. Based on those things, this research chooses the locations such as in:

- (1) Yogyakarta.
- (2) West Sumatra, in Padang
- (3) South Sulawesi, in Bulukumba.

### E. Techniques of Data Processing and Analysis

The data collected are in the secondary and primary data. The data are arranged systematically and logically. The data processing activity is an activity to systemize the primary and secondary data. The systematization is prepared to make the data analysis easier.

The data are analyzed using juridical qualitative analysis – an analysis of the qualitative data with juridical normative approach. In this research, the analysis tool is the study of Constitutional Law and the study on the Islamic Syariat principles which are related to the constitutional.

## III. RESEARCH RESULT AND ANALYSIS

### A. The Development of the implementation of Islamic Syariah Principles in Indonesia. (A Study about concepts, regulations and field study in Aceh, Padang and Bulukumba)

The existence of the local regulation with Islamic Syariat content in Aceh, Padang, and Bulukumba is based on researches, this is a concrete act of the society to solve the local problems that could not be solved by the government; it is also an alternative solution.

Philosophical background of a regulation product influences the outlook on the nature of goals and the view of human life in the society. The construction of laws and regulations should refer to the people's philosophy or view of human life that contains moral and ethics values. The philosophical background of the local regulation construction in the three provinces researched is influenced by Islamic teaching as the religion with the most followers in those three provinces. The local regulations constructed are to make Muslims more religious and to nurture the society's cultural values which are inspired by Islamic teachings. By bringing back the tradition, it is hoped that the Aceh people can have active roles in Aceh tradition to uphold the Islamic syariat. So is believed by Kota Padang people, as stated by Prof.Dr. Syamsul Bahri Khatib, the Head of MUI Kota Padang that the values implemented in local syariat regulation are based on cultural philosophy of Minangkabau; those are "adat basandi syara', syara' basandi kitabullah". Syara' mangato, adat mamakai" (which means "cultures are

based on Syariat', 'Syariat is based on the Holly Quran'. "Syariat makes rules and culture uses it"). Those local regulations regulate things that become the society's aspiration. That is the identity of Minang people. The people are regulated by Minang culture.

The local development which is based on the Islamic syariat in Aceh needs to be implemented as soon as possible. This attempt has been done by the Aceh people since a long time. The implementation of Islamic syariat in Aceh will not harm anybody; even on the contrary, people will benefit it. The corruption eradication will be easier when people said that corruption is haram (forbidden by the religion). Corruption is not only forbidden by the law but also forbidden by Alloh, the God Almighty. Giving good service is an obligatory. Skipping the working hours is haram and forbidden, and so forth. So, Nanggroe Aceh Darussalam (NAD) will become examples in every area.

The values which are implemented in Syariat local regulation in Padang, NAD and Bulukumba are similar; those are Islamic values or cultural values that have been influenced by Islamic values.

*B. The purpose of the implementation of Islamic Syariat in Aceh, Padang and Bulukumba*

Each city has the same purpose in implementing the local regulation with Islamic Syariat content. The results of the research about the purpose of the implementation of the local regulation with Islamic Syariat content are as follows:

To implement Islamic Syariat;

To strengthen the roles of culture which have rooted in the society by arising the awareness of the people through cultural approaches, especially the cultures that are based on Islamic Syariat.

To increase the people awareness of law and lessons for the society by increasing the security and order through punishments regulated by the local regulation with Islamic Syariat content.

From the research, the benefits of the implementation of the local regulation with Islamic Syariat content in NAD, Padang, and Bulukumba, are:

Increasing the people's awareness to uphold and implement the Islamic teachings;

Reducing the bad deed behavior in the society;

Reducing the criminal acts in Society;

Familiarizing people to wear Muslim clothes in daily life;

Increasing people's ability to recite and write Al Quran;

Increasing the people's ability to understand Islamic teachings; and

Increasing the Muslim forums;

Creating the structured, comfortable, and peaceful life for the society and

Maintaining the usage of public facilities and protecting the people's affairs.

*C. The Formal Juridical Basis of Authorization and Contents of the local regulation with Islamic Syariat content*

The formal juridical basis is the regulations that give authority to the founding institution. The formal juridical basis of local government in constructing the local regulation with Islamic Syariat content only owns by the local government of NAD which is stated in:

Article 18 verses (6) and 18 B verse (1) of 1945 Constitution.

The Republic of Indonesia (RI) regulations No. 44 of 1999 which is about the implementation of Special Province of Aceh Special Province.

The RI regulations No. 18 of 2001 which regulates about Special Autonomy for Aceh Special Province.

The RI regulations No. 11 of 2006 which is about Aceh Government.

The article 31 of regulation No. 18 of 2001 stated that the regulation for implementing the regulation about the government authority are legalized in the government regulation, while the regulation about the authority of the government of Nangro Aceh Darussalam Province is legalized in Qanun Province of Nanggroe Aceh Darussalam (NAD). This regulation shows that NAD province is given special authority to organize its own province.

Qonun is a source of criminal and civil law in Aceh which replaces the Book of Civil Law and the Book of Criminal Law. Qonun regulates about (1) muamalah (criminal), (2) worship, (3) constitutional or governmental. The regulation No. 18 of 2001 has given a big authority in terms of law and religious authority in managing the province. This means that the religious court in Aceh is allowed to implement the regulations about law and religion; these two areas become the authority of the central government, according to Regulation No. 3 of 2006 about Religious Court. The reasons why in terms of local government autonomy, the central government still holds the authority of the laws and religions are as follows:

Religion is a sensitive issue in which the regulation in certain province like Aceh will influence other provinces.

The religion issue is also related with the religion plurality in Indonesia because Jinayah (criminal) will indirectly influence the non Muslim too.

Law is the basic of democratic country of Indonesia which means that every law which will be implemented and will bind the Indonesians.

On the other hand, the formal juridical basis of local government authority to implement the local regulation with

Islamic Syariat content owned by the local government of Padang and Bulukumba is stated in:

Article 18 verse (6) of 1945 Constitution.

Regulation No. 32 of 2004 about Local Government.

Regulation No. 10 of 2004, about the constructing law and regulation.

The juridical basis of authority owned by the Local Government is based on decentralization principles; those are the transfer of authority from higher governance to lower governance both for legislative and judicative or administrative. Ruite cited by SH.Sarundajang (SH. Sarundajang, 2002:46) argued that decentralization is the acknowledgement or transfer of authority from higher departments to the lower departments so that these lower departments can be more independent in making decisions about management and governance, and also authority structure which is formed by that.

Article 1 verse 7 in Regulation No. 32 of 2004 which regulates about the Local Government formulates the decentralization as the authority transfer from the government to the local autonomy to manage and control the government the United Nations of Republic of Indonesia. The government stated in the article is the Central Government, or the President of the Republic of Indonesia, according to the 1945 Constitution (Article 1 verse 1 of Regulation No. 32 of 2004). The transfer of authority from central government to the local autonomy means an authority shift through delegation that is often called as delegation of authority. When the delegation of authority happens, the delegator will lost the authority, and it will be transferred to the delegate receiver.

As a result, the delegation of the governance authority from the government to the local government to manage and control the governance matters will mean the loss of the authority of the government. All the authority to manage and control the provinces will be delegated to the local autonomy which means it will become the responsibility of the local government, except the government authority which has been declared by the regulation. Article 10 verse 3 of the Regulation No 32 of 2004 regulated that the government has the authorities on a. foreign affair, b. defense, c. security, d. justice, e. monetary and national fiscal, f. religions. Literary, the word 'decentralization' originated from a combination of two latin words; those are the words: de which means free and centrum, which means central. Decentralization is staatskundige decentralisatie (or constitutional decentralization), not ambtelijke decentralisatie, like deconcentration (RDH Koesoemahatmadja, 1979). The government may not reduce or negate the government's authority which has been delegated to the local autonomy.

The study of the authority of the local government is based on the decentralization principles, so the local government authority to implement the local regulations is very legitimate, which means that it is acknowledged and supported by existing norm instruments artinya diakui dan didukung oleh instrumen norma yang ada. The formal juridical basis of constructing the local regulation is

considered legal before the law as long as it is done by the local legislatives and the head of the province.

The local government is the lower level of territorial governmental unit which has the right to organize and run some of the government affairs as the domestic issues. The regional domestic issues are sourced from the autonomy and the medebewind. The autonomy system which is run recently is the real autonomy, both the broad autonomy and special autonomy. This autonomy system consists of some principles:

The principle and the content of autonomy are determined based on the real condition and factor of each region.

The content of the autonomy can, even will be different from one region to the others depending on the real condition and factor of the relevant regions.

the content of autonomy can originate from the handover of the government affairs from higher level government or from the regions' initiatives based on the relevant regions' interests.

Basically, the government affairs will become the domestic affairs of the local government except when dealing with the issues where due to its characteristics and the interests, they remain in the central government territory (foreign policies, defense and security, justice, monetary and national fiscal and religion).

Based on the real autonomy system as mentioned above, the regional level of the regulation which deals with the domestic regional affairs, both from the issues handover by the higher governmental level and any matters considered important to be managed by the local government. The independence in being autonomous does not necessarily mean that the local government is allowed to make local regulations or Qanun which are independent from the national regulation systems. The local regulation or Qanun is an integral part of a unified national regulation system. Therefore, there should be no local regulations which are against the higher level regulations or public interest.

The appearing problems are the materials or contents of the local regulations which are taken from Islamic values, which means that there is an effort of formalizing the Islamic values into the state's law products, which are the local regulations. The juridical basis of the local regulations contents are regulated in:

implementing the local autonomy and the complementary tasks,

accommodating the regional special condition; as well as

Further explanation of the higher regulations.

The content materials of the local regulations should be in line with the regulation Number 32 Year 2004 on the local government that decided the division of government affairs and the organization of the local government rights and obligations, as well as the local government affairs which

become the local government privileges to put them in the local regulations. The content materials of the local regulations at least regulate the three matters above.

The study of the content of article 12 regulation no. 10 Year 2004 on the content materials of the local regulations is the following:

The implementation of the regional autonomy and complementary mandates:

Based on the decentralization principles, the authority of forming the regional regulations is delegative, and should be in line with the authority given to the local government as regulated in the regulation No. 32 Year 2004.

Accommodating local special conditions

Based on the local special condition, in this case, researcher views that special conditions which are clearly formalized in the regulations such as the specified condition of NAD which is regulated in the regulation Number 44 Year 1999 jo regulation Number 18 Year 2001; or special conditions in more formal which has more political impacts, so that its scope becomes large. Meanwhile, the second special condition has limited scope because it should really be in line with the real condition of the local situations.

further explanation of the higher legislation;

Based on the delegation from the higher legislation, it is in the state of waiting for the delegation of authority for local regulation to regulate further higher rules and regulations.

Based on the content of the regulation number 10 Year 2004, the content materials of the legislation cover the principles. Among others are:

**Protection:** the content materials of the legislation should function to give protection in order to create the society harmony.

**Humanity:** each material contains the legislation which should reflect the protection and respect for human rights as well as dignity and well being of each citizen and Indonesian People in a proportional way.

**Nationality:** that each material contains the legislation which should reflect the characteristics and attitudes of Indonesian people who are pluralistic by always keeping the principle of united Indonesian Republic.

**Kinship:** that each material contains the legislation which should reflect discussion to reach agreements in each decision making.

**Unity:** that each material should contain the legislation which reflects and pays attention to the need of the whole Indonesian areas and the content material contains the legislation which is made regionally and becomes the part of the national law system which is based on Pancasila.

**Diversity in Unity:** that the material of the legislation should pay attention to the heterogeneous people, religions, races and groups, areas' special conditions, and specific cultures which cover the sensitive

matters in the people's life, national life, and governance life.

**Justice:** that each material of the legislation should reflect the proportional justice for each citizen without any exception.

**The same level before the Law and Government:** is that each content material of the legislation should not cover any materials which are distinctive based on the background such as religion, race, ethnic, gender, group and social status.

**orderliness and law certainty:** that each material of the legislation should result in the orderliness in the citizens through the guarantee that there is a law certainty.

**Balance, harmony, and synchrony:** that each material of the legislation should reflect the balance, harmony, and synchrony between the individual, community interest and national interest.

The stipulation of article 6 regulation number 10 Year 2004, which determines that the content material of local regulation and Qanun should not deviate from what has been determined by the regulation. The principles contain some meanings:

that the material of local regulation contains the effort to create the security and community orderliness.

that the material consists of the local regulation which is not discriminative.

that the material of the local regulation contains proportional justice values

that each material of the local regulation is not allowed to cause uncertainly of law in the region.

That the material of the local regulation realizes the balance of the central, region, and community interests. Therefore, the local regulation requires the participative involvement from the community in the making.

The results of the study of the local regulations which contain Syariah principles in Bulukumba Region and Padang Municipality, as well as Qanun NAD, showed that those regulations were implemented using the personal principles, that is, only applied for Muslim in the area, while Non-Muslims are not bounded with the regulations, for example the local regulation of Bulukumba Region Number 02 Year 2003 on the Profession religion tax, Infaq, and Shadaqah is only for suggestion not forcing to issue the profession religion tax after being taxed by the government, considering that this regulation is directed to the Muslim civil servants; Muslim echelons; Muslim businessmen; and Muslim farmers. Besides, the early objective of forming the local regulation in each area was based on the local tradition philosophy and in accordance with the local people's sociology, and to create the orderliness and security of the people, not in order to plant the seed of discrimination or even human right violation.

The result of the interview with the respondents from the three areas showed the fact that Syariah local regulation or Qanun has recently been applied, but has not caused any meaningful conflicts in those areas, but it resulted in the feeling of security and harmony in the hearts of people. The following is the quotation of the interview result with some respondents in each area:

A. Hamid Saron, NAd: the implementation of Syariah local regulations should not cause any disintegrity because each Syariah law must be in line with the human nature. Let alone the law product has become the people's agreement to be conducted. Even History of Islamic Civilization gave a wide opportunity for other religions to follow their own laws in line with their religions and believes.

Rosmawardhani Muhammad, NAD: by the implementation of the Syariah local regulations does not necessarily mean to ignore the minority's rights, even they are protected. It is clear that with Syariah local regulations, the people's lives will be secured and orderly.

Hadison, the head of regional house representatives of Padang Municipality: the Syariah local regulation does not cause any conflicts, because the Syariah local regulation is only applied to Muslims, and it is not applied to Non-Muslims, so that it does not disturb the non-Muslims. There is not chaos in Padang city. It turned out that it unifies the people.

Muh. Ali Saleng, the head of Law section of the local government of Bulukumba: up to recently, there is no objection from other religions and they even feel secured with the presence of the local regulation.

Hikmawati, M.Si., the commission head of transportation and participation of Bulukumba: the Syariah local regulation is very important because the community feel secured and non-Muslims also feel the same way. Religious local regulation is not Syariah local regulation but the local regulation towards Syariah. This regulation is only directed to Muslim People and up to recently there is no conflict happening which is casued by the regulation.

H. Tjamiruddin, the head of religion department: the values applied in the religious local regulation are the moral and religious values, so the religious local regulation is very important because the tendency of the community is becoming closer to their religiosity which is the application of Alqur'an. People feel just secured, because the religious regulation is not meant to discrete non-Muslims.

The ups and downs of the Islamic law formalization in Indonesia cannot be separated by the influence of the three theories which had developed since the Dutch colony era, that is, the receptie incomplexu theory, receptie theory, and receptie a contrario theory. Through a law expert Van den Berg, the theory receptie in complexu was established, which stated that Islamic laws in a whole were for Muslims. Upon the influence of this theory, Dutch Hindia government in

1882 established a Religion Court which was directed to the people embracing Islam. Through this court, for the very first time, Islamic laws were formalized in Indonesia. But, the theory of receptie in complexu was then refused by Van Vollenhoven and Snouck Hurgronje as the new theory inventors, that is, the receptie theory which stated that Islamic Laws can only be applied when they are not against the adat laws. Therefore, according to the view of this theory, to apply Islamic laws, it should be received (accepted) first by the adat law. Upon the influence of this theory, in 1937, Dutch Hindia government issued staatsblad number 116. This Staatsblad unauthorized the authority owned by the religion court in inheritance matters and other issues related to the property, especially land. Since then, the competence of the religion court has only been about marriages and divorce.

As the contrary against the receptie theory, receptie a contrario then appeared which was stated by Sajuti Thalib. This theory is the development of the Hazairin theory where basically it states that law applied for the people is their religion one. Therefore, the tradition law is only valid if not contradicting against Islamic Laws. It is in line with the concept of Urf which is known in Islam.

This research has inventoried the local regulations and Qanun which apply the Syariah principles in NAD Province, Padang Municipality, and Bulukumba Region as follows:

a. *The regional regulations of the Province of Nanggroe Aceh Darussalam*

The local regulation Number 3 Year 2000 on the formation of organization and ulama consultative assembly of the special province of Aceh.

The local regulation Number 5 Year 2000 on the implementation of Islamic laws of special province of Aceh.

The local regulation Number 7 Year 2000 on the implementation of tradition life.

The local regulation of the Nanggroe Aceh Darussalam Province Number 33 Year 2001 on the organizational structure of the work performance of Islamic laws department.

The Qanun of Aceh Province Number 10 Year 2002 on the Islamic Law Court.

The Qanun of Aceh Province Number 11 Year 2002 on the implementation of Islamic Laws in the field of Aqidah, Ibadah, and Islamic Syiar.

The Qanun of Aceh Province Number 2 Year 2003 on the positional structure and authority of region and municipality in Aceh Province.

The Qonun of Nanggroe Aceh Darussalam Province Number 3 Year 2003 on the position structure and authority of the sub district government in Nanggroe Aceh Darussalam Province.

- The Qanun of Nangroe Aceh Darussalam Province Number 4 Year 2003 on the residing government in Nangroe Aceh Darussalam Province.
- The Qanun of Nangroe Aceh Darussalam Province Number 5 Year 2003 on the Gampong Government in Nangroe Aceh Darussalam Province.
- The Qanun of Nangroe Aceh Darussalam Province Number 9 year 2003 on the relationship between the work pattern of the Ulemas Consultative Assembly and Executive, Legislative department and others.
- The Qanun of Nangroe Aceh Darussalam Province Number 12 Year 2003 on the alcoholic drinks and alike.
- The Qanun of Nangroe Aceh Darussalam Province Number 13 Year 2003 on gambling and betting.
- The Qanun of Nangroe Aceh Darussalam Province Number 14 Year 2003 on adultery.
- The Qanun of Nangroe Aceh Darussalam Province Number 3 Year 2004 on the formation of organization structure and work pattern of Adat assembly of Nangroe Aceh Darussalam Province.
- The Qanun of Nangroe Aceh Darussalam Province Number 7 Year 2004 on the management of religious tax/tithe.
- The Qanun of Nangroe Aceh Darussalam Province Number 11 Year 2004 on the functional tasks of police of Nangroe Aceh Darussalam Province.
- The Qanun of Nangroe Aceh Darussalam Province Number 12 Year 2004 on the Tradition of Aceh.
- b. regulations of Padang municipality*
- The local regulation of Padang city Number 11 Year 2005 on the public orderliness and people harmony.
- The local regulation of Padang city number 06 Year 2003 on Alquran literacy for the students of Elementary and Madrasah Ibtidaiyah.
- The instruction of the Mayor Number 451.422/Binsos-ii/2005 on the implementation of adult Wirid, dawn education and anti gamble/drugs as well as Muslim/Muslimah clothings for students of SD/MI, SLTP/MTs and SLTA/MA in Padang city.
- The instruction of the Padang mayor Number 18 Year 451.3022/Binsos/IX/2004 on the implementation of Ramadhan Islami Boarding house 1425 H for students of Elementary school (SD/MI), Junior high school and senior high schools (SLTP/MTS/SLTA/MA) in Padang City.
- c. Local Regulation of Bulukumba Region*
- The local regulation of Bulukumba Region Number 03 Year 2002 on the ban, supervision, control, circulation, and trade of alcoholic drinks.
- The local regulation of Bulukumba Region Number 02 Year 2003 on the management of profession religious tax, Infaq, and Shodaqoh in Bulukumba Region.
- The local regulation of Bulukumba Region Number 03 Year 2002 on Muslim and Muslimah clothing in Bulukumba Region
- The local regulation of Bulukumba Region Number 03 Year 2002 on AlQuran literacy for students and the brides and bridegrooms in Bulukumba Region.
- The local regulations which are often associated as the Islamic Syariah regulations are in reality the implementation of the governmental matters and local authority which are under the regulation Number 32 Year 2004 about the local government and is not the Islamic Syariah local Regulations. These local regulations are basically related to the implementation of the government matters, that is, the handling of the social issues as stated in the article 14 paragraph 1 letter g, regulation Number 32 Year 2004, but this local regulation was perceived as if the Syariah regulation. That also happens to the other local regulations, such as the local regulation of Padang Municipality Number 11 year 2005 about the public orderliness and people's harmony; the local regulation of Bulukumba Region Number 03 Year 2002 about the ban, supervision, orderliness, circulation, and trade of alcoholic drinks; and Qanun of Nangroe Aceh Darussalam Province Number 13 Year 2003 on gambling.
- The Islamic local regulation or Qanun is Aceh's government and Local, regional or municipal government in Aceh area and is regulated in Qanun (the local regulations). What should be paid attention to is that the implementation of the Islamic Laws has been conducted in line with the existing regulations and is the follow up of the Article 18B Paragraph 2, 1945 constitution, and as the in line implementation with the regulation Number 32 Year 2004 on the local government as well as other regulations.

#### IV. CONCLUSIONS AND SUGGESTIONS

The implementation of Islamic Syariah principles into the local regulation is done to create the orderliness and security. While the Juridical conflicts appear due to the legality and juridical matters of the local regulation in the authority of determining those regulations, considering that the authority of the religious matters is in the center government domain.

The authority owned by the local government has been used proportionally for example in NAD through the authority of special Syariah law autonomy, so when NAD applied Qanun, it was not against the legal formal Juridical principles. Likewise for Padang City and Bulukumba Region, the involvement of Islamic Syariah principles into the local regulations is as an effort to manage things which are special in Padang city and Bulukumba region.

The political conflicts emerge due to the economic reason and human right violation reason. The role of Elite religion and politics can at the end solve the political conflicts, by taking the win-win solution that Padang Municipality and Bulukumba Region do not apply the name of Syariah local regulation but religious local regulation; those regulations are only applied to Muslims, and other religious groups are not tied with those regulations.

The Elite Politics and religion in the process of socializing, compromise and mediate people and other opposing parties towards the implementation of Syariah local regulations.

The philosophical basis of the local regulation which contains Islamic Syariah, in three regions: NAD, Padang Municipality, and Bulukumba Region as the majority of the people are Muslims since hundreds years back. Therefore, Islamic Laws have been perceived into Adat Laws by the local people.

Seen from the sociological basis, the local regulations are very legitimate in the sense that it earns support and admittance from the society, considering that the early initiative of the early compilation of local regulations containing and implementing the Islamic Syariah principles are from the society, who would like to return their traditions to life, through those local regulations.

In the point of view from the legislation study, Qanun as the implementation of the regulation Number 18 year 2001 is not against the national regulation system, because the determining delegation strictly and concretely mentions the form of delegation legislations.

#### Suggestion

The local government should conduct research or study to identify the need of community law, so that the implementation of Syariah local regulation will not cause different perception in society.

The local government should apply balanced and fair law consideration when formulating Syariah local regulation, as well as give balanced law protection for the majority and minority.

The local government should involve the stakeholder from various elements when making decision in formulating and forming the Syariah local regulation, so that the local regulation which will be ratified will not only protect only one group of society

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