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THE HISTORY OF THE DEVELOPMENT OF LEGISLATION IN INDONESIA AND ITS INFLUENCE ON SHARIA ECONOMIC LAW

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Abstract :

This study aims to analyze the historical development of legislation in Indonesia and its influence on the growth of Islamic economic law. The research employed a normative legal approach using qualitative library research. Data were collected from legislation, legal documents, academic books, and scientific journals, then analyzed descriptively. The findings indicate that Indonesian legislation has evolved from the colonial period to the reform era, significantly shaping the national legal system. These legal developments have encouraged the establishment of various regulations governing Islamic economic activities, providing greater legal certainty for Islamic financial institutions and business actors. Therefore, continuous legislative reform plays a crucial role in strengthening the implementation and development of Islamic economic law in Indonesia.

Keywords: *Legislation, legal history, Islamic economic law.*

INTRODUCTION

Legislation is one of the primary instruments in the administration of a state governed by the rule of law. Legislation serves as the legal foundation for regulating social, national, and state affairs in order to ensure legal certainty, justice, and public benefit for all citizens. As a country that adopts a civil law system, Indonesia places statutory regulations as one of the principal sources of law with a significant role in every aspect of national life, including the economic sector. Therefore, understanding the historical development of legislation in Indonesia is essential for comprehending the direction of the country's national legal system.

The development of legislation in Indonesia has undergone dynamic changes in line with the nation's political, social, economic, and cultural developments. Indonesia's legal system has been influenced by various legal traditions, including customary law (adat law), Islamic law, Dutch colonial law, and the national legal system established after independence. Following independence, the Indonesian government has continuously reformed its legal framework through the enactment of various laws and regulations that respond to societal needs and contemporary developments (Asshiddiqie, 2021).

According to the theory of legal development proposed by Friedrich Carl von Savigny, law grows and develops alongside society (das Recht wird nicht gemacht, sondern ist und wird mit dem Volke). This theory suggests that legal change reflects changes in societal values, culture, and needs. Accordingly, the development of legislation in Indonesia cannot be separated from the dynamics of the nation's social life, including the increasing demand for a legal system capable of accommodating the principles of Islamic economic law.

The development of Islamic economic law in Indonesia represents one form of national legal reform influenced by the growing public awareness of implementing Sharia principles in economic activities. Islamic economic law governs various economic activities based on Islamic values derived from the Qur'an and the Hadith, including justice, transparency, public welfare

(maslahah), and the prohibition of riba (usury), gharar (excessive uncertainty), and maysir (gambling). Over the past few decades, the Indonesian government has enacted various laws and regulations to provide legal certainty for the

implementation of Islamic economic activities, including Islamic banking, Islamic financial institutions, the Islamic capital market, zakat, waqf, and the halal industry (Mardani, 2019).

One of the most significant milestones in the development of Islamic economic law in Indonesia was the enactment of Law Number 21 of 2008 concerning Islamic Banking, which established a stronger legal foundation for the operation of Islamic banking institutions. In addition, various other regulations have been introduced to support the development of the Islamic economy as an integral part of the national economic system. These regulations demonstrate that the development of legislation in Indonesia aims not only to establish legal certainty but also to accommodate society's demand for an economic system that complies with Sharia principles (Sjahdeini, 2018).

From the perspective of Lawrence M. Friedman's legal system theory, the effectiveness of a legal system is determined by three principal components: legal structure, legal substance, and legal culture. These three elements are interrelated and collectively determine the successful implementation of legislation. Consequently, the development of Islamic economic law depends not only on the enactment of regulations but also on the readiness of implementing institutions and the legal awareness of society in applying Sharia principles in economic activities.

Despite the significant progress made in the development of legislation governing Islamic economic law in Indonesia, several challenges remain in its implementation. These challenges include harmonizing national law with Sharia principles, improving the level of legal literacy among the public, and refining regulations to keep pace with the rapid development of modern economic transactions, particularly in the digital era. These conditions indicate that legislative development requires continuous evaluation to ensure legal certainty while simultaneously supporting the sustainable growth of the Islamic economy in Indonesia.

Based on these considerations, examining the historical development of legislation in Indonesia is essential for understanding how the process of national lawmaking has influenced the development of Islamic economic law. This study aims to describe the historical development of legislation in Indonesia, analyze its influence on the development of Islamic economic law, and identify the challenges and opportunities in strengthening Islamic economic regulations as an integral part of Indonesia's national legal system.

RESEARCH METHOD

This study employs a qualitative approach using normative legal research, also known as library research. The qualitative approach was selected because the study aims to examine and provide an in-depth description of the historical development of legislation in Indonesia and its influence on the development of Islamic economic law. Normative legal research focuses on analyzing legal norms contained in statutory regulations, legal doctrines, and scholarly literature relevant to the research topic (Sugiyono, 2023).

The data used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, various statutes governing Islamic economic law, and other legislation relevant to the research focus. Secondary legal materials are obtained from books, academic journals, scholarly articles, previous research findings, and other scientific publications discussing the development of Indonesia's legislative system and Islamic economic law. Meanwhile, tertiary legal materials consist of legal dictionaries, encyclopedias, and other reference sources that assist in explaining the legal terms and concepts used in this study. Data were collected through library research and document analysis.

Library research was conducted by reviewing various sources related to the historical development of legislation in Indonesia, legal theories, and the development of Islamic economic law. Document analysis involved collecting and examining official documents, including statutory regulations, academic papers, court decisions, and other supporting documents relevant to the research problem.

The data were analyzed using qualitative analysis based on the interactive model developed by Miles, Huberman, and Saldaña. The analytical process consisted of three stages: data reduction, data display, and conclusion drawing and verification (Miles, Huberman, & Saldaña, 2014). During the data reduction stage, the researcher selected, classified, and simplified the legal data obtained from various legal sources. Subsequently, the data were systematically organized into descriptive narratives to facilitate the interpretation of the development of legislation in Indonesia and its implications for Islamic economic law. The final stage involved drawing and verifying conclusions based on the analysis to produce a comprehensive understanding of the research objectives.

To ensure the validity of the research findings, data trustworthiness was established through source triangulation and reference adequacy. Source triangulation was conducted by comparing information obtained from primary, secondary, and tertiary legal materials to ensure consistency and reliability. In addition, the researcher reviewed previous studies as a means of verifying the data used in this research. Through these procedures, the findings are expected to demonstrate a high level of credibility and scientific accountability (Sugiyono, 2023).

FINDINGS AND DISCUSSION

Based on the review of various statutory regulations, legal literature, and previous studies, it was found that the development of legislation in Indonesia has undergone significant changes from the colonial period to the Reform Era. These changes demonstrate that the national legal system has continuously evolved in response to social, political, economic, and societal developments. This dynamic development has also significantly influenced the enactment of various regulations governing Islamic economic law as an integral part of Indonesia's national legal system.

Historical Development of Legislation in Indonesia

The findings indicate that the historical development of legislation in Indonesia can be divided into several periods, namely the customary law period, the Dutch colonial period, the Japanese occupation period, the early independence period, the New Order era, and the Reform Era. During the Dutch colonial period, Indonesia's legal system was predominantly influenced by the Continental European legal tradition (the Civil Law System), while customary law and Islamic law were applied only to certain groups within society. Following Indonesia's independence, the government began establishing a national legal system based on the 1945 Constitution of the Republic of Indonesia as the supreme source of law.

These developments demonstrate that the legislative process has not been static but has continuously evolved in accordance with the changing needs of society. According to Asshiddiqie, law must be capable of adapting to the dynamics of social life; therefore, the formulation of legislation should reflect the principles of justice, legal certainty, and public benefit for all citizens (Asshiddiqie, 2021).

Furthermore, Indrati argues that legislation must be formulated in accordance with the principles of good legislative drafting to produce high-quality regulations capable of ensuring legal certainty. Consequently, the development of Indonesia's legislative system has consistently been directed toward establishing regulations that are harmonious, systematic, and free from legal inconsistencies (Indrati, 2020).

This perspective is consistent with Friedrich Carl von Savigny's theory, which asserts that law grows and develops together with society. Accordingly, changes in Indonesian legislation represent an adaptation to the evolving social, cultural, economic, and political conditions within society.

The Influence of Legislative Development on Islamic Economic Law

The analysis demonstrates that the development of legislation in Indonesia has had a substantial influence on the growth of Islamic economic law. Before the enactment of regulations specifically governing Islamic economic activities, Sharia-based business operations lacked adequate legal certainty. However, this situation began to change when the government introduced various regulations governing Islamic banking, Islamic financial institutions, zakat, waqf, the Islamic capital market, and the halal industry.

The enactment of Law Number 21 of 2008 concerning Islamic Banking marked a significant milestone in the development of Islamic economic law in Indonesia. This law provides a comprehensive legal framework governing institutional arrangements, operational activities, supervision, and dispute resolution within Islamic banking, thereby enhancing legal certainty for both the public and business actors.

According to Mardani, the existence of regulations governing Islamic economic activities reflects the state's recognition of the Islamic economic system as an integral component of national legal development. These regulations provide legal protection while simultaneously encouraging the growth of Islamic financial institutions throughout Indonesia (Mardani, 2019).

Similarly, Ali explains that the development of Islamic economic law is a consequence of the increasing public demand for an economic system that complies with Sharia principles. Therefore, the establishment of comprehensive regulations is essential to ensuring legal certainty and enhancing public confidence in the Islamic economic industry (Ali, 2018).

The findings of this study are also consistent with Lawrence M. Friedman's legal system theory, which asserts that the effectiveness of a legal system is determined by three essential components: legal structure, legal substance, and legal culture. These three elements must function harmoniously to ensure the effective implementation of legislation within society (Friedman, 1975).

Challenges and Prospects for the Development of Islamic Economic Law

The findings reveal that although the development of regulations governing Islamic economic law has progressed considerably, several challenges remain regarding their implementation. One of the primary challenges is the need to harmonize various statutory regulations to prevent overlapping or conflicting legal provisions. In addition, the rapid advancement of digital technology, electronic transactions, and innovation in Islamic financial products requires regulatory reforms that are more adaptive to contemporary developments.

Another issue identified is the relatively low level of public legal literacy regarding Islamic economic law. Many members of society do not yet fully understand their rights and obligations in Sharia-based transactions or the available mechanisms for dispute resolution. This condition indicates that the effectiveness of law depends not only on the quality of legislation but also on the level of legal awareness within society.

According to Rahardjo, law fundamentally exists to serve human interests; therefore, legislation should always be adapted to the continuously evolving needs of society (Rahardjo, 2014). Consequently, reforms in Islamic economic regulations should be undertaken continuously to address the challenges posed by globalization, economic digitalization, and the development of modern business practices.

Overall, the findings demonstrate that the historical development of legislation in Indonesia has significantly influenced the establishment and development of Islamic economic law. The various regulations that have been enacted provide legal certainty for the implementation of Sharia-based economic activities while strengthening their position within the national legal system. Therefore, continuous legislative reform will remain a crucial factor in supporting the development of a modern, equitable, and responsive system of Islamic economic law capable of meeting the evolving needs of Indonesian society.

CONCLUSION

Based on the findings of this study, it can be concluded that the historical development of legislation in Indonesia reflects a dynamic process influenced by social, political, economic, and cultural changes within society. This development has progressed from the period of customary law, through the Dutch colonial era and the early years of independence, to the Reform Era, which is characterized by a more systematic legislative process. These developments have provided an essential foundation for establishing Indonesia's national legal system, which is oriented toward ensuring legal certainty, justice, and public welfare. In line with these developments, the government has increasingly accommodated the advancement of Islamic economic law through the enactment of various regulations governing Islamic banking, Islamic financial institutions, zakat, waqf, the Islamic capital market, and other sectors of the Islamic economy.

The findings also demonstrate that the development of legislation has had a significant impact on the growth of Islamic economic law in Indonesia. The enactment of various regulations has strengthened legal certainty, reinforced the institutional framework of Islamic economic institutions, and enhanced public confidence in implementing Sharia principles in economic activities. Nevertheless, the development of Islamic economic law continues to face several challenges, including the need to harmonize statutory regulations, adapt legal frameworks to the rapid development of the digital economy, and improve public legal literacy regarding Islamic economic law.

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