

**Asia-Pacific Research Center
Stanford University
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**Religion or Politics? Elections and the Adoption of Shari'a Law in
Muslim-Majority Democracies—The Case of Indonesia**

Michael Buehler

mb107@soas.ac.uk

State-Islam Relations in Indonesia 1945-1998

Declaration of independence 1945

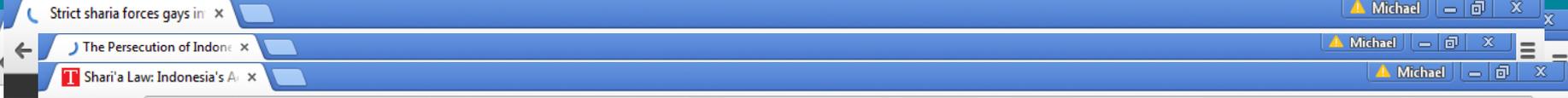
‘Jakarta Charter’ not included in draft constitution

Secular constitution adopted

‘New Order’ military dictatorship established in 1965

Secular-nationalist elites dominate bureaucracy and military

Oppression of political Islam for most of 1965-1998 period



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Govt seeks to revoke divisive local bylaws

Margareth S. Artonang, The Jakarta Post, Jakarta | Headlines | Thu, July 23 2015, 4:46 PM

Headlines News

Subdistricts make use of contract workers

Jokowi asks for advice on uncontested local elections

National congress calm as vote nears

The Home Ministry is planning to curb discriminatory bylaws that have become the source of conflict in regions throughout the archipelago.

The ministry revealed the plan following a recent clash in Tolikara, Papua, which was said to be driven by a rumored bylaw in the region that limits religious activities of minority groups.

Home Minister Tjahjo Kumolo said that he had instructed local officials and legislators to set up a special committee to further investigate it due to debates among local authorities over the existence of such bylaws.

At the same time, Tjahjo said that his office was heightening efforts to

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Standard narrative about Islamization in Indonesia

Islamization of political and social life after 1998

Creeping sharia-ization across the country

Islamist parties the main driver of this process

Secular state opposes these developments

Indonesia and Southeast Asia second front in the
«War on Terror»

FAR EASTERN ECONOMIC REVIEW

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Step Up the Fight Against Islamism

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Democratization in Muslim-majority countries

Does democratization expand or constrain political Islam?

- Democratization allows Islamist movements to form parties
- Islamist parties have pushed for adoption of Islamic law
- Succeeded, at times, in Afghanistan, Egypt, Nigeria, Turkey...
- Inclusion-Moderation thesis
- Elections have atomized and undermined Islamist movement

Democratization and decentralization after 1998

Free multi-party elections and decentralization after 1998

- PBB, PKS, PPNUI, PPP push for a state based on Islamic law
- Political and fiscal decentralization empowers districts and cities
- Local governments can adopt regulations that amend national law
- Direct elections for local governors, district heads and mayors
- Holding office is limited to two 5-year terms

The Islamization of politics in Indonesia after 1998

Religious affairs remain under national authority

Aceh has legal authority to adopt shari'a law across the province

Other jurisdictions used legal loophole to adopt shari'a regulations

Extremism Spreads Across Indonesian Penal Code (NYT 2009).

Are politicians using these regulations to impose Islam doctrine, or are they using shari'a regulations as a way of fulfilling other electoral, administrative or even personal goals?

The adoption of Islamic regulations

- 1) Does the history of different areas of Indonesia, particularly any history of Islamic rebellion or radicalism, correlate with the passage of *shari'a* regulations?
- 2) Is there evidence that *shari'a* regulations are used as an electoral strategy, with different types of regulations passed at different points in the electoral cycle?
- 3) If so, is there any evidence that passing *shari'a* regulations is a successful electoral strategy in Indonesia's decentralized democracy?

Types of shari'a regulations

- 1) Collection of religious alms (*Zakat, Infaq and Shadaqah*) (**cash**)
- 2) Promotion of Islamic knowledge and skills through Islamic education (**patronage**)
- 3) Islamic finance (e.g. the prohibition of usury) (**patronage**)
- 4) Propagation of “proper faith” and prohibition of Islamic sects deemed unorthodox (**piety**)
- 5) Dress codes (**piety**)
- 6) Other religious regulations pertaining to Islamic teachings such as mandating Qur'an-reading tests for political candidates (**piety**)
- 7) Prohibition of gambling (**patronage**)
- 8) Prohibition of the consumption of alcohol (**patronage**)
- 9) Prohibition of prostitution (**patronage**)
- 10) Prohibition of unspecified “sins” (**piety**)

Term limits; Election cycles; Re-election

Term limit: 2 x 5 years

Election cycle divided into 2.5 year periods

Re-election: Elected again to same/ different post within 1998-2015

442 shari'a regulations adopted between 1998 and 2012

254 individuals passed religious regulations between 1998 and 2012

Geographical distribution



Class tensions couched in Islamist terms

In the *shari'a* clusters...

- ... aristocrats dominate political system and the state
- ... orthodox Islam popular with non-aristocratic landowners
- ... new capitalist elite attracted by merit-based value system and its downplay of noble origin
- ... orthodox Islamic organizations active since the early 1900s
- ... Darul Islam Rebellion/ PRRI between 1948 and 1965

Islamist groups after 1998

Islamist groups with links to Darul Islam re-surface

Call for a state based on Islamic law



State elites and electoral competition

Table 1: Background of District Head and Deputy District Head Candidates, 1998-2013

		South Sulawesi						
		Governor	Deputy Governor	District Head	Deputy District Head	Mayor	Deputy Mayor	Total
Academic	Winner	0	0	0	2	0	0	2
	Loser	0	0	2	9	2	4	17
Bureaucrat	Winner	2	0	27	21	3	2	55
	Loser	0	2	76	66	11	5	160
Military/Police	Winner	0	0	3	0	0	1	4
	Loser	1	0	8	5	1	0	15
Politician	Winner	0	2	1	5	0	0	8
	Loser	1	1	8	17	3	5	35
Politician/Private Sector	Winner	0	0	7	4	0	0	11
	Loser	0	0	5	3	1	1	10
Private Sector	Winner	0	0	6	2	6	2	16
	Loser	2	1	21	23	9	9	65
Other	Winner	0	0	0	0	0	0	0
	Loser	0	0	0	1	0	0	1
Missing	Winner	0	0	17	25	2	6	50
	Loser	0	0	47	44	13	14	118
Total		6	6	228	227	51	49	567

Table 2: Number of Effective Candidates in South Sulawesi Government Head Elections, 1998-2013

Locality	1998	1999	2000	2003	2004	2005	2007	2008	2010	2011	2012	2013
S. Sulawesi	NA			2.59 (3)			2.86 (3)##					2.2 (3)#
Bantaeng	NA			NA#				3.25 (4)				1.4 (5)#
Barru			2.1 (13)			2.59 (3)			2.95 (4)			
Bone		NA#		1.08 (3)				2.18 (3)#				3.2 (6)
Bulukumba			1.95 (4)			4.24 (5)			1.98 (2) [6]##			
Enrekang	2.4 (3)			NA				2.8 (3)#				2.3 (4)
Gowa		NA				3.73 (4)			2.05 (4)#			
Jeneponto		1.9 (3)			NA			2.43 (6)#				2.1 (3)
Makassar		NA			1.99 (2) [3]			2.04 (7)#				5.2 (10)
Maros		NA				3.01 (4)#			4.02 (6)			
Palopo				NA				2.31 (4)#				2 (2) [9]
Pangkep		NA (5)				2.3 (3)			3.48 (6)			
Pare-Pare	2.2 (3)			NA				3.4 (5)#				2.9 (5)
Pinrang		NA		NA				1.99 (2) [7]				4.3 (6)#
Selayar		NA				4.02 (5)			2.62 (3)#			
Sidrap		+		NA				3.8 (6)				2.7 (7)#
Sinjai	NA#			NA				1.94 (2)#				4.2 (9)
Soppeng			NA			3.16 (4)			3.52 (7)#			
Takalar							3.32 (4)#				4.7 (7)	
Tanah Toraja			NA (5)			4.28 (6)#			4.41 (6)			
Tanah Toraja Utara*										2 (7)		
Luwu		NA		NA				2.83 (4)				2.4 (3)#
Luwu Timur**						2.96 (4)			2.4 (4)#			
Luwu Utara***		NA				2.7 (3)#			2 (2) [9]			
Wajo		NA		NA				3.34 (4)				3.5 (6)#

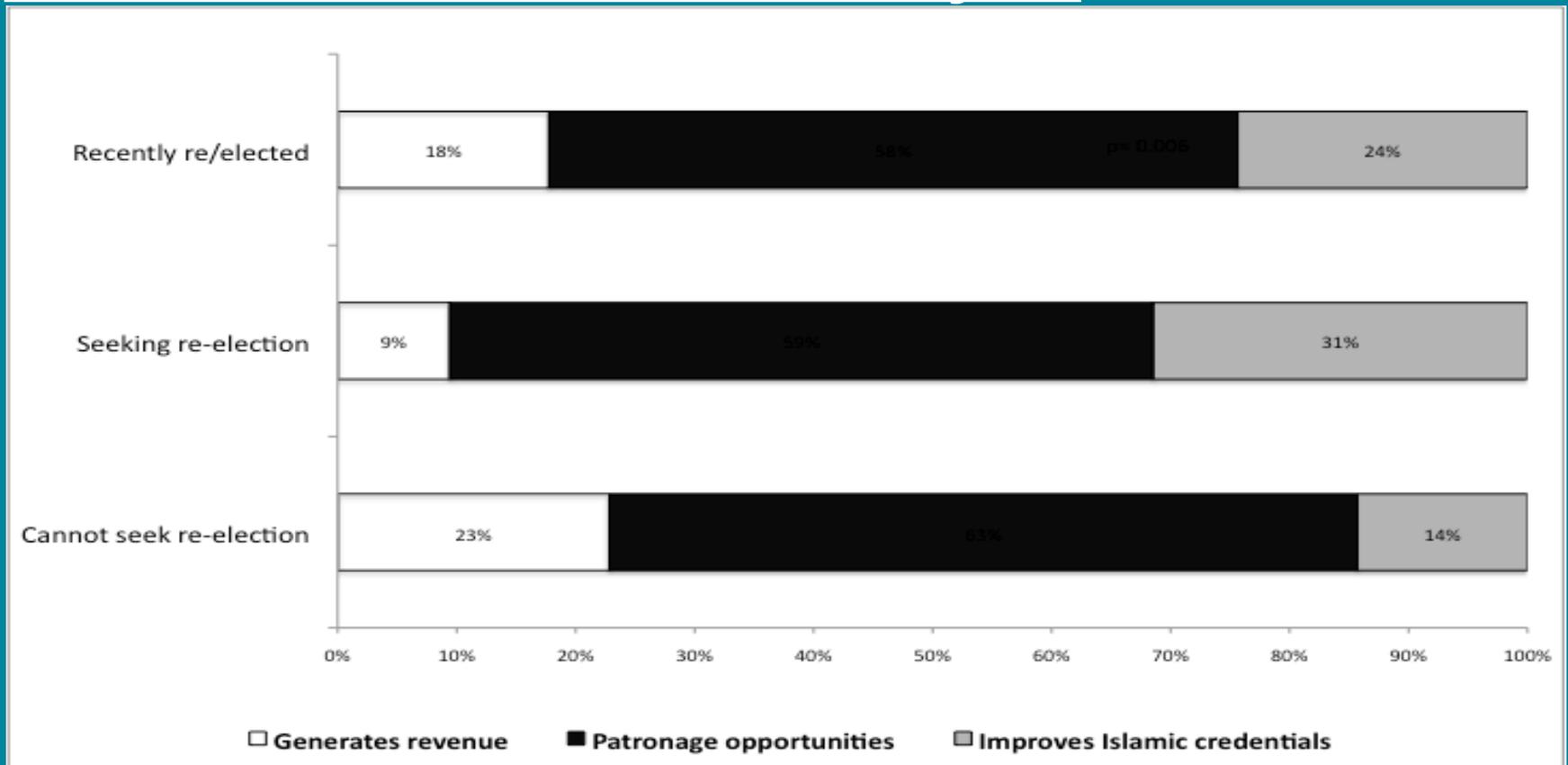
Number and distribution of *shari'a* regulations passed in Indonesia, 1999-2012, by content, for historically Islamic provinces and other provinces.

Content of regulation	Former Islamic rebellion n (%)	No Islamic rebellion n (%)	Total n (%)
Religious alms	40 (15)	28 (16)	68 (15)
Islamic education	54 (20)	16 (9)	70 (16)
Shari'a finance	22 (8)	21 (12)	43 (10)
Prohibits sects	21 (8)	9 (5)	30 (7)
Dress codes	24 (9)	0	24 (5)
Public display of Islamic knowledge	21 (8)	4 (2)	25 (7)
Prohibits alcohol	44 (17)	49 (28)	93 (21)
Prohibits prostitution	13 (5)	36 (21)	49 (11)
Prohibits gambling	4 (2)	0	4 (1)
Prohibits "sin"	24 (9)	12 (7)	36 (8)
TOTAL	267 (100)	175 (100)	442 (100)

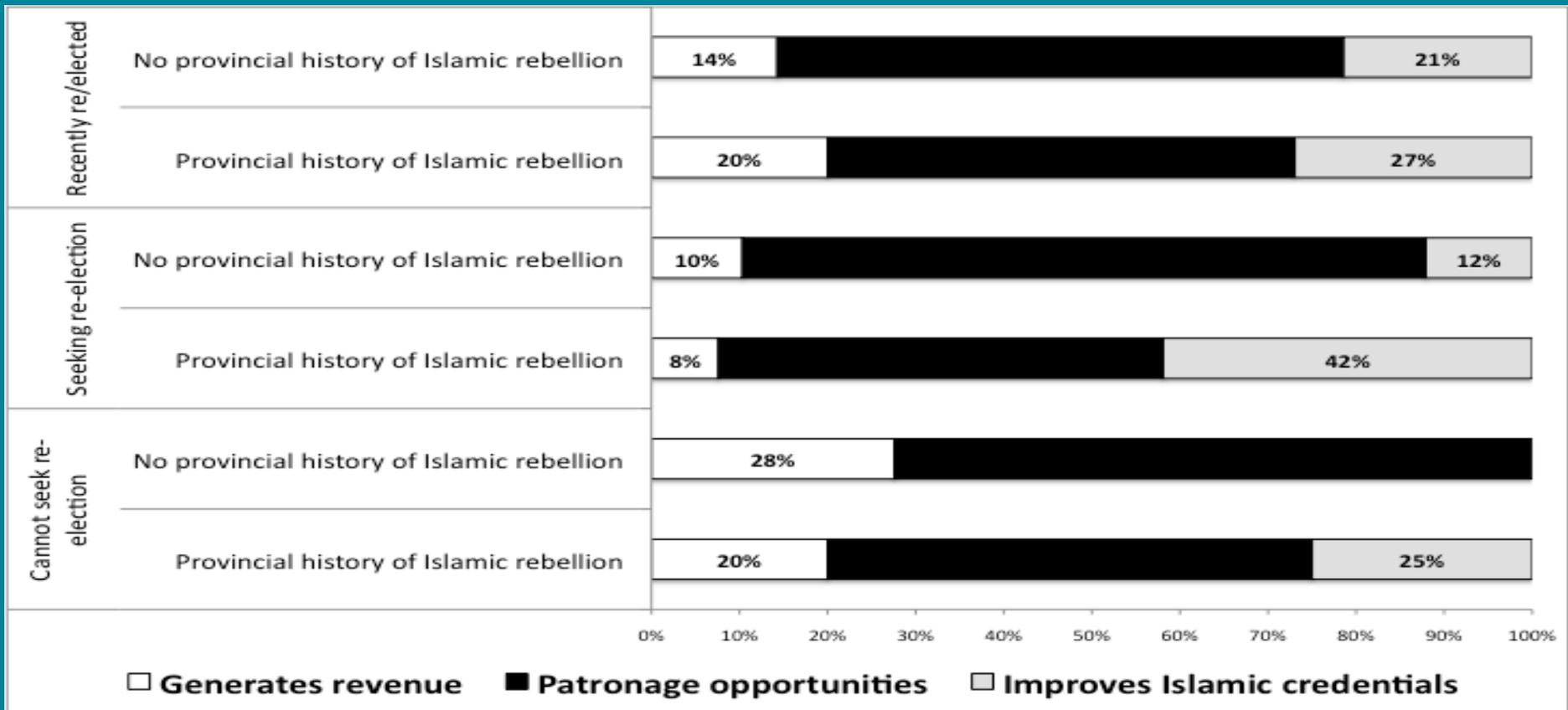
Number and distribution of *shari'a* regulations passed in Indonesia, 1999-2012, by primary potential political benefit to those passing the regulations, for historically Islamic provinces and other provinces.

Primary political benefit of regulation	Former Islamic rebellion n (%)	No Islamic rebellion n (%)	Total n (%)
Revenue	40 (15)	28 (16)	68 (15)
Political patronage	137 (51)	122 (70)	259 (57)
Islamic credentials	90 (34)	25 (14)	115 (26)
TOTAL	267 (100)	175 (100)	442 (100)

% distribution of *shari'a* regulations passed in Indonesia 1999-2012, by primary benefit to lawmakers and time in election cycle



% distribution of *shari'a* regulations passed in Indonesia 1999-2012, by primary benefit to lawmakers, time in election cycle and provincial history of Islamist rebellion



Take-away points

History may play a strong role in shaping the distribution of *shari'a* regulations in Indonesia.

Fluctuations in the passage of different types of regulations over the electoral cycle suggests that these local initiatives are not inspired exclusively by a desire to promote the practice of Islam in Indonesia.

Islamization of politics in context of democratization may vary

Alarmist accounts/ misclassification due to national level focus

The diffusion of *shari'a* regulations

Islamization rarely understood as a *process*

Islamization unfolds across space and time

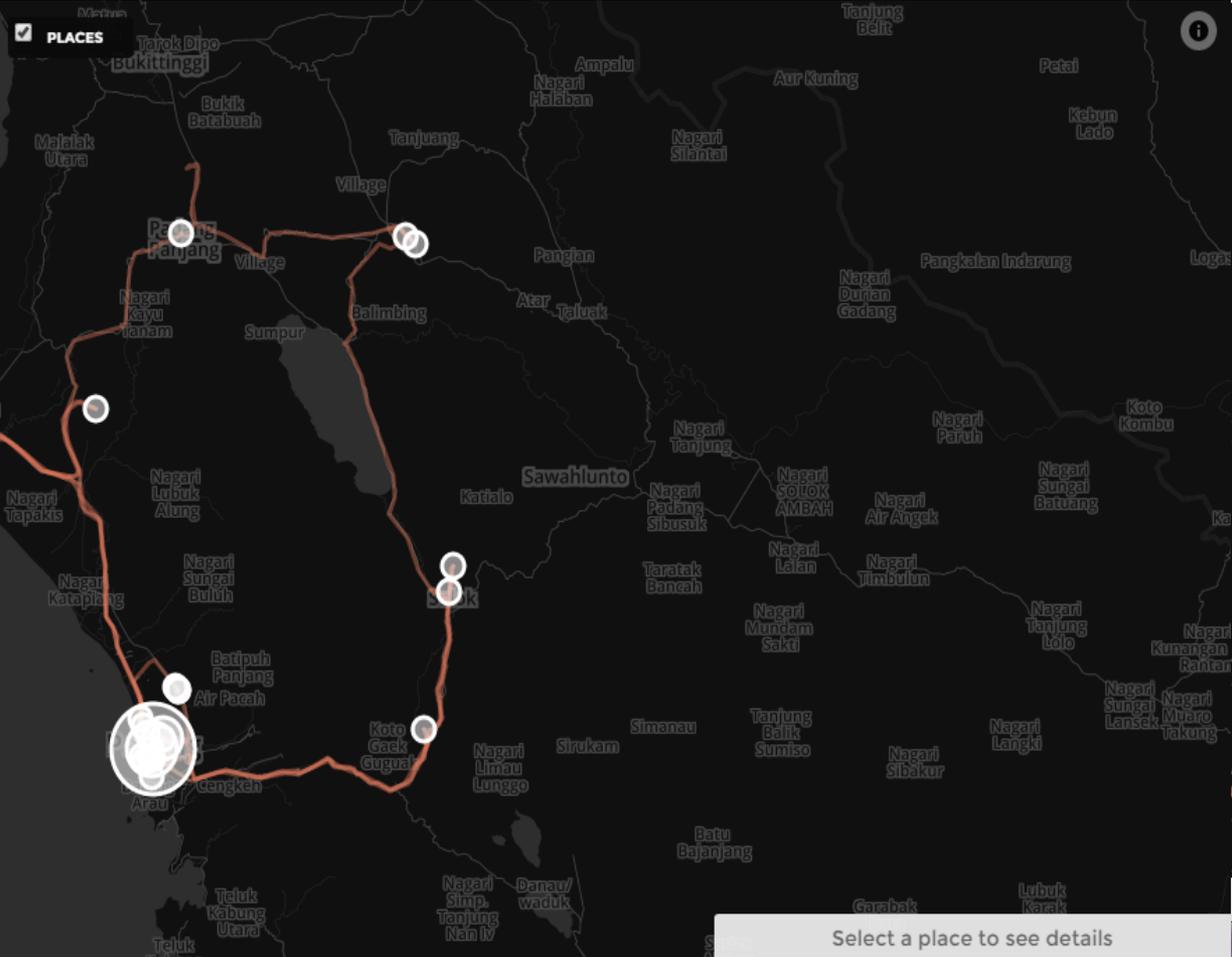
“Adoption” means to formally accept a policy or a law in a specific jurisdiction.

“Diffusion” denotes the movement of a policy or a law from one jurisdiction to another.

Focus on *interdependence* between jurisdictions with regard to the adoption of *shari'a* regulations

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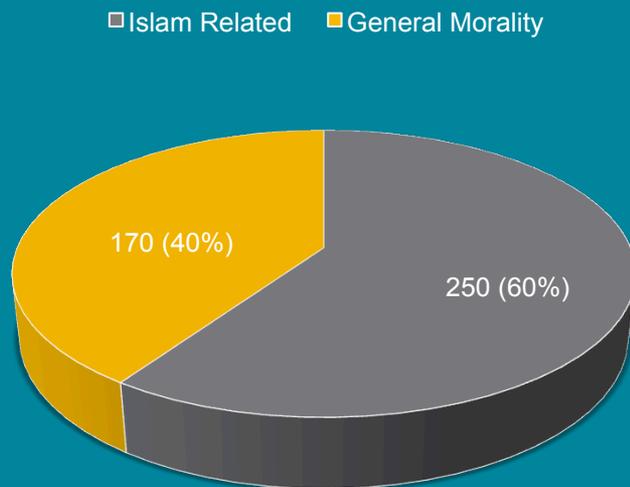


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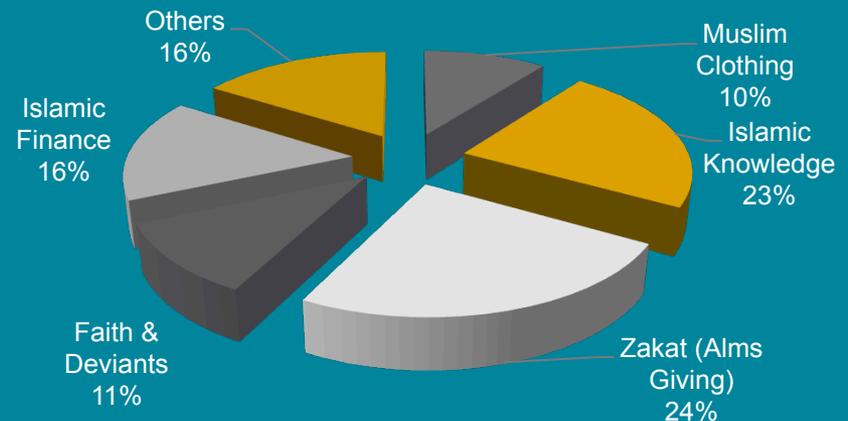
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The content of Indonesia's *shari'a* regulations

Content of *Shari'a* Regulations



Content Islam Related *Shari'a* Regulations



Comparing *shari'a* regulations on *zakat*

Article in Law No. 38/1999	Same paragraph found in...
<p>Article 3: Pemerintah berkewajiban memberikan perlindungan, pembinaan dan pelayanan kepada muzakki, mustahiq dan amil zakat.</p>	<p>Kota Padang Panjang Shari'a Regulation No. 7/2008, Article 3; Kabupaten Pesisir Selatan Shari'a Regulation No. 31/2003, Article 3; Kota Padang Shari'a Regulation No. 2/2010, Article 2, Kabupaten Purwakarta Shari'a Regulation No. 3/2007, Article 2, Kota Cimahi Shari'a Regulation No. 2/2008, Article 2.</p>
<p>Article 4: Pengelolaan zakat berazaskan iman dan takwa, keterbukaan dan kepastian hukum sesuai dengan Pancasila dan Undang-Undang Dasar 1945.</p>	<p>Kota Padang Panjang Shari'a Regulation No. 7/2008, Article 4; Kabupaten Solok Selatan Shari'a Regulation No. 18/2006, Article 3; Kabupaten Solok Shari'a Regulation No. 13/2003, Article 3; Kabupaten Sumedang Shari'a Regulation No. 1/2011, Article 3.</p>
<p>Article 5: Pengelolaan zakat bertujuan:</p> <ol style="list-style-type: none"> 1. Meningkatkan pelayanan bagi masyarakat dalam menunaikan zakat sesuai dengan tuntunan agama; 2. Meningkatkan fungsi dan peranan pranata keagamaan dalam upaya mewujudkan kesejahteraan masyarakat dan keadilan sosial; 3. Meningkatkan hasil guna dan daya guna zakat. 	<p>Kota Padang Panjang Shari'a Regulation No. 7/2008, Article 5; Kabupaten Pesisir Selatan Shari'a Regulation No. 31/2003, Article 5; Kabupaten Solok Shari'a Regulation No. 13/2003, Article 4; Kabupaten Solok Selatan Shari'a Regulation No. 18/2006, Article 4; Kota Bukittinggi Shari'a Regulation No. 29/2004; Kota Padang Shari'a Regulation No. 2/2010, Article 3, Kota Solok Shari'a Regulation No. 13/2003, Article 3; Kabupaten Bandung Shari'a Regulation No. 9/2005, Article 3, Paragraph 3; Kabupaten Purwakarta Shari'a Regulation No. 3/2007, Article 3; Kabupaten Sumedang Shari'a Regulation No. 1/2011; Kota Banjar Shari'a Regulation No. 6/2008, Article 3, Paragraph 3; Kota Cimahi Shari'a Regulation No. 2/2008, Article 3.</p>

The diffusion of *shari'a* regulations on *zakat*

Diffusion along vertical and horizontal lines

- National Law No. 38/1999 triggered local regulations
- Regulation No. 30/2002 in Bandung City as blue print

«Enrichment» of regulations during diffusion process

- Harsher sanctions for violations of *zakat*-regulations
- More comprehensive oversight mechanisms

Diffusion mainly within *shari'a* clusters

Comparing regulations on Islamic knowledge

Kabupaten Kuningan's Shari'a Regulation No. 2/2008	Same paragraph found in...
<p>Article 2: Wajib belajar Diniyah Takmiliyah Awaliyah berdasarkan Pancasila dan Undang-undang Dasar 1945</p>	<p>Bandung Shari'a Regulation No. 7/2008, Article 2; Purwakarta Shari'a Regulation No. 24/ 2009, Article 2; Bandung Barat Shari'a Regulation No. 9/ 2009, Article 2, Paragraph 1; Cirebon Shari'a Regulation No. 2/ 2009, Article 2; Bogor Shari'a Regulation No. 11/ 2010, Article 2; Karawang Shari'a Regulation No. 7/ 2011, Article 2.</p>
<p>Article 4: Wajib belajar Diniyah Takmiliyah Awaliyah berfungsi untuk memenuhi kebutuhan tambahan Pendidikan Agama Islam bagi siswa yang belajar di Sekolah Dasar/Sederajat</p>	<p>Kabupaten Bandung's Shari'a Regulation No. 7/2008, Article 4; Kabupaten Purwakarta Shari'a Regulation No. 24/2009, Article 3; Kabupaten Bogor Shari'a Regulation No. 11/2010, Article 4; and Kabupaten Indramayu Shari'a Regulation No. 12/2012, Article 3.</p>
<p>Article 5: Wajib belajar Diniyah Takmiliyah Awaliyah bertujuan memberikan bekal kemampuan dasar Agama Islam kepada peserta didik untuk mengembangkan kehidupannya sebagai warga muslim yang beriman, bertaqwa, beramal shaleh dan berakhlak mulia serta warga Negara Indonesia yang berkepribadian, percaya diri sendiri, sehat jasmani dan rohani.</p>	<p>Kabupaten Bandung Shari'a Regulation No. 7/2008, Article 5; Kabupaten Bogor Shari'a Regulation No. 11/2010, Article 5; and Kota Tasikmalaya Shari'a Regulation No. 2/2011, Article 2, Paragraph A.</p>

The diffusion of regulations on Islamic knowledge

All regulations emphasize need for additional Islamic instruction

Horizontal diffusion contained by provincial boundaries

- *Shari'a* regulations on *Madrasah Diniyah* in West Java
- *Shari'a* regulations on *Qur'an* reading in West Sumatra

Content does not 'travel' to provincial and national level

Theories on the diffusion of morality policies

What facilitates the diffusion of morality policies?

- 1) Geographic proximity
- 2) Local subcultures
- 3) Institutional context
- 4) Intergovernmental relations
- 5) Economic factors

Take-away points

Islamization of politics a confined phenomenon

- Diffusion predominantly within *shari'a* clusters
- Diffusion along horizontal lines
- Diffusion is contingent on local factors
- Future research needs to look at actors behind diffusion
- Political parties play no role in Islamization process
- State-based organizations (MUI etc) ?