

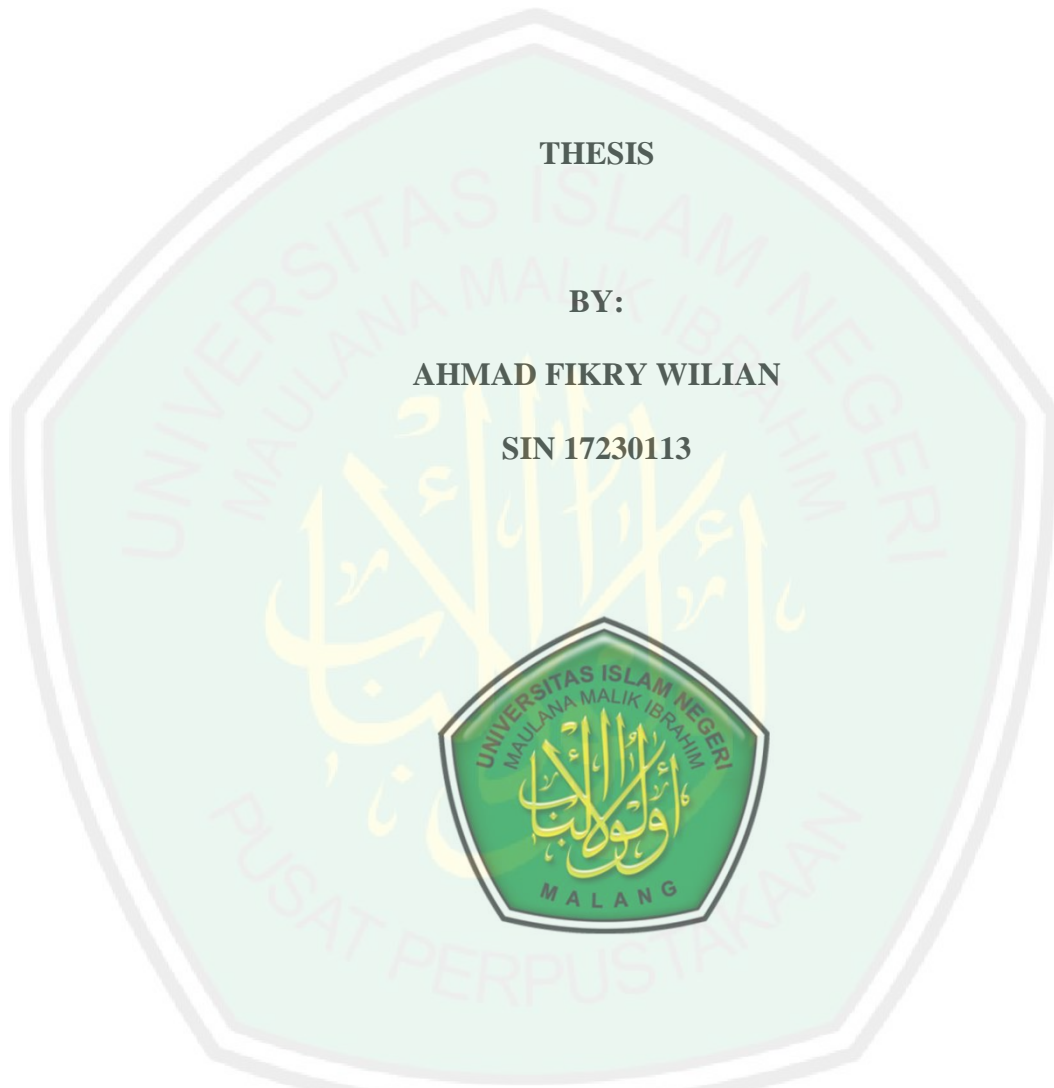
**THE ROLE MINISTRY OF LAW AND HUMAN RIGHTS REGIONAL  
OFFICE WEST NUSA TENGGARA IN HARMONIZATON THE LOCAL  
REGULATION DRAFT**

**THESIS**

**BY:**

**AHMAD FIKRY WILIAN**

**SIN 17230113**



**CONSTITUTIONAL LAW DEPARTMENT**

**SYARI'AH FACULTY**

**STATE ISLAMIC UNIVERSITY MAULANA MALIK IBRAHIM**

**MALANG**

**2020**

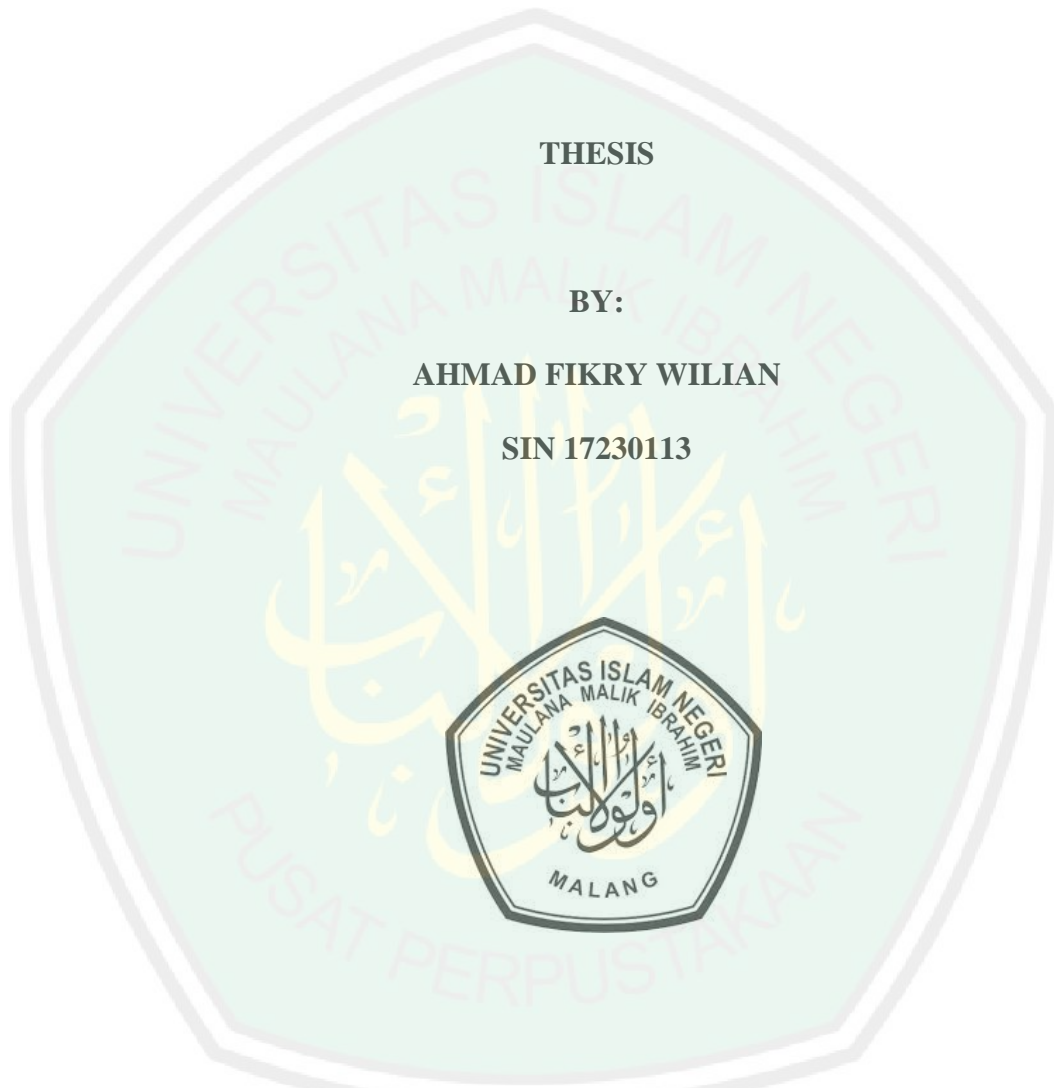
**THE ROLE MINISTRY OF LAW AND HUMAN RIGHTS REGIONAL  
OFFICE WEST NUSA TENGGARA IN HARMONIZATON THE LOCAL  
REGULATION DRAFT**

**THESIS**

**BY:**

**AHMAD FIKRY WILIAN**

**SIN 17230113**



**CONSTITUTIONAL LAW DEPARTMENT**

**SYARI'AH FACULTY**

**STATE ISLAMIC UNIVERSITY MAULANA MALIK IBRAHIM**

**MALANG**

**2020**

## STATEMENT OF THE AUNTENTICITY

In the name of Allah,with consciousness and responsibility toward the development of science, the writer declares that thesis entitled:

### **THE ROLE MINISTRY OF LAW AND HUMAN RIGHTS REGIONAL OFFICE WEST NUSA TENGGARA IN HARMONIZATON THE LOCAL REGULATION DRAFT**

truly writer's original work which can be legally justified. If this thesis is proven result of duplication or plagiarism from another scientific work, it as precondition of degree will be stated legally invalid.

Lombok, 2 September 2020

Writer,



Ahmad Fikry Wilian

SIN 17230113

## STATEMENT OF THE AUNTENTICITY

In the name of Allah, with consciousness and responsibility toward the development of science, the writer declares that thesis entitled:

**THE ROLE MINISTRY OF LAW AND HUMAN RIGHTS REGIONAL  
OFFICE WEST NUSA TENGGARA IN HARMONIZATON THE LOCAL  
REGULATION DRAFT**

truly writer's original work which can be legally justified. If this thesis is proven result of duplication or plagiarism from another scientific work, it as precondition of degree will be stated legally invalid.

Lombok, 2 September 2020

Writer,



Ahmad Fikry Wilian

SIN 17230113

## APPROVAL SHEET

After reading and correcting thesis of Ahmad Fikry Wilian Student ID 17230113, Department of Constitutional Law, Syari'ah Faculty of The State Islamic University Maulana Malik Ibrahim of Malang entitled:

### THE ROLE MINISTRY OF LAW AND HUMAN RIGHTS REGIONAL OFFICE WEST NUSA TENGGARA IN HARMONIZATON THE LOCAL REGULATION DRAFT


the supervisor stated that this thesis has met the scientific requirements to be proposed and to be examined on the Assembly Board of Examiners.

Acknowledged by,

Malang, 4 September 2020

The Head of Constitutional Law Department

Supervisor,




Dr. H. M. Aunul Hakim, S.Ag.,M.H

Teguh Setyobudi, M.H.

NIP. 196509192000031001

NIP. 19790313201608011033

### LEGITIMATION SHEET

The Assembly Board of Thesis Examiners of Ahmad Fikry Wilian SIN 17230113, student of Constitutional Law Department, Syari'ah Faculty of The State Islamic University Maulana Malik Ibrahim of Malang entitled:

**THE ROLE MINISTRY OF LAW AND HUMAN RIGHTS REGIONAL  
OFFICE WEST NUSA TENGGARA IN HARMONIZATION THE LOCAL  
REGULATION DRAFT**

Has been certified to pass with mark: A

Board of Examiners:

1. Prayudi Rahmatullah, S.HI.,M.H  
NIP. 19850703201802011160  
Chairman
2. Teguh Setyobudi, S.HI.,MH  
NIP. 19790313201608011033  
Secretary
3. Dra. Jundiani, S.H.,M.Hum  
NIP. 196509041999032001  
Main Examiner

Malang, 18 November 2020



Prof. Dr. H. Saifullah, S.H.,M.Hum

NIP. 196512052000031001

## LEGITIMATION SHEET

The Assembly Board of Thesis Examiners of Ahmad Fikry Wilian SIN 17230113, student of Constitutional Law Department, Syari'ah Faculty of The State Islamic University Maulana Malik Ibrahim of Malang entitled:

### THE ROLE MINISTRY OF LAW AND HUMAN RIGHTS REGIONAL OFFICE WEST NUSA TENGGARA IN HARMONIZATON THE LOCAL REGULATION DRAFT

Has been certified to pass with mark: A

Board of Examiners:

1. Prayudi Rahmatullah, S.HI.,M.H

NIP. 19850703201802011160

  
Chairman


2. Teguh Setyobudi, S.HI.,MH

NIP. 19790313201608011033

  
Secretary

3. Dra. Jundiani, S.H.,M.Hum

NIP. 196509041999032001

  
Main Examiner

Malang, 18 November 2020

Dean,

  
Prof. Dr. H. Saifullah, S.H.,M.Hum

NIP. 196512052000031001

## AKNOWLEDGEMENT

First of all, by always saying Alhamdulillah for all the abundance of favors, grace, *taufik* and *hidayah* that Allah SWT has given, the writing of the thesis with the title "the Role Ministry of Law and Human Rights Regional Office West Nusa Tenggara in Harmonization the Local Regulation Draft" can be resolved. Secondly, never forget also *sholawat* and *salam* always still poured out to the lord of our great prophet, Prophet Muhammad SAW who has guided mankind from the time of darkness (*jahiliyyah*) to the lightness era of *Islamiyyah*.

From all the teaching, advice, guidance, and helps of service for us to finish this thesis, then with all humility the writer will express the gratitude which is unequalled to:

1. Mr. Prof. Dr. H. Abdul Haris, M.Ag, as the Rector of the State Islamic University Maulana Malik Ibrahim of Malang.
2. Mr. Prof. Dr. H. Saifullah, S.H.,M.Hum, as the Dean of Syariah Faculty of the State Islamic University Maulana Malik Ibrahim of Malang
3. Mr. Dr. H. Aunul Hakim, S.Ag.,M.H, as Head of Constitutional Law (*Siyasah*) Department of Syariah Faculty of the State Islamic University Maulana Malik Ibrahim of Malang.
4. Mr. Teguh Setyobudi, S.HI.,M.H, as my thesis supervisor. The writer thanks for his spending time to guide, direct, and motivate to finish writing this thesis. The writer hopes that he and his family will be blessed by Allah.
5. Mr. Mustafa Lutfi, S.Pd.,S.H.,M.H, as supervisor lecturer of the writer during his study at Constitutional Law Department of Syariah Faculty of the State

Islamic University Maulana Malik Ibrahim of Malang. Thank to him who has given time, advice, and motivation during his studies at the State Islamic University Maulana Malik Ibrahim of Malang.

6. Mr. Teguh Setyobudi, S.HI.,M.H, as the Secretary of the Examiner, Mr. Prayudi Rahmatullah, S.HI.,M.H, as the Chief of Examiner and Mrs Dra. Jundiani, S.H.,M.Hum, as the Main Examiner, I thank to all of thesis examiner team.
7. All lecturers at Syariah Faculty of the State Islamic University of Maulana Malik Ibrahim of Malang who have provided learning to all of us. With sincere intentions, may all of their charity be part of worship to get the pleasure of Allah SWT.
8. All staff of Syariah Faculty of the State Islamic University Maulana Malik Ibrahim of Malang.
9. Mr. Abdi Manaf, S.H.,M.H, as the Head of Legal Section of the Central Lombok Local Government.
10. Mr. Andi Dahrif Rafied, M.Si. as the Head of Regional Office Ministry of Law and Human Rights of West Nusa Tenggara.
11. To the parents of the author, Mr. Raslan, Mrs. Sumiati and Mama Lily who are always supportive, helpful, motivating and praying for their children, may all their goodness be reciprocated with the best possible reply by Allah SWT.
12. To all of my younger sister Anggi Wilian Namira, Atila Hanin Zhafira, Adwa Afnin Jannati and Aneta Zhafira Aftani who are always encouraging during the work of this thesis.

13. To all of student colleagues majoring in Constitutional Law (*Siyasah*)  
Department of Syariah Faculty of the State Islamic University Maulana Malik  
Ibrahim of Malang who has helped in writing the thesis.

14. and to the all entire academic community (*civitas academica*) of the State  
Islamic University Maulana Malik Ibrahim of Malang.

With the completion of this thesis report, the hope that knowledge which  
we have gained during our studies can provide the benefits of life in the world and  
the hereafter. As a human who has never escaped fault, the author is very hopeful  
for the forgiveness, criticism and suggestions from all parties for future  
improvement efforts, amen.

Lombok, 2 September 2020

Writer,



Ahmad Fikry Wilian

SIN 17230113

## TRANSLITERATION GUIDENCE

### A. General

Transliteration is copying by substitution of letters from one alphabet to another alphabet. In this paper the guidelines for transliteration of the Indonesian language into Arabic language, it's not the translation of Arabic language into Indonesian language. Included in this category is the Arabic name of the Arab nation, but it is written as spelling in its national language, or as written in the book being referenced. Meanwhile, the writing of book titles in footnotes and bibliography, still uses the terms of this transliteration guidelines. As a guidelines for transliteration, many transliteration options and provisions can be used as the transliteration guidance or guidelines in the writing of a scientific work, both with national, international standards and specific provisions used by certain publishers.

In writing this thesis, writer using transliteration guidance that used by the Syariah Faculty of the State Islamic University Maulana Malik Ibrahim of Malang that is using enhanced spelling (EYD) plus, guidelines based on the Joint Decree (Surat Keputusan Bersama; SKB) between the Ministry of Religious Affairs of the Republic Indonesia and the Ministry of Education and Culture of the Republic Indonesia (SKB Menteri Agama RI dan Menteri Pendidikan dan Kebudayaan RI), dated January 22, 1988, Number 158 Year 1987 and Number 0543b/U/1987, as contained in the Arabic Language Transliteration Guidelines (A Guide Arabic Transliteration), INIS Fellow 1992, which contains generally will be described as follows:

**B. Consonan**

Huruf arab	Nama	Huruf latin	Nama
أ	Alif	Tidak dilambangkan	Tidak dilambangkan
ب	Ba	B	Be
ت	Ta	T	Te
ث	S a	S	Es (dengan titik di atas)
ج	Jim	J	Je
ح	H{a	H{	Ha (dengan titik di atas)
خ	Kha	KH	Ka dan Ha
د	Dal	D	De
ذ	Z al	Z	Zet (dengan titik di atas)
ر	Ra	R	Er
ز	Zai	Z	Zet
س	Sin	S	Es
ش	Syin	SY	Es dan Ye
ص	S{ad	S{	Es (dengan titik di bawah)
ض	D}ad	D{	De (dengan titik di bawah)
ط	T{a	T{	Te (dengan titik di bawah)
ظ	Z}a	Z{	Zet (dengan titik di bawah)
ع	‘Ain	‘_____	apostrof terbalik
غ	Gain	G	Ge
ف	Fa	F	Ef
ق	Kof	Q	Qi
ك	Kaf	K	Ka
ل	Lam	L	El
م	Mim	M	Em

ن	Nun	N	En
و	Wau	W	We
ه	Ha	H	Ha
ء	Hamzah	_____ ,	Apostrof
ي	Ya	Y	Ye

Hamzah (أ) at the beginning of the word follows his vowels without being marked with any sign. If it is located in the middle or at the end, then it is written with a sign (').

### C. Vocals

Arabic vowels are the same as Indonesian vowels, consisting of single or monoftong vowels and double or diphthlear vowels. Single Arabic vowels whose emblem is a sign or *harakat*, transliteration as follows:

tanda	nama	Huruf latin	Nama
َ	Fathah	A	A
ِ	Kasrah	I	I
ُ	Dhammah	U	U
َ ء	Fathah dan Wau	AU	A dan U
ِ ء	Fathah dan Ya	AI	A dan I

### D. Lafdh al-Jalâlah Word

The article in the form of "al" in this transliteration guidance is still written in lowercase, except for the word at the beginning of the sentence, while "al" in the *lafadh jalâlah* which is in the middle of a sentence which is leaned or in the form of a sentence (*idhafah*) is omitted. Consider the following examples:

1. Al-Imâm al-Bukhâriy
2. Al-Bukhâriy in muqaddimah
3. Masyâ' Allâh kâna wa mâ lam yasya' lam yakun
4. Billâh 'azza wa jalla.
5. Imam as-Syafi'i
6. As-Syafi'i

#### **E. Indonesian Arabic Names and Words**

In principle in this guideline, every word derived from Arabic must be written using a transliteration system. However, if the word is an Arabic name of an Indonesian or an Indonesian Arabic (arabic name used by Indonesians), it does not need to be written using a transliteration system. Consider the following examples:

1. Abdurrahman Wahid
2. Amin Rais

The name writing of Abdurrahman Wahid and Amin Rais is still written using Indonesian writing procedures that are adapted to the writing of his name. Although the words come from Arabic, they are the names of Indonesians who are Indonesian.

## TABLE OF CONTENT

STATEMENT OF THE AUNTENTICITY .....	iii
APPROVAL SHEET .....	v
LEGITIMATION SHEET .....	vi
AKNOWLEDGEMENT .....	viii
TRANSLITERATION GUIDENCE .....	xi
TABLE OF CONTENT .....	xv
ABSTRACT.....	xviii
المستخلص .....	xix
<b>BAB I.....</b>	<b>1</b>
<b>INTRODUCTION.....</b>	<b>1</b>
A. Research Background .....	1
B. Problem Limitation.....	6
C. Statement of Problem .....	6
D. Objective of Research.....	7
E. Benefit of Research.....	7
F. Operational Definition .....	8
G. Structure of Discussion.....	12
<b>BAB II .....</b>	<b>15</b>
<b>LITERATURE REVIEW.....</b>	<b>15</b>

A. Previous Research.....	15
B. Theoretical/Conceptual Framework .....	18
<b>BAB III.....</b>	<b>30</b>
<b>METHOD OF RESEARCH.....</b>	<b>30</b>
A. Type of Research .....	30
B. Research Approach.....	30
C. Research Location .....	31
D. Data Sources .....	33
E. Technique of Data Sources Collection .....	34
F. Data Analysis.....	35
<b>BAB IV .....</b>	<b>36</b>
<b>DISCUSSION OF RESEARCH FINDINGS .....</b>	<b>36</b>
A. Procedure of Harmonization the Local Regulations Draft .....	36
B. the Effectiveness of Harmonization the Local Regulation Draft Carried Out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in Central Lombok Regency .....	39
C. the Opinion of <i>Siyasah dusturiyah</i> Towards Harmonization the Local Regulations Draft Carried Out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara .....	59
<b>BAB V.....</b>	<b>71</b>

<b>CLOSING .....</b>	<b>71</b>
A. Conclusion .....	71
B. Suggestion .....	72
<b>BIBLIOGRAPHY .....</b>	<b>73</b>
<b>CURRICULUM VITAE.....</b>	<b>76</b>



## ABSTRACT

Ahmad Fikry Wilian, SIN 17230113, 2020. Title the Role Ministry of Law and Human Rights Regional Office West Nusa Tenggara in Harmonization the Local Regulation Draft. Thesis. Constitutional of Law Department. Syariah Faculty. State Islamic University Maulana Malik Ibrahim of Malang. Advisor Teguh Setyobudi, S.HI.,M.H.

---

**Keywords:** Effectiveness of Law, Harmonization of the Local Regulation Draft, Ministry of Law and Human Rights, *Siyasah Dusturiyah*.

Harmonization of the local regulation draft is regulated in Law Number 12 Year 2011 *juncto* Law Number 15 Year 2019 concerning the Amendment of Law Number 12 Year 2011 concerning the Establishment of Legislation in order to realize the State of Indonesia into a state of law and realize the development of national laws that are planned, integrated, and sustainable. The President through the Ministry of Law and Human Rights is responsible for facilitating harmonization of local regulations draft before they are enacted, in order to avoid conflict of norm. However, it has not been properly implemented in accordance with existing regulations.

The formulation of the problem in this study is How the effectiveness of the harmonization local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in Central Lombok regency and what is the opinion of *siyasah dusturiyah* towards the harmonization local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara. This research is a type of empirical juridical research with a sociological juridical approach. The location of the research in the legal section of the local secretariat of the Central Lombok district government. Types and data sources in the form of primary, secondary and tertiary data. The results of this research will be presented with qualitative descriptive methods.

The result of the research is the *first*, harmonization of the local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in the Central Lombok district government has not run effectively because of several factors including legal factors, legal facilities or facilities factors and legal cultural factors. *Second*, the existence of the Ministry of Law and Human Rights as an aide to the president has been in accordance with the concept of *wizarah* in *siyasah dusturiyah* and has implemented the principles of *siyasah* in terms of facilitation the harmonization of local regulation draft in order to realize a planned, integrated, and sustainable national law that is fair, consistent and not discriminated against.

## ABSTRAK

**Ahmad Fikry Wilian**, NIM 17230113, 2020. Judul Peran Kementerian Hukum dan Hak Asasi Manusia Kantor Wilayah Nusa Tenggara Barat Dalam Harmonisasi Rancangan Peraturan Daerah. Skripsi. Jurusan Hukum Tata Negara. Fakultas Syari'ah. Universitas Islam Negeri Maulana Malik Ibrahim Malang. Pembimbing Teguh Setyobudi, S.HI.,M.H.

---

**Kata Kunci:** Efektivitas Hukum, Harmonisasi Rancangan Peraturan Daerah, Kementerian Hukum dan Hak Asasi Manusia, *Siyasah Dusturiyah*.

Harmonisasi rancangan peraturan daerah diatur dalam Undang-Undang Nomor 12 Tahun 2011 *juncto* Undang-Undang Nomor 15 Tahun 2019 tentang Perubahan Atas Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan guna mewujudkan Negara Indoneisa menjadi negara hukum serta merealisasikan pembangunan hukum nasional yang terencana, terpadu, dan berkelanjutan. Presiden melalui Kementerian Hukum dan Hak Asasi Manusia bertanggung jawab dalam hal fasilitasi harmonisasi rancangan peraturan daerah sebelum ditetapkan, guna menghindari tumpang tindih antar norma (*conflict of norm*). Namun hal demikian, belum terimplementasi dengan baik sesuai dengan ketentuan yang ada.

Rumusan masalah di dalam penelitian ini ialah efektivitas harmonisasi rancangan peraturan daerah yang dilakukan Kementerian Hukum dan Hak Asasi Manusia kantor wilayah Nusa Tenggara Barat serta pandangan *siyasah dusturiyah* terhadap harmonisasi rancangan peraturan daerah yang dilakukan oleh Kementerian Hukum dan Hak Asasi Manusia kantor wilayah Nusa Tenggara Barat. Penelitian ini merupakan jenis penelitian yuridis empiris dengan pendekatan yuridis sosiologis. Lokasi penelitian di bagian hukum sekretariat daerah pemerintah daerah kabupaten Lombok Tengah. Jenis dan sumber data berupa data primer, sekunder dan tersier. Hasil dari penelitian ini akan disajikan dengan metode deskriptif kualitatif

Hasil penelitian ialah *pertama*, harmonisasi rancangan peraturan daerah yang dilakukan oleh Kementerian Hukum dan Hak Asasi Manusia kantor wilayah Nusa Tenggara Barat di lingkungan pemerintah daerah kabupaten Lombok Tengah belum berjalan efektif karena beberapa factor antara lain faktor hukum, faktor sarana dan fasilitas hukum dan faktor budaya hukum. *Kedua*, keberadaan Kementerian Hukum dan Hak Asasi Manusia sebagai pembantu presiden telah sesuai dengan konsep *wizarah* dalam *siyasah dusturiyah* serta telah melaksanakan prinsip-prinsip *siyasah* dalam perihal fasilitasi harmonisasi rancangan peraturan daerah guna mewujudkan hukum nasional yang terencana, terpadu, dan berkelanjutan yang adil, konsisten dan tidak diskriminstif.

## المستخلص

أحمد فكري ويليان، ركم التسجيل 1723011, 2020, عنوان دور المكتب الحكم وحقوق الإنسان الولاية نوسا تينغارا الغرب في تباسق مشروع قانون الدائرة. قسم القانون الدستوري. كلية الشريعة. جامعة الإسلامية الحكومية مولانا مالك إبراهيم مالنج. المستشار تيغه سيتيبودي  
M.H.

**الكلمات الرئيسية:** تباسق مشروع قانون الدائرة، وزارة الحكم وحقوق الإنسان، فعالية القانون، سياسة دستورية.

تباسق مشروع قانون نظم في القانون رقم 12 لسنة 2011 مع القانون رقم 15 لسنة 2019 بشأن تعديل القانون رقم 12 لسنة 2011 بشأن إنشاء التشريعات من أجل تحقيق دولة إندونيسيا في دولة حكومية وتحقيق تطوير قانون وطني مخطط ومتكامل ومستدام. ولكن لم يتم تنفيذه بشكل صحيح.

صياغة المشكلة في هذا التحقيق هو فعالية دور المكتب الحكم وحقوق الإنسان الولاية نوسا تينغارا الغرب في تباسق مشروع قانون الدائرة في حكومة مقاطعة لومبوك المركزي، وفعالية تباسق مشروع قانون الدائرة التي نفذتها وزارة الحكم وحقوق الإنسان الولاية نوسا تينغارا الغربي سياسة دستورية. هذا البحث هو نوع من البحوث القضائية التجريبية و تقريل بقانوني سوسيولوجي. موقع البحث في مكتب الحكم لولاية لمبوك الوسط. أنواع البيانات ومصادرها هي البيانات الأولية والثانوية والثالثة. يتم عرض نتائج البيانات البحثية مع طرق وصفية نوعية.

ونتيجة لهذا البحث هو **الاول** لمشروع اللوائح المحلية الذي قامت به وزارة الحكم وحقوق الإنسان الولاية نوسا تينجارا الغربي المكتب لومبوك الوسطى لم يكن فعالا بسبب عوامل عدم كفاية مرافق ومرافق هوكوم وان ثقافة هوكوم تباسق مشروع قانون الدائرة مازالت هناك غرور سكتورال. **الثاني** وقد تم تنفيذ وجود وزارة الحكم وحقوق الإنسان كمساعد للرئيس مع مفهوم "الضائع" خاصة حول الوزارة (الوزارة) كعبء على القادة في الاضطلاع بمسؤوليات الحكو

## BAB I

### INTRODUCTION

#### A. Research Background

Based on the provisions in the Constitution of the Republic Indonesia Year 1945 (UUD NRI Tahun 1945) article 1 paragraph (1) states that *"The State of Indonesia is a unitary state in the form of a republic"*.<sup>1</sup> This provision provides an understanding that the highest power is in the central government which if reviewed from the composition of the unitary state is a single state, meaning there is no state within the state.<sup>2</sup> The unitary state is divided into 2 (two) forms, namely *first*, a unitary state with a centralized system in which all government affairs are directly held by the central government, *second*, a unitary state with a decentralized system, namely the central government gives power to local governments to take care of their own government affairs independently.<sup>3</sup> This provision similarly, as described in the Constitution of Republic Indonesia the second amendment article 18 paragraph (1) *"The Unitary State of the Republic Indonesia is divided into provinces and provinces divided into districts and cities, each province, district, and city has a local government, which is regulated by law"*.<sup>4</sup>

The division of the territory carries the consequences as systematically explained in the article 18 paragraph (2) that the existing government in the

<sup>1</sup> Article 1 Paragraph (1) of the Constitution of the Republic Indonesia Year 1945.

<sup>2</sup> Soehino, *State Science*, (Yogyakarta: Liberty, 1980), 224.

<sup>3</sup> C.S.T Kansil, *Indonesian Administrative Law*, (Jakarta: Ghailia Indonesia, 1983), 72.

<sup>4</sup> Article 18 Paragraph (1) of the Constitution of the Republic Indonesia Year 1945 second amendment.

province, district/city regulates and manages independently government affairs based on the principle of the autonomy and the assistance duties (*medebewind*). This article contains the principle that the provinces, districts, and cities must to be the completeness of existing government administration in the region in order to carry out autonomy and assistance duties.<sup>5</sup> In running the government in the region, the local government is given the widest autonomy to take care of the household,<sup>6</sup> except the government affairs that by law are determined as the affairs of the central government, which include foreign politics, defense, security, judiciary, monetary and fiscal national and religious.<sup>7</sup>

In order to carry out the autonomy and the assistance duties, local governments are given the authority to establish local regulations and other regulations to carry out higher degree regulations.<sup>8</sup> In general, the provisions of the material content of the local regulations contain are, *first*, matters relating to households and local government organizations, *second*, matters that related to the duty of assistance (*Medebewind*).<sup>9</sup> Thus, local regulations are a legal product of the local government in order to carry out local autonomy and assistance duties, namely carrying out the right and authority to regulate and manage their own household affairs and at the same time become legality to support provincial and district governments or cities as autonomous regions.

<sup>5</sup> Hery Susanto, *Regional Autonomy and Local Competence*, (Jakarta: Millenium Publisher, 2003), 50.

<sup>6</sup> Article 18 Paragraph (5) of the Constitution of the Republic Indonesia Year 1945.

<sup>7</sup> Article 10 Paragraph (1) of Law Number 23 Year 2014 concerning the Local Government (Statute Book of 2014 Number 244).

<sup>8</sup> Bagir Manan, *Welcoming the Dawn of Regional Autonomy*, (Yogyakarta: PSH FH UII, 2002), 136.

<sup>9</sup> Rosjidi Ranggawidjaja, *Introduction to Indonesian Law*, (Bandung: Publisher Mandar Maju, 1998), 23.

In the process of forming legislation or regulation legislation, it is no less important than the content of the rule itself is the process of forming it or establishment of legislation. The establishment of good legislation, in fact, needs to pay attention to the basics, foundations, principles in the process of its formation, especially with regard to the material content.<sup>10</sup> Therefore, based on the mandate of the Constitution of the Republic Indonesia Year 1945 in order to realize the state of Indonesia as a legal state, the state is obliged to carry out the development of national law carried out in a planned, integrated and sustainable manner in a harmonious and synchronous national legal system in order to ensure the protection of the rights and obligations of all Indonesian people based on the Constitution of the Republic Indonesia Year 1945. Therefore, it is necessary to rule *sui generis* or special rules that clearly govern comprehensively and become the standard in terms of the establishment of legislation that serves as a guide for local governments in the formation of legislation in order to carry out local autonomy and assistance duties.

Regarding the planning and preparation of local regulations based on the mandate of the Constitution of the Republic Indonesia Year 1945 the second amendment,<sup>11</sup> regulated in the provisions of Law Number 12 Year 2011 *juncto* Law Number 15 Year 2019 concerning the Amendment of Law Number 12 Year 2011 concerning the Establishment of Legislation article 36 paragraph

<sup>10</sup> Maria Farida Indrati S, *Law, Type, Function and Material Content*, (Yogyakarta: Kanisius, 2007), 252.

<sup>11</sup> Article 22A of the Constitution of the Republic Indonesia Year 1945.

(3), article 58 paragraph (2) and article 98 paragraph (1) and paragraph (2).<sup>12</sup> Article 36 paragraph (3) states that in the preparation of local legislation programs (prolegda) in the provincial government, district/city are coordinated by the legal department and can include vertical agencies. Article 58 paragraph (2) states that the harmonization, rounding, and strengthening of the conception of draft provincial regulations, districts/cities derived from governors, regents/mayors are carried out by ministries or special institutions that organize government affairs in the field of the establishment of legislation. Article 98 paragraph (1), in each stage of the establishment of legislation involves the drafting of legislation.<sup>13</sup> Then paragraph (2) contains provisions on the participation and development of the drafting of legislation as referred to in paragraph (1) regulated by a Government Regulation. Then in the provision of Government Regulation Number 59 Year 2015 concerning the Participation of the Drafter of Legislation and its Development article 5 paragraph (2),<sup>14</sup> stating that the participation of the drafter of the legislation as referred to in paragraph (1), is carried out from the planning, preparation, discussion, ratification or determination and invitation stage. As mentioned above, the Ministry of Law and Human Rights of the Republic Indonesia and/or the Regional Office of the Ministry of Law and Human Rights as a vertical institution of the ministry dealing with legal affairs participates responsibly in the planning and

<sup>12</sup> Law Number 15 Year 2019 concerning the Establishment of Legislation (Statute Book of 2019 Number 183).

<sup>13</sup> Article 98 Paragraph (1) of Law Number 12 year 2011 concerning the Establishment of Legislation (Statute Book of 2011 Number 82).

<sup>14</sup> Government Regulation Number 59 Year 2015 concerning the Participation of the Drafter of Legislation and its Development (Statute Book of 2015 Number 186).

preparation of local regulations as an effort to create an integrated, planned and sustainable national law.<sup>15</sup>

Related to the harmonization activities of the local regulation draft, in the provisions of Law Number 15 Year 2019 concerning the Amendments of Law Number 12 Year 2011 concerning the Establishment of Legislation article 99A it is explained that in the circumstances of the establishment of ministers or special institutions dealing with government affairs in the establishment of legislation, these duties and functions remain in the minister in charge of legal affairs, namely the Ministry of Law and Human Rights and/or the Regional Office of the Ministry of Law and Human Rights as a vertical institution in the region. Because it should be in an effort to realize a planned national law, and sustainable, the Ministry of Law and Human Rights is responsible in the establishment of existing regulations in the region, but it seems that it has not been implemented properly and effectively, because it is firmly in Law Number 12 Year 2011 before the change, the role of the Regional Office Ministry of Law and Human Rights in harmonization activities is only limited to the needs of the local government legal section as a coordinator in harmonization activities of the local regulation draft, this is due to the phrase "can include"<sup>16</sup> which is interpreted as discretionary and optional as long as it is needed from the user, namely the legal part of the local government as a

<sup>15</sup> Article 9 Paragraph (3) of Law Number 39 Year 2008 concerning the Ministry of State (Statute Book of 2008 Number 166).

<sup>16</sup> Article 58 Paragraph (2) of Law Number 12 Year 2011 concerning the Establishment of Legislation (Statute Book of 2011 Number 82).

coordinator as well as a harmonizator in the program activities of the formation of local regulations (propemperda).

Therefore, from some of the explanations previously described above, the author is motivated to conduct further comprehensive research related to the role of the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in harmonizing the local regulations draft before the establishment of special institutions or agencies that hold government affairs in the field of the establishment of legislation in the legal section of the local secretariat of the Central Lombok district government with the title Role of the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in Harmonization the Local Regulations Draft.

## **B. Problem Limitation**

To limit the problems contained in this research as an effort to strengthen operations during the research so as not to widen, the limitation of the problem is focused on the harmonization activities of local regulation draft that carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in the Central Lombok district government.

## **C. Statement of Problem**

Based on the background that has been presented above, to limit the problems in this paper so that it can be arranged systematically and targeted, then the formulation of problems that will be examined in this research are:

1. How the effectiveness of harmonization the local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in Central Lombok regency?
2. What is the opinion of *siyasah dusturiyah* towards the harmonization of local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara?

#### **D. Objective of Research**

based on the problem formulation above, the objectives to be achieved in this study:

1. To describe the effectiveness of harmonization the local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in Central Lombok regency.
2. To analyze the opinion of *siyasah dusturiyah* towards the harmonization of local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara.

#### **E. Benefit of Research**

The usefulness or benefits of research to be achieved in generally in a study can be distinguished in 2 (two) aspects, namely theoretical aspects and practical aspects. The expected benefits of this thesis research are as follows:

##### **1. Theoretical Benefits**

This paper is expected to be useful in filling and expanding the treasures of science among academics in the field of law, especially Constitutional of Law in its study related to the establishment of local

regulations and the process of harmonization the local regulation draft carried out by the Ministry of Law and Human Rights and/or the Regional Office of the Ministry of Law and Human Rights at the district and provincial levels.

## 2. Practical Benefits

The results of this study are expected to contribute thought to practitioners, legal drafters, local governments and Regional Offices of the Ministry of Law and Human Rights related to harmonization of local regulation draft at the district and/or provincial levels conducted by the Regional Office of the Ministry of Law and Human Rights.

## F. Operational Definition

Operational definition is a definition to limit understanding as a guideline in conducting research. This restriction refers to the target activities, concepts, places and times of action, action or concrete implementation of an activity. This definition can also be referred to as a subjective definition,<sup>17</sup> as this definition is composed based on the wishes of the person who is about to conduct the research. To limit variables, it is necessary to parse the definition as follows:

### 1. Effectiveness

Etymologically the word effectiveness comes from the word effective which means influence, effect or effect.<sup>18</sup> Terminology effectiveness is a state that indicates the level or measure of success of an

<sup>17</sup> Fajlurrahman Jurdi, *Legal Logic*, (Jakarta: Prenadamedia Gruf, 2017), 118.

<sup>18</sup> Great Dictionary of Indonesian.

action in a certain way by a particular person with a specific purpose. The formula of effectiveness is if the activities carried out by a person (actual output) with the goal that expected to be achieved (target output) compared to less than one ( $<1$ ), then the effectiveness is not achieved, on the contrary if the actual output with the target output is more than one ( $>1$ ), then the effectiveness is achieved. Thus, the operational definition of effectiveness is interpreted as a measure of how well and how far the influence of the role of a person or organization in realizing goals or what expected to be achieved, in accordance with the plan, the provisions of time and place in realizing what is expected.

## 2. Regional Office Role

The Ministry has a duty to assist the president in conducting government affairs in certain fields, among government affairs is the field of law. The Ministry in carrying out government affairs plays a role in formulating, establishing, implementing policies, supervising the implementation of tasks in their fields as well as carrying out technical activities from the center to the region. The ministry in charge of assisting the president in organizing government affairs in the field of law and human rights is the Ministry of Law and Human Rights. Duties and functions in the field of law is a very crucial and strategic role in order to realize national law, legal functions, enforce the law, create a legal culture, and establish

legislation that is fair, consistent, not discriminated against, not gender biased and the main thing is to pay attention to human rights.<sup>19</sup>

The Regional Office of the Ministry of Law and Human Rights as a vertical agency of the Ministry of Law and Human Rights serves as a legal supervisor in the region. The role of the Regional Office of the Ministry of Law and Human Rights through the sub-division of facilitation the formation of Local Regulation products is to carry out facilitation in the design of existing legal products in the region by preparing materials for the construction and control of the implementation of technical tasks, cooperation, monitoring, evaluation and preparation of reports on the implementation of technical tasks in the field of facilitation of the preparation of local regulations and academic texts, facilitation of the preparation and harmonization of local regulation draft, legal problem maps, legal studies/research, mediation and consultation as well as inventory of Local Regulation products.

### 3. Harmonization of Local Regulations Draft

Harmonization is an activity in an effort to seek harmony or harmonization.<sup>20</sup> Harmonization of the local regulation draft is a process directed towards harmony between one norm of law and other laws and regulations to avoid overlap, inconsistencies and conflicts between norms one another. As it is known that a good legislation can be assessed if it

<sup>19</sup> Taufik H. Simatupang, "the Role of the Drafter of Legislation of the Regional Office of the Ministry of Law and Human Rights in the Framework of Harmonization of Regional Regulations," *Jikh*, Vol. 11 (2017): 14.

<sup>20</sup> Great Dictionary of Indonesian.

meets the principles of legislation, among others, clarity of purpose, conformity between the type and material content, can be implemented, usefulness and effectiveness.<sup>21</sup> Harmonization the local regulation draft requires accurate thoroughness and accuracy in identifying regulations related to the analysis of norms and political accuracy of the law in the conception of local regulations draft. In order to do so, it needs to be integrated since the discussion of local legislation program (prolegda) or local regulation formation program (propemperda). Thus, Harmonization local regulations draft is a process of alignment, adjustment between one legislation and other laws and regulations in the program of the formation of local regulations as an effort to avoid conflict of norm, overlap and inconsistencies between laws and regulations before it is determined to avoid cancellation.

#### 4. *Siyasah dusturiyah*

In an effort to emphasize the definition of operations in the *fiqh siyasah dusturiyah* in this paper is focused on the concept of *wizarah* or ministry. *Wizarah* etymologically comes from word *al-wizru* which means burden, this is because a vizier carries the burden of a head of state. *Wizarah* can also be derived from the word *al-wazar* which has a place to return or run, because it is likened to a head of state who always returns to the opinion and help of a vizier.<sup>22</sup> One sense that may be a common thread

<sup>21</sup> Article 5 of Law Number 12 Year 2011 concerning the Establishment of Legislation (Statute Book of 2011 Number 82).

<sup>22</sup> Abu Hasan al-Mawardi, *al-Ahkam as-Sulthaniyah wa al-Wilayatul al-Diniyah*, (Egypt: Mustafha al-Asabi Halabi, tt), 5.

related to this concept of *wizarah* is that a head of state can appoint his servants (viziers) or *wazir* and then hand over some of the power he has to his servants to carry out certain tasks, of course with the aim that the tasks of a priest who is heavy enough can be carried out properly, effectively and efficiently in order to achieve the benefit of the people.

The operational definition of *siyasah dusturiyah* in terms of *wizarah* or commensurate with the ministry in Indonesia as an aide to the president as mandated by the provision of the Constitution of the Republic Indonesia Year 1945 article 17 which says that the president is assisted by ministers of state.<sup>23</sup> Thus, it is then conceptualized against the ministries that organize government affairs in the field of law, namely the Ministry of Law and Human Rights in carrying out government duties (*bestuurer*) formed to assist the duties of the president (executive), both as the head of state and the head of government, especially those related to the implementation of tasks in the field of development of the national legal system.

#### **G. Structure of Discussion**

The systematics of writing in this paper is a series of descriptions with the system of discussion in a scientific paper. This is made so that the systematics of this writing are neatly arranged so that the readers can understand the content of this writing easily. This paper refers to the systematics contained in the scientific writing manual of the Syari'ah Faculty of the State Islamic University Maulana Malik Ibrahim of Malang. In this

---

<sup>23</sup> Article 17 of the Constitution of the Republic Indonesia Year 1945.

paper there are 5 (five) chapters in total consisting of introductions, literature studies, research methods, research and discussion results, closings and library lists. Therefore, in an effort to maintain the integrity of the discussion in order to be organized systematically and targeted, researchers use the writing systematics as follows:

### **BAB I Introduction**

In this chapter are contains an introduction consisting of a background of research description, problem formulation in the form of questions, objectives and benefits of research as the reason and the urgency of the research, operational definitions in order to understand each word in the title of the research, and systematics of writing in order to know the content of the part in this research.

### **BAB II Literature Review**

This chapter contains the specificity and originality of the research to be done, evidenced by the exposure of previous research in the form of tables with details of titles, names, differences and similarities as well as a description of the theoretical framework in the form of legal effectiveness and the concept of *siyasah dusturiyah*.

### **BAB III Method of Research**

This chapter contains research methods that used in this research consisting of exposure to research types, research approaches, research locations, types of data and data sources in research, data collection methods, and data collection techniques.

#### **BAB IV Discussion of Research Findings**

In the chapter of discussion of research findings are to answers to the formulation of problems in this research in the form of harmonization process of local regulations description of the effectiveness of harmonization local regulations draft conducted by the Ministry of Law and Human Rights and analysis of the opinion of *siyasaah dusturiyah* against the harmonization of local regulations draft carried out by the regional office of the Ministry of Law and Human Rights.

#### **BAB V Closing**

In this closing chapter are contains the conclusions from the results of the study or research findings with 2 (two) problem formulations as well as exposure to the author's advice that has been summarized based on the problem formulation of this study.

#### **Bibliography**

This bibliography chapter is the lists of all references or references sourced in the process, discussion, analysis to the stage of preparing the results and discussion of this research.

## BAB II

### LITERATURE REVIEW

#### A. Previous Research

In order to prove the originality and ionization of the research that will be conducted with the other research that discusses the same thing or similar thing, but of course with some variety of tendency and different concentrations, so that way, then the author will present some previous research conducted as follows:

1. Research conducted by **Hafiz Andi Sadewo**, a student of the Constitutional of Law Department, Faculty of Law, Brawijaya University, Year 2015 entitled "the Urgency of Harmonization and Synchronization of Local Regulations in the Establishment of Participatory Local Regulations (Study in the Legal Section of the Local Secretariat of Kediri City Government). This research is a type of empirical juridical research located in the legal section of the Kediri city government by using a comparative approach to the harmonization activities that conducted in the House of Representatives of the Republic Indonesia (DPR RI).<sup>24</sup>
2. Research conducted by **Muhammad Hasan** (part of the law of the local government North Sulawesi), **La Sensus** and **Kamaruddin Jafar** (graduate student of Halu Oleo University) in the journal Halu Oleo Legal Research, Faculty of Law, Halu Oleo University with the title "Implementation of

---

<sup>24</sup> Hafiz Andi Sadewo "the Urgency of Harmonization and Synchronization of Regional Regulations in the Establishment of Participatory Regional Regulations", Scientific Journal, (2015).

Local Regulation Without Facilitation Procedures in the Establishment of Local Regulations". This research is a type of normative legal research. The approach used is a normative juridical approach with primary legal materials in the form of legislation related to research topics as well as secondary legal materials that provide explanations on primary legal materials, which include documents, books, papers, research reports and other legal materials relevant to this research material.<sup>25</sup>

3. Research conducted by **Dimas Nurkholbi** Graduate Student, Constitutional of Law Department, State Islamic University Sunan Ampel Surabaya, Year 2019 with the title "Analysis of Fikih *Siyasah dusturiyah* on the Process of Forming Legislation in Indonesia". This research is a type of normative legal research using a statutory research approach (statue aproach). The legal material of this paper is sourced from primary and secondary materials. Primary sources in the form Constitution of Republic Indonesia Year 1945, TAP MPRS Number XX/MPRS/1966, Presidential Decree Number 188 Year 1998, Law Number 10 Year 2004 and Law Number 12 Year 2011. Secondary material in the form of anything that can explain the primary legal material that includes, the thesis of the constitutional of law and journals from various sources of books related to the themes raised in this study.<sup>26</sup>

<sup>25</sup> Mohammad Hassan, La Senu, Kamaruddin Jafar, "the Implementation of Regional Legal Products Without Going Through Facilitation Procedures in the Establishment of Local Regulations", Halu Oleo Legal Research, Vol. 1 (2019).

<sup>26</sup> Dimas Nurkholbi, "Analysis of Fikih *Siyasah dusturiyah* on the Process of Forming Legislation in Indonesia" (Thesis, Sunan Ampel State Islamic University Surabaya, 2019).

**Table 1.**

## Previous Research

No	Title	Legal Issues	Difference	Novelty
1.	The Urgency of Harmonization and Synchronization of Local Regulations in the Establishment of Participatory Local Regulations (Study in the Legal Section of the Local Secretariat of Kediri City Government)	The urgency of harmonization and synchronization of local regulations in the establishment of <i>pertisfatif</i> local regulations	The research that the author wants to do is related to the process of harmonization activities of the local regulation draft carried out by the Regional Office of the Ministry of Law and Human Rights.	Focusing more on the process of harmonization activities local regulation draft carried out by the Regional Office of the Ministry of Law and Human Rights before the establishment of ministers or special institutions dealing with the affairs of the formation of legislation.
2.	The Implementation of Local Law Products Without Facilitation Procedures in the Establishment of Local Regulations.	The implementation of local law products without going through facilitation procedures in the establishment of local regulations.	Research that the author wants to do is part of the duties and functions of facilitation the Ministry of Law and Human Rights in the establishment of local regulations namely harmonization of the local regulation draft.	Novelty in this research is the task of facilitating the Ministry of Law and Human Rights in the establishment of local regulations, namely harmonization of the local regulation draft before it is enacted.
3.	Analysis of <i>Fikih Siyasah dusturiyah</i> on the Process of forming Legislation in Indonesia	Analysis of jurisprudence <i>siyasah dusturiyah</i> to the process of forming legislation in Indonesia	Researchers want to conduct research focused on how <i>siyasah dusturiyah</i> against harmonization of the local regulation draft in the formation of local regulations	Novelty of the research is in the process of forming legislation, especially at the harmonization stage of the local regulatory perspective <i>siyasah dusturiyah</i> .

## B. Theoretical/Conceptual Framework

### 1. Theory Effectiveness of Law

Talking about the effectiveness of the law is to talk about the main elements in an effort to achieve a goal with the means used in an activity. The law can be called effective if it runs in accordance with the purposes and ideals of the law.<sup>27</sup> The effectiveness of the law is closely related to the process of law enforcement and enforcement efforts to achieve a objective of law philosophically, juridically and sociologically. One of the functions of law as a rule or as an attitude or behavior is to guide human behavior in accordance with goals and ideals. The influence of the law will not only cause a sense of obedience or obedience to the law itself, but also more broadly include the overall effect of the law on people's attitudes, actions or behaviors, be it positive behavior or negative behavior. Meanwhile, factors that can affect the effectiveness of the law include, among others, as follows:<sup>28</sup>

#### a. Legal Factors

The legality of must contain elements of justice, certainty and benefit. However, in practice it is not uncommon for conflict between the three, so, because legal certainty is concrete and clear that is tangible in the form of rules in the law, while the justice sifanya abstract and

<sup>27</sup> Barda Nawawi, *Capita Selection of Criminal Law*, (Bandung: Citra Aditya, 2003), 85.

<sup>28</sup> Soerjono Soekanto, *Principles of Legal Sociology*, (Jakarta: PT Raja Grafindo Persada, 2007), 110.

invisible, so that when a judge decides a case by applying the law alone, then there are times when the value of justice can not be achieved. Therefore, when we look at a legal issue, it is justice that should be the top priority. Legal issues are not only seen only from a written legal point of view, but must always consider other factors that develop widely in society. Justice, too, is still a tough debate because justice itself contains subjective elements that depend heavily on the subjective internal values of each person.

#### b. Law Enforcement Factors

Law enforcement is the parties that form or apply the law or parties involved in the law enforcement process. A law or regulation can be run effectively if the role of law enforcement officers is in accordance with what is expected by law and otherwise the law or regulation becomes ineffective if the role performed by law enforcement is far from what the law expects.<sup>29</sup> The parties involved in law enforcement are law enforcement officers who have the capacity to provide certainty, justice and legal benefit proportionately. Law enforcement official is in a narrow sense can be refer to the police, the prosecutors, the judiciary, the legal advisors and prison wardens. Each law enforcement officer is given the authority to carry out their respective duties including the activities of receiving reports, investigations, investigations, prosecutions, evidence, sentencing and sanctioning as well as efforts to re-foster convicts. There

---

<sup>29</sup> Soerjono Soekanto, *Factors Affecting Law Enforcement*, (Jakarta: PT Raja Grafindo Persada, 2005), 9.

are 3 (three) important elements that can affect the working or in running the mechanism of law enforcement officers and apparatus, among others will be described below:

- 1) Law enforcement institutions along with their devices, facilities and infrastructure to support the mechanism of action and working of their institutions;
- 2) Working culture related to its apparatus or officers, including on the welfare of its officers; and
- 3) Regulatory devices that support institutional performance as well as those that regulate legal materials, both material laws and *formil* laws or the laws of the event.

c. Legal Facilities or Facilities Factors

Supporting facilities can simply be interpreted as a means to achieve goals. The scope of the facility is primarily a physical means as a supporting factor. These supporting facilities include educated and skilled human resources, good organization, adequate equipment, adequate finance, and other physical facilities as needed. However, in addition to the availability of supporting facilities, maintenance, it is also very important to maintain the continuity of the running of a legal provision because what often happens is a regulation or law has been enabled, but in fact the supporting facilities are not yet fully available. This condition will only cause counter-productive congestion due to the lack of adequate facilities.

#### d. Community Factors

Law enforcement aims to achieve peace in the community however, on the other hand the community also has a certain view about the law. That is, the effectiveness of the law or the enactment of a provision of the law also depends on the willingness and legal awareness of the community itself. Low legal awareness of the community will complicate law enforcement, as for the step in raising legal awareness society that can be done is socialization by involving social layers, power holders and law enforcement itself. Thus, in the formulation of the law must also always keep an eye on the relationship between social changes and the provisions of the law that can ultimately create laws that run effectively as a means of regulating community behavior.

#### e. Cultural Factors

Cultural factors are essentially unified with the community factor but deliberately distinguished, because in the discussion emphasizes the problem of the system of values that become the core of spiritual or non-material culture. As a system or subsystem of the social system, the law covers structure, substance, and culture. The structure covers the order of formal legal institutions, the law between these institutions, the rights and obligations and others.<sup>30</sup> The law has a direct and indirect influence in encouraging social cultural change. Ways to influence the behavior of the community with an orderly and planned

---

<sup>30</sup> Soerjono Soekanto, *Principles of Sociology of Law*, 111.

system called social engineering or social planning.<sup>31</sup> In order for the law to truly affect the behavior or culture of the community, then the law must be disseminated, thereby institutionalizing it in the community itself. The existence of means of communication with certain communities is one of the requirements for the dissemination and institutionalization of the law. It was stated by Soerjono Soekanto, that a culture of community law is considered in accordance with the law, if the attitude of other acts of behavior horns towards the desired goal by the provisions of the law.

## 2. Regulations Related to the Harmonization of Local Regulation Draft

Regarding the planning and preparation of local regulations as mandated by the Constitution of the Republic Indonesia Year 1945 the second amendment in article 22A that in further provisions on the procedures for the establishment of a law is regulated by law. Therefore, arrangements related to harmonization activities of the local regulation draft that are part of the establishment of regulation activities so that can be found in several law descirbed above:

a. Law Number 12 Year 2011 *juncto* Law Number 15 Year 2019 concerning the Establishment of Legislation

1) Article 36 paragraph (3) states that in the preparation of provincial regulation legislation program or *propemperda* in the provincial government environment is coordinated by the legal section and can

---

<sup>31</sup> Soerjono Soekanto, *Legal Awareness and Legal Compliance*, (Jakarta: Rajawali Press, 1982), 115.

include vertical institutions. This provision applies *mutatis mutandis* to the planning of the preparation district/city regulations.

2) Article 58 paragraph (2) states that in the harmonization, rounding and strengthening of the conception of provincial regulations draft derived from the governor is carried out by ministries or special institutions that organize government affairs in the field of the establishment of legislation. This provision applies *mutatis mutandis* to the preparation of district/city regulations

3) Article 99A states that in the circumstances of the establishment of sealing or special institutions that organize government affairs in the field of the establishment of legislation, the duties and functions of the establishment of legislation are still carried out by the ministry that organizes government affairs in the field of law.

b. Regulation of the Minister Domestic Affairs Number 80 Year 2015  
*juncto* Regulation of the Minister Domestic Affairs Number 120 Year 2018 concerning the Establishment of Local Regulation Products

1) Article 30

paragraph (1) stated, the provincial secretary assigns the head of local device dealing with provincial law to coordinate the harmonization, rounding and strengthening of the conception of provincial local regulation draft as referred to in Article 29.

Paragraph (2) stated, in coordinating the harmonization, rounding and strengthening of the conception of the local regulation draft as referred

to in paragraph (1), the head of local devices dealing with provincial law can include vertical agencies from ministries that conduct government affairs in the field of law.

## 2) Article 31

Paragraph (1) stated, the provincial local secretary conveys the results of harmonization, rounding and strengthening the conception of the local regulation draft as referred to in Article 30 to the initiators and leaders of the relevant provincial devices, to obtain approval on each page of the draft provincial regulations.

Paragraph (2) stated, the provincial secretary submits the provincial regulation draft that has obtained the approval as referred to in paragraph (1) to the governor.

Paragraph (3) stated, every local regulations draft that are the final concept that will be submitted to the DPRD must be presented first by the team leader to the governor.

c. Presidential Regulation Number 87 Year 2014 concerning the Implementing Regulation of Law Number 12 Year 2011 concerning the Establishment of Legislation.

## 1) Article 35

Paragraph (1) states that, the preparation of regulation legislation program or *propemperda* in the provincial government environment is coordinated by the legal section.

Paragraph (2) states that, the preparation regulation legislation program or *propemperda* as referred to in paragraph (1) may include related vertical institutions.

Paragraph (3) relates that, the relevant vertical institution as referred to in paragraph (2) consists of:

- a) Vertical institutions of ministries that conduct government affairs in the field of law; and/or;
- b) Related vertical agencies corresponding to:
  - I. Authority;
  - II. Content material; Or
  - III. Needs.

Paragraph (4) states that, the results of the preparation regulation legislation program or *propemperda* as referred to in paragraph (1) are submitted by the legal department to the governor through the provincial secretary.

### 3. *Siyasah Dusturiyah*

*Fikih siyasah dusturiyah* etymologically composed from 3 (three) combined words are word *fiqh*, *siyasah* and *dusturiyah*. *Fiqh* term is defined as a collection of practical laws resulting from the *fukaha* efforts in establishing islamic *syari'ah* in accordance with the needs of the community excavated through the method of *ijtihadi (ijtihad)* obtained from detailed evidences. Meanwhile, *siyasah* means to regulate, manage, control, rule and make policy. The definition of *siyasah* according to Abdul Wahab Khalaf is

interpreted as a law because of its function as a maintenance of benefit, order and state regulation. Also, the term *siyasah* is not far away by Djazuli that quoted by Beni Ahmad Saebani in *Fiqih Siyasah*, namely:<sup>32</sup>

تدبير مصالح العباد وقف علي الشرع

*"The management of the benefit of mankind in accordance with syara"*

From the opinions that have been expressed in principle *siyasah* is the activity of regulating and taking care of society and the state with the aim of achieving benefit and keeping away from damages or *mafsadah*. Furthermore, the word *dusturiyah*, *dusturiyah* etymologically can be matched with the constitution in the Indonesian language, terminology is interpreted as a document containing principles in regulating a state affairs. Meanwhile, the opinion expressed by Muhammad Syafieq Gobral related to the term *dustur* is interpreted as follows:<sup>33</sup>

الدستور: القواعد الأساسية للحكم في أية دولة كما تدل عليها قوانينها و نظمها و عاداتها

*"Dustur is the core principles for the government of any country as proven and demonstrated in its laws, regulations and customs"*

Similarly, the definition stated by Abu al-A'la al-Maududi as quoted by Prof. Djazuli in his book, defines the word *dustur* with:<sup>34</sup>

<sup>32</sup> Beni Ahmad Saebani, *Fikih Siyasah Introduction to Islamic Political Science*, (Bandung: CV Pustaka Setia, 2007), 25.

<sup>33</sup> Muhammad Syafieq Gobral, *al-Mansu'ah al-Arabiyah al-Muyassarah*, (al-Qhoirah: Daru Qolam, 1965), 794.

<sup>34</sup> Prof. H.A. Djazuli, *Fikih Siyasah Implementation of People's Benefit in Sharia Signs*, 52.

صك ينطوى على القواعد الأساسية التي يقوم عليها نظام الدولة

"A document containing the principles of the principal or basis on which a country is based or principled".

From the two understandings above, it can be concluded that the words *dustur* can be matched with *constitutio* in English or the *Undang-Undang Dasar* in Indonesian. Thus, the understanding of the terminology of the combination of the word *fiqh*, *siyasah* and *dusturiyah* can be interpreted as a science that refers to the practical law that is needed by the community or *amaliah* law from the efforts of the *fukaha* or *ijtihad fukaha* in regulating, managing and maintaining the community and state in order to always bring benefit to the people and keep away from *mafsadah* or damage in accordance with the provisions of Islamic law and the rules on synchronization and harmonization of a law in a country.<sup>35</sup>

The issue and scope of discussion in the study of *fiqh siyasah dusturiyah* in general is about the relationship between the leader and his people and the institutions in the community. But, of course this is a very broad and complex thing to discuss. However, in generally the study includes the following about:<sup>36</sup>

- a. Issues and scope (discussion);
- b. The question of *imamah*, his rights and obligations;

<sup>35</sup> Prof. H.A. Djazuli, *Fikih Siyasah Implementation of People's Health in Syariah Signs*, (Jakarta: Kencana, 2003), 53.

<sup>36</sup> Prof. H.A. Djazuli, *Fikih Siyasah Implementation of People's Health in Syariah Signs*, 47.

- c. People's issues, status and rights;
- d. *Bai'at* problem;
- e. The issue of *waliyul ahdi*;
- f. Representative issues; and
- g. The issue of *wizarah* (ministry) and its comparison.

On the other perspective or the other opinion about the scope, the more common divisions in the discussion of fiqh *siyasah dusturiyah* can be classified as follows:

- a. The field of *siyasah tasyri'iyyah*, in this study includes the issue of *ahlu al-halli wa al-aqdi*, representatives of people's issues, *muslim* community relations with non-*muslin* in a country regulated in the constitution, laws, implementing regulations, local regulations and so on.
- b. The field of *siyasah tanfidiyyah*, covering the issue of *imamah*, *bai'ah*, *wizarah*, *waliy al-ahdi* and others.
- c. The field of *siyasah qadhaiyyah* covering problems in the field of justice.
- d. The field of *siyasah idariyyah* which covers problems in the field of administration and staffing.

Among the scope of the discussion *siyasah dusturiyah* as described above, in this paper researchers pay attention to the concept of *wizarah* or ministry that will help researchers in analyzing the effectiveness of harmonization of local regulation draft carried out by the Regional Office of the Ministry of Law and Human Rights. *Wizarah* in terms of language comes from the word *al-wizru* which means burden, because a vizier carries

the burden of the head of state, can be derived also from the word *al-wazarbarti* place of return or running, because likened to a head of state always returns to the opinion and help of his vizier, can also be from the word *al-azru* which means back, because a head of state is always supported by his vizier, as the human body is always strengthened and supported by the back.<sup>37</sup> In general, the scholars took the basis of the ability of this concept of *wizarah* based on the following evidences:<sup>38</sup>

a. The Word of Allah SWT Q.S Thoha verse 29:

و اجعل لى وزيرا من أهلى، هارون أخى، اشدد به أزرى، و أشركه فى أمرى

*"And appoint for me a vizier from my family, my brother Harun, strengthen my strength with him, and make him an all in my affairs."*

b. The practical reason that, the *imam* as the head of state or head of government is not possible to carry out all his duties without a vizier or minister who helps, so to minimize errors and mistakes and can be better in its implementation.

Departing from this, a concept that may be a common thread related to the concept of *wizarah* is that the head of state both and head of government can appoint his aides and hand over some of the power that is to him to his servants namely the vizier with the aim that the duties of the priest can be carried out properly for the sake of mutual benefit.

<sup>37</sup> Abu Hasan al-Mawardi, *al-Ahkam as-Sulthaniyah wa al-Wilayatul al-Diniyah*, (Egypt: Mustafha al-Asabi Halabi, tt), 5.

<sup>38</sup> Abdul Qadr Audah, *al-Islam wa Audha'una al-Siyasah*, (Cairo: Darul Kitab al-Arabi, 1951), 101.

### BAB III

#### METHOD OF RESEARCH

Research method is a way of conducting research by using the mind carefully and regularly in order to achieve a goal that is by searching, recording, formulating and analyzing up to the stage of compiling a report.<sup>39</sup>

##### A. Type of Research

This type of research in this study is the empirical juridical research which is the legal research that directly plunges into the field or in other words examines the implementation of the law or one regulation.<sup>40</sup> Thus, the research in this paper to find out the effectiveness of the harmonization local regulations draft activities that carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in the legal section of the local secretariat of the Central Lombok district government is an empirical juridical research because it study or examines the implementation of law which provision about the harmonization local draft activities (normative in action). After all the required data is collected and then identified to be able to solve the problem.<sup>41</sup>

##### B. Research Approach

In the research, to answer the problem is inseparable from the approaches that used. The approach in this study is used a sociological juridical which approach by identifying and conceptualizing the law as a real and

<sup>39</sup> Cholid Narbuko and Abu Achmadi, *Research Methodology*, (Jakarta: PT Bumi Aksara, 2003), 1.

<sup>40</sup> Abdulkadir Muhammad, *Law and Legal Research*, (Bandung: Citra Aditya Bakti, 2004), 134.

<sup>41</sup> Bambang Waluyo, *Legal Research in Practice*, (Jakarta: Sinar Grafika, 2002), 15.

functional social institution in real life.<sup>42</sup> This approach emphasizes to be able to know the facts of the law by observing and plunging directly into the objects studied, in order to know the facts in real life or in the field.

### C. Research Location

The selection of research locations is very important to clarify the direction and limit the scope of studies on the research proces, so as not too widen. The location of the research in this paper is in the legal section of the local secretariat of the Central Lombok district government as a coordinator on the activities of the local regulation legislation program (*propemperda*). The selection of the location of this research was motivated by several factors, among others is the lack of human resources and infrastructure in the legal section of the Central Lombok district government which resulted in a lack of coordination of the harmonization of the local regulation draft activities with the Ministry of Law and Human Rights Regional Office West Nusa Tenggara. According to data obtained in pre-research at the Ministry of Law and Human Rights, that until now as stated by Mr. Riky as the Drafter Law of Regional Office Ministry of Law and Human Right of West Nusa Tenggara, the legal section of the Central Lombok district government has never harmonized the local regulation draft in the Ministry of Law and Human Rights,<sup>43</sup> Meanwhile, the pretext of not harmonizing the local regulation draft in the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in the legal section of the Central Lombok local government is the absence of binding and the clear

<sup>42</sup> Sorejono Soekanto, *Introduction to Legal Research*, (Jakarta: Penertbit Universitas Indonesia Press, 1986), 51.

<sup>43</sup> Riky, Interview, (Mataram, 27 Novemer 2020).

rule of law that ruled comprehensively and complex *sui generis* related to the order harmonization of the local regulation draft activities in the Ministry of Law and Human Rights Regional Office of West Nusa Tenggara, so that's way, so far the harmonization the local regulation draft activities in the Ministry of Law and Human Rights by the legal section of the Central Lombok district government has not been done.<sup>44</sup> Meanwhile, as evidence of harmonization activities of the local regulation draft in the district of West Nusa Tenggara in the form of application letters and letters of harmonization of the local regulation draft Dompus district, as follows:

**Figure 1.**

Letter of Application for Harmonization raperda Dompus



**Figure 2.**

Harmonization Results raperda Dompus



<sup>44</sup> Efendy, Interview, (Central Lombok, 6 October 2020).

#### D. Data Sources

In a study to be able to solve the problems with legal issues, legal research data sources should be needed that namely can be primary, secondary and tertiary data.<sup>45</sup> The data sources in this study are:

##### 1. Primary Data

Primary data is a data obtained directly from the main or first source or primary directly related to the problems that will be discussed in this study.<sup>46</sup> The primary data was obtained by conducting observations and interviews to the parties directly involved, namely the legal section of the Central Lombok district government and the Ministry of Law and Human Rights Regional Office West Nusa Tenggara as parties related to harmonization activities of the local regulation draft within the Central Lombok regency government.

##### 2. Secondary Data

Secondary data is data that can provide explanation of primary data, in the form of research results, scientific work from legal circles, articles, books and journals that have relationships and can provide explanations on the topic of research to be done.

##### 3. Tertiary Data

Tertiary data is data that can provide guidance and explanation of primary data and secondary data, such as diss, encyclopedias, cumulative

<sup>45</sup> Soerjono Soekanto and Sri Mamudji, *Normative Legal Research, a Brief Review*, (Jakarta: Raja Grafindo Persada, 2011), 13.

<sup>46</sup> Amiruddin and Zainal Askin, *Introduction to Legal Research Methods*, (Jakarta: Raja Grafindo Persada, 2004), 49.

indices and other data that can help in the operational implementation of research related to the harmonization the local regulation draft activities.

#### **E. Technique of Data Sources Collection**

The method or technique of data source collection is very closely related to the research problem to be solved. Based on empirical benefits, that qualitative data collection is most independent of all methods of data collection is by conducting interviews, observations, documentation and combined.<sup>47</sup> The research instrument in this method is the author himself, namely the extent to which the author can understand and read the symptoms he studied:<sup>48</sup>

1. Observation is by conducting observations not involved or involved (non/participant observation) to the object that studied, namely in harmonization the local regulation draft activities to know the facts of the field that studied.
2. Interview is a process of data collection through direct question and answer arranged systematically, clearly and targeted in accordance with the legal issues raised and the purpose of research conducted to the parties involved and related in harmonization of the local regulation draft activities in the Central Lombok district government, namely to:
  - a. Mr. Abdi Manap as Head of Legal Section of The Local Secretariat of Central Lombok Regency which has the capacity as coordinator in the local regulation legislation program (propemperda).

<sup>47</sup> Satori and Komariah, *Qualitative Research Method*, (Bandung: Alfabeta, 2012), 103.

<sup>48</sup> Ashofa, *Legal Research Method*, (Jakarta: Rieneke Cipta, 2010), 58.

- b. Mr. Andi Dahrif Rafied as the Head of Regional Office of the Ministry of Law and Human Rights of West Nusa Tenggara with the capacity to implement the harmonization of local regulation draft before the formation or establishment of the ministers or special institutions that handle the establishment of legislation affairs.
3. Documentation is a technique carried out by studying legal materials such as laws and other materials in the form of documents related to the study of primary and secondary data libraries which are then studied in depth around the legal events.<sup>49</sup>

#### **F. Data Analysis**

Data processing is done by arranging, categorizing and classifying data systematically, so that it can connect data with each other. After connecting the primary data obtained in the field with secondary data it is then interpreted based on the researcher's perspective. Qualitative data analysis techniques, namely by grouping and selecting data obtained from field research according to quality and truth and then compiled systematically, which is further examined by deductive thinking methods are connected with theories and concepts useful to answer the problem formulation in this research. The results of data analysis from the research results will be arranged systematically by grouping the data qualitatively, so that the results of the analysis will be presented with qualitative descriptive form.<sup>50</sup>

<sup>49</sup> Soerjono Soekanto, *Summary of Empirical Legal Research Methodology*, (Jakarta: Ind-Hill-Co, 1990), 113.

<sup>50</sup> Abdulkadir Muhammad, *Law and Legal Research*, (Bandung: PT Citra Aditya Bakti, 2004), 50.

## BAB IV

### DISCUSSION OF RESEARCH FINDINGS

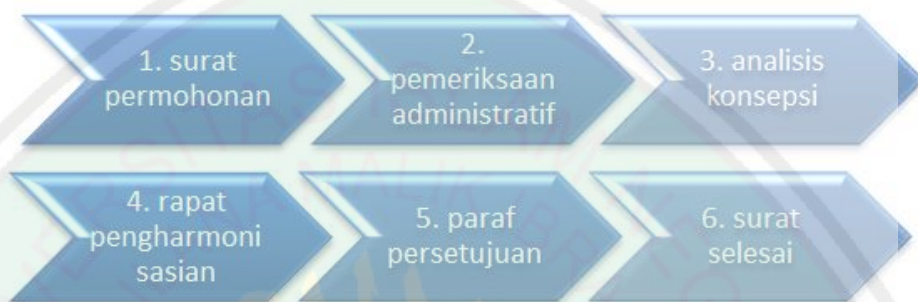
#### A. Procedure of Harmonization the Local Regulation Draft

With the amendment of Law Number 12 Year 2011 concerning the Establishment of Legislation with Law Number 15 Year 2019 concerning the Amendment of Law Number 12 Year 2011 concerning the Establishment of Legislation article 58 paragraph (2) which is an article governing the harmonization of the local regulations draft activities. The provision hints in the activities of harmonization, rounding and strengthening the conception of provincial regulations draft derived from *gubernur* carried out by ministries or special institutions that organize government affairs in the field of the establishment of legislation, this provision applies *mutatis mutandis* to the activities of harmonization, rounding and strengthening the conception of the district/city regulations draft. Furthermore, in the provisions of article 99A of the law *a quo* states that at the time of the absence the establishment of ministries or special institutions that organize government affairs in the field of the establishment of legislation, the duties and functions of the harmonization, rounding and strengthening the conception of local regulation draft are still carried out by ministers who organize government affairs in the field of law, namely here is the Ministry of Law and Human Rights.

Therefore, based on the provisions of the amendment, the Ministry of Law and Human Rights of the Republic Indonesia issued a Circular Letter of the Minister of Law and Human Rights Number M.HH-01. PP.04.02 Year

2019 concerning the Proses and Procedures the Harmonization, Rounding and Strengthening the Conception of the Local Regulation Draft containing the following are:

**Graph 1.**  
Harmonization Stages



**Source:** SE Menkumham Number M.HH-01. PP.04.02 Year 2019

1. Letter of application for the harmonization from the local government submitted to the Head of Regional Office the Ministry of Law and Human Rights by attaching the completeness of the requirements document, in the form of:
  - a. Academic manuscripts;
  - b. Decision on the establishment of committees between local devices;
  - c. Local regulation draft that have obtained the approval of all committee members between local devices, and;
  - d. Permission for the establishment of local regulation draft in the event that the local regulation draft are not included in the local regulation legislation program (propemperda).
2. Administrative examination, examination shall be conducted within a period of not later than 5 (five) working days from the date the application is

received in full by the division of legal services and human rights of the Regional Office of the Ministry of Law and Human Rights ;

3. Conception analysis, conception analysis is carried out by the drafter of legislation of the Regional Office of the Ministry of Law and Human Rights to see the clarity of conception of the substance and techniques of drafting local regulations draft or design;
4. The harmonization meeting, this meeting was conducted in order to obtain agreement and unanimity of the conception of local regulation draft by involving representatives from:
  - a. Local devices applying for harmonization;
  - b. Device related areas;
  - c. Vertical institutions, and;
  - d. Researchers and/or experts from universities.
5. Paraf approval, paraf approval is carried out by the Head of Regional Office the Ministry of Law and Human Rights then submits the draft text of local regulations that have been harmonized to the provincial and district heads/cities who have obtained paraf approval on each manuscript sheet of the local regulation draft from the deputy participants of the meeting of harmonization, rounding and strengthening the conception of local regulation draft implemented by the Regional Office of the Ministry of Law and Human Rights, and
6. Letter of completion of harmonization from the Director General of Legislation or Head of Regional Office of the Ministry of Law and Human

Rights stating that it is in sync with the laws and court decisions, and can be followed up to the next stage. The letter of completion of harmonization is submitted to the Minister of Law and Human Rights and the Directorate General (director general) of legislation as a copy or report.

**B. the Effectiveness of Harmonization the Local Regulation Draft Carried Out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in Central Lombok Regency**

The important of role the Regional Office of the Ministry of Law and Human Rights in the implementation of harmonization of the local regulation draft activities as one of the functions of facilitation of the design of local regulation products as stipulated in Law Number 12 Year 2011 *juncto* Law Number 15 Year 201 9 concerning the Amendment of Law Number 12 Year 2011 concerning the Establishment of Legislation article 36 paragraph (3) which states that in the preparation of provincial regulation legislation programs in the provincial government environment is coordinated by the legal section and can include vertical agencies. Article 58 paragraph (2) reads in the activities of harmonization, rounding and strengthening the conception of provincial draft regulations derived from the governor carried out by ministries or special institutions that organize government affairs in the field of the establishment of legislation. Article 98 paragraph (1) which states that every stage of the establishment of legislation involves the drafter of legislation, then the provision of paragraph (2) indicates the participation of the regulatory designer is regulated by government regulations. Meanwhile, in the provisions

of Government Regulation Number 59 Year 2015 concerning the Participation of The Drafter of Legislation and Its Development article 5 paragraph (2) states, the participation of the designer in the establishment of legislation is carried out at the stage of planning, preparation, discussion, ratification or determination and at the stage of invitation.

Flashback to the provisions of Law Number 15 Year 2019 concerning the Amendment of Law Number 12 Year 2011 concerning the Establishment of Legislation article 99A states that before the formation of ministers or special institutions that conduct government affairs in the field of the establishment of legislation, harmonization activities, rounding up and strengthening the conception of local regulation draft derived from governors and regents/mayors carried out by ministers who organize government affairs in the field of law. Thus, as stipulated in Law Number 39 Year 2008 concerning the Ministry of State article 9 paragraph (3),<sup>51</sup> The Ministry of Law and Human Rights plays an important role in harmonizing the local regulation draft before they are enacted in order to avoid inconsistencies and conflict of norm between one regulation and another in order to realize an integrated, planned and sustainable national legal system.

Departing from the above understanding, that the harmonized object is a Local Regulation that is still in the form of local regulation draft (ranperda), namely against, not local regulations that have been binding. So, what is and how the role of the Ministry of Law and Human Rights in the activities of

---

<sup>51</sup> Law Number 39 Year 2008 concerning the Ministry of State (Statute Book of 2008 Number 166).

harmonizing, strengthening and rounding up the conception of the local regulation draft. Planning activities of local regulation draft are part of the activities translated as Law Number 23 year 2014 concerning the Local Government article 239,<sup>52</sup> in the program of local regulatory formation activities (propemperda). The program of the establishment of local regulations or propemperda is an instrument or means of local government in the planning of the local regulation draft set out in a period of 1 (one) year based on a priority scale that is prepared in a planned, integrated and systematic before the establishment of a Local Regulation draft concerning APBD.<sup>53</sup> Embryo of the birth of a draft provincial, district or city regulations derived from the governor and regent/mayor begins with the proposal of a draft local regulation by the local device task force (SKPD).

**Graph 2.**  
Planning



**Source:** Law No. 23 of 2014

<sup>52</sup> Law Number 23 Year 2014 concerning the Local Government (Statute Book of 2014 No. 244).

<sup>53</sup> Article 1 Number 10 of Law Number 12 Year 2011 concerning the Establishment of Legislation (Statute Book of 2011 Number 82).

**Graph 3.**

Preparation

**Source:** Permendagri No. 120 Year 2018

From the graph presented above it can be confirmed that at this stage of harmonization the Ministry of Law and Human Rights and/or the Regional Office of the Ministry of Law and Human Rights should be involved. Talking about the effectiveness of an activity refers to the influence or effect produced.<sup>54</sup> Effectiveness is also about the success of an expected or envisioned action. In the harmonization of the local regulation draft carried out by the Ministry of Law and Human Rights is an activity in order to achieve the state's goal of realizing a planned, integrated and sustainable national legal system. Based on the regime of Law Number 12 Year 2011 juncto Law Number 15 Year 2019 concerning the Amendment of Law Number 12 Year 2011 concerning the Establishment of Legislation namely the Ministry of Law and Human Rights before the establishment of ministries or institutions that

<sup>54</sup> Great Dictionary of Indonesian Language.

handle government affairs in the field of the establishment of legislation participates in the harmonization process, rounding and strengthening the conception of local regulation draft, but the fact of the field obtained that until now the legal section of the local secretariat of the Central Lombok district government has never involving the Regional Office of the Ministry of Law and Human Rights, as spoken by the head of information and legal documentation of the local government of Central Lombok regency:

*“Pelibatan perancang dari kanwil hukum dan HAM, makanya tadi saya coba liat-liat dan cari ini di...apa namanya, perubahan undang-undang 12 ini, tidak ada yang menyatakan frasa wajib, karena masing-masing norma tu kan beda beda kontekstualisasinya, harus, wajib, dapat itu kan punya konsekuensi hukum yang berbeda. Naa untuk harmonisasi itu, tidak wajib sebenennnya, karena ada kata dapat di sana, dapat itu kan diskresioner sepanjang dibutuhkan kemudian ada anggaran untuk itu misalnya, bupati atau SKPD terkait, atau di dalam hal ini pemerintahan daerahlah dapat melibatkan perancang atau instansi vertikal yang membidangi hukum, kan. Kalo dapat ini kan, optional dia, bisa ya, bisa tidak, kan gitu, naa memang tidak semua perda yang sudah kita, bahkan sama sekali belum kia lakukan harmonisasi di kementrian hukum dan ham, karena apa yaa, tidak menjadi anuu...ini, hmm, tidak memilik daya paksa untuk kemudian dilakukan harmonisasi, kecuali misalnya terhadap evaluasi, misalnya peraturan daerah itu wajib dievaluasi oleh gubernur, naa bukti pernah dilakukannya evaluasi adalah dengan diberikannya kode register (noreg) secara jamak jamaknya (gampangnya)”<sup>55</sup>*

From what is conveyed above, the author can conclude that the legal part of the Central Lombok district government is still carried away by the regime or does not even know about the amendment of Law Number 12 Year 2011 related to harmonization provisions, as long as article 58 paragraph (2) phrases can include vertical agencies from ministries that conductintment affairs in the field of law, in this case the Ministry of Law and Human Rights Regional Office West Nusa Tenggara. So, so far the flow in the propemperda

<sup>55</sup> Efendy, Interview, (Central Lombok, 5 November 2020).

related to harmonization activities of the local regulation draft carried out by the legal section of the local secretariat of the district government began from the draft draft of local regulations followed by the relevant local device work unit (SKPD) and then carried out harmonization and synchronization by the legal section with stages, based on the following check sheet:

**Figure 3.**  
Sample Check Sheet draft of local regulations

PEMERINTAH KABUPATEN LOMBOK TENGAH  
SEKRETARIAT DAERAH  
Jalan Gajah Mada Nomor 109 Telp. (0370) 653023, 654047, 654067,  
654072, Praya 83511

LEMBAR PERIKSA BAGIAN HUKUM  
SEKRETARIAT DAERAH KABUPATEN LOMBOK TENGAH

JENIS NASKAH DINAS : PERATURAN DAERAH KAB. LOMBOK TENGAH / NASKAH ASLI

JUDUL NASKAH DINAS : PERUBAHAN ATAS PERATURAN DAERAH NOMOR 7 TAHUN 2014  
TENTANG PENYERTAAN MODAL DAERAH KEPADA PD. BPR NTB  
LOMBOK TENGAH, PDAM KAB. LOMBOK TENGAH, PT. BANK NTB, PT.  
LOMBOK TENGAH BERSATU DAN PT. JAMKRIDA NTB BERSAING

TELAH DIPERIKSA DAN DITELITI OLEH :

NO	NAMA	JABATAN	TANGGAL		PARAF
			Terima	Selesai	
1.	AKHMAD DANIAN, SH	Staf			1.
2.	NANANG ASWAN AHADI, SH	Kasubbag. Per- UU an Kasubbag.			2.
3.	BAIQ MULJANAH, SH	Bantuan Hukum dan HAM Kasubbag. Dok dan Penyuluhan Hukum			3.
4.	LALLU AGUS BAKRI, SH				4.
5.	H.MUTAWALLI, SH	Kabag. Hukum			5.
6.	Ir. NASRUN, MM	Asisten Administrasi Perekonomian dan Pembangunan			6.
7.	Drs. H.LALLU SUPARDAN, MM	Sekretaris Daerah			7.
8.	Drs. H.LALLU NORMAL SUZANA	Wakil Bupati			8.

KETERANGAN : NASKAH DINAS INI MOHON DITANDA TANGANI OLEH  
**BAPAK BUPATI LOMBOK TENGAH**

**Table 2.**  
Ranperda Check Table

NO	Nama	Jabatan	Tanggal		Paraf
			Terima	Selesai	
1.	<del>AKHMAD</del> <del>DANIAN, SH</del>	Staf			1.
2.	<del>NANANG</del> <del>AHWAN</del> <del>ASHADI, SH</del>	Kasubbag Per-UU-an			2.
3.	<del>BQ MULIANA,</del> <del>SH</del>	Kasubbag Bantuan Hukum dan HAM			3.
4.	<del>LALU AGUS</del> <del>BHAKRI, SH</del>	Kasubbag Dok dan Penyuluhan Hukum			4.
5.	<del>H. MUTAWALLI,</del> <del>SH</del>	Kabag Hukum			5.
6.	<del>Ir NASRUN, MM</del>	Asisten Administrasi Perekonomian dan Pembangunan			6.
7.	<del>Drs. H</del> <del>SUPARDAN, MM</del>	Sekretaris Daerah			7.
8.	<del>Drs H. LALU</del> <del>NORMAL</del> <del>SUZANA</del>	Wakil Bupati			8.

Therefore, the author can describe the factors that influence the effectiveness of harmonization activities local regulation draft carried out by the Ministry of Law and Human Rights, among others:

#### 1. Legal Factors

Legal factors have a significant influence directly or indirectly in shaping the behavior of society. Law as social engineering can be sought to engineer the behavior of the community in order to achieve an expected goal.<sup>56</sup> The legal provisions on harmonization of the local regulation draft activities are an effort in any effort to achieve the legal goals of realizing a

<sup>56</sup> Munir Fuadi, *Grand Theory in Law*, (Jakarta: Kencana Prenamedia Group, 2013), 248.

planned, integrated and sustainable national legal system. However, as conveyed by the legal section local government of Central Lombok regency indicates that the less binding and firm legal factors governing the harmonization of the local regulation draft activities carried out by the Ministry of Law and Human Rights cause it to be unable to run as expected in the framework of the development of a planned, integrated and sustainable national law. The involvement and participation of the Ministry of Law and Human Rights in harmonization of the local regulation draft activities in the Central Lombok local government has not gone well and has not even been implemented at all.

From a different point of view and perspective, the legal problem is not only about what is written, but also about the norms or habits that develop in society itself. When people's behavior does not work in accordance with the provisions of the law, this kind of symptom is known as soft development.<sup>57</sup> Thus, it is not finished and clear just by simply formulating the provisions of the law at all in order to achieve an ideal, but also important to strengthen the behavior of the community by conducting socialization, guidance and direction directly and with other means. It is in this sense that the law in the modern view is seen as an instrument of social behavior not as a mere tool.<sup>58</sup> The implementing regulation of a law can also be interpreted as advice or guidelines in carrying out the applicable legal provisions, this problem is part of the legal problem as well, where the

<sup>57</sup> Nazaruddin Lathief, "Legal Theory as a Means or Tool to Renew or Engineer society", *Pakuan Law Review*, Vol. 3 No. 1 (2017): 83.

<sup>58</sup> Satcpto Rahardjo, *Law*, (Bandung: Citra Aditya Bakti, 2006), 206.

implementing rules have not fully followed and accommodated the changes in the law that make it difficult to be implemented, this can be said to be a counter-productive thing. As far as observation, the implementing rules of Law Number 15 Year 2019 concerning the Amendment of Law Number 12 Year 2011 concerning the Establishment of Legislation still use Presidential Regulation Number 87 Year 2015 concerning the Implementing Regulation of Law Number 12 Year 2011 concerning the Establishment of Legislation.

It is can be seen clearly in the Presidential Regulation Number 87 Year 2015 concerning the Implementing Regulation of Law Number 12 Year 2011 concerning the Establishment of Legislation from article 75 to article 77,<sup>59</sup> indicates that still hinting to the legal section of provincial and district/cities governments to coordinate the activities of harmonization, rounding and strengthening the conception of the local regulation draft, meanwhile this is no longer appropriate in accordance with the spirit of the provisions of Law Number 15 Year 2019 concerning the Amendments of Law Number 12 Year 2011 concerning the Establishment of Legislation article 58 paragraph (2),<sup>60</sup> which is ordered to the ministries that conduct government affairs in the field of law before the formation or establishment of special ministers that conduct government affairs in the field of establishment of legislation to run the harmonization the local regulations draft activities.

<sup>59</sup> Presidential Regulation Number 87 Year 2015 concerning the Implementation Regulation of Law Number 12 Year 2011 concerning the Establishment of Legislation (Statute Book of 2014 Number 199).

<sup>60</sup> Peraturan Pelaksana Undang-Undang Nomor 12 Tahun 2011, diakses 14 November 2020, <http://www.dpr.go.id/bk/perlak-uu/id/1749>

## 2. Legal Facilities or Facilities Factor

Supporting facilities can simply be formulated as a certain means or way to achieve a specific and certain goal. The scope of legal facilities or facilities are primarily physical means that serve as supporting factors. This supporting facility as stated by Soerjono Soekanto includes educated and skilled human resources, good organization, adequate equipment, adequate finances and so on.<sup>61</sup> Facilities or supporting facilities are desirable to encourage the success of the implementation of a related legal provision, in this context harmonization local regulation draft activities. This can be argued as the law of obligatory prayer makes the law of ablution also mandatory, because without ablution one can not perform prayer. Facilities or supporting facilities that are no less important bring significant influence so that the harmonization activities of the local regulation draft carried out by the Ministry of Law and Human Rights do not run properly, as previously stated by the head of the documentation network and legal information secretariat of the local government of Central Lombok regency above is the absence of a special budget to facilitate harmonization activities local regulation draft.

This is one of the implications of counter-productive legal norms governing harmonization activities, namely there are inconsistencies in the implementing rules, so that the fulfillment of supporting facilities or facilities in the series of implementation. As far as the author's observations,

---

<sup>61</sup> Soerjono Soekanto, *Principles of Sociology of Law*, 110.

harmonization of this local regulation draft activities is still considered only as a necessity that if necessary and there is a means for it will only be done. Therefore, legal facilities and facilities in the harmonization of the local regulation draft activities carried out by the the Ministry of Law and Human Rights Regional Office West Nusa Tenggara have not been met and fully accommodated optimal which makes it unable to run in accordance with what is expected. This situation is as stated by the head of the documentation and legal information network of the Central Lombok district government:

*“dapat itu kan diskresioner sepanjang dibutuhkan kemudian ada anggaran untuk itu misalnya, bupati atau SKPD terkait, atau di dalam hal ini pemerintahan daerahlah dapat melibatkan perancang atau instansi vertikal yang membidangi hukum, kan. Kalo dapat ini kan, optional dia, bisa ya bisa tidak, kan gitu”*

### 3. Cultural Factors

Cultural issues are discussions that not only discuss the issue of legal and community conflict, but also become an issue about the differences in the rule of law and the facts in real life. The problem of differences in the rule of law with what happens in the field actually revolves around how the government's efforts to institutionalize and introduction the law, how to import the legal system and how the ruler can insinuate the law to the public.<sup>62</sup> According to the observations of the authors of the field data obtained that the legal culture of the Central Lombok district government in the implementation of harmonization local

<sup>62</sup> Yuniko Fitrian, "The Importance of Legal Culture in Society", Scientific Journal, (tt): 6, <http://jdih.bengkuluprov.go.id>

regulation draft activities there is still a sectoral ego, it is proven based on the written statement of the head of the division of regulations and legislation of the local secretariat of the Central Lombok district government related to harmonization of local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara :

*“ya terkadang begitu, apa namanya...hmmm harmonisasi dan sinkronisasi ini sebenarnya kalo boleh saya bilang pengertiannya sama seperti fasilitasi yang dilakukan oleh gubernur, no pas (bahsa Lombok; itu pas) pemberian nomor registrasi sebenarnya juga dikoreksi lagi sama bagian hukum provinsi. Dulu mungkin kita pernah melakukan harmonisasi sekali bersama kanwil, tapi engga ada efek yang signifikan ya jadinya, soalnya malah pas fasilitasi juga dikoreksi lagi tu yang udah dikoreksi kanwil, jadi yee marak semelek melek angen (bahasa Lombok; seenak hati). Jadi ya kita ambil jalan tengah aja ngapain ribet-ribet, ya menurut saya ribet jadi harus ngerjain dua kali tu jadinya, jadi selama ini proses harmonisasi dan sinkronisasi ranperda masih di bagian hukum pemda terus nanti dilakukan fasilitasi oleh gubernur<sup>63</sup>*

Departing from the existing written above that it should be even with the legal facilities and facilities of Law Number 12 Year 2011 concerning the Establishment of Legislation related to harmonization, rounding up and strengthening the conception of local regulation draft phrase "can include" with the ideal of realizing an integrated, planned and sustainable national legal system should be interpreted as a much needed, must and mandatory for local governments to avoid the occurrence of conflict of norm between parallel regulations and higher-ranking regulations before Set. However, after the amendment of Law Number 12 Year 2011 concerning the Establishment of Legislation that brings the consequences of changes in coordinators in harmonization local regulation draft activities

<sup>63</sup> Anto, Interview, (Central Lombok, 23 November 2020)

that were initially coordinated by the legal section of local government into institutions or ministers who organize government affairs in the field of law in the circumstances before the formation of special ministers who organize government affairs in the field of establishment of legislation, sectoral ego is still carried away, so that the harmonization of the local regulation draft activities that carried out by the Ministry of Law and Human Rights is interpreted as long as needed or necessary. This is a sign of the failure of the legal system to be introduced or institutionalized to the community itself, so that there is a difference between what the law wants and practices carried out by the community.

Therefore, it can be concluded that the harmonization of the local regulation draft carried out by the Ministry of Law and Human Rights of Regional Office West Nusa Tenggara has not been effective. The implementation of harmonization of the local regulation draft activities is characterized by relationships and coordination with each other, between the legal section of the local secretariat of the Central Lombok district government as a coordinator in the local regulation legislation program (propemperda) with the Regional Office of the Ministry of Law and Human Rights as the executor of harmonization local regulation draft activities before the formation of ministers or special institutions that handle government affairs in the field of the establishment of legislation, so that the harmonization of the local regulation draft activities can run in accordance

with the ideals in realizing an integrated, planned and sustainable national law. However, this has not been run effectively and properly.

As stated above, the harmonization of the local regulation draft activities carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in the Central Lombok district government have never been carried out with several factors that affect it, including legal factors, legal facilities or facilities factors and cultural factors. In order to be able to describe the effectiveness of harmonization of the local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara need to find, know and compare the harmonization the local regulaion draft activities in other distric, found as follows:

**Table 3.**

Harmonization the Local Regulation Draft of Dompu Regency concerning Pengelolaan Zakat, Infak, Sedekah

<b>Rumusan Ranperda</b>	<b>Hasil Harmonisasi</b>
Konsideran mengingat	Di dalam konsideran mengingat menghapus dasar hukum Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan
BAB I Ketentuan Umum pasal 1 angka 18 sepanjang frasa “qamariah”	Frasa “qomariah” diganti menjadi “kamariah” dengan pertimbangan kesesuaian dengan KBBI daring yang dikeluarkan Kementerian Pendidikan dan Kebudayaan.
pasal 5 ayat (2)	Perlu memasukkan ketentuan yang ada di dalam pasal 40 ayat (1) Peraturan Pemerintah Nomor 14 Tahun 2014
Pasal 7 “BAZNAS Kabupaten dan LAZ Kabupaten dapat menerima harta Infak dan Sedekah yang halal sesuai dengan syariat Islam”.	Ketentuan mengenai harta halal perlu dijabarkan lagi, karena dapat menimbulkan kerancuan serta bagaimana menentukan kehalalan perolehan suatu harta?

Pasal 10 “BAZNAS Kabupaten dan LAZ Kabupaten dapat mendayagunakan Zakat untuk kebutuhan konsumtif dan atau kebutuhan produktif mustahik”	Catatan: zakat terdiri atas zakat mal dan zakat fitrah, sebagaimana tercantum di dalam Pasal 4 ayat (1). Pertanyaanya, apakah zakat fitrah dapat dijadikan sebagai kebutuhan produktif? Oleh sebab itu, disarankan perlu ada penambahan jenis zakat yang dapat dijadikan kebutuhan produktif. Serta setelah kata zakat ditambah kata mal
Pasal 13 ayat (1) “BAZNAS Kabupaten atau LAZ Kabupaten harus mendistribusikan, mendayagunakan hasil infak dan sedekah sebagaimana dimaksud dalam pasal 6 didayagunakan sesuai dengan niat munfik dan mutashaddik” - Pasal 13 ayat (2), pasal 14 ayat (4)	Kata harus diganti menjadi wajib dengan pertimbangan dalam bahasa perundang-undangan, perbedaan wajib dan harus adalah: - <b>Harus</b> yaitu, apa yang harus dipenuhi, yang apabila tidak dipenuhi, tidak akan memperoleh hak, contoh, untuk memperoleh izin setiap orang harus memenuhi syarat. - <b>wajib</b> , yaitu, apa yang harus dilakukan, yang merupakan suatu perbuatan hukum, yang apabila dilanggar, dapat dikenakan sanksi.
Pasal 22 “Hal-hal yang belum diatur dalam peraturan daerah ini sepanjang mengenai teknis penyelenggaraan dan pengelolaan zakat, infak dan sedekah diatur lebih lanjut dengan Peraturan Bupati.”	disarankan ketentuan Pasal 22 dihapus, karena dapat menimbulkan kerancuan. Teknis penyelenggaraan dan pengelolaan seperti apa yang belum diatur? Dalam pasal-pasal sebelumnya, sudah ada pendelegasian terkait teknis penyelenggaraan dan pengelolaan dengan Peraturan Bupati.

Table 4.

Harmonization the Local Regulation Draft of West Sumbawa concerning  
Penyelenggaraan Kesejahteraan Sosial

rumusan ranperda	hasil harmonisasi
Bupati Sumbawa Barat Provinsi Nusa Tenggara Barat Peraturan Daerah Kabupaten Sumbawa Barat	- Perlu mencantumkan kata rancangan di awal frasa, sesuai dengan butir 46 lampiran II Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan karena ini masih merupakan rancangan peraturan daerah - Perlu ditambahkan frasa “nomor” dan

	<p>“tahun”.</p> <p>untuk tahun disarankan tidak dicantumkan terlebih dahulu, walaupun sudah diketahui bahwa rancangan peraturan daerah ini diperuntukkan untuk tahun anggaran 2020.</p> <ul style="list-style-type: none"> <li>- Tanda baca titik pada nomor dan tahun raperda untuk cukup sebanyak 3 (tiga) kali</li> </ul>
<p>konsideran menimbang</p> <p>a. bahwa pemerintah memiliki tanggung jawab untuk mewujudkan kesejahteraan sosial bagi masyarakat sesuai dengan amanat undang-undang dasar negara republik indonesia tahun 1945;.....sampai seterusnya</p>	<ul style="list-style-type: none"> <li>- Dilihat dari konsiderans menimbang, raperda ini merupakan raperda atribusi sehingga disarankan dalam konsiderans menimbang memuat rumusan filosofis, sosiologis, dan yuridis yang menggambarkan urgensi pembentukannya.</li> <li>- Disarankan tidak perlu menyebutkan nama daerah didalam konsiderans menimbang.</li> </ul>
<p>konsideran mengingat</p>	<p>Menghapus dasar hukum</p> <ul style="list-style-type: none"> <li>- Undang-Undang Nomor 52 Tahun 2009 tentang Perkembangan Kependudukan dan Pembangunan Keluarga (Lembaran Negara Republik Indonesia Tahun 2009 Nomor 161 Tambahan Lembaran Negara Republik Indonesia Nomor 5080);</li> <li>- Undang-Undang Nomor 12 Tahun 2011, tentang Pembentukan Peraturan Perundang-Undangan (Lembaran Negara Republik Indonesia Tahun 2011 Nomor 82, Tambahan Lembaran Negara Republik Indonesia Nomor 5234);</li> <li>- Undang-Undang Nomor 13 Tahun 2011, tentang Penanganan Fakir Miskin (Lembaran Negara Republik Indonesia Tahun 2011 Nomor 83, Tambahan Lembaran Negara Republik Indonesia Nomor 5235);</li> </ul> <p>catatan: berdasarkan butir 39 lampiran II Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, maka dasar hukum suatu peraturan daerah cukup memuat 3 (tiga) dasar hukum saja yang berlaku, akan tetapi dapat ditambah dengan peraturan perundangan terkait.</p>
<p>pasal 1 a dari angka 14 sampai</p>	<p>dalam ketentuan umum, kata atau istilah</p>

dengan 15	yang dimuat hanya kata atau istilah yang digunakan berulang-ulang dalam pasal. (lihat butir 102 lampiran II Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan).
BAB II maksud dan tujuan	maksud dan tujuan sebaiknya tidak dimasukkan dalam bab tersendiri.
BAB III ruang lingkup, tanggung jawab dan wewenang	sesuai dengan teknik penyusunan peraturan perundang-undangan berdasarkan butir 110 lampiran II Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan bahwa materi pokok yang diatur ditempatkan langsung setelah bab ketentuan umum. atas dasar tersebut, materi bab III tanggung jawab dan wewenang (pasal 3 sampai dengan pasal 6) rancangan peraturan daerah ini agar ditempatkan atau dimuat setelah bab penyelenggaraan kesejahteraan sosial.
BAB... penyelenggaraan kesejahteraan sosial	ketentuan dalam pasal 5 dan pasal 6 sebaiknya dipisah diatur dalam bab tersendiri, yaitu bab penyelenggaraan kesejahteraan sosial.
pasal 6 dan pasal 7 ayat (7)	perlu diperhatikan terkait ketentuan dalam pasal 6 dan pasal 7 ayat (7) khusus mengenai pelaporan penyelenggaraan kesejahteraan sosial, perlu dituangkan dalam rumusan pasal tersendiri, siapa yang melaporkan dan kepada siapa penyelenggaraan ini dilaporkan
pasal 11 (1) pendataan sebagaimana dimaksud dalam pasal 9 ayat (1), dilaksanakan setiap 2 (dua) tahun. (2) pemutakhiran data pmks dan psks sebagaimana dimaksud dalam pasal 9 ayat (1) dilakukan setiap tahun. tata cara pendataan dan pemutakhiran data pmks dan psks dilaksanakan dengan instrumen pendataan sesuai dengan peraturan	diatur lebih lanjut dengan peraturan bupati.

perundang-undangan.	
bab VII ketentuan pidana pasal 26 32 (1) setiap orang dan/atau badan yang melanggar peraturan daerah ini ketentuan sebagaimana dimaksud dalam pasal ... diancam pidana kurungan paling lama 3 (tiga) bulan atau pidana denda paling banyak rp.50.000.000,00 (lima puluh juta rupiah). (2) tindak pidana sebagaimana dimaksud pada ayat (1) adalah pelanggaran. (3) selain ketentuan pidana yang dimaksud pada ayat (1) dan (2), dikenakan sanksi pidana sesuai ketentuan peraturan perundang-undangan yang berlaku.	- lihat butir 112 lampiran II Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan dalam merumuskan ketentuan pidana yang memuat rumusan pelanggaran terhadap ketentuan norma larangan atau norma perintah. - lihat butir 118 lampiran II Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan dalam merumuskan ketentuan pidana dalam suatu rancangan peraturan daerah harus menyebutkan secara tegas norma larangan atau norma perintah mana yang dilanggar dengan menyebutkan atau menjelaskan pengacuan pasalnya.

Based on the table presented above, the harmonization of the regulations draft of Dompu and Sumbawa Besar islands in harmonization of the local regulation draft activities has been running properly in accordance with the provisions of Law Number 15 Year 2019 concerning the Amendments of Law Number 12 Year 2011 concerning the Establishment of Legislation. The effectiveness of harmonization of the local regulation draft in the table shows that the actual output and target output compared to more than one (>1) is characterized by the results of harmonization carried out by the Regional Office of the Ministry of Law and Human Rights against the local regulation draft that are potentially not singkron or not in accordance with the provisions of the Law Number 12 Year 2011 *juncto* Law Number 15 Year 2019 concerning the Amendments of Law Number 12 Year 2011 concerning the

Establishment of Legislation as a guideline in the establishment of legislation it's in the area.

However, it seems that in a different view, further the effectiveness of harmonization the local regulation draft activities carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara has not fully run effectively in accordance with applicable regulations, this is because there is no stage of the harmonization meeting attended by the procession, related intitutions or others. In other words, the harmonization of the local regulation draft activities are carried out only to the response or results of harmonization of the local regulation draft carried out by the Regional Office which then the rest is only a recommendation in discussions with the council. Thus, as Mr. Riky explained as the drafter of the legislation of the Regional Office of the Ministry of Law and Human Rights of West Nusa Tenggara stated that:<sup>64</sup>

*“Sebenarnya enggak ada lagi mas, kalo disini kami dari perancang, bersama pak bambang kita sekitar 20 orang, jadi setelah pengiriman surat hasil harmonisasi beserta lampiran draft rancangan perda, jadi hasil harmonisasi yang kita kirim cuma tinggal dijadikan bahan rapat nanti dibahas di dpr, dewan, untuk nanti selanjutnya ditetapkan. Jadi enggak ada respon lagi setelah tanggapan dari kanwil yang merupaka tahapan hasil harmonisasi di kanwil kumham”*

Thus, the author can conclude that the results of harmonization of the local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara does not have a binding power over the results of harmonization of the local regulation draft, it could be that what has been considered through harmonization of the local regulation draft is not

---

<sup>64</sup> Riky, Interview, (Mataram, 27 Novemer 2020).

followed so as not to give too significant effect, moreover this is not in accordance with the procedures and processes in the series of harmonization activities of the local regulation draft in accordance with the contents of the letter circular of the Minister of Law and Human Rights number 4 (four) through the stage of the harmonization meeting attended by the initiators from local governments and related agencies in order to obtain agreement and unanimity of the local regulation draft. Furthermore, it is explained that the legal consequences when the local regulation draft without going through harmonization in the regional office of the Ministry of Law and Human Rights do not exist, as conveyed:<sup>65</sup>

*“Kalo konsekuensi hukum sih sebenarnya tidak ada ya, kalo kita mau ikutin undang-undang setiap tahapan kita ini kan kalo diajukan ke mk bisa batal dia, karena ada sayarat sayarat formal prosedural yang tidak terpenuhi, kan aslinya gitu, kan. Jadi makanya aaaa karena tidak ada kan sanksi sanksi di dalam undang-undang 12 karena itu terkait dengan pedoman pebentukannya, kan. Jadi sebenarnya kalo dari sanksi aaa tidak ada. Cuma kalo misal ada seseorang mau menelti itu, ini sudah diharmonisasi belum, proseduralnya sudah iniii, karena kadang aa yang sering menjadi persoalan adalah rata-rata orang dari sisi materilnya, tapi sebenarnya formalnya kan bisa. Bisa batal, karena ada prosedur yang tidak dilewati, yang seharusnya diharmonisasi di kanwil kumham dulu. Kan keinginannya undang-undang 15 ini pada tahap persiapan diharmonisasi dulu di kanwil kumham, jadi setelah diharmonisasi di sini baru mendapat surat selesai harmonisasi, kalo tidak ada surat harmonisasi tidak bisa diteruskan ke tahap fasilitasi atau pembahasan.”*

Therefore, as explained above it is necessary to consolidate between the Ministry of Law and Human Rights Regional Office of West Nusa Tenggara with the Governor and Regent/walikora, provincial parliament and district parliament in order to unite understanding related to the importance of harmonization local regulation draft activities and introdusir this activity is a

<sup>65</sup> Riky, Interview, (Mataram, 27 Novemer 2020).

formal requirement in the establishment of local regulations that should not go through this activity a local regulation draft can not be continued to the next stage, namely discussions with the council and facilitation by the governor as well as the provision of registration numbers (noreg)

**C. the Opinion of *Siyasah dusturiyah* Towards Harmonization Local Regulations Draft Carried Out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara**

Based on the Constitution of the Republic Indonesia Year 1945 in order to achieve and realize the ideals of the state, the president as the holder of government power, in carrying out his duties assisted by ministers of state dealing with certain affairs in the field of government. The Ministry of State is a government device that deals with certain affairs in the government. Government affairs are every affair as referred to in the provisions of the Constitution of the Republic Indonesia Year 1945. In organizing the government, the president plays an important role in realizing the country's objectives as mandated by the Constitution of the Republic Indonesia Year 1945. The main purpose of the country as the opening of the 1945 Constitution is to protect the entire nation of Indonesia and the entire spilled blood of Indonesia, promote the general welfare, educate the life of the nation, and participate in implementing world order based on independence, eternal peace, and social justice.

In this regard, it is affirmed in the Constitution of Article 17 which states that ministers in charge of certain affairs in the government are appointed

and dismissed by the president, the existence of ministers as assistants to the president, the establishment, alteration, and dissolution of ministers are regulated in the law. The law is Law Number 39 Year 2008 concerning the Ministry of State. In the law a quo of article 13,<sup>66</sup> stated the president in forming ministries, taking into account the efficiency and effectiveness, scope of duties and proportionality of the task load, sustainability, harmony, and integration of the implementation of tasks, and/or development of the global environment. Thus, the existence of the minister of state is to assist the president in organizing government affairs in order to realize the goals and ideals of the country. Departing from this understanding that the president assisted by the minister of state has a connection with *wizarah* in the concept of *siayasah dusturiyah*.

*Wizarah* in terms of language comes from *al-wizru* which means burden, because a vizier carries the burden of the head of state, can also come from the word *al-wazar* that isbarti place of return or running, because likened to a head of state always returns to the opinion and help of his vizier, can also be from the word *al-azru* which means back, because a head of state is always supported by his vizier, as a body that is always strengthened and supported by the back.<sup>67</sup> A concept that may be the common thread about this *wizarah* is that the head of state can appoint his servants and hand over a part of the power he has to his servants in this case the vizier with the aim that the duties of the priest are heavy enough to be carried out properly for the sake of mutual

<sup>66</sup> Law Number 39 Year 2008 concerning the Ministry of State (Statute Book of 2008 Number 166).

<sup>67</sup> Abu Hasan al-Mawardi, *al-Ahkam as-Sulthaniyah wa al-Wilayatul al-Diniyah*, 5.

benefit. The proof of the ability to lift *wizarah* or a vizier is based on the word of Allah SWT in the Quran letter at-Thoha verse 29 which reads:

و اجعل لي وزيراً من أهلي، هارون أخي، اشدد به أزمري، و أشركه في أمري

*"And appoint for me a vizier from my family, aaron, my brother, strengthen my strength with him, and make him an ally in my affairs."*

Based on the interpretation of mafhum hall verse above it can be understood that if the vizier is allowed in prophetic problems, then it is very more permissible or recommended in the matter of imamah. Meanwhile, some interpretations related to the above verse:<sup>68</sup>

1. Ministry of Religious Affairs of the Republic Indonesia

"Because Moses felt that the task mandated to him was quite large and heavy, he asked that Allah SWT appoint a helper from his own family, to jointly launch *da'wah*, one fate and destiny and as happy as in the grief that he would face from his people".

2. Tafsir Al-Mishbah

Tafsir al-Misbah by Muhammad Quraysh Shihab: "Make me a helper from my family".

3. Tafsir Muyassar

Tafsir Muyassar by The Mujamma' Raja Fahd team directed by Shaykh al-Allamah Dr. Shalih bin Muhammad Alu asy-Shaykh: Moses asked, "O Lord, open my chest, make my affairs easy, let go of my tongue

<sup>68</sup> Tafsir al-Quran Surat at-Thoha Ayat 29, Risalah Muslim, diakses 16 November 2020, <https://risalahmuslim.id/quran/thaa-haa/20-29/>

so that they may speak fluently so that they understand what I say. Appoint for me a companion from my family, my brother Harun, that he may strengthen and support me. And remember you much. Indeed, You are the Seer. Nothing of our deeds is hidden from You."

#### 4. Tafsir Jalalain

Tafsir Jalalain by Jalaluddin al-Mahalli and Jalaluddin as-Suyuthi:

"And make for me a helper or vizier who helps me in delivering Your treatise (from my family)".

From some of the interpretations above, the author tries to take the common thread of the existence of the ministry of state as an aide to the president that is with reasonable reasoning and practical reasons it is impossible for a leader by himself in running a government with all the problems that exist. It becomes a necessity in leadership practice to appoint aides in the implementation of government, so that the government can run effectively and efficiently in accordance with the ideals and in order to achieve the benefit of the people. The correlation between the mandate of the Constitution of the Republic Indonesia Year 1945 and the concept of *siyasah dusturiyah* is the Constitution of the Republic Indonesia Year 1945 states that the president in organizing the government assisted by ministers of state, also, in the concept of *siyasah dusturiyah* on *wizarah* as the interpretations above is an advice for a leader with practical reasons to maximize his performance in an effort to achieve a benefit of the people.

Moses asked Allah swt to appoint a helper from his family, namely people who are considered able to help and be as good in all affairs of the world and the hereafter in order to achieve efficiency, effectiveness, proportionality, harmony and integration in all its affairs, as well as the president in the establishment of ministries as his assistants in organizing the government based on Law Number 39 Year 2008 concerning the Ministry of State article 13 paragraph (2), should consider the efficiency and effectiveness, scope of duties and proportionality of the burden of duty, sustainability, harmony, and integration of the implementation of tasks, and/or development of the global environment.<sup>69</sup>

Meanwhile, in the process of harmonization local regulation draft activities are part of the ideals of the Republic Indonesia to realize Indonesia as a legal state, so that the state is obliged to build a planned, integrated and sustainable national legal system. The state through the president assisted by ministers of state who handle government affairs in the field of law, namely in this case the Ministry of Law and Human Rights as an aide, the burden of the president's happy participation and carry responsibility in the development of the national law. However, in terms of harmonization activities of the local regulation draft while paying attention to the principle of implementation of local autonomy as described in Law Number 39 Year 2008 concerning the Ministry of State article 26 which states that the relationship between ministries and local governments must be implemented within the framework

---

<sup>69</sup> Article 13 of Law Number 39 Year 2008 concerning the Ministry of State (Statute Book of 2008 Number 166).

of the system of government of the Unitary State of the Republic Indonesia by taking into account the principle of local autonomy in accordance with the laws and regulations. As for the principle of local autonomy according to the explanation of Law Number 23 Year 2014, the principles of the implementation of the local autonomy are:<sup>70</sup>

1. the implementation of local autonomy is carried out with aspects of democracy, justice, equality as well as local potential and diversity;
2. Implementation of local autonomy is based on broad, real and responsible autonomy;
3. the Implementation of broad and intact local autonomy is placed on the regions and regions of the city, while provincial autonomy is limited autonomy;
4. the Implementation of autonomy must be in accordance with the state constitution so that it remains guaranteed a harmonious relationship between the center and the region. The implementation of local autonomy should further increase the independence of districts and urban areas no longer administrative areas. Similarly, in special areas fostered by the government.
5. the Implementation of local autonomy should further improve the role and function of local legislative bodies both as legislative functions, supervisory functions, have budget functions for the implementation of local autonomy.

---

<sup>70</sup> Law Number 23 Year 2014 concerning the Local Government (Statute Book of 2014 Number 244).

6. the Implementation of deconcentration is placed in the province in a position as an administrative territory to carry out certain government authority delegated to the governor as a representative of the government
7. Implementation of the principle of assistance tasks is possible not only in local and local governments to villages accompanied by financing, facilities and pre-facilities and human resources with the obligation to report the implementation and accountability to the assigning.

Related to the harmonization of the local regulation draft activities carried out by the Ministry of Law and Human Rights in the concept of *siyasah duturiyah* put the Quran as the main source to be used as a reference or basis in the administration of government, namely verses related to the principles of public life, then the *hadits* of the prophet related to the *imamah* and its policies in applying the law in the Arab country.<sup>71</sup> However, this basis should be more seen from his spirit or *illat*, because things of a technical nature have changed a lot according to the change in time, slap and circumstances in accordance with the rules:

تغير الأحكام بتغير الأزمنة و الأمكنة و الأحوال و العوائد والنيات

*"fatwas change due to changes in time, place, circumstances, customs, and intentions"*<sup>72</sup>

<sup>71</sup> Muhammad Iqbal, *Fiqh Siyasah, Contextualization of Islamic Political Doctrine*, (Jakarta: Prenadamedia Group, 2014), 177.

<sup>72</sup> Ibn Qosyim al-Djauziyah, *I'lam al-Muwaqiin an Rabb al-Alamin, Dar al-Jayl*, (Beirut: Lebanon, tt), 3.

The 4th source (fourth) after the Quran and *hadiths* of the prophet's policies namely the policies *khulafa ar-rasyidiin* or leaders in controlling the government, desired every action, word, and behavior of the leader should wherever possible produce or oriented to the benefit of the people, in accordance with the principles:

تصرف الامام علي الرعية منوط بالمصلحة

*"the imam's policy depends heavily on the benefit of the people"*

Meanwhile, the Quran which is the first reference in *siyasa* outlines the general principles that should be used as a source or basis for *khulafa ar-rasyidiin* or leaders, presidents or with different terms in maintaining, maintaining and making policies in order to realize public problems in the concept, among the principles are, as follows:

#### 1. Principle of Justice

In Islam, justice is one of the principles that must be implemented, as the nature of Allah SWT is the most just (al-Adl) so this must be exemplified by every servant, social justice is a noble ideal. In fact, this contemporary every country has committed to always upholding the principle of justice. In fact, in Islam, everyone wants to enjoy their rights as human beings and citizens.<sup>73</sup> The basic principle of justice is equal rights and obligations for all citizens. Law becomes a reference and reference for society in achieving social ideals, every existence of the law can not be

<sup>73</sup> Fauzi Almubarak, "Justice in Islamic Perspective", Jurnal Istighna, 1 (2018): 115.

separated from the purpose and expectations of the subject of the law itself, namely society. Therefore, society expects the benefit of life for themselves and others, mutual control in people's lives, freedom of expression and opinion, and equality of rights and obligations in law, this principle as explained in the word of Allah SWT Q.S. an-Nisa verse 58 which reads:

ان الله يأمركم ان تؤدوا الأمانات الي اهلها و اذ حكمتم بين الناس ان تحكموا بالعدل ان

الله نعمًا يعظكم به ان الله كان سميعا بصيرا

*“God commands you to deliver the message to the one who has the right to receive it. Indeed, Allah is All-Hearing, All-Seeing( Q.S. an-Nisa v. 58)*

However, another definition proclaimed by the *fukaha* and the *mufassir* more broadly and universally, namely implementing the law of God, human beings punish in accordance with the provisions of Islamic law. Therefore, implementing the principle of justice means carrying out justice that ordered by Allah SWT only.<sup>74</sup> Universalism is the definition of the *fukaha* and the *mufassir* covers all affairs and sides of life in human beings, especially in the field of the legal system, namely the law that governs the relationship between the individual and himself, the relationship between the individual and the other, the relationship of the individual with society, the relationship of the individual with the ruler and the relationship with the

<sup>74</sup> Muhammad Dhiaduddin Rais, *Islamic Political Theory*, (Jakarta: Permata A Insani Tekan, 2001), 268.

other party.<sup>75</sup> So, within the frame of the Unitary State of the Republic Indonesia, all people and society must be guaranteed the equality of their position before the law, the rights and obligations of citizens from *sabang to meraoke*, between the people of the capital and the people of the province and the people of the district/city must be equal before the law. The President as head of state and head of government is obliged to maintain that justice with one of the means of facilitation of the formation of local regulation products, especially in harmonization local regulation draft activities in an effort to foster national law so that it can realize an integrated national law, planned and sustainable that is fair and not discriminatory in guaranteeing and maintaining human rights but while always paying attention to the specificity and needs of the community from each particular region. Through the harmonization of the local regulations draft activities of this region, the president through the Ministry of Law and Human Rights and/or the Regional Office of the Ministry of Law and Human Rights must ensure the establishment of legislation, law-abiding local regulations, principles and principles in the material or substance of the law and regulation itself as well as formal or procedures for the establishment of local regulations legislation in accordance with the provisions of Law Number 12 Year 2011 *juncto* Law Number 15 Year 2019 concerning the Amendments of Law Number 12 Year 2011 concerning the Establishment of Legislation.

---

<sup>75</sup> Juhaya S Praja, *Philosophy of Islamic Law*, (Tasikmalaya: Lathifah Press, 2009), 72

## 2. Principle of Deliberation

The principle of deliberation in running a democratic government is a priority that must exist, because human beings are very plural in nature. Each human being has different interests, different opinions, different intellectual abilities, different desires and purposes. With deliberation, these different interests can be directed to a universal and generally acceptable goal or at least by the majority. The real deliberation is not to eliminate these differences, but to make these differences as energy in achieving the dynamics of perception and purpose. This principle in *siyasah* is affirmed in the word of Allah SWT in Q.S. as-Shura verse 38 which reads:

و الذين استجابا لربهم و اقاموا الصلوة و امرهم شوري بينهم و مما رزقناهم ينفقون

*"And those who accept the call of Allah and perform the prayer, and their affairs are decided by deliberation between them, and they exalt from the sustenance we have given them (Q.S. as-Shura v. 38).*

In the state perspective, deliberation is a constituent principle, in order to prevent the potential birth of decisions made by the ruler that can harm the public interest, through deliberation can minimize the absolutism of power of a ruler, head of state or any name in accordance with the time and place, the house as legislators and the president as executors for example.<sup>76</sup> The implementation of this deliberation is used to formulate and provide solutions to every problem faced in the survival of the community.

<sup>76</sup> al-Maududi, *Khilafah and Kerajaan*, (Bandung: Mizan, 2001), 98.

This deliberation is also an intrusion and means of community participation in the process of solving existing problems.<sup>77</sup> This principle is then the author of conception or articulation in the form of harmonization local regulation draft activities carried out by the Ministry of Law and Human Rights which is used as a container, facilities or facilities as well as a place to consult in order to obtain approval, understanding, agreement and roundness of conception related to the local regulation draft with the motivation of not the occurrence of overlap between norms (conflict of norms) or regulations that are discriminatory before it is determined to be a generally binding local regulation.

As previously stated that it should be in the harmonization of the local regulation draft activities in accordance with the contents of the circular from the Ministry of Law and Human Rights concernig the Process and Procedures the Harmonization Local Regulation Draft number 4 (four) of course this activity must go through the stage of deliberation, namely meetings, responses and reciprocity from initiators from local governments and related agencies after getting a response, responses, and harmonization results from the Ministry of Law and Human Rights in order to reach an agreement and unanimity conception of the local regulation draft before discussions with the council. Therefore, harmonization of the local regulation draft activities if reviewed from the study of jurisprudence *siyasah dusturiyah* as the basis of leaders in managing and making policies

---

<sup>77</sup> Hariyanto, "Principles of Justice and Deliberation in Islamic Law and its Implementation in the State of Indonesian Law", Legal Supremacy, Vol. 4 No. 1 (2015): 236.

for the state (*siyasah*) has been in line with and appropriate with the principle of deliberation in order to bring closer to the benefit of the people. Harmonization activities local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara has the capacity as a national legal supervisor to assist the president in realizing a planned, integrated and sustainable national law. Thus, in the process of harmonization has held the principles in *siyasah* or take care, control and maintain a government in order to achieve a benefit of the people and avoid damage.

## **BAB V**

### **CLOSING**

#### **A. Conclusion**

Based on the data from the research that has been conducted related to the effectiveness of harmonization of the local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara as well as the view of *siyasah dusturiyah* on harmonization of the local regulation draft carried out by the Ministry of Law and Human Rights can be concluded as follows:

1. That the effectiveness of harmonization of the local regulation draft carried out by the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in the Central Lombok district government has not run effectively and maximally based on the provisions of the law, influenced by several factors, including legal factors, factors of facilities or facilities and cultural factors.
2. That in the view of *siyasah dusturiyah* especially the concept of *wizarah* to the existence of the Ministry of Law and Human Rights Regional Office West Nusa Tenggara in harmonizing the local regulation draft in the Central Lombok district government is in accordance with and in line with the concept of *siyasah dusturiyah* and *wizarah* as an aide to the president to realize the ideals of the Indonesian state as a legal state and conduct the development of integrated, planned and sustainable national laws.

## **B. Suggestion**

1. Preferably to the Ministry of Law and Human Rights Regional Office West Nusa Tenggara conduct socialization and guidance to all local governments

in the province of West Nusa Tenggara related to harmonization activities local regulation draft. It should also conduct a consolidation between the Regional Office of the Ministry of Law and Human Rights with the governors and regents/mayors, provincial and district parliaments against harmonization of the local regulation draft, in order to make understanding related to harmonization of the local regulation draft is a formal requirement in the formation of the law in accordance with the provisions of Law Number 12 Year 2011 *juncto* Law Number 15 Year 2019 concerning the Amendments of Law Number 12 Year 2011 concerning the Establishment of Legislation

2. Preferably to the Regional Office of the Ministry of Law and Human Rights in conducting harmonization activities local regulation draft obey and follow the procedures of harmonization of the local regulation draft in accordance with the Circular Letter of the Minister of Law and Human Rights Year 2019 on Procedures and Procedures for Harmonization The draft local regulation is do harmonization meeting attended by the initiator and related parties in accordance with the view of *siyasaah dusturiyah* in order to maximize deliberation between the initiator and the drafter of the legislation of the Regional Office of the Ministry of Law and Human Rights of West Nusa Tenggara.

## BIBLIOGRAPHY

### A. Book

- Ahmad, Beni Saebani, *Fikih Siyasah Introduction to Islamic Political Science*. Bandung: CV Pustaka Setia, 2007.
- Amiruddin and Zainal, Askin, *Introduction to Legal Research Methods*. Jakarta: Raja Grafindo Persad, 2004.
- Ashofa, *Legal Research Method*. Jakarta: Rieneke Cipta, 2010), 58.
- al-Maududi, *the Caliphate and the Kingdom*. Bandung: Mizan, 2001.
- Dhiaduddin, Muhammad Rais, *Islamic Political Theory*. Jakarta: Permata A Insani Press, 2001.
- Hasan, Abu, al-Mawardi, *al-Ahkam as-Sulthaniyah wa al-Wilayatul al-Diniyah*. Egypt: Mustafha al-Asabi Halabi, tt.
- H. Prof. A Djazuli, *Fikih Siyasah Implementation of People's Benefit in Syariah Signs*. Jakarta: Kencana, 2003.
- Iqbal, Muhammad, *Fiqh Siyasah, Contextualization of Islamic Political Doctrine*. Jakarta: Prenadamedia Group, 2014.
- Jurdi, Fajlurrahman, *Legal Logic*. Jakarta: Prenadamedia Gruf, 2017.
- Kansil, C.S.T, *Indonesian Governance Law*. Jakarta: Ghailia Indonesia, 1983.
- Manan, Bagir, *Meet the Dawn of Local Autonomy*. Yogyakarta: PSH FH UII, 2002.
- Muhammad, Abdulkadir, *Law and Legal Research*. Bandung: Citra Aditya Bakti, 2004.
- Narbuko, Cholid and Abu, Achmadi, *Research Methodology*. Jakarta: PT. Earth Script, 2003.
- Nawawi, Barda, *Capita Selection of Criminal Law*. Bandung: Citra Aditya, 2003.
- Ranggawidjaja, Rosjidi, *Introduction to Indonesian Legislation*. Bandung: Publisher Mandar Maju, 1998.
- Rahardjo, Satcipt, *Law*. Bandung: Citra Aditya Bakti, 2006.
- Susanto, Hery, *Local Autonomy and Local Competence*. Jakarta: Millennium Publisher, 2003.
- S, Juhaya Praja, *Philosophy of Islamic Law*. Tasikmalaya: Lathifah Press, 2009.
- Soekanto, Soerjono, *The Principles of Sociology of Law*. Jakarta: PT Raja Grafindo Persada, 2007.
- Soekanto, Soerjono, *Legal Awareness and Legal Compliance*. Jakarta: Rajawali Pers, 1982.
- Soekanto, Soerjono, *Factors Affecting Law Enforcement*. Jakarta: PT Raja Grafindo Persada, 2005.
- Soehino, *State Science*. Yogyakarta: Liberty, 1980.

- Shafieq, Muhammad, Gobral, *al-Mansu'ah al-Arabiyah al-Muyassarah*. al-Qhoirah: Daru Qolam, 1965.
- Soekanto, Sorejono, *Introduction to Legal Research*. Jakarta: Pincher University of Indonesia Press, 1986.
- Soekanto, Soerjono and Sri, Mamudji, *Normative Legal Research, A Brief Review*, Jakarta: Raja Grafindo Persada, 2011.
- Satori and Komariah, *Qualitative Research Method*. Bandung: Alfabeta, 2012.
- Soekanto, Soerjono, *Summary of Empirical Legal Research Methodology*. Jakarta: Ind-Hill-Co, 1990.
- Farida, Maria, Indrati S, *Law, Type, Function and Content Material*. Yogyakarta: Kanisius, 2007.
- Fuadi, Munir, *Grand Theory in Law*. Jakarta: Kencana Prenamedia Group, 2013.
- Fajar, Mukti, ND and Yulianto, Achmad, *Dualism of Legal Research*. Yogyakarta: Faculty of Law, University of Muhammadiyah, 2007.
- Waluyo, Bambang, *Legal Research In Practice*. Jakarta: Sinar Grafika, 2002.
- Qadr, Abdul, Audah, *al-Islam wa Audha'una al-Siyasah*. Cairo: Darul Kitab al-Arabi, 1951.

## **B. Law and Regulation**

- Constitution of the Republic Indonesia Year 1945
- Law Number 15 Year 2019 concerning the Establishment of Legislation (Statute Book of 2019 Number 183, Addition of Statute Book Number 6398).
- Law Number 23 Year 2014 concerning the Local Government (Statute Book of 2014 Number 244, Addition of Statute Book Number 5587).
- Law Number 12 Year 2011 concerning the Establishment of Legislation (Statute Book of 2011 Number 82, Addition of Statute Book Number 5234).
- Law Number 39 Year 2008 concerning the Ministry of State (Statute Book of 2008 Number 166, Addition of Statute Book Number 4916).
- Government Regulation Number 59 Year 2015 concerning The Participation of Regulatory Designers and Their Trustees (Statute Book of 2015 Number 186, Addition of Statute Book Number 5729).
- Presidential Regulation Number 87 Year 2014 concerning the Implementing Regulation of Law Number 12 Year 2011 (Statute Book of 2014 Number 199, Addition of Statute Book Number 264).

## **C. Paper and Journal**

Andi, Hafiz Sadewo "The Urgency of Harmonization and Synchronization of Local Regulations in the Establishment of Participatory Local Regulations", Scientific Journal, (2015).

Almubarak, Fauzi, "Justice in Islamic Perspective", Jurnal Istighna, 1 (2018): 115-117.

Hariyanto, "Principles of Justice and Deliberation in Islamic Law and its Implementation in the State of Indonesian Law", Supremacy of the Law, Vol. 4 No. 1 (2015): 236-238.

H, Taufik Simatupang, "the Role of the Regulatory Designer of the Regional Office of the Ministry of Law and Human Rights in the Framework of Harmonization of Local Regulations," Jikh, Vol. 11(2017):14-16.

Hassan, Mohammad, La Senu, Kamaruddin Jafar, "the Implementation of Local Regulation Products Without Going Through Facilitation Procedures in the Establishment of Local Regulations", Halu Oleo Legal Research, Vol. 1(2019).

Lathief Nazaruddin, "Legal Theory as a Means or Tool to Renew or Engineer Society", Pakuan Law Review, Vol. 3 No. 1 (2017): 83-84.

Nurkholbi, Dimas, "Fikih *Siyasah dusturiyah* Analysis of the Process of Forming Legislation in Indonesia" Thesis, Sunan Ampel State Islamic University Surabaya, 2019.

Fitrian, Yuniko, "The Importance of Legal Culture in Society", Scientific Journal, (tt): 6, <http://jdih.bengkuluprov.go.id>

#### A. Website

Tafsi al-Quran Surat at-Thoha Ayat 29, Risalah Muslim, diakses 16 November 2020, <https://risalahmuslim.id/quran/thaa-haa/20-29/>

Aturan Pelaksana Undang-Undang Nomor 12 Tahun 2011, DPR-RI, diakses 15 November 2020 <http://www.dpr.go.id/bk/rekap-perlak-uu/id/1749>

#### CURRICULUM VITAE



Nama : Ahmad Fikry Wilian  
 Fakultas/ Jurusan : Syariah/ Hukum Tata Negara (*Siyasah*)  
 TTL : Beber, 14 Mei, 1999  
 Alamat Asal : Dusun Beber Lauq, Desa Pongenjek, Kecamatan Jonggar, Kabupaten Lombok Tengah, Provinsi NTB.  
 Alamat di Malang : Jalan Terusan Sigura-gura, Blok B No. 20, Lokowaru, Malang, Jawa Timur, 65145  
 Alamat E-Mail : [fikrywilian.1405@gmail.com](mailto:fikrywilian.1405@gmail.com)

#### **Riwayat Pendidikan**

1. Sekolah Dasar Negeri Beber
2. Pondok Pesantren Nurul Haramain Narmada
3. Madrasah Aliyah Negeri 2 Model Mataram

#### **Karya Tulis Ilmiah**

1. Literasi dan Intelegualitas Mahasiswa Zaman Now; Literasi Investasi Insan Intelek (Buku)
2. Hukum Lembaga Negara; Pemerintahan Desa dalam Lembaga Negara dan Sistem Ketatanegaraan Indonesia (Buku)
3. Hukum Kepartaian dan Pemilu; Sentra Penegakan Hukum Terpadu (GAKKUMDU) (Buku)
4. Kilas Balik Teoretis Akal dan Islam (Buku)
5. Kilas Balik Interaksi Konstitusi dan Politik (Artikel)
6. Eksistensi dan Implementasi Hukum Islam dalam Sistem Hukum Nasional (Artikel)
7. Anomali Konfigurasi Fundamentalisme; Ancaman NKRI Perspektif Bhineka Tunggal Ika (Artikel)
8. Pemanfaatan Internet dalam Pemasaran Produk dan Jasa (Artikel)

#### **Pengalaman organisasi**

1. Pengurus Bidang Akademik dan Pengembangan Program Kerja Organisasi Pusat Kajian Konstitusi dan Peraturan Perundang-undangan (PUSKOPER) tahun 2019-2020

2. Pengurus Bidang Teknologi dan Informasi Forum Komunikasi dan Diskusi Mahasiswa Intelektual (FKD MANTEK) tahun 2018-2019
3. Pengurus Bidang Intelektual Organisasi “Forum Studi dan Komunikasi Mahasiswa Lombok UIN Malang (FORSKIMAL)” Tahun 2017-2018
4. Anggota MATUR Malang (Organisasi Mahasiswa Lombok Tengah)
5. Anggota LADEC (Law Debate Community) UIN Malang.

