

THE CONCEPT OF STATE ECONOMIC POLICY IN THE FIELD OF HALAL TOURISM IN THE CONTEXT OF LEGAL PLURALISM IN INDONESIA

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Abstract - Indonesia as a country with the largest Muslim population, is influenced by the application of Islamic law in society. Tourism management with the concept of halal is increasingly used by regions to attract both domestic and foreign tourists. The purpose of this research is to determine the position of laws in the context of diversity when regulating halal tourism policies. There is Islamic law that underlies the concept of halal tourism, and on the other hand, there is state law that also regulates the field of tourism. The legal research method with a statutory approach and a concept approach is used to answer the research objectives. The results showed that the enactment of laws other than state law was found in the practice of managing tourism in Indonesia. The state constitution gives authority to the regions based on their privileges to regulate and manage their regions. However, the regions are prohibited from making policies that are contrary to the principles of the Unitary State of the Republic of Indonesia. The religious legal system and the state legal system show their relationship in tourism development in Indonesia. State legal arrangements still dominate the enactment of the Islamic legal system in tourism management; this is indicated by the limitations of regulating the halal concept criteria used as parameters, which must not conflict with the Principles of the Unitary State of the Republic of Indonesia. However, the relationship between the two is also very accommodating in regulating halal tourism.

Keywords: policy; halal; tourism; legal pluralism;

INTRODUCTION

Constitutionally, the Provincial Government and Regency/City Regional Government have the right to regulate and manage their own government in accordance with the principles of regional autonomy and assistance tasks in Article 18 paragraphs (2) and (5) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution). Thus, in the tourism sector, the provincial government has authority in accordance with the provisions of Article 29 of Law Number 10 of 2009 concerning tourism. Likewise, the regency or city regional government has authority in accordance with the provisions of Article 30 of Law Number 10 of 2009 concerning tourism. The discussion about tourism is endless. Because there is uniqueness in every tourism destination at home and abroad, especially related to the country's economic policy for investment development in each country. In Indonesia, it is clearly regulated in the provisions of Article 5 of the Tourism Law, which emphasizes that investment-based tourism activities require reference to the principles of:

- a. Uphold religious norms,
- b. uphold human rights, cultural diversity, and local wisdom,
- c. preservation of nature and the environment,
- d. Empowering the local community,
- e. Ensure integration between sectors,
- f. Comply with the tourism code of ethics;
- g. Strengthening the integrity of the Indonesian state.

Today, tourism is one of the most important sectors in Indonesia. Sandiaga Uno, Minister of Tourism and Creative Economy (Menparekraf), said that in 2020 there was a decrease in the number of tourist visits



due to the Coronavirus Disease 2019 (Covid-19) pandemic; there were only about 4 million foreign tourists to Indonesia. However, since January 2022, the number of foreign tourist visits has increased by several percent to 5.47 million. Therefore, in 2023, the government is targeting 7.4 million foreign tourists who come to Indonesia to travel. (Swa.co.id, 2023). When discussing tourism in Indonesia, there are many interesting things that can be studied further, one of which is related to halal tourism to strengthen the country's economic investment. The existence of halal tourism in Indonesia cannot be separated from the majority of Indonesia's population, which is Muslim. Based on data from the World Population Review, there will be around 231 million people who embrace Islam in 2021. (CNBC, 2023). Even Ma'ruf Amin, the Vice President of Indonesia, asked the Regency Regional Government to develop halal tourism because the number of world Muslim tourists continues to soar to 110 million tourists in 2022. (Tempo, 2023)

For Indonesia, halal tourism is a distinct advantage, so both the government and all other related parties are trying hard to develop existing halal tourism. This can be proven by several awards obtained by Indonesia. In 2016, Indonesia won 12 awards from 16 categories contested by the World Halal Tourism Awards held in Abu Dhabi, United Arab Emirates, precisely from October 24 to November 25. In addition, in 2022, Indonesia was ranked second after Malaysia in the top order in halal tourism according to the Global Travel Muslim Index (GMTI). (Abdul Halim Nasution, 2022). Even in 2023, Indonesia ranked first with a score of 73 out of 100. GMTI assesses four aspects, namely access, communication, environment, and services (ACES). Indonesia excels in communication and services. .(Kompas, 2023). In realizing halal tourism, there are several things that need to be owned by tourist destinations. For example, the provision of halal food, supporting facilities for worship (prayer rooms and ablutions), and other Muslim-friendly services. (Kemenkraf.go.id, 2023). In addition to Indonesia and Malaysia, halal tourism, according to GMTI, is followed by Turkey as the third rank, Saudi Arabia as the fourth rank, and the United Arab Emirates as the fifth rank. And there are several other countries that are included in the top 10 halal tourism destinations, namely, Qatar, Morocco, Bahrain, Oman, and Brunei Darussalam. (Kominfo.go.id, 2019). As previously discussed, tourism in Indonesia is regulated by Law Number 10 of 2009 concerning tourism. However, there are still several other policies, such as Government Regulation Number 50 of 2011 concerning the National Tourism Development Master Plan 2010-2025, East Java Provincial Regulation Number 6 of 2017 concerning the East Java Provincial Tourism Development Master Plan 2017-2032, and the Regency Tourism Development Master Plan. Then, for halal tourism itself, there is an addition to Fatwa Number 108/DSN-MUI / X / 2016 concerning Guidelines for Organizing Tourism Based on Sharia. The addition is because running halal tourism must have restrictions that are not the same as tourism in general.

The purpose of this study is twofold, namely regarding the concept of halal tourism in the juridical construction of the regulation of the Tourism Law in Indonesia and the relationship between state law and Islamic law in regulating halal tourism in the frame of legal pluralism.

1. METHODOLOGY

The research method used in this research is normative, using two approaches, namely, the statutory approach and the concept approach. Legislation approach to examine the norms governing the organization of the tourism industry in Indonesia, including other policies that underlie the country's economic activities in the field of halal tourism. Concept Approach to examine how and what are the benchmarks in the selection and purpose of organizing halal tourism. Both approaches will ultimately answer how the regulatory relationship affects tourism in the construction of state law and Islamic law.

2. RESULTS AND DISCUSSION

Halal Tourism in the Juridical Construction of Tourism Regulations in Indonesia.

Drawn from various literature and references, halal tourism is a tourism concept that focuses on meeting the needs of Muslim tourists in accordance with the principles of Islamic sharia. This concept covers various aspects, ranging from accommodation and food to recreational activities that are in accordance with Islamic values. Here are some of the main aspects of the halal tourism concept around the world:

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- Halal Accommodation: hotels and other accommodations that comply with sharia principles, such as not providing alcoholic beverages and having special facilities for worship, such as prayer rooms. clean bathrooms that comply with Islamic hygiene principles.
 - Halal Food and Beverages: Restaurants and cafes that serve food and beverages derived from halal ingredients and processed in accordance with sharia principles. ensuring that kitchens and cooking equipment are free from contamination with nonhalal products.
 - Shariah-compliant recreation and entertainment: offering recreational activities that do not conflict with Islamic values, for example, performances that do not involve haraam matters. entertainment venues that adhere to Islamic ethical rules.
 - Shariah-compliant transportation: transportation options that understand the needs of Muslim travelers, such as the provision of special areas for praying on planes or trains. travel that complies with Islamic principles of safety and ethics.
 - Shariah-compliant healthcare: healthcare facilities that accommodate the needs of Muslim travelers, including Shariah-compliant medical care.
 - Promotion of Shariah Ethics and Policies: promotion of Islamic ethical values and the habituation of travelers and tourism industry players to respect sharia norms and rules.
 - Shariah Education and Awareness: training and awareness for tourism industry players to understand the needs and preferences of Muslim travelers and conduct their business in accordance with sharia principles.

The concept of halal tourism plays an important role in increasing the attractiveness of tourism destinations for Muslim travelers, who tend to seek travel experiences that are in line with their religious beliefs and values. Many countries and tourism destinations have started to adopt this concept as part of their efforts to diversify and improve their tourism industry. Halal tourism in Indonesia refers to efforts to develop a tourism industry that meets the principles of Islamic sharia. It covers various aspects, including accommodation, food, and recreational activities that comply with Islamic values. The implementation of halal tourism in Indonesia involves various parties, including the government, the private sector, and the community. Some of the steps that have been taken to support halal tourism in Indonesia include:

- Halal Certification: Efforts:

to provide halal certification to tourism-related products and services, such as hotels, restaurants, and tourist attractions, These certifications are issued by recognized institutions and can provide confidence to Muslim tourists.

- Infrastructure Development:

The government invests in the development of tourism infrastructure that supports the needs of Muslim travelers, such as the construction of hotels and restaurants that meet halal standards.

- Halal Tourism Promotion:

Special promotional efforts to attract Muslim tourists to tourism destinations in Indonesia. This involves marketing campaigns that emphasize the availability of halal facilities and services.

- Training and Education:

Training for players in the tourism industry, including training to understand the needs and expectations of Muslim travelers. Education on aspects of halal tourism can also be provided to related parties.

- Collaboration with Related Parties:

Cooperation between the government, private sector, and communities in supporting halal tourism. This includes an open dialog to understand the needs and aspirations of the various parties involved

- Product and Service Development: Innovation in the development of tourism products and services that comply with halal principles, including the provision of prayer facilities, halal food, and adequate information for Muslim travelers.

The development of halal tourism in Indonesia has great potential to increase Muslim tourist arrivals, which is a significant market globally. With proper implementation, Indonesia can become one of the top destinations for Muslim travelers seeking tourism experiences in accordance with Islamic principles. As a country that has extraordinary beauty, it is not surprising that Indonesia is often used as a tourism destination by tourists, both domestic and foreign. Following the times, tourism began to show its existence. One of the types of tourism that has experienced significant development is halal tourism.



Article 1 paragraph (3) of Law Number 10 of 2009 concerning Tourism regulates as follows: "Tourism is a variety of tourist activities and is supported by various facilities and services provided by the community, entrepreneurs, government, and regional governments." Meanwhile, according to the First Fatwa paragraph (3) of the Fatwa of the National Sharia Council-Majelis Ulama Indonesia Number 108/DSN-MUI/X/2016 concerning Guidelines for the Implementation of Tourism Based on Sharia Principles, "Tourism is a variety of tourist activities and is supported by various facilities and services provided by the community, entrepreneurs, government, and local governments." Then, the first paragraph (4) of Fatwa of the National Sharia Council-Majelis Ulama Indonesia Number 108/DSN-MUI/X/2016 concerning Guidelines for the Implementation of Tourism Based on Sharia Principles reads as follows: "Sharia Tourism is tourism in accordance with sharia principles.

According to Pendit, there are eight types of tourism, namely, cultural tourism, health tourism, sports tourism, commercial tourism, industrial tourism, marine tourism, nature reserve tourism, and honeymoon tourism. (DPRD.Talau.go.id, 2023). As for halal tourism, there are at least several regions in Indonesia that have implemented the halal concept, namely Aceh, Lombok, Riau Islands, West Sumatra, Jakarta, DI Yogyakarta, and South Sulawesi. (adira.go.id, 2023)

The Third Fatwa of the National Sharia Council—Majelis Ulama Indonesia Fatwa Number 108/DSN-MUI/X/2016 concerning Guidelines for the Implementation of Tourism Based on Sharia Principles states that there are two general principles for organizing halal tourism. First, avoid polytheism, disobedience, mischief, *tabdzir/israf*, and obscenity. Second, create benefits, both materially and spiritually. Likewise, Law Number 10 of 2009 concerning Tourism, Article 5 letter (a), stipulates that "upholding religious norms and cultural values as an embodiment of the concept of living in a balance of relationships between humans and God Almighty, relationships between humans and fellow humans, and relationships between humans and the environment" is one of the principles in organizing the tourism industry. This principle reflects that the concept of halal tourism is an option and goal in the implementation of state economic policy in the field of tourism.

The definition of tourism in Article 1 Number 3 of Law Number 10 of 2009 concerning Tourism is "various kinds of tourism activities supported by various facilities and services provided by the community, government entrepreneurs, and local governments." In the language of tourism, it can be interpreted as a travel activity carried out by both a person and a group to visit a tourist destination or tourist attractions in a short time and away from their original place of residence, which has a purpose for entertainment. While in the Islamic perspective on tourism, there are several views, namely (Aan J., 2017):

- First, travel is considered an act of worship because it is ordered to perform one of the obligations of the pillars of Islam, namely Hajj in a certain month and Umrah, which is carried out throughout the year to Baitullah.
- Second, in the Islamic worldview, travel is also connected to the concepts of knowledge and learning. It became the largest journey undertaken in early Islam, with the aim of seeking and spreading knowledge.
- Third, the purpose of travel in Islam is to learn knowledge and think. The command to travel the earth appears in several places in the Qur'an.
- Fourth, the greatest purpose of travel in Islamic tourism is to invite others to Allah and to convey to mankind the teachings of Islam as revealed to the Prophet Muhammad. This was the mission of the Prophet and his companions. The companions of the Prophet Muhammad spread throughout the world, teaching the good and inviting them to practice the truth. The concept of tourism was developed to achieve this goal. Finally, Islamic tourism also includes travel activities to contemplate the wonders of Allah's creation and enjoy the beauty of this universe, so that it will make the human soul develop a strong faith in the oneness of Allah and will help a person fulfill the obligations of life. (Maria Ramadhani, 2021)

As for Indonesia, halal tourism itself was developed into a national program by the Ministry of Tourism. To accelerate halal tourism, the Ministry of Tourism has determined 15 (fifteen) provinces that are the focus of developing leading Muslim tourist destinations. The 15 (fifteen) provinces are given autonomy by the ministry of tourism to manage tourism potential in their respective regions. By providing autonomy by the Ministry of Tourism, it is hoped that each designated province can develop



their own halal tourism potential to excel and become a favorite destination for halal tourism (Ferdiansyah, 2020). One of them is halal tourism in Lombok, NTB, which is regulated in the Regional Regulation of West Nusa Tenggara Province Number 2 of 2016 concerning halal tourism, and there are many more in other regions in Indonesia that have the potential to become destinations for halal tourism. The development of Indonesia's halal tourism is one of the Ministry of Tourism's priority programs that has been carried out since five years ago. GMTI 2019 data shows that, until 2030, the number of Muslim tourists is projected to reach 230 million worldwide. In addition, the growth of Indonesia's halal tourism market in 2018 reached 18%, with the number of foreign Muslim tourists visiting Indonesia's priority halal tourist destinations reaching 2.8 million, with foreign exchange reaching more than Rp 40 trillion. Referring to the target of 20 million foreign tourist arrivals that must be achieved in 2019, the Ministry of Tourism targets 25%, or equivalently, 5 million of the 20 million tourists as Muslim tourists. This opportunity was captured by the Ministry of Tourism and followed up with the development of 10 National Priority Halal Destinations in 2018 that refer to GMTI standards, including Aceh, Riau and Riau Islands, West Sumatra, DKI Jakarta, West Java, Central Java, Yogyakarta, East Java (Malang Raya), Lombok, and South Sulawesi (Makassar and surrounding areas). This year, strengthening halal tourism destinations is carried out by adding the participation of six regencies and cities within the 10 National Priority Halal Destinations, namely Tanjung Pinang City, Pekanbaru City, Bandung City, Bandung Regency, West Bandung Regency, and Cianjur Regency.

Inter-Legal Relations In Halal Tourism In The Context Of Legal Pluralism

As a country known as a state of law, it is not surprising that Indonesia has several laws to regulate the life of the nation and state, ranging from national law, Islamic law, and customary law. National law is a law recognized by the community; in Indonesia, national law is in the form of laws. Then, Islamic law is the law that is believed by the Muslim community; the source is the Qur'an, hadith, and ijtihad. Meanwhile, customary law is a law that comes from community habits and is hereditary. So it is not surprising that there is such a thing as legal pluralism in Indonesia. When discussing legal pluralism, the existence of Islamic law and customary law is interesting to study further because Indonesian society has a diversity of ethnicity, race, religion, intergroup, and profession.

Every law must have its own obstacles; for example, in customary law, there are at least two obstacles. First, the increasing role of the state in social life makes it seem as if the state appears with formal laws that must be obeyed and implemented by the community. Second, the phenomenon of globalization, which has an impact on all aspects of human life in this case, is no exception to the legal aspect, resulting in a new phenomenon called legal modernization. (Fardhana Putra Disantara, 2021) According to Menski, it is important to understand legal pluralism in order to know more about law and legal order. Menski states that law does not only examine norms but must also consider values, facts, meanings, processes, structures, power relations, personnel, and technology. (I Putu Sastra Wibawa, 2018). In addition, Myrna stated that legal pluralism is important because justice can be found in various laws. (Widhiana H Puri, 2017)

Experts interpret pluralism differently. In Indonesia, legal pluralism began to be realized during the reign of the Dutch East Indies. The Dutch East Indies Government at that time saw the natives practicing various laws, thus making the Dutch East Indies Government inevitably have to apply the same law to all natives. (Murdan, 2016). Gus Dur, quoted by Taufani (2018: 202), interpreted pluralism as a big house with many rooms; each room has residents. Each room occupant has the freedom to maintain, decorate, and use the room for anything. But when gathered in the family room, each occupant is obliged to merge into one to maintain the interests of the house. (Nadif Hanan Narendra, 2022) Werner Menski, in his book entitled *Comparative Law in a Global Context (The Legal System of Asia and Africa)*, defines legal pluralism as an approach to understanding the relationship between constitutional law (positive law), aspects of society (socio-juridical approach), and natural law (moral, ethical, or religious). (Hairun Tri Wahyuni Sagal, 2022). (Suci Flambonita, 2021). M. Friedman defines pluralism as the existence of different legal systems or cultures within a single political community. Furthermore, Griffiths states that legal pluralism is the coexistence of more than one legal order in a social field and classifies legal pluralism into weak and strong legal pluralism. (Sartika Intaning Pradhani, 2021)

Moreover, Griffiths divides legal pluralism into two parts, namely, weak and strong legal pluralism. The meaning of weak legal pluralism is when the state with a legal centralization system recognizes non-



state law and its validity under state law, while strong legal pluralism recognizes and positions non-state law as equal in capacity to state law. (Muhazir, 2022) Legal pluralism itself has been recognized by state law precisely in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. (Wandi Subroto, 2022). Therefore, Savitri stated that there are four ways to study legal pluralism. First, map the various laws that exist in a social field, especially state and non-state laws. Second, explain relations, adaptation, and competition between legal systems. Third, the individual choice of citizens to utilize certain laws when in conflict. Fourth, there are global, national, and local interactions that affect interactions between laws. (Wahyu Nugroho, 2019)

As mentioned earlier, Lombok is one of the regions that applies the halal concept by making West Nusa Tenggara Province Regional Regulation Number 2 of 2016 concerning halal tourism. According to the law, the concept of halal tourism is a concept that integrates sharia values into tourism activities by providing facilities and services that are in accordance with sharia provisions. Tourism destinations can be categorized as halal if they meet the following seven requirements: halal hotels, halal transportation, halal restaurants, halal food, halal logistics, Islamic financial systems, and Islamic travel packages. (Marina Ramadhani, 2021)

The application of the concept of halal tourism in the First Fatwa paragraph (3) of the National Sharia Council-Majelis Ulama Indonesia Fatwa Number 108/DSN-MUI/X/2016 concerning Guidelines for the Implementation of Tourism Based on Sharia Principles is in line with state law because there are only four things that are used as a benchmark in making the fatwa, including: MUI Fatwa No.287/2001 on Pornography and Pornoaction, MUI Fatwa No.6/MUNAS VII/MUI/10/2005 on Maslahat Criteria, MUI Fatwa on Massage Parlors dated July 19, 1982, and the opinion of the participants of the Plenary Meeting of DSN-MUI on October 1, 2016.

Looking at the history of the development of the Indonesian legal system, we will see that there are specific and interesting characteristics to be studied. Prior to the legal influence of Dutch colonization in Indonesia, different customary laws and Islamic laws from various indigenous communities in Indonesia from different kingdoms and ethnicities were applied. In its development, Islamic law (fiqh) became the choice of the community because, theologically, its teachings are based on faith and are felt to provide peace for its adherents. With the acceptance of these teachings, people willingly and obediently follow the teachings of Islam in various dimensions of life. The understanding and practice of the teachings of Islam have become the norm and ultimately an institutionalized legal system, especially in the field of Sharia-based economics.

Recognition that religious law is also considered by the state is evidenced by the internalization of aspects of religiosity into one of the principles in the implementation of the tourism industry. This shows that both legal systems are very accommodating, especially in developing state economic policies through halal tourism. This relationship is in accordance with the state constitution, which gives authority to the regions based on their privileges to regulate and manage their regions. However, the regions are prohibited from making policies that conflict with the principles of the Unitary State of the Republic of Indonesia.

CONCLUSION

The juridical construction of the concept of halal tourism is part of the concept of norms in the regulation of the tourism law in Indonesia. This is evident from the principles of tourism in the provisions of Article 5 letter (a) of Law Number 10 Year 2009 concerning Tourism.

Inter-Legal relations of halal tourism regulations is running well, as evidenced by the existence of several policies, both general and with the concept of halal, which are very accommodating.

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