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POLITICAL CONFIGURATION AND THE DEVELOPMENT OF ISLAMIC ECONOMIC LAW IN INDONESIA DURING THE NEW ORDER AND REFORMATION ERA

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Abstrak

Kata Kunci:

Tafsir al-Qur'an, Pesantren, Metode sains, dan Budaya lokal

Artikel ini bertujuan untuk melihat perbandingan konfigurasi politik di Indonesia pada masa Orde Baru dan era Reformasi terkait dengan pembentukan hukum dalam ekonomi Islam. Ekonomi Islam akhir-akhir ini menjadi isu yang menarik minat para sarjana dan praktisi ekonomi karena berpotensi menjadi industri besar. Produk hukum dan beberapa kebijakan lahir sebagai bukti perkembangan hukum ekonomi Islam di Indonesia, seperti UU Jaminan Produk Halal, pengesahan Peraturan Pemerintah tentang pelaksanaan jaminan produk halal, hingga penggabungan bank konvensional ke dalam Bank syariah. Fenomena tersebut menunjukkan bahwa konfigurasi politik di era Reformasi merupakan lahan subur bagi pembangunan ekonomi. Lalu, bagaimana dengan Konfigurasi Politik di era Orde Baru? Artikel ini merupakan kajian hukum dengan pendekatan sejarah dan politik yang diperkuat dengan teori politik hukum. Studi ini menemukan bahwa terdapat perbedaan karakteristik hukum ekonomi Islam antara konfigurasi politik otoriter dan demokrasi. Artikel ini menegaskan bahwa karakter hukum ekonomi Islam di era Orde Baru cenderung ortodoks; kontrol hukum dipegang erat oleh politik dan harus diikuti oleh masyarakat (top-down). Sementara itu, era Reformasi membawa arah hukum ekonomi Islam pada karakteristik hukum yang responsif. Masyarakat memegang kendali hukum dengan menjadikan elit sebagai pengambil kebijakan bagi pengembangan hukum ekonomi Islam (bottom-up).

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Abstract

Keywords:
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 exegesis,
 Science
 Method,
 Pesantren,
 Local culture

This article aims to comparatively view the political configuration in Indonesia in the New Order and the Reformation era related to the formation of law in Islamic economics. Recently, Islamic economics has become an issue that has attracted the interest of scholars and economic practitioners as it is potential to be a massive industry. Legal products and several policies were born as evidences of the development of Islamic economic law in Indonesia, such as Halal Product Guarantee Act, the ratification of Government Regulations regarding the implementation of halal product guarantees, to the merger of conventional banks into shari'ah Banks. These phenomena show that the political configuration in the Reformation era is fertile ground for economic development. Then, what about the Political Configuration in the New Order era? This article is a legal study using historical and political approaches strengthened by legal political theories. The study finds that there are different characteristics of Islamic economic law between authoritarian and democratic political configurations. This article emphasizes that the character of Islamic economic law in the New Order era tended to be orthodox; legal control was tightly held by the political elite and ought to be followed by the community (*top-down*). Meanwhile, the Reformation era brought the direction of Islamic economic law to responsive legal characteristics. The society holds legal control by making the elites as policymakers for the development of Islamic economic law (*bottom-up*).

Introduction

The fall of President Suharto marked the end of the New Order era and the beginning of a more democratic political system in Indonesia and the general elections with multiple political parties in Indonesia.¹ Some scholars refer this transition as a starting point of a new era. Many studies of the transition era cover various issues such as political consolidations, the general election system, village reform, and foreign relations issues.² In

¹ See some scholarly works such as: Effendi Gazali, "The Suharto Regime and Its Fall Through the Eyes of the Local Media," *Gazette* 64, no. 2 (2002): 121–140, <https://doi.org/10.1177/17480485020640020301>; Andreas Ufen, *Political Parties in Post-Soeharto Indonesia: Between Politik Aliran and 'Philippinisation*, Working Papers German Institute of Global and Area Studies, 2006; Andreas Ufen, "From Aliran to Dealignment: Political Parties in Post-Suharto Indonesia," *South East Asia Research* 16, no. 1 (2008): 5–41, <https://doi.org/10.5367/000000008784108149>; Dewi Fortuna Anwar, *The Fall of Suharto: Understanding the Politics of the Global*, ed. Francis Loh Kok Wah and Joakim Ojendal, in *Southeast Asian Responses to Globalization: Restructuring Governance and Deepening Democracy* (Singapore: ISEAS Publishing, 2005), 201-230 <https://bookshop.iseas.edu.sg/publication/304#contents>.

² See some scholarly works such as: Paul J. Carnegie, "Democratization and AL-A'RAF– Vol. XVIII, No. 1, June 2021

Indonesian context, the study of the New Order and Reformation is necessary as there are lots of changes in social, political, and legal affairs. This article employed a comparative analysis of the New Order and Reformation era to see how the political configuration and government policies have created Islamic economic law.

Law, politics, and economics are interrelated fields. Political configurations built for a long time due to the establishment of a social system in society will produce laws according to the patterns and workings of the rulers. On the other hand, the economy develops along with the social, political, and legal journey. This article examines the relationship between these three factors in the context of Islamic economics. Several cases in Indonesia show the problem of power and its relationship with the changing of socio-economic conditions.³ Theoretically, this article studies the politics of Islamic economic law that is increasing in Indonesia. This study seems less familiar to most Muslims, even to contemporary Muslim economists. Practically, Islamic economics, which has normative and empirical dimensions, only becomes a microeconomic discussion that focuses on zakat, infaq, alms, halal studies, and Islamic financial institutions.

Several studies at the micro-level show that there is a fundamental development of religious practices that is related to state regulations. In terms of zakat management, the state coordinates with several religious leaders. It is intended that zakat management can be carried out

Decentralization in Post-Soeharto Indonesia: Understanding Transition Dynamics,” *Pacific Affairs* 81, no. 4 (2009): 515–525; Sutoro Eko, *Reformasi Politik Dan Pemberdayaan Masyarakat* (APMD Press, 2004); Maribeth Erb and Priyambudi Sulistiyanto, *Deepening Democracy in Indonesia? Direct Elections for Local Leaders (Pilkada)* (Singapore: ISEAS Publishing, 2009); Priyambudi Sulistiyanto, “Indonesia-Australia Relations in the Era of Democracy: The View from the Indonesian Side,” *Australian Journal of Political Science* 45, no. 1 (2010): 177–132, <https://doi.org/10.1080/10361140903517742>.

³Robert William Liddle, “The Islamic Turn in Indonesia: A Political Explanation,” *The Journal of Asian Studies* 55, no. 3 (1996): 613–34, <https://doi.org/10.2307/2646448>; Robert W. Hefner, “Remaking Muslim Politics: Pluralism, Contestation, Democratization,” in *In Remaking Muslim Politics: Pluralism, Contestation, Democratization*, ed. Robert W. Hefner (Princeton University Press, 2005), <https://www.jstor.org/stable/j.ctt7t9jb>.

professionally, accountably, and transparently. As an example, the study of halal shows that there is an encouragement from the religious community to guarantee the lawfulness of products which must be regulated. This practice is then related to the religious dimension and to economic, social, and political dimension.⁴ However, these studies need to be complemented by macro studies to capture the meta-narrative behind all emerging religious phenomena. Therefore, the study of shari'ah economic law with a political-legal perspective becomes interesting to conduct as an effort to bring up alternative views in seeing the development of shari'ah economic law in Indonesia.

Meanwhile, the study of the politics of Islamic economics from the viewpoint of macroeconomic is still limited. This situation then encourages academicians to study it intensely. Such kind of study is essential because it can be a gateway to study the politics of the Islamic economy.⁵ Timothy P. Daniels studied the multidimensional interrelationships between social, economic, political, and legal aspects in Malaysia, Indonesia, Pakistan, China, Tunisia, Nigeria, the United States, and the International Islamic Fiqh Academy (IIFA) of the Organization of Islamic Cooperation (OKI). He explained the role of Islamic law in post-colonial transformation, nation-building, and social reforms that were running quite dynamically.⁶ Since the New Order and the Reformation era, Islamic economics have developed in terms of politics and policies regarding its implementation. The political configuration of

⁴ Muhammad Aziz, "Regulasi Zakat Di Indonesia; Upaya Menuju Pengelolaan Zakat Yang Profesional," *Al Hikmah: Jurnal Studi Keislaman* 4, no. 1 (March 23, 2014): 2–2, <https://doi.org/10.36835/hjsk.v4i1.506>; Indah Purbasari, "Pengelolaan Zakat Oleh Badan Dan Lembaga Amil Zakat Di Surabaya Dan Gresik," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 27, no. 1 (2015): 68–81, <https://doi.org/10.22146/jmh.15911>; Heru Susetyo et al., "Regulating Halal Products in Indonesia: Between Religious Needs and Socio-Economic Challenges," *Mazahib* 18, no. 1 (2019): 1–43, <https://doi.org/10.21093/mj.v18i1.1372>.

⁵ Ifdlolul Maghfur, "No TitlePeran Politik Ekonomi Islam Dalam Melaksanakan Globalisasi Masyarakat Ekonomi Asean (MEA)," *Jurnal Hukum Islam* (n.d.): 27–52, <https://doi.org/10.28918/jhi.v0i0.744>.

⁶ Timothy P. Daniels, *Shari'ah Dynamics: Islamic Law and Sociopolitical Processes* (Springer, 2017).

the New Order and the Reformation era has its own character in realizing the nuances of Islamic economics.

The political dynamics of Islamic economic law in the New Order era have a unique chronological story and differ from other Islamic laws. At the beginning of its discourse process, the Islamic economic movement met obstacles from groups who distrusted the "Jakarta Charter" movement.⁷ However, the desire to implement Islamic economics in Indonesia seems to have emerged on the political surface with laws and regulations enactment. Towards the end of the New Order government, Law Number 7 of 1992 concerning Banking was issued, which became the legal basis for the establishment of Bank Muamalat Indonesia, which was claimed to be a non-interest bank.⁸ At the beginning of the establishment of Bank Muamalat Indonesia, many parties did not consider this Islamic bank in the national banking industry. The legal umbrella for the bank operations using sharia principles does not yet have detailed regulations. It is only contained in a brief statement of Law no. 7 of 1992, which provides the probability of the banking industry to operate with a profit-sharing system. For example, Article 6 letter (m) does not contain the terms Islamic Bank or Sharia Bank currently used by Islamic banks in Indonesia as an official term in the Indonesian Banking Law. The editorial only states:

provide financing for customers based on the principle of profit-sharing in accordance with the provisions stipulated in a Government Regulation.

The empirical conditions above strengthen the argument, which states that in the strategy of developing orthodox law, it shows a very dominant role of institutions in determining the direction of legal

⁷ Rifyal Ka'bah, *Politik Dan Hukum Dalam Al-Quran* (Jakarta: Khairul Bayan, 2005), 106.

⁸ M. Dawam Rahardjo, "Bank Islam," in *Ensiklopedi Islam Tematis* (Jakarta: PT Ichtiar Baru Van Houve, 2002).

development that is positivist-instrumentalist.⁹ The goals of some Muslim communities to fight for a legal umbrella regarding interest-free bank operations were slowly executed by the New Order government. The weak legal basis for the formation of sharia banks in Law Number 7 of 1992 also confirms the theory of the political configuration of authoritarianism that can produce orthodox legal products which is less responsive to public laws relating to power relations issues. Meanwhile, private and public laws that are not associated with power relations can run continuously. They are less affected by political changes. The formation of laws as the legal basis for the establishment of sharia banking is not in the context of public law relating to power relations.¹⁰

After the political transition from the New Order to the Reformation era, several legal products were contained in laws and regulations such as Law Number 38 of 1999 concerning Zakat Management, Law Number 41 of 2004 concerning Waqf, and what is relevant in this study is Law Number 21 of 2008 concerning sharia Banking. The birth of various laws and regulations becomes the proof of political stability after the democratization process and the progress of democratic consolidation that is quite good. Even though some political conflicts as a reversal of democratization are common and pessimistic arguments about democracy are often heard, the democratization process in Indonesia is developing steadily over the last decade.¹¹

Optimistic expectations regarding the relationship between the Islamic economy and political transition emerged after institutionalizing sharia banking in Indonesia with Bank Muamalat. When a crisis hit Indonesia, Bank Muamalat survived better than other commercial banks

⁹ John Henry Merryman and Rogelio Pérez-Perdomo, , *The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America* (Stanford, Calif.: Stanford University Press, 2007).

¹⁰ Moh Mahfud MD, *Politik Hukum Di Indonesia* (Jakarta: Rajawali Pers, 2009).

¹¹ Samuel P. Huntington, *The Third Wave: Democratization in the Late 20th Century* (University of Oklahoma Press, 2012); Louay Abdalbaki, "Democratisation in Indonesia: From Transition to Consolidation," *Asian Journal of Political Science* 16, no. 2 (August 1, 2008): 151–72, <https://doi.org/10.1080/02185370802204099>.

that were heavily indebted and liquidated. The bank could survive because it was not bound by financial commitments, which at that time bankrupted almost all modern Indonesian business sectors.¹² Thus, the project to strengthen sharia banks fulfills the movement to actualize Islamic economic law in the Reformation era.

The description of the political milieu of the New Order and Reformation era shows the characteristics of the actualization and application of Islamic economics legally and politically. This article examines the development of Islamic economic law viewed from the political nuances of the New Order and Reformation era and the political configuration in the New Order and Reformation era in producing Islamic economic law products. Thus, studying written policies and legislation related to Islamic economic law is needed.

This article attempts to present a new perspective on the study of the politics of Islamic economic laws in Indonesia. Several studies have been conducted with a focus on discussing Islamic economic laws in Indonesia. This study is addressed to the institutionalization of sharia economic law, which is considered a necessity. The need for institutionalization of the sharia economy is due to strengthening the public's desire to implement sharia values, the proliferation of sharia financial institutions, and the enactment of several sharia regulations.¹³ This study fills in the discussion of the legal character and political configuration that emphasize the proliferation of sharia regulations in Indonesia through a comparison of legal and political conditions in the New Order and Reformation era.

¹² Merle Calvin Ricklefs, *Sejarah Indonesia Modern 1200–2008* (Serambi Publisher, 2008).

¹³ See Fauzan Ali Rasyid, "Konfigurasi Politik Hukum Ekonomi Syariah Di Indonesia," *Ijtihad : Jurnal Wacana Hukum Islam dan Kemanusiaan* 16, no. 2 (December 1, 2016): 297–315, <https://doi.org/10.18326/ijtihad.v16i2.297-315>; and Paramita Prananingtyas Angkat Poetra Pratama, Hari Sutra Disemadi, "Existence and Position of Islamic Economic Laws in Indonesia," *Legality, Jurnal Ilmiah Hukum* 27, no. 2 (February 2020): 222–31, <https://ejournal.umm.ac.id/index.php/legality/article/view/10159>.

Inter-dependence of Islamic Politics, Law and Economics: Legal Political Perspectives

Based on several experiences in Indonesia, it is noticed that economic movements trigger political movements and vice versa. The establishment of an economic movement carried out by Muslim traders in Sarekat Dagang Islam (SDI) association, which Kiai Samanhudi founded in Laweyan, Solo, Central Java, was one case. In its development, SDI economic movement expanded from a social-economic to a political movement, which transformed into Sarekat Islam (SI) and the Indonesian Islamic Syarikat Party (PSII).¹⁴

This political economy movement continues to be found in every government regime. The birth of the sharia banking industry was initiated by the economic movements of Muslims that were voiced at the political level so that the government made regulations about it. In the Reformation era, forms of social movements that focus on the economy occur on a macro scale, such as sharia banking, and a micro-scale, such as the political economy of Islamic groups in rural areas.¹⁵

Some of these phenomena illustrate the relationship between politics, law, and economics. Theoretical studies that can give an analysis of the phenomena of this political economy movement are legal politics. Legal politics discusses the structural and procedural aspects of the reality of the legal system, which refers to the normativity of legal legislation in a legislative institution. It has a political, sociological, and historical side.¹⁶ According to Mahfud MD, the theory of legal politics shows an influence between the political configuration in a country and the result of legal products. By studying legal products regarding elections of village and agrarian governance, Mahfud concludes that the character of these laws

¹⁴ Nasihin, *Sarekat Islam Mencari Ideologi, 1924-1945* (Pustaka Pelajar, 2012); Valina Singka S, *Partai Syarikat Islam Indonesia: Konstestasi Politik Hingga Konflik Kekuasaan Elite* (Yayasan Pustaka Obor Indonesia, 2014).

¹⁵ Krismono Krismono, *Ekonomi-Politik Salafisme Di Perdesaan Jawa* (Jakarta: Mizan, 2017).

¹⁶ Abdul Hakim G, *Abdul Hakim G, Nusantara, Politik Hukum Indonesia* (Jakarta: YLBHI, 1988).

could be responsive or orthodox depending on the ongoing political nuances. Democratic political nuances nurture responsive law. On the other hand, when the political atmosphere is under an authoritarian government, it will produce an unresponsive and orthodox legal character.¹⁷

The presence of Islamic economic law in Indonesia allegedly originated from the response of the world Islamic economic movement. Indonesian observers, academics, and scholars follow the narrative that the economic system of capitalism and socialism harms the people's economy. They also think that it is necessary to promote a balanced economic system between the two economic ideologies. The effort that emerged as an option was to formulate an economic system different from the spirit of the two previous economic systems. This effort is an option as an entry point for the Islamic economic system in Indonesia. At first, the temporary belief of Islamic economic figures in fighting for the Islamic economic system as an applied economic system was just treated pessimistically. The optimism of the figures who fight for Islamic economics as a system that can cover the weaknesses and shortcomings of the economy's capitalism or socialism/communism system is considered an absurd idea. This assumption is true in Muslim countries, including Indonesia. Pessimism was still heard, at least until the early 1990s.¹⁸ Slowly, the struggle to recognize the Islamic economic system as an alternative economic system began to open up for discussion in Indonesia. Finally, various regulations were issued as the legal basis for implementing Islamic economics in Indonesia.

The description of the economic movement phenomenon above indicates that politics, law, and economics are interdependent. This interdependence can be seen from the theory of legal politics. Legal Politics is a legal discipline that is aimed to achieve the goals of the

¹⁷ Mahfud MD, *Politik Hukum Di Indonesia*.

¹⁸ M.B Hendri Anto, *Pengantar Ekonomika Mikro Islami* (Yogyakarta: Ekonisia, 2003).

people.¹⁹ Legal politics also explains how politics influences the law by looking at the forces behind the formulation of the law and its enforcement. In legal politics, the two aspects, the philosophical-theoretical and normative-operational aspects, cannot be separated from one another.

The application of Islamic economic law in the Religious Courts, whose existence has been recognized for a long time, still does not have complete codified rules as standardization for judges in deciding economic cases as stated in the Code of Civil Law (KUHPer). This weakness makes it difficult for judges to make decisions related to Islamic economic cases. On the other hand, some Muslims express their aspirations for the implementation of sharia economics as positive law in the form of legal politics.²⁰ In another definition, legal politics is a product of interaction among political elites who come from various groups and cultures. When the Islamic political elites have strong bargaining power in political interaction, the development of Islamic law in the superstructure is possible.²¹ The legal politics being pursued is implemented through Law no. 7 of 1992 concerning Banking. This law has a mandate that allows banks to operate with a profit-sharing system. This law was later amended to Law no. 10 of 1998 concerning Revisions to Law no. 7 of 1992 concerning Banking, which explicitly states "bank based on sharia principles."

With the ratification of Law no. 10 of 1998, the momentum for the legality of the sharia economic movement in Indonesia was achieved. The massive increase of sharia economic movement was being voiced in a better direction by its supporters. This movement got support from the institutions developed in the Reformation era, such as the National Sharia Council of the Indonesian Ulama Council (DSN-MUI), Sharia Economic

¹⁹ Soedjono Dirdjosisworo, *Pengantar Ilmu Hukum* (Jakarta: PT. RajaGrafindo Persada, 1999).

²⁰ Mahfud MD, *Politik Hukum Di Indonesia*.

²¹ Mardani Mardani, "Hukum Islam Dalam Sistem Hukum Nasional," *Jurnal Hukum Dan Pembangunan* 38, no. 2 (n.d.).

Community (MES), and Association of Islamic Economists (IAEI). This sharia economic movement triggered the birth of technical institutions within the government, such as the Directorate of Sharia Financing at the Ministry of Finance, Directorate of Sharia Banking at Bank Indonesia, and various bureaus at Capital Market Supervisory Agency (BAPEPAM).

Regardless the trigger for the birth of technical institutions, this movement is also active in overseeing the legislative process to produce several laws and regulations in various fields such as finance, bank Indonesia, Bapepam, and other regulations. Thus, this strengthens the theory of legal politics, which affirms that social movements and struggles for political identity can influence the birth of a relevant legal product. The political product of sharia economic law in Indonesia can be described by the birth of the Sharia Economic Law Compilation (KHES).

The Islamic Economic Law and Political Configuration of the New Order

The birth of the New Order in 1966 brought a new color to Indonesian political life. However, the institutionalization of Islam into institutions and regulations began in the last decade of Suharto's government. The formation of the Indonesian Muslim Intellectuals Association (ICMI) on December 7, 1990, at the Brawijaya University Campus, Malang, can be considered important for some Muslims. This development can be interpreted in two ways: First, the thaw of the New Order regime's relationship with Islamic identity, which was previously prevented by psychological and ideological factors. Secondly, it can be an ideal formula regarding the relationship between Islam and the state, which is integral and in accordance with Indonesian culture. The presence of ICMI marked a new era for Muslims because of the increasing political support and opening up dialogue opportunities for Muslims to participate directly in state political projects.²²

²² Jamhari Jamhari, "Islam Di Indonesia," in *Ensiklopedi Tematis Dunia Islam* (Jakarta: PT Ichtiar Baru van Hoeve, 2002).

There are pros and cons concerning ICMI's presence in the dynamics of Indonesian politics indicated that this organization has a relatively strong political dimension. However, explicitly, ICMI chairman who was B.J. Habibie at that time stated that ICMI was not associated with political power but was an intellectual organization trying to develop Indonesia's human resources. The presence of ICMI took advantage of the momentum of improving relations between the New Order regime and Islam by exploring other fields such as sharia economics which was currently developing in the Muslim world.

In the early 1980s, the New Order government faced difficulties in controlling interest rates which were considered quite problematic. It was caused, among others, by the dependence of banks on Bank Indonesia's liquidity and the absence of positive competition between banks due to the government's rigid interest rate determination. Finally, the government made a deregulation policy in the banking sector on June 1, 1983, which freed the bond of setting interest rates. It was expected that the existing banks could make the interest rate of 0%. Unfortunately, deregulation has no impact on the institutionalization of Islamic banking where the operating system was very close to a 0% interest rate through a purely profit-sharing agreement.

Barriers to the realization of sharia banking from deregulation are caused by several factors; *first*, the operation of sharia banks that apply the principle of profit-sharing has not been regulated. *Second*, the deregulation is not in line with the Basic Banking Law No. 14/1967. *Third*, the concept of sharia Bank is considered to have an ideological motive and related to the Islamic State, while Indonesia is not an Islamic State. Therefore, sharia banks have not been able to establish because of the assumption that the interest-free banking system is not profitable for the banking business industry. As another strategy, the forum for implementing the sharia banking system uses *keoperasi* (small saving and loan unit) as its legal basis. It was not until 1988 did the government pass a policy known as Pakto 1988 (October 1988 Policy Package). The 1988 Pakto contains regulations

regarding banking deregulation in Indonesia.²³ This policy provides freedom for state and private banks to open branches throughout Indonesia. The birth of this policy can actually be used by Muslims to establish sharia banks.²⁴

A serious effort to establish a bank with sharia principles was just carried out in 1990. The IV MUI National Deliberation in Jakarta on 22–25 August 1990 resulted in the formation of a working group to establish a sharia bank in Indonesia by the banking team of the Indonesian Ulama Council (MUI).²⁵ After many steps taken in 1991, the working group team of a sharia bank establishment and several figures met President Soeharto to convey the establishment of an Islamic bank. During the meeting, President Soeharto welcomed the plan and agreed to be regarded as the initiator of sharia banking. President Soeharto also allocated 3 billion Rupiah from the cash of Amal Bhakti Muslim Pancasila Foundation, which was calculated as a loan without interest and without a time limit for repayment. He was also willing to help by lending the capital needed to establish sharia bank by organizing a share offering at the Bogor Palace. The shares, which cost 1.000 Rupiah per share, were collected around 25 billion Rupiah.²⁶

Approaching the establishment of sharia banking institutions, Law No. 7 of 1992 concerning Banking was passed, in which profit-sharing banks were accommodated. On November 1, 1991, the Deed of Establishment of PT. Bank Muamalat Indonesia (BMI) was signed.²⁷ With

²³ Robert. W Hefner, "Islamizing Capitalism: On The Founding of Indonesia First Islamic Bank," in *Shari'a and Politics in Modern Indonesia*, ed. Arskal Salim and Azyumardi Azra (Singapore: Institute of Southeast Asian Studies, 2003), 148.

²⁴ Nurul Huda and Mohammad Heykal, *Lembaga Keuangan Islam: Tinjauan Teoritis Dan Praktis* (Jakarta: Prenada Group, 2010).

²⁵ Muhammad Syafi'i Antonio, *Bank Syariah: Dari Teori Ke Praktik* (Gema Insani, 2001), 25.

²⁶ Gemala Dewi, *Aspek-Aspek Hukum Dalam Perbankan Dan Perasuransian Syariah Di Indonesia* (Jakarta: Kencana, 2004).

²⁷ A Several names have been proposed, such as the Indonesian Islamic Shari'ah Bank, the Indonesian Islamic Bank (Baisindo), the Islamic Karya Bank, and the Islamic Amal Bank. The names were not approved because of the word Islamic shari'ah, which was feared to be reminiscent of the Jakarta Charter "Propek Magazine," 1991.

the business license issued based on the Decree of the Minister of Finance dated April 24, 1992, then BMI had been legally operating on May 1, 1992.²⁸ Law no. 7 of 1992 has derivative legislation with Government Regulation (PP) No. 72 of 1992 concerning Banks Based on Profit Sharing Principles. Looking at the provisions contained in PP No. 72 of 1992, the idea of banking based on Islamic law is open to be practiced more freely. It also regulates the Sharia Supervisory Board that banks must have to implement a profit-sharing system.

From the history of normative institutionalization of sharia banks above, an authoritarian political power can give birth to a responsive legal character as the New Order government that responded to the voice of the Muslim community in the formation of a sharia bank. The political nuances surrounding the making of Islamic economic law products during the New Order era were dominated by accommodative politics. Although quite accommodating, the authors see that legal development in the New Order era still does not show ideal conditions as it is not serious in realizing the aspirations of the birth of Islamic economic law. The development of financial infrastructure after the institutionalization of Islamic economic law in Indonesia is still minimal.

BMI is the only Islamic bank that gets special attention from the government. At the same time, there are other sharia economic institutions such as the Sharia People's Credit Bank (BPRS) Berkah Amal Sejahtera, and BPRS Dana Mardhatillah established in 1991. The fewer regulations that support the sharia economic climate also become the indicator of the lack of state support for developing Islamic economic law. Only one law regulates sharia economics in the New Order era, Law no. 7 of 1992. Thus, regulations that strengthen the position of Islamic economic law in the state financial system are still not strong enough. On the other hand, the dual taxation regulatory system still burdens sharia banks which prevents the development of sharia banking in that era. The abolition of double

²⁸Jazuni Jazuni, *Legislasi Hukum Islam Di Indonesia* (Bandung: PT Citra Aditya Bakti, 2005).

taxation for sharia banks was only regulated in 2010.²⁹

Islamic Economic Law and Political Configuration of Reformation Era

The Reformation Era brought massive and fundamental structural changes. This change can be seen from the change in the position of President Suharto and its mechanism of power and the amendment to the 1945 State Constitution of the Republic of Indonesia.³⁰ This change is a nuance that is quite conducive to the birth of a better Islamic economic law in Indonesia.

In the field of economy, the efforts made by the first government of the Reformation era led by President BJ Habibie brought back the world's commitment to assist Indonesia in the process of economic recovery. Another effort was to create macro stability that was useful for restructuring banks and debts of private institutions which were allegedly a legacy of Indonesia's economic crisis in the era of President Soeharto. The strategic policy taken by the government was to establish Indonesian Bank Restructuring Agency (BPPN). Then, Law no. 5/1999 on the Prohibition of Monopolistic Practices and Unfair Competition, as well as Law No. 8/1999 on Consumer Protection were legislated. For this reason, President Habibie constantly conducted consultations and hearings with the members of the legislature, especially those relating to the nation's economy.³¹

Although claims of economic success in the Reformation era are still often debated in the public sphere, it should be noted that since the

²⁹ Islamic banks were subject to 2 (two) times the obligation of Value Added Tax (VAT); during the process of purchasing goods and when delivering goods to customers. This condition caused the Islamic banks to receive a larger tax burden than the conventional banks. After debates and demands from the Islamic banks side, this policy finally ended with the issuance of the Minister of Finance Regulation No. 251/PMK.011/2010 dated December 28, 2010 which abolished this double taxation policy.

³⁰ Jimly Asshiddiqie, *Perkembangan Dan Konsolidasi Lembaga Negara Pasca Reformasi* (Jakarta: Sinar Grafika, 2010), 298.

³¹ Burhanuddin Napitupulu, *Harakiri Politik Tokoh Nasional Dan Elit Golkar* (Jakarta: RMBOOKS Graha Pena, 2007), 66-69.

beginning of the democratization process in Indonesia, the development of Islamic economics has become increasingly visible. This is partly due to the increasing support from the Muslim communities. This support has an important effect, not only on the growth of the Islamic banking industry but also on various other Islamic economic institutions.

In the course of democratization after the collapse of the New Order, several laws and regulations were enacted related to Islamic economics. These include; Law No. 1/1998 on Banking; Law No. 38/1999 on Zakat Management; Law No. 41/2004 on Waqf; Law No. 3/2006 on amendments to Law No. 7/1989 on Religious Courts; -Law No. 19/2008 on SBSN/Sukuk; Law No. 21/ 2008 on Islamic Banking; Law No. 23/2011 on Zakat Management; Law No. 33/2014 on Guaranteed Halal Products. Law No. 10/1998 on Banking is a strong legal reference for the development of the Islamic banking sector in Indonesia. This law is actually an amendment to Law No. 7/1992 on banking. In the previous law, the term Islamic banking was not mentioned explicitly. The explanation of banks with the principle of profit-sharing in Law No. 7/1992 does not explain the definition of Sharia Bank or Islamic Bank which has a wider scope than just profit sharing. Likewise, operational regulations which are derivatives of the 1992 banking law still limit the operation of Islamic banking in Indonesia.³²

With the issuance of Law No. 10/1998, Indonesia entered a new period of development of the Islamic banking system. This was marked by the birth of new Islamic banks. The 1998 banking law also opened opportunities for banks to apply both conventional and sharia systems. In the Reformation era, more and more private and state banks opened sharia divisions, which were previously identical only with Bank Muamalat Indonesia (BMI). Since the enactment of this law, all implementing provisions related to government policies in the banking sector which

³² Subarjo Joyosumarto, "Kebijakan Bank Indonesia Dalam Pengembangan Bank Syariah," Dipresentasikan Pada Seminar Aspek Hukum Dan Bisnis Perbankan Syariah (Jakarta, 2000).

were originally outlined in the form of Government Regulations have now been transferred to the policies of Bank Indonesia as the central bank.³³

The law that was enacted later was Law No. 38/1999 on Zakat Management. The legislation of this law was motivated by the potential for zakat which was highly valuable. Social movements that ignite awareness of zakat payments supported the existence of a legal basis for carrying out zakat among the Muslim communities. The juridical consideration of the birth of this law is the existence of Article 19 paragraph 1 of the 1945 Constitution of the Republic of Indonesia which states that the state guarantees the independence of each resident to worship according to their respective religions. The implementation of zakat as one of the recognized religious services in Indonesia must be guaranteed by law. Sociologically and philosophically, the enactment of this law confirms that zakat is one of the religious services that can be used to realize social justice for all Indonesian people as written in the state constitution, Pancasila. The presence of this law is also an effort to improve the zakat management system, the results of which are expected to be more controllable and usable.

Then, in 2002, an initiative emerged to prepare a waqf bill as proposed by the Minister of Religious Affairs of the Republic of Indonesia to President Megawati as the beginning of the establishment of the Indonesian Waqf Board. The steps to improve this waqf regulation involve several considerations. First, so far waqf permits are regulated by more general laws, among others, by Law No. 5/1960 on the Basic Regulations on Agrarian Principles article 14 paragraph 1 letter (b) and

³³ The provisions that revoke implementing regulations in the banking sector are set forth in the form of Government Regulation (PP) No 30/1999 on Revocation of Government Regulation No 70/1992 on Commercial Banks which had been amended several times and lastly amended by Government Regulation No 73/1998, Government Regulation No. 71/1992 on Rural Banks and Government Regulation No. 72/1992 on Banks Based on Profit Sharing Principles. With this revocation, all previous PPs were declared no longer valid since the issuance of new legal provisions by Bank Indonesia. At the beginning of its journey, it was recorded that there were at least 12 technical regulations issued by Bank Indonesia related to the Shari'ah system.

Article 49 paragraph 3 and Government Regulation No. 24/1997 on land registration, Government Regulation No. 28/1977 on Land-Owned Waqf, and Presidential Instruction No. 1/ 1991 which contains the Compilation of Islamic Law (KHI) in which some of the materials are related to Waqf Law. The various provisions regarding waqf contained in these laws and regulations have not yet been able to become a strong legal basis to resolve the many problems regarding waqf in Indonesia. As a manifestation of community participation in the issue of waqf in Indonesia, the law on waqf is a strong aspiration resulted from seminars and intense discussions among scholars, Islamic organizations, and some academics. They see the need to form a separate waqf law. From these sociological backgrounds, there is a juridical reference based on Law no. 25/2000 on National Development 2000-2004 which states that one of the indicators of the success of National Development in the legal sector is the implementation of the law on the applied law of religious courts, one of which is the law on waqf. Finally, in 2004, Law No. 41/2004 on Waqf was issued.

According to the data published by Bank Indonesia, at least until 2013,³⁴ Islamic banks in Indonesia showed significant development in quantity. At that time, there were already dozens of Islamic commercial banks. In addition, more and more banks had Sharia Business Units (UUS) and some Islamic Rural Banks (BPRS). This development must of course be accompanied by the provision of legal institutions that will resolve various cases related to sharia economic disputes that will arise in the future. Therefore, the existence of a legal umbrella that can be a solution to this problem is needed, and so the amendment to the law on religious courts was legislated.

Law No. 3/2006 on the amendment to Law No. 7/1989 on Religious Courts has adjusted new requirements for the competence of judges of the Religious Courts. Initially, the competence of Religious

³⁴<http://www.bi.go.id/NR/rdonlyres/65F99ECC-39A3-4BBF-9F5A-719AD7FBEBEE/29291/SPSApr2014.pdf>

Court judges was identical with domestic matters such as marriage, divorce, and marriage reconciliation with all the accompanying financial consequences. Through the amendment to Law No. 3/2006, the competence of the Religious Courts has increased in terms of settlement of cases in the field of sharia economics. Sharia Economics as referred to in Article 49 letter i, includes sharia banks; Islamic microfinance institutions; sharia insurances; sharia reinsurances; sharia mutual funds; Islamic bonds and medium-term Islamic securities; sharia securities; sharia financing; sharia pawnshops; pension fund of Islamic financial institution; and sharia business.

One of the considerations for the issuance of this amendment law is that the Religious Courts as regulated in Law No. 7/1989 on the Religious Courts are no longer in accordance with the development of the legal needs of society and constitutional life according to the 1945 Constitution of the Republic of Indonesia. The developments of the legal needs of society do not meet with the old judicial laws, especially after the growth and development of Islamic economic practices in Indonesia.

Another law that emerged after the New Order was Law No. 19/2008 on State Sharia Securities (SBSN/Sukuk). Sukuk is a representation of proportional ownership of assets for a certain period with risks and rewards associated with cash flows through the underlying assets that are in the hands of investors.³⁵ Sukuk or State Sharia Securities are investment

³⁵ Zamir Iqbal and Abbas Mirakhor, *An Introduction to Islamic Finance* (Singapore: John Wiley & Son (Asia) Pte. Ltd, 2007), 177. Sukuk was derived from Arabic “Sakk” which means document or contract document. Later, the sukuk was operationally made into a letter indicating a financial obligation stemming from trade or commercial activity widely by Muslims in the Middle Ages. The word Sakk in trade transactions changed its name to the Latin word, check, however, today's sukuk is different from the previous use of sukuk. State and corporate sukuk began to be issued after obtaining legitimacy from the Fiqh Academy of the Organization of the Islamic Conference in February 1988. See Andreas A. Jobst, “The Economics of Islamic Finance and Securitization”, IMF Working Paper, WP/07/117, (2007): 19. Currently, the structure of sukuk almost resembles to the concept of conventional securities, in which the ownership of the underlying assets is transferred to a number of investors through certificates that show the proportion of the value of the assets. So, sukuk is an asset-backed security based on shari’ah values (shari’ah compliance). Michael J. T. McMillen, “Islamic Capital Markets: Developments and Issues,” *Capital Markets Law*

models like bonds, but their implementation is adjusted to sharia principles. Thus, the scope of this Sukuk is included in the scope of Islamic economics.

The issuance of the fatwa by the National Sharia Board of the Indonesian Ulema Council (DSN-MUI) No.32/DSN-MUI/IX/2002 on Sharia Bonds and fatwa No.33/DSN-MUI/IX/2002 on *Mudharabah* Sharia Bonds on September 14, 2002,³⁶ has opened the gate for the implementation of Sharia bonds in Indonesia. However, MUI fatwa is not a binding legal instrument in the context of positive law in Indonesia. Therefore, there is a need for legal certainty for issuers and investors.

In DSN-MUI, it is stated that bonds that are not justified according to sharia are debt bonds with an obligation to pay interest. Meanwhile, sharia -compliant bonds are bonds based on sharia principles. According to DSN-MUI, sharia bonds are long-term securities based on sharia principles issued by issuers to sharia bondholders that require the issuer to pay income in the form of profit-sharing/margin/fees and repay the bond funds at the maturity date. Contracts that can be used in the issuance of Islamic bonds include; mudharabah, musyarakah, murabahah, salam, istisna, and ijarah. The requirement to issue sharia bonds is that the type of business carried out by the issuer must not conflict with sharia , the profit-sharing of the issuer must be clean from non-halal elements and in accordance with the contract made and the transfer of ownership of sharia bonds based on the contracts used.³⁷

Sharia bonds are closely related to the capital market, thus to motivate sharia actors and investors to invest in the capital market and other institutions, regulations regarding sharia principles should be drawn up. The main consideration that must become a priority in the preparation of these regulations is the creation and development of sharia -based

Journal 1, no. 2 (November 1, 2006): 3, <https://doi.org/10.1093/cmlj/kml015>.

³⁶ Dewan Syariah Nasional MUI-Bank Indonesia, Himpunan Fatwa Dewan Syariah Nasional MUI (Ciputat: Gaung Persada, 2006), 193-270.

³⁷ Dewan Syariah Nasional MUI-Bank Indonesia, Himpunan Fatwa Dewan Syariah Nasional MUI.

capital market products such as sharia securities, Sukuk, and others. Moreover, sharia products in the capital market are still very limited. Therefore, the main priority in developing the Islamic capital market is to develop a legal framework that can facilitate the development of a sharia -based capital market. Also, the development and creation of sharia -based capital market products must be encouraged. Finally, in 2008, Law No. 19/2008 on National Sharia Securities/Sukuk was then issued.

In response to this law, the Directorate of Sharia Financing was established at the Ministry of Finance. This Directorate was tasked with implementing the mandate of Law No. 19/2008 on SBSN, which then encouraged the birth of various types of state Sukuk, including retail and corporate Sukuk. This shows the government's support in developing Islamic financial instruments. Although Law No. 10/1998 has accommodated several sharia bank regulations, this law has not yet regulated the provisions of sharia banking in detail. The 1998 law on banking stipulates the definition of financing based on shari'ah principles and the types of sharia principles used by banks. Before the ratification of the Sharia Banking Law by the House of Representatives (DPR-RI), the institutions and operations of Islamic banks in Indonesia have not yet had their own specific legal umbrella.

Law No. 21/2008 on Islamic Banking also has consequences for other institutions in bringing together the Islamic economic context. The general provision of this law changes the term People's Credit Bank to a Sharia People's Financing Bank (the abbreviation for both is BPR in Indonesian, where the "P" changed from perkreditan "credit" to pembiayaan "financing"). This change aims to further emphasize the difference between credit and financing based on sharia principles. The definition of Sharia Principles has two important messages, the principles of Islamic law and the establishment of parties/institutions authorized to issue fatwas that form the basis of sharia principles. Furthermore, the stipulation of the Sharia Supervisory Board as affiliated with other parties such as public accountants, consultants, and appraisers is also regulated.

What is also important from the general provisions in this law is the definition of financing which has changed significantly compared to the definition in the previous law on banking (Law No. 10/1998). In the latest definition, financing can be in the form of profit-sharing, lease, buying and selling, loan transactions, and service leasing transactions (multiservice). This is certainly the result of the voice of sharia economic practitioners who are very eager to have a legal umbrella in as much detail as possible regarding sharia banking to create legal assurance in implementing sharia economic law in Indonesia. With the issuance of the Sharia Banking Law, sharia banking with a clear legal umbrella began to be implemented. The existence of this Sharia Banking law further strengthens the legal basis of Sharia banking so that it can be on par with conventional banks.

Law No. 38/1999 on the management of zakat has been in effect for 12 years but is considered to have shortcomings. The 1999 zakat law does not have many other technical regulations so that it seems to have no clear legal certainty. The law only states the derivative rules that are regulated in a ministerial regulation. The initial discourse that was widely discussed in public related to efforts to revise the old zakat management law was the existence of sanctions for disobedient muzakki, both administrative and financial sanctions. Therefore, there must be a restructuring of the zakat management organization and the separation of the functions of the regulator, supervisor, operator, and coordinator. Another discourse that appeared was the affirmation that Zakat could serve as a tax deduction. The process of drafting the revision of the zakat law has been going on for quite a long time. The discussion has started in the DPR since the 2004–2009 period. Because it is not finished yet, the discussion of the new zakat law must be delegated to the DPR for the 2009–2014 period. Discussions at the DPR for the 2009-2012 period lasted for almost 2 years. In the discussion, there have been several changes in the concept and tug of war of interest. There are 11 Chapters and 47 Articles in Law No. 23/2011 on Zakat which was ratified on October 27, 2011.

If we observe the latest zakat management law, there are several important points. First, the management of zakat is substantially the authority of the state, the people who participate in the management only help with the government permission. Second, zakat management is carried out by an agency hierarchically from the central authority to the district/city authority. The agency is in the form of National Board of Zakat (BAZNAS). Another organization besides Baznas is Amil Zakat Institute (LAZ) which has a role in assisting Baznas in zakat management with the supervision of Baznas.

The ratification of the zakat management law received resistance from some parties, especially from Amil Zakat Institute which has worked for years in zakat management. This resistance led to a judicial review of Law No. 23/2011 on Zakat Management against the 1945 Constitution of the Republic of Indonesia. The issue raised in this judicial review was the injustice for several zakat management institutions in obtaining legal certainty in managing zakat from society. In fact, it is part of the implementation of religious worship whose freedom is guaranteed by the constitution. This judicial review effort resulted in a decision of the Constitutional Court which granted six petitions, the petitioners' objections to Article 18 paragraph (2) letter d, Article 38, and Article 41 of Law No. 23/2014 on Zakat Management.

The next law is Law no. 3/2014 related to the guarantee of halal products (UU JPH). Islamic economic law in Indonesia is expanding not only in the financial and banking industries but also in the food industry and consumer protection efforts. The presence of the law of halal product guarantee is motivated by at least two things. First, the availability of food and other daily goods must be guaranteed in accordance with the Sharia and moreover this must be obeyed by every Muslim. As a country with a majority of Muslim population, it is proper for the community as consumers to get rights and guarantees for comfort, security, and safety in consuming goods and services, as stipulated in Article 4 letter a of the Law No 8/1999 on Consumer Protection. In addition, consumers also have

the right to obtain correct, clear, and honest information regarding the condition of goods and services. Second, the response to world trends that are busy proliferating halal study sectors. The development of the halal sector is not only limited to theoretical studies, but also at a practical level. Thus, the benefits of halal studies are visible and useful by the society. Therefore, the government must regulate the implementation of halal studies and their empirical application.

The discussion on the birth of JPH Law took a long time. It is noted that the academic text of JPH Law had been in the DPR since 2011. Meanwhile, the ratification and promulgation of JPH Law had only been carried out on October 17, 2014. One of the outputs of this JPH Law is the establishment of the *Halal Product Assurance Agency BPJH* under the Ministry of Religious Affairs. The government made technical regulations related to the implementation of halal product assurances. The preparation of this regulation involved the Coordinating Ministry for Human Development and Culture, the Coordinating Ministry for Economic Affairs, the Ministry of Religious Affairs, the Ministry of Health, the Ministry of Trade, the Ministry of Industry, and the Ministry of Agriculture.

Government regulation as a derivative regulation the JPH Law is very important for the technical implementation of JPH Law because it is regulated technically and institutionally related to halal regulations. JPH Law actually contains rules that mandate the technical effectiveness of this regulation, especially the issue of halal certification which must have taken effect on October 17, 2019. However, the discussion on the draft of the government regulation had not been finalized until 2020. The Government regulation related to halal regulations has just been enacted and ratified on February 2, 2021, i.e. regulation No. 39/2021 on the Implementation of the Halal Product Assurance Sector.

Political Configuration and Character of Islamic Economic Law

The description of the laws and regulations that existed in the New Order and Reformation era shows a clear demarcation line between the legal character born in the two political configurations. In fact, many indicators of the character of law have been theorized by scholars.³⁸ However, the authors take the character of orthodox and responsive law as the material in analyzing the character of sharia economic law in Indonesia. The law described here is a statutory regulation born from the legislative process with the House of Representatives (DPR). It also indicates how far the government and the political elites have considered people's aspirations and discussed them together.

From the two existing political configurations, the laws produced through the legislative process seem different. The New Order era only gave birth to one law related to sharia economic law, while the Reformation era has passed eight laws. Sharia economic law in the New Order era tended to have an orthodox character. In this case, government institutions have a role and dominance in determining the direction of legal development. Meanwhile, the Reformation era showed a responsive legal character. Law is born from the community's will and always creates a space where institutions other than the government also have a role in determining the direction of legal development. In addition, there are differences in the flow of law formation and development in the two political configurations. The New Order era had a *top-down* flow, meaning that the political elites controlled policies and legal directions to suppress lower groups. The Reformation Era showed the opposite, i.e., *bottom-up*, meaning that the community first developed the idea of sharia economic law to pressure the government and political elites to determine the legality of sharia economic law. Table 1 shows a comparison of the political configuration, legal character, and content of sharia economic law in the

³⁸ See Marzuki Wahid Mahfud MD, *Fiqh Madzhab Negara: Kritik Atas Politik Hukum Islam Di Indonesia* (Yogyakarta: LKiS, 2001); Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2000).

New Order and Reformation era. Table 1 also makes it easier to understand the relationship between these two political configurations and legal character.

No	Laws	Political Configuration	Context	Legal Character	Core of Regulation
1	Law No. 7 of 1992 about Banking	Authoritaria-New Order Era	Economic policy on banks with the principle of profit-sharing	Orthodox <i>Top-down</i> character.	The decision of the profit-sharing system in the national banking system
2	Law No. 10 of 1998 about Banking	Democratic-Reformation Era	Affirmation of the banking system with sharia principles	Responsive Aspirational <i>Bottom-up</i> flow	The legal umbrella of the Sharia banking system
3	Law Number 38 of 1999 about Zakat Management	Democratic-Reformation Era	Implementation guarantee of religious freedom in the field of zakat and zakat management regulations	Responsive Aspirational <i>Bottom-up</i> flow	Zakat management organization
4	Law Number 41 of 2004 about Waqf (endowment)	Democratic-Reformation Era	Regulation specifications regarding waqf	Responsive Aspirational <i>Bottom-up</i> character	Institutionalization of waqf
5	Law No. 3 of 2006 about amendments to Law	Democratic-Reformation Era	Shari'ah economic disputes are rising along with the	Responsive Aspirational <i>Bottom-up</i> character	The addition of the religious court

	No. 7 of 1989 about Religious Courts		increasing number of sharia economic institutions		judges' competence in the field of sharia economics
6	Law No. 19 of 2008 about SBSN/Sukuk	Democratic-Reformation Era	Global response on sharia bonds and capital markets	Responsive Aspirational <i>Bottom-up</i> character	Sharia bond regulations · Establishment of the Directorate of Sharia Financing at the Ministry of Finance
7	Law No. 21 of 2008 about Sharia Banking	Democratic-Reformation Era	Confirmation of sharia banking institutions	Responsive Aspirational <i>Bottom-up</i> character	Confirmation of the legal umbrella of shari'ah banks
8	Law No. 23 of 2011 about Zakat Management	Democratic-Reformation Era	Technical confirmation and structure of zakat management	Responsive Aspirational <i>Bottom-up</i> character	Zakat management organization restructuring
9	Law No. 33 of 2014 about Guarantee of Halal Products	Democratic-Reformation Era	Muslim consumer protection guarantees regarding the lawfulness of consuming and using a product	Responsive Aspirational <i>Bottom-up</i> character	Institutionalization of halal product guarantees through an agency under the ministry

Table 1. Comparison of political configuration, legal character, and content of shari'ah economic law in the New Order and Reformation era

Conclusion

A regime and political nuances have an impact on the formation of law in a country. Theoretically, an authoritarian political configuration produces orthodox legal products that are not responsive to the people's aspirations. However, the case of authoritarianism era in Indonesia proves that authoritarian political conditions have little contribution to the birth of legal products derived from people's aspirations. The discourse on the development of Islamic economic law has emerged in the public sphere in Soeharto era. However, the resulting legal products only occurred in the last decade of the New Order era. The fresh air of the development of Islamic economic law began when the democratization process in Indonesia was marked by political reform. In this era, the political configuration has changed to a more democratic and open direction. The Reformation Era gave birth to eight legal products in the form of legislation through the legislative process in the DPR with a responsive legal character. This article confirms that the Reformation era had an important role in developing Islamic economic law in Indonesia. Islamic economic law produced during the Reformation era included the Islamic banking system and institutions, the adjustment of the sharia justice system, and the issue of halal studies as industrial development in Indonesia. Legal products born from the Reformation era's legislative process are aspirational, the details of the regulations are limited, and the formulation process is participatory.

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