

Regional Autonomy System: Delegation of Authority and Power of Regional Government in Indonesia in the Study of *Fiqh Siyasah*

*Muhammad Mutawalli Mukhlis¹, Maskun², Muhammad Saleh Tajuddin³,
Jamal Aslan⁴, Hariyanto⁵, Hotlan Samosir⁶

Sekolah Tinggi Agama Islam Negeri Majene, Indonesia¹

Universitas Hasanuddin, Indonesia^{2,4}

Universitas Islam Negeri Alauddin Makassar, Indonesia³

Universitas Islam Negeri Profesor Kiai Haji Saifuddin Zuhri Purwokerto, Indonesia⁵

Universitas Cenderawasih, Indonesia⁶

Corresponding author: *mutawallimuhammad22@gmail.com

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Abstract

This research aims to find out the implementation of regional autonomy in Indonesia in general and also to find out about Fiqh Siyasah's view on the implementation of regional autonomy in Indonesia. A qualitative approach was used in conducting this research and data was obtained through relevant literature studies. The result, Islam provides space for *ijtihad* in the area of *siyasah* or state politics provided that it is done to achieve the goals of benefit and justice as well as the welfare of the general public. One of the things related to the *siyasah* area is related to the implementation of regional autonomy in Indonesia. Basically, the provision of regional autonomy in Indonesia is a space to provide opportunities for each region in this country to explore and develop the potential of each region in order to provide prosperity for regional communities. The conclusion, this article highlights the importance of local government autonomy within a federal structure to encourage grassroots democracy and self-governance. Islamic law does not have specific rules regarding

regional autonomy, and this concept emerged during the reform era to promote justice and prosperity. However, Islam still acknowledges the concept of *baldatun thayyibatun*, which is based on the Qur'an and the Sunnah of the Prophet.

Keywords: Republic; devolution of power; autonomy; regional government; *fiqh siyasah*

Introduction

In most countries within a republican system, two or more levels of government are established, one at the national level and the other at the regional or regional level which are variously described as regions of the country that have their autonomy. At this level, it is known as provincial-level government, and so on, and has a representative system called regional representative councils, city councils, and districts¹. In this way, the powers and functions of the central government are allocated to the regional government level, a form of delegation of power. Based on Law Number 5 of 1974 concerning the Principles of Regional Government, the republican system of government organization encourages the delegation of power between the central government and regional governments, or what is called independent decentralization² so that government power and functions are divided between two or more levels of government, following the independence of each level of government and autonomy in their respective fields each through constitutional allocation. Indonesia, as a country with a majority Muslim population, certainly has several applications that are based on Islamic rules. Some examples can be found in Law Number 23 of 2011, concerning zakat, infaq and alms; Law number 41 of 2004 concerning waqf; and Law Number 21 of 2008 concerning sharia banking.³

Devolution under the 1945 Constitution aims to delegate political, administrative and economic authority from the center to the regions and further seeks to encourage community participation in decision making, increase accountability and responsible representation and aims to introduce sustainable efficiency and effectiveness. Resource management for overall development. The paradigm shift towards a devolutionary republic is basically a reflection of the ideological tendency towards a responsible and accountable government system where voters have the right to determine their political fate. This is based on the assumption that humans, if entrusted

¹ Maruar Sirahan, *Sistem Pemerintahan Negara, Pusat Pendidikan Pancasila Dan Konstitusi* (Pusat Pendidikan Pancasila dan Konstitusi, 2021).

² Rahman Mulyawan, *Sistem Pemerintahan Indonesia*, 1st ed. (Sumedang: UNPAD Press, 2015).

³ Nursal, "Penerapan Hukum Islam Di Indonesia Sejak Zaman Penjajahan (Belanda Dan Jepang) Hingga Pasca Kemerdekaan," 2013.

with their own fate through local democratic institutions, can regulate themselves relatively proportionally and with dignity in achieving common goals. Devolution of power is a form of decentralization of power which aims to encourage the rapid development of a country through the formation of regional governments. Devolution helps prevent too much concentration of political power and economic control at one level which inevitably leads to “economic crisis and inflation”.⁴ Devolution of power to local communities encourages active political participation which functions as a barrier against tyranny and dictatorship that may occur because the central government is far from local communities. This further encourages healthy competition between various local governments.

According to Ortega YG; Devolution of power not only alleviates the need for cultural and linguistic identity of sub-groups but also pursues citizens' interests in government affairs.⁵ Therefore, the delegation of power to local communities is an important element in republican system governance, even though the doctrine of autonomy is a feature of a viable federal form of government because it provides additional checks and balances on the central government and a level of security for the constitutional order and stability social issues which are very important for the economy, order and development in a constitutional system.

However, delegating power to regional governments presents challenges, such as balancing power and resources between central and regional authorities and fostering healthy interaction between them. The key question is whether local governments should depend on the central government or operate independently with full autonomy, as seen in federal systems. Lawmakers must address these issues efficiently to minimize friction and competition while promoting balanced and effective governance.

Under the provisions of UUD 45 and statutory regulations, although the constitution limits and allocates legislative functions between the central government and regional governments, regional governments are run based on laws made by the legislative body at the center. This situation has caused a lot of controversy among observers of the Indonesian constitution and politics because most pro-regional government autonomy prefers the total delegation of power and autonomous functions to the executive and legislative councils in regional governments, while others prefer the status

⁴ Shehu Dalhatu, *Essays on Local Government Administration: Fostering Better Service Delivery, Record Keeping, Accountability and Empowerment at The Local Government* (Kano: Benchmark Publishers, 2006).

⁵ See J. Rodden and S. Rose—Ackerman; *Federation Preserves Market* (1997) 83 va. LR 1573 at P. 158 cited in John Hatchard, Muna Ndulo, and Peter Slinn, *Comparative Constitutionalism and Good Governance in the Commonwealth: An Eastern and Southern African Perspective* (Cambridge: Cambridge University Press, 2004), p. 185.

quo, where regional governments remain complementary to the central government. This problem arose along with issues related to the acceleration of national strategic programs in the regions, resulting in the issue of granting greater autonomy to regional governments.

In this research, the author analyzes the status of regional governments based on the Indonesian constitution, the relationship that must exist between the central government in the regions, and regional governments at the grassroots level and the main issues regarding regional government autonomy in regulation and the nature of the limits of this autonomy. Before that, the author attempts to briefly examine the issue of exploring regional government autonomy in Indonesia from its historical aspect. This was done with the aim of understanding the complex problems of regional government autonomy in Indonesia related to the sustainability of autonomy in a republican system.

Research regarding the same has been carried out by previous researchers and can be divided into four categories. The first category of research concerns regional autonomy in general which is related to good governance, this research was conducted by Achmad Fauzi.⁶ The second category is research regarding the implementation of regional autonomy in dealing with the Covid-19 pandemic which was carried out by Gusnar Ismail.⁷ The third category relates to research that discusses conceptual studies regarding regional autonomy from the perspective of Islamic Law, namely related to *Al-Imarah Al-Khashah* and *Al-Imarah Al-Ammah* as written by Ahmad Faridz Anwar.⁸ The final category is research that reviews the *Siyasah Syar'iyah* review of the impact of implementing regional autonomy on the village government system written by Mohammad Aswin.⁹

In this description, it can be seen that there are differences between this research and several previous studies, where this research reviews the delegation of authority and power of regional governments that occurs in Indonesia in Regional Autonomy from the perspective of *Siyasah Fiqh*. There are some differences between each previous research. The first previous research discussed the implementation of regional autonomy within the framework of realizing good regional governance. The result of the research is in realizing good regional governance, independent internal

⁶Achmad Fauzi, "Otonomi Daerah Dalam Kerangka Mewujudkan Penyelenggaraan Pemerintahan Daerah Yang Baik," *Jurnal Spektrum Hukum*, Vol. 16, no. 1 (2019), p. 119–36.

⁷ Gusnar Ismail, "Implementasi Otonomi Daerah Dalam Penanganan Pandemi Covid-19," *Jurnal Lembaga Ketahanan Nasional Republik Indonesia* Vol. 8, no. 3 (2020), p. 190–205.

⁸Ahmad Faridz Anwar, "Landasan Konseptual Otonomi Daerah Dalam Perspektif Islam," *Jurnal Al Wasith* Vol. 8, no. 2 (2023), p. 62–76.

⁹ Mohammad Aswin, "Tinjauan *Siyasah Syar'iyah* Terhadap Dampak Penerapan Otonomi Daerah Pada Sistem Pemerintahan Desa," *Jurnal Qaumiyyah* 3, no. 2 (2022), p.115–142.

supervision (Inspectorate) is needed. Functional supervision by Dewan Perwakilan Rakyat Daerah is also required, which is good and transparent, as well as external supervision by Badan Pemeriksa Keuangan of the Republic of Indonesia¹⁰. While the second previous research discussed the concept of regional autonomy in Islamic constitutional law and the autonomy of regional heads' powers from the perspective of Islamic constitutional law. The result of the research is the conceptual basis of regional autonomy in the Islamic perspective is Al-Imarah Al-Khashah and Al-Imarah Al-Ammah, each of which has duties and functions in running the government. Furthermore, the autonomy of the power of the regional head in the perspective of *fiqh siyasah dusturiyah* or Islamic constitutional law follows the conditions and authority given by a caliph. The caliph as head of state gives authority to al-amir (regional head) namely collecting taxes in the region, managing regional administration and providing services to the people in the region, maintaining security in the region, collecting kharaj and zakat, upholding and spreading the Islamic religion in the region, *becoming* a prayer leader¹¹.

This research aims to find out the implementation of regional autonomy in Indonesia in general and also to find out about Fiqh Siyasah's view on the implementation of regional autonomy in Indonesia. Despite the fact that Islamic law makes no mention of regional autonomy. On the other hand, Fiqh Siyasah bases its political application on the benefit concept. Pay attention to the institution known as executive power (al-sulthah al-tanfidziyah), which is in charge of putting laws into effect within the framework of the government. The benefit principle aligns with the objectives of regional autonomy, which include enhancing the well-being of the populace by utilizing the region's full potential.

Therefore, to find out about these things, several problems arise, namely the first, How is the implementation of regional autonomy in Indonesia in general? And what is Fiqh Siyasah's view on the implementation of regional autonomy in Indonesia? The implementation of regional autonomy in Indonesia involves giving local governments greater control over their affairs, aiming to improve governance and development at the regional level. While in the context of Indonesia, Fiqh Siyasah would likely view regional autonomy favorably as it allows local governments to address their unique needs and conditions more effectively. So, these two questions guided the data search and analysis process to conclude this research.

A qualitative approach was used in conducting this research and data was obtained through relevant literature studies. The data obtained is then

¹⁰ Achmad Fauzi,

¹¹ Ahmad Faridz Anwar,

classified according to the topic discussed and then written according to the classification of that topic. Descriptive theory is used to analyze data which is supported by the author's additional explanation for a clearer understanding. Inductive analysis is also used in this research, namely interpreting certain data and then drawing general conclusions.

Discussion

A. The Implementation of Regional Autonomy in Indonesia

1. Historicity and Constitutionality of Regional Government in Indonesia

Regional government is government at the regional level which is implemented through regional executives and representative councils which are formed by law to exercise certain powers in certain areas.¹² However, in practice, parties who have authority in regional government are not elected through a democratic mechanism, but rather through an appointment mechanism by the regional head. The main tasks of regional government include organizing the regional economy, providing public services at the regional level, as well as protecting and preserving the environment. Regional government also touches the daily lives of communities related to education, religion, welfare, markets, entertainment and tourism, culture and community habits. Thus local governments must handle services such as public interests and services, police, housing, emergency services such as health services and firefighting, transportation services, waste disposal and refugee dumps, road works, sewers, and so on. Therefore, regional government must be a legal entity that is different from the central government and ideally managed by democratically elected officials with certain authority and functions and have certain autonomy in administering government, in carrying out its functions, and the resources to manage it.

The history of regional government in Indonesia predates Indonesia's independence. The colonial regional government administration system was based on the Dutch government model in which regional government was managed and controlled by the central government. The Dutch government, through an indirect government system, relies on local political institutions to run regional government. The administration of colonial regional government through an indirect government system required that government administration at the regional level be carried out through existing traditional authorities and institutions with the intervention of colonial government representatives assigned to each region.

¹² Theophilus Olumuyiwa Agboola, "The Challenges of State/Local Government Creation in Nigeria: A Critical Analysis," *International Journal of Politics and Good Governance* 7, no. 7.1 (2016), p. 4.

The Dutch East Indies for more than 100 years (1800-1904) administered government in a centralized manner. He only implemented government by means of centralization plus decentralization in 1904 after the decentralization law known as Decentralisatie Wet 1903 was promulgated. Based on this decentralization law, autonomous local governments were formed in the gewest (region) and parts of the gewest: gemeente and plaatstelijke. However, the local government established in 1904 was an autonomous local government for Dutch/European communities living in large cities. Governments run by indigenous/indigenous people are not given autonomy.

It should be noted that the autonomous local government in gewest, gemeente, and plaatstelijke is a European model of autonomous local government. This happened because the granting of autonomy by the central government was a demand of the people of Dutch and European descent who had formed urban communities in large cities in the Dutch East Indies, namely in Jakarta, Bogor, Bandung, Semarang, Malang, Surabaya, Medan, and others.

From the long history of the emergence of regional government forms in Indonesia, there are at least a series of aspects of the constitutionality of implementing the regional government system, including the following:

- a. Dutch East Indies government system in 1800–1904;
- b. Indonesian government system under Japanese army occupation 1942-1945;
- c. Muhammad Yamin and Soepomo's draft at the 1945 BPUPKI Session on regional government;
- d. Article 18 of the 1945 Constitution;
- e. regional government according to Law no. 1/1945;
- f. regional government according to Law no. 22/1948;
- g. regional government according to Law no. 1/1957;
- h. regional government according to Law no. 18/1965 in conjunction with Law no. 19/1965;
- i. regional government according to Law no. 5/1974;
- j. regional government according to Law no. 22/1999;
- k. regional government according to Law no. 32/2004;
- l. regional government according to Law no. 23/2014 in conjunction with Law no. 6/2014.

2. Problems of Regional Autonomy in Regional Government Regimes: Federalism and Republicanism

Regional government autonomy lies in two main criteria. The first is that regional governments have the freedom to make integrated regional development plans including economic, social and environmental plans and the second is that regional governments are free to determine their budget expenditure priorities. The fact that the central or provincial governments and in some cases both central and provincial governments provide grants and subsidies to local governments allows them to penetrate these local governments thereby dictating their development plans and policy direction.¹³

Thus, in reality regional government autonomy in the legal sense is only a mirage. For example, Switzerland, although the Swiss Federal Constitution guarantees autonomy, for regional governments in the concept of a federal system, the federal central government cannot interfere in the implementation of regional rights over its regional government except to the extent that the Federal court that hears appeals from autonomous regional governments can enforce it.¹⁴ However, federal and state governments can indirectly intervene in local governments through grant programs where financial grants given to local councils are tied to specific projects that will be overseen by federal agencies or the federal government, as the case may be. These federal or state agencies can insist that local governments carry out their obligations as attached to the grants.¹⁵

Observers of the autonomous regional government system consistently advocate for an independent regional government system as a lower level and independent government. The demand for independence for regional governments to become lower-level governments after the central government is to end the status of regional governments as part of the state government and form them as governments that stand alone and are separate from the central government. Thus, the division of government power and income in the Constitution will be changed from a single system to a multi-level government system involving the central government, autonomous regions and villages based on the principle of equal and proportional equality. Based on this proposal, regional governments must deal directly with the central government.

¹³ Nobuo Sasaki, "Atarashii Chiho Seihu [The New Local Government]," *Asbi Shobo*, 1984.

¹⁴ Marc Cools and Dorin Chirtoaca, "Local and Regional Democracy in Switzerland," in *Congress of Local and Regional Authorities*, 2017.

¹⁵ Shama Gamkhar and J Mitchell Pickerill, "The State of American Federalism 2011–2012: A Fend for Yourself and Activist Form of Bottom-Up Federalism," *Publius: The Journal of Federalism* 42, no. 3 (2012): 357–86; Squire, *A New Order in American Politics: A Supplement to Accompany Dynamics of Democracy*, p. 52

The existence and characteristics of democracy are not only guaranteed in the constitution. The central government must also have a scope of functions that are not included in regional government. In another sense, the functions of regional government may not be accompanied by the central government, but rather belong to the regional government and not include the central government, except in special cases such as national development programs that are comprehensively strategic in nature as well as in the event of a country's emergency situation and indications paralysis of government.

The impact of the division of power in a devolved and limited manner to regional governments is to bring regional governments into direct relations with the central government based on the principles of autonomy and justice between existing levels of government. Thus, regional government is no longer a creation and function of the central government, so that state actions in matters within the authority of regional government become unconstitutional. Despite such demands, constitutional reforms aimed at guaranteeing regional government autonomy have consistently failed to produce significant results. Therefore, both the 1945 Constitution and the laws and regulations that are currently in force, make regional governments the governments that regulate the remaining affairs of the central government which are therefore only limitatively autonomous and therefore fall under the authority of the central legislative and central executive. This constitutional position based on the 1945 Constitution is certainly very much in line with the principles and spirit of the federalism system that the autonomy of regional government is under the regulation of the central government, including its power and control over regional affairs.

3. Constitutional Limitations on Regional Government Autonomy in Indonesia

From the various provisions of the constitution it can be seen that the makers of the constitution did not intend to provide an autonomous regional government system in the sense of a government free from control or interference from the central government level. Article 18 paragraph (2) and paragraph (5) of the 1945 Constitution of the Republic of Indonesia states that Regional Governments have the authority to regulate and manage Government Affairs themselves according to the Principles of Autonomy and Assistance Duties and are given the widest possible autonomy. Providing the widest possible autonomy to regions is directed at accelerating the realization of community welfare through improving services, empowerment and community participation.¹⁶ The granting of the widest possible autonomy to regions is carried out based on the principle of a unitary state.¹⁷ In a unitary state,

¹⁶ Fauzi, "Otonomi Daerah Dalam Kerangka Mewujudkan Penyelenggaraan Pemerintahan Daerah Yang Baik."

¹⁷ Sri Kusriyah, "Politik Hukum Penyelenggaraan Otonomi Daerah Dalam Perspektif Negara Kesatuan Republik Indonesia," *Jurnal Pembaharuan Hukum* 3, no. 1 (2016): 1–11.

sovereignty only exists in the state government or national government and there is no sovereignty in the regions.¹⁸ Therefore, whatever extent of autonomy is granted to the Regions,¹⁹ final responsibility for the administration of Regional Government will remain in the hands of the Central Government. For this reason, Regional Government in a unitary state is one unit with the National Government.²⁰ A region as a legal community unit that has autonomy has the authority to regulate and manage its region according to its aspirations²¹ and the interests of the community as long as they do not conflict with the national legal order and public interests.²²

4. Complete Decentralization: Ideas and Models of Regional Government

The pattern of regulating government affairs with a decentralized character essentially relies on the division of power (authority) and who has the authority to manage and regulate these affairs. Furthermore, it is related to the delegation of authority to regional governments and how much authority is delegated or handed over to regions in managing and regulating the implementation of government in the regions. In other words, the pattern of regulation of government affairs in the concept of decentralization is seen from the relationship between the center and regions which refers to the Constitution The 1945 NRI is not interpreted symmetrically (uniformly) but can vary from one region to another (asymmetric) in accordance with regional characteristics and regional potential (specialties) within the framework of the Republic of Indonesia.

So the form and idea of Complete Decentralization should be launched as a first step in efforts to perfect and reinstate the meaning of regional autonomy. Differences in paradigms both theoretically, historically and systemically are part of the object and orientation of the partial implementation of regional autonomy in each autonomous region. Complete Decentralization is a model and form of regional government which does not aim to eliminate the centralization aspect of central government, but is intended so that the state, in

¹⁸ Amin Farih, "Konsistensi Nahdlatul Ulama' Dalam Mempertahankan Pancasila Dan Kedaulatan Negara Kesatuan Republik Indonesia Di Tengah Wacana Negara Islam," *Jurnal Politik Walisongo* 1, no. 1 (2019): 1–20.

¹⁹ Dezonda Rosiana Pattipawae, "Pelaksanaan Eksekusi Putusan Pengadilan Tata Usaha Negara Di Era Otonomi," *Sasi* 25, no. 1 (2019): 92–106.

²⁰ Dudung Abdullah, "Hubungan Pemerintah Pusat Dengan Pemerintah Daerah," *Jurnal Hukum Positum* 1, no. 1 (2016): 83–93.

²¹ Ivena Tirta Maleke, "Kewenangan Pelayanan Di Bidang Pertanahan Dalam Otonomi Daerah Menurut Undang-Undang Nomor 23 Tahun 2014 Tentang Otonomi Daerah," *LEX ADMINISTRATUM* 6, no. 3 (2019).

²² Muhammad Mutawalli Mukhlis et al., "Heavy Parliamentary v. Heavy Executive: Ambiguity of Power in Indonesian Constitutional Practices," *Jurnal Media Hukum* 31, no. 2 (2024): 186–205, <https://doi.org/https://doi.org/10.18196/jmh.v31i2.21703>.

this case the central legislative council and central government, need to ensure and guarantee what is the complete authority of regional government in partial and limited ways by the government center.²³ The idea of complete decentralization is an effort to concretize certain local social and political affairs and desires to regional governments without central government intervention. The complete decentralization model also allows the adoption of local forms of government based on customs or customary government. Thus, the diversity of local politics that exists in each region is given the freedom to administer and manage its own region independently, partially and proportionally, and in this case the principle of the widest possible autonomy mandated in the 1945 Constitution can be fulfilled in accordance with the unitary state system in republican form of state.²⁴

B. Views of Siyasaḥ Fiqh on the Implementation of Regional Autonomy in Indonesia

Fiqh siyasah is a science that studies the affairs of the people and the state with the laws, regulations, and policies made by the holders of power. Siyasaḥ fiqh The Qur'an does not go into great depth about it; instead, it is founded on ijtihad, with the welfare of the populace serving as its guide. The goal of Siyasaḥ Fiqh is to serve as a tool for achieving a just state and upholding people's rights..²⁵ Fiqh siyasah, then, is a rule pertaining to the public good in line with the paths established by sharia law. One of the things related to the siyasah area is related to the implementation of regional autonomy in Indonesia. Basically, the provision of regional autonomy in Indonesia is a space to provide opportunities for each region in this country to explore and develop the potential of each region in order to provide prosperity for regional communities.

In siyasah, the government is concerned with paying attention to and managing issues regarding legitimate sources of funds and channeling them to those who are entitled to them, namely so that the government must be able to bring its people to achieve true happiness for the hereafter—welfare of the people or society. One of the aims of establishing regional autonomy is to improve the welfare of regional communities by prioritizing community interests in order to obtain prosperity and placing the region on a par with other regions that have superior potential. The existence of this goal means that the goal of establishing regional autonomy and Fiqh Siyasaḥ has continuity. According to the following fiqh rules:

²³ Muhammad Mutawalli, *Negara Hukum Kedaulatan Dan Demokrasi (Konsepsi Teori Dan Perkembangannya)* (Repository Stain Majene, 2023).

²⁴ Muhammad Mutawalli Mukhlis Et Al., "Regional Government According To The 1945 Constitution: Ideas Refinements And Law Reform," *Journal Of Law And Legal Reform* 5, No. 2 (2024): 495–530, [Http://103.23.102.168/Journals/Jllr/Article/View/3125/341](http://103.23.102.168/Journals/Jllr/Article/View/3125/341).

²⁵ Mukhlis Latif et al., "The Nature of the Position of Wilayatul Faqih in the Iran Islamic Constitutional System: The Essence of Ayatollah Khomeini's Thoughts," *Res Militaris* 12, no. 4 (2022): 2052.

تصرف الامام على الرعية منوط بالمصلحة

*Kebijakan pemimpin kepada rakyatnya harus sesuai dengan kemaslahatan atau kesejahteraan rakyatnya.*²⁶

The rules of Fiqh mentioned above indicate that the government, as the party with authority regarding policy, should pay attention to aspects of the benefit of all parties, especially for regions that are still within the scope of its authority. So that the benefits of all regions can be guaranteed, economic inequality in the regions must be avoided. And wealth in the context of economic progress can be accessed by all elements according to the word of Allah SWT. in Q.S Al-Hasyr (59): 7:

أَفَاءَ اللَّهِ عَلَى رَسُولِهِ مِنْ أَهْلِ الْقُرَى فَلِلَّهِ وَلِلرَّسُولِ وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينِ وَابْنِ السَّبِيلِ كَيْ لَا يَكُونَ دُولَةً ۗ
بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ وَمَا اتَّكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ ﴿٧﴾

*Apa saja harta rampasan (jai-i) yang diberikan Allah kepada RasulNya (dari harta benda) yang berasal dari penduduk kota-kota maka adalah untuk Allah, untuk Rasul, kaum kerabat, anak-anak yatim, orang-orang miskin dan orang-orang yang dalam perjalanan, supaya harta itu jangan beredar di antara orang-orang kaya saja di antara kamu. Apa yang diberikan Rasul kepadamu, maka terimalah. Dan apa yang dilarangnya bagimu, maka tinggalkanlah. Dan bertakwalah kepada Allah. Sesungguhnya Allah amat keras hukumannya.*²⁷

The concept of regional autonomy, the government and society in a region have an important role in improving the quality of development in their respective regions.²⁸ This is mainly because in regional autonomy there is a transfer of authority which was initially held by the central government to now become a matter for the respective regional governments. In Islamic law, there is an opportunity to change, advance and make people's lives more dynamic, but this progress and dynamism must remain in accordance with the teachings of the Koran and must not exceed this. The general principles are tauhidullah (belief in Allah SWT), brotherhood, unity and justice.

The concept of regional autonomy in Islam is not specifically regulated, the explanation is only in general terms and outlines. For this purpose, the rules of fiqh are used:

والأصل في العقود والمعاملات الصحة حتى يقوم دليل على البطلان والتحريم

²⁶ Ahmad Rofik, *Hukum Islam Di Indonesia* (Jakarta: Grafindo Perkasa, 2013), p. 120.

²⁷ Departemen Agama Republik Indonesia, *Alquran Dan Terjemahannya* (Surabaya: Duta Ilmu, 2013), p. 546.

²⁸ Panji Andika Putra, M.Arafat Hermana, and Sandi Apriyanto, "Implementasi Kebijakan Otonomi Daerah Dalam Pasal 18 Undang-Undang Dasar 1945 Dalam Perspektif Politik Hukum Di Indonesia," *Bataradarma Journal (Law Studies)* 1, no. 1 (2020), <https://doi.org/https://doi.org/10.37638/bataradarma.v1i1.165>.

*Hukum asal dalam semua bentuk muamalah adalah boleh dilakukan kecuali ada dalil yang mengharamkannya.*²⁹

Islam provides space for ijtihad in the siyasah area, so in implementing regional autonomy it is necessary to pay attention to the structure between the central and regional governments, regional potential and diversity, aspects of authority relations, paying attention to power and regional religion in a unitary state system. Aspects of financial relations, public services, utilization of natural resources and other resources are implemented fairly and in harmony.³⁰

Leaders according to Islam are described in two terms, namely caliph, as stated in QS. Al - Baqarah / 2: 30, and QS. Shaad / 38: 26, and Imamah (Imam) as stated in QS. Al - Furqaan / 25: 74.³¹

QS. Al - Baqarah/2: 30

وَأَذَقْنَا لِكُلِّ قَوْمٍ نَسِئَتَهُمْ فِي الْأَرْضِ خَلِيفَةً قَالُوا أَتَجْعَلُ فِيهَا مَنْ يُفْسِدُ فِيهَا وَيَسْفِكُ الدِّمَاءَ وَنَحْنُ نُسَبِّحُ بِحَمْدِكَ وَنُقَدِّسُ لَكَ قَالَ إِنِّي أَعْلَمُ مَا لَا تَعْلَمُونَ ﴿٣٠﴾

(Ingatlah) ketika Tuhanmu berfirman kepada para malaikat, “Aku hendak menjadikan khalifah di bumi.” Mereka berkata, “Apakah Engkau hendak menjadikan orang yang merusak dan menumpahkan darah di sana, sedangkan kami bertasbih memuji-Mu dan menyucikan nama-Mu?” Dia berfirman, “Sesungguhnya Aku mengetahui apa yang tidak kamu ketahui.

QS. Shaad/38: 26

يَا دَاوُدُ إِنَّا جَعَلْنَاكَ خَلِيفَةً فِي الْأَرْضِ فَاحْكُم بَيْنَ النَّاسِ بِالْحَقِّ وَلَا تَتَّبِعِ الْهَوَى فَيُضِلَّكَ عَنْ سَبِيلِ اللَّهِ إِنَّ الَّذِينَ يَضِلُّونَ عَنْ سَبِيلِ اللَّهِ لَهُمْ عَذَابٌ شَدِيدٌ ۖ يَوْمَ نَسُؤُوا يَوْمَ الْحِسَابِ ﴿٢٦﴾

(Allah berfirman,) “Wahai Daud, sesungguhnya Kami menjadikanmu khalifah (penguasa) di bumi. Maka, berilah keputusan (perkara) di antara manusia dengan hak dan janganlah mengikuti hawa nafsu karena akan menyesatkan engkau dari jalan Allah. Sesungguhnya orang-orang yang sesat dari jalan Allah akan mendapat azab yang berat, karena mereka melupakan hari Perhitungan.”

QS. Al - Furqaan/25: 74

وَالَّذِينَ يَقُولُونَ رَبَّنَا هَبْ لَنَا مِنْ أَزْوَاجِنَا وَذُرِّيَّاتِنَا قُرَّةَ أَعْيُنٍ وَاجْعَلْنَا لِلْمُتَّقِينَ إِمَامًا ﴿٧٤﴾

Dan, orang-orang yang berkata, “Wahai Tuhan kami, anugerahkanlah kepada kami penyejuk mata dari pasangan dan keturunan kami serta jadikanlah kami sebagai pemimpin bagi orang-orang yang bertakwa.”

²⁹ Amir Syarifuddin, *Garis-Garis Besar Fiqh* (Jakarta: Kencana Prenada Media Group, 2013), p. 14.

³⁰ Hanif Nurcholis, “Pengembangan Kapasitas Pemda: Upaya Mewujudkan Pemda Yang Menyejahterakan Masyarakat,” *Jurnal Organisasi Dan Manajemen* 1, no. 1 (2005): 49–58.

³¹ Abid Abyan, “Sistem Pemilihan Kepala Daerah Perspektif Imam Al-Mawardi Dan Relevansinya Di Indonesia,” *Universitas Islam Negeri Syarif Hidayatullah* (Universitas Islam Negeri Syarif Hidayatullah, 2020).

Being a leader according to Islam is a mandate. This trust must be accountable vertically to Allah, and horizontally to fellow humans. Based on the concept of regional autonomy from the Islamic perspective, it can be seen from the history of the state administration of the Prophet Muhammad SAW up to al-khulafahu al-rasyidin, it can be said to contain the principles of decentralization, the principle of deconcentration and the principle of assistance. The central government (Caliph) grants the delegation of authority in certain areas vertically to the regional government (governor) where the governors are responsible to the Caliph. During the reigns of Khulafa Rasyidin and Rasulullah, the main application of the division of central (Amir) and regional (Caliph) power was in line with the ideas of decentralization, concentration, and support for regional autonomy. The Amir, who leads the regional administration and is subordinate to the Caliph, receives authority in specific areas from the Caliph vertically.³² The leadership of the Prophet Muhammad assisted by his companions for 10 years, the principles of autonomy in the government of the first Islamic State in Medina were explored into 3 principles of autonomy, such as³³:

1. Principle of Autonomy of Creed

This principle is found in Ali Imran's letter which includes the recognition of the oneness of Allah, nubuwwah, the truth of the Koran,

2. Principle of Sharia Autonomy

This principle includes provisions such as in the fields of hajj, jihad, zakat.

3. The Principle of Autonomy of Ihsan

This principle is found in the letter of An-Nisa including mandate, justice, and obedience. The principle of autonomy of ihsan in building a family community and wider society based on takaful (mutual responsibility), tarahum (loving), tanashuh and tasamuh (mutual advice and understanding/tolerance), mandate and justice towards the realization of a strong community structure.

According to Al-Mawardi the power of the regional head is divided into 2 parts, such as³⁴:

1. The powers of the regional head are general in nature

³² Anwar, "Landasan Konseptual Otonomi Daerah Dalam Perspektif Islam," 2023.

³³ T. Wildan, "Principles of the Teaching of Nation and State Life in the Constitution of Medina," *IBDA` : Jurnal Kajian Islam Dan Budaya* 21, no. 1 (2023): 17–36, <https://doi.org/10.24090/ibda.v21i1.6747>.

³⁴ Al-Mawardi, *Abkam Sulthaniyah Sistem Pemerintahan Khilafah Islam* (Jakarta: Qisthi Press, 2019).

- a. The authority of the regional head over a certain area through peaceful means The regional head is to handle military affairs, organize their forces in all aspects, determine their salaries, unless the salary has been determined by the Caliph, handle legal affairs and appoint kharaj and zakat officers and determine the people who are entitled to receive them, collect kharaj, collect zakat, protect religion and purify its teachings, enforce hudud related to the rights of Allah and the rights of humans, become an imam in Friday and congregational prayers, and provide facilities to residents and non-residents who wish to perform the Hajj.
 - b. The power of the regional head over a certain area through coercion, namely the protection of the position of the Caliph in representing the prophetic duties and handling religious affairs so that all sharia obligations can be upheld, the birth of an attitude of obedience, the creation of a determination to help each other, the justification of religious power contracts so that religious rules can be carried out, the management of sharia funds, the correct enforcement of hudud, and the obligation to protect religion and avoid its prohibitions.
2. The powers of the regional head are special
 - a. Al-Imarah Al-Istila is a state that has greater power
 - b. Al-Imarah Al-Istikfa is an autonomous region that has complete power bodies for its territory, both legislative, executive, and judicial.

The main points of the implementation of regional autonomy have been regulated in Law Number 23 of 2014 concerning Regional Government using the principles of decentralization, deconcentration, and assignment of tasks. The relationship between the central government and regional governments in the implementation of regional autonomy in Indonesia are³⁵:

1. Relationship in the Field of Authority
2. Relationship in the Field of Guidance and Supervision
3. Relationship in the Field of Finance

The formation of autonomous regions is only focused on how an autonomous region can manage government, finances, and other public interests well. Even further, with the issuance of Law No. 33 of 2004 concerning the financial balance between the central and regional governments, the emphasis is more on how autonomous regions manage their APBD well. That is what makes each region feel burdened and busy to implement the Law. Regional autonomy which actually aims to maximize regional authority in building its independence, not only in managing the APBD and the wheels of government, but more than that is how each region is able to maximize the potential of the resources it has. Normally with autonomy, regional dependence

³⁵ Fitriani Hasibuan, "Konsep Otonomi Daerah Di Indonesia Ditinjau Dari Fiqih Siyasah" (Institut Agama Islam Negeri Padangsidempuan, 2019).

on central attention decreases over time, not only in bureaucratic matters but also in economic resources and management of the region itself³⁶

There are distinctions between the Islamic political system and Indonesia's application of the idea of regional autonomy. Amir served as the region's religious leader in addition to performing the duties of political administration and tax collecting. In the meantime, the governor or president of Indonesia do not have religious power. Since religion is one of the subjects that the federal government has complete control over, the regions do not have any jurisdiction over the management or religious services provided by the Ministry of Religion.³⁷

Both *Siyasah Fiqh* and regional autonomy are equally focused on attaining benefits in the form of equitable development, independent development of regional potential, and justice and welfare of the people in a more profane political framework. The regulations' provisions regarding regional autonomy are, in theory, compliant with the tenets of *Fiqh Siyasah*. The constructed system is good, only its implementation is less disciplined. What needs to be attempted is how to minimize the shortcomings of the system itself. Like the rights of the regional autonomy system, to make it more effective, it is necessary to improve the mentality so that there is no exploitation of one's own needs or abuse of office.

C. Models of Devolution of Regional Government Powers in Other Countries

1. South Africa

Room exists in South Africa's Constitution, adopted in 1996, for substantive political devolution, which, it is argued, must be attempted before blood is spilled in the name of national independence.

In summary, the South African model of devolution is characterized by a balance between decentralized powers and a strong emphasis on cooperative governance, ensuring that the three spheres of government work together to deliver services and maintain national unity.³⁸

2. United Kingdom

Devolution refers to the transfer of certain powers from the central UK government to nations and regions within the United Kingdom. It can involve

³⁶ Muhammad Reza, "Muhammad Reza, Analisis Pemekaran Daerah Dihubungkan Dengan Tujuan Otonomi Daerah (Studi Kasus Di Kabupaten Pontianak)," *Gloria Yuris: Jurnal Hukum* 2, no. 3 (2014).

³⁷ Ummu Salamah and Reinaldo Rianto, "Perda Syariah Dalam Otonomi Daerah," *Mizan: Journal of Islamic Law* 2, no. 2 (2018): 251, <https://doi.org/10.32507/mizan.v2i2.147>.

³⁸ Muhammad Mutawalli Mukhlis et al., *Hukum Otonomi Pemerintahan Daerah Dan Pemerintahan Desa Di Indonesia* (Yogyakarta: Jejak Pustaka, 2024).

the establishment of legislative assemblies or parliaments and governments or executives within these sub-state territories.³⁹

The existing process of devolution began in the late 1990s. It is worth also noting that the devolution of the late 1990s gave Scotland, Wales, Northern Ireland, and London different institutional arrangements and powers. This variety is why devolution in the UK is often called ‘asymmetrical’ – it is not the same for all nations and regions. In England, devolution remains very limited. Aside from London, there are ten English cities and regions to which some additional powers have been devolved, most of which also have a directly-elected mayor⁴⁰

3. Zimbabwe

In the Zimbabwe context, provinces that strongly advocated for devolution during the constitution making process (and its eventual inclusion in the Constitution) include Manicaland, Midlands and Matabeleland which have long blamed their underdeveloped public and social infrastructure (compared to other provinces) on a deliberate policy of marginalisation by central government which favours other provinces for political expediency⁴¹

The 2013 Constitution of Zimbabwe introduced Provincial and Metropolitan Councils as the primary structures for devolution. Each province has a Provincial Council, while major cities like Harare and Bulawayo have Metropolitan Councils. These councils are supposed to be responsible for economic planning, natural resource management, and implementing national policies at the provincial level. They have the authority to make decisions on social and economic issues, although their powers remain somewhat limited compared to the central government⁴²In summary, while Zimbabwe has laid the groundwork for devolution through its Constitution and various legislative frameworks, the actual transfer of powers and resources to local governments remains a work in progress. The effectiveness of devolution in Zimbabwe depends on addressing the existing challenges and ensuring that local authorities are truly empowered to manage their regions.

4. Indonesia Model

³⁹ Mukhlis Latif and Muhammad Mutawalli, “Fiqh of Civilization in Building a Legal State: The Relevance of Muhammad Arkoun’s Thought,” *Al-Ahkam* 33, no. 2 (2023): 207–30, <https://doi.org/http://doi.org/10.21580/ahkam.2023.33.2.16643>.

⁴⁰ The Constitution Society, “Devolution,” The Constitution Society, n.d.

⁴¹ Postdoctoral Fellow and South Africa, “& DEVELOPMENT Devolution of Power in Zimbabwe ’ s New Constitutional Order: Opportunities and Potential Constraints,” *Law, Democracy & Development* 18 (2014): 289–304.

⁴² Nyamadzawo Sibanda, “The Evolution Of Decentralisation Policy In Developing Countries: A Policy Analysis of Devolution in Zimbabwe” (University of KwaZulu-Natal, 2013).

Based on the research findings, it can be concluded that from the long history of the emergence of regional government forms in Indonesia, there are at least a series of aspects of the constitutionality of implementing the regional government system such as Dutch East Indies government system in 1800-1904, Indonesian government system under Japanese army occupation in 1942-1945, Muhammad Yamin and Soepomo's draft at the 1945 BPUPKI Session on regional government, article 18 of the 1945 Constitution, regional government according to Law no. 1/1945, regional government according to Law no. 22/1948, regional government according to Law no. 1/1957, regional government according to Law no. 18/1965 in conjunction with Law no. 19/1965, regional government according to Law no. 5/1974, regional government according to Law no. 22/1999, regional government according to Law no. 32/2004, and regional government according to Law no. 23/2014 in conjunction with Law no 6/2014. Problems of Indonesian regional autonomy in regional government has been going on for a long time. The existence and characteristics of democracy are not only guaranteed in the constitution. The central government must also have a scope of functions that are not included in regional government. This is consistent with the *Siyasah Fiqh* and Indonesian regional autonomy principles of decentralization, deconcentration, and aid. The values of autonomy, trust, and *ihsan* form the basis of authority delegation, allowing areas to exercise autonomy while yet being answerable to the central government for how they use it.

In another sense, the functions of regional government may not be accompanied by the central government, but rather belong to the regional government and not include the central government, except in special cases such as national development programs that are comprehensively strategic in nature as well as in the event of a country's emergency situation and indications paralysis of government. The impact of the division of power in a devolved and limited manner to regional governments is to bring regional governments into direct relations with the central government based on the principles of autonomy and justice between existing levels of government. Thus, regional government is no longer a creation and function of the central government, so that state actions in matters within the authority of regional government become unconstitutional. Constitutional limitations on regional government autonomy in Indonesia sovereignty only exists in the state government or national government and there is no sovereignty in the regions. Therefore, whatever extent of autonomy is granted to the Regions, final responsibility for the administration of Regional Government will remain in the hands of the Central Government. For this reason, Regional Government in a unitary state is one unit with the National Government. Administrative regions through the implementation of the principles of decentralization and deconcentration.

Conceptually, decentralization in the implementation of regional government in Indonesia in the provisions of Article 1 point (8) of Law

Number 23 of 2014, is formulated as the handover of government affairs by the central government to autonomous regions based on the principle of autonomy. Decentralization will enable local officials to be able to better overcome problems that have been considered undesirable and the highly bureaucratic characteristics of procedures in planning and implementing development that are often experienced by developing countries which create a concentration of power, authority and resources that so excessive at the central level. Furthermore, the rules of Fiqh mentioned above indicate that the government, as the party with authority regarding policy, should pay attention to aspects of the benefit of all parties, especially for regions that are still within the scope of its authority. So that the benefits of all regions can be guaranteed, economic inequality in the regions must be avoided. And wealth in the context of economic progress can be accessed by all elements according to the word of Allah SWT. in Q.S Al-Hasyr (59): 7. The concept of regional autonomy in Islam is not specifically regulated, the explanation is only in general terms and outlines. Islam provides space for *ijtihad* in the *siyasah* area, so in implementing regional autonomy it is necessary to pay attention to the structure between the central and regional governments, regional potential and diversity, aspects of authority relations, paying attention to power and regional religion in a unitary state system.

Conclusion

This work has outlined the autonomy of local governments, especially within a federal structure. A large degree of autonomy at the local government level is important for encouraging grassroots democracy and self-government among the diverse interests that make up the national government. Local governments provide opportunities for minority groups who are outvoted to participate in government at the local level. This makes democracy meaningful for local people if their urgent affairs are not determined by central officials but are managed by them themselves. The relationship between the regional government system and democracy lies on the basis that these two functions advance the regional economy and social services to realize the social development of local communities through empowering local communities in decision-making. Basically there are no rules in Islamic Law regarding implementation regional autonomy and there is no special argument that confirms it and can be used say there is no autonomy in Islam, autonomy was born in the era of reform and came into force with the aim of creating justice and prosperity. Although However, this does not mean that Islam is free to highlight this matter in Islam know the concept of *baldataun toyiban*, which is a concept of state life and society based on the Koran and the Sunnah of the Prophet. The result findings that related to the views of *Siyasah Fiqh* on the implementation of regional autonomy in Indonesia are considered to be still lacking in depth. Where the result finding only explains the similarities or relationship between *Siyasah Fiqh* and the implementation of regional autonomy

in Indonesia. So further investigation in future research is needed to achieve more profound or comprehensive results. The implementation of regional autonomy in its many specialized authorities is not covered in length in this article because it still looks at regional autonomy in a more general perspective. This is the research's shortcoming; it has to be supplemented by other studies on the application of regional autonomy in the political, economic, social, cultural, educational, and other domains within the framework of *Siyasah Fiqh* scales. This is to get a more thorough, in-depth, and extensive examination of the *Fiqh Siyasah* review's topic of regional autonomy.

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