

## **The Relevance of Imam al-Māwardī's Thought to the Legislative Process of Aceh's Qanun by the Aceh People's Representative Council**

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### **Abstract**

The process of legislation on the Qanun by the Aceh People's Representative Council (DPRA) is a unique legal mechanism in the Indonesian government system, because it is closely related to the implementation of Islamic sharia in Aceh. This study aims to see the relevance of the Qanun legislation process in Aceh from the perspective of the concept of Islamic politics put forward by Imam Al-Mawardi, a classical Islamic thinker who discusses a lot of Islamic government theory and law. This research uses a qualitative approach with descriptive analysis methods and literature studies on Al-Mawardi's thoughts in the book *Al-Ahkam As-Sultaniyyah*. The results of the study show that in the Qanun legislation process, the DPRA plays a role as a legislative body that has the authority to formulate regional regulations based on Islamic law. However, in practice, there are still challenges such as local political dynamics, the interests of various actors, and synchronization with national law. So, how does the DPRA use the concept of Islam in the Qanonic legislation process? And in the legislative process, the DPRA prioritizes certain political interests over the interests of the people? Al-Mawardi's perspective provides insight that good legislation must pay attention to the balance between Islamic law and the benefit of the ummah, and avoid political interests that can hinder the ideal implementation of sharia. Thus, this research contributes to the understanding of the Qanun legislation process from an Islamic political perspective and offers recommendations so that the DPRA can carry out its duties more optimally following the principles of ideal Islamic governance according to Al-Mawardi.

**Keywords:** Legislative Process, Imam Al-Mawardi, Legislation, Qanun, DPRA

### **Introduction**

Governance in Islam has basic principles that must be adhered to by every leader and legislative institution so that the policies implemented do not contradict Islamic law. Aceh, as the only province in Indonesia that has special authority to implement Islamic law through a regional regulation called Qanun, has a great

responsibility in ensuring that any policy made is in line with Islamic principles. Qanun was compiled by the Aceh People's Representative Council (DPRA) as a legal product that regulates various aspects of people's lives, ranging from the legal, social, economic, to governance fields. However, in the process, some of the Qanun that were passed often caused polemics, both in terms of implementation and legal substance (Harun, 2017).

From an Islamic perspective, the existence of a government and legal rule must aim to create justice, welfare, and benefits for the community. Imam AlMawardi, an 11th-century Islamic scholar and political philosopher, discussed the concept of leadership and government in his work *Al-Ahkam As-Sulthaniyyah*. In the book, Al-Mawardi emphasized that the ideal government must fulfill basic principles, such as justice, compliance with sharia, fulfillment of people's rights, and the existence of a control mechanism for leaders so as not to act arbitrarily. Therefore, it becomes relevant to examine whether the Qanun made by the DPRA is under the principles of Islamic governance as stated by Al-Mawardi.

One of the important aspects of Al-Mawardi's thought is the concept of *siyasah syar'iyah* or Islamic politics, where the laws applied by the government must reflect the values of justice and benefits for society (Madjid, 2008). In the context of Aceh, the Qanun prepared by the DPRA often receives the spotlight because it is considered to still have weaknesses in the aspects of implementation and compliance with the principles of justice. Some of the Qanun that have been passed, such as the Qanun on *jinayat* (Islamic crime), sharia economics, and government, often receive criticism from various parties, both from the public, academics, and human rights activists. The criticism that has emerged is generally related to the incompatibility between the concept of Islamic law that is supposed to protect and prosper the people, and the reality on the ground, which shows the potential for discrimination, legal inequality, and inconsistent implementation (Ibrahim, 2015).

In Al-Mawardi's thought, a leader or legislative institution responsible for making laws must have integrity, adequate knowledge of Islamic law, and a commitment to upholding justice. However, in the context of Aceh, there are several questions that arise. In addition, in an increasingly complex modern era, Islamic law must also be able to adapt to the times without eliminating the essence of Sharia. AlMawardi himself taught that flexibility in government policies is necessary as long as it is based on the basic principles of Islam (*Ahkam Sulthaniyah*, 2014). Therefore, this study will also examine the extent to which the Qanun made by the DPRA can adapt to the growing needs of the Acehnese people, both in social, economic, and political aspects, without abandoning sharia principles as formulated by Al-Mawardi.

## **Research Methods**

In conducting research, the researcher uses research methods to advance their research. Research methods are methods or procedures used in the research process to collect, analyze, and interpret data so as to make it easier to formulate and design a research. This research uses a qualitative research method with a Normative Juridical approach that is oriented to legal theories and concepts based on laws and regulations and other legal products related to this research. And this research is also carried out based on literature materials such as the book *Al-Ahkam AsSulthaniyyah*, which is then used as a basis for analyzing the problems being researched.

## **Results and Discussion Islamic Political Concept of Imam Al-Mawardi**

Imam Al-Mawardi (972–1058 AD) was a great scholar in the fields of jurisprudence, Islamic politics, and constitutional law of the Shafi'i School. His full name is Abu al-Hasan Ali ibn Muhammad ibn Habib al-Mawardi. He lived during the Abbasid Dynasty, precisely in the era of political decline of the caliphate, and was widely known as a scholar who sought to formulate the principles of Islamic government in the context of political crisis and disintegration.

In the history of classical Islamic political thought, Imam Al-Mawardi is one of the most influential and visionary figures. He lived during the political crisis of the Abbasid Caliphate, where the authority of the caliph suffered a significant decline due to the seizure of power and the dominance of non-Arab militaries such as the Banu Buwaih. It was in this situation that Al-Mawardi appeared as a state theorist who tried to formulate an ideal and functional Islamic system of government in an unstable socio-political situation. Through his monumental work *Al-Ahkam alSultaniyyah*, Al-Mawardi conveyed the basic concepts of Islamic governance, including the power structure, legal principles, duties of leaders, and the importance of upholding justice through legitimate state institutions. One important aspect of his thinking was the idea of the legislative power inherent in the leaders and officials of the state, which served to ensure the upholding of Islamic law while guaranteeing the common good. It is Al-Mawardi's thought that provides an important theoretical foundation for the formulation of law within the framework of an Islamic state and remains relevant to explain the process of contemporary legislation in regions with Islamic legal specificity, such as Aceh (Faturrahman, 2014).

One of Al-Mawardi's main ideas that is relevant to the process of Qanun legislation by the DPRA is the concept of imamah or political leadership in Islam. For Al-Mawardi, the imamah is a basic need of Muslims to avoid chaos, prevent bloodshed, and maintain order in religious and state life. The Imam (leader of the state) not only serves as a symbol of unity, but also has a great responsibility in

upholding Islamic law and ensuring that all aspects of people's lives run in accordance with sharia principles. In this case, Al-Mawardi gives legitimacy that the state has the right to establish derivative laws called administrative policies or regulations for the benefit of the community. This provides a theoretical basis for the establishment of the Qanun by the DPRA, where the local legislature acts as an extension of executive power in setting legal policies that are in accordance with sharia, but also responsive to the evolving needs of the Acehnese people.

Al-Mawardi also stated the importance of *maslahah mursalah* as a basis in the formulation of law. He argues that Islamic law is not rigid, but open to adjustment based on socio-political realities as long as it does not conflict with the basic principles of sharia. In the process of Qanun legislation by the DPRA, this principle is very dominant, especially in the preparation of Qanun that is not explicitly regulated in the Qur'an or hadith, such as Qanun regarding Islamic financial institutions, the management of zakat and waqf, and sharia-based local government governance. These Qanun-Qanun were born as a form of political and legal *ijtihad* that answers the needs of the people of Aceh while maintaining the integrity of Islamic law. This shows that the value of *maslahah* emphasized by Al-Mawardi continues to be actualized in the modern system of local government, as well as proving that Islamic sharia is dynamic and contextual (Zulfikar, 2020).

In addition, Al-Mawardi also emphasized the importance of a systematic and functional government structure. He divides state power into several institutions, such as *qadhi* (judge), *wali* (governor), *amil* (tax collector), and others, each of which has its duties and functions in realizing social justice. In the Aceh government system, the DPRA plays a similar role to the legislative institution in the concept of Al-Mawardi, namely being part of a system of checks and balances that controls executive policies and being the proposer and enforcer of local laws (Qanun). This mechanism is getting closer to Al-Mawardi's idea of *shura* (deliberation), which is an important principle in political decision-making. In the modern context, the deliberation process is reflected in plenary sessions, discussion of the draft Qanun by the special committee (*pansus*), and public involvement through public testing and consultation with various stakeholders.

Al-Mawardi's thought is very relevant to the process of Qanun legislation in the modern context. He acknowledged the need for the government to have authority in setting administrative and legal regulations that are technical and practical for the benefit of the people. This authority remains limited by Sharia principles and the main purpose of Islamic government, which is to realize justice and maintain religion (Wahid, 2011). In the process of Qanunic legislation, Al-Mawardi's thought gives legitimacy to the executive power (imam or head of state) to:

1. Establish legal policies in the area of *ijtihadi* – This means that the leader can establish laws in areas that are not explicitly explained by the sharia, based on the benefits and conditions of the times.
2. Regulating administrative and judicial areas – Al-Mawardi wrote extensively about the structure of government, public office, and duties of state officials, all of which can be used as a basis for the preparation of administrative Qanun.
3. Enforcing the law through the judiciary – He views the institution of Qadha (judiciary) as a pillar of Islamic law and the main instrument in the implementation of Qanun (Rizal, 2022). In addition, according to Imam Al Mawardi, the role of Islamic political ethics also supports the process of Qanun legislation by the DPRA. According to Al-Mawardi, political ethics is not only a norm of a leader's moral behavior, but also a spiritual and social foundation in exercising power. In the context of legislation, these ethics include honesty, trust, sincerity in service, and alignment with justice and the interests of the people.

This political ethics is very important, especially in the context of Aceh, which often faces a tug-of-war between the substantial application of sharia and symbolic trends. Imam Al-Mawardi emphasized that rulers or public officials should stay away from *ghuluw* (excess) in the use of power, and not allow private or group interests to dominate public policy. This should be a guideline for DPRA members in the legislative process, so that the resulting Qanun is not just a legal formality, but becomes an instrument of just and beneficial social change

Furthermore, the principles of accountability and openness are also important dimensions of Islamic political ethics. Al-Mawardi said that every leader is obliged to receive advice and criticism from the public and to account for his decisions to the public. In this case, the role of the participation of the Acehnese people, especially in public testing and consultation on the Qanun draft, must be strengthened in order to create a participatory and transformative legislation process.

In addition, Al-Mawardi's thought also hints at the importance of *tazkiyatun nafs* (purification of the soul) in leaders and policymakers. This spirituality is essential so that the holder of power not only leans on formal legality but also has moral depth and personal integrity. In the context of the DPRA, these values are the ethical foundation so that every step of the Qanun legislation has a moral orientation and sincerity in serving the people.

### **Qanun Legislation by the Aceh People's Representative Council**

Aceh, as one of the provinces in Indonesia that has received special autonomy, and Aceh is the only region in Indonesia that is given special authority to organize government based on Islamic sharia principles. This is explicitly regulated in Law of

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the Republic of Indonesia Number 11 of 2006 concerning the Government of Aceh (UUPA), which is a derivative of the Helsinki peace agreement between the Government of Indonesia and the Free Aceh Movement (GAM). One of the main instruments in the implementation of Islamic sharia in Aceh is through Qanunic legislation, which is a special regional regulation that is equivalent to regional regulations (perda), but has specificity because it can regulate religious aspects more broadly (Ismail, 2019).

Qanun can include provisions on sharia crimes, sharia banking, sharia justice, and Islamic dress procedures. The Qanun legislation process is carried out by the Aceh People's Representative Council (DPRA) together with the Aceh Government, and is subject to the provisions of national law, as well as based on Islamic sharia values. It is in this context that Al-Mawardi's thinking becomes very relevant, as he discusses in detail the relationship between sharia, political power, and legal legislation by state authorities.

### **Stages of the Qanun Legislation Process by the Aceh People's Representative Council**

The mechanism for drafting the Qanun by the DPRA begins from the legislative planning stage outlined in the Aceh Legislation Program (Prolega). This program is prepared by the legislative body together with the local government and becomes a guide for legislative work for a certain period of time. This reflects the systematization of the legal process as desired by Al-Mawardi. After being included in the Prolega, the Qanun (Raqan) Draft is submitted by the executive or legislature. In this case, the DPRA has a dual role as a proposer and at the same time as a legal policy discussant. This process confirms the division of power and the active participation of the legislature in the implementation of Islamic law, as Al-Mawardi explains that Islamic government should not be autocratic, but should involve the participation of the ummah elite in decision-making (Hadi, 2022).

The Raqan that has been submitted is then discussed in several stages: the initial discussion, which contains the general views of the faction, the discussion of the substance by the special committee, to the final stage in the form of ratification in the plenary meeting. The approved Qanun is then facilitated by the Ministry of Home Affairs to ensure it does not conflict with the constitution or national law (Qanun Aceh No. 5 Tahun 2011 Tentang Tata Cara Pembentukan Qanun, 2011). Although this stage of facilitation often creates tensions between the central government and the Aceh government, this process is a form of harmonization between local sharia law and the universal national legal system. In this case, AlMawardi's thinking also provides an

understanding that Islamic law can coexist with secular power systems as long as its purpose is to maintain justice, security, and welfare of the ummah (Fauzi, 2021).

The Qanun prepared by the DPRA covers various aspects, such as Jinayah, Sharia economics, and governance. However, several Qanun often receive criticism, especially regarding implementation aspects, potential discrimination, and lack of community participation in the legislation process. Some Qanun are considered to reflect the political interests of the elite rather than the benefit of the ummah. This is contrary to the principles of Al-Mawardi, which demand integrity and commitment of leaders to justice and public welfare.

In this context, it is noted that the biggest challenge in the Islamization of law in Aceh is the harmonization between the national and local legal systems. The tension between Sharia values and constitutional principles is often an obstacle to the acceptance of Qanun at the national level. In addition, limited public participation in the process of drafting the Qanun often results in the resulting regulations not reflecting the needs and aspirations of the community as a whole (Zulfikar, 2020).

### **Legal Basis of Qanun Legislation**

Some of the legal bases that provide the basis for the Qanun legislation process in Aceh include:

1. Law No. 11 of 2006 concerning the Government of Aceh (UUPA)
2. Law No. 12 of 2011 concerning the Establishment of Laws and Regulations (as a reference to the national system).
3. Qanun Aceh No. 5 of 2011 concerning Procedures for the Establishment of Qanun
4. Regulation of the Minister of Home Affairs (Permendagri) No. 80 of 2015 concerning the Establishment of Regional Legal Products (partly relevant applied in the context of Aceh).

### **The Relevance Between Imam Al-Mawardi's Thought and the Qanun Legislation Process by the Aceh People's Representative Council**

As explained above, there is a lot of relevance between the political thinking put forward by Imam Al-Mawardi and the Legislation Process carried out by the DPRA, namely: First, Imam Al-Mawardi in his work *Al-Ahkam al-Sultaniyyah* emphasizes that one of the main tasks of the government in Islam is to uphold law and justice through legitimate and authoritative power. He allows the leader (imam/caliph) to set laws or administrative policies as long as it does not contradict the sharia (Faturrahman, 2014). This is in line with the function of the DPRA as a legislative institution mandated to draft the Qanun within the framework of sharia,

based on the formal legal authority granted by the state through Law No. 11 of 2006 concerning the Government of Aceh (Undang-Undang Nomor 11 Tahun 2006 Tentang Pemerintahan Aceh, 2006)

Then Imam Al-Mawardi emphasized the importance of the principle of *maslahah* (the public good) in state policy, especially for issues that are not explicitly regulated by the *nash* (Qur'an and Hadith). This became the argumentative basis for the birth of *Qanun* in Aceh, which regulates things such as Islamic financial institutions, education, local government, and *jinayat*. The DPRA, in making *Qanun*, often uses this approach while maintaining conformity with Sharia values and the local needs of the Acehnese people. Al-Mawardi views the state as a structure consisting of institutions that work in the public interest, such as judges (*qadhi*), governors (*wali*), and fiscal officials (Syam, 2017). In the context of Aceh, the DPRA is part of the structure of local government, whose function is in line with AlMawardi's thought: to be the people's representative in the process of legislation, supervision, and control of the running of government that must rely on Islamic values.

The relationship between Al-Mawardi's political thought and the process of *Qanun* legislation is also seen in the context of the legitimacy of power. According to Al-Mawardi, power is not only political, but also religious and moral. A legitimate leader must be able to take care of religion and the world at the same time. In the context of Aceh, this legitimacy is maintained through a legislative process that places sharia as the highest source of law. *Qanun*, such as *Qanun Jinayat* or *Qanun Sharia Financial Institutions*, is an effort to internalize religious values in a positive legal system. This is in line with Al-Mawardi's view that the state should not simply be an entity of power, but should function as a guardian of morality and a protector of the people's faith.

*Table 1. Comparison of the thoughts of Imam Al-Mawardi and Qanun Aceh*

Aspects	Imam Al-Mawardi (Al-Ahkam as-Sulthaniyah)	Qanun Aceh No. 5 Year 2011
Source of legitimacy	Syariah (Qur'an and Hadith) and bai'at to the imam (caliph)	Law No. 11 of 2006 and National Laws and Regulations
Legislation institutions	The Imam (Head of State) was slain by the viziers (ministers) and the fuqaha	The Aceh People's Representative Council (DPRA) with the Aceh Government



Purpose of the Legislation	Realizing the benefits of the people, maintaining religion, creating justice, and stability of the government	Regulating the lives of the people of Aceh based on Islamic law in accordance with local needs and national laws
Principles of legislation	Maslahah murslaah, justice, shura (deliberation), and adherence to sharia principles	Procedural, democratic, participatory, and must not contradict National Laws and Regulations
Stages of legislation	1. Ijtihad of the Imam/ vizier, 2. based on maslahat-maslahat, direct determination, 3. Implementation through qadhi and state apparatus	1. Preparation of the Aceh Legislation Program (Prolega) 2. Submission of Qanun Draft (by the DPRA or Governor) 3. Discussion by the Special Committee 4. Public Test and consultation
		5. Ratification in the Plenary 6. Facilitated by the Ministry of Home Affairs 7. Designation and invitation
Political Ethics	Trust. Justice, sincerity, and rejection of abuse of power	Integrity, transparency, participation, and alignment with the interests of the people

### **The Difference Between Imam Al-Mawardi's Islamic Political Thought and the Process of Qanun Legislation by the Aceh People's Representative Council**

Imam Al-Mawardi's Islamic political thought and the process of Qanun legislation by the Aceh People's Representative Council (DPRA) have fundamental differences both in terms of historical context, sources of legitimacy of power, to institutional forms and mechanisms of legislation. Al-Mawardi lived in an 11th century Islamic caliphate system under the Abbasid Dynasty, where power was centralistic and authoritative, led by an imam or caliph who was not only the head of state but also the religious leader. In contrast, the DPRA works within the framework of the modern state of the Republic of Indonesia, which adheres to a constitutional democratic and decentralized system, where legislative power is obtained through elections and limited by national law (Syahputra, I., 2017).

The source of legitimacy in Al-Mawardi's thought relies on the sharia and the *bai'at* of the ummah against just, pious, and religious leaders. On the other hand,

members of the House of Representatives are democratically elected without the need to have a Sharia scientific background. In terms of institutions, Al-Mawardi emphasized the importance of a state structure that is theocratic and fully shariabased, such as the positions of *qadhi* (sharia judge) and *wazir* (minister of religion). On the contrary, the work structure of the DPRA is in a modern local government system that must synergize with national and state administrative laws.

The mechanism of legislation also shows striking differences. In the concept of Al-Mawardi, legislation is top-down, where the caliph or imam has the authority to establish laws based on *maslahat* without the active involvement of the general public. Meanwhile, the legislative process by the DPRA is participatory and democratic, starting from the preparation of the Aceh Legislation Program (Prolega), discussion by the factions, public tests, to ratification through plenary meetings. This shows the integration of democratic values in the Qanun legislative system. Furthermore, in Al-Mawardi's view, all legal products must be fully subject to sharia without compromising on secular values. On the contrary, the Qanun formulated by the DPRA must accommodate sharia principles while still being harmonized with the national legal system in accordance with Law Number 11 of 2006 concerning the Government of Aceh. The purpose of the law in Al-Mawardi's view is to maintain religion and create the benefit of the ummah purely based on sharia. Whereas in the practice of the DPRA, the Qanun legislation also takes into account social dynamics, local culture, and national interests, reflecting flexibility in the application of Islamic law within the framework of the modern nation-state (Al-Azhar, 2021).

However, it should be noted that the application of Al-Mawardi's thought in a modern context, such as Aceh, cannot necessarily be done without modifications. The modern nation-state system has different structures, principles, and challenges than the classical caliphate. Nevertheless, the normative spirit brought by AlMawardi, namely enforcing laws based on sharia, maintaining benefits, and balancing power and justice, remains an important reference in building an Islamic local legal system. The process of Qanun legislation by the DPRA is a mirror of the actualization of Al-Mawardi's thought in the context of regional autonomy recognized by the constitution of the Republic of Indonesia. This shows that classical Islamic political thought is not dead or just a historical discourse, but continues to live and develop through various forms of institutional and legislative frameworks that are contextual and applicable.

The relationship between Imam Al-Mawardi's political thought and the process of Qanun legislation by the DPRA can be understood as a continuation of the classical intellectual heritage of Islam and contemporary political reality (Faturrahman, 2014). Al-Mawardi's thoughts on the role of the state in enforcing sharia law, the principle of *maslahah*, participation in law-making, and a fair governance

structure have all become pillars in the Qanun legislation process in Aceh. The DPRA, as a regional legislative institution, plays an important role in ensuring that Islamic sharia is not only a symbol, but also a normative and operational foundation in the administration of government. This reflects that the classical intellectual heritage of Islam, as inherited by Imam Al-Mawardi, has not lost its relevance, but rather has become a source of inspiration in building Islamic, fair, and contextual governance and law in the modern era (Hamid, R., & Yani, 2020)

Although the social and political context between the time of Al-Mawardi and present-day Aceh is very different, the essence of Islamic political thought can still be actualized. Modern countries with complex legal structures can still adopt Islamic values through regulations that are legally formulated. This shows the flexibility of Islamic law and its resilience in facing the dynamics of the times. The Qanun legislation by the DPRA is clear proof that the legacy of classical Islamic political thought has not lost its relevance, but is able to be integrated into the framework of contemporary statehood harmoniously.

## **Conclusion**

The discussion of Imam Al-Mawardi's political thought with the process of Qanun legislation by the Aceh House of Representatives (DPRA) shows that there is a historical and conceptual continuity between classical Islamic political theory and contemporary constitutional practice. Imam Al-Mawardi, in his work *Al-Ahkam alSultaniyyah*, formulated a system of government based on Islamic principles, emphasizing the importance of legitimate power, fair governance, and legislation based on sharia and the benefit of the ummah. These concepts became an important foundation in the formation of the system of Qanun legislation by the DPRA, which substantively and structurally reflected the principles of Islamic governance formulated by Al-Mawardi more than a thousand years ago.

Imam Al-Mawardi believes that one of the fundamental duties of a leader in Islamic government is to maintain religion, uphold the law, and ensure welfare and social justice through the instrument of state power. This task is carried out through various government apparatus, including legislative and judicial institutions, which are tasked with implementing the law in accordance with the sharia. In the modern context of Aceh, the DPRA plays the role of a local legislative institution tasked with drafting Qanun, which is a regional regulation based on Islamic sharia. With the authority granted by the Aceh Government Law (UUPA), the DPRA has the formal capacity to formulate legal policies sourced from Islamic law, including in the fields of criminal law, civil, Islamic finance, education, and governance.

Thus, it can be concluded that Imam Al-Mawardi's political thought and the process of Qanun legislation by the DPRA have a strong and significant relevance, both from philosophical, structural, and practical aspects. The two complement each other in building a legal system that is Islamic, fair, and in accordance with the needs of the times. The DPRA as an Aceh legislative institution has succeeded in translating the basic values taught by Al-Mawardi into a positive legal framework recognized by the state. That way, Islamic sharia is not only a symbol of culture or identity, but really exists as a living legal system that regulates people's lives in real terms.

The practical implications of this study suggest that the DPRA needs to strengthen its commitment to Islamic political ethical values, increase public participation in the legislative process, and pay attention to the harmonization between the Qanun and national law. To enrich the scientific treasures, further research is recommended to conduct comparative studies between Aceh and other regions that formally apply Islamic law, or to examine the effectiveness of the implementation of Qanun in the long term on social justice and community welfare. In addition, the study of the political thoughts of other Islamic figures can open up space for the integration of new perspectives in the legislative process in regions that implement special autonomy based on Sharia.

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