

The Legal Policy of Regional Autonomy from the Perspectives of Constitutional Law and Ushul Fiqh

Dede Ika Murofikoh¹, Fitri Dian AL Aufa², Restu Gusti Monitasari¹

¹ Universitas Pamulang, Indonesia

² University of Jordan, Jordan

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ABSTRACT

This article analyzes the legal politics related to regional autonomy from the perspectives of Constitutional Law and Ushul Fiqh. The study of Ushul Fiqh provides an ethical and normative basis that emphasizes that every policy of power must be directed toward the benefit of society and the prevention of harm. The integration of these two perspectives is important so that regional autonomy policies are not only legally valid but also just and socially beneficial. This study aims to analyze the legal politics of regional autonomy from the perspectives of Constitutional Law and Ushul Fiqh, in order to identify the normative basis, principles of benefit, and their relevance to the dynamics of changing times. This research employs a normative approach using literature reviews, examining the legal politics of regional autonomy through journals, books, and other sources related to Constitutional Law and Ushul Fiqh for analysis. This study reveals that regional autonomy is a concept that grants authority to regional governments to regulate and manage governmental affairs and community interests within their regions, in accordance with the principle of decentralization. This concept aims to accelerate regional development, improve public services, and provide opportunities for regions to develop in accordance with their existing local potential. The decentralization of authority to regions enables more effective public services, policies that are more responsive to local needs, equitable development, and strengthened community participation. Thus, regional autonomy can be categorized as a *mursalah* issue—a benefit not explicitly stated in the texts but consistent with the general objectives of Sharia.

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Corresponding Author :

Dede Ika Murofikoh

Universitas Pamulang, Indonesia; ikamurofikoh@gmail.com

1. INTRODUCTION

The 1945 Constitution of the Republic of Indonesia provides a strong constitutional foundation for the relationship between the central government and regional governments. Article 18A of the 1945 Constitution of the Republic of Indonesia stipulates that the division of authority between the central government and provincial, regency, and municipal governments shall be regulated by law, taking into account the specific characteristics and diversity of the regions (Desty, 2024). The substance of regional division within the Unitary State of the Republic of Indonesia is regulated in Article 18, paragraph (1) of the 1945 Constitution of the Republic of Indonesia (Dasar), which reads: “The Unitary State of the Republic of Indonesia is divided into regencies and cities, and each province, regency, and city has a regional government, which is regulated by law.” This amendment is intended to further clarify the division of regions within the Unitary State of the Republic of Indonesia, which comprises provinces, and within each province there are regencies and cities. This is also stipulated in Article 2, paragraph (1) of Law No. 23 of 2014.

The principles set forth in Law No. 23 of 2014 on Regional Government mark a new chapter in the implementation of regional autonomy and simultaneously repeal Law No. 32 of 2004 on Regional Government. One of the considerations behind the enactment of Law No. 23 of 2014 is that the efficiency and effectiveness of regional government administration need to be improved by paying closer attention to aspects of relations between the central government and the regions as well as among regions, regional potential and diversity, and the opportunities and challenges of global competition within the unified system of regional government administration. The General Explanation of Law No. 23 of 2014 states that the basis for amending Law No. 32 of 2004 is aimed at further promoting the efficiency and effectiveness of regional government administration in improving the welfare of the community, both through improved public services and through enhanced regional competitiveness. These amendments aim to foster synergy in various aspects of local government administration with the central government (Sri, 2016).

Regional autonomy, as one of the pillars of government decentralization in Indonesia, has granted local governments greater authority to manage resources and policies within their respective regions. The regional autonomy policy, as stipulated in Law No. 23 of 2014, aims to improve the efficiency of public services, accelerate regional development, and provide opportunities for local communities to participate in decision-making that directly impacts their lives. One of the main goals of this policy is to empower local communities more effectively by improving access to resources and enhancing quality of life (Annisa, 2024).

In practice, the implementation of regional autonomy in Indonesia faces various challenges, including limited human resource capacity, infrastructure disparities, and issues related to governance and accountability, which are major obstacles. Corruption and dependence on transfer funds from the central government further complicate local governments’ efforts to achieve fiscal autonomy. Therefore, strengthening governance—including transparent and effective budget management—is an urgent necessity to optimize the benefits of decentralization (Kalianda, 2025).

Other challenges and obstacles in the implementation of regional autonomy include a lack of public participation in regional planning. Many regional decisions are made in an elitist manner through closed-door deliberations, without the involvement of citizens, NGOs, or business actors. This has the potential to result in policies that are neither inclusive nor well-targeted (KPU, 2026). This situation indicates that the legal framework of regional autonomy does not always move toward strengthening decentralization but is often subject to fluctuations in line with national political and policy dynamics. Most existing studies analyze these issues solely from the perspectives of constitutional law and positive law, while value-based approaches rooted in Islamic law—particularly Ushul Fiqh—remain relatively limited. Yet, principles of Ushul Fiqh such as *maslahah*, justice, and the trust in the exercise of power hold strong relevance in evaluating the direction of public policy, including regional autonomy policies.

Numerous studies on regional autonomy have been conducted, covering a variety of focuses. First, research by Imam et al. found that there are several ways to implement the principle of regional autonomy that can improve welfare and cooperation among regions that differ nationally in terms of uneven regional potential, such as geography and human resources. One tool for achieving well-being through cooperation—as described at —is regional autonomy (Imam, 2023). Second, research by Mohammad Aswin explains that the implementation of regional autonomy within the village governance system has a positive impact on the progress of village development (Mohamad Aswin, 2022). Third, research by Anisa Rohim explains that regional autonomy policies have a significant impact on the empowerment of local communities. On the one hand, decentralization enables local governments to be more responsive to local needs and to optimize the potential of local resources. However, on the other hand, the implementation of this policy is sometimes hampered by a lack of capacity on the part of local governments to manage resources and a lack of coordination among agencies. Nevertheless, in some regions, regional autonomy has succeeded in increasing community participation in decision-making and strengthening local economic capacity, which ultimately supports community well-being and strengthens social resilience at the local level (Annisa, 2024).

The urgency of this research lies in the need for an integrative approach to analyzing the legal politics of regional autonomy. A constitutional law approach is necessary to explain the constitutional basis, the structure of authority, and the legal legitimacy of regional governance. Meanwhile, Ushul Fiqh provides an ethical and normative foundation that emphasizes that every policy decision must be directed toward the public good and the prevention of harm. The integration of these two perspectives is essential to ensure that regional autonomy policies are not only legally valid but also socially just and beneficial.

Based on the above discussion, it can be concluded that a study of the legal politics of regional autonomy from the perspectives of Constitutional Law and Ushul Fiqh has strong academic and practical relevance. This study is expected to fill the gap in integrative research, which has so far been limited, while also providing a normative contribution to the formulation of regional autonomy policies that are constitutional, just, and oriented toward the overall welfare of society.

2. METHODS

This study employs a normative research method, focusing on an examination of legal norms, policies, and theories relevant to the topics of regional autonomy and local community empowerment. This study does not focus on collecting field data, but rather on analyzing existing documents and literature. Library Research Approach: This study will utilize existing literature, documents, and references to analyze the issues raised. This library research approach involves the study of various sources such as laws and regulations, books, scholarly articles, and previous research findings.

3. FINDINGS AND DISCUSSION

Regional autonomy is a concept that grants local governments the authority to regulate and manage governmental affairs and the interests of the community within their respective regions, in accordance with the principle of decentralization. This concept aims to accelerate regional development, improve public services, and provide opportunities for regions to develop in line with their existing local potential. The empowerment of local communities, on the other hand, is an effort to enhance the capacity and participation of communities in the development process, so that they can actively contribute to decision-making and the utilization of resources in their regions. The two are interrelated, as regional autonomy creates space for community empowerment to foster greater participation in development, leading to more equitable and sustainable well-being (Annisa, 2024).

1. The Unitary State in the Indonesian Constitution

Every country has a constitution that governs various substantial and urgent matters, serving as the primary foundation for carrying out state activities. In Indonesia, the constitution is known as the

Undang-Undang Dasar (UUD), specifically the 1945 Constitution of the Republic of Indonesia (UUD). The constitution consists of the Fundamental Laws governing a country's government and its fundamental values. The scope of constitutional law includes:

- a. The method of electing the head of state
- b. Their powers and prerogatives
- c. The status of ministers
- d. The armed forces and the police
- e. Relations between the central government and the regions
- f. The Treaty-Making Process
- g. Citizenship
- h. Raising and Spending Public Funds
- i. Civil liberties
- j. Matters concerning parliament
- k. Methods of amending the Constitution

Among the various scopes or domains of constitutional law mentioned above, one key point discussed in this section concerns the relationship between the central government and local governments, as encapsulated in the concept of a unitary state in the context of local government.

The existence of a constitution is of the utmost urgency and importance in the governance of a state based on the rule of law and conducted democratically; it is unimaginable for a state to be established and governed without a constitution to serve as a guide for its governance. Without a constitution to regulate the relationship between the government and the governed, the government would be free to act as it pleases and become a tyranny; therefore, a constitution is necessary to establish the boundaries of the relationship between the government and the governed, so that the government can be held accountable in the exercise of its authority. This aligns with the view of Thomas Paine, as cited by Jimly, who stated, "A constitution is not the act of a government, but of the people constituting a government, and a government without a constitution is power without right" (Jimly, 2010).

The 1945 Constitution was first adopted and came into effect as the constitution of the Republic of Indonesia during a session of the Indonesian Independence Preparatory Committee on August 18, August 1945—one day after the independence of the Republic of Indonesia was proclaimed by Soekarno and Mohammad Hatta on August 17, 1945—and subsequently served as the country's fundamental law. Among legal scholars, it is generally understood that law has three primary purposes: justice, certainty, and utility.

To accommodate these legal objectives, there are four national objectives in Indonesia as set forth in Paragraph IV of the Preamble to the 1945 Constitution. These four objectives are: (i) to protect the entire Indonesian nation and all Indonesian citizens; (ii) to promote general welfare; (iii) to cultivate the nation's intellectual life; and (iv) to contribute to the maintenance of world order (based on freedom, eternal peace, and social justice).

It is generally said that the goal (often equated with the ideal) of the Indonesian nation is to establish a just and prosperous society based on Pancasila. The 1945 Constitution of the Republic of Indonesia serves as the primary foundation for the state in governing the nation, as the overarching framework for all subordinate laws, and as a mechanism for oversight. In terms of hierarchy and legal framework, the following legal principles (*rechtsbeginsel*) apply:

"lex superiori derogate legi inferiori" means that a higher-ranking legal provision takes precedence over a lower-ranking one. Regarding the hierarchy of law, there is a legal theory known as "Stufenbau des Recht," which, according to Hans Kelsen, holds that law is hierarchical in nature; that is, a law must not conflict with a provision of higher rank. With this legal hierarchy in place, it is hoped that laws and regulations will not overlap with one another, which could lead to chaos. This aligns with Kelsen's view of law, as cited by Khuzaifah, namely to reduce chaos and diversity and achieve unity.

2. Regional Autonomy

Regional autonomy in Indonesia is one of the key outcomes of the government reform that began following the enactment of Law No. 22 of 1999 on Regional Government. The decentralization system enshrined in this law is designed to grant local governments the authority to regulate and manage their respective governmental affairs. Through the implementation of regional autonomy, it is hoped that a government more responsive to local needs and more equitable development will be achieved, particularly in previously underdeveloped regions (Yaya, 2025)

3. Objectives, Principles, and Urgency of Granting Regional Autonomy

Based on the fundamental principles of the concept of regional autonomy, the objectives of regional autonomy encompass at least four main areas of authority: political, administrative, social, and economic development. The central government should grant these authorities to local governments within a framework of authority as a logical consequence of achieving the purpose and objectives of granting regional autonomy to the regions, as well as in return for the local governments' obligations and responsibilities in implementing their regional autonomy policies. Thus, the purpose and objectives of granting autonomy are to improve public services and the welfare of the people, to foster democracy, justice, and equity, and to maintain harmonious relations between the central government and the regions, as well as among the regions themselves, within the framework of preserving the integrity of the Unitary State of the Republic of Indonesia.

The purpose of granting autonomy to regions is to enable them to manage their own affairs, thereby improving the efficiency and effectiveness of government administration in serving the public and implementing development.

Referring to the fundamental idea behind the concept of regional autonomy, the objectives of granting autonomy to regions will, at a minimum, encompass the following four aspects: (I Nyoman, 2025)

- a. From a political perspective, it is to involve and channel the aspirations of the community, both for the region's own interests and to support national politics and policies in the context of development through the democratic process at the grassroots level.
- b. From the perspective of government management, the aim is to improve the efficiency and effectiveness of government administration, particularly in providing services to the community by expanding the types of services available across various areas of community need.
- c. From a social perspective, it aims to increase participation and foster community self-reliance, so that communities become more independent, rely less on government handouts, and possess strong competitiveness in their development process.
- d. From the perspective of economic development, the goal is to facilitate the implementation of development programs to achieve ever-increasing public welfare; thus, the core of regional autonomy lies in the discretionary power granted to local governments to govern themselves based on initiative, creativity, and active community participation in order to develop and advance the region. Granting regional autonomy does not merely mean implementing democracy at the grassroots level, but also encourages self-initiative to independently carry out what is deemed important for one's own community.

The primary objective of decentralization policy is, on the one hand, to relieve the central government of unnecessary burdens in managing domestic affairs, thereby giving it the opportunity to study, understand, and respond to various global trends and benefit from them. At the same time, the central government is expected to be better able to concentrate on formulating strategic national macro policies. On the other hand, by decentralizing government authority to the regions, the regions will undergo a significant empowerment process. Their initiative and creativity will be stimulated, thereby strengthening their capacity to address various domestic issues. Decentralization symbolizes the central government's "trust" in local governments. This will naturally restore the self-esteem of local governments and communities. Whereas under a centralized system they could do little to address

various problems—due to a lack of authority or insufficient authority—under this system of autonomy, they are challenged to creatively find solutions to the various problems they face (Nurhayati, 2025).

The principles underlying the granting of autonomy to regions are democracy, the empowerment of communities and government officials, public service, equity, and justice, while taking regional diversity into account. Local governments have the discretion to make the best decisions within the limits of their authority to develop their full potential in order to improve the quality of services provided to the community. The fundamental aspects of the Regional Autonomy Law are to encourage and empower the community, foster initiative and creativity by positioning the community as the primary actors in the implementation of development, and strengthen the role and functions of the Regional People's Representative Council (DPRD). With this new paradigm, local governments are expected to be better prepared to face any changes that may occur in the future. Democratic values will provide the community with greater freedom to make choices and express themselves rationally, thereby reducing the dominance of state power. In the administration of the state, government officials should not always carry out tasks themselves but should instead focus more on guiding—steering rather than rowing—or choosing the most optimal combination of executing and guiding. Tasks that have already been carried out by the community should no longer be undertaken by the government (Ni'matul, 2009).

The government need only make efforts to empower local governments with the aim of achieving the highest quality of service for the public. This means that decisions regarding such choices must be based on the greater good—namely, the interests of the public and the quality of public services. With the enactment of the Regional Autonomy Law, there has been a shift in government management from a centralized to a decentralized model, moving from uniformity to diversity within unity. Under Law No. 5 of 1974, the central government dominated the implementation of development, including its planning. Top-down planning was more dominant than bottom-up planning. The public was not heavily involved in the planning process but was more involved in the implementation phase.

Changes in government management are also a logical consequence of the governance paradigm as stipulated in legislation on regional government—namely, democratization in the decision-making process, the empowerment of officials and the public, and public services. The primary objective of governance is to improve public welfare and services. Another fundamental change is the relationship between the functional and structural authorities of the provincial government and the regencies/cities as autonomous regions. As representatives of the central government in the regions, governors have the authority to guide and supervise the administration of regencies/cities and local governments.

Granting broad autonomy to local governments is inextricably linked to the demands of good governance. Associations of provincial and regency/city governments can play a role in fulfilling these demands.

As is widely understood, good governance is a system of balanced and equitable relationships and interconnections among the state sectors, the business community, and civil society. According to the World Bank, at a minimum, the realization of this system should include the following:

- a. A focus in public sector management on the need for efficient financial management and human resource management through improvements and enhancements in budgeting, accounting, and reporting, as well as the elimination of inefficiencies in state-owned enterprises (SOEs).
- b. Accountability in public services, including effective accounting, auditing, and decentralization, as well as fostering a sense of responsibility among government employees to be accountable for their actions and responses to the public.
- c. Existing regulations regarding the legal framework, an independent and trustworthy judiciary, and law enforcement mechanisms.
- d. The availability of information and transparency to improve policy analysis, foster public debate, and reduce the risk of corruption.

The principles governing the granting of autonomy to regions under Law No. 32 of 2004 and Law No. 23 of 2014 are: 1) broad, substantive, and accountable autonomy for cities and regencies; and 2) limited autonomy for provinces. For regencies and cities, “broad authority” is defined as the freedom of the region to administer government affairs covering all areas of governance, except for certain areas managed by the central government. Regencies and cities possess this authority in its entirety – from planning, implementation, supervision, control, to evaluation. Real autonomy means the freedom of a region to exercise governmental authority in specific fields that actually exist and are necessary, and that grow, thrive, and develop within that region. This implies that authority over a particular matter must stem from the inspiration and aspirations that emerge within the community; thus, with this broad and real autonomy, the nature of autonomy in each autonomous region varies, depending on the needs and conditions of the community and its environment.

Responsible autonomy is the embodiment of responsibility as a consequence of granting rights and authority to regions in the form of duties and obligations that must be fulfilled by the regions in order to achieve the objectives of autonomy, namely improving public services and the welfare of the people, the development of society, democracy, justice, and equity, as well as the maintenance of harmonious relations between the central government and the regions, and among the regions themselves, within the framework of preserving the integrity of the Unitary State of the Republic of Indonesia (Ekom, 2001)

To speak of autonomy is to speak of a broad spectrum, in which nearly all nations in the world desire autonomy – that is, the right to govern and manage their own affairs without interference or intervention from other parties, which leads to dependence.

According to Djohan, as cited by I Nyoman S, the need for regional autonomy stems from several reasons: (Mulkan, 2023).

- a. According to the constitution, this is to fulfill the nature of a unitary state, ensure the orderly conduct of government, achieve effective and efficient governance, facilitate development across all corners of the country, and foster political stability and national unity.
- b. According to experts, autonomy is useful for the allocation and distribution of power, the delegation of authority and responsibility, high-quality decision-making, and the accommodation of participation. Meanwhile, according to practitioners, autonomy is beneficial for reducing the burden on higher-level governments, fostering regional independence and power, and so on.
- c. The purpose of regional autonomy in local government is to expand the authority to regulate and manage local affairs independently. Therefore, the need for autonomy at the local level is essentially to minimize central government intervention in local affairs.

This explanation shows that regional autonomy – whether in the context of the administration of the state or the administration of local government and development – serves the interests of the development of both the government and society.

Although regional autonomy is of great strategic importance, in practice the scope of regional autonomy is influenced by the form of government. In a unitary state, regional autonomy is granted by the central government, while local governments merely receive delegated authority from the central government. This differs from regional autonomy in a federal state, where regional autonomy is inherent to the states, so that the matters under the jurisdiction of the federal government are, in essence, those delegated by the states. (Eddie, 2009)

This constellation indicates that in a unitary state, authority tends to be concentrated in the central government, whereas in a federal state, authority tends to be concentrated in local governments. As a result, local governments in unitary states such as Indonesia rely more heavily on the political will of the central government for their autonomy – that is, to the extent that the central government has the goodwill to empower local governments by granting them greater authority.

Although decentralization and regional autonomy are formally accepted as principles of governance and development, in practice there is still a tendency toward centralization. The cause is the policymakers’ assumption and belief that development efforts will be effective and efficient if

carried out centrally. This idea also gives the state the opportunity to take the initiative, accelerate, and control economic development. Efforts to centralize planning will provide proper direction and control.

The strategy of centralizing government and development has proven to be more beneficial to the interests of government institutions, which were supposed to be established to serve as engines of development. In fact, these institutions have consistently dominated and imposed excessive regulations on the local communities or regions they are supposed to serve. This has given rise to widespread criticism of centralization, leading to the implementation of decentralized government and development.

In the context of development, decentralization aims to enhance community and social development in order to accelerate improvements in public welfare. Decentralization and autonomy are believed to address the 20 demands for equitable socioeconomic development, effective governance, and political development. Ultimately, decentralization is believed to ensure that the diverse demands of the community are addressed appropriately and promptly (Affan, 2007).

Various perspectives on decentralization and autonomy explain that the issues of decentralization and regional autonomy are closely linked to empowerment—in the sense of granting local communities the freedom and authority to take the initiative and make decisions. Empowerment guarantees the rights, obligations, authority, and responsibilities of organizations at the local level to formulate programs, select alternatives, and make decisions in managing the interests of the community. Through empowerment, local government institutions and communities will be able to provide access not only to decision-making at the local level but also to decision-making at the central level regarding the interests of their residents and regions (Mulkan, 2023).

In addition to empowerment objectives, decentralization and regional autonomy are aimed at accelerating holistic human development. UNCRD (1985) identified three more decentralized styles of development:

First, community development as the provision of public services. Community development is synonymous with improving public services and providing social facilities—, health, nutrition, education, and sanitation—which collectively enhance community well-being.

Second, community development as a planned effort to achieve complex and varied social goals. Community development is defined as an effort to achieve social goals that are more abstract and difficult to measure, such as justice, equity, cultural enrichment, peace, and so on. Here, development emphasizes the concepts of community self-reliance and family self-reliance.

Third, social development as a planned effort to enhance human capacity for action. Development here is derived from the paradigm of people-centered development.

Koswara argues that there are four considerations regarding the need to grant autonomy to regions (Mulkan, 2023)

First, from a political perspective, granting autonomy is seen as a way to prevent the concentration of power in a single entity, which ultimately leads to tyrannical, totalitarian, and anti-democratic governance.

Second, from a democratic perspective, autonomy is believed to involve the people in the governance process while also educating them on how to exercise their rights and fulfill their obligations in the day-to-day administration of government.

Third, from the perspective of the technical and organizational aspects of governance, autonomy is seen as a means to achieve effective, efficient, and more accountable governance. Matters considered more appropriate for local governments and communities to manage are delegated to the regions, while those better handled by the central government remain under by the central government.

Fourth, from a management perspective—as one element of administration—the delegation of authority and responsibilities naturally entails accountability for the fulfillment of a task.

Based on the various considerations above, it can be concluded that the motivation and urgency for granting regional autonomy are as follows: First, the diversity of community life. Second, recognition of and respect for the fundamental principles of national life, statehood, governance, and

society. Third, the effective utilization and management of regional potential. Fourth, the equal distribution of regional capabilities while taking into account the different conditions of each region and remaining within a single archipelagic vision. Based on this discussion, it can be concluded that the urgency and motivation for granting autonomy to regions include: first, efforts to improve the efficiency and effectiveness of government administration; second, efforts to facilitate the implementation of development; and third, enhancing the role of the community in the process of government democratization.

Legal Policy on Regional Autonomy

Etymologically, the term “legal policy” originates from the Dutch word “rechts-politiek,” which is a compound of two words: “rechts” and “politiek.” In Indonesian, “rechts” means law, and “politiek” means policy. To this day, there is no consensus among legal theorists regarding the boundaries and meaning of law. The word “politiek” in the Dutch dictionary compiled by Van der Tas carries the meaning of “beleid,” which translates to “policy” (Lukman, 2016). In the Indonesian Dictionary, “kebijakan” is defined as a set of concepts and principles that serve as the outline and foundation for plans in the execution of a task, leadership, and course of action.

According to Mahfud MD, legal policy encompasses the process of lawmaking and law enforcement, which can reveal the nature and direction in which the law will be developed and enforced (Mahfud, 2009). Soedarto defines legal policy as a form of state policy carried out through state agencies authorized to establish desired regulations that are expected to be used to express the values of society and to achieve its aspirations (Soedarto, 2024).

For the State of Indonesia, there are several reasons regarding the necessity and importance of local government, namely reasons related to the situation, regional conditions, and the limitations of the central government, as follows:

a. Historical Reasons

Historically, the existence of local government has been recognized since the era of the ancient kingdoms of our ancestors up to the system of government enforced by the colonial powers

b. Reasons Related to Regional Situations and Conditions

Geographically, Indonesia is an archipelago consisting of thousands of large and small islands, connected to one another by straits and seas, and surrounded by vast oceans. Such regional conditions have logically led to the emergence of various ethnic groups, each with their own customs, traditions, cultures, and regional languages. Likewise, the natural conditions and beliefs, as well as potential issues, each have their own distinct characteristics.

c. Reasons for the Government’s Limitations

Not all government affairs can be handled solely by the central government due to its limited capacity; therefore, the delegation of authority to local government units is a necessity.

When the 1945 Constitution was being drafted, the prominent perspectives at the time were an integralist and democratic outlook, as well as a spirit of national unity and solidarity. Through decentralization, the central government can delegate some of its affairs or authority to the regions, allowing them to manage their own affairs.

Regional Autonomy from the Perspective of Ushul Fiqh

From the perspective of *ushul al-fiqh*, every public policy must fundamentally be oriented toward the public interest. This concept is known as *maslahah* in *ushul al-fiqh*, as encapsulated by the principle: “*Al-taşraf ‘ala al-rayyah munawwath bi-l-maslahah*,” which means that actions taken toward the people are contingent upon the public interest. This principle explains that the validity of a ruler’s decisions regarding the people depends on the presence of benefits and public interest inherent in their policies—whether religious or worldly. If such benefits exist, the decision must be implemented; if not, it must be rejected. This principle defines the boundaries of public administration and Sharia-based policies

within the authority of rulers and their policies toward the people. Thus, it demonstrates that actions taken regarding the people must be founded on the public interest and the well-being of the people. This is because rulers—from the caliph down to his subordinates—do not work for their own sake, but rather act as representatives of the people in implementing the best policies, upholding justice, rejecting oppression, safeguarding rights and moral values, maintaining security, spreading knowledge, ridding society of corruption, and realizing all forms of good for the people in the best possible way—all of which are collectively referred to as the public interest. (Muhammad Mustafa, 2006).

Regional autonomy can be understood as a form of *siyasah syar'iyah*—that is, the policy by which rulers regulate public affairs for the common good, even in the absence of an explicit scriptural text governing them. In the context of a modern state, the decentralization of authority to regional governments enables more effective public services, policies that are more responsive to local needs, equitable development, and strengthened community participation. Thus, regional autonomy can be categorized as a *mursalah* issue—that is, a matter of public interest not explicitly mentioned in the text but consistent with the general objectives of Sharia. In the principles of *usul al-fiqh*, there is also the principle *لا ينكر تغير الأحكام بتغير الأزمان*, which means “it is not denied that legal rulings may change with the changing times” (Muhammad Mustafa, 2006).

Sharia laws based on *ijtihad* govern what is required by Sharia with the aim of upholding justice, promoting benefit, and preventing harm. These laws are contingent upon the circumstances and practices of each era. For example, a law that was beneficial in one era may become irrelevant or even harmful to subsequent generations. Therefore, many scholars from various schools of thought have differed from the rulings previously established by the founders of their respective schools. Which laws may be changed over time, and which may not? Scholars of the schools of thought agree that the laws that may be changed are those based on *ijtihad*, which are established through *qiyas* (analogy) and consideration of *maslahah* (public interest). As for the fundamental laws (*asas*) established by Sharia through original texts (commands and prohibitions), these laws do not change over time; however, the methods of their application and implementation may change according to the era and circumstances. Key principle: Laws based on public interest and custom will change in accordance with shifts in the interests, habits, and customs of society across different eras, places, and circumstances.

4. CONCLUSION

Regional autonomy is a concept that grants local governments the authority to regulate and manage governmental affairs and the interests of the community within their respective regions, in accordance with the principle of decentralization. This concept aims to accelerate regional development, improve public services, and provide opportunities for regions to develop in line with their existing local potential. The empowerment of local communities, on the other hand, is an effort to enhance the capacity and participation of communities in the development process, so that they can actively contribute to decision-making and the utilization of resources in their regions. The two are interrelated, as regional autonomy creates space for community empowerment to foster greater participation in development, leading to more equitable and sustainable well-being.

The decentralization of authority to local governments enables more effective public services, policies that are more responsive to local needs, equitable development, and greater community participation. Thus, regional autonomy can be categorized as a *mursalah* issue—that is, a public interest not explicitly mentioned in the text of Islamic law but consistent with the general objectives of Sharia.

REFERENCES

- Affan Gafar and Ryaas Rasyid Syaukani, *Regional Autonomy in a Unitary State*, Yogyakarta: Pustaka Pelajar, 2007.
- Annisa Rohim, “The Impact of Regional Autonomy Policies on the Empowerment of Local Communities,” *Pattimura Legal Journal*, vol. 3, no. 3, 2024, pp. 178–191.

- Annisa Rohim, "The Impact of Regional Autonomy Policy on the Empowerment of Local Communities," 3, no. 3 (2024): 178–91.
- Desty Novita Sari, "The Relationship Between the Central and Regional Governments from a Constitutional Law Perspective," no. 4 (2024). pp. 166–172
- Edie Toet Hendratno, *The Unitary State, Decentralization, and Federalism*, Jakarta: Graha Ilmu, 2009.
- Ekom Koswara S, *Regional Autonomy for Democracy and Empowerment*, Jakarta: Pariba Foundation, 2001.
- I Nyoman S., *The Effectiveness of Regional Autonomy Policies*, Jakarta: Citra Utama, 2005.
- Imam Hafidz et al., "Legal Analysis of Regional Autonomy and the Application of the Principle of Regional Autonomy," *Student Research Journal, *Jurnal Al-Hakim**, Vol. 5, No. 1 (2023), pp. 123–136
- Jayawijaya Regency Election Commission (KPU), "Challenges and Obstacles in the Implementation of Regional Autonomy," 2025, https://kab-jayawijaya.kpu.go.id/blog/read/8461_tantangan-dan-hambatan-dalam-pelaksanaan-otonomi-daerah. Accessed June 15, 2026
- Kalianda Halok Gagas et al., "Challenges and Opportunities of Regional Autonomy in Supporting the Sustainability of Local Economic Growth," 8, no. 1 (2025): 1–16
- Lukman Santoso, *The Rule of Law and Democracy: The Ups and Downs of the Rule of Law in Indonesia Post-Reform*, Yogyakarta: IAIN Po Press, 2016.
- Mahfud MD, *Legal Policy in Indonesia: Upholding the Constitution*, Jakarta: Rajawali Pers, 2009.
- Mohamad Aswin, "A Sharia Political Analysis of the Impact of Regional Autonomy on the Village Governance System." (*Qaumiyyah: Journal of Constitutional Law*, Vol. 3, No. 2, 2022, pp. 115–142.
- Muhammad Mustafa az-Zuhayli, *The Principles of Islamic Jurisprudence and Their Application in the Four Schools of Thought*, Vol. 1 (Damascus: Dar al-Fikr, 2006).
- Muhammad Muṣṭafā az-Zuhaylī, *The Principles of Islamic Jurisprudence and Their Application in the Four Schools of Thought* (Damascus: Dar al-Fikr, 2006)
- Mulkan & Serlika Aprita, *Law on Regional Autonomy*, Bogor: Mitra Wacana Media, 2023.
- Ni'matul Huda, *Law of Local Government*, Bandung: Nusa Media, 2009.
- Nurhayati, "Regional Autonomy," *Journal of Economics and Education*, Vol. 2, No. 5, (2025), pp. 863
- Soedarto, in Moh. Mahfud MD, *Building Legal Policy, Upholding the Constitution*, Jakarta: Rajawali Pers, 2011.
- Sri Kusriyah, "Legal Policy on the Implementation of Regional Autonomy from the Perspective of the Unitary State of the Republic of Indonesia," III, no. 1 (2016): 1–11
- Yaya Mulayana, *Regional Autonomy (Toward 30 Years of Regional Autonomy)*, Jambi: Sonpedia, 2025.

