

# POLITICAL DYNAMICS BEHIND THE MAKING OF SHARĪ'AH-INSPIRED BYLAWS IN SURAKARTA The Case of Bylaw Number 3/2006 on the Eradication of Prostitution

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**Abstract:** This article discusses how Islamic law was made (*al-tashrī' al-Islami*) to fit into Bllaw Number 3, 2006 about the Eradication of Commercial Sexual Exploitation in the City of Surakarta, Central Java. The creation of this bylaw saw heated debates about the ideological understanding of religious life of the purists and political discord among different fractions in the Regional House of People's Representatives (Dewan Perwakilan Rakyat Daerah, DPRD) of the City of Surakarta. Even though much debate went on, agreement was finally reached that the widespread prostitution and commercial sexual exploitation in the city had to be stopped because it caused moral damages on children and teenagers. This agreement was reached to meet the objective of *al-tashrī'* (*maqāṣid al-sharī'ah*) or in order to create a condition of harmony in accordance with moral values and religious norms. To present a complete picture, this study uses the grounded research on how law was made on the basis of different interests either at political or ideological level.

**Keywords:** Bylaw, religious ideological struggle, political contest, prostitution.

## Introduction

The creation of Law Number 32, 2004 on Provincial Government encouraged the provincial and regional/city administrations to create Bylaws (*Peraturan Daerah/Perda*).<sup>1</sup> Some of the so-called regional

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<sup>1</sup> Rhoni Rodin and Mia Romiati, "Analysis of Development of Archiving Regulation from Time to Time in Indonesia," *RLJ: Record and Library Journal* 5, 1 (2019), pp. 90-105; See also Rudy, Yusnani Hasimzum, Heryandi and Siti Khoiriyah, "18 Years of

bylaws were inspired by the *shari'ah* (called *Perda Syariah*) such as Bylaw Number 2, 2010 on the Prevention, Extermination and Eradication of Diseases in Society in the City of Serang, Banten; Bylaw of the Regency of Pasuruan Number 3, 2017 on the Eradication of Prostitution; Bylaw of the Regency of South Lampung Number 4, 2004 on the Prohibition of Prostitution, Vice and Gambling; Bylaw of the Regency of Polewali Mandar Number 14, 2006 on Social Movements of the Muslim Community for Reading the Al-Qur'an.<sup>2</sup> Also, Law Number 44, 1999 on the Implementation of the Special Status for Aceh pushed the Aceh Province to expand Qanun Number 14, 2003 to become Qanun Jinayat Number 6, 2014,<sup>3</sup> to regulate punishments for 8 major issues: *khamr* (alcoholic beverages), *maysir* (gambling), *khalwat* (couples who are not *muhrim*), *ikhtilāf* (intimate acts), *zina* (adultery), sexual harassment, rape, *qadhf* (slander of adultery without proof).

This euphoria to create the so-called sharia Bylaw lately caused problems because it often violates laws at a higher level,<sup>4</sup> and it was seen as means to consolidate political power,<sup>5</sup> and more narrowly, was created to cater for the interests of the political elite.<sup>6</sup> However, society

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Decentralization Experiment in Indonesia: Institutional and Democratic Evaluation,” *Journal of Politics and Law* 10, 5 (2017), pp. 132-139.

<sup>2</sup> M. Jeffri Arlinandes Chandra, “Peraturan Daerah (Perda) Shari’ah dan Perda Bernuansa Shari’ah dalam Konteks Ketatanegaraan di Indonesia,” *Al-Imarah: Jurnal Pemerintahan dan Politik Islam* 3, 1, (2018), pp. 60 – 80.

<sup>3</sup> Bustami, “Penerapan Qanun Nomor 14 Tahun 2003 tentang Khalwat/Mesum di Kabupaten Aceh Timur,” *Jurnal Hukum Samudra Keadilan* 10, 2 (2015), pp. 177 - 190. See also Ahmad Imam Mawardi, A. Kemal Riza, “Why Did Kompilasi Hukum Islam Succeed While its Counter Legal Draft Failed? A Political Context and Legal Arguments of the Codification of Islamic Law for Religious Courts in Indonesia,” *Journal of Indonesian Islam* 13, 2 (2019).

<sup>4</sup> Abd. Rais Asmar, “Pengaturan Peraturan Daerah (Perda) Shari’ah dalam Penyelenggaraan Pemerintah Daerah,” *Iqtisady Jurnal Hukum Ekonomi Shari’ah* 1, 1 (2019), pp. 62 – 67; Sri Sudono Saliro, “Analisis Efektifitas Perda Kabupaten Sambas Nomor 3 tahun 2004 tentang Larangan Pelacuran dan Pornografi,” *Jurnal Nestor Magister Hukum* 4, 4 (2018), pp. 1 - 10.

<sup>5</sup> Michael Buehler, “The Rise of Shari’a By-Laws in Indonesian Districts - An Indication for Changing Patterns of Power Accumulation and Political Corruption,” *South East Asia Research Journal* 16, 2 (2008), pp. 255–285.

<sup>6</sup> Jamhari Makruf and Iim Halimatussa’diyah, “Shari’a and Regional Governance in Indonesia: A Study of Four Provinces,” *Australian Journal of Asian Law* 15, 1, (2014), p. 14.

refused to support the wishes of the political elite.<sup>7</sup> Contemporary political participation, the vulnerability of the judicial apparatus and the soft sanctions from Bylaw plus the capabilities of authorized legal enforcement agencies initiated problems in the enforcement of the Bylaw.<sup>8</sup>

The implementation of the so-called *sharia*-inspired bylaws failed to resolve the problem of the widespread and growing prostitution because more and more parties became involved in prostitution and the sex industry, and since there was a market, there was also supply and demand, and law enforcement had increasingly more difficulty to tackle online prostitution.<sup>9</sup> Rampant prostitution and commercial sexual exploitation were also the result of a variety of reasons that drove people into prostitution like poverty, economic stress, low educational levels, unhealthy social conditions, consumerism, reduced family cohesion, and hedonism.<sup>10</sup>

Numerous studies have shown that the regional bylaw failed to offer material solutions for the complicated issue of prostitution and commercial sexual exploitation. It is not that party elites were unfamiliar with the issue and unaware that it existed, but the question remains why they insisted on making a provincial bylaw. They clearly saw the process of the creation of the regional bylaw merely as a means to gain the people's votes and political support.

The next issue was the strong religious ideology of the puritans who made every attempt to implement religious teachings by using the formalistic approach. One example is the creation in Surakarta of Regional Bylaw, Number 3, 2006 on the Eradication of Commercial Sexual Exploitation. After it had been approved and its enforcement relegated to the executive (Joko Widodo, the Mayor of Surakarta, was a supporter of the PDIP fraction), it was all but forgotten and prostitution remained widespread among the community.

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<sup>7</sup> Sri Hartini Jatmikowati, "Perception Against the Activity of Commercial Sex Workers in Slorok Village," *Mediterranean Journal of Social Sciences* 10, 6 (2019), pp. 76 – 84.

<sup>8</sup> Rahmannur Ikhuana, "Perlindungan Hukum Terhadap Korban Perdagangan Seks Komersial di Kota Pekanbaru," *Equitable* 2, 2 (2017), p. 41.

<sup>9</sup> Bagong Suyanto, "Child Trafficking dan Industri Seks Global," *Journal Global & Strategies* 7, 1 (2013), p. 141.

<sup>10</sup> Mugi Raharja, "Penegakan Hukum dalam Penanggulangan Pekerja Seks Komersial (PSK) di Kota Surakarta," *Jurnal Dinamika Hukum* 6, 3, (2015), pp. 18 – 32.

Nevertheless, studies found that some groups in society had sincere motives and tried to eradicate the moral degradation (*maḍarrah*) caused by the prostitution and commercial sexual exploitation in Surakarta by implementing Islamic sharia both persuasively through *amar ma'rūf* and repressively as part of *nahy 'an al-munkar* by supporting the creation of the bylaw.

### Islam and Religious Dynamics in Surakarta

The Principality of Surakarta is an off shoot of the Islamic Mataram Kingdom and came into being after the Giyanti Agreement was signed in 1755.<sup>11</sup> The Mataram Kingdom passed down an integrated set of religious teachings that had become a cultural system that was mostly created in circles around the palace. The religion adhered to in the Surakarta principality was integrated into Javanese culture<sup>12</sup> and had become what is called Islam Kejawen or Islam Abangan.

Islam Kejawen is a private thing and in public religious matters individuals use various languages and symbols. It emphasizes “*olah roso*” (cultivate shared feelings). This religious characterization does not directly lead to meeting the Islamic command to ensure *amar ma'rūf wa al-nahy 'an al-munkar* and even when confronted with conduct that violates religious norms, Islam Kejawen adherents' religious attitude will not emerge to the surface.<sup>13</sup>

Religious life in Surakarta society consists of a struggle between interrelated and entwined values that have been integrated into a cultural system that expresses itself among society. Javanese social relations are regulated on two basic principles: respect and harmony. These are the standards that lie at the basis of all behavior in society and are expressed by adhering to harmonious respectful etiquette and proper social presentation. This politesse in behavior can be seen as an

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<sup>11</sup> Syamsul Bakri, Siti Nurlaili Muhadiyatiningstih, “Tradisi Malam Selikuran Kraton Kasunanan Surakarta,” *Jurnal Ibdā'- Kajian Islam dan Budaya* 17, 1 (2019), pp. 21-32.

<sup>12</sup> See Imam Ghazali Said, “Saluting The Prophet: Cultural and Artistic Expression in Javanese Society,” *Journal of Indonesian Islam* 12, 1 (2018): pp. 103-134.

<sup>13</sup> Interview with K.P.H. A. Poerbodiningrat (R.M. Kusrahardjo, S.H.), Pangarso Paguyuban K.G.P.H. Mangkoeboemi I, January 20, 2021.

expression of social permissiveness that is maintained in daily life towards any person and in all situations.<sup>14</sup>

Based on this politesse, the Javanese use symbolic language to deliver moral and religious messages even when expressing feelings and attitudes. This Javanese cultural characteristic harmonized with Sufi teachings when Islam entered Nusantara. Sufis skillfully integrated local wisdom in the media they used to propagate Islam,<sup>15</sup> leading to the creation of religious life that managed to preserve and respect local cultural values in society. In principle, society opposed any act that violates accepted norms such as widespread prostitution but living according to that principle is a private matter. These principles came about in tandem with the creation of the exclusive palace social values themselves (Javanese culture).

The religious character of society in the City of Surakarta continued until the creation of a wave of *tajdid* (innovation) that began about a century ago and was significantly influential in Indonesia. It started with innovating education by the Kaum Muda in Minangkabau, Jami'atul Khair and al-Irshad in Jakarta, the Muhammadiyah in Yogyakarta and Persatuan Islam in Bandung.<sup>16</sup> This spirit of *tajdid* subsequently became the inspiration for a number of Muhammadiyah educational institutions in Surakarta that adopted new interpretations of the religious texts, and a religious way of life and attitude that coloured a public reality in social life that did not completely run parallel with established traditions.

The *mujaddid* (innovators) in Surakarta initiated a movement for the modernization of Islamic religious understanding and later was followed by the establishment of puritanical movements. This confluence of religious patterns and paradigms resulted in more dynamic relations between followers of the Islam Kejawen tradition,

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<sup>14</sup> Interview with K.P.H. A. Poerbodiningrat (R.M. Kusrahardjo, S.H.), Pangarso Paguyuban K.G.P.H. Mangkoeboemi I, January 20, 2021.

<sup>15</sup> Hermanu Joebagio, "Politik Islam dalam Pusaran Sejarah Surakarta," Inaugural speech as professor in the History of Political Islam at the Faculty of Education and Pedagogy (Surakarta: Universitas Sebelas Maret, 2013), introductory page.

<sup>16</sup> Syafiq A. Mughni, "Kata Pengantar Pelembagaan Tajdid Keagamaan di Pesantren," *Islam Puritan di Pesantren; Eksistensi Gerakan Purifikasi dan Dinamisasi* (Surabaya: PT. Refka Media Pertama, 2016), p. 1.

followers of modernist Islam and adherents of the puritans.<sup>17</sup> The struggle of these three religious understandings became more prominent when they were confronted with problems in social life such as widespread prostitution and commercial sexual exploitation.

The conflict with widespread prostitution and commercial sexual exploitation in the City of Surakarta became increasingly clear when Abdullah Marzuki (founder of Pesantren Assalam and representing the modernists) became more open in the way he dealt with prostitution and commercial sexual exploitation. Next, Abdullah Sungkar (founder of Pesantren Ngruki and representing the puritans) dealt harshly with prostitution as it violates religious norms.<sup>18</sup> In 1972, Abdullah Thufail founded Majlis Tafsir Al-Qur'an (MTA) with a textual paradigm of its own by claiming that his group was not bound to the Islamic jurisprudence of any of the four schools of jurisprudence (*madzhab*). All three Abdullahs were puritans and in patterns they used for their *da'wah* only differed slightly.<sup>19</sup>

The struggle of the Islamic puritan figures concerned the way life should be ordered so that it accorded with the order as exemplified by the Prophet Muhammad and not with the traditions and conditions in society. This principle should not only be followed in the spiritual sphere but also in solving all problems people have in the entire world. Islam's presence is to change the face of the earth and thus anything that is not taught by Islam is false and may not be followed.<sup>20</sup> When during the Reformation Law Number 31, 2002 on Political Parties was issued, they channeled their *da'wah* struggle through existing political parties while others did so by mobilizing the masses.

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<sup>17</sup> Joko Tri Haryanto, "Relationship, Transcreation and Adaptation of The Traditionalists Against Puritanism in Surakarta Indonesia," *Analisa, Journal of Social Science and Religion* 22, 2 (2015), pp. 239-253.

<sup>18</sup> Radical movements became stronger after the mid-1990s in various forms but using relatively the same methods in forcing their wishes on others, by their convictions that their group was the truest, and by rejecting tradition. See Musa Rumbu, Hasse J., "Radikalisme Agama Legitimasi Tafsir Kekerasan di Ruang Publik," *Jurnal Al-Ulum* 16, 2 (2016), p. 369.

<sup>19</sup> Mutoharun Jinan, "Penetrasi Islam Puritan di Pedesaan: Kajian tentang Pola Kepengikutan Warga Majlis Tafsir Al-Quran," *Profetika Jurnal Studi Islam* 14, 2 (2013), p. 107.

<sup>20</sup> Umma Farida, "Islam Pribumi dan Islam Puritan: Ikhtiar Menemukan Wajah Islam Indonesia Berdasar Proses Dialektika Pemeluknya dengan Tradisi Lokal," *Fikrah Jurnal Ilmu Aqidah dan Studi Keagamaan* 3, 1, (2015), p. 146.

## Prostitution as an Industry in Surakarta

Surakarta is not only acknowledged as a cultural city where cultural heritage of Java has become the major identity of this city that in turn invites tourism activities. In its development, cultural tourism in Surakarta has also coupled with prostitution as the by-product of tourism industry. Now prostitution in this city has grown into a sex industry that has created its own market mechanism – various groups have entered its supply-demand system. The sex business has grown in line with the increase of online prostitution.<sup>21</sup> Sex workers have turned the prostitution world into a venue for job creation.<sup>22</sup> Some who engage in prostitution are fully aware of what they are doing, and they are motivated by economic reasons. Some of them do the sex business purely for fun. Whereas, others enter the business because they are trapped by a pimp, a broker or a brothel holder.<sup>23</sup>

Given the situation above, prostitution in Surakarta has turned into a commodity that was created by various groups in accordance with economic mechanism. The prostitution has created a long chain of supply-and-demand mechanism among different groups of society that forms a massive industry. A number of people are involved in this industry as an important agency such as pimps (including the husbands who force their wives to prostitute themselves or parents who do the same thing to their daughters), brothel owners, owners and workers of massage parlours and bars, food and beverage sellers, security police, taxi drivers, motorbike-taxi drivers and pedicab drivers who act as mediators between potential clients and the commercial sex workers.<sup>24</sup>

Surakarta has also turned into an important transit place for women for prostitution purposes.<sup>25</sup> Surakarta is called a transit city

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<sup>21</sup> News on TV One, March 18 – 20, 2021 which was also featured on electronic TV One. A researcher of the Metro Jaya Police Office accused Cynthia Alona of being involved in daring (online) prostitution, quoted 20 March 2021.

<sup>22</sup> Interview with Ign. Juni Wahjono - Catholic figure and chairman of the special committee for the creation of Regional By-Law Number 3, 2006. July 18, 2020.

<sup>23</sup> Academic paper of the Surakarta Regional Bylaw on the Eradication of Commercial Sexual Exploitation, p. 2

<sup>24</sup> Interview with Puguh S. (Secretary of the Surakarta Regional House of People's Representatives), March 16, 2021.

<sup>25</sup> Interview with Reny Widayawati, former member of the Surakarta Regional House of People's Representatives and instigator of the importance of the Regional Bylaw, March 17, 2021.

because it has become a temporary shelter for women from surrounding regions to meet the need for women in other regions and abroad, either for prostitution or other forms of work purposes. The huge supply of women from outside the region ensures that Surakarta has a stock of women that more than meets the needs of the parties that use them in the entertainment industry and for sex tourism. Tourists use this condition to complement their needs for pleasure when they visit Surakarta.

The city of Surakarta has indeed implemented a policy of the resocialization of prostitution which centered in Perkampungan Silir (the program was called *Resosialisasi Silir*/'The Reconciliation of Silir').<sup>26</sup> This policy was adopted because prostitution had been present in the city for decades and caused many social problems. Perkampungan Silir was a government-provided clean 'shopping center for love' with paved roads and it was an easily accessible and well-maintained area with easy access to enable guidance, health control and education as well as skills training for commercial sex workers. To make this possible, the mayor had issued a decree and assigned the Surakarta Social Service to manage it.

Because of *Resosialisasi Silir*'s rapid development, the people around the area quickly started to try to find sources of income in Perkampungan Silir by, among others, establishing small restaurants, shops, and stay-overs. However, this caused new problems because prostitution had now turned into a legal economic source of income for the people whereas *Resosialisasi Silir*'s aim was to reduce the prostitution and by so doing to reduce the adverse impact it has on the health of children and teenagers.

This situation, however, invited protest from groups in society which was voiced by members of the Surakarta Regional House of People's Representatives in its annual assembly in which it proposed to shut down *Resosialisasi Silir* totally because it had strayed from its goal. The City of Surakarta responded to this proposal by issuing the Decree of the Mayor of the Municipality of the City of Surakarta Number

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<sup>26</sup> The word prostitution comes from Latin *prostituere* which means 'to expose oneself openly to everyone'. In the *Encyclopedia Americana*, prostitution is 'the performance of sexual acts with another person in return for the payment of a fee. Prostitutes may be female or male.' Article 1 of the Regional Bylaw Number 3, 2006 of the City of Surakarta on the Eradication of Commercial Sexual Exploitation understands prostitution as 'using a person for sexual activities with payment or other forms of reward'.



462.3/082/1/1998, dated 8 June 1998 on the termination of *Resosialisasi Silir*.<sup>27</sup>

Apparently, the official closure of *Resosialisasi Silir* did not reduce the activities of the sex workers. It was clear from the statistical data that the number of commercial sex workers in the City of Surakarta had even increased from 519 to 972 after *Resosialisasi Silir*'s closure.<sup>28</sup> A female activist from NGO Spek-Ham reported in 2001 that more than 300 commercial sex workers operated openly on the streets and that some of them had mingled into society.<sup>29</sup> Children and teenagers witnessed their mothers being forced into prostitution by their own husbands.<sup>30</sup> The Spek-Ham NGO also reported that prostitution in Surakarta can be categorized in six categories (see table 1).<sup>31</sup>

**Tabel 1.** Categories of Prostitution and Their Characteristics in Surakarta 2003-2006

Category of commercial sex workers and their workplace	Age and background of commercial sex workers	Clients	Range of Fee (IDR)
Hidden commercial sex workers (at home or in a hotel)	20-27 years. Promotion Girls or School and university graduates	Upper and middle class	500,000 - 1,500,000
Commercial sex workers disguised as	25-35 years. Disguised as salon employees or	Middle class	200,000 - 500,000

<sup>27</sup> Academic paper of the Surakarta Regional Bylaw on the Eradication of Commercial Sexual Exploitation, p. 5.

<sup>28</sup> Badan Pusat Statistika Kota Surakarta, 2001. As quoted by Bambang Sukoco, "Perlindungan Hukum terhadap Anak Korban Kekerasan di Lokasi Praktik Prostitusi Gang Jalak, Cinderejo, Gilingan, Banjarsari, Surakarta," (Unpublished MA Thesis, Universitas Islam Indonesia, 2015), p. 130.

<sup>29</sup> Spek-Ham, *Graha Perempuan* (Surakarta: 2001), p. 6. Solidaritas Perempuan untuk Kemanusiaan dan Hak Asasi Manusia (SPEK-HAM) is an independent non-profit organization and consists of a group of a variety of people with different backgrounds who were active in the student movement or social organizations committed to implement Human Rights, especially Women Human Rights. It was established on November 20, 1998 and registered by Notary Act No. 4, January 6, 1999 at the office of Notary Sunarto, S.H. at Jl. Prof. Dr. Supomo 20 A Surakarta in the form of a foundation.

<sup>30</sup> Interview with H. Sugeng Riyanto SS, Chairman of the PKS fraction, Surakarta, March 16, 2021.

<sup>31</sup> As quoted by Sukoco, "Perlindungan Hukum terhadap Anak, pp. 131 – 132.

Category of commercial sex workers and their workplace	Age and background of commercial sex workers	Clients	Range of Fee (IDR)
salon employees (at the salon or at low level hotel)	Junior and senior high school graduates		
Open commercial sex workers (in low level Hotel Melati and short time hotel)	25-35 years. Prostitution forced by circumstances; Junior and senior high school graduates	Middle class	300,000 - 500.000
Commercial sex workers disguised as massage parlour employees (at the parlour)	30-40 years. Prostitution forced by circumstances; Junior high school graduates and non-graduates	Middle and lower classes	100,000 - 200,000
Street prostitutes (all over the place)	30-45 years. Operate in the open mixed with society; Uneducated	Middle and lower classes	20,000 - 50.000
Ciber Prostitution (at a hotel or as arranged)	15-25 years. Lifestyle. Operate covertly; School children and students	Upper and middle classes	1,000,000 - unlimited

**Source:** Report by NGO Spek-Ham modified with the help of various resource persons.

### **Regional Bylaw Number 3, 2006 on the Eradication of Commercial Sexual Exploitation**

The creation of Regional Bylaw Number 3, 2006 was an attempt to eradicate the widespread prostitution in Surakarta that had already seen a long struggle. It started in 1953 with the issuance of Regional Bylaw of the Greater City of Surakarta Number 10, 1953 on the Eradication of Prostitution. The effect of the implementation of this bylaw was far from expected and prostitution continued to exist. In 1959, a proposal was made to locate prostitution in a specially assigned area. This proposal came from the Islamic Masyumi Party that was worried about

the expansion of prostitution in Surakarta.<sup>32</sup> The reason was that crime had been on the rise in tandem with the increase in number of thugs and proliferation of clashes between thugs, prostitutes and even playboys.

The-then Mayor of Surakarta, Hutomo Ramelan, responded positively to this proposal and he installed an executing agency called Badan Pemerintah Harian (Office of the Daily Administration) that consisted of various groups headed by the Muhammadiyah leading figure K.H. Sahlan Rosyidi.<sup>33</sup> After ample preparations, in 1961, it was agreed that the assigned location of prostitution would be Perkampungan Silir, and the program was subsequently called the *Resosialisasi Silir* as suggested earlier. This program was designed as a means of educating as well as advocating the prostitutes in order to have awareness to free themselves from prostitution, in addition to localizing the negative effect of prostitution to the rest of society.

As time went by, the development of *Resosialisasi Silir* met with new problems as it was seen to legalize prostitution and therefore Regional Bylaw Number 10, 1953 was replaced by Regional Bylaw of the Municipality of Surakarta Number 1, 1975 on the Eradication of Vice. This bylaw proved ineffective and failed to prevent and eradicate prostitution in Surakarta. In the end, the administration of the City of Surakarta officially terminated *Resosialisasi Silir* based on the Decree of the Mayor of the Municipality of Surakarta Number 462.3/082/1/1998 on 8 June 1998.

One of the considerations behind the ending of *Resosialisasi Silir* was that resocialization had failed to materialize and that it was even seen as legitimizing prostitution. Moreover, statistical data showed that the number of prostitutes in the City of Surakarta had increased. Before 1998 there were 759 prostitutes but after socialization, their number had increased to 972.<sup>34</sup> This situation worried the people in Surakarta because children and teenagers witnessed prostitution with

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<sup>32</sup> The Masyumi Party was founded on 8 November 1945 in Yogyakarta. It consisted of an alliance between Islamic mass organizations based on Islamic principles and aimed to implement Islamic teachings and law in the life of the people, society and the Indonesian Republic and to lead to God's favor. *Kepartaian dan Parlemenaria Indonesia*, (Jakarta: Ministry of Information, 1954), p. 443.

<sup>33</sup> Hastuti Eko Maharani, *Sejarah Perkembangan Lokalisasi Silir* (Surakarta: Fakultas Ilmu Sejarah, Universitas Sebelas Maret, Surakarta, 1999), p. 20.

<sup>34</sup> Badan Pusat Statistik Kota Surakarta, 2001, as quoted by Sukoco "Perlindungan Hukum Terhadap Anak, p. 130.

their blatant eyes in many places.<sup>35</sup> The widespread prostitution drove Islamic mass organizations to attempt to eradicate it both by constitutional ways and by mobilizing the masses. The 100 Movement of members of the Sunan Bonang Division of the Corps Hizbullah Batalyon 99 visited various places where commercial sex workers worked to offer them guidance and to warn them not to engage in prostitution. Whenever this Corps Hizbullah went to one of these places, they made a note of their action and asked the owner of the place to sign it as proof that they had been there.<sup>36</sup>

These actions were reported to the Head of the City Police, the Mayor of Surakarta, the Surakarta Regional House of People's Representatives and other agencies authorized to take tougher action. Laskar Islam also went to the areas that were often used for prostitution, discotheques, cafes and eating stalls for teenagers. Razzias were also raid by the Koalisi Umat Islam Surakarta (KUIS) against the people considered to have violated religious teachings. Other actions were initiated by the Forum Komunikasi Antar Masjid Indonesia (Indonesian Inter-Mosque Communication Forum, Forkami) followed by Forum Pemuda Islam Surakarta (FPIS), Mujahidin Surakarta, Forum Komunikasi Ummat Islam Surakarta (Forkuis), FKAM, Perguruan Silat Tenaga Ghaib Honggo Dremo, Brigade Hizbullah, Lasykar Jundullah and other Islamic forces. Various youth and student organizations such as KAMMI, HMI, PII, HAMMAS, and GP Ansor and Banser also joined them.

The Islamic mass organizations that made their demands to the government were also supported by NGO Spek-Ham and the Yayasan Kakak whose data on prostitution and its effects in Surakarta were

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<sup>35</sup> Interview with H. Sugeng Riyanto, SS, Chairman of PKS fraction, Surakarta, March 22, 2021.

<sup>36</sup> The Hizbullah troops, or better known as Corps Hizbullah "Batalyon 99 Divisi Sunan Bonang" was established (again) in 1999 by 1999 oleh Yanni Rusmanto. Hizbullah means "Allah's Army". The motto of Laskar Hizbullah, as included in its letterhead is "Hari ini saya (kami) mengabdikan karena Allah SWT semata (hidup mulia atau mati syahid)" (Today I (we) serve only because of Allah SWT (alive or dead as a martyr)). Its members come from various layers in society and they are given religious instruction as well as military training. They actively report issues they see around them to the security forces. However, when the security forces are slow to respond or are seen to be incapable of taking care of the problem, they act themselves. Agus Suyanto, "Perjumpaan Kristen-Islam antara Mennonite Diakonia Service (MSD) dan Corps Hizbullah Batalyon 99 Divisi Sunan Bonang Ditelaah dalam Perspektif Calvin E. Shenk," (Unpublished MA Thesis, UKDW, 2014), p. 125.

valid. The coalition of Islamic mass organizations and NGOs formed a solid bargaining force in front of the local government and legislative members to speak up the necessity to end the prostitution. In doing so, they often went to the mayor and the Surakarta Regional House of People's Representatives, which was welcomed by the politicians of PKS, PAN and Demokrat fractions.<sup>37</sup>

It must be admitted nonetheless that the struggle of the Muslim organizations and figures to campaign the end of prostitution faced a much larger silent majority that preferred not doing nothing about prostitution and since 1953 they had rejected efforts to do so. However, they did not declare their aspirations to defend prostitution publicly. Those who defended the prostitution consist of people whose lives depended on prostitution such as pedicab drivers, brokers, pimps, the owner of small hotels (Hotel Melati) and many others. They were mostly affiliated to the PDI party because it claimed itself to be the party of the lay people (lower society).<sup>38</sup> Because of this, the efforts to get rid of prostitution has come to a halt for some time. This resistance became evident from the outcome of the 2004 election and the representatives who were chosen in the Surakarta Regional House of People's Representatives. The table below shows the aspirations of the parties in their choices of the kind of regulation pertaining to prostitution.

**Table 2.** Political map on the creation of the regulation of prostitution of the Surakarta regional house of people's representatives, 2006

Fraction	Members	Format of Regulation	Arguments
PDIP	15	Localization	Economic potential continues to grow
Golkar	5	Abstained	Tranquil society

<sup>37</sup> Interview with Reny Widyawati, female activist and former member of the Surakarta Regional House of People's Representatives from the Democratic Party, March 17, 2021. Reny Widyawati talked about the process of the creation of Regional Bylaw Number 3, 2006. When society and NGOs who were worried about the widespread prostitution and commercial sexual exploitation had not supported it, the bylaw would almost not have made it.

<sup>38</sup> Interview with Quotly Abdul Kadir al-Katiri, Member of the Special Committee for Regional Bylaw Number 3, 2006, March 21, 2021.

Fraction	Members	Format of Regulation	Arguments
PKS	4	Regional Bylaw	Prostitution problem is complex and must be regulated with a firm Regional Bylaw
PDS	4	Regional Bylaw	Prostitution problem is complex and must be regulated with a firm Regional Bylaw
Demokrat	5	Regional Bylaw	Prostitution problem is complex and must be regulated with a firm Regional Bylaw
PAN	7	Regional Bylaw	Prostitution problem is complex and must be regulated with a firm Regional Bylaw

**Source:** Report KPUD Kota Surakarta 2004 modified with the help of various sources.

Coinciding with the debate on the regulation of the widespread prostitution, Law Number 23, 2002 was formulated on the Protection of Children's Rights. The meeting of the interests of these two regulations urged the city of Surakarta Administration to formulate regulations to eradicate prostitution and Regional Bylaw Number 3, 2006 on the Eradication of Commercial Sexual Exploitation was issued. It was confirmed on 19 June 2006 and was put into effect on 21 June 2006. The bylaw aimed to prevent, limit, and diminish commercial sexual exploitation activities, to protect and rehabilitate victims of sexual exploitation, and to take concrete measures against its perpetrators by force.

By turning Regional Bylaw Number 3, 2006 into law the debates about the form of the regulation on the eradication of prostitution ended. The bylaw attempted to accommodate the integrated social and religious values in society. Agreement was reached to stamp out the moral degradation (*maḍarrab*) that threatened children because their rights had been taken by surroundings that were unfriendly towards their lives. According to the Convention on Children's Rights, ILO

Convention 182 and the Law on the Protection of Children, prostitution was one of the worst occupations and forbidden to children so that the solution could only be that they were rapidly removed from the traps set by pimps and madams to ensure their future.<sup>39</sup>

This consensus (*ijmā'*) ran parallel with the aim to make law (*al-tashrī'*) to create public good (*kemaslahatan*) and to prevent harms (*maqāṣid al-sharī'ah*) and meant that the bylaw aimed to protect wealth (*ḥifdh al-māl*) from religiously unlawful income, the protection of the soul's purity (*ḥifdh al-nafs*), and offspring or lineage (*ḥifdh al-nasl*) from prostitution and commercial sexual exploitation in the perspective of the *sharī'ah*.<sup>40</sup>

This short description revealed the presence of a complicated phenomenon that was linking almost all aspects of individual and communal life as well as political and governmental institutions. The eradication of prostitution and commercial sexual exploitation also involved social, economic, legal, health, human rights, cultural, and political interests as well as belief and religious awareness. To reach a solution for prostitution and commercial sexual exploitation, comprehensive regulations were required that seriously involved all elements in society, as well as their perspectives, views and proper religious awareness.

### **The Scene behind the Bylaw: Some Lessons Learned**

The Regional Bylaw Number 3, 2006 on the Eradication of Commercial Sexual Exploitation came into being after a prolonged process. It started with the 1953 bylaw on prostitution and locating it in Perkampungan Silir, that was closed in 1998. The closure of *Resosialisasi Silir* had a negative effect on children and youngster's lives. Because of this, society demanded a regulation that would guarantee the proper rights of children.

The polemic in the creation of the form of the regulation to eradicate widespread prostitution in Surakarta did not only have as

<sup>39</sup> Yoshie Noguchi, "ILO Convention No. 182 on the worst forms of child labour and the Convention on the Rights of the Child," *The International Journal of Children's Rights*, 10 (2002), pp. 355-369.

<sup>40</sup> In the sense of causing benefit and eliminating destruction. See 'Izz al-Dīn ibn 'Abdi al-Salām, *Qawā'id al-Aḥkām fī Masāliḥ al-Anām* (Bairut: Dār al-Kutub al-'Ilmiyah, n.d.), p. 10.

background many interests but also many variables were involved that increased the complexity of the eradication of prostitution. Political struggle was the first element in the creation of the regulation while the second was the fortification of the ideological elements of the Islamic puritans.

The political struggle between the fractions in the Surakarta Regional House of People's Representatives concerned the decision about the form of the regulation to eradicate prostitution. It was basically a struggle to attract public sympathy both about having a bylaw as well as about not having one. Anything could become the medium for this political struggle. For this discussion, the widespread prostitution among society was the material object that screamed for regulation, and it can be divided into two periods: the first was the political struggle leading up to the creation of the Regional Bylaw of the City of Surakarta Number 10, 1953 on the Eradication of Prostitution.

In 1953, Indonesia was about to organize the first liberal democratic multi-party elections to vote for members of the constitutional assembly that was to be tasked with formulating the permanent constitution. Because of this, the 1955 election was very strategic for the future of Indonesia as well as for the ideological struggles of the parties. The heated atmosphere before the 1955 election saw clashes between the ideologies of the secular nationalist parties and those of the religious nationalist parties. Five political parties managed to be chosen to produce members for the constitutional assembly. They were the PNI that was nationalist, the Majelis Syura Muslimin Indonesia (Masyumi) representing modernist Islam, the Nahdlatul Ulama (NU) that was traditionalist Islam, the PKI that was Marxist communist, and the PSII that was normative Islam.<sup>41</sup>

The votes in the 1955 election were as follows: Partai Masyumi (a combination of nationalist religious parties) got 7.903.886 votes (20.9%) and 57 seats.<sup>42</sup> In Surakarta, the Partai Masyumi got 13.733 votes (11,10 %) from the total of legitimate votes. It is clear that the Masyumi was crushed by the PKI that got 70.808 votes (57,26 %) and

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<sup>41</sup> Aiyub Mohsin, "Partai Politik dan Sistem Demokrasi di Indonesia," *Jurnal Populis* 3, 6 (2018), p. 779.

<sup>42</sup> Ketut Sedana Arta, "Sistem Pemerintahan Demokrasi Liberal dan Tercapainya Pemilu I Tahun 1955 di Indonesia," *Jurnal Widya Citra* 1, 2 (2020), pp. 69-85.



the PNI with 37.144 votes (30 %).<sup>43</sup> The Masyumi occupied the third position but managed to fight for the creation of the regional bylaw of the City of Surakarta Number 10, on the Eradication of Prostitution. Its struggle used two different channels, one was through a movement in society and secondly, struggle through the Regional House of People's Representatives. This strategy succeeded in shaping expectations but also had to face the secular nationalist ideology that tended to remain silent.<sup>44</sup>

The second period was the political struggle after the downfall of the New Order up to 2006. The New Order emerged together with the Pancasila democracy and the religious nationalist parties were brought together under the name Partai Persatuan Pembangunan (United Development Party). The New Order disintegrated on 21 May 1998 when the Reformation Order started that adopted a multiparty presidential democracy. The puritanical Islamic understanding re-emerged during the Reformation Order.<sup>45</sup> In the MPR Session of 1999, the Islamic parties, consisting of PPP, PBB, and Partai Keadilan, once again spoke for the implementation of the *shari'ah* but failed to gain a significant response.

After the 2004 election, the ideological struggle among the political parties weakened and they became open parties (accepting anyone as members) and tended to take up populist issues for practical political purposes. In order to attract sympathy in society, they used religious sentiments such as the anti-American movement of the Majelis Mujahidin Indonesia, movements against vice such as Front Pembela Islam (Islam Defenders Front, FPI) and movements in various regions demanded the implementation of the *shari'ah* that focused on the living

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<sup>43</sup> Adif Fahrizal Arifyadiputra, "Persaingan Islam dan Kristen di Kota Solo: Sebuah Tinjauan Sejarah," *Juspi Jurnal Sejarah Peradaban Islam* 3 2, (2020), p. 145.

<sup>44</sup> The indigenous ethnic sentiments against the Chinese in Surakarta were mobilized with the founding of the Sarikat Dagang Islam under the leadership of H. Samanhudi. Its aim was to provide a platform for batik dealers and after it had become the Sarekat Islam it gained the support of all levels in society. Siti Rahmana, "Sarekat Islam; Mediasi Perkecuan di Surakarta Awal Abad Ke-20," *Juspi, Jurnal Sejarah Peradaban Islam* 2, 1 (2018), pp. 52-53.

<sup>45</sup> The Islamic party Islam Masyumi was the re-emergence of the old Masyumi (1948). It was founded in Jakarta on August 28, 1998 under the leadership of Ir. Abdullah Hehamahua. See Arya Hadiwiyata and M. Nur, *Partai Politik Bermuansa Agama di Era Reformasi Partai Politik Islam Indonesia Masyumi* (Jakarta: Departemen Agama RI, Proyek Penelitian Keagamaan Badan Penelitian dan Pengembangan Agama, 1999/2000).

conditions of the Indonesian Muslims such as Lasykar Jihad. In various regions demands were voiced for the implementation of the *shari'ah* through bylaws.<sup>46</sup>

Every objective has a momentum the adherents of formalist Islam used it within the frame of *amar ma'ruf wa al-nahy 'an al-munkar* both through constitutional channels as well as by mobilizing the masses. Partai Masyumi mobilized the masses so that prostitution would be localized and it was the same party that also called for closure of the same location through the Battalion 99 of the Sunan Bonang Division of the Corps Hizbullah,<sup>47</sup> Laskar Islam, Koalisi Umat Islam Surakarta (KUIS), and Forum Komunikasi Antar Masjid Indonesia (Forkami) followed by masses from FPIS, Mujahidin Surakarta.

Apart from mass organizations, they also used the constitutional channel such as the creation of the so-called *shari'ah* regional bylaws and similar regulations. This struggle was done by their representatives in the Regional House of People's Representatives to shape their ideological aspirations. In the Surakarta Regional House of People's Representatives, a fight ensued between the fractions of the religious nationalist parties that supported the bylaw (PKS, PAN, Demokrat) and the fraction of the secular nationalist party who thought a bylaw was unnecessary (PDIP). The Partai Damai Sejahtera (PDS) with its Catholic ideology supported the bylaw arguing that prostitution violated Biblical norms.<sup>48</sup>

The Golkar fraction got 5 votes and supported the majority vote that a bylaw was needed for the eradication of prostitution. Ultimately, the bylaw was created. Quatly Abdul Qadir Alkatiri stated that Golkar wanted society to remain calm (without mass movements).<sup>49</sup> Reny

<sup>46</sup> M. Abduh Wahid, "Pergumulan Islam dan Politik di Indonesia," *Jurnal Politik Profetik* 7, 1, (2019), p. 153.

<sup>47</sup> The Darul Islam Group stemmed from the Central Javanese Diponegoro Division and consisted of Battalion 423 and 426. According to van Dijk, the ex-Battalion 426 consisted of ex-Laskar Hizbullah members in Surakarta. Agung Nugroho, "Darul Islam di Surakarta: Studi Kasus Pemberontakan DI/TII Eks-Batalion 426 Dan Pengaruhnya Tahun 1951-1952," *Al-Isnad Journal of Islamic Civilization History and Humanities* 1, 1 (2020), pp. 1 - 16.

<sup>48</sup> Interview with Ign. Juni Wahjono, Roman Catholic figure and chairman of the special committee for the creation of Regional Bylaw No. 3, 2006. July 18, 2020 strengthened by Puguh S. (Secretary of the Surakarta Regional House of People's Representatives) during interview with him on March 16, 2021.

<sup>49</sup> Interview with Quatly Abdul Qadir al-Katiri, Chairman of the PKS fraction in the Surakarta Regional House of People's Representatives 2004-2009 and Fatchurrahman,

Widyawati, a woman activist and former member of the Surakarta Regional House of People's Representatives from the Demokrat fraction said that fears that the bylaw would jeopardize the economic conditions of the people were behind the objections from opposing parties.<sup>50</sup>

Apart from the political struggle at political party system as explained above, the second element was that the followers of puritan Islamic ideology became stronger. The birth of the *shari'ah*-inspired bylaw was legal because a shift had taken place in form of decentralization administration that saw the creation of Law Number 32, 2004 on Regional Government. The decentralization policy subsequently drove members of the society in the regions to push for regulations pertaining to issues in the regions to be regulated by regional bylaws, including matters related to religion.<sup>51</sup>

Partai Masyumi was the political party that had the formalization of Islamic law (*shari'ah Islam*) on its agenda since its establishment as a party in 1945. The material object of its struggle was to turn the *shari'ah* into law covering all Islamic jurisprudence (*fiqh*), both *fiqh* pertaining to religious observances (*fiqh ibadah*) and *fiqh* pertaining to conduct (*fiqh muamalah*). In this context, their struggle centered on the legal formalization of the prohibition on prostitution and adultery.

During the 2004 election in Surakarta, the PKS managed to gain five seats in the Regional House of People's Representatives, and it supported the regional bylaw to eradicate prostitution and commercial sexual exploitation. It joined a coalition with PAN, Golkar, PDS and Demokrat to argue that the regional bylaw was to be made in the context of the implementation of religious teachings.<sup>52</sup> They attempted to pass the regional bylaw to eradicate prostitution and commercial sexual exploitation because immorality in society could only be contained through the involvement of the government and its juridical apparatus to force the people to abide to the law.

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Chairman of the Golkar fraction in the Surakarta Regional House of People's Representatives 2019 - 2023, March 17, 2021.

<sup>50</sup> Interview with Reny Widyawati, Member of the Special Committee for the Bylaw Number 3 2006 from the Demokrat Fraction, March 3, 2021.

<sup>51</sup> Muhammad Irham, "Analisis Peraturan Daerah Bernuansa Syari'ah Dalam Tatahan Hukum di Indonesia" (Unpublished MA Thesis, Universitas Islam Indonesia, 2017).

<sup>52</sup> Interview with Sugeng Riyanto, SS, Chairman of PKS fraction, Surakarta, March 6, 2021.

Looking at the backgrounds of the fractions that did or did not support the regional bylaw reveals that both had a political agenda regarding widespread prostitution. The fraction in favour of the regional bylaw argued for the implementation of Islamic *shari'ah* while the fraction considered it unnecessary argued that it would have a negative impact on the economic conditions of the people. When the political interests of the powers weakened and the creation of the bylaw was no longer based on the sincere intention to eradicate widespread prostitution (*nabi munkar*), the *shari'ah*-inspired bylaw was ignored and dysfunctional.

The implementation of regional bylaw Number 3, 2006 was the responsibility of the Municipal Administration of Surakarta and its Mayor, Joko Widodo, as the cadre of the PDIP naturally agreed with the council's members as the representative of the silent majority. Abdul Qadir said that the council did indeed have right of control but when the interests of what was controlled and who controlled coincided to one another, they would, of course, agree to allow the regional bylaw to pass.<sup>53</sup>

Some groups in society that were not involved for party political reasons hoped that the widespread prostitution and commercial sexual exploitation could be reduced. The number of victims of the prostitution and commercial sexual exploitation could be dealt with in a persuasive or repressive way by Surakarta's Administration.<sup>54</sup> However, the voice of these minorities was virtually invisible in the stir of the political interests and they became pessimistic because the legal apparatus that would spearhead the implementation of the bylaw was the Unit of the Governmental Police (Satuan Polisi Pamong Praja, Satpol PP) whose resources and instruments were insufficient to implement the bylaw. This pessimism worsens when it became clear that when the Satpol PP was to raid razzias, the plan had leaked, and

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<sup>53</sup> Interview with Quatly Abdul Qadir al-Katiri, Chairman of the PKS fraction in the Surakarta Regional House of People's Representatives 2004-2009, March 6, 2021.

<sup>54</sup> One informant claimed that society in Surakarta was convinced that sustainable comprehensive regulation would lead to a reduction of widespread prostitution and commercial sexual exploitation. This regulation would cause the benefit the people were hoping for (disappearance of social diseases that had clearly caused *maḍarrat*). Interview with Sa'id Ramadhan, prominent Muslim figure, March 17, 2021.

the prostitutes were nowhere to be seen and when they got caught, they were only given light sentences.<sup>55</sup>

## Conclusion

From the explanation above, it can be concluded that the creation and implementation of Regional Bylaw Number 3, 2006 on the Eradication of Commercial Sexual Exploitation in Surakarta that integrated *shari'ah* norms had a long history of political contest between fractions with a puritan religious-nationalist ideology and secular nationalist fractions in the Surakarta Regional House of People's Representatives. The political elites of the religious-nationalist parties understood that the complexity of the problem of widespread prostitution could not be dealt with by a regional bylaw. Nevertheless, they were adamant to create it in the expectation that the Muslim community would welcome the bylaw, especially fanatic supporters of the elected parties.

The fractions of the secular-nationalist parties did not want the regulation because a regional bylaw would restrict the economic resources of the people whose livelihood depended on prostitution. Although the supporters of these fractions constituted most of the people in Surakarta, they did not openly reject the creation of the regional bylaw to eradicate prostitution. This is understandable because of their insufficient understanding about the status of the law on prostitution that did not include a religious perspective.

When the bylaw was sanctioned by the Surakarta Regional House of People's Representatives and its implementation put in the hands of the executive (Joko Widodo as Mayor was a cadre member of the PDIP), it was all but forgotten. The regional bylaw did not have the scope needed to solve the complex issue of the widespread prostitution and thus did not offer a solution to the problem. Added to this were the inadequate human resources and lack of the necessary equipment that ensured the implementation of the bylaw effectively. []

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<sup>55</sup> Interview with Sugeng Riyanto, SS., Chairman of PKS fraction, Surakarta, March 16, 2021; Taufikurrahman, Vice-chairman of the Golkar fraction, March 16, 2021.

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## **Interviews**

Interview with H. Sugeng Riyanto SS, Chairman of PKS fraction, Surakarta, March 16, 2021.

Interview with Ign. Juni Wahjono, Catholic figure and chairman of the special committee for the creation of Regional Bylaw Number 3, 2006, March 18, 2020.

Interview with K.P.H. A. Poerbodiningrat (R.M. Kusrahardjo, S.H.), Pangarso Paguyuban K.G.P.H. Mangkoeboemi I, January 20, 2021.

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Interview with Quotly Abdul Kadir al-Katiri, Member of the Special Committee for Regional Bylaw Number 3, 2006, March 21, 2021.

Interview with Reny Widayawati, former member of the Surakarta Regional House of People's Representatives and instigator of the importance of the Regional Bylaw, March 17, 2021.

Interview with Sa'id Ramadlan, Prominent Muslim figure, March 17, 2021.

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Mundakir