

ABSTRAK

Skripsi berjudul “ANALISIS SIYASAH DUSTURIYAH TERHADAP PERATURAN DAERAH KABUPATEN JOMBANG NOMOR 1 TAHUN 2021 TENTANG FASILITASI PENYELENGGARAAN PESANTREN DALAM SISTEM HUKUM DI INDONESIA” ditulis oleh Achmad Fathoni Al Fahmi, NIM 126103201022, dengan Bapak Yusron Munawir, S.H.I, M.H.

Kata Kunci: Siyasah Dusturiyah, Perda Pesantren, Hukum Islam, Hukum Nasional, Kabupaten Jombang .

Penelitian ini berangkat dari realitas pluralisme hukum Indonesia yang membuka ruang bagi lahirnya peraturan daerah bernuansa syariah pascareformasi. Kabupaten Jombang yang dikenal sebagai “kota santri” dengan ratusan pesantren menerbitkan Perda Nomor 1 Tahun 2021 Kabupaten Jombang untuk memfasilitasi penyelenggaraan pesantren. Regulasi tersebut dipertanyakan kesesuaiannya dengan prinsip negara hukum, asas non-diskriminasi, serta *maqāṣid al-syarī‘ah*.

Penelitian ini bertujuan: (1) menganalisis kesesuaian Perda Nomor 1 Tahun 2021 Kabupaten Jombang dengan hierarki dan asas sistem hukum Indonesia; (2) mengevaluasi Perda tersebut melalui perspektif siyasah dusturiyah cabang fiqh siyasah yang menekankan keadilan, kemaslahatan, *syūrā*, amanah, dan *hisbah* dalam ketatanegaraan.

Jenis penelitian ialah *library research* dengan pendekatan yuridis-normatif. Data primer berupa peraturan perundang-undangan (UUD 1945, UU 18/2019, UU 23/2014, Perda 1/2021); data sekunder berupa literatur fiqh siyasah, hukum tata negara, dan studi empiris pesantren. Analisis dilakukan melalui penafsiran sistematis, teleologis, dan komparasi nilai siyasah dusturiyah terhadap norma-norma Perda.

Hasil penelitian ini menunjukkan bahwa Perda Nomor 1 Tahun 2021 Kabupaten Jombang tentang Fasilitasi Penyelenggaraan Pesantren secara umum sudah sesuai dengan sistem hukum Indonesia, namun masih terdapat celah dalam hal inklusivitas terhadap lembaga pendidikan agama lain, transparansi anggaran, dan distribusi bantuan yang belum merata. Ketidakjelasan mekanisme pelaksanaan dan pengawasan berpotensi menghambat tercapainya keadilan sosial dan efektivitas pengawasan. Dari perspektif siyasah dusturiyah, meskipun Perda ini mencerminkan prinsip masalah, ia masih kurang memperhatikan prinsip *al-‘adl* (keadilan), *syura* (musyawarah partisipatif), *hisbah* (pengawasan sosial), dan amanah (tanggung jawab). Perlindungan terhadap kelompok rentan seperti santri perempuan dan anak-anak serta pengawasan terhadap pelanggaran moral dan kekerasan dalam pesantren belum memadai. Oleh karena itu, Perda ini perlu direvisi agar lebih adil, inklusif, dan memiliki pengawasan yang lebih ketat, baik secara fisik maupun digital, demi menjaga kesejahteraan santri.

ABSTRACT

The thesis titled "Analysis of Siyasah Dusturiyah on the Regional Regulation of Jombang Regency No. 1 of 2021 on the Facilitation of Pesantren Management in the Context of the Indonesian Legal System" is written by Achmad Fathoni Al Fahmi, student ID 126103201022, under the supervision of Mr. Yusron Munawir, S.H.I, M.H.

Keywords: *Siyasah Dusturiyah, Pesantren Regional Regulation, Islamic Law, National Law, Jombang Regency.*

This research begins with the reality of Indonesia's legal pluralism, which opens space for the emergence of regional regulations with a Sharia nuance post-reform. Jombang Regency, known as the "city of santri" with hundreds of pesantren, issued Regional Regulation No. 1 of 2021 to facilitate the management of pesantren. However, the compliance of this regulation with the principles of a rule-of-law state, the non-discrimination principle, and maqāṣid al-syarī'ah has been questioned.

The aims of this research are: (1) to analyze the compliance of Regional Regulation No. 1 of 2021 with the hierarchy and principles of the Indonesian legal system; (2) to evaluate the regulation through the lens of siyasah dusturiyah, a branch of fiqh siyasah emphasizing justice, public benefit, consultation, trust, and moral and social oversight in governance.

This research employs a library research method with a juridical-normative approach. The primary data includes legal documents (UUD 1945, Law No. 18/2019, Law No. 23/2014, Regional Regulation No. 1/2021); secondary data includes literature on fiqh siyasah, constitutional law, and empirical studies on pesantren. The analysis is conducted through systematic interpretation, teleological reasoning, and a comparative evaluation of the values of siyasah dusturiyah against the norms of the regulation.

The results of this study show that Regional Regulation No. 1 of 2021 on the Facilitation of Pesantren Management is generally in line with the Indonesian legal system. However, it still has gaps in terms of inclusivity towards other religious education institutions, budget transparency, and the equitable distribution of assistance. The lack of clarity regarding the implementation and supervision mechanisms could hinder the achievement of social justice and effective oversight. From the perspective of siyasah dusturiyah, although the regulation reflects the principle of maslahah (public benefit), it still falls short in addressing the principles of al-'adl (justice), syura (consultation), hisbah (social oversight), and amanah (trust). Protection for vulnerable groups such as female santri and children, as well as oversight of moral violations and violence within pesantren, is insufficient. Therefore, this regulation needs to be revised to be more just, inclusive, and to have stricter supervision, both physically and digitally, to safeguard the welfare of san.