Legality and Legitimacy of Khatam Al-Quran:
Study on Formalization of Islamic Law in Banjar Regency, South Kalimantan

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Abstract

This article identifies two forms of support for the formalization of Islamic law by examining the case of the Khatam Al-Qur'an in Banjar Regency, South Kalimantan. Using the theoretical framework of legal instrumentalism, it raises the question: how can the legality and legitimacy of the Khatam Al-Qur'an formalization in Banjar Regency be understood? From a legal standpoint, this formalization is valid and carries juridical authority within the framework of national law. Meanwhile, in terms of legitimacy, the policy enjoys strong public support as it is rooted in a local tradition known as Batamat— a deeply embedded cultural practice of Qur'anic completion ceremonies in Banjar society. Applying the theory of legal instrumentalism, this article finds that the formalization of Khatam Al-Qur`an has occurred through two complementary pathways. The first is the enactment of a regional regulation (Perda Khatam Al-Qur`an), which serves as the source of its legality. The second is the Batamat tradition, which provides the foundation for its legitimacy.

Keywords: *Formalization; Khatam Al-Qur`an; Legality; Legitimacy.*

Introduction

The study of regional policies based on religious values has become a concern in legal discourse. Local regulations that contain religious content, especially those derived from Islamic teachings, are often analyzed from a sociological, educational, or political identity perspective. Studies that specifically analyze the relationship between legality (legal validity) and legitimacy (socio-cultural support) in formalizing local religious values into

regional legal products are still relatively limited.

This lacuna is increasingly felt when the approach is still dominated by a positive legal framework, without considering the social context and local dynamics that shape the law's acceptance. Studies that look at the formalization of Islamic law only from the perspective of positive legal products born by state institutions often ignore social realities and local values that live in the community, and can even produce conclusions that are counterproductive to the experience of the community as direct actors in the process of formalizing Islamic law. Ratno Lukito shows that the formalisation of Islamic law occurs not only in the legalisation of Islamic law that is recognized in the form of state regulations (positive law) but also in cultural law. The formalization of law in this cultural category tries to understand law in a more general sense, which occurs in the daily life of the community.[1]

Understanding law as a social instrument is important to see how law is not only a legal norm, but also a tool to achieve specific social and ideological goals. In this context, the Banjar Regency Regional Regulation No. 4/2004 on *Khatam Al-Qur'an* for Learners in Primary and Secondary Education (*Perda Khatam Al-Qur'an*) is an appropriate study to explore the tension between legality and legitimacy in a religious value-based regional legal framework.

The Banjar community comes into contact with the Qur'an not only through formal education, but also in the routine of daily life. They have taken the culture of Khatam Al-Qur`an as an implementation of the formalization of Islamic law in daily life.[2] Questioning the existence of a local regulation on *Khatam Al-Qur'an* in Banjar Regency should also question the tradition of *Khatam Al-Qur'an* commonly practiced by the Banjar community. The conclusion that questions the formalization of the *Khatam Al-Qur'an* through the form of a Banjar Regency Regional Regulation is that it only relies on the Westphalian legal paradigm approach. That is why the study of the formalization of Islamic law must also develop the use of the non-Westphalian legal paradigm, which includes looking at the formalization of Islamic law by departing from the form of cultural law that was born from the culture of the community.

This article uses Brian Z. Tamanaha's concept of "Legal Instrumentalism" as a theoretical basis to explore the two forms of Islamic

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[1] Ratno Lukito, "The Politics of Syariatisation in Indonesia: MMI and GARIS' Struggle for Islamic Law," *Studia Islamika* 28, no. 2 (August 19, 2021): 319–47, https://doi.org/10.36712/sdi.v28i2.15819.

[2] Wardatun Nadhiroh, *Tradisi Kelisanan Dan Keaksaraan Al Quran Di Tanah Banjar* (Banjarmasin: Antasari Press, 2018), https://www.academia.edu/41656284/Tradisi_Kelisanan_dan_Keaksaraan_al_Quran_di_T anah_Banjar.

law formalization that can be seen in the case of *Khatam Al-Qur'an* formalization in Banjar Regency, South Kalimantan. Both forms of Islamic law formalization have similar objectives, but have different characteristics. Tamanaha's concept sees law as an empty vessel, which then needs to be filled and used to achieve the objectives of the law.[3] This theory brings the framework that law reflects society's condition and serves to maintain social order.[4]

In line with the theoretical framework of legal instrumentalism, Nakissa underlines the use of an anthropological lens to review the relationship between community cultural traditions, law, and religion. These three things have an interrelated relationship in understanding the phenomenon of Islamic law formalization.[5] The combined theoretical frameworks of Tamanaha, Ratno Lukito, and Nakissa will be used to look at the formalization of Islamic law in the case of *Khatam Al-Qur'an* in Banjar Regency. This combined theoretical framework is used to see how the legality and legitimacy of the formalization of Islamic law occurs through the formalization of the *Khatam Al-Qur'an* in Banjar Regency, South Kalimantan?

This research utilizes qualitative methods. The research data have been collected through in-depth interviews with several key actors who have been involved in the drafting of the Regional Regulation on *Khatam Al-Qur'an*, as well as community leaders and educators who are the implementers of both the Batamat tradition and the implementation of the Regional Regulation on *Khatam Al-Qur'an*. Observations were also made by witnessing the implementation of Batamat in the Banjar community and Qur'an reading and memorizing activities in schools.

Discussion
Selection of Legal Paradigm in the Study of the Formalization of Khatam Al-Qur`an

Many studies have reviewed the Islamization of law using the positivistic legal paradigm. This paradigm has been widely used to understand regional regulations and Sharia nuances. However, using this paradigm alone is not sufficient to understand the existence of Islamic law formalization in several regions. This hypothesis emerged after seeing that many studies that examined the existence of local regulations with sharia nuances did not affect the local community's attitude, which still boasts of the formalization of

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[3] Brian Z Tamanaha, *Law as a Means to an End: Threat to the Rule of Law* (Cambridge University Press, 2006).

[4] Brian Z Tamanaha, *A General Jurisprudence of Law and Society* (Oxford Socio-Legal Studies, 2001).

[5] Aria Nakissa, *The Anthropology of Islamic Law: Education, Ethics, and Legal Interpretation at Egypt's Al-Azhar* (Oxford University Press, 2019).

Islamic law in its region. Some local governments continue to maintain local regulations with sharia nuances, and some other regions also want to make them. The weakness of using the positivistic legal paradigm in the study of the formalization of Islamic law is also seen in its inability to reveal the perpetrators' views of the formalization of Islamic law. Their views have not been sufficiently revealed by studies that use the positivistic legal paradigm.

Using a positivistic legal paradigm, one can often only see the negative side of the formalization of Islamic law. This can be seen in several studies that review regional regulations with Sharia nuances in several regions. Some conclude that the formalization of Islamic law narrows the space for religious freedom. This narrative departs from the commonly used thesis that religious regional regulations cause a narrowing of democratic space. This is Bush's conclusion that sees regional regulations with sharia nuances as evidence of the growth of religious radicalism in Indonesia.[6] The presence of religious local regulations disadvantages minority groups.[7] The narrowing of religious freedom space occurs because religious regulations have facilitated the favoritism of religious life for the majority group.[8]

The experience of implementing regional regulations with religious nuances in several regions has indeed proven the narrowing of the space for religious freedom. Some regulations that have implications for inter-religious relations will likely cause such narrowing of the religious freedom space. This happens as a impact of local regulations that regulate the requirements for the establishment of houses of worship.[9] Some of these studies emphasize the negative impact of regional regulations with religious nuances, especially those with Sharia nuances.

On the other hand, some studies show that not all formalization of Islamic law occurs through the formation of Sharia-nuanced regional

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[6] Robin Bush, "Regional Sharia Regulations in Indonesia: Anamoly or Symptom?," in *Expressing Islam: Religious Life and Politics in Indonesia*, ed. G Fealy and S White (SINGAPORE: ISEAS–Yusof Ishak Institut, 2008), 174–91, https://www.cambridge.org/core/books/expressing-islam/regional-sharia-regulations-in-indonesia-anomaly-or-symptom/17ADC0EC43F5EDDE245669AED05BDCD9.

[7] David Kristanto and Tony Salurante, "Kuyper's Sphere Sovereignty and Institutional Religious Freedom in Indonesia," *Verbum et Ecclesia* 44, no. 1 (February 24, 2023), https://doi.org/10.4102/ve.v44i1.2613.

[8] Hurriyah, "Dynamics of Shrinking Religious Freedom in Post-Reformasi Indonesia," *JSEAHR* 4 (2020): 335, https://heinonline.org/HOL/LandingPage?handle=hein.journals/jseahr4&div=21&id=&page=.

[9] Faiq Tobroni, "Local-Sharia Regulations and Religious Expression in Aceh: Criticism of the Qanun about Establishing Places of Worship," *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum* 55, no. 1 (December 10, 2021): 209, https://doi.org/10.14421/ajish.v55i1.1012.

regulations. Not all local regulations with sharia nuances indicate the occurrence of religious radicalism and religious favoritism. The decentralization of power post-Soeharto has allowed regions with strong Islamic traditions to push for the implementation of sharia-nuanced regional regulations.[10] Some local regulations with sharia nuances, especially in preserving the culture of reading and writing the Qur'an, are a medium for reviving the identity and culture of the local community.[11]

The Sharia-nuanced regional regulations have a strategic role in controlling the social morality of the community. Its position makes an important contribution to legal development in Indonesia.[12] The protection of social morality is illustrated in the objectives of Sharia local regulations, which help maintain and protect human dignity in controlling the community from actions that harm themselves and the surrounding community.[13] Sharia is an alternative to character building that can be done through a legal approach.[14]

Regional regulations with sharia nuances have various categories. Religious nuances, such as the tradition of the community, positively impact the community. For example, the existence of the Regional Regulation on *Khatam Al-Qur'an* in Banjar Regency is an effort to affirm and restore the strength of the Banjar community's local identity[15], which was sidelined in the construction of the new order legal development that tends to

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[10] Yasrul Huda, "Al-Shari'ah Al-Islāmīyah Fī 'Aṣr Al-Amrikazīyah Al-Iqlīmīyah Bi Indūnīsīya," *Studia Islamika* 13, no. 3 (January 1, 2016), https://doi.org/10.15408/sdi.v13i3.560.

[11] Syahrizal Abbas and Ramzi Murziqin, "Sharia-Based Regional Regulations in the Indonesian National Law System," *Jurnal Ilmiah Peuradeun* 9, no. 3 (September 30, 2021): 529, https://doi.org/10.26811/peuradeun.v9i3.673.

[12] Masnun Tahir, "Fikih NKRI: Landasan Berkonstitusi Bagi Umat Di Indonesia," *Supremasi Hukum: Jurnal Kajian Ilmu Hukum* 4, no. 1 (June 30, 2015), https://doi.org/10.14421/sh.v4i1.1969.

[13] Muhammad Sabir and Nazaruddin Nazaruddin, "MANIFESTATION OF SHARIA REGIONAL REGULATIONS IN MANAGING SOCIAL MORALITY," *JURIS (Jurnal Ilmiah Syariah)* 20, no. 2 (December 15, 2021): 189, https://doi.org/10.31958/juris.v20i2.3276.

[14] Malihatul Azizah, Muntaha Mahfud, and Abdul Basit, "THE CONTRIBUTION OF SHARIA REGIONAL REGULATIONS POLICY IN INDONESIAN LEGAL SYSTEM AS AN ALTERNATIVE FOR CHARACTER BUILDING IN THE COMMUNITY," *International Journal of Social Science* 1, no. 5 (February 2, 2022): 829–38, https://doi.org/10.53625/ijss.v1i5.1334.

[15] Irfan Noor, "Globalization, Nation-State, and Local Identity A Study of an Affair between the Movement of Religious Formalization and the Discourse of Local Identity in Kalimantan Selatan," *Asia-Pacific Journal on Religion and Society* 2, no. 2 (2018): 96–111, https://ejournal.uin-suska.ac.id/index.php/asiapacific/article/view/7132.

totalitarianism.[16]

Meanwhile, the impact (negative or positive) of religious nuances unrelated to community traditions is still debated. The relationship between the characteristics of Islamic nuances and the impact of local regulations with Sharia nuances in people's lives is less captured by research that only relies on the positivist legal paradigm approach. This paradigm is less able to touch or reveal the category of Islamic nuances regulated in the regional regulations because it cannot reveal the historical and social context of the community as the perpetrators of Islamic law formalization. If only the positivistic legal paradigm were used, the formalization of Islamic law would be interpreted as the birth of legal products with Islamic nuances from state institutions. In the field, several types of Islamic law formalization practices have been carried out by the community, and the community does not need legal products from state institutions. The formalization of Islamic law by the community runs naturally because the community is interested in maintaining its traditions. Some Islamic laws are rooted in community traditions.[17] The community practices Islamic religious law daily, including public and private affairs. That is why it is not enough to study and understand local regulations with sharia nuances using the positivistic legal paradigm.

Formal Khatam Al-Quran Culture in Banjar Regency

Banjar (*urang*) people have a rich tradition of Quranic scholarship, with significant contributions from local ulema.[18] They name the culture of completing the Qur'an as *Batamat*. The *Batamat* tradition generally appreciates the success of a child who has completed 30 juz of the Qur'an for the first time. In its development, *Batamat* is also used for other sacred events in the life of the Banjar people. The community will accompany *Batamat*, believing it will bring blessings for the event. Some sacred events in the Banjar people are wedding receptions[19], rituals to pray for the dead within a certain[20],

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[16] Irfan Noor, "ISLAM DAN REPRESENTASI IDENTITAS BANJAR PASCA ORDE BARU DI KALIMANTAN SELATAN," *Al-Banjari: Jurnal Ilmiah Ilmu-Ilmu Keislaman* 11, no. 2 (2012), http://jurnal.uin-antasari.ac.id/index.php/al-banjari/article/view/423.

[17] Ali Sodiqin, "Positifikasi Hukum Islam Di Indonesia: Prospek Dan Problematikanya," *Supremasi Hukum: Jurnal Kajian Ilmu Hukum* 1, no. 2 (November 30, 2012), https://doi.org/10.14421/sh.v1i2.1922.

[18] Wardatun Nadhiroh and Wardani, "The Dynamics of Qur'anic Text and Translation in Banjarese Ulema's Works," *Jurnal Studi Ilmu-Ilmu Al-Qur'an Dan Hadis* 24, no. 2 (July 31, 2023): 205–30, https://doi.org/10.14421/qh.v24i2.4764.

[19] Ngismatul Choiriyah, Ahmad Alghifari Fajeri, and Nurul Husna, "Nilai-Nilai Pendidikan Islam Dalam Tradisi Perkawinan Masyarakat Banjar Kota Palangka Raya," *Jurnal Hadratul Madaniyah* 4, no. 1 (2017): 53–57.

Ramadan tadarus, commemorating the Prophet Muhammad's birthday, and other sacred events related to Islamic social activities. Besides being practiced by *Urang* Banjar in South Kalimantan, the *Batamat* tradition has also been perceived by other Kalimantan communities, such as Dayak Bakumpai.[21]

A special *Batamat* tradition is an event to recognize the success of a child who has memorized 30 juz of the Qur'an for the first time. In this ritual, a child receives special treatment. Boys are dressed up like kings, and girls like queens. They will sit on a throne with ornaments like kings and queens. Some of the paraphernalia of kings and queens are *alas sarung batik* or *tapih bahalai*, *singgasana*, *payung kembang*, and others. The Banjar people view the *Batamat* tradition as a sacred ritual. The existence of *Batamat* is a sign of a child's success in learning the Qur'an.[22]

The *Batamat* Al-Qur`an tradition has a rich philosophical value. Regarding the mention, the name *Batamat* has an exceptional philosophical value. The term *Batamat* results from a metamorphosis of the more popular term *Khataman* Al-Qur`an. The naming of *Batamat* contains anthropological-theological-philological value. The term *Batamat* contains humanistic, theological, and philological values.[23] From the humanistic theological aspect, the *Batamat* tradition is an effort to synergize the transcendental and humanitarian aspects. The transcendental aspect is reflected in the vertical relationship between a servant and his God. In Islamic teachings, reading the Qur'an is an act of worship. The value of this worship is considered to contain high rewards, especially when reading the Qur'an, which is carried out until *Khatam*. In *Batamat*, the perpetrators read a particular letter in the Qur'an with a predetermined amount.[24]

The anthropological aspect or horizontal relations in *Batamat* are reflected in the human relations built into the implementation of the tradition. The implementation of *Batamat* Al-Qur`an will invite guests. Usually, guests are religious leaders, community leaders, teachers, peers, and other parties. Thus, there is a humanitarian practice in which the *Batamat*

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[20] Kusuma Kusuma, "Motivasi Masyarakat Palangka Raya Dalam Pelaksanaan Tradisi Menunggu Kuburan Dalam Tinjauan Hukum Islam," *Jurnal Studi Agama Dan Masyarakat* 11, no. 2 (March 20, 2017): 174, https://doi.org/10.23971/jsam.v11i2.436.

[21] Akhmad Supriadi Akhmad Supriadi et al., "BATAMAT: THE RECEPTION OF DAYAK TO THE QUR'AN," *Jurnal Lektur Keagamaan* 20, no. 2 (December 25, 2022): 445–78, https://doi.org/10.31291/jlka.v20i2.1081.

[22] Faiq Tobroni, "Interview with Dr. H. A. Fauzan Saleh, M.Ag, Vice Rector I of IAI Darussalam Martapura on September 11, 2022.," 2022.

[23] Riza Saputra, "Dialektika Islam Dan Budaya Lokal Dalam Tradisi Batamat Al-Qur'an Urang Banjar," *Mashdar: Jurnal Studi Al-Qur'an Dan Hadis* 3, no. 1 (June 30, 2021): 1–32, https://doi.org/10.15548/mashdar.v3i1.2771.

[24] Ahmad Rafiq, *The Reception of the Qur'an in Indonesia: A Case Study of the Place of the Qur'an in a Non-Arabic Speaking Community* (Temple University, 2014).

tradition requires the preparation of many material devices. Certain dishes must be served, such as *nasi ketan* and *parutan kelapa*. They also prepare equipment to equalize the Qur'an reciters like kings and queens, such as flower umbrellas (*payung kembang*) and thrones with *lapik*.

From a theological-philological aspect, the *Batamat* Al-Qur`an tradition shows the value of cultural acculturation. Reading from an acculturative perspective helps dismiss the impression of a paradoxical construction in implementing *Batamat*. The description of the implementation of *Batamat* holds two counterproductive sides. On the one hand, *Batamat* is a tradition that contains Islamic teachings. On the other hand, the implementation of *Batamat* uses material symbols rooted in the culture before the arrival of Islam in Banjar, Kalimantan. The pre-Islamic symbols of *Batamat* originate from Hinduism. In *Batamat*, the community uses the *Balai*, which is usually used as a gathering place for the Hindu community to participate in religious ceremonies. Flower umbrellas are also a part of a culture that originated in the Hindu era. The Banjar Kings used this umbrella before they embraced Islam. Therefore, some of the materials and terms were Islamized. *Urang* Banjar changed the *Balai* into a miniature mosque that serves to be paraded during the mass *Batamat* Al-Qur`an ceremony. This Islamization of the term *Balai* as a Muslim place of worship also occurs in everyday life. Banjar people in rural areas still refer to a *Surau* or small mosque as *Balai*.[25]

The combination of these two theologies represents a compromise theology. This compromising philosophy cannot be separated from the role of Islamic preachers in Banjar land, who were accommodating in their preaching. They allowed the old customs to continue and develop. Then, the preachers filled it in and continued it with values from the Islamic teachings. This compromising practice can be seen in the emergence of a spiritualistic emotional realm in implementing the *Batamat* Al-Qur`an tradition. Some physical and material objects that symbolize the implementation of *Batamat* Al-Qur`an have meanings contained in them. The Banjar people believe that these objects have virtues that can provide blessings. Following Islamic teachings, the community believes that the Blessing comes from prayers made to Allah SWT. These objects are only intermediaries for the blessings from Allah SWT. The concept of Blessing contained in the offerings and physical materials used during the *Batamat* celebration is helpful in erase the non-Islamic beliefs.[26]

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[25] Faiq Tobroni, "Interview with H. Fadillah, S.Pd., Community Leader and Principal of SDN Bincau 1 Martapura, Located at SDN Bincau 1 Martapura, September 5, 2022," 2022.

[26] Faiq Tobroni, "Interview with Abdul Basit, S.Pd.I., M.Pd.I., Community Leader and Teacher at Al Falah Islamic Boarding School, Banjarbaru City, South Kalimantan Province, September 16, 2022," 2022.

The formalization of the *Khatam* Al-Qur`an tradition through *Batamat* in Banjar community practice shows the formalization of Islamic law culturally. *Batamat* has become a formal way of performing Khatam Al-Qur'an in the lives of the Banjar people. However, *Batamat* is not a positive legal product of the local government. *Batamat* holds a combination of community tradition, religion, and law elements. By the characteristics of the law, which functions to give validity to an event or situation, the implementation of *Batamat* without fulfilling the requirements of the socio-religious aspects will invalidate the validity of the *Batamat* implementation. As an illustration of the fulfillment of sociological aspects, implementing *Batamat* without inviting guests and providing dishes means that the Qur'an recitation procession does not become *Batamat*. This means that the fulfillment of these sociological aspects becomes a formal legal element that determines the validity of *Batamat*.

Regional Regulation on Khatam Al-Quran

The discourse of democratization in the regions provides an opportunity for the enactment of regional legal products by regional characteristics, including the creation of sharia-nuanced local regulations, because most of the region's population is Muslim.[27] This situation looks like a paradox. Democracy requires the liberation of public space from narrow religious domination.[28] However, in practice, many use certain religious symbols to facilitate the political consolidation of groups from the same religious base. Due to the discourse of democratization in the regions, enacting the Banjar Regency Regional Regulation on *Khatam Al-Qur'an* is a process of democratization at the regional level. Local political players use this moment to create legislation unique to their region. The Banjar community places the *Batamat* Al-Qur`an tradition at the heart of preserving the Qur`an, so it can be said that the Regional Regulation on *Khatam* Al-Qur`an is the aspiration of the local community.

The historical context and community response to the enactment of the Regional Regulation on *Khatam Al-Qur'an* in Banjar Regency resemble the context of the creation of *Khatam Al-Qur'an* bylaws in some other regions, such as the existence of local regulations on the Qur'an in Sumatra. In the Minang region, there is a positive response from local indigenous leaders at the level of the Village Head, such as Wali Nagari. Children are sent to the

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[27] Hayatun Na'imah and Bahjatul Mardhiah, "Perda Berbasis Syari'ah Dan Hubungan Negara-Agama Dalam Perspektif Pancasila," *Mazahib Jurnal Pemikiran Hukum Islam* 15, no. 2 (2016): 168–81, https://core.ac.uk/download/pdf/209064943.pdf.

[28] Noorhaidi Hasan, "Islam in Provincial Indonesia: Middle Class, Lifestyle, and Democracy," *Al-Jami'ah: Journal of Islamic Studies* 49, no. 1 (June 29, 2011): 119–57, https://doi.org/10.14421/ajis.2011.491.119-157.

Musholla, and there is attention from the local Wali Nagari to the sustainability of Children Quranic Education (TPA).[29] Therefore, the scholars developed a juridical reasoning that Sharia-based regional regulations exist to implement the mandate of Article 29 of the 1945 Constitution.[30] Regional regulations with Qur'anic nuances have received support from regions where most of the population is Muslim.[31] In a democratic country, the positivization of Islamic law in both absolute and relative forms, such as regional regulations, does not violate the constitution because the constitution guarantees it.[32] Some regions reflect that the formalization of Islamic law departs from the wishes of religious groups in the community.[33] In addition, regional regulations with sharia nuances aim to improve people's lives for the better.[34]

In line with the results of studies on local regulations with sharia nuances in several regions, similar arguments can also be found in the views surrounding the enactment of the local regulation on *Khatam Al-Qur'an* in Banjar Regency, South Kalimantan. An explanation from Fauzan, the head of the People's Welfare section during the drafting of the regulation on *Khatam Al-Qur'an*, states that the enactment of this local regulation resulted from community aspirations captured by the Regent. Rudi Arifin, as the Regent, often attended recitations organized by Guru Sekumpul. The aspirations that

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[29] Ronaldi Ronaldi, Ahmad Lahmi, and Mursal Mursal, "PERDA Baca Tulis Al-Qur'an: Studi Terhadap Respon Wali Nagari Dalam Meningkatkan Pendidikan Agama Di Talu," *Intiqad: Jurnal Agama Dan Pendidikan Islam* 12, no. 2 (December 1, 2020): 181–205, https://doi.org/10.30596/intiqad.v12i2.5263.

[30] Ergina Faralita, "Implementasi Pembentukan Peraturan Daerah Berbasis Syariat Islam Dalam Penyelenggaraan Pemerintah Daerah," *JOURNAL OF ISLAMIC AND LAW STUDIES* 4, no. 2 (2020), https://d1wqtxts1xzle7.cloudfront.net/81444749/pdf-libre.pdf?1646029244=&response-content-disposition=inline%3B+filename%3DImplementasi_Pembentukan_Peraturan_Daera.pdf&Expires=1672622453&Signature=bQcJ59dOctiyTi3PhGP8q3etlz-sCowsMfWlIw4RUg7kzTU327RWGClMRm.

[31] Imam Mahdi, "Kebijakan Pemerintah Daerah Dalam Mengentaskan Buta Baca Al-Qur'an," *Persiapan Penerapan Perda Nomor* 5 (2013).

[32] Irwansyah Irwansyah, Faisar Ananda, and Zulham Zulham, "Positivization of Sharia Regional Regulations in North Sumatra," *Jambura Law Review* 3 (April 30, 2021): 161–79, https://doi.org/10.33756/jlr.v3i0.10432.

[33] Lindra Darnela, "Penetrasi Pesantren Terhadap Penetapan Perda Syari'ah Di Tasikmalaya," *Supremasi Hukum: Jurnal Kajian Ilmu Hukum* 4, no. 1 (June 30, 2015), https://doi.org/10.14421/sh.v4i1.1974.

[34] M Anwar Basir, Jaelan Usman, and Abdul Rahman, "FORMALISASI SISTEM PEMERINTAHAN ISLAM (STUDI TENTANG IMPLEMENTASI KEBIJAKAN PEMERINTAH TERHADAP PERDA BACA TULIS AL-QURAN DI KOTA MAKASSAR)," *Otoritas : Jurnal Ilmu Pemerintahan* 3, no. 1 (April 14, 2013), https://doi.org/10.26618/ojip.v3i1.60.

developed from the recitation in Martapura were captured by drafting several sharia-nuanced local regulations, one of which was the local regulation on *Khatam Al-Qur'an*. Fauzan clarified that the presence of this regulation in Banjar Regency was not due to the infiltration of radical groups who wanted to establish an Islamic State. The pioneers were moderate scholars from Nahdliyin and other organizations that have proven consistent with the Pancasila state. Fauzan denied that transnational radical groups were involved in drafting the regulation.[35]

Fauzan's statement shows that the formalization of Islamic law in Banjar does not aim to produce legal products that replace the Indonesian legal system. Islamic law is only one of the subsystems in the national legal system. This understanding is transformed into their restrictions in regulating this local regulation. The consideration in drafting the regulation is to support the religious nuances of Banjar Regency as a whole and realize the title as the city of Serambi Mekkah for the City of Martapura, the capital of Banjar Regency.

The *Khatam Al-Qur`an* bylaw is an example of a local regulation based on living law. It is an accommodation of the culture of the community. Because of its inherent nature in the community's life, the enforcement of this local regulation is stable compared to other local regulations. The enforcement does not depend on the apparatus, such as the Civil Service Police Unit (*Satpol PP*). However, the awareness of the community is what makes the consistency of the enforcement of khatam Al-Qur`an. Especially amid the strong influence of lifestyles that keep children away from the tradition of reading the Qur'an, it is unlikely to be effective if the enforcement of this regulation depends on *Satpol PP*. The vital role of teachers in implementing the learning program to read and write the Qur'an (BTQ) is a concrete example of community participation in enforcing this regulation.

In addition to maintaining local wisdom, the regulation also considers the development of human resources who are faithful and devoted to God Almighty. The primary considerations in drafting the regulation are developing regional identity and human resources. Although the name of the regulation is *Khatam Al-Qur'an*, the implementation focuses on reading, writing, and memorizing the Al-Qur'an for students in Banjar at the primary and secondary education levels. Thus, this regulation only applies in the school environment.

The regulation stipulates that every school child at every level of education must be able to read, write, and memorize the Qur'an. In addition

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[35] Tobroni, "Interview with Dr. H. A. Fauzan Saleh, M.Ag, Vice Rector I of IAI Darussalam Martapura on September 11, 2022."

to these three skills, memorizing short surah (*surah pendek*) is an obligation. The number of memorized *surah pendek* varies depending on the child's level of education. Elementary school students must be able to memorize 12 *surah pendek*. Junior high school students must be able to memorize 22 *surah pendek*. Senior high school students and the equivalent must be able to memorize 28 *surah pendek*. Students who can read, write, and memorize the Qur'an as stipulated in the regulation will get a certificate as a sign of recognition and proof of their achievement of the ability to recite the Qur'an.[36]

Two Models of Formalizing *Khatam Al-Qur`an*

The two models of *Khatam Al-Qur`an* formalization above confirm the concept of legal instrumentalism. This theory has two main ideas. First, the law is a reflection of the conditions of society. Second, the law functions to maintain the social order of society. These two ideas have a close relationship and support each other. Law does not come from another realm (but from society itself) because it functions to maintain the social order of the society. Law has a practical function of maintaining social order because the existence of law reflects society's needs. This theory believes in an ideal relationship between law and society because both have a compatible relationship. The law will become a heroic savior or protector if the social order is threatened.[37]

The use of this theory understands that the formalization of Khatam Al-Qur'an occurs in two forms. Both forms have the same objective: to maintain public order in their religious activities, which in this case is concretized as maintaining Banjar as *Serambi Mekkah*. This common goal can be found in considering the enactment of the Regional Regulation on *Khatam Al-Qur'an* and the philosophy of implementing Batamat. The "Considering" section of the regulation states that the formalization of *Khatam Al-Qur'an* aims to create a society as a manifestation of the development of human resources who are faithful and devoted to God Almighty. Meanwhile, the philosophy of implementing *Batamat* also has noble goals, such as the harmony of religious relations, which are rooted in the harmony of vertical and horizontal relationships. In Banjar society, Islamic law is deeply integrated with local customary laws. This integration is not seen as contradictory but rather as a dynamic and adaptive process that shapes the community's legal and social framework.[38]

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[36] Faiq Tobroni, "Interview with Hj Raihani Hayati, S.Pd.I, Elementary School Supervisor, Banjar Regency Education Office, South Kalimantan, September 7, 2022," 2022.

[37] Tamanaha, *A General Jurisprudence of Law and Society*.

[38] Zaimuariffudin Shukri Nordin et al., "Integrating Islamic Law and Customary Law: Codification and Religious Identity in the Malay Buyan Community of Kapuas Hulu," *Journal of Islamic Law* 6, no. 1 (February 28, 2025): 89–111, https://doi.org/10.24260/jil.v6i1.3410.

The formalization of *Khatam Al-Qur'an* in Banjar Regency, South Kalimantan, represents two models of Islamic law formalization. The first model takes the form of practice under the auspices of cultural law. This type of Islamic law formalization occurs when actors seek religious law to be incorporated into their daily lives. The second model is formed by the local government's practice of positive law. This model of Islamic law formalization approaches the formalization of *Khatam Al-Qur`an* as a positivistic legal product where the law is understood solely as a product of the state, in this case, the local government. The naming of the formalization of Islamic law through cultural legal practices is the result of reading the formalization of *Khatam Al-Qur'an*, not only using the Westphalian legal paradigm. Institutional anthropological data on the implementation of *Batamat* Al-Qur'an in Banjar Regency shows that the practice is one of the categories of legal Islamization projects in a non-positivistic form. In implementing *Batamat*, the actors have taken religious law to implement living law in everyday life.

The actors of *Batamat* Al-Qur`an have said that these religious rituals mixed with culture have values and norms that have become community agreements. These norms have manifested in the form of a ritual procession. The appearance of norms can be found explicitly or implicitly. Explicitly, the attachment of several norms in this procession of religious rituals has occurred even with the agreement of the community to use specific attributes during the *Batamat* ritual procession. For example, in the tradition of *Batamat* for school-age children, the ritual procession uses several mandatory attributes, such as the attributes of the King for men and the Queen for women. In addition, the social attribute that arises from implementing *Batamat* serves certain specialties for the guests who come. There is an agreement in the social relations of the community that the absence of some physical attributes above not only reduces the sacredness of the *Batamat* ritual, but also does not attach the name *Batamat* to the *Khatam Al-Qur'an* procession.

The two models of Islamic law formalization in *Khatam Al-Qur'an* have several characteristics. In terms of its form, the local regulation on *Khatam Al-Qur`an* shows the formalization of Islamic law by forming laws and regulations. At the same time, *Batamat* represents the formalization of Islamic law through customs. Regarding its nature, the local regulation on *Khatam Al-Qur`an* characterizes the formalization of Islamic law as autonomous, while *Batamat* is responsive and progressive. Regarding the source of its validity, the local regulation on *Khatam Al-Qur'an* is formed by the Regional Government, while *Batamat* is found in the community. Then, regarding implementation, the government imposes local regulations on *Khatam Al-Qur'an*, while *Batamat* is based on public awareness.

The Regional Regulation on *Khatam Al-Qur'an* shows the formalization of Islamic law through formal channels. In contrast, *Batamat* shows the formalization not through formal channels in the sense of state institutions. This difference affects the distinction in nature. The Regional Regulation on *Khatam Al-Qur'an* enforcement relies on the authority of officials assigned by the state. The enforcement relies on teachers as professionals who receive certification of their professional authority from the state. In the Indonesian national education system, teacher professionalism is under the authority of the Ministry of Religious Affairs or the Ministry of Education and Culture. At the local level, teacher professionalism is under the guidance of the Ministry of Religious Affairs at the provincial and district levels, or the Local Education Office. Teachers under education institutions of *madrasah*s from *madrasah ibtidaiyah* to *madrasah aliyah* are under the guidance of the Ministry of Religious Affairs, while teachers under education institutions of schools from elementary schools to senior high schools or vocational schools are under the guidance of the Provincial or District Education Office, which then leads to the National Ministry of Education and Culture. The Regional Regulation on *Khatam Al-Qur'an* relies on the effectiveness of its implementation on the teachers and the state institution that oversees the professional development of these teachers. This is the autonomous characteristic of implementing a law as a product of a state institution. Its enforcement depends on the apparatus established by the government.

Meanwhile, the enforcement of *Batamat* is progressive and responsive. This means that its enforcement grows naturally from the awareness of the community. That is why its nature is named as responsive and progressive. This means that the quality of enforcement depends on the community's social conditions to have the strength to respond to the implementation of the traditional *Batamat*. The response will be more progressive in a community with environmentally high religious awareness. However, the response may not be progressive if a community lives in a less religious environment. The formalization of *Khatam Al-Qur`an* in the form of *Batamat* has the advantage that the formalization of Islamic law departs from community awareness, and the community is also the implementer. Therefore, implementing *Khatam Al-Qur'an* becomes natural because it departs from the community's needs. However, such characteristics of Islamic law formalization have weaknesses depending on the environment and socio-religious conditions of the community. In communities with a strong religious environment, the routine of *Batamat* can be appropriately implemented. Meanwhile, in communities with a less religious environment, the ritual of *Batamat* is likely not to be carried out routinely and properly.

Conclusion

Islamic law is formalized when *Khatam Al-Qur'an* is implemented in Banjar society. There are two forms of formalization of Islamic law in this case. The first form of formalization carries the characteristics of formalization in the sense of a law established from community agreement. This form of formalization is manifested in the tradition of *Batamat*. This formalization of *Khatam Al-Qur'an* has become a tradition and part of the Banjar community's culture. Although not as a product of state law, the tradition of *Batamat* has a set of norms that the perpetrators must fulfil if they want to say that their practice of *Khatam Al-Qur'an* is *Batamat*. The practice of *Batamat* provides legitimacy for the formalization of *Khatam Al-Qur'an*. The second form of formalization is through implementing the Regional Regulation on *Khatam Al-Qur`an* in Banjar Regency. This form of formalization has the power of legality under the national legal system. This second form of formalization focuses on the role of the state apparatus or professional parties under the guidance of the state apparatus to be the executor of the enforcement of this formalization order.

Acknowledgments

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