

Reconstruction of the Practice of *Siyasa Syar'iyah* During the Islamic Empire's Relevance to the Practice of Sharia Financing CWLS Retail in Indonesia

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Abstract

The purpose of this study is to analyze the reconstruction of Islamic sharia implementation policies during the Islamic Empire in Indonesia from the perspective of *siyasah syar'iyah* and their relevance to Indonesian government policies in regulating Islamic financing instruments in Cash Waqf Linked Retail Sukuk (CWLS Retail). The statutory approach and descriptive analysis are used in this research. Sources of data were obtained from various literary materials both from books, journals and the internet, as well as other relevant sources regarding the politics of Islamic law (*siyasah syar'iyah*) during the Islamic period and its relevance to the regulation of Islamic financing instruments in Indonesia, especially with regard to the application of retail sukuk cash waqf (CWLS Retail). The results of the study show that first, the political application of Islamic law during the Islamic empire in Indonesia was carried out through the politics of the king's power (ruler). Second, the application of political Islamic law has relevance to current Indonesian government policies, namely in regulating Islamic financing instruments for Cash Linked Retail Sukuk (CWLS Retail), where the Government through various Islamic policies is

embodied through laws, government regulations, MUI Fatwa, and other regulations. However, implementing this policy requires 6 variables of Islamic politics (*siyasah syar'iyah*) in the opinion of Ibn Khaldun, namely mutual synergy between law, government, society, economy, development and justice.

Keywords: *Siyasah syar'iyah*; cash waqf linked sukuk ritel; maqashid syariah; circle of equity

Introduction

Historical reconstruction regarding the policies of the Indonesian government in implementing Islamic sharia, historically and politically, this is a form of political practice of Islamic law carried out by the government or rulers by ancient Islamic kings during the Pre-Colonial period who ruled Indonesia. As for the Indonesian government's policy in implementing Islamic sharia, especially in relation to mu'amalah, the government is currently practicing Islamic law politics, one of which regulates sharia financing instruments, namely cash waqf retail sukuk (CWLS retail) or cash waqf investments in state sukuk. So the authors are interested in uncovering and exploring this, because these policies have relevance to the current era.

The *siyasah syar'iyah* paradigm in Indonesia is not only on Sukuk (sharia bonds), according to research by Zakiruddin, et al.,¹ that investment in Indonesia related to the policy of managing haj funds is also in line with *siyasa syar'iyah*. Other things such as policies on halal tourism regulations,² halal certification,³ halal tourist village,⁴ sharia investment,⁵ and the like must also be in line with Islamic sharia.⁶ All of that is to serve as a means of effectiveness of

¹ Muhammad Aziz Zakiruddin, Kamsi Kamsi, and Ahmad Bahiej, "Siyasah Syar'iyah Paradigm of Hajj Financial Management Regulation in Indonesia," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 November (December 1, 2022): 531–52, <https://doi.org/10.29240/jhi.v7i2.5310>.

² Dede Abdurrohman and Hisam Ahyani, "Global Awareness of Halal Products in Indonesia in Dealing with the Era of Society 5.0," *ICOBBA_2021*, 2022, 416–22, <https://doi.org/10.51773/icobba.v1i2.112>.

³ Naeli Mutmainah, Hisam Ahyani, and Haris Maiza Putra, "Tinjauan Hukum Ekonomi Syariah Tentang Pengembangan Kawasan Industri Pariwisata Halal Di Jawa Barat," *Al-Mawarid Jurnal Syariah Dan Hukum (JSYH)* 4, no. 1 (August 29, 2022): 15–42, <https://doi.org/10.20885/mawarid.vol4.iss1.art2>.

⁴ Hisam Ahyani et al., "Potensi Desa Wisata Halal Di Kecamatan Lakbok Kabupaten Ciamis," *Al-Khidmat* 5, no. 2 (December 29, 2022): 89–102, <https://doi.org/10.15575/jak.v5i2.14575>.

⁵ Haris Maiza Putra and Diana Farid, "The Pattern of Sharia Economic Thought: A Viewpoint Against the Quran," *Ayahid Journal of Islamic and Quranic Studies (AJIQS)* 3, no. 2 (December 29, 2021), <http://journal.staialfalah.ac.id/index.php/sya/article/view/62>.

⁶ Lukman Santoso, Agus Triyanta, and Jawahir Thontowi, "Halal Tourism Regulations in Indonesia: Trends and Dynamics in the Digital Era," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 1 (August 1, 2022): 73–94, <https://doi.org/10.18326/ijthad.v22i1.73-94>.

a regulation in Indonesia.⁷ In addition, *siyasah* syariah in syariah economy also needs to put forward the values of *rahmatan lil 'alamin*,⁸ and according to the times,⁹ as well as must prioritize the benefits for humans.¹⁰ This is one proof of the principle of legal expediency.¹¹ In implementing *siyasah syar'iyah* as an alternative to Islamic Economic Development in Indonesia,¹² and this is also needed synergy from various elements is needed.¹³ *Siyasah Syar'iyah* must also be in line with *maqashid* sharia.¹⁴ In the circle of equity theory, Ibnu Khaldun requires a relationship between political, social and economic variables to build the country's prosperity. These variables are law, government, society, economy, development and justice. Law and government are political variables that are the pillars of power. Society, development The six variables have a relationship that influences one another.¹⁵ One of the functions of *Siyasah Syar'iyah*, especially in relation to the circle of justice in running the wheels of the business world, is to legitimize the government system, so that it is able to regulate the wheels of an equitable economy through a just system.¹⁶ In achieving national development in Indonesia, especially to support the UN's Sustainable

⁷ Dedah Jubaedah et al., "Halal Certification in Indonesia: Study of Law Number 6 of 2023 on Job Creation," *Jurisdicție: Jurnal Hukum Dan Syariah* 14, no. 1 (July 22, 2023): 154–84, <https://doi.org/10.18860/j.v14i1.19948>.

⁸ Hisam Ahyani, Memet Slamet, and Tobroni, "Building the Values of *Rahmatan Lil 'Alamin* for Indonesian Economic Development at 4.0 Era from the Perspective of Philosophy and Islamic Economic Law," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 16, no. 1 (June 27, 2021): 111–36, <https://doi.org/10.19105/al-lhkam.v16i1.4550>.

⁹ Dwi Novita, Luthfi El-Falahi, and Haris Maiza Putra, "Khiyar in Buying and Selling Online Based on the Fiqh Perspective," *Al-Istinbath Jurnal Hukum Islam* 7, no. 2 (2022), <https://doi.org/http:dx.doi.org/10.29240/jhi.v7i2.5232>.

¹⁰ Muhammad al ikhwan Bintarto et al., "Zakah and Waqf for Cryptocurrency in Islamic Law," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (May 30, 2022): 21, <https://doi.org/10.29240/jhi.v7i1.4229>.

¹¹ Diana Farid et al., "Interfaith Marriage: Subjectivity of the Judge in Determination of No. 454/Pdt.p/2018 Surakarta District Court," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 November (December 1, 2022): 347–62, <https://doi.org/10.29240/jhi.v7i2.4574>.

¹² Haris Maiza Putra, "Dynamics of Halal Certification Regulation Post Enactment of Law Number 11 of 2020 Concerning Job Creation and Its Implications for Micro Enterprises Growth in Indonesia Program Doktor Hukum Islam Pascasarjana" (Doktoral Thesis, Bandung, Universitas Islam Negeri Sunan Gunung Djati, 2023).

¹³ Hisam Ahyania et al., "Management of Zakat at the National Amil Zakat Agency (Baznas) in Banjar City, West Java through Data-Based Digitalization in Era 4.0," *Jurnal Pengabdian Dan Pemberdayaan Masyarakat Indonesia* 2, no. 1 (January 5, 2022): 16–22, <https://doi.org/10.59247/jppmi.v2i1.63>.

¹⁴ Hisam Ahyani, "Principles of Islamic Business Ethics in Optimizing the Potential of Halal Tourism and Its Application Prospects in Pangandaran District" (Doktoral Thesis, Bandung, Universitas Islam Negeri Sunan Gunung Djati, 2023).

¹⁵ Ibn Khaldūn, *The Muqaddimah: An Introduction to History*, ed. N. J. Dawood (Princeton University Press, 2015).

¹⁶ Jennifer A. London, "The 'Circle of Justice,'" *History of Political Thought* 32, no. 3 (2011): 425–47.

Development Goals, Circle of equity can be the main key. Not only through the Islamic economic and financial sector, but many other sectors that can still be developed and become potential. According to Abdul Wahab Khallaf, *siyasah syariyyah* is a science that discusses Islamic constitutional affairs from the point of view of laws and systems that are in accordance with Islamic principles, although there is no specific argument about it.¹⁷

The positive contribution of sukuk in Indonesia is the result of continuous cooperation between the government and society. The government's policy of issuing sukuk as infrastructure financing has been well received by the public. This is evidenced by the fact that the investment value of the ST-002 Savings Sukuk reached IDR 4.95 trillion from the government's target of IDR 1.71 trillion. Good cooperation and reciprocity between the government and the community in infrastructure development through sukuk is a reflection of the Circle of equity. The current government is committed to advancing and exploring the potential of the Islamic finance sector in order to accelerate national development. This commitment can be seen from the establishment of the KNKS (National Committee for Islamic Finance) which was formed as a forum to manage rules regarding Islamic finance. Sukuk is one that is considered very potential and is currently developing.¹⁸

Sukuk or in Indonesia known as Sharia Securities (SBS) is one of the sharia financial products as a sharia investment instrument. Since being launched by the government in 2008, sukuk has continued to experience improvement as an infrastructure financing instrument. As a sharia financing instrument, sukuk are very appropriate to be included in infrastructure financing projects because they are real. The projects funded include the construction of roads and bridges, the provision of clean water, and the construction of public buildings. State Sukuk not only play an important role as an instrument for financing the state budget, but also evidence of the development of the Indonesian Islamic finance industry. Besides that, one of the perspectives of Islamic Philanthropic Jurisprudence in the Modern Context is Waqf.¹⁹ This includes the Economic Empowerment of Muslims in Indonesia.²⁰ Apart from

¹⁷ Syaikh Abdul Wahhab Khallaf, *Ijtihad dalam Syariat Islam*, trans. Rohidin Wahid and Achmad Zirzis (Pustaka Al-Kautsar, 2015).

¹⁸ Syifa Fauziyah, "Sukuk Di Indonesia Dan Circle Of Equity - Islampos," December 10, 2018, <https://www.islampos.com/sukuk-di-indonesia-dan-circle-of-equity-119124/>.

¹⁹ Nanang Naisabur et al., "Islamic Philanthropy Fiqh in Modern Context," *Al-Muamalat: Jurnal Ekonomi Syariah* 10, no. 1 (January 30, 2023): 24–35, <https://doi.org/10.15575/am.v10i1.21068>.

²⁰ "Community Economic Empowerment Through the 'One Pesantren One Product' Program at Pagelaran III Islamic Boarding School, Subang, Indonesia," *Journal of Islamic Economics Lariba (JIELariba)* 8, no. 1 (2022), <https://journal.uii.ac.id/JIELariba/article/view/24570>.

that, in order to support the development of the Islamic economy, an accurate Islamic legal political strategy is needed.²¹

Talking about the historical and political reconstruction of Islamic law/pre-colonial Islamic empires in Indonesia, of course, cannot be separated from the history of Islamic law in Indonesia, starting from classical Islamic kingdoms to Indonesia becoming a modern state.²² Where historically, Islamic law in the archipelago (Indonesia) has existed since the days of the ancient Islamic kingdoms. Furthermore, Internalization of Progressive Islamic Law (Mashlahat) in Law Change in Indonesia has become a necessity.²³ In order to maintain the immutability of waqf values, there is a need for a legal breakthrough as a legal umbrella in Indonesia.²⁴ Moreover, the potential of waqf in Indonesia needs to be developed, this is useful for the welfare of the Indonesian people.²⁵

The Prophet Muhammad, did not completely destroy the pre-Islamic Arabic tradition. Even though the Prophet Muhammad SAW created many rules that legalized the customary law of the Arab community, thereby providing a place for the practice of customary law in the Islamic legal system.²⁶ Furthermore, the existence of Islamic law in Indonesia from time to time entered simultaneously with the entry of Islam into Indonesia. Where Islam entered Indonesia in the first century Hijriyah (7/8 Miladiyah century).²⁷

Research by Erwati Aziz et al, states that the reality in terms of acculturation of Islamic law in Minangkabau, Indonesia is a form of politicization strategy through the expression of Islam in the geographical context and local culture.²⁸ Meanwhile, Zulhasari Mustafa in his research

²¹ Hisyam Ahyani and Elah Nurhasanah, "Peran Strategi Politik Islam Terhadap Perekonomian Di Indonesia," *Mutawasith: Jurnal Hukum Islam* 3, no. 1 (June 23, 2020): 18–43, <https://doi.org/10.47971/mjhi.v3i1.185>.

²² Jefik Zulfikar Hafidz, "Sejarah Hukum Islam di Indonesia: Dari Masa Kerajaan Islam Sampai Indonesia Modern," *Jurnal Tamaddun: Jurnal Sejarah dan Kebudayaan Islam* 9, no. 1 (July 5, 2021), <https://doi.org/10.24235/tamaddun.v9i1.8087>.

²³ Haris Maiza Putra and Hisam Ahyani, "Internalization in Islamic Law Progressive in Criminal Law Changes in Indonesia," *Jurnal Ilmiah Al-Syir'ab* 20, no. 1 (June 30, 2022): 68–90, <https://doi.org/10.30984/jis.v20i1.1861>.

²⁴ Rimanto Rimanto and Kholid Hidayatullah, "Class Action as a Strategy for Saving Waqf Land Assets in Indonesia," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 5, no. 2 (May 31, 2022), <https://doi.org/10.30659/jua.v5i2.19636>.

²⁵ Bintarto et al, "Zakah and Waqf for Cryptocurrency in Islamic Law."

²⁶ Sulhan Muwahid, "Rekonstruksi Hukum Islam Dan Implikasi Sosial Budaya Pasca Reformasi Di Indonesia," *Karsa* 20, no. 2 (2020): 176–96.

²⁷ Ahmad Azhar Basyir, "Hukum Islam Di Indonesia dari Masa ke Masa," *Unisia* 0, no. 16 (July 21, 2016): 9–13, <https://doi.org/10.20885/unisia.v0i16.5599>.

²⁸ Erwati Aziz, Mohammad Dzofir, and Aris Widodo, "The Acculturation of Islam and Customary Law: An Experience of Minangkabau, Indonesia," *QIJIS (Qudus International Journal of Islamic Studies)* 8, no. 1 (June 30, 2020): 131–60, <https://doi.org/10.21043/qijis.v8i1.7197>.

revealed that politically, Dutch colonial law actually placed Islamic law for the indigenous population only as a means of control, namely as a supervisory mechanism (supervision/curator) which was carried out by controlling, limiting and weakening Islamic law among Muslims. in the Dutch East Indies.²⁹ Meanwhile, Dedah Jubaedah, also reminded that the importance of the legislative process and the history of the development and renewal of Islamic law in Indonesia in the form of sharia and fiqh cannot be strictly enforced, this is due to various factors, one of which is the dominance of the diversity of schools of thought.³⁰ While Edi Rosman in his research stated that in implementing sharia and *fiqh* if it is not normalized in the form of laws as written laws, then this will not run optimally.³¹ Apart from that, Aksin Widaya, et al in his research explained that in observing Islam it is necessary to be ethical, in which humans essentially also have to do the same thing (good communication) in relation to God and fellow human beings.³²

In the case of Indonesia, for example, according to the research launched by Imam Mawardi, that Dutch colonialism for three and a half centuries was the cause of the active and strong color of Eurocentric institutions and systems, namely regulating and directing culture, so that Islamic law developed in Indonesia and Malaysia, so this is one form of the color of the politics of Islamic law.³³ So that in the politics of Islamic law it is easy to enter through local wisdom which is proportionally supported by the authorities.³⁴ This is in line with the opinion of Ahyani, et al that from the perspective of

²⁹ Zulhasari Mustafa, "Dinamika Hukum Islam Indonesia Pasca Kolonial," *Zawiyah: Jurnal Pemikiran Islam* 3, no. 2 (December 9, 2017): 144–61, <https://doi.org/10.31332/zjpi.v3i2.724>.

³⁰ Dedah Jubaedah et al., "Legal Analysis of Crypto Investment in Era 4.0 View from Credo Theory," *Diponegoro Law Review* 7, no. 2 (October 27, 2022): 262–78, <https://doi.org/10.14710/dilrev.7.2.2022.262-278>.

³¹ Edi Rosman, "Legislasi Hukum Islam Di Indonesia (Sejarah Dan Relevansi Praktis Pembaharuan Hukum Nasional)," *Al Hurriyah : Jurnal Hukum Islam* 1, no. 1 (June 7, 2016): 27–44, <https://doi.org/10.30983/alhurriyah.v1i1.478>.

³² Aksin Wijaya, Suwendi Suwendi, and Sahiron Syamsuddin, "Observing Islam With Ethics: From Hatred Theology to Religious Ethics," *QIJIS (Qudus International Journal of Islamic Studies)* 9, no. 1 (July 29, 2021): 175–208, <https://doi.org/10.21043/qijis.v9i1.9538>.

³³ Imam Mawardi, "Islamic Law and Imperialism: Tracing on The Development of Islamic Law In Indonesia and Malaysia," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 1 (July 31, 2018): 1–24, <https://doi.org/10.19105/al-lhkam.v13i1.1583>.

³⁴ Suhaimi Suhaimi, Agustri Purwandi, and Akhmad Farid Mawardi Sufyan, "Binsabin Dan Tonggebban as Madurese Local Wisdom: An Anthropology of Islamic Law Analyses," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 16, no. 1 (June 27, 2021): 161–79, <https://doi.org/10.19105/al-lhkam.v16i1.3861>.

Islamic law, Islamic politics for a country to be easily achieved is through strong inner ties, without turning Indonesia into an Islamic country.³⁵

From the above background, where *siyasah syar'iyah* is important to serve as a sustainable policy in Indonesia so that it is necessary to reconstruct the practice of *siyasah syar'iyah* in the past, namely during the Islamic Empire where the practice of *siyasah syar'iyah* has relevance to CWLS Sharia Financing Practices Retail in Indonesia. With the practice of *siyasah syar'iyah*, this can make the Indonesian economy better, especially in terms of sharia financing instruments in Indonesia, so the authors are interested in researching about: 1) how is the reconstruction of Islamic sharia implementation policies during the Islamic Empire in Indonesia from the *siyasah* perspective *syar'iyah* ?; 2) how is the relevance of the policy of implementing Islamic law during the Islamic Empire to the current policy of the Indonesian government in regulating Islamic financing instruments in Cash Waqf Linked Retail Sukuk (CWLS Retail).

The purpose of this study is to analyze the reconstruction of the policy of implementing Islamic law during the Islamic Empire in Indonesia from the perspective of *siyasah syar'iyah* and its relevance to the Indonesian government's policy in regulating Islamic financing instruments in the current Cash Linked Retail Sukuk Waqf (CWLS Retail). While this research method includes analytical descriptive research, with a statutory approach, where data is obtained from various literary sources from books, journals, and the internet, as well as other relevant sources regarding the regulation of Islamic financing instruments in Indonesia. Particularly in the regulation of sharia financing instruments in Indonesia, especially Cash Waqf Linked Retail Sukuk (CWLS Retail) or money waqf investments in state sukuk.

Discussion

Policy Reconstruction of the Implementation of Islamic Shari'a in the Era of Islamic Kingdoms in Indonesia in the Perspective of *Siyasah Syar'iyah*

Islamic law is the divine rules that were mandated to the Prophet Muhammad SAW to be conveyed to mankind, especially to his people, both legal rules in the form of *aqidah* (beliefs) and legal rules relating to an *amaliyah* (deed), the development of Islamic jurisprudence (*shariah*) and important teachings (*aqidah*).³⁶

³⁵ Ahyani, Slamet, and Tobroni, "Building the Values of Rahmatan Lil 'Alamin for Indonesian Economic Development at 4.0 Era from the Perspective of Philosophy and Islamic Economic Law."

³⁶ Izak Y. M. Lattu, "Mutual Transformation in the Early Histories of Christianity and Islam," *QIJS (Qudus International Journal of Islamic Studies)* 7, no. 1 (June 3, 2019): 1–24, <https://doi.org/10.21043/qijis.v7i1.4252>.

The application of Islamic law in Indonesia had actually been applied long before the colonial period.³⁷ However, the application of Islamic law in each region and kingdom varies according to time and place. Furthermore, historically, if you look at the history of the Religious Courts in Indonesia, which have existed since the days of Islamic kingdoms, then during the Dutch and Japanese colonial periods after independence, until finally Law no. 7 of 1989 concerning the Religious Courts which further reaffirms the position of the Religious Courts in Indonesia.³⁸ Besides that, Islamic civil law in Indonesia, where this law is a law that regulates individual rights and obligations among Indonesian citizens who adhere to Islam. Islamic law that is practiced by the community in an almost perfect form includes issues of muamalah, ahwal al-syakhsiyah (marriage, divorce and inheritance), justice and of course in matters of worship.³⁹

Islam entered the archipelago for the first time starting in the 13th century AD as stated by N.H. Chrome and Van Den Berg. Second, Islam entered the archipelago in the 7th century AD / 1st century Hijriah as stated by H. Agus Salim, M. Zainal Arifin Abbas, Hamka, Sayed Alwi bin Tahir Alhadad, A. Hasyimy, and Thomas W. Arnold.⁴⁰ The arrival of Islam in the 7th century AD was supported by the existence of tombs which were the hallmark of Muslims in preserving bodies that had never been known in Hindu-Buddhist teachings.⁴¹ Islamic law was applied to several Islamic kingdoms in Indonesia, including the Kingdom of Samudera Pasai, the Sultanate of Cirebon, the Kingdom of Demak, the Kingdom of Aceh Darussalam, the Kingdom of Banjar South Kalimantan, the Kingdom of Banten, the Kingdom of Makassar-South Sulawesi, and Mataram.

Discussing the legal political policies of Islamic kings regarding the application of Islamic law in Indonesia, cannot be separated from the influence of Islamic law on legal politics in Indonesia. Regarding the politics of Islamic law during the Dutch period, there are two main issues, namely the process of the Dutch entering Indonesia, and the political conditions of Islamic law during the Dutch period. The beginning of Dutch colonization in the archipelago (Indonesia) began with the presence of the Dutch Trade Organization in the

³⁷ Mayani Mayani, "Perkembangan Hukum Islam Di Indonesia Pada Masa Kerajaan Islam Sampai Dengan Masa Reformasi," *Jurnal Publikasi* 1, no. 1 (2019), <https://ejurnal.iainpare.ac.id/index.php/latihan/article/view/1567>.

³⁸ Muhyidin Muhyidin, "Perkembangan Peradilan Agama di Indonesia," *Gema Keadilan* 7, no. 1 (February 13, 2020): 1–19, <https://doi.org/10.14710/gk.7.1.1-19>.

³⁹ Fahmi Ardi, Muhammad Mabur, and Vyan Hendra E. A, "Sejarah Dan Kekuatan Hukum Perdata Islam Di Indonesia," *Law & Justice Review Journal* 1, no. 1 (June 21, 2021): 7–11, <https://doi.org/10.11594/lrj.01.01.02>.

⁴⁰ Samsul Munir Amin, *Sejarah Peradaban Islam* (Jakarta: Amzah, 2009).

⁴¹ Oyo Sunaryo Mukhlas, *Perkembangan Peradilan Islam: Dari Kabin Di Jazirah Arab Ke Peradilan Agama Di Indonesia* (Bogor: Ghalia Indonesia, 2011).

East Indies, or better known as the VOC (Vereenigde Oostindische Companie). As a trading organization, the VOC had an extraordinary role beyond its functions. Legal politics was also adapted to the interests of colonialism, that is, the law was planned to be united, to unite, meaning that the laws applicable in the Netherlands would also be applied in Indonesia.⁴²

Thus, the political legal policies of the previous Islamic kings, especially regarding the application of Islamic law in Indonesia, were dynamic in nature.⁴³ This means that it became a separate dynamic for the application of Islamic law in Indonesia at that time. Then related to Islamic law and its application in Indonesia, there is a relationship between social structure and law in Indonesia which has an important value to discuss.⁴⁴ Furthermore, the politics of Islamic law during the sultanate period which occurred was important for implementing the existence of Islamic law in Indonesia which was often influenced by political conditions and rulers as their policies.⁴⁵ One of the Islamic political laws during the sultanate was in the form of the following policies: 1) making Islam the official religion of the kingdom, 2) appointing several positions in the kingdom that were authorized in the field of religion, 3) establishing several guidelines such as laws based on Islamic law to serve as guidelines in solving a problem, such as the Cirebon Papakeum in the Cirebon Kingdom and the Jugul Muda book in the Cirebon Demak Kingdom.

Today, regarding the transformation and contribution of Islamic law as a source of law in Indonesia, it is also necessary to contribute to the development and perspective of law as a new style of law and not only gain legitimacy from Islam, but also become part of Islamic law itself.⁴⁶ Therefore, Islamic law is not only present in the realm of worship, but has also begun to contribute to the development and perspective of law as a new style of law in Indonesia.⁴⁷

So that the legal political policies of Islamic kings regarding the application of Islamic law in Indonesia, namely entering through customary law where this law lives in society, especially Indonesian people who were formerly Hindus. Apart from that, Islamic law has become a separate style and influences each other with customary law that does exist and lives in society. So it can be

⁴² Sukran Hadi, "Sejarah Panjang Hukum Islam:: Studi Politik Hukum Islam Pada Masa Belanda," *Maqosid: Jurnal Studi Keislaman Dan Hukum Ekonomi Syariah* 9, no. 01 (October 15, 2021): 72–82.

⁴³ Mustafa, "Dinamika Hukum Islam Indonesia Pasca Kolonial."

⁴⁴ Nunung Wirnyaningsih, "Hukum islam dan pelaksanaannya di indonesia," *Jurnal Hukum & Pembangunan* 31, no. 4 (June 19, 2017): 366–82, <https://doi.org/10.21143/jhp.vol31.no4.1295>.

⁴⁵ Syifa' and Nabila Saifin Nuha Nurul Haq, "Politik Hukum Islam Era Kesultanan," *Reflektika* 12, no. 1 (October 26, 2017): 1–19, <https://doi.org/10.28944/reflektika.v13i1.72>.

⁴⁶ Jazuni, *Legislasi Hukum Islam Di Indonesia* (Bandung: Citra Aditya Bakti, 2015).

⁴⁷ Syarif Hidayatullah, "Transformasi Dan Kontribusi Hukum Islam Sebagai Sumber Hukum Di Indonesia," *Jurnal Pro Justice: Kajian Hukum Dan Sosial* 1, no. 2 (March 28, 2020): 1–9.

concluded that the politics of Islamic law during the empire period included the *siyasa syariyyah* policy, namely the creation of an Islamic state regulatory system, establishing several guidebooks such as laws based on Islamic law to serve as guidelines.

Policy Relevance of the Implementation of Islamic Shari'a during the Islamic Empire Period with Indonesian Government Policies in Regulating Sharia Financing Instruments in Cash Waqf Linked Retail Sukuk (CWLS Retail)

The policies and regulations of the Indonesian government in regulating Islamic financing instruments regarding cash waqf retail sukuk (CWLS retail) or cash waqf investments in state sukuk, have political relevance to pre-colonial Islamic law (Islamic empire), namely in the form of policies by the authorities, where the Indonesian government takes policies related to regulation of sharia financing instruments regarding cash waqf retail sukuk (retail CWLS) include:

1. Policies in the form of laws. This policy refers to regulations as Islamic financing instruments regarding cash waqf retail sukuk (CWLS retail) referring to statutory regulations such as: a) Law of the Republic of Indonesia Number 6 of 2021 concerning the State Revenue and Expenditure Budget for Fiscal Year 2022, in which this regulation regulates State Sharia Securities or state sukuk issued based on sharia principles, as proof of participation in SBSN assets, both in rupiah and foreign currency; b) Law Number 21 of 2008 concerning Sharia Banking; c) The Law of the Republic of Indonesia Number 19 of 2008 concerning State Sharia Securities, which regulates the method or structure of financing based on sharia principles, basically follows the Akad used in conducting transactions such as *Ijarah*, *Mudarabah*, *Musyarakah*, *Istishna* Contracts, and others. contracts that are not against sharia principles, as well as a combination of two or more contracts.
2. Policies in Government Regulations. Where this policy as an Islamic financing instrument regarding cash waqf retail sukuk (CWLS retail) refers to Government Regulations such as: a) Minister of Finance Regulation Number 195/PMK.08/2020 concerning State Sharia Securities Auctions in the Domestic Primary Market; and b) Regulation of the Minister of Finance Number 38/PMK.02/2020 concerning Implementation of State Financial Policies in the Context of Handling the 2019 Corona Virus Disease (Covid-19) Pandemic.
3. Policy in the form of an MUI Fatwa (Indonesian Ulema Council Fatwa). Where this is a regulatory reference as a sharia financing instrument regarding cash waqf retail sukuk (CWLS retail) referring to MUI Fatwas such as DSN-MUI Fatwa No: 137/DSN-MUI/IX/2020 concerning Sukuk; and DSN-MUI Fatwa Number: 131/DSN-MUI/X/2019; About: Waqf Sukuk.

4. Other regulations, such as: a) Press Statement of the Ministry of Finance of the Republic of Indonesia regarding Plans to Auction State Sharia Securities or State Sukuk on July 18, 2023, which aims to fulfill part of the financing target in the 2023 State Budget; and b) Retail Waqf Sukuk Series SWR004 for Individual and Institutional Waqf. The issuance of the Retail Waqf Sukuk series SWR004 is a manifestation of the government's commitment to supporting the National Cash Waqf Movement, assisting the development of social investment and the development of productive waqf in Indonesia.

The Government of the Republic of Indonesia with the presence of CWSL can be used as an alternative instrument for sustainable sharia financing in Indonesia. Meanwhile, the implementation of government policies related to CWSL requires pentahelix coordination,⁴⁸ namely the coordination synergy between the Indonesian Waqf Board, the Ministry of Finance, implementers of the national economic recovery program and organizations or institutions managing public funds to manage cash waqf funds. Therefore, the Indonesian government's policies and regulations in the field of sharia financing, especially in making policies and regulations related to the regulation of Islamic financing instruments regarding cash waqf retail sukuk (CWLS retail), are relevant to the current era. In the theory of the circle of equity, Ibn Khaldun wants a relationship between political, social and economic variables to build the welfare of the country. These variables are law, government, society, economy, development and justice. Law and government are political variables that become pillars of power. Society, Development The six variables have a relationship that influences one another.⁴⁹ One of the functions of *Siyasah Syar'iyah*, especially in relation to the circle of justice in running the wheels of the business world, is as a tool to legitimize the government system so that it is able to regulate the wheels of the economy through a fair system.⁵⁰

Cash Waqf Linked Retail Sukuk (CWLS Retail) is a cash waqf investment in state sukuk whose returns are channeled by Nazhir (management of funds and waqf activities) to finance social programs and economic empowerment of the people. The 2019-2024 Indonesian sharia economic master plan can encourage increased national economic growth,⁵¹ one of which

⁴⁸ Elias G. Carayannis, Thorsten D. Barth, and David FJ Campbell, "The Quintuple Helix Innovation Model: Global Warming as a Challenge and Driver for Innovation," *Journal of Innovation and Entrepreneurship* 1, no. 1 (August 8, 2012): 2, <https://doi.org/10.1186/2192-5372-1-2>.

⁴⁹ Khaldûn, *The Muqaddimah*.

⁵⁰ London, "The 'Circle of Justice.'"

⁵¹ Kementerian Perencanaan Pembangunan Nasional, *Masterplan Ekonomi Syariah Indonesia 2019-2024 Hasil Kajian Analisis Ekonomi Syariah Di Indonesia* (Jakarta: Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional, 2018).

is the cash waqf movement and the sharia economic brand.⁵² Another thing that the Indonesian government has done is through the establishment of the Regional Sharia Economic and Financial Committee (KDEKS).⁵³

In addition to developing Islamic economics and finance as a new source of the economy in Indonesia, the Indonesian government, through the 2019-2024 Islamic Economics Masterplan, implements the strengthening of the halal value chain as part of the main strategy in realizing Indonesia, by promoting the Halal Industrial Area.⁵⁴ Another effort is to optimize the role of Islamic finance,⁵⁵ namely a way to regulate assets and transactions based on the principle of justice.⁵⁶ And this is a design of a better risk sharing scheme.⁵⁷

Regarding Sharia Capital Market Regulations in Indonesia, it is also regulated in Sharia Investment Instrument Policies and Regulations (CWLS Retail), including: 1) POJK Number 15/POJK.04/2015 concerning Application of Sharia Principles in the Capital Market; 2) POJK Number 17/POJK.04/2015 concerning Issuance and Requirements for Sharia Securities in the Form of Shares by Issuers or Sharia Public Companies; 3) POJK Number 18/POJK.04/2015 concerning Issuance and Requirements for Sukuk; 4) POJK Number 20/POJK.04/2015 concerning Issuance and Requirements for Sharia Asset Backed Securities; 5) POJK Number 53/POJK.04/2015 concerning Contracts used in the issuance of sharia securities in the Capital Market; 6) POJK Number 30/POJK.04/2016 concerning Sharia Real Estate Investment Funds in the Form of Collective Investment Contracts; 7) POJK Number 61/POJK.04/2016 concerning Application of Sharia Principles in the Capital

⁵² Kompas Cyber Media, "Presiden Jokowi Resmikan Gerakan Nasional Wakaf Uang dan Brand Ekonomi Syariah," KOMPAS.com, January 25, 2021, <https://nasional.kompas.com/read/2021/01/25/12085161/presiden-jokowi-resmikan-gerakan-nasional-wakaf-uang-dan-brand-ekonomi>.

⁵³ Adelina Zuleika and M. Adam Hervanda, "Pembentukan Komite Daerah Ekonomi Dan Keuangan Syariah (KDEKS)," Komite Nasional Ekonomi dan Keuangan Syariah, 2022, <https://kneks.go.id/isuutama/37/pembentukan-komite-daerah-ekonomi-dan-keuangan-syariah-kdeks>.

⁵⁴ Kementerian Perindustrian (Kemenperin) Republik Indonesia, "Kemenperin: Wujudkan Masterplan Ekonomi Syariah, Kemenperin Pacu Kawasan Industri Halal," 2021, <https://kemenperin.go.id/artikel/22818/Wujudkan-Masterplan-Ekonomi-Syariah,-Kemenperin-Pacu-Kawasan-Industri-Halal>.

⁵⁵ Hisam Ahyani, "Principles of Islamic Business Ethics in Optimizing the Potential of Halal Tourism and Prospects for Its Application in Pangandaran Regency" (Islamic Law Dissertation, Bandung, UIN Sunan Gunung Djati, 2023), <https://digilib.uinsgd.ac.id/867807>.

⁵⁶ Haris Maiza Putra, "Dynamics of Halal Certification Regulation Post Enactment of Law Number 11 of 2020 Concerning Job Creation and Its Implications for Micro Enterprises Growth in Indonesia" (Islamic Law Dissertation, Bandung, UIN Sunan Gunung Djati, 2023), <https://digilib.uinsgd.ac.id/72473/>.

⁵⁷ Rahayu Puspasari, "Peran Keuangan Syariah Dalam Pemulihan Ekonomi Nasional Indonesia," 2021, <https://www.kemenkeu.go.id/publikasi/siaran-pers/siaran-pers-peran-keuangan-syariah-dalam-pemulihan-ekonomi-nasional-indonesia/>.

Market for Investment Managers; 8) POJK Number 35/POJK.04/2017 concerning Criteria and Issuance of List of Sharia Securities; 9) POJK Number 3/POJK.04/2018 concerning Amendments to Financial Services Authority Regulation Number 18/POJK.04/2015 concerning Issuance of Sukuk and Requirements; 10) POJK Number 33/POJK.04/2019 Concerning Issuance and Requirements for Sharia Mutual Funds; and 11) POJK Number 5/POJK.04/2021 concerning Capital Market Sharia Experts.

The characteristics of Retail CWLS include: 1) intended for individual and institutional investors/waifs; 2) In accordance with Sharia Principles; 3) Minimum Order IDR 1 Million Maximum orders are not limited; 4) 2 year term, 100% temporary waqf is returned to investors/wakif Permanent waqf funds will be managed by Nazhir; 5) Fixed compensation, distributed for social programs/activities by the appointed Nazhir; and 6) Cannot be traded in the secondary market.⁵⁸ The purpose of Issuing CWLS Retail is to make it easier for the public to carry out safe and productive cash waqf, but also to develop innovation in finance and social investment in Indonesia. Indonesia. In addition, another goal is to encourage inclusive and sustainable economic growth. Furthermore, the purpose of issuing this retail CWSL is to strengthen the cash waqf ecosystem in Indonesia. In addition, CWSL retail aims to support the National Cash Waqf Movement, assist the development of social investment, and the development of productive waqf in Indonesia.

As for the Utilization of Retail CWLS carried out by investors/wakif, investors can choose to channel the results of Retail CWLS investments, among others for: 1) Social programs and 2) Community economic empowerment, where the social programs include: Education, including scholarships for the poor, compensation for honorary teachers, construction of the Health Khotijah Learning Center, including medical equipment for underprivileged hospitals, ambulances, 1,000 hearing aids, clinics for Poor Islamic Boarding Schools, among others, providing cheap houses for the poor to worship, including mosques. In terms of community economic empowerment: Provision of quality rice seeds for poor farmers. Provision of cattle breeds for poor breeders. MSME Assistance. The use of Retail CWLS in Indonesia is managed based on sharia, meaning that Retail CWLS is managed based on sharia principles, does not contain elements of usury, gharar (uncertainty), and maysir (gambling), and has obtained a statement of sharia approval from the National Sharia Council, namely the Indonesian Ulema Council (Number B -285/DSN-MUI/IV/2021 dated 7 April 2021).

From the explanation above, that innovation in the management of cash waqf is a form of biocratization of Islamic economic law which has recently

⁵⁸ Kementerian Keuangan RI, "Draft SW002," 2020, 002, <https://www.kemenkeu.go.id/single-page/draft-sw002/>.

received serious attention from the government. The government and the Indonesian Ulema Council (MUI) work together to create legal products in the form of laws and regulations and fatwas that legalize cash waqf, sukuk and CWLS. The CWLS platform is a placement of cash waqf funds in State Sharia Securities (SBSN) to support social facility development programs.⁵⁹ Moreover, CWLS really helps the community as a form of financial recovery during the COVID-19 pandemic so that CWLS has a significant impact on welfare.⁶⁰ With the implementation of CWLS which is an effort to maintain the existence of the Islamic Economic Brand and Cash Waqf in Indonesia,⁶¹ then this is included in the category of embodiment of Islamic values rahmatan lil-alamin in sharia economics.⁶² Where in the Islamic concept of rahmatan lil alamin this is the general aim of Islam which refers to Maqasid.⁶³ Where all Islamic teachings lead to Maslahat, compassion and peace in the world, creatures and all humans.⁶⁴

From the discussion above, the authors conclude that the Policy on the Implementation of Islamic *Shari'a* during the Islamic Empire Period and the Indonesian Government's Policy have relevance to the current era, namely the Indonesian government has a policy regarding the regulation of the implementation of Sharia Financing Instruments in Cash Waqf Linked Retail Sukuk (CWLS Retail), so that the policy entering the political realm of Islamic law such as the issuance of laws, government regulations, MUI Fatwas, and other regulations. However, implementing this policy requires 6 variables of Islamic politics (*siyasah syar'iyah*) in the opinion of Ibn Khaldun, namely mutual synergy between law, government, society, economy, development and justice.

⁵⁹ Sukma Indra and Muhammad Lutfi Hakim, "Pemberdayagunaan Imbal Hasil Wakaf Uang Melalui Sukuk: Regulasi, Implementasi, Dan Modelnya Untuk Pemberdayagunaan Usaha Mikro, Kecil, Dan Menengah Di Indonesia," *Socio Informa: Kajian Permasalahan Sosial dan Usaha Kesejahteraan Sosial* 6, no. 3 (December 22, 2020): 264–79, <https://doi.org/10.33007/inf.v6i3.2459>.

⁶⁰ Amirah and Zabaarij Al Fu'adah, "Pengaruh Program Cash Wakaf Link Sukuk (CWLS) Di Badan Wakaf Indonesia Terhadap Kesejahteraan Masyarakat," *Al-Mizan: Jurnal Hukum Dan Ekonomi Islam* 5, no. 2 (December 3, 2021): 62–83, <https://doi.org/10.33511/almizan.v5n2.62-83>

⁶¹ Hisam Ahyani et al., "Implementasi Rahmatan Lil-Alamin Dalam Ekonomi Islam (Analisis Alokasi Dan Distribusi Pendapatan Negara Tentang Eksistensi (Brand Ekonomi Syariah Dan Wakaf Tunai) Di Indonesia)," *Jurnal BAABU AL-ILMI: Ekonomi Dan Perbankan Syariah* 7, no. 1 (April 30, 2022): 28–46, <https://doi.org/10.29300/ba.v7i1.6238>.

⁶² Ahyani, Slamet, and Tobroni, "Building the Values of Rahmatan Lil 'Alamin for Indonesian Economic Development at 4.0 Era from the Perspective of Philosophy and Islamic Economic Law."

⁶³ Desip Trinanda et al., "Maṣlahah and Justice in the Formulation of the Law: A Critic on the Formulation of Job Creation Law," *JURIS (Jurnal Ilmiah Syariah)* 21, no. 1 (June 9, 2022): 53–66, <https://doi.org/10.31958/juris.v21i1.4718>.

⁶⁴ Muhammad Khairan Arif, "Islam Rahmatan Lil Alamin from Social and Cultural Perspective," *Al-Risalah: Jurnal Studi Agama Dan Pemikiran Islam* 12, no. 2 (June 11, 2021): 169–86, <https://doi.org/10.34005/alrisalah.v12i2.1376>.

The Policy on the Implementation of Islamic Shari'a during the Islamic Empire Period with the Indonesian Government's Policy included the *Siyasah Syar'iyah* Practice which in terms of CWLS Retail regulatory policies in Indonesia, which were equally carried out by the authorities through various regulations such as: Laws, Ministerial Regulations, Fatwas MUI (Fatwa of the Indonesian Ulama Council), and Other Regulations.

This is in line with Zawawi's opinion,⁶⁵ in his research that the Sustainable Waqf Law can have a positive impact on socio-economic development, as well as a sustainable environment. In the opinion of the author, it can be concluded that waqf is related as an alternative investment for cash waqf in Indonesia, where the government of the Republic of Indonesia, with the presence of CWSL, can be used as an alternative sustainable Islamic financial instrument in Indonesia, which in implementing government policies requires coordination between the Indonesian Waqf Board, the Ministry Finance, implementers of the national economic recovery program and organizations or institutions that manage people's funds to manage cash waqf funds. Therefore, the policies and regulations of the Indonesian government in sharia investment, especially in making policies and regulations regarding the management of waqf funds and activities, are relevant to the current era.

Conclusion

From the results and discussion above, regarding the reconstruction of the practice of *siyasa syar'iyah* during the Islamic empire era, its relevance to the practice of CWLS Retail sharia financing in Indonesia, it can be concluded that first, the application of political Islamic law during the Islamic kingdom era in Indonesia was carried out through the politics of royal power. And these policies include the *siyasa syariyyah* policy, namely the creation of an Islamic state regulatory system, this is evident that the previous Islamic kings made Islam the official religion of the kingdom, appointed several positions in the kingdom that were given authority in the field of religion, established several guidebooks such as laws Laws based on Islamic law to serve as guidelines.

Second, the political application of Islamic law has relevance to current Indonesian government policies, namely in regulating Islamic financing instruments for Cash Linked Retail Sukuk Waqf (CWLS Retail), where the Government goes through various policies such as through laws, government regulations, MUI fatwas, and other regulations. However, implementing this policy requires 6 variables of Islamic politics (*siyasa syar'iyah*) in the opinion

⁶⁵ Zawawi et al., "Waqf and Sustainable Development Law: Models of Waqf Institutions in the Kingdom of Saudi Arabia and Indonesia," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (July 10, 2023): 93–114, <https://doi.org/10.18326/ijtihad.v23i1.93-114>.

of Ibn Khaldun, namely mutual synergy between law, government, society, economy, development and justice.

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