

Legal Politics For The Establishment Of Yogyakarta Regional Regulation Number 2 Year 2017 Regarding No-Smoking Area Siyāsah Dusturiyyah Perspective

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DOI: 10.31332/ijtk.v2i1.13

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Article Info

Abstrak

Keywords:
Legal Politics;
Siyāsah Dusturiyyah;

This research is normative legal research with a statutory approach which aims to analyze and describe the legal politics of the formation of the Yogyakarta City Regional Regulation Number 2 of 2017 concerning the Siyāsah dusturiyyah perspective on smoke-free areas. The type of data used in this study is material law consisting of primary, secondary, and tertiary legal materials. The data analysis method used is descriptive-analytic, and data collection uses library research. This study shows that first, the establishment of the Yogyakarta City Regional Regulation Number 2 of 2017 concerning Non-Smoking Areas is coloured by the democratic political configuration by the pros and cons of the Yogyakarta City government. Second, the Yogyakarta City Regional Regulation Number 2 of 2017 concerning Non-Smoking Areas substantially follows the principle of siyāsah dusturiyyah, reflecting the value of justice and legal certainty.

1. INTRODUCTION

Indonesia is a country based on law. This concept contains the idea that the law is the leader of control in state affairs. The logical consequence is that all processes related to government administration must be completed through appropriate legal channels. On the other hand, the option of the Indonesian state to become a unitary state is the right decision. This is enshrined in Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which reads, "The State of Indonesia is a Unitary State in the form of a Republic" (Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia). This decision is not only the political will of the nation's founding fathers but is based on a commitment to unity and proportional justice for all Indonesian people. In a unitary state, the responsibility for carrying out government duties is still in the hands of the central government. However, the Indonesian government system, one of which adheres to a decentralized unitary state principle, causes specific tasks to be managed by themselves, giving rise to a reciprocal relationship between authority and supervision (Ni'matul Huda, 2005). As a unitary state, regions are given the task and authority to regulate and develop their regions based on the values and culture that develop in a society that does not conflict with laws and regulations to develop national development in various sectors. One of the powers possessed by local governments is to make local regulations.

As one of the regions in the Republic of Indonesia, the city of Yogyakarta also has the power to form regulations. Regulations which in essence and concept aim to protect the human rights of its citizens in health, education, economy, social, culture, etc. One of the regional regulations made by the Yogyakarta City Government is the Yogyakarta City Regional Regulation Number 2 of 2017 concerning Non-Smoking Areas. This regulation embodies and supports the mandate of Law Number 39 of 2012 concerning health that respects humans to obtain health from a good and healthy environment.

Historically, the establishment of a No Smoking Area Regional Regulation was not easy and fast. This is due to the reasonably challenging political configuration of the Yogyakarta City government due to differences in political reasons and views. The difference is also found in the community that supports and rejects the draft regional regulation. This long debate from the Yogyakarta City government is a choice and a legal, political strategy. First, considering that the number of smokers in the Special Region of Yogyakarta is relatively high. Based on Basic Health research by the Ministry of Health in 2013 quoted by *sindonews* that the Province of the Special Region of Yogyakarta (DIY) is in the top 15 of the highest smoking rates in Indonesia, which is 31.6%, and the City of Yogyakarta is the second-highest in the province, which is 26. 2% (<https://region.sindonews.com> accessed on June 1, 2021). This data shows that the potential for damage to the air environment and public health is relatively high due to exposure to cigarette smoke, so that legal protection is a must.

However, the government still has to support and protect cigarette businesses and producers to keep the general public's economy moving. This is due to the extensive absorption of labour by tobacco companies which can help reduce unemployment and increase people's welfare—quoted from *Tempo.CO*, it is stated that the *kretek* cigarette industry in Yogyakarta accommodates thousands of workers from the poor and with low education. The majority of them are employed as cigarette millers, so they do not need higher education (*Tempo.com* accessed on June 1, 2021).

The things above make the formation of the Yogyakarta City Regional Regulation concerning Non-Smoking Areas problematic so that it takes a very long time, which is less than eight years, for its stipulation. This problem is caused by the political configuration built by each stakeholder element. The political configuration results from legal politics played by the Yogyakarta City government, both the Mayor and the DPRD. Based on the information above, it is clear that legal politics plays the most vital role in forming the Yogyakarta City Regional Regulation regarding a smoke-free area. Therefore, this study will discuss the legal politics of the formation of the Yogyakarta City Regional Regulation Number 2 of 2017 concerning the *Siyāsah dusturiyyah* perspective on non-smoking areas.

Politics in the KBBI means knowledge of the state administration or state (such as the government system, the basis of government), all affairs and actions (policies, tactics, etc.) regarding state government or against other countries (<https://kbbi.web.id> accessed on June 1, 2021). Andrew Heywood in Miriam Budiarjo explains that politics is an activity of a nation that aims to make, maintain, and amend the general rules that govern its life which means that it cannot be separated from the symptoms of conflict and cooperation (Miriam Budiarjo, 2007). So, politics is a strategy carried out by the state government in determining the direction of policy or establishing regulation for the common good.

Then, the word law in the KBBI means regulations or customs that are officially considered binding, which the authorities or the government confirms; laws, regulations, and

so on to regulate the social life of the community; standards (rules, provisions) regarding certain events (nature and so on); decisions (considerations) determined by the judge (in court) (<https://kbbi.web.id> accessed on June 1, 2021). Amin in Kansil explains that law is a collection of regulations consisting of norms and sanctions called law and the purpose of the law is to maintain order in human interaction so that security and order are maintained (Kansil, 1992). Law is a regulatory and binding device used by the state to protect citizens.

When combined, legal politics is a direction or strategy in the formation of regulations. Bagir Manan in Martin explains that the legal politics of a country consists of permanent legal politics in the form of legal attitudes that will always be the basis for policy formation and law enforcement, and temporary legal politics, namely policies that are determined from time to time in accordance with needs and developments (Martin Hutabarat). 1996).

Legal politics is an activity to determine the direction of policies that will be formed and chilled for the benefit of the community. Therefore, several things need to be put forward to understand the activity. Some basic questions that arise in the study of legal politics, namely: (1) what goals are to be achieved with the existing legal system; (2) what methods and which are considered the best to be used to achieve these goals; (3) when the law needs to be changed and in what ways it should be done; and (4) can provide a standard and established pattern be formulated, which can help decide the process of selecting goals and ways to achieve these goals properly (Satjipto Raharjo, 1991). Based on the explanation above, the primary material that needs to be understood regarding legal politics is the target to be achieved, the method of achievement, implementation time, and the formation strategy used in determining a policy.

Then, *siyāsah* is defined as decision-making, government, policy-making, supervision, management, or engineering. Furthermore, *siyāsah* is sometimes interpreted as leading something that brings benefit and keeps it away from harm. In contrast, the term *siyāsah* is the science of government to control domestic and foreign tasks, namely domestic and foreign politics and society, namely regulating life-based on *istiqomah*. And justice.

Siyāsah or can also be interpreted as the politics of Islamic law, is a discussion that regulates general affairs in government based on Islamic values. These arrangements by creating benefits and resist or prevent harm. Then, what is meant by the business general in a government that breathes Islam is everything the demands of the times, the system and social life, whether in the form of law, legislation, finance, judiciary and executive institutions, as well as matters of law on foreign and domestic relations or to regulate all these affairs, their fundamental theories and principles and make appropriate regulations. with a legal basis, is the political law of Islam Abdul Wahhab Khalaf, 1994).

Furthermore, according to the term, *dustur* means a collection of rules that regulate the basis and cooperative relations between members of the community in a country, both unwritten (conventions) and written (constitutions) (Jubair Situmorang, 2012). Abu A'la al-Maududi defines the word *dustur* as A document that contains the basic principles that form the basis for the regulation of a country so that from these two terms, it can be concluded that the word *dustur* is the same as a constitution in English or the Basic Law in English. In Indonesia, the words "basic" in Indonesian are not impossible if they come from the word *dustur* mentioned above (Muhammad Iqbal, 2007).

Therefore, the *dusturiyyah siyāsah* is part of the *siyāsah fiqh*, which discusses state legislation issues so that it is in line with the values of sharia. That is, the law refers to the constitution, which reflected in the principles of Islam in the Shari'a laws mentioned in the

Qur'an, and the *dusturiyyah siyāsah* also discusses regulations and legislation aimed at the benefit of humans and fulfilment of human needs. The *siyasa dusturiyyah* issue cannot be separated from the arguments of *kully*, namely the Koran, *hadith*, *maqā alid al-syari'ah* and the spirit of Islam in regulating society (Djazuli, 2007).

2. METHODS

Soerjono Soekanto explained that, in terms of its objectives, legal research could be divided into two, namely normative legal research and empirical legal research (Soerjono Soekanto, 2005). This research includes normative legal research specific to the politics of the formation of laws and regulations. The approach used in this research is the statutory approach. A statutory approach is an approach using legislation and regulations (Peter Mahmud Marzuki, 2005). This approach is trying to study and analyze the legislation to solve the legal, political problem of the formation of a regulation. The data collection technique uses a literature study to collect primary, secondary, and tertiary legal materials. Data analysis is carried out through data reduction, data display, and data verification to obtain valid data.

3. RESULT AND DISCUSSION

a. Legal Politics Discussion of Yogyakarta City Regulations Number 2 of 2017 concerning Non-Smoking Area

The establishment of the Yogyakarta City regional regulation number 2 of 2017 concerning a smoking-free area has experienced political upheaval and tug-of-war. Historically, the time needed to discuss and enact the *perda* was about eight years. On the one hand, the government must protect the community's health, and on the other hand, the government must provide legal certainty and justice for the community.

Historically, the discussion of this regional regulation was supported by several factions in the Yogyakarta City DPRD, namely the PAN, Gerindra, Golkar, PKS, PPP, and PDIP factions. Nevertheless, on the other hand, support for tobacco activists is echoed by members of the Yogyakarta City DPRD, so that the debate is quite challenging and comprehensive. The formation of this regional regulation at least gave birth to two camps or fronts, namely the pro and contra groups against the formation of this smoke-free regional regulation.

The Pro group is a well-known tobacco control activist with the Jogja Healthy Forum Without Tobacco (JSTT). This organization helps DPRD in data collection for the preparation of the Raperda academic paper Non-Smoking Area. This group aims to support every citizen Yogyakarta city community to get a healthy environment and avoid exposure to cigarette smoke, which can harm health. Support for a healthy environment is based on the mandate of the law Health and Government Regulations on Tobacco Control that the government is obliged to establish a No Smoking Area.

Then, the Contra group is a group that rejects the Raperda explicitly that the regulation can cause economic losses. These groups are tobacco farmers, the cigarette industry, and cigarette traders. On the economic side, Tempo.CO said that the *kretek* cigarette industry in Yogyakarta could accommodate thousands of workers from several imperfect and low-educated circles. The majority are employed as cigarette millers, so they do not need higher education (Tempo.CO accessed on June 1, 2021).

The rejection of the Raperda on the No-Smoking Area is also because by not involving the participation of the people of Yogyakarta. They have the interests of farmers and the cigarette industry, particularly when drafting Raperda so that the government cannot hear the aspirations and wishes of tobacco activists. In addition, the local government is considered not to have an inconsistent attitude because, on the one hand, it receives cigarette taxes and, on the other hand, issues regulations regarding Smoke-Free Zones. The cigarette tax received by the Yogyakarta City Government annually can reach around Rp. 20 billion, consisting of tobacco excise tax of Rp. 1.7 billion and cigarette tax profit sharing of Rp. 18.3 billion (Tempo.CO accessed on June 1, 2021 (Jogja.antaranews.com accessed on June 1, 2021).

Support for the rejection of the Raperda on Non-Smoking Areas was also given by the PDIP faction of the Yogyakarta City DPRD. Danang Rudiatmoko, as Chair of the PDIP Faction of the Yogyakarta City DPRD, as quoted by Antaranews.com, explained that this smoke-free regulation demands and requires the commitment and responsibility of the government to dare to reject the cigarette tax which has been accepted so far (Jogja.antaranews.com accessed on June 1 2021).

The Pros and Cons of this Raperda then rolled over and experienced turbulence at the hands of policymakers. On one side government should try to protect public health, and on the one hand, the government must protect the wheels of the economy of tobacco activists who will benefit from the enactment of the regulation.

This political configuration continued from 2012 to 2017. This political configuration then colours the formation of regulations non-smoking areas from the absence of agreement in the body government; there is no synchronization of regulations, differences in the determination of names regulations, and the many pressures of aspirations from various elements of society. This causes the discussion of the Raperda to take years ever. In addition, social and cultural conditions and proximity and domination power affect the direction of policy in setting a regulation as stated by Satjipto Rahardjo, explaining that the law is the instrumentation of political decisions or desires so that The formation of laws and regulations is filled with various interests. Therefore the making of laws became a battlefield, and the conflicting interests of various law-making bodies reflect a configuration of power and interests contained in public.

The end of the political upheaval within the Yogyakarta City government finally answered in 2017. In March 2017, finally, Mayor The City of Yogyakarta stipulated the Regional Regulation of the City of Yogyakarta Number 2 Year 2017 concerning Non-Smoking Areas, which regulates how people obey the rules about where places are not allowed to engage in smoking-related activities. However, still give equal rights to smoking activities by providing a place specifically to sell, advertise, and consume cigarettes. Based on the explanation above, the political configuration that occurs in establishing the Yogyakarta City Regional Regulation Number 2 of 2017 concerning The No Smoking Area is a democratic political configuration.

Democratic political configuration is a profound political configuration the formation of law using deliberation methods and absorbs every aspiration of the community as a consideration in determining a Policy. First, the Regional Regulation Number Yogyakarta City Number 2 of 2017 About the Non-Smoking Area is the result of an agreement or the result of long and tough deliberation from the government of the City of Yogyakarta to produce legal products that can provide certainty, equality, and legal justice for every element of the people

of Yogyakarta City. Second, the existence of the Pros and Cons parties in the formation of Regional Regulations The cigarette is an illustration that people are given the right to express their aspirations and desires without having to be afraid and cautious against pressure from other parties. Both of these are concepts, the main principle of deliberation in democracy.

b. Siyāsah Dusturiyyah's Perspective on the Regional Regulation of the City of Yogyakarta Number 2 of 2017 concerning Non-Smoking Areas

Islam as a perfect religion holds enormous attention in the protection of human dignity. The protection is an effort to maintain human physical and spiritual health perfect. It aims to create peace, happiness, and prosperity for mankind so that life can run well based on the values of the Qur'an and As-Sunnah. In the Frame of the Country, the unity of the Republic of Indonesia, Islamic concepts and values can be included in the development of the national legal system. Of course, this action is to make Indonesia a safe and prosperous country for everyone. In addition, the protection of the community's fundamental rights can be pursued in a statutory regulation so that every society gets justice and legal certainty. For this reason, the formation of law based on Islamic values must be maximized. As explained by Prof. Kamsi that:

"efforts to fight for Islamic law become a positive one is part of the Indonesianization of Islamic law. In other words, Indonesianization of Islamic law is the legislation or positivization of Islamic law through legal instruments as the Indonesian legal system that can be the embryo of inclusivism and tolerance coupled with pluralism. Relation with the contribution of Islamic law to the development of national law should be formulated the concept of paradigm similarity in the effort of Indonesianization of Islamic law into Islamic law according to Indonesian law" (Kamsi, 2018).

That Islamic law can be entered as a product of national law must be through legislation and procedures that have been determined by the state so that it can have legal force for the implementation of national life and state. Then, Prof. Kamsi explains further that the implementation of Islamic law must take into account national norms and guidelines,

"First, the law in Indonesia must guarantee the integration or unity of the nation. Therefore, there should be no discriminatory law based on primordial ties. National law must maintain the integrity of the nation and state both territorially and ideologically. Second, the law must be created democratically and nomocratically based on the wisdom of wisdom. The making must absorb and involve the people's aspirations and be done in ways that are legally or procedurally fair. And not enough with democratization but must be adapted to the underlying philosophy. Third, the law must encourage the creation of social justice, which, among other things, is characterized by the existence of special protection by the state against vulnerable groups of society so as not to be allowed to compete freely but never balanced with a small group of vital parts of society. Fourth, there can be no public law (binding on communities with various primordial ties) based on certain religious" (Kamsi, 2018).

That the formation of law must always guarantee the nation's integrity and the state to provide certainty to all people without favour one group of people. With the above principles,

Indonesianization of Islamic law, namely legislation through legal instruments in Indonesian governance law so that the relationship between laws is no longer dyadic, namely between fiqh and adat (Indonesia) but must also be triadic presenting the "third world" namely Indonesian positive law. Law positive Indonesia can give birth to inclusiveness and tolerance that can be a model or pattern of legislation; namely, first, unification means law for all groups as a measure of legal uniformity or unification of law to be applied to all nations and regions the unitary state of the Republic of Indonesia. Secondly, differentiation means each group have their laws, and thirdly, differentiation in unification means that there is a law or its organic regulation (Kamsi, 2018).

The establishment of Yogyakarta City Regional Regulation Number 2 of 2017 About the Non-Smoking Area is the central part of the *siyāsah dusturiyyah*, which talks about regulating regulations to provide legal certainty and justice for the community, especially the city of Yogyakarta. The Yogyakarta City Regulation on Non-Smoking Areas aims to: protect the public from exposure to cigarette smoke which can cause disease, death, and decreased quality of life. *Siyāsah dusturiyyah* is limited to discussing only the arrangements and laws required by matters of statehood in terms of conformity with religious principles and are the realization of human benefit and fulfil their needs (Djazuli, 2007).

In the study of the *dusturiyyah siyāsah*, the formation of the Regional Regulation on KTR can be seen in a substantial aspect. Substantially, the formation of the Regional Regulation on KTR must pay attention to the philosophical aspect. Formation of City Regional Regulations Yogyakarta Number 12 of 2017 has a reason and consideration based on the law must reflect the ideals of the law and a view of life-related to the atmosphere of mysticism and outlook on life society based on Pancasila and the Constitution of the Republic of Indonesia Indonesia in 1945. The establishment of Regional Regulations on Areas Without Smoking is to protect society.

In the health sector, the establishment of this regional regulation aims to: protect the residents of the city of Yogyakarta from the dangers of exposure to toxic substances contained in cigarette smoke. In Yogyakarta, the understanding of the rights of individuals to breathe clean air that is free of cigarette smoke is still not evenly distributed in society. The right of people to enjoy healthy air is their right constitutional, in the sense that these rights are placed in the highest regulations in Indonesia. Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia stated that: "Everyone has the right to live in physical and spiritual prosperity, live, and get a good and healthy living environment and have the right obtain health services". The fulfilment of these rights is a must, in the sense that the government should maximize efforts fulfilment of these rights (Academic Manuscript of Ranperda of Non-Smoking Areas in Yogyakarta City).

One of the protections in the health sector is contained in Article 3 letter (a). Yogyakarta City Regulation No. 2 of 2017 concerning Non-Smoking Areas that smoke-free zones aim to "protect individual health, families, communities and the environment from the dangers of materials containing carcinogens and addictive substances in cigarette products that can cause disease, death, and reduce the quality of life" (Article 3 letter (a) Yogyakarta City Regulation Number 2 of 2017 concerning Non-Smoking Areas).

This regulation shows that the government is trying to provide comfortable and healthy conditions for people in every area of Yogyakarta City. Therefore, the main focus of this regulation is how to try to create a situation that can benefit the community and minimize the

harm that comes from cigarette smoke. First, this regulation maintains and protects public health from exposure to cigarette smoke, which is harmful to the body.

Whereas the need for excellent health is the principal capital in carrying out worship activities to the fullest. Islam commands to glorify and protect it and forbids persecution of it in any form (Asfari Jaya Bakti, 1997). Through the application of the Yogyakarta City Regional Regulation Number 2 of 2017 concerning Non-Smoking Areas, it can prevent harm to self and others that can cause death from the threat of cigarette smoke. The Regional Regulation on Non-Smoking Areas is a health standard that needs to be carried out by all the government and the community to achieve the desired goals. This is in accordance with the opinion of Faturahman that the protection of the soul/body is realized through efforts to maintain a healthy standard of living physically and spiritually as well as avoiding all factors that can harm and damage humans physically and psychologically, including avoiding acts that result in suicide even if slowly. Moreover, the Act of dropping oneself into destruction is prohibited in the Qur'an (Faturrahman Djamil, 1995).

Then, on the other hand, the formation of regional regulations must also pay attention to rights and legal equality for other people. The Existence of Rules This no-smoking area is not only seen in the eyes of health only, but more than that, this is a stage of learning for the state to create conditions of justice and legal certainty that proportionally for citizens in all areas of life. Soerjono Soekanto said that the law must contain elements of justice, certainty, and expediency (Soerjono Soekanto, 2007).

For example, in the socio-economic field, the Regional Regulation on KTR of Yogyakarta City accommodates tobacco activists' aspirations both from smokers, tobacco farmers, the tobacco industry, and the cigarette hawker trade. The material of the Regional Regulation that is formed is that it must not injure and reduce the values of equality and justice law for tobacco activists. For example, it is stated in Article 12 paragraph (2) that "The manager or person in charge of KTR at the workplace and general as referred to in Article 4 letter f and letter g are obligatory to provide a designated smoking area. This article explains that giving access to non-smoking areas is not only for non-smokers, but the government is also obliged to provide a place that smokers can use to carry out smoking activities. In addition, economic activities such as selling cigarettes can still be carried out by hawkers in several strategic places, and these activities are protected legally in the Act. As stated in Article 22 paragraph (2) that "The prohibition of selling cigarettes as referred to in paragraph (1) excluded from the sale of cigarettes in markets, passenger terminals, stations trains, tourist attractions, work canteens and hotels". It is related that This regional regulation provides space for the public, especially tobacco activists, to can still carry out their economic activities in public centres so that society, in general, gets equality and legal justice from the implementation of the regulation.

This is a form of government appreciation for the right of entrepreneurs to continue to be able to promote their cigarette products to the public in the places that have been carried out. The presence of this regional regulation can provide an increase in work productivity for tobacco activists because the government has provided space and place in carrying out activities related to tobacco in terms of activities, production, consumption, and distribution so that the economy continues to run so that people can live worthy and prosperous. Of course, this is part of upholding the values of equality before the law in society.

This is in accordance with the *siyāsah dusturiyyah* conception that all obligations must protect the rights of every individual under the law. As a country and the people in that

country must also protect their rights individually (Syaukat Husain, 1996). In the discussion of individual rights, there are Islamic concepts and principles in the formulation of the actual state (fiqh siyāsah dusturiyyah), which prioritizes guarantees of human rights and equality before the law without discrimination (Taufik Abdullah, 2002).

These rights are given to the community so that the community gets legal justice in applying these regulations. The principle of justice is one of the foundations in the formation of state law. As stated in the Qur'an (An-Nisa: 58) as follows:

﴿إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ ۗ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا﴾
٥٨

Translation: Verily, Allah commands you to convey the message to those who are entitled to receive it and (orders you) when determining the law between people so that you judge with justice. Verily, Allah has taught you the best. Verily Allah is All-Hearing, All-Seeing.

This verse guides the regulatory authorities legislation that consistently upholds the values of justice in the formation and establishment of law for the benefit of mankind. Legal justice is a fundamental right for every citizen who needs to protect. If these values are violated, it can be ascertained that the rights and humanity's identity will be reduced because these true values must be a political, economic and religious foothold so that the views of politics, economics and religion are not at odds with issues humanity, such as freedom of religion, opinion and expression, reproduction, right to life, right to property ownership and others (Nurcholis Madjid, 2004).

Therefore, the spirit of the City Regional Regulation Yogyakarta Number 2 of 2017 Regarding the Non-Smoking Area is the spirit of equality of rights and obligations for every community so that life can go well. The principle of equality is contained in (Surat al-Hujurat: 13) as follows:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ ١٣

Translation: O mankind, indeed We created you from a male and a female and made you into nations and tribes so that you may know one another. Verily, the most honourable of you in the sight of Allah is the one who is most pious among you. Verily Allah is All-knowing, All-Knowing.

The verse above explains that every human soul has the same potential and rights in life regardless of background social. For example, in the field of law, everyone will be given the right and the same obligations as other people in carrying out the law without seeing their social status or see the person for or against in the formation of these regulations.

The establishment of the Yogyakarta City Regulation Number 2 of 2017 concerning The No Smoking Area reflects regulations that provide equal rights and obligations for the community without distinguishing their social interests, both those who support and reject the regulation or the non-smoker community and cigarette activists. As explained by Abdul Wahhab Khalaf in Moh. Iqbal that the principles laid down by Islam in the formulation of the constitution guarantee the human rights of every member of society and the equality of all people before the law, without differentiating social stratification, wealth, education, and religion (Muhammad Iqbal, 2016). In line with this, Taufik Abdullah explained that there are Islamic concepts and principles in the formulation of the primary state (fiqh Siyāsah dusturiyyah), which prioritizes guarantees in the discussion of individual rights of human rights and equality before the law without discrimination (Taufik Abdullah, 2002).

Based on the above information, substantially the form of Yogyakarta City Regional Regulation Number 12 of 2017 is in accordance with the principles of siyasah dusturiyyah

that promote the values of Islamic teachings and fundamental human rights such as certainty, equality, and legal justice by maintaining the health values, social values, and economic values of the community so that life can run well and conducive. This Regional Regulation is not to eliminate the community's fundamental rights but make arrangements so that each interested element gets fair treatment in law and government.

4. CONCLUSION

Legal politics that occurred in the formation of City Regional Regulations Yogyakarta Number 2 of 2017 concerning Non-Smoking Areas leads to a political configuration that is democratic, namely a configuration by prioritizing the values of deliberation and exchange of opinions in the discussion so that it is following the principle of *siyasa dusturiyyah* which prioritize deliberation in the formation of legislation. Yogyakarta City Regional Regulation Number 2 of 2017 concerning Non-Smoking Areas is substantially in accordance with the concept of *siyāsah dusturiyyah*, which emphasizes the values of Islamic teachings and fundamental human rights such as certainty, equality, and legal justice. Local regulation It seeks to maintain and protect the mental health of the community and regulate the socio-economic life of the community so that life can run well and conducive.

5. ACKNOWLEDGMENTS

The Yogyakarta Regional Government should always pay attention to the aspirations of the people, comprehensively informing regional regulations to run quickly to produce a regulation that can provide legal certainty and justice for the entire community to support creating an excellent legal system. Then, the Central Government and Regional Governments should be more aggressive in establishing laws and regulations with Islamic values to maintain and protect the community.

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