Implementation of Regional Sukuk (Islamic bonds) as a solution for Regional economic development in Indonesia

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Abstract
This research is a juridical and empirical study about the implementation of Regional Sukuk (Islamic bonds) in Indonesia. Sukuk constitute the Islamic bonds that are issued as proof of ownership of assets or infrastructure projects both in rupiah and foreign currency based on sharia principles. Sukuk represents one of the strategic sources of state infrastructure financing in addition to state bonds (SUN). The impact of the strengthening of regional autonomy in Indonesia has triggered regional demands that sukuk not only be issued by central government authorities but also by provincial governments. Regulatory, the implementation of regional sukuk has not been supported by the legal basis of the law governing the mechanism and regulation of regional Sukuk. However, as a form of commitment to regional autonomy and equitable development, the Government through the Financial Services Authority (OJK) has established a Regulation on the Issuance of Regional Sukuk in 2017. This study discusses the regulatory aspects of regional sukuk, sharia principle in the operation sukuk, mechanism for issuing sukuk regions, the stakeholders, and the benefits of implementing regional sukuk. The Regional Sukuk Law regulation represents highly necessitate by the regional governments and communities. Regional Sukuk can encourage the growth of sharia industries in the region, encourage clean infrastructure project governance based on sharia, alternative investment in local communities, and can increase the local revenue capacity.

Keywords: Sukuk, Regions, Regulation, Equality Development

Introduction
Sukuk is a form of Islamic financial instruments that have been widely published by both corporations and countries (Fatah, 2011). This is in accordance with the increasingly expansive approach to infrastructure development in Indonesia. The high budget needs and financing of state infrastructure development directly, answered by the existence of sukuk as an affordable investment instrument with little risk.

Based on Article 1 paragraph 1 of Law Number 19 Year 2008 concerning State Sharia Securities (SBSN), it is explained that:

*State Sharia Securities or can be called State Sukuk are state securities issued based on sharia principles, as proof of the ownership share of SBSN assets, both in rupiah and foreign currencies (UU No. 19 Pasal 1, 2008).*
Based on the Financial Services Authority Regulation Number 3 / Pojk.04/2018 concerning Amendments to the Financial Services Authority Regulation Number 18 / Pojk.04 / 2015 concerning the Issuance and Requirements of Sukuk, it is explained that Sukuk are sharia securities in the form of certificates or proof of ownership that have the same value and represent inseparable or undivided share, for the underlying assets (POJK Number 3/POJK04,2018). According to Zamir Iqbal and Abbas Mirakhor, sukuk is a representation of proportional ownership of assets for a certain period of time with risks and rewards associated with cash flow through the underlying asset in the hands of investors (Iqbal, 2011).

AAOIFI defines sukuk as a certificate of equal value which is proof of ownership shared on an asset. This certificate represents evidence of an undivided share of an intangible asset, benefit value (usufruct), services, benefit rights, and services or ownership for certain projects or activities or ownership of assets from a particular project or investment activity (AAOFI).

The fatwa of the National Sharia Council (DSN) defines sukuk as long-term security based on sharia principles issued by issuers to pay income to holders of sharia bonds in the form of profit sharing, margin and fees, and repay bonds at maturity (DSN, 2011).

The high interest of the community to be involved in sukuk financing can be seen from the large community participation in investing in sukuk. Regularly the state has issued retail sukuk since 2009 as one of the instruments of financial inclusion that aims to transform Indonesian society from "saving-oriented society" to "investment-oriented society". For retail sukuk, for example, public interest in Retail State Sukuk is also getting better, as seen from the nominal issuance of IDR 5.5 trillion in 2009 to IDR 31.5 trillion in the 2016 issuance. The total accumulated Retail State Sukuk issuance to date is IDR 12.3.3 trillion (Rosandya, 2018).

The potential and benefits of sukuk in development are not only considered as a strategic instrument in national infrastructure financing. Sukuk is also considered capable of being the backbone of regional infrastructure development, where infrastructure development is an integral part of increasing competitiveness, in this case not only national competitiveness, but also the competitiveness of regions in Indonesia.

At present, the bond policy as an instrument for infrastructure development is not only directed at infrastructure development which is a central policy. The government has been discussing to encourage regional governments to issue regional bonds or regional sukuk as a source of productive regional infrastructure financing rather than routine expenditure, so it is hoped that the regions will not only depend on the APBN or APBD in financing infrastructure in their regions (Damhuri, 2018). Regional sukuk issuance practically encourages economic growth in the region through the approach of infrastructure development, in addition, sukuk issuance as diversification of capital markets in the region can synergistically encourage the enforcement of transparency and accountability in regional financial management to the public as investors.

However, the high demand for regional sukuk in Indonesia has not been accompanied by the existence of regional sukuk regulations and legal frameworks that guarantee legal certainty in the implementation of regional
sukuk, including the rules of technical rules in sharia aspects and schemes that can be applied. In addition, the complexity of the bureaucracy related to the flow of financial accountability and the lack of socialization related to the benefits that will be obtained by the regions is a limiting factor for the implementation of regional sukuk in Indonesia.

The formulation of the problem in this study is

1. What is the regulation of regional sukuk regulation in Indonesia?
2. What is the mechanism for implementing regional sukuk and the benefits of implementing regional sukuk?

**Research Method**

This study applies a normative juridical research method, namely legal research on written and unwritten positive law (Mamudji, 2005). The use of this form of normative juridical research is intended to examine the regulations related to regional sukuk regulation in Indonesia. The type of data used in this study is secondary. Secondary data is data that includes official documents, books, research results in the form of reports, diaries and so on. Secondary data is data that includes official documents, books, research results in the form of reports, diaries and so on (Soekanto, 2012).

**Discussions**

**A. Note on the success of SBSN and the Potential Implementation of Regional Sukuk**

State and corporate Sukuk regulations can be considered very complete, especially after the issuance of Law No. 19 of 2008 concerning State Sharia Securities. Then that the surge in interest and also the issuance of sukuk jumped sharply after this regulation. Nevertheless, there are those who criticize that the development of SBSN is still focused on patching the needs of the state budget. So, the economic effects cannot be felt wide and sustainably (Beik, 2011).

If reviewed in a fatwa, even in almost all contract models and sukuk transactions issued by the state there has been a strong fatwa which is the standard for fulfilling syariah compliance sukuk including (Kementerian Keuangan, 2013):

1. Fatwa No.69 / DSN-MUI / VI / 2008 concerning SBSN
2. Fatwa No.70 / DSN-MUI / VI / 2008 concerning SBSN Issuance Method
3. Fatwa No.71 / DSN-MUI / VI / 2008 concerning Sale and Lease Back
4. Fatwa No.72 / DSN-MUI / VI / 2008 concerning SBSN Ijarah Sale and Lease Back
5. Fatwa No.76 / DSN-MUI / VI / 2010 concerning SBSN Ijarah Asset to be Leased

However, if explored further, even though the sukuk regularization has been issued, the fact that the complexity and sustainability of the sukuk have not yet been answered by a single law. For example, related to corporate sukuk and regional sukuk, there are still many legal gaps in implementation, including in this matter related to sukuk supervision and
governance. This is a challenge in itself, where regional sukuk in Indonesia is very potential, but in terms of regularization, there needs to be a lot of legal strengthening and certainty.

The lack of regional sukuk regulations that exist today is related to regional alignments and involvement in depth. Where investment project projects are still struggling with infrastructure development which is based on the interests of the center so that the value and also the impact of the regional economy have not yet been felt. On the other hand, if the regional sukuk is implemented, the proposed development projects of the Regional Government (Pemda) against a number of regional strategic projects will be more maximal and can have a direct impact on the people’s economy in the area (Beik, 2011).

Quoting Irfan Syauqi Beik's opinion on the record of sukuk implementation in the Islamic finance market is as follows

The state-owned sukuk should also be oriented towards optimizing regional potential. For regions that have tourism potential, for example, the government can issue sukuk for the development of the necessary tourism infrastructure, such as the construction of monorail and cable car facilities. Whereas for regions that have oil and gas potential, the state can issue sukuk for the procurement of oil and gas mining working capital needs. In essence, there are many sukuk patterns that can be developed depending on the potential they have and identifying the needs needed to realize this potential (Beik, 2011).

From the explanation above, it was concluded that the focus of the sukuk issuance target had not been based on the balance between the needs of the central and regional interests. It is indicated that the development of the sukuk project has not accommodated regional development aspirations. So, the benefits of regional infrastructure development have not been maximized.

The discourse and encouragement of regional sukuk issuance then arose because so far the focus of increasing sukuk was still more on SBSN because it directly contributed to the APBN but did not pay attention to the interests of regional development. In addition, the financing of regional development which has tended to be conservative so far depending on the Regional Budget (APBD) is often considered slow, and unproductive giving birth to the welfare and added value in the community.

The portrait of the success of state sukuk in attracting public investment can be seen from the high total accumulation of State Sukuk issuance until October 2018, where the state has issued more than Rp 950 trillion with outstanding per 25 October 2018 amounting to Rp 657 trillion, indicating an increase in the number of publications and contributions State Sukuk against the state budget financing, with an average of around 30 percent of the total financing of Government Securities (SBN) each year (Setiawan, 2018).

The data above shows the increasing trust and interest of State Sharia Securities (SBSN) or state sukuk, this has a very good impact because Sukuk is increasingly known to the public and is able to become an alternative choice
besides conventional Government Securities (SUN) that have been known so far.

In this case reflecting on the success of state sukuk or SBSN certainly becomes an opportunity and challenge so that the region can also implement regional sukuk as an encouragement from the community. The main criticisms related to sukuk implementation are not based on consideration of regional aspirations departing from conditions of development inequality in remote areas in Indonesia, this also becomes a separate belief that Regional Sukuk is implemented optimally so that it can positively drive equitable development in the region through an infrastructure development approach evenly distributed.

B. Regional Sukuk Regulations and notes on the implementation of Regional Sukuk

The potential and also the value of the benefits of sukuk transactions are not only relied on by the state but now the demands of the regional government to issue sukuk are also encouragement and also their own interest in creating equity and development in the region. Through the OJK Press Release in 2017 the Financial Services Authority issued three OJK regulations related to Regional Sukuk including (Prabowo, OJK 2017).

1. OJK Regulation Number 61 / POJK.04 / 2017 concerning Participation Documents for Registration in the Context of Municipal Bond Public Offering and / or Regional Sukuk
2. OJK Regulation Number 62 / POJK.04 / 2017 concerning the Form and Content of the Prospectus and the Brief Prospectus in the Context of the Municipal Bond Public Offering and / or Regional Sukuk
3. OJK Regulation Number 63 / POJK.04 / 2017 concerning Reports and Announcements of Issuers of Regional Bond Issuers and / or Regional Sukuk.

The three POJKs concerning Regional Bonds / Sukuk are intended to increase the source of financing for infrastructure development, in addition to being sourced from the Regional Budget (APBD), regions are also encouraged to carry out expansions from the Capital Market through the issuance of Regional Bonds and / or Regional Sukuk. Through regional sukuk, it is expected to increase infrastructure development which is not only the basis of increasing national competitiveness, but also as a tool for equitable economic growth throughout Indonesia (Prabowo, OJK 2017). In OJK Regulation Number 61 / POJK.04 / 2017 concerning Participation Documents for Registration in the Context of Public Offering of Regional Bonds and / or Regional Sukuk, it is explained that what is meant by regional sukuk is:

Regional Sukuk is a sharia effect in the form of a certificate or proof of ownership that is of equal value and represents an inseparable or undivided share, for the underlying assets issued by the Regional Government (POJK No. 61/POJK04, 2017).

The existence of these three new POJKs is a step forward in realizing regional sukuk because there is no regulation explicitly that confirms the applicability of regional sukuk as an instrument that can be used by the regions. However, if further examined in Law Number 23 Year 2014 concerning Regional Government, it is stated that regional bonds are legal
financial instruments and can be used by the region as a means of financing regional infrastructure. Where related to regional financing in Article 300 paragraph (1) and (2) stated that:

1) Regions can make loans originating from the Central Government, other regions, bank financial institutions, non-bank financial institutions, and the public.

2) The head of the region with the approval of the DPRD can issue Regional bonds to finance infrastructure and / or investments that generate Regional revenues after obtaining consideration from the Minister and the approval of the minister who administers financial affairs in the financial sector.

In addition, implicitly, regional Sukuk is also possible in Government Regulation Number 54 of 2005 concerning Regional Loans because in the PP regional loans can be made in the form of regional bonds and can also be in other forms using public funds:

Article 8

(2) Regional Governments may carry out Medium and Long Term Loans originating from:

a. The government whose funds come from APBN revenues and / or procurement of Government loans from domestic or overseas;

b. Other Regional Governments;

c. bank financial institutions incorporated in Indonesia and have a place of domicile within the territory of the Republic of Indonesia;

d. non-bank financial institutions incorporated in Indonesia and have a place of domicile within the territory of the Republic of Indonesia; and / or

e. society.

(3) Regional Loans originating from the community as referred to in paragraph (2) letter e in the form of Regional Bonds issued through public offerings to the public in the domestic capital market.

This shows that regulation, although explicitly regulations regarding regional sukuk do not yet exist, but substantially the existence of regional sukuk is very possible based on existing regulations to be implemented in the regions. However, the legal foundation is not enough, due to the specificity of the sukuk or bond market This sharia also needs to be equipped with good instruments and systems in the area so that sukuk can be optimized and the benefits felt for development. The complex condition of bureaucracy which is not accompanied by good technical regulations is considered as a regional obstacle in issuing sukuk, especially the sukuk is in principle different from bonds in general, where the involvement of capital participation in sukuk must be accompanied by guarantees of assets or projects being financed. So that the implementation and implementation of regional sukuk in Indonesia need to be encouraged so that the existing system continues to grow stronger and more established. Therefore, regulations that become a legal umbrella and technical regulations need to be developed in order to answer the needs of investment developments in the region.
C. Regional Sukuk Mechanism

Three POJK concerning Regional Bonds / Sukuk, namely POJK 61.62 and 63, are intended to increase the sources of financing for infrastructure development, in addition to sourcing from the Regional Budget (APBD), also from the Capital Market through the issuance of Regional Bonds and / or Regional Sukuk. Through the expansion of regional budget financing, infrastructure development can be accelerated so that its impact on growth (Prabowo, OJK 2017).

In the process of issuing Regional Bonds and / or Regional Sukuk there is a mechanism, namely:

1. Local governments are required to submit a Registration Statement to OJK,
2. The Regional Government also requires the approval of the Ministry of Finance, the Ministry of Home Affairs and the Regional People's Representative Council (DPRD) (Prabowo, OJK 2017).

In this case, the most important note for the local government is that legal instruments in the form of regional regulations and also the aspects of the governance of the Regional Budget are needed by the Regional Government which is very urgent to consider. This is because investor trust is highly dependent on how the Regional Government manages the Regional Budget and utilizes the proceeds from the issuance of Regional Bonds and / or Regional Sukuk (Prabowo, OJK 2017).

In this case, the readiness of the Regional Government is needed to improve human resources, regulation, organizational infrastructure, and also a good market climate so that it can manage regional sukuk. In this case local government readiness in coordinating with the Ministry of Finance and the Ministry of Home Affairs requires the Capital Market and Financial Institution Supervisory Agency (Bapepam and LK), Securities Exchanges, Settlement and Settlement Institutions, Securities Companies, Custodian Banks, Securities Administration Agencies, Securities Issuers and Issuer, and Team of Sharia Experts, so that regional sukuk can run continuously.

In this case, coordination is also needed through the Regional Development Planning Agency (Bapeda), in terms of:

a. coordination of the preparation of the Regional Development Plan
b. planning of proposed activities that can be financed with loans or as sukuk project underlying assets; and
c. implementation and monitoring / evaluation of activities financed from loans.

D. The Strategic Role of Regional Sukuk

The strategic roles of regional sukuk, which provide added value to the region, include:

a. Encouraging the growth of sharia industries in the region

The availability of regional sukuk opportunities is an alternative step to expand investment capacity for the Islamic financial industry both in liquid form and asset development. With the development of the Islamic industry
in the region, it means that jointly developing the number of customers and communities involved in developing the Islamic financial market in the region.

b. Increase the portion of infrastructure financing in the APBD

In this case the problem of the difficulty of the region in managing the allocation of infrastructure funds will be overcome by the existence of this regional sukuk, where infrastructure spending which is usually located at the regional expenditure post is drawn to the financing scheme, so that productive regional expenditure is used to finance other regional needs. Regions are encouraged to be independent and not to rely on APBD and APBN in building infrastructure, but productively encourage the involvement of their own community in participating in driving the economy in the region.

c. Encouraging clean infrastructure project management in the region

Management of public funds in the construction of infrastructure projects with sukuk schemes has encouraged regional governments to carry out a high process of transparency and prudence and good accountability for project management. This is because the sukuk supervision mechanism is very strict, where sukuk is under the supervision of financial services authorities and sharia supervisors, so the role of regional governments in the completion and reporting of project objects is also more careful and clean. This has a positive correlation with improving the culture of clean governance in the region.

d. Strategic investment instruments for regional communities

Regional communities in this case certainly need investment instruments to increase the value of their assets, however, access to investment containers with small risks is difficult to reach by local people. With the issuance of regional sukuk, of course, this will increase the demand for the community to channel their funds through regional sukuk. So that it is effective in increasing investors in investment development in the region.

e. Sukuk as a means of optimizing revenue in the region

Sukuk can be a policy that is positively correlated with the opening of other investment taps in the region because the good regional infrastructure will also influence investor interest in participating in regional investments. For example, the growth of sharia tourist destinations, such as Lombok, Padang, and Aceh, is great potential and needs to be encouraged with good investment policies. Therefore, financing infrastructure for sharia tourist destinations and halal industries will be more appropriate if developed by regional sukuk issuance (Damhuri, 2018). In this case, regional sukuk issuance in a sustainable manner encourages an increase in regional income through increasing the purchasing power and economy of the local community.

Conclusions

Sukuk is a strategic instrument in improving welfare and responding to the challenges of infrastructure development in the region. Regulatory, the implementation of regional sukuk has not been supported by the certainty of a legal umbrella in the form of a separate law specifically regulating the mechanism and regulation of regional Sukuk. Regional Sukuk has so far been implemented with reference to Law Number 23 Year 2014 concerning Regional Government and Government Regulation Number 54 of 2005 concerning Regional Loans. In addition, the birth of POJK No. 61 / POJK.04 /
2017, POJK 62 / POJK.04 / 2017 and POJK Number 63 / POJK.04 / 2017 are OJK’s strategic efforts to accommodate the technical implementation of regional sukuk in Indonesia. This is done in order to encourage infrastructure development which is not only the basis for increasing regional competitiveness, but also as a tool for equitable distribution of infrastructure and economic growth throughout Indonesia.

Therefore, in order to maximize the role of sukuk in regional development, as well as providing legal certainty for regional sukuk, regulations are needed in the form of special laws, which become the legal umbrella for the implementation of regional sukuk. The presence of regional sukuk regulations can be a guideline as well as a reference for Government Regulations both central government regulations and regional regulations in the regulation of regional sukuk issuance.

The implementation of regional sukuk is carried out through a mechanism for submitting licenses to the OJK in coordination with the interior ministry, the finance ministry, and the DPRD's approval. The implementation of sukuk in a sustainable manner can encourage the growth of the Islamic industry in the region, Increase the portion of infrastructure financing in the Regional Budget, Encourage governance of clean infrastructure projects in the region, Strategic investment instruments for local communities and Sukuk as a means of optimizing revenue in the region.

Regional sukuk regulations need to be supported by the commitment of local governments to improve the quality of human resources, regional regulations, regional organizational infrastructure, and a conducive investment climate through clean and healthy regional financial governance, thus attracting investors to place trust in regional sukuk schemes. offered, which synergistically contributes directly to improving the growth of the infrastructure and economy of the local community.

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