

Implementation of Article 7 Bandar Lampung Regulation No. 3/2022: A *Fiqh Siyasah Tanfidziyyah* Perspective

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Abstract

This study analyzes the implementation of Article 7 of Bandar Lampung City Regional Regulation Number 3 of 2022 on Market Administration, which obliges the local government to maintain accessibility and traffic flow around traditional markets. The research is motivated by the continued use of public roadways as trading areas at Pasar Tani, Kemiling Subdistrict, which disrupts public order and compromises collective interests. The objective of this study is to evaluate the effectiveness of Article 7 and to examine its implementation from the perspective of fiqh siyasah tanfidziyyah. Employing a qualitative method with a juridical-empirical approach, data were obtained through semi structured interviews with five traders and three officials of the Bandar Lampung City Trade Office, as well as analysis of statutory regulations and classical and contemporary fiqh siyasah literature. The findings reveal that the regulation's implementation remains suboptimal due to inconsistent law enforcement, limited administrative capacity, and low legal compliance among traders. From a fiqh siyasah tanfidziyyah perspective, this condition indicates the insufficient role of local government as ulī al-amr in realizing justice, public welfare, and harm prevention.

Keywords: Policy Implementation, Fiqh Siyasah, Public Welfare

Abstrak

Penelitian ini menganalisis implementasi Pasal 7 Peraturan Daerah Kota Bandar Lampung Nomor 3 Tahun 2022 tentang Tata Kelola Pasar, yang mewajibkan pemerintah daerah untuk menjaga aksesibilitas dan arus lalu lintas di sekitar pasar tradisional. Penelitian ini dimotivasi oleh terus berlanjutnya penggunaan jalan umum sebagai area perdagangan di Pasar Tani, Kecamatan Kemiling, yang mengganggu ketertiban umum dan membahayakan

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kepentingan bersama. Tujuan penelitian ini adalah untuk mengevaluasi efektivitas Pasal 7 dan meneliti implementasinya dari perspektif fiqh siyasah tanfidziyyah. Dengan menggunakan metode kualitatif dengan pendekatan yuridis-empiris, data diperoleh melalui wawancara semi-terstruktur dengan lima pedagang dan tiga petugas Dinas Perdagangan Kota Bandar Lampung, serta analisis peraturan perundang-undangan dan literatur fiqh siyasah klasik dan kontemporer. Hasil penelitian menunjukkan bahwa implementasi peraturan tersebut masih suboptimal karena penegakan hukum yang tidak konsisten, kapasitas administrasi yang terbatas, dan kepatuhan hukum yang rendah di kalangan pedagang. Dari perspektif fiqh siyasah tanfidziyyah, kondisi ini menunjukkan peran pemerintah daerah sebagai *ulī al-amr* yang tidak memadai dalam mewujudkan keadilan, kesejahteraan umum, dan pencegahan bahaya.

Kata Kunci: Peraturan Daerah, Fiqh Siyasah, Aksesibilitas Wilayah

A. Introduction

Traditional markets constitute a vital economic institution that sustains the livelihoods of lower and middle income communities. In addition to functioning as centers for the distribution of basic commodities, traditional markets serve as social spaces that embody people centered economic activities.¹ Within the framework of regional development, they are widely regarded as instruments for promoting economic equity and enhancing social welfare. Nevertheless, empirical conditions in many regions of Indonesia reveal persistent problems in the governance of traditional markets, particularly violations of market order and the misuse of public space. One recurring phenomenon is the occupation of public roads and other shared facilities for trading activities, which disrupts territorial accessibility, traffic circulation, and public order. Such practices not only inconvenience road users but also generate conflicts among traders, local residents, and governmental authorities, thereby undermining broader public interests.²

In Bandar Lampung City, these challenges are clearly reflected in the management of the Pasar Tani Kemiling Subdistrict. Initially intended as a facility for marketing local agricultural products, this market has gradually transformed

¹ Mohamad Iman A. Ketjil dkk., "Peran Pasar Tradisional dalam Meningkatkan Kesejahteraan Masyarakat di Kecamatan Bolang Itang Timur Kabupaten Bolaang Mongondow Utara," *Jurnal Berkala Ilmiah Efesiensi* 22, no. 8 (2022): hlm. 42.

² Rahmat Bakhtiar dkk., "Ketanggungan pemerintah daerah terhadap sasaran tata kelola roadmap jaminan kesehatan nasional tahun 2014 – 2019 di provinsi kalimantan timur," *JKKKI: Jurnal Kebijakan Kesehatan Indonesia* 10, no. 03 (2021): hlm. 163.

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into a relatively permanent informal economic space lacking adequate spatial organization. Field observations and public complaints indicate that trading activities frequently extend onto roadways and are accompanied by unregulated parking practices. These conditions signify structural weaknesses in local market governance and highlight the urgency of effective regulatory intervention to protect public space and ensure orderly market administration.

Responding to such challenges, the Bandar Lampung City Government enacted Regional Regulation Number 3 of 2022 on Market Administration. Article 7 of this regulation explicitly mandates the local government to safeguard territorial accessibility and ensure smooth traffic flow in areas surrounding traditional markets. Normatively, this provision represents a legal instrument designed to balance economic activities with the protection of public facilities and collective welfare. The effective implementation of Article 7 is therefore crucial, as it directly addresses the core issues of spatial order, accessibility, and the prevention of public harm arising from uncontrolled market activities.

However, the existence of a regulatory framework does not automatically guarantee effective implementation. Public policy studies consistently demonstrate that implementation gaps often stem from weak enforcement, limited administrative capacity, and low compliance among target groups. In the context of Pasar Tani Kemiling, the continued occupation of roadways by traders illustrates a persistent discrepancy between normative legal expectations (*das sollen*) and empirical realities (*das sein*). This gap raises important questions regarding the responsibility and capacity of the local government in executing its regulatory mandate.

To address these concerns, this study employs the perspective of *fiqh siyasah tanfidziyyah* as an analytical framework for examining local public policy implementation. Within Islamic political jurisprudence, *fiqh siyasah tanfidziyyah* emphasizes the obligation of *uli al-amr* to implement policies that realize justice, ensure public welfare (*maslahah*), and prevent harm (*mafsadah*). This approach is particularly relevant for assessing the implementation of Article 7, as it provides a normative-ethical lens to evaluate whether local government actions align with principles of justice, order, and the protection of public interests in the governance of public space.

Based on this background, the present study seeks to examine the implementation of Article 7 of Bandar Lampung City Regional Regulation Number 3 of 2022 in the management of Pasar Tani Kemiling Subdistrict. The research

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aims to analyze: (1) how Article 7 has been implemented in practice; (2) the factors that hinder or support its implementation; and (3) the extent to which such implementation reflects the principles of *fiqh siyasah tanfidziyyah*. By integrating juridical-empirical analysis with Islamic governance theory, this study is expected to contribute both to the development of contemporary *fiqh siyasah* discourse and to the improvement of traditional market management at the local level.

B. Research Methodology

This study is a qualitative research employing a juridical empirical approach, aimed at analyzing the implementation of Article 7 of Bandar Lampung City Regional Regulation Number 3 of 2022 concerning Market Administration from the perspective of *fiqh siyasah tanfidziyyah*. The research data were derived from primary sources obtained through semi structured interviews with five traders at the Pasar Tani of Kemiling District, three officials of the Bandar Lampung City Trade Office who hold authority in market management, two road users who are also residents living in the vicinity of the Pasar Tani of Kemiling District, and one officer of the Municipal Police Unit (Satuan Polisi Pamong Praja) who was directly involved in market supervision and enforcement activities.

The selection of informants was conducted purposively by considering their involvement in and knowledge of market activities, the use of public roads, and the enforcement of regional regulations in practice. By incorporating the perspectives of traders, local government officials, regulation enforcement officers, and directly affected community members, this study seeks to obtain a more comprehensive empirical understanding of the implementation of Article 7 of Bandar Lampung City Regional Regulation Number 3 of 2022 and its implications for the public interest.

C. Discussion and Research Results

Normative Framework and Objectives of Article 7 of Regional Regulation No. 3 of 2022

Article 7 of Bandar Lampung City Regional Regulation Number 3 of 2022 concerning Market Administration constitutes a normative legal framework aimed at maintaining order, safety, accessibility, and public convenience in and around market areas. Substantively, this provision obliges the local government to regulate trading activities so that they do not disrupt traffic flow, pedestrian

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access, or the use of public facilities.³ The article explicitly prohibits the use of roads, sidewalks, and other public spaces surrounding markets as trading areas, except where specifically designated by the local authority.

From a regulatory perspective, Article 7 reflects the principle of orderly governance (tertib penyelenggaraan pemerintahan) and the protection of public interests. Markets are not merely economic spaces but also public domains that intersect with transportation systems, urban planning, and community safety.⁴ Therefore, the regulation aims to balance economic activities with broader societal needs, particularly the rights of road users, residents, and pedestrians.

Within the regional legal system, Article 7 derives its legitimacy from higher-level legislation, including Law Number 23 of 2014 on Regional Government, which grants local governments authority to manage public order and community welfare.⁵ It also aligns with national policies on urban spatial planning and public order enforcement. As such, Article 7 occupies a strategic position as an operational norm that translates abstract legal mandates into concrete administrative obligations.⁶

From the perspective of fiqh siyasah, the normative objectives of Article 7 resonate with the concept of siyāsah tanfidziyyah, which emphasizes the execution of public policies to achieve maṣlaḥah ‘āmmah (public benefit).⁷ The prohibition of road-based trading is not intended to marginalize traders but to prevent mafṣadah (harm), such as traffic congestion, accidents, and social disorder. Thus, normatively, Article 7 reflects the Islamic legal principle dar’ al-mafāsid muqaddam ‘alā jalb al-maṣāliḥ (preventing harm takes precedence over obtaining benefit).⁸

In this context, Article 7 embodies a legal instrument designed to ensure that economic activities operate within ethical, orderly, and socially responsible boundaries, consistent with both positive law and Islamic governance principles.

³ Sapnah Sapnah dkk., “Tanggung Jawab Pelaku Usaha Rumah Makan Yang Tidak Memiliki Sertifikat Halal Di Kota Lhokseumawe,” *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh* 5, no. 2 (2022): hlm. 95, <https://doi.org/10.29103/jimfh.v5i2.6645>.

⁴ Rijah Muhammad Majdidin Mohammad Yasir Fauzi, Rudi Santoso, “Penerapan Metode Istihsan Dalam Islam Hukum Ekonomi,” *Jurnal ASAS* 13 (2023). hlm. 74.

⁵ Mohammad Yasir Fauzi dkk., “Implementation Of The Istihsan Method In Islamic Economic Law,” *Asas* 15, no. 01 (2023): hlm. 21, <https://doi.org/10.24042/asas.v15i01.15072>.

⁶ Anindya Aryu Inayati, “Pemikiran Ekonomi Islam M. Umer Chapra,” *Profetika, Jurnal Studi Islam* 14, no. 2 (2013): hlm. 167.

⁷ Wahbah Az-Zuhaili, *Fiqih Islam Wa Adillatuhu (Jilid 3)* (Gema Insani, 2011). hlm. 53.

⁸ H.B Syaifuri, “Aktivitas Gadai Syariah dan Implikasinya terhadap produktivitas masyarakat di Provinsi Banten,” *Al-’Adalah* XII (2014). hlm. 71.

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Implementation of Article 7 in the Field

The implementation of Article 7 of Regional Regulation No. 3 of 2022 at the Pasar Tani Kemiling reveals a significant gap between normative provisions and empirical realities. Field observations and interviews indicate that trading activities frequently extend into roadways and surrounding public spaces, particularly during peak market hours. Traders occupy traffic lanes and sidewalks, causing congestion and obstructing pedestrian movement.

The most common violations include the placement of stalls on road shoulders, the use of sidewalks for merchandise displays, and the expansion of trading areas beyond designated market boundaries. These practices persist despite the formal prohibition stipulated in Article 7, indicating weak regulatory compliance.⁹

In terms of supervision, enforcement is primarily carried out by the Municipal Police (Satpol PP) in coordination with the market management authority. However, enforcement patterns tend to be sporadic and reactive rather than systematic. Raids or control operations are often conducted only after public complaints or during certain periods, such as ahead of official inspections.¹⁰ This inconsistency reduces the deterrent effect of enforcement measures.

Moreover, sanctions imposed on violators are generally limited to verbal warnings or temporary eviction, with minimal application of administrative penalties as provided by the regulation. The absence of firm and consistent sanctions contributes to the recurrence of violations, as traders perceive enforcement as negotiable rather than obligatory.¹¹

The local government's implementation approach also reflects a dilemma between maintaining public order and accommodating the economic vulnerabilities of small traders. Officials often exercise discretion by tolerating violations to avoid social conflict, particularly given the market's role as a source of livelihood for lower-income communities. While socially understandable, this discretionary tolerance undermines the authority of the regulation.¹²

⁹ Muhammad Lutfi Hakim, "Pergeseran Paradigma Maqasid Al-Syari'ah: Dari Klasik Sampai Kontemporer," *Al-Manahij: Jurnal Kajian Hukum Islam* 10, no. 1 (2016): hlm. 8, <https://doi.org/10.24090/mnh.v10i1.913>.

¹⁰ Dwi Riyanti dan Danang Prasetyo, "Political Education of New Voters through Civic Education in Indonesia," *Jurnal Harmoni Nusa Bangsa* 1, no. 1 (2023): hlm. 23.

¹¹ Bunyana Sholihin dkk., "The Basic Values of Islam," *TSAQAFAH : Jurnal Peradaban Islam* 18, no. 1 (2022): hlm. 7, <https://DOI:10.21111/tsaqafah.v18i1.6778> The.

¹² Filip Rebetak dan Viera Bartosova, "Theoretical Background Of Fundraising For Non Profit Organisation," (Moscow), no. 1 (2022): hlm. 260.

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Overall, the implementation of Article 7 at the Kemiling Farmers Market demonstrates that regulatory effectiveness is constrained by weak supervision, inconsistent enforcement, and a lack of firm commitment to legal norms. This condition necessitates a deeper analysis from the perspective of fiqh siyasah tanfidziyyah to assess the legitimacy and adequacy of governmental action.¹³

Analysis of Fiqh Siyasah Tanfidziyyah on Policy Implementation

In fiqh siyasah tanfidziyyah, the government functions as *ulī al-amr*, entrusted with the authority and responsibility to implement laws that safeguard public welfare.¹⁴ This authority is not absolute but conditional upon adherence to the principles of justice ('adl), public benefit (*maṣlahah*), and harm prevention (*daf' al-ḍarar*). Accordingly, the implementation of Article 7 must be evaluated against these normative standards.¹⁵

The government needs to ensure that the policies and regulations implemented are adequate¹⁶ and regulating market order aligns with the classical Islamic conception of *ḥisbah*, where the authority intervenes to prevent practices that harm the public interest. Road-based trading that disrupts traffic and endangers safety constitutes a form of public harm (*mafsadah 'āmmah*), thereby justifying state intervention.¹⁷

However, fiqh siyasah also requires that enforcement be carried out fairly and consistently. Selective or inconsistent enforcement, as observed at the Kemiling Farmers Market, may compromise the principle of justice. When regulations are applied flexibly without clear standards, legal certainty is weakened, and perceptions of arbitrariness emerge.¹⁸

¹³ Rita Zaharah Refita Aprelia, Agustina Nurhayati, Rudi Santoso, "Implementation of Religious Services Policy for the Elderly in South Sumatera: Analysis of Fiqh Siyasah Tanfidziyah," *As-Siyasi: Journal of Constitutional Law* 3, no. 2 (2023): hlm. 243, <http://dx.doi.org/10.24042/as-siyasi.v3i2.21222> Implementation.

¹⁴ Sapriadi Sapriadi dkk., "Sistematika Hukum Islam Di Indonesia," *Jurnal Al-Ahkam: Jurnal Hukum Pidana Islam* 4, no. 2 (2022): hlm. 155, <https://doi.org/10.47435/al-ahkam.v4i2.1216>.

¹⁵ Mukhsin Nyak Umar, *Al-Mashlahah al-Mursalah*, ed. oleh Maizuddin (Turats, 2017).

¹⁶ Mustafid Mustafid, "Etika Pemerintahan Berbasis Fiqih Siyasah Di Era Digital," *El-Sirry: Jurnal Hukum Islam dan Sosial* 2, no. 1 (2024): hlm. 36., <https://doi.org/10.24952/ejhis.v2i1.11025>.

¹⁷ Ayesha Sarfaraz dkk., "Reasons for Political Interest and Apathy among University Students: A Qualitative Study," *Pakistan Journal of Social and Clinical Psychology* 10, no. 1 (2012): hlm. 64.

¹⁸ Muhammad Iqbal, *Fiqh Siyasah Kontekstual Doktrin Politik Islam* (Gaya Media Persada, 2001).hlm. 61.

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From the perspective of *maṣlahah*, the government's reluctance to impose strict sanctions reflects an attempt to protect traders' livelihoods. While economic protection is a legitimate concern, *fiqh siyasah* emphasizes that individual benefits should not override collective welfare. Ibn 'Ashur asserts that public policy must prioritize systemic benefit over particular interests when the two are in conflict.¹⁹

Furthermore, the preventive function of law (*sadd al-dharā'i*) is not optimally fulfilled when violations are tolerated. Weak enforcement allows harmful practices to become normalized, thereby amplifying long-term risks to public order and safety.²⁰

Thus, while the policy intent of Article 7 is consistent with *fiqh siyasah tanfidziyyah*, its implementation falls short of the ideal Islamic governance model, which demands firmness, fairness, and orientation toward sustainable public benefit.

Inhibiting and Supporting Factors in Implementation

Several inhibiting factors affect the implementation of Article 7 at the Pasar Tai Kemiling. Institutionally, limited human resources and operational capacity within enforcement agencies constrain regular supervision. The number of officers is often insufficient to monitor daily market activities effectively.

Coordination among relevant agencies such as market management units, transportation authorities, and Satpol PP is also suboptimal. The absence of integrated enforcement strategies leads to fragmented actions and overlapping responsibilities, reducing policy coherence.

Socio-cultural factors among traders constitute another major obstacle. Many traders perceive road-based selling as a customary practice and an economic necessity. Low levels of legal awareness and resistance to relocation further complicate enforcement efforts.²¹ In this context, regulation is often viewed as a threat rather than a protective mechanism.

Conversely, supporting factors include the existence of a clear legal basis and formal institutional authority. The regulation provides adequate normative

¹⁹ M Umer Chapra, "Vision of Development in the Light of Maqāsid Al-Shari 'ah," *Islamic Research and Training Institute Islamic Development Bank*, advance online publication, 2008, <https://doi.org/10.13140/RG.2.1.4188.5047>.

²⁰ Ali Mutakin, "Teori Maqashid Al Syari'ah dan Hubungannya dengan Metode Istimbath Hukum," *Kanun, Jurnal Ilmu Hukum* 19, no. 3 (2017): hlm. 551.

²¹ Syafradi Syafradi dan Selvi Harvia Santri, "Analisis Peran Badan Pengawas Pemilu Dalam Penegakan Hukum Pemilu," *Reformasi* 13, no. 1 (2023): hlm. 44, <https://doi.org/10.33366/rfr.v13i1.3845>.

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legitimacy for enforcement actions. Additionally, public complaints regarding traffic congestion indicate community support for orderly market management.

However, these supporting factors have not been maximally leveraged due to the lack of participatory approaches, such as trader education, dialogue forums, and incentive-based compliance mechanisms.

Legal Implications and Policy Recommendations

Weak implementation of Article 7 has significant legal implications, particularly for public order and legal certainty. Persistent violations erode the authority of regional regulations and create a precedent of non-compliance. This condition undermines the principle of rule of law and diminishes public trust in local governance.

From the perspective of *maqāṣid al-syārī'ah*, disorderly market practices threaten the protection of life (*hifz al-nafs*), property (*hifz al-māl*), and public welfare. Traffic congestion and accidents pose risks to safety, while uncontrolled use of public space infringes upon communal rights.²²

Accordingly, several policy recommendations are proposed. First, enforcement should be strengthened through consistent supervision and proportional sanctions. Second, the government should provide adequate alternative trading spaces to mitigate economic displacement. Third, legal education and participatory engagement with traders must be enhanced to foster voluntary compliance.²³

These measures reflect a *maqāṣid*-oriented approach that balances firmness with compassion, ensuring that law enforcement serves as an instrument of justice and public benefit rather than mere coercion.

D. Conclusion

This study concludes that the implementation of Article 7 of Bandar Lampung City Regional Regulation Number 3 of 2022 at the Pasar Tani Kemiling Subdistrict has not been optimally realized. Although normatively intended to protect public order, accessibility, and traffic flow, empirical findings reveal persistent violations in the form of roadway occupation by traders, compounded by weak supervision, inconsistent sanctions, and limited administrative capacity.

²² Nursantri Yanti, "Konsep Mashlahah Mursalah Perspektif Ekonomi Islam Nursantri," *STUDIA ECONOMICA: Jurnal Ekonomi Islam* 8, no. 2 (2022): hlm. 320, <http://dx.doi.org/10.30821/se.v8i2.13832>.

²³ Safira Azzah Riscilia dkk., "Maqāṣid shari'ah dan implikasinya terhadap tafsir maqāṣidi," *Maqashid: Jurnal Hukum Islam* 6, no. 2 (2023). hlm. 51.

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From the perspective of fiqh siyasah tanfidziyyah, this condition reflects an incomplete exercise of the local government's role as ulī al-amr in upholding justice, public welfare, and harm prevention in accordance with the maqāṣid al-shari'ah. Therefore, strengthening consistent enforcement, improving inter-agency coordination, and providing adequate market infrastructure are essential to ensure legal certainty, public benefit, and orderly market governance.

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