

WEST SUMATRA'S RETAIL POLICIES ON THE PERSPECTIVE OF COMPETITION AND ISLAMIC LAW

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Abstract

This study examines the legal framework regulating retail markets in Indonesia, focusing on balancing modern retail growth with the protection of micro, small, and medium enterprises (MSMEs). The introduction highlights the rapid expansion of modern retail chains and their impact on traditional markets, emphasizing West Sumatra's unique approach of limiting the entry of major retail chains to support local businesses. However, this policy lacks clear written regulations, creating legal and operational uncertainties. Using a doctrinal legal research methodology, the study analyzes statutory laws, legal doctrines, and secondary sources. Key legal instruments include the Law on Prohibition of Monopolistic Practices and Unfair Business Competition, the Job Creation Law, and Regional Regulations on Fostering and Empowering People's Markets. The qualitative analysis focuses on identifying inconsistencies, gaps, and the synchronization of these regulations. The findings reveal the absence of explicit legal provisions supporting local governments' restrictions on modern retail, despite their efforts to protect traditional markets. The study underscores the need for comprehensive and clear legal frameworks to ensure fair competition, safeguard MSMEs, and align with national socio-economic goals. Recommendations include regulatory reforms to address ambiguities and support sustainable retail market policies.

Keywords: *Legal Protection, Local Businesses, Retail, Minangkabau Community, MSMEs.*

1. Introduction

Modern retail businesses have multiplied in Indonesia¹. Sarinah is the first modern retail establishment, which was established in 1962 at Jl. Sudirman, Jakarta². Then, modern retail has been increasing since the Government made some policies that allow foreigners to invest in contemporary retail, such as Presidential Decree (No. 99/1998, No. 96/2000, and 118/2000)³.

The retail sector is a major contributor to Indonesia's GDP, directly impacting the economy. In 2022, retail sales reached Rp. 1,526.2 trillion, marking an 8.6% growth. In 2014, Indonesia had at least 1364 supermarkets, 269 hypermarkets, and 22.818 minimarkets. Foreign companies also own retail businesses, like Hero, Gelael, Giant, Lotte Mart, Super Indo, Circle K, 7-Eleven,

¹ Alim Setiawan Slamet, Akira Nakayasu, and Masahiro Ichikawa, "Small-Scale Vegetable Farmers' Participation in Modern Retail Market Channels in Indonesia: The Determinants of and Effects on Their Income," *Agriculture* 7, no. 2 (2017): 11, <https://doi.org/10.3390/agriculture7020011>.

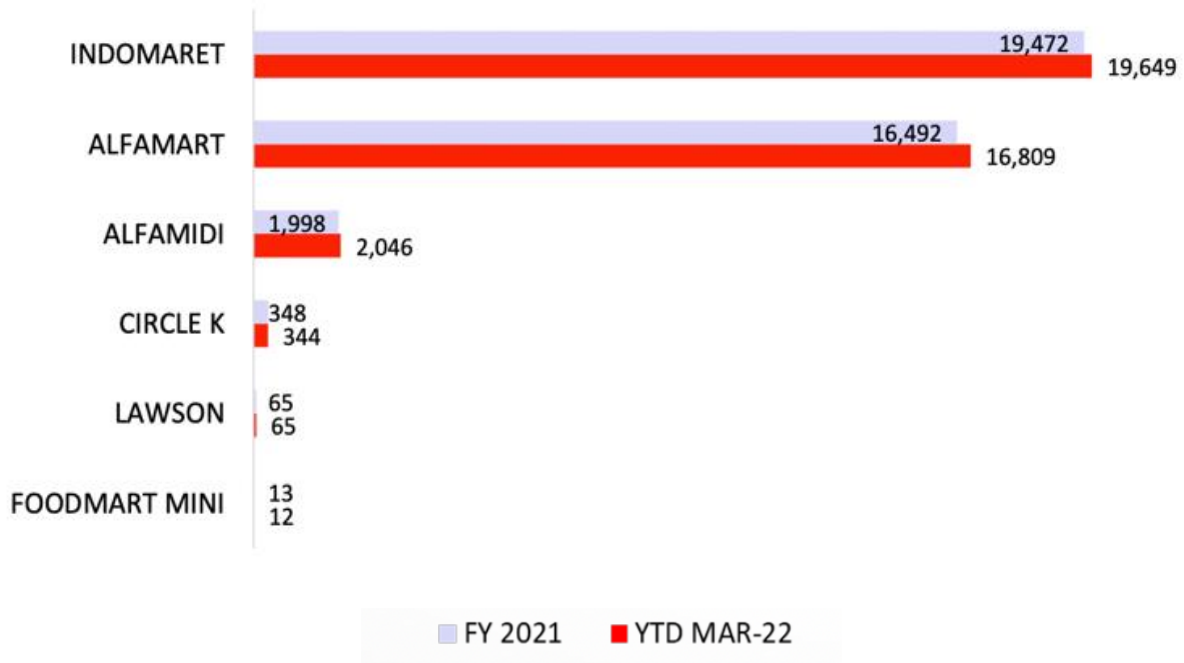
² Handy Martinus, "Analisis Industri Retail Nasional," *Humaniora* 2, no. 2 (2011): 1309–21, <https://doi.org/10.21512/humaniora.v2i2.3193>.

³ Sandra Sunanto, "Modern Retail Impact on Store Preference and Traditional Retailers in West Java," *Asian Journal of Business Research* 2, no. 2 (2012), DOI 10.14707/ajbr.120007.

Lawson, Aeon, Spar, Lulu, Family Mart, and Ministop. On the other hand, some local companies, like Transmart, Indomaret, and Alfamart, also have a significant role in Indonesia's retail business⁴.

Interestingly, the data shows that PT Indomarco Prismatama (“Indomart”) and PT Sumber Alfaria Trijaya Tbk (“Alfamart”) have dominated and led in the minimarket sector. Both companies control around 90% of the retail market in Indonesia⁵. Based on Nielson Retail Audit, since 2018, these minimarket stores have constantly been growing. There is a slight correction that happened in 2021 that might be the effect of COVID-19⁶. In 2022, Indomaret is the leading market, with at least 19.649 groceries in the minimarket sector. Followed by Alfamart, which has 16.809 groceries, and Alfamidi, with 2.046 groceries. Graph 1 shows the industry landscape for the minimarket sector in Indonesia.

Minimarket



Graph 1 Industry Landscape

Compared to the count of groceries in 2005, Alfamart had 1.263 groceries, and Indomaret had 1.402 groceries⁷. The data shows Alfamart and Indomaret have grown rapidly and massively in 10 (ten) years. In addition, if we seek the spreading area, both minimarkets exist on every big

⁴ Slamet, Nakayasu, and Ichikawa, “Small-Scale Vegetable Farmers’ Participation in Modern Retail Market Channels in Indonesia: The Determinants of and Effects on Their Income.”

⁵ Slamet, Nakayasu, and Ichikawa.

⁶ “Management Presentation PT. Sumber Alfaria Trijaya” (Alfa, March 31, 2022).

⁷ Martinus, “Analisis Industri Retail Nasional.”

island in the Indonesian Archipelago. For example, Alfamart has been growing by 17.8% in Indonesia, spreading to almost all the big islands in Indonesia.

The growth of the minimarket (Alfamart and Indomaret) could not be separated from the marketing strategies they have implemented, such as reasonable prices, promo and discounts, some groceries that are open 24-hour, cashless payment method, and membership facility. These strategies cause people to prefer to buy what they need in those minimarkets. The number of modern minimarkets over the limit in an area might change consumer behaviours and encourage them to purchase things in modern minimarkets rather than conventional or local minimarkets⁸. Consequently, the government should issue some policies that prevent local or traditional minimarkets since they are powerless in capital and strategies⁹.

One of the government policies that is interesting to analyse in Indonesia is the government policy in West Sumatra on the retail market. Until this paper was written, Alfamart and Indomaret did not exist in this area. Almost all retail markets in West Sumatera operate by local or traditional minimarket, such as Budiman, Citra, Rili, Singgalang, Wahyu, SJS, Yosie, Adinegoro, and Dayumart. In addition, the local government established and initiated a minimarket named Minang Mart.

West Sumatra is part of Indonesia's archipelagoes, which many tourists have visited, both local and international. There are a lot of favourite destinations that can be seen there. It has beautiful beaches, lakes, and waterfalls, an adventure destination for mountain climbing, and a cultural destination like Pagaruyung Palace "*Rumah Gadang*." Furthermore, it has some famous culinary like rendang. Therefore, West Sumatra has a potential market for modern minimarket to keep growing. Interestingly, Alfamart and Indomaret do not exist in this area. Local or traditional minimarkets have grown significantly. Examining that policy is essential and crucial to protect local or traditional minimarkets and keep them growing.

Previous research has been conducted on retail MSME policies¹⁰. The rise of modern retail businesses, particularly minimarket franchises like Indomaret and Alfamart, has significantly

⁸ Magister Perencanaan dan Kebijakan Publik Fakultas Ekonomi dan Bisnis Universitas Indonesia and Dianur Hikmawati, "Keberadaan Ritel Modern Dan Dampaknya Terhadap Pasar Tradisional Di DKI Jakarta," *Jurnal Ekonomi Dan Pembangunan Indonesia* 17, no. 2 (January 1, 2017): 195–208, <https://doi.org/10.21002/jepi.v17i2.07>.

⁹ Tri Joko Utomo, "Persaingan Bisnis Ritel: Tradisional vs Modern," *Fokus Ekonomi: Jurnal Ilmiah Ekonomi* 6, no. 1 (2011), <https://doi.org/10.34152/fe.6.1.%25p>.

¹⁰ Yuni Artha Manalu, "PENGATURAN HUKUM TENTANG FRANCHISE DI INDONESIA," *Honeste Vivere* 32, no. 2 (July 28, 2022): 83–97, <https://doi.org/10.55809/hv.v32i2.134>.

impacted traditional retail¹¹. The rapid growth of convenience stores, backed by advanced technology and marketing strategies, poses serious challenges to traditional markets. Moreover, quality, resources, and support disparities have increasingly marginalised the traditional markets in Indonesia's retail competition.¹² In Indonesia, regulations have been introduced to manage minimarkets and balance competition with traditional retail. For example, in Yogyakarta, Mayor Regulation No. 79 of 2010 limits the number of minimarkets to 52, but this limit is often ignored. Additionally, while the regulation sets distance requirements between minimarkets and traditional markets, it fails to adequately involve local micro, small, and medium enterprises (MSMEs) in protective measures.¹³ Research in Pekalongan found that minimarkets often operate within 1,000 meters of traditional markets, violating regulations¹⁴. However, Presidential Regulation No. 112 of 2007 promotes fair competition between modern and traditional retail by regulating store zoning and providing equal access to training and legal protection for traditional stores. It aims to balance modernity with local culture through Pancasila values.¹⁵ All these studies emphasise the need for policies that protect traditional businesses while promoting modern retail innovation. Cooperation among the government, business stakeholders, and the community is vital for creating a sustainable business ecosystem. Therefore, it is crucial to analyse the government policies in West Sumatra.

2. Method

This study adopts a doctrinal legal research methodology, focusing on the systematic analysis of legal norms and principles related to the retail market as regulated under Indonesian laws. Doctrinal legal research is chosen for its emphasis on understanding, interpreting, and

¹¹ M. Muchtar Riva'i et al., "Evaluasi Peraturan Walikota Tentang Penataan Ritel Modern Di Kota Tangerang Selatan Dengan Menggunakan Regulatory Impact Analysis (RIA)," *Jurnal IUS Kajian Hukum Dan Keadilan* 9, no. 1 (March 31, 2021): 95–111, <https://doi.org/10.29303/ius.v9i1.818>.

¹² Luthfi Hafidz Rafsanjani, Maulana Ramaditya Bahri, and Novita Renawati, "Law Enforcement Procedure Against the Third Liner Stock Pompom Phenomenon as a Legal Protection Effort for Retail Investors," *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 3, no. 1 (January 1, 2023): 79–93, <https://doi.org/10.15294/ipmhi.v3i1.55180>.

¹³ Ulfa Roffilah Meiyona, Hilyatul Asfia, and Qisthi Karami, "IMPLEMENTASI FUNGSI PERATURAN WALIKOTA NO.79 TAHUN 2010 TENTANG PEMBATAAN USAHA WARALABA MINIMARKET DI KOTA YOGYAKARTA (STUDI KEBERADAAN USAHA INDOMART DAN ALFAMART DI DAERAH ISTIMEWA YOGYAKARTA)," *JOURNAL EQUITABLE* 6, no. 2 (December 28, 2021): 86–102, <https://doi.org/10.37859/jeq.v6i2.3267>.

¹⁴ Primas Raras Priambodo, Henny Juliani, and Nabitatus Sa'adah, "TINJAUAN TERHADAP KEBIJAKAN PEMERINTAH DAERAH KABUPATEN PEKALONGAN TERKAIT IZIN PENDIRIAN MINIMARKET," *Diponegoro Law Journal* 7, no. 4 (October 30, 2018): 396–405, <https://doi.org/10.14710/dlj.2018.22795>.

¹⁵ Sri Hartati, Rubiyanto Rubiyanto, and Ceprudin Ceprudin, "Perlindungan Hukum Pelaku Usaha Tradisional Dari Ekspansi Ritel Modern Perspektif Negara Hukum Pancasila," *Iqtisad: Reconstruction of Justice and Welfare for Indonesia* 10, no. 2 (December 23, 2023): 189, <https://doi.org/10.31942/iq.v10i2.9583>.

analyzing legal documents to address specific legal questions. The research examines key legal instruments, including the Law on Prohibition of Monopolistic Practices and Unfair Business Competition, the Job Creation Law, and Regional Regulations on Fostering and Empowering People's Markets.

Data collection primarily relies on library research, which includes reviewing statutory regulations, legal doctrines, and principles. Secondary sources such as journal articles, legal commentaries, and expert opinions are also analyzed to provide comprehensive insights into the regulatory framework. The doctrinal approach involves a critical examination of the coherence, hierarchy, and consistency of the laws, ensuring legal synchronization and understanding of underlying legal norms.

The analysis employs qualitative techniques, presenting data descriptively and critically to identify gaps, ambiguities, and inconsistencies within the legal framework. This approach is justified as it enables a thorough evaluation of the existing laws and their practical implications, contributing to the development of sound legal recommendations for fostering a fair and competitive retail market in Indonesia.

3. Results and Discussion

West Sumatra is a unique region in Indonesia. The province, Minangkabau, is the only matrilineal society in Indonesia. West Sumatera believes that Adat Law complies with Islamic Law. It means a custom that complies with Islam's values rooted in the Al-Quran.¹⁶ Therefore, it is complicated to analyse a government policy in West Sumatra.

3.1. Small Retailer Protection Policy in the Law on Business Competition and Law on Trade

Before discussing local government policies in protecting local retail entrepreneurs, it is necessary to discuss how the central government regulates and protects micro, small, and medium enterprises (MSMEs) retail. These arrangements cover regulations in business competition, the investment sector, and the people's market sector. For more details, as explained below:

3.1.1 The MSMEs Retailer Protection Policy in the Law on Business Competition

¹⁶ Zefrizal Nurdin and Hilaire Tengan, "Legal Certainty in the Management of Agricultural Land Pawning in the Matrilineal Minangkabau Society, West Sumatra," *Land* 8, no. 8 (2019): 117, <https://doi.org/10.3390/land8080117>.

Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (Law 5/1999) is a *lex generalist* that can be used as guidelines and limitations in running a retail business fairly. In principle, Article 2 of Law 5/1999 stipulates that business actors in Indonesia carry out their business activities based on economic democracy by considering the balance between the interests of business actors and the public interest. Furthermore, the objectives of Law 5/1999 based on Article 3 of Law 5/1999 are to:

- a. maintaining the public interest and increasing the efficiency of the national economy as one of the efforts to improve people's welfare;
- b. creating a conducive business climate through regulation of fair business competition to ensure certainty of equal distribution of business opportunities for large, medium, and small business actors;
- c. preventing the occurrence of monopolistic practices and or unfair business competition caused by business actors; and
- d. creating effectiveness and efficiency in business activities.

In Article 1 letter (f) of Law 5/1999, unfair competition is competition between business actors in carrying out production and or marketing activities of goods and or services that are carried out dishonestly or against the Law or hinder business competition. Whereas the Monopolistic Practices in Article 1 letter (b) of Law 5/1999 are the concentration of economic power by one or more business actors which results in the control of the production and or marketing of certain goods and or services causing injustice, competition, and can be detrimental to the public interest.

Observing all the provisions stipulated in Law 5/1999, almost all these provisions regulate and bind business actors. There are provisions regarding prohibited agreements and prohibited activities. In addition, it also regulates law enforcement in the event of a violation by business actors, and sanctions are given.

In addition to binding business actors, Law 5/1999 indirectly binds the government not to issue regulations providing special facilities to certain monopolistic business actors. Law 5/1999 is expected to bind the government to be more objective and professional in regulating the business world in Indonesia to increase international trust in Indonesia and attract them to invest in Indonesia.¹⁷ Even so, what if it turns out that regulations or policies issued by the government are

¹⁷ Tini Kartini, "Dampak Persaingan Usaha Antara Indomaret Dengan Alfamart Terhadap Pedagang Tradisional Ditinjau Dari Perspektif Hukum Persaingan Usaha," *JURNAL ILMIAH LIVING LAW* 8, no. 1 (2016), <https://doi.org/10.30997/jill.v8i1.752>.

precise to protect MSMEs? Is this policy contrary to Law 5/1999? The problem is that Law 5/1999 does not legally support certain business actors, including MSMEs.¹⁸

However, in our opinion, local government policies can still be implemented as an effort to protect MSMEs. This follows the Decision of the Commission for the Supervision of Business Competition ("KPPU") No: 03/KPPU-L-I/2000. Decision Regarding Alleged Violation of Law 5 of 1999 by PT. Indomarco Prismatama with the Indomaret trademark.

Although KPPU considers that there is insufficient evidence regarding the alleged violation of Article 15, Article 22, and Article 25 of Law 5/1999, Indomaret ignores the principle of balance by the principle of economic democracy in encouraging healthy competition between the interests of business actors and the public interest as referred to in Article 2 of the Law 5/1999. Related to this, KPPU ordered Indomaret to stop expanding in traditional markets directly related to small retailers to create a balance of competition between MSMEs players. In addition, in its decision, KPPU provides recommendations to regional governments to:

- a. improvement and simplification of the implementation of regulations and policy measures, which include but are not limited to policies in the field of layout and spatial planning, licensing, opening hours, and social environment; and
- b. Promptly guide and empower small and medium enterprises, as well as small retailers, to enhance their competitiveness and enable them to compete alongside medium and large businesses.

Referring to the explanation above, according to the author, local governments can issue policies or regulations to prevent the massive expansion of modern retail. To protect MSME business actors in order to achieve a balance of competition. The policy remains in line with the objectives mandated in Law 5/1999.

3.1.2 The MSMEs Retail Protection Policy in the Law on Trade

Law Number 11 of 2020 on Job Creation (Law 11/2020) changes the laws and regulations in the trade sector. Article 46 of Law 11/2020 amends several provisions concerning Trade in Law Number 7 of 2014 (Law 7/2014). In connection with that, Article 14 of Law 7/2014 was changed to *"The central government makes arrangements regarding the fair and equitable development, structuring and development of people's markets, shopping centres, supermarkets and wholesalers*

¹⁸ Safrina Safrina and Susiana Susiana, "Perlindungan Usaha Kecil Menengah Dalam Undang-Undang Persaingan Usaha," *Kanun Jurnal Ilmu Hukum* 15, no. 3 (2013): 437–53, <https://jurnal.usk.ac.id/kanun/article/view/6189>.

to create business certainty and a balanced cooperative relationship between suppliers and retailers while still paying attention to cooperatives and the world of MSMEs."

Article 46, Article 47, and Article 185 letter b Law 11/2020 were followed up with the Government Regulation of the Republic of Indonesia Number 29 of 2021 concerning implementing the Trade Sector ("PP 29/2021"). In this regard, Article 86 of PP 29/2021 explicitly states that establishing a shopping centre or supermarket must consider the community's socio-economic conditions, people's markets, and MSMEs in the area or local area. According to Article 85 PP 29/2021, Shopping Centers can be shops, malls, and the main square. At the same time, supermarkets can be minimarkets, supermarkets, department stores, hypermarkets, and wholesale/grocery stores in the form of shops with a self-service system.

As a follow-up to PP 29/2021, the Minister of Trade of the Republic of Indonesia issued Regulation 23 of 2021 concerning Guidelines for the Development, Management, and Development of Shopping Centers and Supermarkets (Permendag 23/2021). Article 2 of the Minister of Trade 23/2021 stipulates that the location for the establishment of Shopping Centers and Supermarkets refers to the district/city Regional Spatial Plan (RTRW) or district/city detailed spatial plan (RDTR). Furthermore, Article 3 of the Minister of Trade Regulation 23/2021 stipulates that the zoning of the location for the establishment of Shopping Centers and Supermarkets is carried out by considering the following:

- a. socio-economic conditions of the local community, as well as the existence of the People's Market and MSMEs in the area or area or local area;
- b. use of space in order to maintain a balance between the number of People's Markets with Shopping Centers and Supermarkets;
- c. Distance between Shopping Centers and Supermarkets and Traditional Markets or Retail Stores; and
- d. spatial planning technical standards for shopping centres and supermarkets based on laws and regulations.

Considering the explanation above, the laws and regulations in the field of trade do not regulate whether the local government can limit or not grant licenses to certain supermarkets to operate in their area. However, the local government can set the location for the establishment of a supermarket referring to the RTRW or RDTR while still taking into account one of the socio-economic conditions of the local community as well as the existence of the People's Market and MSMEs in the zone or region or local area.

3.2. The Local Government Policies to Protect Local Retail in West Sumatera

West Sumatra has banded modern minimarket (Alfamart and Indomaret). Nevertheless, the government allows some supermarkets, such as Transmart and Robinson, to operate. This condition could cause an assumption that the government discriminates against Alfamart and Indomaret. As clarifications, the government argues why they should ban the modern mini market. Firstly, to protect small and medium enterprises and local mini markets.

Furthermore, those supermarkets do not commit to supporting small and medium enterprises businesses and collaborating with the government to grow the economy in West Sumatra. Then, they tend to bring goods from outside West Sumatra. Finally, the government believes that the money they have gained will not circulate in West Sumatra. However, these arguments need to be analysed further.

Based on previous research, the Provincial or Regency/City Governments in West Sumatra will grant permits to modern shops or minimarkets if they are owned by the local community or 20% of the goods sold are local MSME products.¹⁹ However, the problem is that the policy is not regulated in clear written regulations. This policy can, of course, raise pros and cons, bearing in mind that there are no written rules prohibiting the existence of supermarkets, which are considered unclear to retail entrepreneurs. Although on the other hand, this can be interpreted positively as an effort to protect the interests of MSMEs and local entrepreneurs. Such policies need further study.

3.2.1. West Sumatera as an Autonomous Region

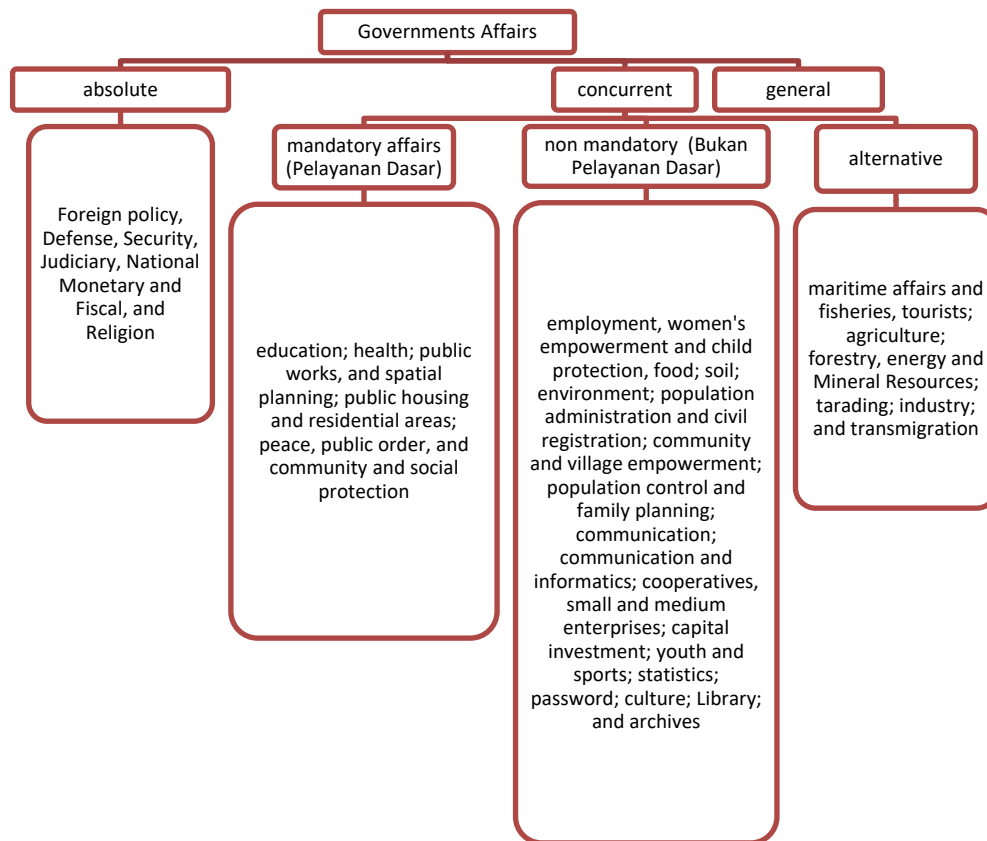
Decentralisation and autonomy are two related terms. Decentralisation comes from the word *de*, which means free, and *centrum*, which means centre. Meanwhile, autonomy comes from the word *autos*, which means self and *nomos*, which means law. If these words are interpreted, it does not mean that regions can act independently, break away from the state, or make their own regulations without any restrictions (barriers) from the state. However, decentralisation is the process of granting autonomy to the people in an area. In other words, decentralisation is transferring planning, decision-making, or administrative authority from the central government to the regions. Therefore, the relationship between decentralisation and autonomy is like two sides of a coin that cannot be separated.

Starting the discussion on decentralisation and autonomy in Indonesia, it would be unwise not to depart from the provisions of the Constitution of the Republic of Indonesia regarding

¹⁹ Pratiwi, Dian Kus, "Pembentukan Perda No. 3 Tahun 2016 Tentang Pembinaan Dan Pemberdayaan Pasar Rakyat Serta Implikasinya Terhadap Pasar Di Sumatera Barat," 2020.

regional autonomy. As a basic norm, Article 18 paragraph (2) of the 1945 Constitution states that "Provincial, city/regency governments regulate and manage their own government affairs which adhere to the principle of autonomy and co-administration". To facilitate the understanding of Article 18 paragraph (2) of the 1945 Constitution, it is better to pay attention to the meaning of regional autonomy as referred to in Law 23/2014 concerning Regional Government.

The limits of the authority of the central and regional governments are then clearly regulated in Article 9, paragraph (1) of Law 23/2014. Government affairs consist of absolute government affairs, concurrent government affairs, and general government affairs. According to Article 10 paragraph (1) and Article 12 paragraph (1) of Law No. 23 of 2014 concerning Regional Government, the authority can be seen in the diagram below:



Considering the above provisions, it is clear that the trading sector is part of the affairs of the central government, which is handed over to the provincial government or the city/district/city government. Thus, the regulation of retail trade is a matter whose authority is delegated to regional governments. Because of that, the West Sumatra Government might have legal standing to make policies preventing modern minimarket from entering the market.

3.2.2 *Minangkabau* Costum and Values

West Sumatra is an autonomous region in Indonesia that exists based on Law No. 61/1958. The regulation was revoked and then replaced by Law. No 17/2022 on West Sumatera Province. West Sumatra has some characteristics that make it different from other provinces. Refer to Article 5 Law. No 17/2022, one of the characteristics of West Sumatera Province is explained with the proverb "*Adat Basandi Sarak Sarak Basandi Kitabullah, Syarak mangato, Adat mamakai*," which means that custom is to comply with the values of Islam, which in turn is rooted in Al-Quran.²⁰ Therefore, every local government policy in West Sumatra needs to consider whether the policy is in accordance with Islamic Law. This includes policies relating to ritual arrangements.

Talking about the business model, Indomaret, as a modern minimarket, has implemented a business model known as a franchise. This model is suitable for Islam's values because it complies with "*akad syirkah*" in syariah Law.²¹ As long as Indomaret's business activity complies with the Syariah law, there are no value issues that prevent Indomaret from entering the West Sumatera market.

In principle, in Islamic law, a good market mechanism is a market that guarantees its freedom, must comply with sharia rules, and must have no disturbance. The Sharia market guarantees that business actors are free to enter and exit transactions on the market; this is based on one of the criteria for the Sharia market mechanism. Ibn Taimiyah did not justify forcing or hindering residents from selling goods because that was an act that was unjust and prohibited.²² Imam Shafi'i also explained that it is forbidden to manipulate offers in the market by intercepting or blocking the entry of goods or the entry of sellers into the market. The main reason for this prohibition is to protect consumers. Also refers to a hadith where Rasulullah (saw) forbade tapping merchandise before entering the market: "Yahya bin Yahya told us, Hushayim informed us from Hisham, from Ibn Sirin, from Abu Hurairah, he said: "The Messenger of Allah forbade tapping merchandise intercepted."

However, legal barriers to entry by the government through government regulations are allowed according to Sharia because they are intended for the lives of many people and do not harm the general public. This refers to the form of public ownership (*al-milkiyah al-ammah*) in the form of natural resources that must be preserved. Barriers to entry by the government through regulations are not aimed at enriching certain parties but for the benefit of the wider community.

²⁰ `Nurdin and Tegnan, "Legal Certainty in the Management of Agricultural Land Pawning in the Matrilineal Minangkabau Society, West Sumatra."

²¹ `Amy Retno Wulandari, "Bisnis Waralab Indomaret Perpektif Ekonomi Islam," *Wasathiyah: Jurnal Studi Keislaman* 2, no. 1 (2021): 1–16, <https://e-journal.stishid.ac.id/index.php/wasathiyah/article/view/80>.

²² Nadzar Ageng Pratiwi, "Analisis Hukum Ekonomi Syariah Terhadap Barrier to Entry Dalam Hukum Persaingan Usaha Di Indonesia," 2018, <https://eprints.walisongo.ac.id/id/eprint/9143>.

This also refers to the opinion of Imam Abu Hanifah, who allows it if the aim is not to manipulate offers and not to harm other traders or the community. Similar to Abu Hanifah's view, the Prophet also assigned the economic resources of Medina to the state and did not give them to individuals as they were intended for livelihoods.²³

Therefore, the government's policy to include modern retail in West Sumatra can be justified. This remains in line with Islamic principles that underlie cultural and customary values in West Sumatra. With a note, so far, the prohibition from entering the retail market is strictly regulated by the government with the aim of protecting the interests of many people.

3.2.3. West Sumatra Regional Regulation on Empowerment of People's Markets

In this regard, the Government of West Sumatra issued a regulation on market development as stated in Regional Regulation Number 3 of 2016 concerning Fostering and Empowerment of People's Markets (Perda 3/2016). In the explanation section, it is explained that this Regional Regulation is present as a form of the West Sumatra Provincial Government's obligation to provide guidance and empowerment to the People's Market. Thus, an effective and profitable trading facility for the lower middle class was created. For this reason, the People's Market must receive support from the West Sumatra Provincial Government in the form of guidance, empowerment, and revitalisation (market rejuvenation) and strict and continuous supervision in the midst of the thriving People's Market.

Based on Article 4 Paragraph 4 letter f, it is explained that Regional Regulation 3/2016 aims to provide legal protection for markets, market managers, and traders. Self-protection based on Article 1 number 9 Regional Regulation 3/2016 is all efforts by the Regional Government to protect people's markets, micro, small, and medium enterprises and cooperatives from unfair competition with modern markets, modern shops, and the like so that they continue to exist and are able to develop into better as befits a business.

The provisions of Article 29 paragraph (1) Regional Regulation 3/2016 then provide confirmation that the Regional Government, Regency/City Regional Government, and Nagari/Village Government provide protection for markets and traders. Nevertheless, the problem is that Article 29 paragraph (2) of Regional Regulation 3/2016 then provides boundaries that protect markets and traders. Where the protection that will be carried out by the Regional

²³ Pratiwi.

Government, Regency/City Regional Government, and Nagari/Village Government include aspects of:

- a. legal certainty and business guarantee in the market in terms of location; and
- b. Legal certainty of the status of lease rights is needed to ensure business continuity in the event of a disaster that destroys the property being traded.

Observing the provisions in Perda 3/2016, it can be seen that the regulation does not explicitly prohibit modern retailers from entering the West Sumatra market, so the prohibition of modern retail from entering the market can only be seen from the meaning of the word Protection in Article 1 number 9 of Regional Regulation 3/2016. Where the Regional Government protects people's markets, micro, small, and medium enterprises, and cooperatives from unfair competition with modern markets, modern shops, and similar businesses.

Thus, the prohibition of modern retail from entering the market in West Sumatra is not based on a clear written policy. The absence of written regulations regarding the prohibition of the existence of modern stores or networked retail is considered less clear to retail entrepreneurs. According to the author, in the absence of clear written rules, there are potential problems that can harm the people's market, micro, small and medium enterprises, including:

- a. Modern Retail Affiliate

In fact, in West Sumatra, there are no modern retailers (Alfamart and Indomaret). However, there is no guarantee that modern retailers will enter the West Sumatra market through corporate affiliations. Referring to Article 1 point 1 of Law no. 8 of 1995 concerning the Capital Market, Affiliates are:

- 1) family relations due to marriage and heredity to the second degree, both horizontally and vertically;
- 2) the relationship between the Party and employees, directors, or commissioners of the Party;
- 3) relationship between 2 (two) companies in which there are one or more members of the same board of directors or board of commissioners;
- 4) relationship between the company and the Party, either directly or indirectly, controlling or being controlled by the company;
- 5) relationship between 2 (two) companies that are controlled, either directly or indirectly, by the same Party or
- 6) relationship between the company and majority shareholders.

Although there are no Alfamart and Indomaret trademarks in West Sumatra, there is no guarantee that PT Indomarco Prismatama and PT Sumber Alfaria Trijaya Tbk have entered the

market through their affiliates. Written regulation will provide clear boundaries on who can become shareholders or invest in local retail to protect MSMEs.

b. Nominee Agreement

In addition to entering through affiliates, modern retail infiltration can also enter West Sumatra through various agreements. For example, Nagari Mart has a partnership with PT Sumber Alfaria Trijaya Tbk (Alfamart). Because this company is still new and does not have a retail system for running its stores or outlets, Nagari Mart asked PT Sumber Alfaria Trijaya or Alfamart to be a facilitator. The role of a facilitator is to assist in retail management, merchandise distribution and systems, bookkeeping assistance, and tax administration. Because the Alfamart system is more modern and advanced than other national retailers, Alfamart may not dominate the retail business in West Sumatra, but the system and management used by local entrepreneurs is the Alfamart system.

In addition to entering through affiliates, modern retail infiltration can also enter West Sumatra through various agreements. For example, NagariMart has a partnership with PT Sumber Alfaria Trijaya Tbk (Alfamart). Because this company is still new and does not yet have a retail system for running its stores or outlets, Nagari Mart asked PT Sumber Alfaria Trijaya or Alfamart to be a facilitator. Alfamart's role as a facilitator is to assist in retail management, merchandise distribution and systems, bookkeeping assistance, and tax administration. Because the Alfamart system is more modern and advanced than other national retailers, Alfamart may not control the retail business in West Sumatra, but the system and management used by local entrepreneurs is the Alfamart system.

If so, is this practice permissible? In addition, it is also possible that certain agreements are deliberately hidden from third parties or nominee agreements. These practices can cause polemics among the public or retail businesses. Does the government allow or need to take firm steps to impose limits? With unwritten restrictions for retailers to enter the West Sumatra market, it will be challenging for the government to protect the community and MSME business actors.

c. The Domination of Local Retail Market

The government bans Alfamart and Indomaret from operating in West Sumatra. However, no regulations strictly limit modern local markets operating in West Sumatra. In the absence of significant competitors such as Alfamart and Indomaret, there is potential for local modern markets such as Budiman, Aciak Mart, and Citra Supermarkets, which are dangerous for society. They can become market leaders without significant competitors. Thus, local governments will find it

difficult to protect the community and MSME actors if there are no clear rules regarding this matter.

4. Conclusion

Local governments can issue policies or regulations to prevent the massive expansion of modern retail. To protect MSME business actors in order to achieve a balance of competition. On the other hand, trade regulations do not regulate whether or not the local government can limit or not grant licenses to certain supermarkets to operate in their area. The local government can set the location for the establishment of a supermarket referring to the RTRW or RDTR while still taking into account one of the socio-economic conditions of the local community as well as the existence of the People's Market and MSMEs in the zone or region or local area. However, the prohibition of modern retail from entering the market in West Sumatra is not based on a clear written policy. The absence of written regulations regarding the prohibition of the existence of modern stores or networked retail is considered less clear to retail entrepreneurs. In the absence of clear written rules, there are potential problems that can harm the people's market, as well as micro, small, and medium enterprises.

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