

Implementation of Islamic Sharia in Aceh (Study on the Dynamics of Legalization and Permits for the Implementation of Islamic Sharia in Aceh Province)

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Abstract

This research examines what is the history of the process and dynamics of the local government's policy regarding permits for the implementation of Islamic law in Aceh. This research is qualitative descriptive research with content analysis approach. The steps taken in the research include data collection and data analysis. First, the data is taken from the source such as the book entitled Islamic Shari'a in Aceh (Problematics of Sharia Implementation). The results showed that: The Birth of the Legalization of Islamic Sharia in Aceh occurred in 1999 after going through a long struggle against various policies and conflicts (movements needed by Acehnese community leaders). Among them is the policy of the Central Government as a result of the Round Table Conference (KMB) which has implications for the dissolution of the Aceh Province which has an effect on the existence of the Syar'iyah Court, which was previously an apparatus of the Aceh Province. This was further exacerbated by the issuance of Law No. 1 of 1950 which contained the dissolution of all autonomous courts and merged them into state courts. The dynamics of permits for the implementation of Islamic Shari'ah in Aceh are vulnerable to those responsible for implementing Islamic Shari'ah (Pemda and related institutions) in making policies on the implementation of Islamic Shari'ah. This was caused by two things, namely: First, there were certain parties who were worried and accused that the implementation of Islamic Shari'ah in Aceh would reduce and not be in line with the protection of human rights and women. The two permits have given rise to formidable challenges, because it can be said that this is a new era in the study and development of fiqh, especially in Aceh.

Keywords

implementation, islamic shari'ah; dynamics of legalization and permits; Aceh province



I. Introduction

Islam is the last religion revealed by Allah SWT. To guide mankind on earth, these teachings and guidance were revealed to the Prophet Muhammad SAW through revelation collected in the Qur'an and Hadith as a guide to life to obtain happiness in this world and the hereafter. Therefore, Islam is a religion that has the majority of adherents in the world, especially in the Republic of Indonesia, which is spread across various provinces, although there is also a diversity of religions and beliefs based on Pancasila as the foundation of the country.

The Aceh region is the only province that has received special privileges in terms of policy and implementation of Islamic law, as a gift from President Soekarno. This is as explained by Amran Zamzami (1990), in his book Jihad Akbar in the Medan Area. According

to this book, on June 16, 1948 Soekarno arrived at Loknga airport in Banda Aceh. After this arrival, in a meeting with several Acehese figures, at the request of Abu Beureueh, Soekarno stated: "Let the Acehese people govern their own area based on Islamic law." It was also during this visit that Soekarno asked Acehese merchants to buy airplanes and gift them to the Government, which Acehese merchants immediately complied with by giving 50 kg of gold as a gift. to buy two Dakota airplanes. It was also at this time that Soekarno referred to Aceh as the capital area, which is often used until now. In Aceh, the effects of prolonged conflict have created new problems, namely the diminishing sense of nationalism among fellow nationals (Fuadi, 2018). The people of Banda Aceh are known to be independent and creative and transformed into an inspired society that also requires assistance provided by outside parties according to their needs depending on assistance (Ismail, 2019). However, if we look at Aceh in general, the strong impression is that the Special Autonomy Fund has not been able to show a significant role in raising people's welfare there. Poverty is still a major problem for Aceh (Heru in Dewi, 2018).

However, in reality the implementation of Shari'at Islam in Aceh at that time did not receive public recognition. The legalization of Islamic Shari'a in Aceh experienced clashes that required the sacrifice of a long time and great struggle from the leaders of the Aceh Region in particular. So when Amran Zamzami mentioned in his book Jihad Akbar in Medan Area Soekarno stated "Let the Acehese regulate their own area based on Islamic Shari'a" that occurred on June 16, 1948, but the written recognition or legalization of the implementation of Shari'ah Islam in Aceh, only materialized on June 16, 1948. October 4, 1999 by President BJ Habibi by signing Law No. 44 of 1999.

II. Review of Literatures

History of the Legalization of Islamic Sharia in Aceh and the Dynamics of the Process

a. History of Legalization of Islamic Sharia in Aceh

As previously mentioned, Aceh's leaders since the beginning of independence have asked the central government for permission to implement Islamic law in Aceh. However, the ratification and acknowledgment of the implementation of Islamic law in Aceh) only materialized in 1999 to coincide on October 4 by President BJ Habibi who signed Law No. legal umbrella. Although the written acknowledgment has not yet reached the implementation stage.

In the official explanation of Law Number 44 of 1999 (Al Yasa', 2008) above, among others, it is stated:

"Isi keputusan Perdanana Menteri Indonesia Nomor 1/ Missi/ 1959 tentang keistimewaan Provinsi Aceh yang meliputi Agama, Perdata dan pendidikan, yang selanjutnya diperkuat dengan UU Nomor. 22 Tahun 1999 tentang Pemerintah Daerah, bahkan disertai dengan penambahan peran Ulama dalam menentukan kebijakan Dearah. Untuk menindak lanjuti ketentuen-ketentuan mengenai keistimewaan Aceh tersebut dipandang perlu untuk menyusun penyelenggaraan keistimewaan Acet tersebut dalam suatu undang-undang. Undang-Undang ini mengatur hal-hal pokok untuk selanjutnya memberikan kebebasan kepada Daerah dalam mengaatur pelaksanaannya sehingga kebijakan Daerah lebih akomodatif terhadap aspirasi masyarakat Aceh".

As can be seen in the explanation above, that the law was passed in 1959, and even now it is added with one more feature, namely that the involvement of the Ulama's role in the determination of various regional policies is fully justified. While the meaning or scope. The Islamic Shari'ah to be implemented is described in Article. 1 regarding the following general provisions:

- 1) Privileges are special authorities to organize religious life, customs, education and the role of Ulama in determining regional policies;
- 2) Regional Policy is a regional regulation or Governor's Decree which is regulating and binding in the administration of privileges;
- 3) Islamic Shari'ah is the guidance of Islamic teachings in all aspects of life
- 4) Adat is a rule or action based on Islamic Shari'ah which is commonly obeyed, respected, and glorified since the first which is used as the basis of life (Al Yasa', 2008).

From the quote above, in the opinion of the presenter, there are several things that can be concluded, namely:

- 1) The Central Government has recognized the privileges given to Aceh, especially in the fields of Religion, Education and Acehese customs, which previously for approximately 40 years ago (in 1959) there was no implementing regulation, and now this has been overcome by the existence of Law no. 44 of 1999.
- 2) Islamic Shari'ah has been fully defined (guidance of Islamic teachings in all aspects of life). So, the law has provided an understanding of kaffah to the Islamic Shari'ah which includes the fields of: ibidah, Mu, amalah, Munakahah, Jinayah and even other fields.
- 3) The Islamic community in Aceh has been given written permission to practice Shari'at Islam in their lives, in recognition of the privilege of Aceh.

b. The Birth Process of the Legalization of Islamic Sharia in Aceh

The happy moment for the people of Aceh with the legalization of course did not just happen, but its form occurred after a relatively long period of time, after the struggle through movements played by some Acehese community leaders.

In a historical study of the implementation of Islamic Shari'a in Aceh, it was stated that the Acehese leaders from the beginning of independence had asked the Central Government for permission to implement Islamic Shari'ah in Aceh, and even President Soekarno had promised the ulama and Acehese people's leaders that in Aceh Islamic law will be enforced. Several historical records state that this permit was given verbally by President Soekarno when he visited Aceh in 1948 (Amran, 1990).

Moreover, considering that before President Seukarno's promise to implement the Shari'ah was given, the Aceh Resident had established a Syar'iyah Court in all administrative areas in Aceh which was carried out with the permission of the Governor of Sumatra (at that time Aceh was a residency in the province of Sumatra). (Al Yasa', 2002) through UU No. 189 dated January 13, 1947 (Analiensyah and Jumhuri, 2008). The issuance of this wire letter occurred perhaps because from the beginning it was felt that the implementation of sharia in Aceh would only succeed if Aceh was a province that as an independent province, the request for Aceh to become an autonomous province that stands alone has also been submitted since the early days of independence, along with the request for permission to implement the Islamic Shari'a.

Furthermore, the Syar'iyah Courts, which have existed in all administrative areas in Aceh, are in limbo, whose position is no longer clear, because the results of the Indonesian Round Table Conference (KMB) changed its form to the United States of Indonesia (RIS), and the Republic of Indonesia in 1945 became one of the one state in it. As part of this agreement, the Aceh Province was dissolved with the issuance of Government Regulation

No. 5 of 1950 (Analiansyah and Jumhuri, 2008) and merged into one with North Sumatra Province with the capital Medan (Sumatra is divided into three provinces, north, central and south) (Al Yasa', 2002).

The abolition of the status of the province raises several implications that have a large impact on the implementation of Shari'ah Islam in Aceh which previously may not have been taken into account. This explanation is as explained by several reference books (Ismuha, 2008). The implications are: First, the existence of the Syar'iyah Court, which was previously an apparatus of the Aceh Province (before that the Aceh Residency apparatus, was formed with an Aceh Resident Decree on the order/permission of the Governor of Sumatra, as mentioned above) its position is unclear, there are even those who regard it as a "private institution" because in the province of North Sumatra this institution does not exist. This situation was exacerbated when Law No. 1 of 1950 was issued, which dissolved all autonomous courts and merged them into state courts.

Second, the existence of madrasas (private) which since 1946 have been domesticated (funded) by the Aceh government has become unclear in status and financially neglected. (These madrasas were "deregistered" by the "Aceh Residency Regional Government" with a "Qanun" dated November 1, 1946. The new name used was Sekolah Rakyat Islam, seven years of study period and a curriculum of religious subjects compared to general 34:66, 74 lesson hours religion and 144 hours of general lessons (218 hours a week). There are 180 madrasahs, with a total of 36,000 students.) So, this institution has been suspended as a result of the abolition of the status of the province of Aceh.

This situation was allegedly the main factor that caused widespread discontent in Aceh, which led to the outbreak of the DI-TII rebellion in 1953 which was known as the "Aceh incident" and continued to drag on until 1962. The incident could then be resolved with peace steps through deliberation which finally resulted in an agreement between the DI/TII Revolutionary Council and the Central Government Representative (popularly known as Missi Hardi) to end the "Aceh incident", and for this a Decree of the Prime Minister of the Republic of Indonesia Number 1/Missi/1959 was made. With this decision, the province of Aceh received a new designation: the Special Region of Aceh. This term implies the granting of "the widest possible autonomy, especially in the fields of religion, culture, and education."

This decision succeeded in reducing the rebellion, because there were some of Abu Beureueh's subordinates who were willing to return to Mother Earth's lap after the Deputy Prime Minister's decision above. But Abu Beureueh and some of his men still continued the rebellion. Through correspondence with the Commander of the Kodam Iskandar Muda, he continued to demand permission and guarantees for the implementation of Islamic law in Aceh before he returned to the NKRI. Because of this fairly firm and hard and repeated request, finally the Commander of the Military Region I Aceh / Iskandar Muda, was willing (forced) to follow up with the next decision, namely the Decree of the Commander of the Military Region I Aceh / Iskandar Muda as the Regional War Authority for the Special Region of Aceh., Number KPTS/PEPERDA-061/3/1962, April 7, 1962, which among the people of Aceh at that time was known as the "Principal Wisdom Decision". It was only after this letter was written that the chaos and rebellion of the Acehnese people was truly over and Tgk Mohammad Daud Beureueh returned to the fold of the Republic of Indonesia.

However, all these conditions and achievements, again do not have much effect on the real implementation of Islamic law. This is because several "important" PERDAs passed by the DPRD and the Governor of Aceh to implement Islamic law were not ratified (rejected) by the Central Government, among others for reasons that conflicted with higher regulations, or their contents were outside the authority of the Aceh provincial government. so, it can't be implemented. Some of the important regional regulations can be seen in the following details:

- 1) Aceh Special Regional Regulation No. 1 of 1963 concerning the Implementation of the Sji'ar of Islam in the Special Region of Atjeh (22 June 1963);
- 2) Laws. Kab ach Tengah No. 1/1967 concerning Special NRT concerning Tahkim and Marriage Customs (5 April 1967);
- 3) Laws. Prip. DI Aceh No. 6/1968 concerning the Basic Provisions for the Implementation of the Elements of the Islamic Sjar'at. (11. Nov. 1968).

In response to this situation, it is stated that the Aceh Government, in 1966 established two institutions as advisors to the Governor through a Provincial Regulation, namely the Aceh Development Board (advisor to the Governor in the field of economics and physical development) which was later upgraded to BAPPEDA and the Ulama Consultative Council (advisor to the governor). in the social and religious fields) which remained a semi-private regional institution and was eventually converted into a part of the Indonesian Ulama Council, so that its status could be said to have dropped, because it left the structure of the Aceh Provincial Government. The Aceh government has also since 1966 established a bureau at the Governor's Office to plan and coordinate the implementation of Islamic law in Aceh, which at that time was popularly known as Biro IX.

This is further reinforced by the explanation by Hardi in the book *Special Region of Aceh, Political Background and Its Future*, he explains that:

“Keistimewaan ini diberikan tiga tahun setelah pembentukan kembali Provinsi Aceh (UU No 24/1956) dan dua tahun setelah disahkannya Undang Undang Nomor 1 Tahun 1957 tentang Daerah Istimewa (maksudnya Daerah istimewa Yogyakarta). Hardi di dalam buku otobiografinya menyatakan bahwa beliau membuat keputusan ini adalah berdasar dua undang-undang di atas dikaitkan dengan Undang- undang Nomor 3 Tahun 1950. Tetapi sangat disayangkan - demikian Hardi menulis-Aceh tidak pernah diberi kesempatan untuk mengatur rumah tangganya berdasarkan UU No. 1/1957 ini. Aceh dipaksakan mengikuti berbagai peraturan perundang-undangan yang dibuat belakangan, sehingga jati diri dan identitas Daerah Istimewa Aceh menjadi kabur” (Hardi, 1993)”

So, it can be concluded that in law no. 5/1974, Aceh is still given permission to use the designation of the Special Region, but only in name, while the rules and regulations that apply in the Province of the Special Region of Aceh are the same as those applicable in other regions/provinces. In other words, there is no meaning or content of this privilege given. The specialty of Aceh is just a name, without any content or specificity.

Although in great disappointment, efforts to fight for recognition of the implementation of Islamic Shari'a continue to be carried out through movements carried out by the Acehnese people. It was stated that the rebellion which called its organization GAM (Gerakan Aceh Merdeka) which wanted to separate itself from the Republic of Indonesia was proclaimed by Dr. Muhammad Hassan di Tiro, in December 1976. From the actions of this movement that led the central government to hold the Red Net Operation (known as DOM, Military Operations Area) carried out by the TNI (ABRI) to resolve this crisis and quell it, it has attracted public attention in international scale due to human rights violations committed by the TNI (ABRI).

On the other hand, the central government also failed to reduce or stop the rebellion. In this regard, the political changes and policies of the central government have finally brought about various important changes for the people of Aceh as a special autonomous region, with several special powers (which are only given to Aceh and not given to other regions), one of which is the permit to implement sharia. `at Islam is broad and even comprehensive (kaffah)

within the corridors of the Indonesian legal system and national judicial system, which began with the ratification of Law No. 44/1999 by President B.J. Habibie. The presence of this law revived the spirit of the Acehnese people (which had tended to fade) to be able to implement Islamic law in the Acehnese community (Hamid, 2001).

So far it can be concluded that the law is a formal juridical opportunity to implement Islamic law, as the people of Aceh want, since the days of the Iskandar Muda sultanate. Then not long after Law no. 44/1999, in 2000 the Regional Government issued 5 regional regulations (PERDA), this means that the people of Aceh have the opportunity to step into the implementation phase as a realization of the existence of public recognition of Islamic Sharia in Aceh. The dynamics of the permit process in its realization can be seen in the following discussion in the sub-discussion below.

III. Discussion

Understanding the Acehnese Community and the Dynamics of the Permit Process for the Implementation of Islamic Sharia in Aceh

a. The Acehnese Community's Understanding of the Essence of Islamic Shari'ah in Aceh

Quoting the explanation of the governor of Aceh, Dr. H Zaini Abdullah, as reported by the media, he explained that the struggle to implement the implementation of Islamic Shari'ah in Aceh was still faced with various challenges and obstacles, both from within and from outside parties. One of them is "*Pemahaman dan kesadaran masyarakat masih perlu ditingkatkan, kelembagaan dan sumberdaya juga harus diperkuat. Selain itu, sinergi antar elemen juga harus terus ditingkatkan. Sementara itu, dari sisi luar, kita juga menghadapi berbagai kritik dan kekhawatiran masyarakat nasional dan internasional yang belum sepenuhnya memahami Syari'at Islam.*" On the other hand, the limited understanding of outsiders towards the implementation of Islamic Shari'ah which sometimes becomes biased and creates a negative perception (Perda, 2000).

Related to the explanation above, there is also the view of the community that views the implementation of Islamic Sharia in Aceh some time ago. and the implementers of Islamic law seem powerless to prevent the spread of violence that is often reported in the local media in Aceh. In the name of Islamic Shari'a, often perpetrators of violations receive inhumane treatment and persecution from the community, such as being bathed in dirty water, being paraded by the masses without clothes, even to sexual harassment (for example, forcing a lewd scene on Lhok Nga beach by Sharia police officers).

As an implication of the analysis, the question sometimes arises, in society, is corruption and manipulation of state finances justified in Islam? Is not performing the worship of prayer, fasting and zakat justified in Islam? Is blaspheming other people, hitting and insulting perpetrators of violations of Islamic Shari'a without a fair legal process justified by Islam? Most people in Aceh hate violators of Islamic law, even though the haters themselves sometimes rarely worship to carry out their obligations as a Muslim, like the old Acehnese proverb "prayers wajib uro Friday, pray circumcision uro raya" (obligatory prayers are Friday prayers, and sunnah is Eid prayer).

So far, the Acehnese people's understanding of Islamic Shari'ah in Aceh has not been as comprehensive on all sides as the Kaffah Islamic Shari'a guidance or in other languages Universal Islam.

b. Dynamics of the Permit Process for the Implementation of Islamic Sharia in Aceh

As already mentioned, it is the Islamic Shari'a which is accommodated by the Shari'ah Court which is part of the national justice system. In looking at the study of the dynamics of

permits for the implementation of Islamic Shari'ah in Aceh, at least as stated by Al-Yasa' Abubakar, there are two things that become obstacles in its implementation or realization; First, there are parties who are worried and even allege that the implementation of Islamic Shari'ah in Aceh will reduce and not in line with the protection of human rights and women. Of course, this statement was put forward by certain circles and the clear implication could make it difficult or narrow for the permit to implement the implementation of Islamic Shari'ah in Aceh to be implemented which is directly related to the routine activities of the community. More concretely, the impact of this statement will be directly related to the policies taken by the person in charge of implementing Islamic Shari'ah in Aceh, which in this case is the Regional Government (PEMDA) and other related institutions. Because of this, there are several Qanuns (such as Qanun Jinayah), there is a tug of war for the implementation permit which has resulted in pros and cons among those in charge of implementing Islamic Shari'ah in Aceh.

Second, the presence of the above-mentioned law has created its own hopes and challenges for Acehnese community leaders to formulate fiqh in the form of legislation (in Aceh) which will be enforced by the state as positive law, or vice versa in other terms, compiling Aceh law in the form of laws and regulations based on Islamic Shari'ah (Al-Qur'an and Sunnah) or in a broader sense an effort to formulate fiqh within the framework of the nation state. This permit, whether we realize it or not, has created a formidable challenge, because it will be a sign of the presence of a new era in the study and development of fiqh, especially in Aceh, generally in Indonesia because Aceh is still part of the Republic of Indonesia. In more detail, it can be interpreted that so far, fiqh has been better understood as an explanation of "dogma" or in other terms "scientific study" to produce behavioral guidelines (moral or legal) for Muslims, in an effort to direct their obedience to Allah, then in the future fiqh will become part of state regulations that must be obeyed by Muslims because they are citizens, not simply because they are Muslims. If this activity plan is considered too grandiose as an effort to formulate a new fiqh, then perhaps it can also be considered as part of an effort to revive the discipline or study of *siyasaḥsyar'īyyah* (as part of fiqh) theoretically and practically, which so far have not received attention and have not received much attention. such opportunities among Muslims (Al Yasa', 2008).

It must also be explained that the effort to make Shari'a a positive law in Aceh is not something really new, because so far there have been several legal aspects that have been enforced by the state nationally. For example, positive law in the field of kinship (for Indonesian Muslims) has been based on (accepted) the principles of Shari'ah, or at least does not conflict with the principles of Shari'ah. Likewise, there has been a law regarding the implementation of the pilgrimage, which can be said to hand over its management and implementation to the state. There is also a law regarding waqf and zakat, although it has not been fully regulated. Likewise, banking based on Islamic principles has also been legalized and recognized through state laws and regulations. So that it is not too wrong if there is an opinion that in Indonesia there has been a new fiqh (which involves the state in its preparation and implementation) in the fields of kinship, zakat and hajj worship, waqf and Islamic banking. However, the expansion to other fields of law, especially the field of jinayat (criminal), only got a bright spot and a relatively strong or at least adequate basis, after the presence of Law no. 44/99 and the granting of special autonomy for Aceh through Law 18/01 which was later replaced by Law 11/06 and several other laws to complement it (Al Yasa', 2008).

IV. Conclusion

The Birth of the Legalization of Islamic Sharia in Aceh occurred in 1999 after going through a long struggle against various policies and conflicts (movements needed by Acehese community leaders). Among them are the policies of the Central Government as a result of the Round Table Conference (KMB), namely Indonesia changing its form to the United States of Indonesia (RIS), which has implications for the dissolution of Aceh Province which has an effect on the existence of the Syar'iyah Court, which was previously an Aceh Province apparatus which has run in such a way in the community, its position became unclear, which was further exacerbated by the issuance of Law No. 1 of 1950 which contained the dissolution of all autonomous courts and merged them into state courts.

This policy then caused widespread discontent in Aceh, which led to the outbreak of the DI-TII rebellion in 1953 which was known as the "Aceh incident" and continued to drag on until 1962. From this struggle has resulted in the decision of the Prime Minister of the Republic of Indonesia Number 1/Missi/1959. With this decision, the Province of Aceh received a new designation: the Special Region of Aceh (granting the widest possible autonomy, especially in the fields of religion, culture, and education); furthermore because it turns out that the autonomy does not have much effect on the real implementation of Islamic law. This is because several "important" PERDAs that have been ratified by the DPRD and the Governor of Aceh have not been ratified (rejected) by the Central Government on the pretext that they are against higher regulations and are outside the authority of the Aceh provincial government.

The dynamics of permits for the implementation of Islamic Shari'ah in Aceh are vulnerable to those in charge of implementing Islamic Shari'ah (Pemda and related institutions) in making policies on the implementation of Islamic Shari'a. This is caused by at least two things, namely:

First there are certain parties who are worried and allege that the implementation of Islamic Sharia in Aceh will reduce and not be in line with the protection of human rights and women on the grounds that the implementation of Islamic Sharia is often directed to limit and even hinder women's activities in the public sphere; the next reason is also because Islamic Shari'ah is different from secular law. The two licenses have given rise to serious challenges, because it can be said that this is a new era in the study and development of fiqh, especially in Aceh, generally in Indonesia because Aceh is still part of the Republic of Indonesia. In other terms "scientific studies" to produce behavioral or legal guidelines for Muslims, then in the future fiqh will be part of state regulations that must be obeyed by Muslims because he is a citizen, no longer solely because he is a Muslim. Then perhaps it can also be considered as part of an effort to revive the discipline or study of siyasahsyar'iyah (as part of fiqh) theoretically and practically, which so far have not received attention and have not had such opportunities among Muslims in Aceh.

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