

**Sharia Law in Aceh, Indonesia: Between Developing Gender Equality and
Discrimination**

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Annotation: The implementation of sharia law in some districts in Indonesia provides effect toward women position which women in a marginal and subordinate position. This is because women have limited access in public including in economics, social and political spheres. Aceh is one of the provinces in Indonesia where conducting sharia law also has similar situation related to gender equality. This situation encouraged for examine about the struggling people for developing gender equality in Aceh. This study used theory feminism, particularly Islamic feminism that examined how people are struggling with gender equality not only through reinterpretation Islamic teaching but also the political area. This research conducted in Aceh Province where has been implementing sharia law. This research utilized the qualitative method with the case study perspective, and the collecting data through in-depth interview, observation, and documentation. This research showed the implementation of *Qanun* (a local regulation based on Islamic law that regulates the administration of government and the lives of people in Aceh Province) number 6/2009 that purposed to protect women and develop gender equality, still provided discrimination towards women. The patriarchal values are still dominant in Aceh. However, the discrimination is not only based on gender but also class. Women from

lower class are more discriminated than women from the high class. Women from high class can change punishment with paying fines, and they can go outside Aceh to find better opportunities in their lives without obeying the rules in sharia law.

Keywords: sharia law, gender equality, discrimination and patriarchy

Закон шариата в Ачехе, Индонезия: между развитием гендерного равенства и дискриминацией

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Аннотация: Осуществление законов шариата в некоторых районах Индонезии влияет на положение женщин, занимающих маргинальное и подчиненное положение. Это связано с тем, что женщины испытывают ряд ограничений для самореализации в экономической, социальной и политической сферах. Данное исследование проведено в индонезийской провинции Ачех, где осуществляются законы шариата. Эта ситуация поощряется для изучения о борющихся за развитие равенства полов в Ачехе. В нашем исследовании использовалась теория исламского феминизма, предполагающая борьбу с гендерным неравенством не только посредством переосмысления исламского учения, но и в политической сфере. В этом исследовании использовался качественный метод с точки зрения тематического исследования и сбора данных посредством подробного интервью, наблюдения и документирования. В исследовании показано, что реализация Канун (местного нормативного акта, основанного на исламском праве, который регулирует управление правительством и жизнь людей в провинции Ачех) № 6/2009, который был направлен на защиту женщин и развитие гендерного равенства, все еще

обеспечивала дискриминацию в отношении женщин. Патриархальные ценности все еще доминируют в Ачехе. Тем не менее, дискриминация не только по признаку пола, но и класса. Установлено, что женщины из низшего класса более разборчивы, чем женщины из высшего сословия. Женщины из высшего сословия могут изменить наказание, заплатив штрафы, и они могут выйти за пределы Ачеха, чтобы найти лучшие возможности в своей жизни, не подчиняясь законам шариата.

Ключевые слова: законы шариата, гендерное равенство, дискриминация и патриархат

Introduction

The enactment of the sharia law in Indonesia has started from Aceh Province in 2000 by using the term of special autonomy because after the New Order Era the regional autonomy (decentralization) has validated. The enactment of the sharia law in Aceh also purposed to alleviate the continued conflict in Aceh, where the accumulation of conflicts that have the deep political levels and stretches throughout the history of Aceh (Latief, 2014). Hence, the special autonomy status for Aceh was considered as an effort to reconcile after Aceh as a Regional Military Operation since 1990 until 1998.

Based on Law No.44 / 1999, Aceh Province had the authority for conducting sharia law and as a Special Autonomy. In 2000 the first regulation was issued concerning the implementation of sharia law in Aceh (Kamil, 2006). The implementation of sharia law in Aceh was followed by several regions in Indonesia such as Bulukumba (South Sulawesi), Padang (West Sumatra), Banten, even though it was without the special autonomy status.

In the implementation of sharia law, many cases related to women's issues. The restrictions of access and movement of women are increasingly restricted, such as travel at night, the use of specific clothing and access for position in public sphere (Salim, 2008: 20). Hence, this study examined the struggle of people in Aceh for developing gender equality.

This research uses the theory of Islamic feminism that explains that the equal position between male and female is developed through the implementation of sharia (Islamic moral teaching) by the state and by increasing empowerment and the bargaining position of women (Karam 1998: 10- 1). Feminist Islamists utilize politics to attain gender equity in society and have a sense of value and position to women in all spheres of life (Karam 1998: 11). In Indonesia, feminists not only influenced by western feminists, but also indigenous models of femininity, and Islamic scholars like Mernisi, Hassan and Sisters in Islam in Malaysia (Robinson 2009: 165). Indeed, the implementation of sharia law discriminates against Muslim women and "a source of expression for women" (Assegaf 2009: 3, 8).

This study used a qualitative method with a case study. Data collection was conducted through in-depth interview, observation and documentation. Informants selected by purposive with characteristics have understanding and experience related to the process of sharia law in Aceh and have an effort to develop gender equality, and they are approved to be involved in this research. Informants in this research use pseudonym.

Developing Gender Equality through *Qanun* No. 6/2009

Starting from the Islamic law, the implementation of *Qanun* ([a local regulation](#) based on Islamic law that regulates the administration of government and the lives of people in [Aceh](#) Province) number 11 of 2002 related to the fields of *Aqidah* (Islamic belief), Worship and Syi'ar Islam. Then in 2003 *Qanun* number 12, 13 and 14 were issued regarding the prohibition of *khamar* (liquor), prohibition on *maysir* (gambling), to the prohibition of *khalwat* (between two men and women who do not have family relationship in quiet or hidden place). In 2004, *Qanun* number 3 appeared related to the management of alms (Abubakar, 2008). The regulation only regulates the orderliness that exists in the community by prohibiting liquor, gambling and making decisions with those who are not *muhrim* (a person who have family relationship); and obligations in religion, *zakat* (namely alms), and using Muslim clothing for women.

In 2009 with encouragement from various parties, *Qanun* number 6/2009 was arranged which aimed to protect women in accordance with Islamic law and provide opportunities for women to participate in politics, as well as reduce the rates of violence, exploitation and discrimination against women. This is because the reality on the society is that there are many gaps and inequality between men and women, and also want to restore the purpose of the implementation of sharia law as explained by Mr. Siddiq, a legislative member in Aceh:

"... After the existence of sharia regulations as regional autonomy in Aceh Province, *Qanun* number 6/2009 was created related to women's empowerment and protection. This is due to the consideration of many aspects, the existence of this word of the empowerment because Acehnese women had not yet been fully empowered properly. Then, the word of *protection* certainly has a background, because there are still many previous aspects of women in Aceh that threaten the security of their position. So the existence of a special *Qanun* for women becomes a part of raising women's dignities. As stipulated in Islamic law, women are noble beings and need to be empowered in accordance with the provisions of Sharia. The process of implementation is expected can be in compliance with the intended goals and objectives; to raise the dignity of Acehnese women. "(Interview with Mr. Siddiq, March 18, 2018)

The implementation of sharia law according to Mr. Siddiq also wants the realization of gender equality, not making women in subordinate or marginal position. In addition, the Qur'an also teaches women to be independent in both economic and political fields and has the same opportunities as men. Mr. Kamil, Academician in Islamic Science and Islamic law, said that:

"... In Islam, the position and image of the women set out in the Qur'an are not the same as the image of women who developed in the history of the Islamic world. The female image of the Quran is a woman who has a political independence that can be seen in (Qur'an verse al-Mumtahanah: 12), as the figure of the queen of Balqis as a ruling sovereign as has been mentioned (Qur'an verse al-Naml: 97), as the case of

Moses (Prophet Musa) in Madyan, which is about women as husbandman (Qur'an verse al-Qashas: 23), and women who have independence in determining personal choices (Qur'an verse at-Tahrim: 11). Women are also permitted to state the truth and to oppose the opposition to allegiance and disobedience (Qur'an verse at-Taubah: 71), since both men and women have the potential of being the *khalifah fil ardh* (the leader of the earth) and the servant of Allah, most importantly it does not violate rules as men and women who do not violate their nature, do not violate the prevailing rules and norms, more than that women and men may be equal to enjoy the rights and carry out their respective obligations.” (Interview with Mr Kamil, June 19, 2018)

From the two statements, Mr. Siddiq and Mr. Kamil showed that in Islam the position of women and men is equal, so the goal of the implementation of shari'a law in Aceh is the realization of gender equality. Based on history, Aceh women are independent and courageous women. Since the colonial era, Acehese women such as Cut Nyak Dien, Cut Nyak Mutia, they were brave women who fight the colonists, as was done by Teuku Imam Bonjol. The continued conflict in Aceh during the New Order Era made the character of Acehese women more forged so that they had a strong and decisive character. This statement was also said by Ms Diana, Head of the Quality of Life for Women from Women's Empowerment and Child Protection Service of Banda Aceh. In addition, she also explained that from customs and cultural aspects women became less dependent on their husbands. Marriage tradition in Aceh states that before getting married women must provide business capital for prospective husbands and also home to be occupied, so that husbands and wives are having reliance each other, and women's positions do not become in the second class. This situation shows that Aceh women have been sued to be independent socially, economically, politically and culturally, and of course, it must be strengthened in the regulations in sharia law.

Qanun number 6/2009 has a very important goal in constructing the position of Acehese women, so that the Aceh government also plans socialization programs to the community, and sees the reality happens in society as said by Mrs. Diana the head

of Quality of Women's Life from Women's Empowerment and Child Protection Service Banda Aceh:

"... When we were from the Women's Empowerment and Child Protection Service to socialize the program and at the same time see the situation of the Acehnese people, especially the women, most of the women in Aceh were women who were independent and able to participate in supporting family life. For example, it is not uncommon for Acehnese women to take part in helping their husbands to fulfill economic needs with a variety of jobs, such as helping their husbands in the fields and rice fields, selling on the market, being an entrepreneur and so on. Another fact that happens when Acehnese women have divorce problems, most are ready to live independently and able to quickly rebuild a family economy, especially to fulfill the needs of their children's lives" (Interview with Ms Diana, February 7, 2018).

People in Aceh have concern for developing gender equality utilize political sphere to attain gender equality. The *Qanun* number 6/2009 was purposed for empowering women in domestic and public sphere. This situation shows that the implementation sharia law was designed also provides equal opportunity and position for women as men.

Patriarchal Culture and Discrimination as the Barrier for Developing Gender Equality. However, in fact, that the implementation of *Qanun* number 6/2009 did not directly have a significant positive impact on Acehnese women. The existence of a patriarchy culture makes the process of getting equal opportunities between men and women not going well as said by Mr Amir from the Central Aceh Sharia Office and Mrs Diana from the Women's Empowerment and Child Protection Service of Banda Aceh.

"In general, currently the equality between male and female is the same, but because of the existence of patriarchal culture, it is still dominant in the community of Central Aceh. Besides sharia, tradition is still dominated by men. So that to change and implement gender equality is not too easy from the beginning until now as a process of realizing gender equality in the central Aceh district. Moreover, our district is one

of the areas that is still strong with its customs and far away from the central region of the Province." (Interview with Mr Amir, May 21, 2018).

"... The participation of women in Aceh has obtained protection and strength, so women also have the rights to be heard, but if based on the data in the Law of the Republic of Indonesia (UUD) it has been stipulated that women have 30% of rights in general selection, but data on the involvement of Acehese women still reach 17% in the political field. Of course, this is still in a small amount, but Aceh people have tried to create equality even though it has not fully realized yet, but slowly we will be able to get better and get better." (Interview with Mrs Diana, February 7, 2018).

The struggle for gender equality cannot only be based on *Qanun* number 6/2009 but also be by the implementation of cultural values that women have the same position, quality and opportunity as men. The dominance of patriarchy culture can be minimized if all groups have the same knowledge and understanding of gender equality values. So that women have the opportunity to join in the world of education, economics, law, politics and other aspects.

According to Acehese women's activist, Ms. Suraiya said that actually there are no significant differences between men and women or the restriction of making choices for women in the regulation of sharia law, but sometimes in some legal contexts, there are things that provide women have fewer choices because influenced by position and material. "Well, if the rich people can pay, because there are two choices; to be whipped or pay a fine, so this situation only faced by the poor people. There is an injustice in that situation. But I observe at the implementation process, we can see in the simple implementation example, when the Sharia Police inspected clothes at the checkpoint, frequently women especially poor women become the target because women in cars were often not checked, so those who faced the situation were marginalized women. Then we took the example caning criminals in public on gambling case. Rich people can pay because they have choices between to be whipped or pay a fine. It means that only poor people who can face this situation. It causes injustice", said Ms. Suraiya in an interview with BBC News Indonesia,

November 7, 2012. Besides, the rules of relationship of people explain that men and women who are not *muhrim* are prohibited from being two together. People who violate this rule will be married. The impact of this regulation is an increase in early marriage because people who violate this rule mostly still sitting in junior high or high school. Married children are not allowed to go to school anymore, so this causes the dropout rate is higher. For children from upper-middle-class families, they will send their married children for school out of Aceh. However, for those who from the lower class, finally they only can get the lower education level too, because their parents do not have the ability to fund the education outside Aceh.

This condition shows that women are marginalized and subordinated not only because they are women but also because of the lower class. Women or men from the upper classes will be benefited more, and acquire special privileges in the implementation of the sharia law, because they can change punishments by paying fines. While women or men from the lower classes, because of their economic powerlessness, they have to receive the punishment according to sharia law. The applied regulations make them from the lower class do not change their conditions, so vertical stratification cannot occur.

Conclusion

The implementation of sharia law in Aceh still has discrimination towards women, although the *Qanun* number 2/2009 has purposed to protect women and develop gender equality. Women have a position as an object in sharia law, even though in writing there are specific regulations for women. But in its implementation, such as rules about clothing and curfew, women often have position as objects. The existence of a patriarchy culture restricts the movement of women in the public sector so that women's access is still limited. However, social classes also make women more subordinated. Women from the upper class can change punishment by paying penalty. This condition makes lower class women are more subordinated and marginalized not only because of their gender but also their social class. So that it

becomes important that the implementation of sharia law not only guarantees gender equality but also gender and class equity.

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