



ISLAMIC SHARIA BETWEEN ACEH AND THE MIDDLE EAST

Abdurrazak^{1*}, Akmal Fajri²

¹UIN Ar-Raniry Banda Aceh

²UIN Sunan Kalijaga Yogyakarta

abd.razak@ar-raniry.ac.id

Article Info

Article history:

Submitted 11/16, 2023

Revised 12/25, 2023

Accepted 01/15, 2024

Keywords:

Islamic Sharia

Aceh

Middle East

ABSTRACT

Islamic Sharia in its implementation in Aceh and the Middle East is full of issues that hinder its implementation. Human rights issues are one form of obstacles and contradictions that are often faced in the implementation of Islamic law in Aceh and the Middle East. In this article, we analyze how Islamic Sharia is implemented in Aceh and the Middle East as well as the obstacles and contradictions faced by the governments of Aceh and the Middle East. The research method used to analyze the problem is using qualitative descriptions with library research data collection techniques. The results obtained from data analysis are that Aceh implemented the Qanun Jinayat which was structured in such a way that there were no elements that would undermine human rights (HAM). In this case, everything has been prepared in law and Qanun Jinayat with the aim of maintaining and respecting human values in Aceh so that the people in Aceh are not oppressed, and in successful implementation it is important to involve Aceh traditional institutions. Meanwhile, in the Middle East, the application of Islamic law is the main basis for establishing law. This is because the Koran and Hadith are the highest law in the Middle East or in other words the law of heaven.

*Corresponding Author

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A. Introduction

Aceh is known as a religious society whose cultural traditions are identical to Islam. Traditional Acehese cultural life and Islamic religion cannot be separated. The harmonization of Adat and Islam is taking place in various areas of community life. Acehese people follow Islamic teachings in their lives. Such a broad appreciation and

respect for Islamic teachings is also manifested in the accumulation of religion customs and teachings. This means that a person who acts and behaves according to custom or a predetermined way means that he also acts and behaves in accordance with the teachings of his order, or at least not within the framework of his order. they confessed.

The people of Aceh also adapt their religious practices to the dominant traditions or customs, which are reflected in the social and cultural life of Aceh. This unites Islam and Acehese culture to such an extent that it is difficult to differentiate them. Islamic legal rules have become part of customs or customs. On the other hand, Adat is part of Islam or is Islamized.

Aceh is known as a religious society whose cultural traditions are identical to Islam. Aceh's traditional cultural life and the Islamic religion cannot be separated. Harmonization of Adat and Islam is taking place in various areas of community life. Acehese people follow Islamic teachings in their lives. Such a broad and deep appreciation of Islamic teachings is also manifested in the accumulation of religious customs and teachings. This means that someone who acts and behaves according to custom or a predetermined way means that he also acts and behaves in accordance with the teachings of his religion, or at least not within the framework of his religion. they admitted.

The people of Aceh also adapt their religious practices to the dominant traditions or customs, which are reflected in Aceh's social and cultural life. It unites Islam and Acehese culture in such a way that it is difficult to differentiate them. The rules of Islamic law have become part of customs or customs. On the other hand, Adat is part of Islam or is Islamized.

Customs are a set of social beliefs that grow and take root in the life of a particular society. Aceh's traditional wealth is a very valuable asset for the Acehese people themselves. The existence of Acehese customs has also regulated people's lives for generations. This is based on Law Number 40 of 1999 concerning the Implementation of the Specialties of Aceh Province and Regional Regulation Number 7 of 2000 concerning the Implementation of Traditional Life in Aceh. The government's recognition shows how important science is for the harmonious life of the Acehese people in general. The people of Aceh adapt their religious practices to the dominant traditions or customs, which are reflected in Aceh's social and cultural life. It unites Islam and Acehese culture in such a way that it is difficult to differentiate them. The rules of Islamic law have become part of custom or general, while custom is part of Islam or has been Islamized.

President of the Aceh Traditional Council (MAA) H. Badruzzaman Ismail, SH., M.Hum said that Aceh has special and different values in relation to Islamic law and Acehese traditional culture, not only as an acceptance of Pesijuk, but also as sharia values. Islam reads Basmalah and other prayers. Values based on sharia cannot change or disappear, like clothes that cover nakedness, namely sharia.

When talking about religious customs and rules, especially Islamic law, this is a beautiful combination and helps each other to regulate people's lives. The integration of culture and religion as a reinforcement of community identity does not occur

spontaneously, but between custom and religion occurs dynamically, which is essential because of socio-cultural changes in community life. Social institutions such as these traditional institutions play an important role in maintaining the stability of Sharia Customary relations from time to time. The contribution of custom to the implementation of Islamic law in Aceh can be seen from the role of traditional institutions in enforcing customary rules and sanctions which also support the implementation of Islamic law in Aceh. This information only needs to be validated and preserved so that it is not rejected by society, especially in the context of changes in society due to external cultural and technological influences.

The existence of sharia is not intended to eliminate traditions/customs. Islam filters these traditions so that the values accepted and practiced by local residents do not conflict with sharia. Because the traditions adhered to by a tribe whose record is Islam, do not necessarily conflict with the Shari'a. Because the position of reason is never more important than the revelation of Allah Ta'ala. This is the essential and crucial understanding that every Muslim must have. Belief in Islam as a universal religion regulates all aspects of life, not only the transcendental relationship between servants and the Creator, but also other aspects of life such as economic, social, cultural, political, etc. Sometimes Muslim communities still believe in this partial understanding. Therefore, the Islamic legal approach to custom always prioritizes the arguments of the Koran and Hadith above custom or tradition. It seems that the implementation of Islamic law in Aceh has had an impact, although that remains to be seen. This has begun to reduce the level of immorality that used to be done openly, such as gambling and alcohol, but now some do it secretly.

In the Middle East, the application of Islamic law is the highest legal basis used. This is because Islamic law has become a symbol of Islamic thought and has become a manifestation of the way of life of Middle Eastern people. Joseph Schacht states in his book: "*Islamic law is the epitome of Islamic thought, the most typical manifestation of the Islamic way of life, the core and kernel of Islam itself*".(Schacht, n.d.). It can be concluded from the opinion above that Islamic Sharia, which is Islamic law, is a symbol of Islamic thought and the essence of Islam in realizing a worldview.

B. Method

The research method used in this article is a quantitative description method with a case comparison approach. In the analysis of this article, data collection techniques are used by means of literature review. The stages involve collecting data related to the material to be analyzed in books, scientific works, magazines, articles and so on. Then analyzed and observed the data that had been collected using reading and writing techniques.

The results obtained from reading and writing techniques will later be formulated in this article. And compare cases of placement of Islamic law between Aceh and the Middle East. As well as looking at the obstacles encountered and experienced in implementing Islamic law both in Aceh and the Middle East.

C. Result and Discussion

The concept of Islamic law is a concept that is closely related to the study of Islamic law. Islamic law itself has a very special position, there are even statements that say that it is impossible to understand Islam without understanding Fiqh. Based on the statement above, it is clear that Islamic law has an important position for regions or countries where the majority of the population is Muslim. Therefore, in this article we will discuss how Islamic law is applied in Aceh and the Middle East.

1. Application of Islamic law in Aceh

The existence of Islamic law is not intended to eliminate traditions/customs. Islam filters these traditions so that the values accepted and practiced by local communities do not conflict with the Shari'a. Because traditions inherited from Muslim tribes do not necessarily conflict with the Shari'a. Sometimes Muslim communities still believe in this partial understanding. Therefore, the Islamic legal approach to custom always prioritizes the arguments of the Koran and Hadith above custom.

Based on a very popular Maja proverb or hadith about Acehese customary law, namely: *"Lampoh meu pageue Umong meu ateueng (garden with fenced rice fields); Nanggroe meu syara', maseng-maseng na Raja (The country has rules and everyone has a king)"*

which means: Each has its own institutional conventions, and each workspace has specific rules according to its own domain.

This is a general description of the authority of the Customary Institution/MAA, including practices related to Islamic diversity in Aceh Province. The Aceh Traditional Council has a large and important role in helping the regional government to prosper, both in terms of economics, development and implementation of Islamic law in Aceh Province.

The Aceh Traditional Council is also one of Aceh's traditional institutions whose mission and role is in administering regional government. Meanwhile, according to the Ar-Raniry IAIN/UIN study group and the Aceh Special Agency, it was determined that the existence of this traditional institution is based more on measuring instruments, tools and an integrated body that resolves various conflicts within it. he. a body that is known and recognized in the Community.

The Aceh Traditional Council at the provincial level certainly plays a role and functions in regulating traditional life, which is in line with the implementation of Islamic law in Aceh. This task is regulated in Aceh Government Law Number 11 of 2006 Chapter XIII concerning Traditional Institutions. Article 99 regulates that the development of daily life according to the specialties and characteristics of Aceh is based on the values of Islamic Sharia and is carried out by Wali Nanggroe.

The functions and roles of the Aceh Traditional Council as stipulated in the provisions of Law Number 11 of 2006 concerning Aceh government, Chapter XIII Traditional Institutions, Article 98 stipulate:

1. Traditional institutions function and act as a vehicle for community participation in the administration of the Aceh government and district/city government in the fields of security, peace, harmony and public order.
2. Traditional social problems are resolved through traditional institutions.
3. Customary institutions as intended in paragraph (1) and paragraph (2), include:
 - a) Aceh Traditional Council;
 - b) Imeum mukim or other names;
 - c) Imeum chik or other names;
 - d) Keuchik or other name;
 - e) Tuha peut or other names;
 - f) Tuha lapan or other names;
 - g) Imeum meunasah or other name;
 - h) Keujreun blang or other names;
 - i) Panglima laot or other name;
 - j) Glee handler or other name;
 - k) Peutua seuneubok or other names;
 - l) Daily peukan or other names;
 - m) Syahbanda or another name.

Most traditional institutions are at the gampong/village level. Dr. Teman said: Most of the conventional facilities are located in Gampong, Mukim and only a few are located at the provincial and district/city levels. Gampong-level public institutions include Keuchik, Tuha Peut, Tuha Lapan, and Imeum Meunasah. At the mukim level the common institutions are imeummukim, imeumchik, and tuha ok. Although the traditional institutions of Keujreun Blang, Panglima Laot, Handler Glee/Uteun, Petua Teungbok, Peukan Daily and Syahbandar are at Gampong level and some are at Mukim level, these institutions only have authority in certain areas. Currently there is a joint institution at the provincial and district/city levels, namely the Aceh Traditional Council which oversees all other traditional institutions. (Kamaruddin, 2013)

These elements of conventional institutions function not only as organizers of state action and as conflict resolution institutions within their jurisdiction. However, this conventional institution also has a supporting institution in implementing Islamic law in Aceh. That was Kamaruddin's explanation. et al. that the elements of the traditional institution are authorized to carry out all the functions and roles stated in the qanun of the traditional institution. (Kamaruddin, 2013). The explanation is almost the same as Syamsul Rizal. and others that these traditional institutions play an important role in maintaining and controlling daily life patterns at the gampong level in the context of implementing Islamic law. (Rizal, 2007).

As part of his research, Abidin interviewed Nurdin Badruzzaman Ismail, Chair of the Aceh Traditional Council. He explained that Acehnese traditions have many Islamic colors. Islamic values include the values of humanity, equality, finance and togetherness,

all of which are applied to the customs and culture of the Acehese people. Community conflicts are then resolved using Suloh's usual approach, for example. Suloh comes from Islamic language, namely. H. Islam and means peace. This is the role of the Acehese traditional institution in implementing Islamic law in Aceh Province.(Nuridin, 2016).

All elements of social data in Aceh have roles and functions based on their ability to support the Aceh provincial government in implementing Islamic law in Aceh, especially in this case customary law agreements. defend the values of Islamic law.

The implementation of Islamic law in Aceh Province is the authority and right of the Aceh regional government and the Acehese people based on the Aceh Special Law No. 44 of 1999, proposed by Law no. 18 of 2001 concerning Special Independent Government and Aceh Government Law no. 11 of 2006.

The implementation of Islamic law in the Aceh area (Serambi Makkah) does not apply to followers of religions other than Islam, for example: followers of Hinduism, Buddhism and Christianity in Aceh. Implementation of Islamic law in Aceh specifically for Muslims living in Aceh. This is confirmed in the decree:

1. Law number 18 of 2001 concerning Special Autonomy, Chapter I Article, Point Number 7, stipulates that the Syar'ivah Court of Nanggroe Aceh Darussalam Province is a judicial institution that is free from influence from any party within the applicable territory of Nanggroe Aceh Darussalam Province for followers of the Islamic religion.
2. Law Number 11 of 2006 concerning the Government of Aceh, Chapter VXIII Article 128, Point Number 2, stipulates that the Sharia Court is a court for everyone who is Muslim and resides in Aceh.

Non-Muslim communities living in Aceh do not need to be afraid of implementing Islamic law in Aceh because Islamic law does not apply to non-Muslim communities. This is in accordance with Al Yasa' Abubakar's statement that Islamic Sharia does not apply to non-Muslims.(Bakar, 2008).

In addition, Article 7, Section 15, Article 4 of Regional Regulation no. 5 of 2000 concerning the Implementation of Islamic Law (Perda) states that every adherent of a religion other than Islam is expected to respect and adapt to clothing that violates etiquette. and politeness in public.

This order was not intended to restrict non-Muslims in Aceh. This is in accordance with Marzuki's statement which explains that the purpose of this verse is not to limit non-Muslims, but rather to create a more orderly and orderly society according to custom. Of course, non-Muslims still have the freedom to dress both, but not the same as Muslims, but non-Muslims, however, observe the conditions and can obey the rules of karma in the consequences of Society.

The Jinavat Law does not only apply to Muslims in Aceh. However, it also applies to non-Muslims who commit crimes or acts that are prohibited in the implementation of Islamic law in Aceh, known as jarima. Qanun Jinayat Number 6 of 2014 Chapter II Article

1 Paragraph 16 of the Jinayat Law provisions stipulate that jarimah is an act prohibited by Islamic Sharia which is threatened with "Uqubat Hudud or Ta'zir" in this Qanun.

Qanun jinayat applies to criminals (jarimah) in Aceh, this includes non-Muslims. In the provisions of Qanun Jinayat Number 6 of 2014 concerning Jinayat Law, Chapter II Part Two Article 5 stipulates that this Qanun applies to:

- a. Every Muslim person who performs Jarimah in Aceh;
- b. Every person of a non-Muslim religion who carries out Jarimah in Aceh together with Muslims and chooses and submits themselves voluntarily to the Jinayat Law;
- c. Every person of a non-Muslim religion who commits acts of Jarimah in Aceh which are not regulated in the Criminal Code (KUHP) or criminal provisions outside the Criminal Code, but are regulated in this Qanun; And
- d. Business Entities that carry out business activities in Aceh.

In this condition, a non-Muslim who commits a crime in the Aceh region has the right to commit this act together with Muslims. In this case, non-Muslims can choose and voluntarily submit to the Jinayat law. In addition, when someone other than a Muslim commits a jinyan act that is not regulated by criminal law or non-criminal law, the jinyan law applies. Law Number 11 of 2006 in Article 129 (2) concerning Aceh Government. As mentioned above, this provision is also regulated in Qanun Jinayat.

The application of Islamic law in Aceh and the application of the Qanun Jinavat Law is essentially to respect the human values of all the Acehnese people and not to oppress the Acehnese people. This Qanun Jinayat actually aims to protect the people of Aceh, Muslims and the entire Aceh region whose human rights are guaranteed by the Qanun Jinayat.

The legal authority given to the perpetrator or his accomplices in the Qanun Jinayat is in the form of acts whose acceptance is prohibited in the form of ukubat ta'zir; Caning, fines, imprisonment and compensation. This is a strict Islamic human rights law designed to prevent others from oppressing and harassing them.

The implementation of Islamic law in Aceh will certainly cause world interest, including associations and NGOs on various issues. As for the regulations that combine to add to the operation of Islamic law in Aceh, of course they have a universal character and work for all groups, servants and girls alike. For example, Qanun Number 6 of 2014 chapter Jinayat Law does not discriminate against daughters but protects daughters and the entire body of Acehnese followers.

Yusdani, referring to Silahuddin Hamid, said that the so-called anti-human rights groups were all matters relating to Islamic criminal laws which were contrary to human rights. Such as cutting off hands, stoning, hanging and so on. Furthermore, Yusdani, referring to Zuhairi, explained that the sharia formalization group considers that Islamic criminal law (alhudud) is God's law. Therefore, in Islamic criminal law there is no bargaining in order to interpret the Shari'a in an emancipatory manner (Yusdani, 2006).

2. Application of Islamic law in the Middle East

The application of the concept of Islamic law in state law has indeed given rise to a lot of controversy. This is because each country has its own concept, unifying perceptions regarding the implementation of Islamic law in a country is truly a difficult matter to do. Islamic fiqh experts often coin the term "al-syariah al-islamiyyah shalihah li kulli masa wa makan", meaning, Islamic law is suitable to be followed in all times and places. Based on this term, it has become a principle for Muslims to apply Islamic law in state life, including Egypt and Saudi Arabia (Musyafa'ah, 2012).

Looking from a historical perspective, the implementation of Islamic law in Egypt was carried out long before the founding of Egypt as the country we know today. As we know, Egypt has become a country with a majority Muslim population, and was even an area controlled by several dynasties in determining Egyptian state policy, including the Abasiyyah, Fatimid, and other dynasties. However, in the 19th century, legal policy in the Egyptian region began to change policy direction by adopting European legal policies brought initially by France.

The Egyptian state conducted courts and laws adopting European style. Where new courts and laws were introduced in Egypt in 1876, which had jurisdiction over all civil cases, while the national court in 1883, which handled civil and criminal jurisdiction over cases involving Egyptian citizens (Brown, 1997). However, Egypt still has sharia courts, where these courts only handle personal status, while major issues will be handed over to the new civil courts.

Nevertheless, the application of Islamic law is still carried out in the Egyptian region, even though in implementing policy decisions the Egyptian state has adopted European-style courts and laws. This can also be seen from the Egyptian civil code which contains 1149 articles, taking reference sources in the formulation of the law from three sources, namely: comparative laws, *ijtihad* of Egyptian judges, and Islamic law (Musyafa'ah, 2012).

Even though in Egypt Islamic law has a high position in the constitution as a source of law, this is not the case in legal practice. The implementation of Islamic sharia or Islamic law in Egypt is only carried out in practice in certain areas such as inheritance law, *munakahat* and *waqf*. Meanwhile, in the civil and criminal fields, Islamic law is only a legal reference. Moreover, currently in modern times, the development of religious thought in Egypt is divided into three thoughts, namely: *first*, Islam is a religion and a state. *Second*, Islam is only a religion and does not cover the state. And *third*, Islam is a religion that also teaches state ethics. These three thoughts about Islam in Egypt are the benchmarks for implementing Islamic law in Egypt (Rahmadiana, 2020).

In contrast to Egypt, the kingdom of Saudi Arabia firmly declares itself to be a country based on Islamic law. The Saudi Arabian state in all fields, including government structure, policy, law and politics, in implementing changes or laws establishes Islam or Islamic law as the main principle. This can be seen in the political system and constitution

in Saudi Arabia which aligns government actions and community behavior to be in line with Islamic law (Musthafa, n.d.).

Saudi Arabia has a judicial body which has the task of being an institution that regulates the administration of justice and issues related to the authority to judge. The highest council in this judiciary consists of 11 (eleven) members selected from among the ulama in Saudi Arabia. Meanwhile, there are two institutions that have authority to resolve legal issues in Saudi Arabia, namely the Sharia Court and the Fatwa Institute. However, these two institutions have different authorities in determining legal issues that occur in Saudi Arabia.

Meanwhile, the Sharia Court has the authority to examine criminal cases (*jinayah*) and civil cases (*muamalah*), whereas in its jurisdiction it is limited only based on its relative competence. Meanwhile, the fatwa institution has the authority to provide legal decisions on issues involving the public benefit. Decisions issued by the fatwa institution in Saudi Arabia are binding on all citizens of Saudi Arabia (Yusrizal, 2017).

Based on the explanation above, it can be clearly seen that countries in the Middle East still implement Islamic law in every decision step, both in terms of life and law. Even though there are some who have adopted European legal courts, in determining and deciding on policies they remain based on Islamic Sharia law.

D. Conclusion

In general, the application of Islamic law in Aceh and countries in the Middle East consists of the majority of Muslims. Therefore, Aceh, which has special authority granted by the Indonesian state, in making Aceh's constitution, includes several policies related to the implementation of Islamic law. Aceh itself has institutions from the government to the village that assist in implementing Islamic law in Aceh. Despite this, of course the legal steps taken in Aceh in implementing Islamic law still protect human rights and do not conflict with legal policies in Indonesia.

Meanwhile, the implementation of Islamic law in the Middle East depends on the policies of each country. However, Islamic Sharita is the main proposal in making legal decisions in the Middle East region. This can be seen from two countries such as Egypt and Saudi Arabia. These two countries have different political foundations, where Egypt is a country with a republican political system, while Saudi Arabia has a royal system.

However, in implementing Islamic law these two countries remain the main reference in determining the direction of legal policy. In fact, to facilitate the implementation of Islamic law, both countries have institutions that directly regulate Islamic law under the government. These are the steps taken by these two countries in implementing Islamic law in their country.

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