

IMPLEMENTATION OF ISLAMIC SHARIA LAWS IN EAST ACEH The Acehnese Perspectives

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Abstract: This research studied the recent implementation of sharia in the district of East Aceh by employing a qualitative approach with ethnographic methods. This research focused on sociological interpretations of the data gathered through the processes of observation of social interactions that reflected demographic patterns of daily intercourse, events, and traditions. The results showed that the implementation of sharia laws triggered pros and cons within society in East Aceh. Some people argued that the government did not put maximum effort into the implementation. Many other people, however, experienced positive changes in their life due to the implementation of sharia. There are still many challenges such as weakness of faith and social activities that are now forbidden there plus different understandings of sharia law still exist. Co-operation between the governments, scholars, and the people, in particular opinion leaders will be the key to continue successful implementation.

Keywords: East Aceh, The Holy Qur'an and *al-Hadîts*, People's Perspectives, Islamic laws

Introduction

Islamic values have been present in the Acehnese society since Islam was introduced and accepted by rulers in Aceh. According to some historians, the first kingdom to adopt Islam in Indonesia was based in Peureulak which is near the coast in the center of East Aceh: From there it spread to encompass nearly all of Aceh, displacing the former Hindu beliefs. The implementation of Islamic law within society is based on the tenets of Islam, which come from the Holy Qur'an and *al-Hadîts*. The implementation of these laws can be traced back till before the era of Sultan Iskandar Muda, whereby Islamic values have become the foundation for social life in Aceh.¹ These values are closely held by the Acehnese. Depending on the Holy Qur'an and *al-Hadîts* as the basis of law, controlled all aspects of life and brought glory, peace, and prosperity for the Acehnese people. However, when Indonesia gained independence it brought changes to social structures, including cultures and traditions, which were revised and adjusted in accordance with the new Indonesian laws. These adjustments gradually influenced the life of the Acehnese, and made them accustomed to the concept of a secular life, which, although far from a homogenous Islamic society can also accept Islamic values as Muḥammad (P.B.U.H) showed in Medina.²

Furthermore, the era of the New Order government under Suharto also greatly influenced culture in Aceh, particularly through massive transmigration programs that brought Javanese and others to Aceh, mainly to East Aceh, which then became the entry point for other areas in Aceh. East Aceh became a strategic area, not only for transmigrants but also for the development of palm oil and rubber plantations. Also, people from over the border, especially from North Sumatra but also from elsewhere in Sumatra, came to Aceh to find work. The new immigrants

brought new outside cultures into the area. The attitudes and behavior of the Acehnese, who are kind to foreigners, enabled acculturation to occur which resulted in shifts within the Islamic culture in East Aceh. In fact, this is not the first time that such shifts have occurred-for example there is a saying that the meaning of ACEH is Arabian, Chinese, Eurasian and Hindustani indicating the multi-genesis of the Acehnese people. Many other examples abound, 11 km east from UIN Ar-Raniry & Syiah Kuala University at Darussalam are *Gampong* (villages) called Kling and a very old Mosque called Mesjid Kling and there are many very dark-skinned “Kling or Tammil-like” people in the local villages indicating acculturation of people from Tamil Nadu in Southern India.

Returning to East Aceh, one most notably shift of culture was the introduction of keyboards for entertainment during traditional ceremonies, such as weddings, *Keunduri Peutron Aneuk* (ceremonies to welcome the new-born) and many other traditional ceremonies. Previously, in the local culture, traditional entertainment such as *Dalael Khairat*, *Cae*, and *Salawat*, poetry-reading greetings to Prophet Muhammad (P.B.U.H) were performed during those ceremonies; yet, the introduction of keyboards put these traditional entertainments out of business. Steadily, changes to traditional culture crept into social life in areas such as clothing fashions, attitudes and social intercourse, which were no longer performed in accordance with the traditions of their Acehnese ancestors based on the Holy Qur’an and *al-Hadîts*.

The recent implementation of Islamic law in Aceh, particularly in East Aceh has obviously changed the attitudes of people, which had drifted far from the basics of Islamic law and life, and it is hoped it can reinstate the Acehnese identity centered on the three pillars of Islam; *‘aqîdah* (faith), *syarî‘ah* (the implementation

of law), and *akhlâq* (behavior and attitudes). Those three leads to *tawhîd* (belief in one supreme God), as the core of *'aqîdah* that yields *syarî'ah*, which is the implementation of the way of *'ibâdah* (worship) and *mu'âmalât* (social intercourse), and *akhlâq* as guidance for good attitudes towards God and mankind.

In reality, the implementation of Islamic law has triggered many reactions from different parts of society in Aceh. Several researchers did studies on the debate of the implementation of sharia across Aceh. In Bireuen, a regency in Aceh, it is reported that the implementation triggers the pros and cons due to the way of formulating *qanun* along with the strategies on implementing and enforcing the law.³ There were also problems on socialization of sharia, which made the people of Aceh unaware on the existence of certain *qanun*.⁴ Suma et.al also reported that the implementation required improvement on socialization and the role of enforcers.⁵

Some people support the implementation of Islamic law, and on the other hand, there are parties who reject it. As a result of a perception of uneven law enforcement on different social classes the implementation has required more time and effort to get wide acceptance in society. The possibility of uneven law enforcement, where sharia law is only strict for low-class people, has to be eliminated because if collusion between law enforcers and high-class offenders still exists, the enforcement of Islamic law will be still up in the air. On such case, there was study reported the tendencies of discrimination of *qanun* toward women, particularly the victim of rape.⁶ Then the issue of women's right was also debatable within the implementation of sharia.⁷ The study on popular punishment for violators, canning, also prompted the debate among people. The impact of execution, as the canning was carried on the public space, might brought the negative influence for underage spectators, thus, the system

of execution was still questionable.⁸ In addition, media also framed that the enforcement of sharia was often associated to violence.⁹

In fact, if the government is capable of eliminating such issues, the enforcement of Islamic law could achieve its glory as in previous times. Emerging issues such as decreases in faith, fighting amongst communities, teenage delinquency and the processes of policy making, indicate that the enforcement of Islamic law is still deficient, and it is suspected to be a political agenda or a way to spend budget funds. However, those issues have not prevented the Acehese government from introducing sharia law, including the codification of sharia rules or *qanun*, recruiting staff to become Islamic law enforcement officers or *Wilayatul Hisbah* (WH), and socializing Islamic law throughout Aceh including East Aceh.

Several studies on the implementation of sharia had been carried by researchers. Manan examine the acceptance of implementation of sharia within the people of West Aceh Regency.¹⁰ In historical area, the implementation of sharia also had been studied by Ibrahim et.al, which reported the long history of sharia in Southeast Asia, including in Aceh.¹¹ Yet, there is no study available in examining the implementation of sharia in East Aceh. Such study become urgent due to several reasons. From historical side, East Aceh is known as the first region where Islam came to Aceh.¹² Then, the fact that this area had greatly influenced by the outsiders, as many migrants came from Java due to the migration programs from the government, along with the position in the border between Aceh and Sumatra Utara, makes such study becomes significant.

Methodology

A qualitative approach was used for this study to describe and to analyze phenomena, events, social activities, attitudes, beliefs, perceptions, and perspectives of individuals and of groups of people. The ethnographic method was employed in this research. Samples were selected by using purposive sampling in which the researcher intentionally chose individuals or situations likely to yield new instances and greater understanding of a dimension of interest.¹³ The initial data sources were people with authority and power according to the object of this research. This eased access to further data sources. As the data reached saturation point, the data sources included important figures and opinion leaders within society, religious scholars, staff in several government institutions and common people. The data were collected using interviews, documents, recordings and triangulation. The analyses were done before, while, and after the data were collected. The qualitative data analyses were done in accordance with Miles and Huberman theory who have stated that data analysis for a qualitative study continues until the data reaches saturation level.¹⁴

Findings

Islamic Law within the Government of Aceh

For a person who chooses Islam as his religion, obeying Islamic law is an obligation, as God has said in the Holy Qur'an Q.S. al-Jâtsiyah/45: 18: *“And now, we have put you {O, Muhammad} on the right path. Follow it and do not yield to the desires of ignorant men, for they in no way can protect you from (the wrath) of Allah”*.¹⁵ In other verses, God explains *“We have not sent you forth [O Muhammad], but as a mercy to mankind”* (Q.S. al-Anbiyâ'/21: 107).¹⁶ Included in God's mercies, which

must be preserved, are (5) religion, life, mind, descendants, and wealth. The presence of Islamic law completes those five, thus its implementation is considered appropriate for the Acehese people, along with guidance from Islamic scholars for all actions taken.

The enactment of Islamic law can be traced to the existence of Aceh as a Distinctive Province in RI Act No. 5 of 2000, Chapter IV, Section 2 Article 2, which mentions faith, worship, relationships among people, attitudes and behavior, Islamic education, *al-amr bi-l-ma'rûf wa al-nahî an al-munkar* (the enforcement of Islamic law), *Baitul Mal* (Islamic monetary board), society, Islamic endeavors and defense, *Qadha* (the right way to worship), *Jinayah* (Islamic penal provisions), *Munakahat* (marriage), and *Mawaris* (inheritance). There are two bases for the implementation of Islamic law in Aceh: the first is RI Act No. 5 of 1999 regarding the Distinction of Aceh Province, and RI Act No. 18 of 2001 regarding Autonomy for the Province of Nanggroe Aceh Darussalam.¹⁷ It is inevitable that the implementation of sharia gave Aceh a specific characteristic in political and legal studies in Indonesia.¹⁸

The implementation of Islamic law overall has several facets encompassing the aspects of religion, psychology, law, and economy. As the implementation was considered as the God's will, it was undoubtedly that the enactment possessed the religious values.¹⁹ Various boards are involved with the implementation of Islamic law including: The Office of Islamic Law, *Majelis Permusyawaratan Ulama* or The Islamic Scholars Consultative Assembly and the *Wilayatul Hisbah* (The Office of Islamic Law Enforcement or WH). Meanwhile, several community organizations are also involved, such as *Tuha Peut*, *Tuha Lapan*, and *Teungku Imum Chiek* which apply in a village. The role of Ulama, or in Aceh known as Teungku, actually was influential regarding their position as the judicative parties, who arrange the *qanun*.²⁰

Islamic laws are codified into *qanun* (Islamic legal acts) to prevent overlapping between laws. The main source for them is the book of *fiqh* (Islamic Rules), which is based on the Holy Qur'an and *al-Hadîts*. The acts that have been codified are introduced and tried out to get people's view about them, and then revisions can be made based on considerations of the Provincial Legislative Assembly and the *Majelis Permusyawaratan Ulama*. One popular penalty in the implementation of Islamic law is caning using a rattan cane. This penalty has been adjusted to be in accordance with existing legal codes and also to ensure that it does not offend against human rights.

Consideration for the use of caning include (a) the accused is healthy; (b) the executioner is an officer of WH; (c) the diameter of the rattan is from 0.75 to 1.00 cm (centimeter); (d) the distance between the executioner and the accused is approximately 70 cm; (e) the penalty can be stopped due to injury or any other medical reasons.²¹ The *qanun* also states that there should be no physical injury during the penalty of caning. Despite the regulation of execution existed, the debate on its practical implementation was also inevitable.²² The negative impact for women was the prior issue, such Fanani noted the negative social outcome of implementation of sharia for women.²³ Hence, the application of canning, including the procedures, must be reviewed on the consideration of people's aspiration. As noted by Kato, the people aspiration on the implementation of sharia was one main key on its enforcement and application in real world.²⁴

People's Views upon the Implementation of Islamic Law

From the independence of the Republic of Indonesia till the local conflict ended with the Helsinki Accords in 2005, the implementation of Islamic law has been an issue in Aceh. Actually, during that period, several *qanun* were codified, but with major

adjustments to be in accordance with Indonesian law so that they were not purely in accordance with *fiqh* or Islamic thought. This then led to a mangled implementation of Islamic law. In fact, Islam has been part of the identity of the Acehnese people in every part of their life, including politics. In fact, political situation had a great influence on the implementation of sharia in Aceh.²⁵ The notion possessed a latent danger as people might consider that the implementation of certain religious law was merely political maneuver. Such case occurred in Java, which led to social conflict due to misunderstanding of enforcement of Islamic tenet to minorities group.²⁶

Upon the enactment of sharia in East Aceh, a noticeable phenomenon is an attempt to make the WH a remote control for every aspect of community life, one of which is Islamic dress code. The WH officers have often held patrols or sweeping operations to catch people especially women who do not wear clothes in accordance with Islamic law. As an example, patrolling in Sungai Raya, a sub-district of East Aceh was done to enforce Qanun No. 11 of 2002 regarding faith, worship, and Islamic roles, one instrument of which is dress code for men and women. Several women were found wearing tight dresses and not wearing a veil or *jilbab*, while men were also found wearing short shorts that didn't cover their knees. Zulfahri (the Head of WH) explained, "The patrol/sweeping was actually a form of introduction or socialization of Islamic law for the people".²⁷ In such practice, it was undeniable that women became the most-targeted violators. Thus, it emerged the issues of gender discrimination on the implementation of sharia.

Patrols or sweepings were also often done by students from the traditional *pesantren* or Islamic educational institutions.²⁸ These students stood guard and monitored people at tourist areas, places of amusement and other places, which were considered

as likely to be used for flirting, petting or worse by Muslims and others, like concerts in East Aceh.²⁹ The actions of the students were often done on weekends and public holidays at places that were visited for romance and picnics by teenage and adult couples who were not *mahram* i.e. couples that were not married.

There were several activities in East Aceh that were considered as foci for the implementation of Islamic Law including nightlife, women's dress and gambling. The National Government transmigration programs actually changed many people's lives. During the new order, Suharto, government, large numbers of migrants from Java and elsewhere were resettled in Aceh. The new settlers were mainly poor land-less share-farmer or laborer families ready to work hard to get a living. The new settlers intermingled with the local society resulting in cross-marriages and cultural exchange within the community. From here, the local society began to know about secular cultural life. The term secular here means that there was mixing between men and women in night-life which was known as "keyboard". Meanwhile, in Islam, men and women who are not *mahram* (i.e., not married), are banned from being together since it could trigger the onset of immoral activities like holding hands or hugging or heaven forbid kissing or even (we dare not mention it). The reaction to tight or sexy clothes worn by women, who went to these occasions, and the dim lighting could even lead to immoral activities like *zinâ* (fornication or adultery). Men giving money to get the opportunity to dance with the (female) singers, also called *saweran*, is also seen as a way to waste money. There was also the inevitable circulation of prohibited substances, such as alcoholic drinks and even drugs, which are forbidden in Islamic law. Keyboard, nightlife performances, which came from outside of Aceh, became a phenomenon for the people of East Aceh due to the resettlement

communities. Sweeping patrols were carried out by the WH to put-a-stop to this kind of nightlife entertainment in East Aceh. While this kind of entertainment brings negative impacts for the enforcement of Islamic law, there are in fact many nominally Muslim men, both single and married, with double standards (hypocrites), who still crave such entertainment and so they go over the border of Aceh into North Sumatra to the small town of Besitang or even to the big city of Medan, especially at weekends, to let their hair down and get rid of their lust.

On this case, the enforcement of sharia should focus on the educational side rather than the implementation of punishment. Similar notion also noticed on the implementation of sharia in Aceh.³⁰ On the west Aceh, the education and socialization of *qanun* became a key of implementation of sharia. Similar strategy can be applied on the case of East Aceh considering that violation was done due to external influences.

Women's dress, which has already been discussed, has also been affected by the lifestyles of the migrants and by what people see in magazines and on TV. There was even an issue of patrolling the shops, which sell non-Islamic clothes although wearing non-Muslim clothes in the privacy of one's own home is a private matter. However, the WH aimed to get all women in East Aceh to wear Muslim approved clothing in accordance with the provisions of the Prophet's *Hadîts*. However, these provisions cannot be implemented by the WH in shops since they have no legal power to regulate clothing sold in stores. Nevertheless, WH officers still have authority to control those who are wearing clothes that are not allowed by law in public places. This is part of enforcing Qanun No. 11 of 2002 regarding faith, worship and Islamic rules.

After experiencing the changes in culture, the changes in attitude and behavior in society have also shifted. In the 1980s,

the people in East Aceh, specifically the teenagers, were still aware of “social” attitudes within the community. For example, if there was a child who made a mistake, then the neighbors would discourage such a child not to make such mistakes and he/she could even be given an appropriate punishment for making that mistake. In essence, the society in that era still mutually maintained social behavior amongst each other. Now, however, that kind of culture is hard to find. The much more open social intercourse that now takes place in society is triggering a lot of anti- social behavior such as sexual abuse, assaults, murders, and other related problems.

From the time of Muḥammad (P.B.U.H) till the days of Sultan Iskandar Muda and up to the present, gambling and games of chance have been part of society but the Holy Qur’an (Q.S. al-Mâ’idah/5: 90-91) specifically speaks against it viz: *“Believers, wine and games of chance, idols and divining arrows are abominations devised by the devil. Avoid them so that you may prosper, the devil seeks to stir up enmity and hatred among you by means of wine and gambling, and to keep you from the remembrance of Allah and from your prayers. Will you not abstain from them”*.³¹ In Aceh, many types of games are used for gambling, in particular the target of Islamic law in East Aceh is gambling based on card games and fighting cocks plus *bloe numboi* i.e., lottery or lucky numbers.

Because of much malicious behavior in society, the government, by implementing Islamic law, can vigorously act against various prohibited activities such as drinking alcohol, gambling, *khalwat* (petting or close personal contact with members of the opposite sex that are not married to each other), sexual harassment and rape. However, since the passage of the Islamic law in 2001 until now, its implementation in East Aceh has still been weak. This was verified in an interview with a community figure

from Idi Tunong village in East Aceh, Syukri who related the following:

Once a member of our community broke the Islamic law, by committing adultery (*zinâ*), so we caught him and reported him to the authorities in order to be punished in line with the applicable *qanun*. However, he was not caned as required by the *qanun*. On the contrary, the community itself punished him by expelling him. Consequently, he felt ashamed and moved to another village for a while or even forever.

This is the way such problems are solved by following the traditional rules. In addition, people in Acehese society also demanded that the government give village authorities the power to implement Islamic law for law-breakers. The notion emerged to the fact of long historical root of Islamic tenet in Aceh; the people consider the Acehese customary law was in line with Islamic law.³² There should be legal provisions in the *qanun* for them to determine the penalties, so that they could overcome every legal problem at their village level that was within the scope of Islamic law. If the village government is able to fix such problems, it will decrease the possibility of people doing illegal or immoral things (and lesson the load for the Government authorities). One informant said, “The people in the village will think twice to do something illegal since they know they will be punished by the local village apparatus. As a consequence, they will be shamed and known as the ones who broke the Islamic law, even though they move to another village. Thus, punishments will be public”. This condition has actually supported the implementation of Islamic law in East Aceh since the local government still prefers traditional punishments rather than caning as the best solution for village level law-breakers.

This situation cannot be said to violate human rights

since the actors are all Muslims. In fact, every Muslim is required to comply with Islamic law. When the government gives authority to the village leaders, at least the implementation will be handled by them at the village level. To be effective, the village leaders should first be given lessons so that they will fully understand the Islamic law such as its penalties, categories, authority and so on. Nevertheless, Muzakir related as follows:

Sometimes, the village apparatus did not know that one of their villagers had broken the law since other people had reported the incident directly to the WH district office unbeknownst to the village leaders. Regrettably, the law-breakers were not seen to be given any penalty although they had been caught by the officials as defined in the *qanun*. In other words, East Aceh never used caning such as was done in other places like North Aceh, Pidie, Banda Aceh, and Bireuen.

These facts were also supported by a WH officer who said that, although that person had broken Qanun No. 6 of 2014, however, the WH in East Aceh does not yet punish people by caning. Such cases are preferably solved by customary punishments involving the village elders, notables, and all the members of the village. Thus, in East Aceh, the WH government policy is to apply traditional law because caning has not yet been set as a punishment for people who live there. There were several reasons for this decision. First, the government of East Aceh did not want to apply a punishment in haste, since the people had still not yet fully comprehended the new laws and they still needed time and guidance to adjust to them. Secondly, the office of the WH was still focusing on socialization of the law, not only for people in each village, but also for students in middle and upper-level schools in the area. Finally, their budget was not sufficient to pay for caning (it is expensive), since all resources were maximized to fund socialization. Those reasons

explained the foundation of the application of traditional laws to provide punishments for Islamic law-breakers in East Aceh.

Meanwhile, from the point of view of the communities, they also did not want to see caning since they believed that it did not comply with the final Islamic Law. Moreover, some said that punishment would not make the violators regret what they had done. It should be noted that Islamic law could not be fully implemented because it was not fully ready to serve the community. It is still in process and it will take time to see the results. However, as time goes by, there will be changes felt by society due to the implementation of Islamic Law.

The government of East Aceh District fully supports the implementation of Islamic law. The government argues that Islamic Law is the right choice, hence all the people have to support the final implementation of it. The implementation itself is in accordance with the implementation of UUPA (The Act of The Acehese Government), hence the authorities will ensure the enforcement of the law within East Aceh. One recent important aspect is the development of human resources to train future agents of enforcement, to be based on development of the *Dayah and Pesantren* (Acehnese Traditional Islamic Teaching-Learning Institutions). In the meantime, the Provincial government has also urged all formal institutions, including universities in Aceh, to support the implementation of Islamic law.

Concerning the implementation of Islamic law, the government of East Aceh has taken various steps. One of them is the passing of several acts including Qanun No. 10 of 2012 about the Islamic court, Qanun No. 11 about provisions in the aspects of faith, worship, and Islamic rules, Qanun No. 7 of 2013 about judicial procedures following a crime, and Qanun No. 6 of 2014 about crime. The existence of such acts and their enforcement relates to the members of society itself, mainly the religious leaders,

including the *Imuem Gampong* (village leader of religious affairs), *Geuchik* (village chief), Islamic scholars, and other members of society.

Changes within Society

The implementation of Islamic Law in Aceh has been running now for almost 21 years. During this period of implementation, various arguments have appeared in the community. Some of them support it, and some do not. Nevertheless, the existence of Islamic Law in Aceh has many benefits, these include the direct effect on poor families who can now get *zakat* more easily (from alms to help pay for living expenses), plus funds for housing or house repairs from *Dhuafa* (poor people's housing) plus assistance from *Baitul Mal* for orphans to cover costs of living, scholarships and other expenses.

Sharia has brought Islamic culture into the daily activities of women's way of dressing to close their *awrah*, or to cover parts of their bodies that should be covered in public. Sharia can also bring harmony with believers of other religions; every Muslim should freely believe in accordance with the Holy Qur'an Q.S. al-Kâfirûn/109: 1-6, which says, "*Unbelievers, I do not worship what you worship nor do you worship what I worship. I shall never worship what you worship, nor will you ever worship what I worship. You have your own religion, and I have mine*".³³ Islamic Law also contributes to strengthening mosques, *meunasah*, *dayah*, and other Islamic institutions. It also leads to the education of *da'i* (lecturers in Islam) by sending students to *diniyah* religious schools rather than to formal, secular ones.

Sharia has also resulted in the establishment of the *dayah* affairs office. This office makes it possible for alumni of *dayah* or Islamic traditional schools e.g., *pesantren* to continue their

studies at national or other formal educational institutions. A renaissance of customary law has also followed on from the enactment of Islamic Law which has provided the opportunity to bring back Acehese customary law such as *Hukum Adat Laot* (The Acehese traditional fisheries edicts) for fishermen; *peusijuk*, an Acehese ritual for strengthening the spirit and inner strength of believers going on pilgrimage plus other laws that are listed in the *qanun*. The existence of such a *qanun* means that the government honors local, traditional culture and wisdom. The Acehese tradition was full of rituals containing Islamic tenet, which reflected the intertwining of religion and culture in Aceh.³⁴

It is also believed that following Islamic law leads to character building. So, the Acehese will develop the true character of Muslims, becoming honest, humble, diligent, loyal, smart, wise, content and happy. And, as well, enforcement of Islamic law is obviously a way to prevent harmful activities in society, such as consumption of alcohol and drugs, free sex, corruption, gambling, etc.

Sharia law has also stimulated the local economy e.g., the obligation to wear proper clothing has boosted demand for such clothes and the demand for a monetary system based on Islamic law has triggered the development of banks and finance houses based on Islamic law known as sharia banks. This type of banking and financing including co-operatives will manage monetary activity in Aceh, including government funds, in accordance with Islamic law.

Sharia law has also sponsored Islamic lectures and discussions in order to socialize Islamic law. Such occasions which often feature charismatic Islamic scholars to enlighten people about Islamic law are usually held on Fridays, the holy day for Islam. The development of traditional Islamic education institutions

has been supported by the implementation of Islamic law. In fact, traditional Islamic schools, called *dayah*, have developed integrated learning partnering with other formal institutions.

Sharia law has also provided for the recognition of human rights for victims of the conflict which ended in 2005 and for the re-integration into society of former members of GAM, the Acehese Liberation Movement Army. And it has also improved the quality of public service. Hence people should get better service in health, education, and all other fields of the government.

Finally, the implementation of true Islamic law will ensure peace and order amongst people in Aceh and it will also protect people with other different religions and there will be many more benefits, which will also be felt by the Acehese community following the full implementation of Islamic law.

Customary Law within Islamic Law

Acehnese society, which aims to be autonomous made the movement of Islamic law implementation as a movement to mark Islam as a plenary religion with *ulama* (Islamic scholars) and *umara* (Islamic administrators). Based on Act No. 4 of 1999, Aceh has specific rights as an Autonomous region to introduce customary law. As the region also runs Islamic Law, it is important to mesh the customary law with Islamic Law in order to ensure its implementation. In Qanun No. 9 of 2008, which mainly talks about guidance from traditions and norms, *reusam* or customary law can be applied if there is any breaking of Islamic Law amongst the Acehese people. One particular way of breaking these laws is *khalwat*, (i.e., an unmarried couple being together out of the public eye.) as stated in Qanun No. 9 of 2008, article 13, subsection (1). Settlements given to *khalwat* law-breakers have been in the form of advising, warning, getting apologies, paying *sayam* (compensation), paying fines, indemnifying

others, even expulsion from their village and so on. From January to June 2016, 17 cases of Islamic Law violations occurred in East Aceh, 16 of which were *khalwat* plus one case related to *maisir* (gambling). Three of these cases could be resolved through customary law. This means that the problems were resolved at the village level.

However, there were some gaffes made in the resolutions. There could be double punishments given to a violator. For instance, after he was caught, doused with dirty water and beaten by the villagers, the customary law-breaker was made to stand up in front of the villagers to pay a fine (a cow or a buffalo) depending on how serious his violation. Once completed, the violator could then also be handed over to the WH district officers to be punished in accordance with the Islamic law.³⁵ A further action that is possible is to inform the parents of the wrong-doers. Marriage is the most common solution for a serious case of *khalwat*, which is done in accordance with local traditions, such as payment of dowry and a marriage ceremony at home or in the local Office of Religious Affairs. During these processes, WH can supervise and facilitate with the intention of socializing and integrating Islamic law with traditional law. For some people, the wrong-doers deserve to get punished. However, if the punishments keep going, the wrong doers could feel the punishers were too obsessive.

In reality, the double punishment that happened in some cases was not a decision that came out of the *qanun* or the Islamic law. On the contrary, the law does not recognize the existence of double punishment. The same thing also applies in the *qanun*. It is likely that the double punishment occurred because some villagers took advantage of the anger against the wrong-doers who have broken the morals of the village. The most common case when a violation occurs and the violators

are caught, for example, call them A and B, the villagers will fine them as compensation. The conventional fine for out of marriage sexual intercourse (*zinâ*) is the payment of a cow plus IDR (Indonesian Rupiah) 1.000.000 as compensation for their actions. In Aceh, this is called *top male gampong* (to erase the shame of the village). The couple will then be married, even though there is no agreement from both parents. Those who do not want to abide by such rules will be reported to the WH or even perhaps to the local police when there is no customary resolution to the case. Such procedures may need special treatment in the village communities in order to achieve good process of law so that the villagers are not only “spectators” but also “executors” for personal matters in their village.

This traditional way of handling infractions of Islamic law is assured by Act No. 5 of 2003 about village governance within Aceh. This means that the *Geuchik* (Village Chief) and the *Imum Gampong* (village leader) have privileges and responsibilities for establishing rules to keep the peace and maintain good conduct in their village. Such rules are supported by the Government of Aceh Act No. 7 of 2000, and are called *Reusam Gampong*, which are usually used to solve problems and conflicts between villagers, including household problems, conflicts between people, conflicts between villages, especially about customary land and other possible legal problems at the village level.

Challenging Problems within Society

Today, the people of Aceh differ from those who lived during the golden age of Aceh (i.e., the age of Sultan Iskandar Muda). Then there was a strong sense of caring tied to a strong faith, which was known as Islam. In the eyes of the world, it gave dominion to the Acehnese people. However, those times are just a part of past history. In this modern era of globalization,

the survival processes of society must give a new dynamism to education and to changing the mind-set of people in the community.

Such a case took place recently in East Aceh where villagers were suspicious of a couple who rented a house in *Keudee Dua* village in Idi Rayeuk Sub-District, East Aceh. A pedicab driver first exposed the deviant movement to the villagers after he questioned how his friend became well-off. His friend told him that he got money in an easy way from a couple. The driver was eventually persuaded by his friend to join him as the couple would give him IDR 5,000,000 per month. On the promised evening, they went to the house where there were about fifteen people gathered together for the occasion. Before starting, they all had to drink a dark liquid, with no clue as to what it was since there was no distinctive smell to it so the new recruits pretended to drink it. Then, the preacher, who had covered his face with a black cloth, opened the ceremony, and exposed his face. It was clear to them that the preacher had the symbol of a cross on his forehead. The driver immediately became angry, left and reported this to the villagers who straight away burned the house down. Fortunately, there were no victims since the couple had already run away.

Another case from East Aceh happened when the younger brother of Mr. Muslim (a pseudonym), a resident, said that the people did not need to perform *shalât* (prayers). He said that Indonesia now was full of chaos, similar to the conditions in Mecca before the period of Medina, the era during Prophet Muhammad's life when Islam was not yet fully implemented. He said that this similarity meant that nowadays we did not have to perform any Islamic obligations. The obligations must only be obeyed after the era of Medina. This was stated openly by Mr. Muslim's brother who regularly attended lectures and discussions, held in a house in secret in the middle of the

night. After the residents heard about this sect, they raided the house. The sect then moved, meanwhile, Mr. Muslim's brother also moved to Banda Aceh. Later, a similar sect was found in Banda Aceh, and hundreds of its member subsequently re-affirmed the confession of faith or *syahâdat* at the Great Mosque of Baiturrahman, as an act to show that those former members of the sect had embraced Islam again. However, there was no news about Mr. Muslim's brother, and nobody knows where he has gone now.

In addition, some people in Aceh have become disinterested in Islam where they hardly ever go to any Islamic occasions or to any places which will improve their knowledge of Islam, such as to the local *meunasah* (small prayer house), local mosque or *dayah* (local religious school). An attitude of arrogance can then develop as a lack of social connection with others, even with neighbors. This attitude triggers assumptions in society that these are people who pray without reciting *qunut* (special *duâ* for *Shubuh* prayers) or other *duâ* (prayers). Thus, they never go to the mosque or join in the activities in the *meunasah*. This could bother other villagers while people in the community will protect themselves from mutual accusations by just staying in their own home. They may also only concern themselves with their own personal work. In essence then, as a result of gossip (which the Holy Qur'an forbids) misunderstandings can occur between neighbors resulting in people eschewing participation in their village society, so that in the end people in the community lose interest in attending their mosque and *meunasah*.

An attitude of disinterest in religion and in society can have a big impact on morals in social life. As a result, undesirable things can happen such as assaults murders, rapes and so on. Such attitudes can influence younger people. Some teenagers

today, regrettably, are disobedient towards their parents and other elders showing bad manners, disrespect, rebelliousness, free sex, not worshipping and such like.

The globalization in all areas of life is most likely to influence teenagers. Especially in this thriving information era, which has both positive and negative impacts. Teenagers needs guidance to be capable of facing global development. First, they have to close their *awrah*. Islam obliges men and women to cover their *awrah* for the sake of their honor when amongst strangers. Next, they have to keep away from fornication. Islam is a religion that values sanctity. From the point of view of Islam, intercourse must be grounded in the values of chastity. In social relationships, including relationships between a man and a woman, social distance must be kept so there is no chance of *khalwat*. Last, teenagers must attend an Islamic school or learning place such as a *meunasah*. This will prepare them to live in accordance with the requirements as listed in the Holy Qur'an and *al-Hadîts*. These actions will fortress the teenagers to cope with the rapid changes in the world. These changes are happening around teenagers because of the influence of television, smart-phones, the internet and IT (information technology).

Consequently, it is difficult to ensure that children are well-educated with a high quality of religious knowledge. In addition, for some children, their minds can be disturbed by the power of online games either in computers or in smart-phones. Contrarily, the minds of children in the 80s were different. Even though they were playing and being disturbed, they did not react rudely and impolitely. The 80s children knew their limitations meaning that a child had to be obedient towards his parents. He also had to manage his time for learning and playing and must be polite to everyone. Today's children are different. When they are agitated, they will confound us by

saying, “Don’t bother me! You’re breaking my concentration”. Apparently, they position themselves like a mature, adult person doing something important.

Furthermore, Aceh traditional art related to Islam is starting to disappear such as *Dalail Khairat*, *Tari Seudati*, *Tari Saman*, *Ratép*, *Caé*, and many more. It is necessary to study and to re-introduce such Islamic arts forms back into society. In fact, they may serve as a medium for *dakwah* in the beginning, when reaffirming the ways of Islam. Each movement, lyric and poem contain the values of Islam that have been submerged into the traditional culture. Such activities act as a way to inform people about Islamic ethics. However, it is hard to find such activities anymore in East Aceh. The suspension of such activities happened during the conflict between the GAM (the Acehese Liberation Movement) and the TNI (the National Indonesian Army) in Aceh. Post-conflict, since 2005, there have been efforts made to resurrect these arts amongst the communities.

Currently, the people enjoy the motions of the dance and the rhythms of the songs without knowing the real messages in their content. Some people even think that these arts have no aesthetic value. It is believed that society now does not understand the true meaning of these arts. It is essential to recall that the loss of these arts in Aceh would erase the meaning of the words of *peuingat* or *haba peutuah* in East Aceh. In order to revive these artistic activities, hard work from various parties is needed although some obstacles and challenges could emerge. One common constraint is the need to segregate the audience of men and women who are not *mahram* (i.e., not married). Moreover, the performances could become a free area for some couples who wanted to pursue their personal interests.

In spite of all that, some people in society have argued that the implementation of Islamic law in Aceh is not yet complete

or in line with real Islamic law. The actual laws are derived from the Holy Qur'an and *al-Hadîts*, which have been carried forward from the Aceh Darussalam heyday of Sultan Iskandar Muda. Some people try to compare or juxtapose Islamic law with Indonesian law. For some people, the existence of Islamic Law could only be regarded from the point-of-view of Indonesian Law. Certainly, the existing Indonesian law could be interpreted wrongly. For instance, the words "the law is blunter on the top and sharper on the bottom" can be interpreted to mean that "the law can be bought and sold or lessened" depending on one's wealth, occupation and/or social status.

By contrast, law derived from the Holy Qur'an and *al-Hadîts*, must be implemented and executed indiscriminately. For example, based on what Sultan Iskandar Muda did to his son, Meurah Pupok, who was given the death penalty for committing adultery (*zinâ*) by having sexual intercourse with the wife of an officer of the kingdom. The final decision in Islamic Law also cannot be decided "hastily". This means that, to resolve a problem, every decision taken must be made in accordance with the correct procedures such as bringing in evidence or witnesses, who are good, honest, mature and act normally. Certainly, in comparing Islamic law and Indonesian law there are similarities and differences. The former law cannot lighten, pardon or excuse someone's illegal acts. Perhaps, this may make some people reject Islamic law. Hence, the government is more likely to support Indonesian law rather than Islamic law, since the former is accepted by the whole community.

Discussion

Islamic law, also known as *Syariat Islam*, is law that is based on the Holy Qur'an and *Sunnah* (the way of life) of Prophet Muḥammad (P.B.U.H). Islamic law is also said to serve

as the canon of God, to regulate the relationship between humans and God and social relationships among humans plus the relationship between humans and the environment.

There are noticeable differences in the implementation of Islamic law in Aceh and in other areas in Indonesia. Aceh has adapted the Islamic law and Islamic scholars' decisions or *fatwa* as a civil legal code.³⁶ This was supported by the Republic of Indonesia (RI) Act No. 44 of 1999 regarding the distinction of Aceh Province that set-down the role of Islam and Islamic scholars within the society of Aceh. An example of the implementation of this act is that Islamic scholars' opinions and perspectives are considered in determining policy.

The efforts to enforce Islamic law have created confusion about Islamic law itself. The people of East Aceh consider that the implementation of Islamic law has been accomplished completely, which in Islam is known as *kâffah*. Then, the problem is whether the Islamic law that is being implemented now is based on previous Islamic law or on recent revisions. The term *kâffah* is used for the implementation of Islamic law in order to emphasize that only it can be used as the legal basis for society. This term also means that the Indonesian Government supports the enforcement through the application of it within a positive legal order, an Islamic-based curriculum, and in any other issues regarding the implementation of it.

Moreover, the differences that appear in Islamic law are only a matter of perspective upon particular cases, since decisions made by scholars cannot change the Holy Qur'an and *al-Hadîts*. Only diversity of opinion that occurs as a result of the influence of time and of the situations in which Islam develops, since inevitably local culture will enrich the development of Islam.³⁷

Historically, the granting, by the Republic of Indonesia,

to Aceh, of the right to implement Islamic law was a political move that was made in an effort to counter continuous local separatist movements and other opposition groups in Aceh.³⁸ A noticeable phenomenon is an attempt to make the *Wilayatul Hisbah* or WH (Sharia Police) a remote control for every aspect of community life, one of which is Islamic dress code.

Some people regard the patrols by the WH for the implementation of Islamic law as symbolic to show their political power, since to be a good Muslim should not merely focus on clothing. Also, the patrols done by the WH lead to human right violations since the way of dressing should be free for everyone providing it meets usual social mores and when there were patrols the victims were often humiliated in public. For example, women, who were not wearing dresses in accordance with Islam became the victims of the Islamic Law implementation because they frequently became the object of the sweeping patrols in East Aceh. In fact, it was claimed that the patrols only focused on women and their clothing.

Such misunderstanding on the implementation of sharia was dangerous for society. There were conflicts occurred due to misused of religious-based law, which affected the social life of people, such as conflict between Umara and Ulama in Java.³⁹ The issue of WH as a symbol of political power must be eliminated to maintain the social stability in East Aceh.

The dress violations often actually occurred because of the lack of familiarization from the government about the enforcement of Islamic law, particularly before and during the sweeping patrols. Many organizations concerned with civil rights reported that during the patrols several cases of injury occurred. One organization, *Kontras*, reported that during a sweeping patrol done by villagers, the chief of the village cut and tore the tight pants and wounded the leg of a female victim.⁴⁰ In this case the

sweeping patrol was actually done by male villagers, while in fact such patrols should only be done by the WH. Such village patrols actually need to be stopped by the government, since only the Acehese legal institution, the WH, has the right to do such patrols.

The term *kâffah* or completely concerning the implementation of Islamic law implies that this law regulates every aspect of human life, based on God's guidance in the Holy Qur'an and *al-Hadîts*. Therefore, Islamic law not only regulates worship, marriages, funerals, and prayers, but also clothing, food, criminal acts, sharia commerce, inheritances, commercial law, immoral acts, gambling, drugs, blasphemy, and punishments including caning.⁴¹ From the viewpoint of Islam, covering *awrah* (the body parts that should not be exposed) is indeed an obligation for every Muslim, which should be done as a reflection of obedience to God.

According to Abubakar, the complete implementation of Islamic law has a number of specific objectives: These include from the purely religious point of view, the laws are actually the commands of God to mold better personalities, viz: pure, pious Muslims.⁴² Thus, from a security and a psychological point of view, Islamic law ensures security and peace within society, since the people will consciously experience that each aspect of their life, including education, is in accordance with God's will, and without the intervention of any other parties.

Moreover, from a juridical point of view, a society, which consciously obeys the law, will live harmoniously as the law in its final form has been implemented for and amongst them. In other words, they can follow Islamic law for the sake of their own beneficence. Furthermore, from an economic point of view, the implementation will build mutual relationships, which in turn, will lead to solidarity that eases interactions amongst

people including economic activities.

The practice of such immoral activities proves that Islamic ethical behavior in society is still weak. Some people still consider that the implementation of Islamic law is the obligation of the relevant institutions. However, as Muslims we believe that obedience to Islamic law is a personal responsibility for everyone for which there is no need for intervention from the government, there only needs to be confidence and awareness by the people and the institution of the people i.e., the local *Meunasah* or Mosque community.

The decline in religious values in society has also provided opportunities for divisive new faiths to grow amongst the community. These actions can lead to the emergence of deviant sects, the decline of *'aqidah* (matters of Islamic faith) and to other social stresses. *'Aqidah* or decline in Islamic practices is said to have appeared after the catastrophic Tsunami that hit Aceh at the end of 2004. The decline in faith has not been countered completely despite the implementation of sharia law; it may act as a time bomb, which can explode at any time. If the problems keep happening, possibly the people of East Aceh will start to blame each other. Because of the hospitality of the local Acehnese people “outsiders” have tried to introduce outside faiths into the community. However, they were only able to infect a few people and not for long.⁴³

The process of decline in *'aqidah* mainly occurs within the middle to lower levels of society, to those who want to get out of poverty. Those who want to undermine the faith of Acehnese Muslims promise to change the economy for them. Hence poverty acts as a base for the decline in *'aqidah*. To overcome this problem, several interviewees said, “We are ready to support the government by detecting underground movements

and activities that are hidden from the public.” They added that if these activities were not exposed, then they could result in the decline of *‘aqîdah*.

Conclusion

The implementation of Islamic law in East Aceh is still weak. Its implementation has always been hampered with old political issues resulting from the presence of two opposing attitudes in society namely, pro and contra, for and against its implementation. The punishment decided did not bring serious effects for the violators. The community has demanded that the government officially issue a new *qanun* to strengthen the use of traditional law by village apparatus. The new law could then be applied to punish those in the village who violate Islamic law or traditional law indiscriminately. Meanwhile, the effects of resettlement community introduction of new culture into the community have brought a variety of problems that could affect and even reduce *‘aqîdah*. A decline in moral norms within the community can cause shifts in moral values, especially with teenagers and adults. This shifting process is also being propelled by developments in this new era of globalization. The implementation of Islamic law cannot be separated from traditional law. The existence of separate *qanun* in each village may bring alternative penalties for perpetrators rather than caning.

If the government really wants people to really comprehend the Islamic law before its implementation, traditional laws may then be a better alternative. The village laws, also known as *Reusam*, are actually in accordance with local sensibilities and are proven capable to resolve conflicts and provide solutions to various social problems. The enforcement of Islamic law is

supervised by the WH, supported by local government officers and also by students from the local *Dayah* Abu Pasi in Arakundo. This apparently has effectively prevented many violations of Islamic law. Changes have occurred in wide areas of society, including the public service. Most important has been public attention and respect due to the implementation itself. Nowadays, the impact of the implementation has brought benefits for poor families and for orphans, as the government has established special offices to support efforts to help them such as *Rumah Duafa* and *Baitul Mal*. There are now far fewer illegal and immoral acts plus peace and order in society has been ensured by the support for the traditional law within villages. The co-operation between all parties ensures that they work together in deciding policies and resolving problems within society.

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