

The Implementation of Sharia Law as the Gender Equality Manifestation in the Province of Aceh: Analysis of Qanun No. 6 of 2009 Concerning the Protection and Empowerment of Women

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Abstract

This study aims to observe the position of Acehnese women by analyzing the values of Sharia Law through the level of public compliance. Gender equality in the public sector can be seen by comparing the Acehnese women position in the RI-GAM conflict, after the peace, and after the implementation of Sharia Law concerning the protection and empowerment of women. This study uses the theory of liberal feminism because it takes the inequalities of classical gender ideology as the starting point of problem formulation. In addition, this study also uses the concept of gender equality and the ideology of women's liberation based on Islamic perspectives to investigate Qanun concerning women as the advocacy of women rights in the law, or also known as Feminist Jurisprudence (a court defending women rights). This research uses the qualitative method with case study approach. Data and information collection was through interview, documentation, and observation. Informant determination technique in this research used Purposive and Snowball Sampling. This approach is expected to examine the aspects of gender equality issues. The regional regulation in the province of Aceh and the stipulation of Qanun concerning the protection and empowerment of women is due to gender inequality experienced by women. Gender equality is applied in Aceh's Sharia Law to achieve a fair condition between men and women in their opportunities and rights as human beings. Consequently, Qanun No. 6 of 2009 is regulated in relation to the role and participation of women to be capable in politic, economy, social, culture, defense, education, national security, and equality in enjoying the development result. In the implementation process, however, several obstacles from various parties occur.

Keywords: Sharia Law, Gender Equality, Qanun No. 6 of 2009, the Province of Aceh

1. Introduction

The Free Aceh Movement (Gerakan Aceh Merdeka or GAM) was motivated by perceptions of injustice and many problems arising from economic, political, social and other issues that led to resistance (Amnesty International, 1993). This movement was the liberation movement which wanted to free the Acehnese from the Indonesian government injustice. The problems between GAM and the central government were complex, especially in the economic and political issues (Jayanti, 2013).

Within the conflict, military forces utilization was regarded as not a solution to resolve the conflict. Instead, it added new problems because the military solution was certain to fail as long as the security forces are incapable of exercising the degree of control and discipline over their troops necessary to prevent behavior that alienates ordinary Acehnese. Brutality and reprisals against unarmed civilians and their property also went largely unpunished. Brutal acts including violence against women and slaughter and murder of men which worsen the suffering and trauma experienced by abandoned families caused women became the most vulnerable victims of the conflict (ICG, 2001). In the public domain in Aceh, the issue concerning women faced significant changes. After the conflict and the 2004 Tsunami disaster in Aceh, the issue on the women role increased due to a large number of women who must be able to survive independently after the death of their husband. Due to this condition, many women have to be single parents for their children. The same thing also happened because of tsunami disaster (International Development Law Organization, 2015).

In line with the tradition-based culture for generations, women roles in the domestic sector and men roles in the public sector have resulted in low women's access and participation outside the domestic sector. The followed consequence is quite logical that outside domestic sector, such as government and politics, are still patriarchal to date. Men dominate widely in the political sector. This includes formulating the standard political rules that nullify the interests of women who must be satisfied as a minority group.

Sharia, or Islamic law, is then introduced in post-conflict Aceh as a policy to promote regional autonomy. This is considered as a step towards peace in Aceh. Given the high level of religiosity and the social pressure to adapt to religious norms, it seems that many Acehnese people support the idea of Sharia or at least passively accept it. However, not many Acehnese believe that Sharia has relevance to conflict resolution. Sharia Law is not considered as an appropriate solution for the Aceh conflict. The implementation of Sharia Law in Aceh is perceived as a political commodity for elites in Jakarta and Banda Aceh. Nevertheless, the process of developing Sharia systems continues (Jonhson, 2007).

The position and role of women are increasingly strengthened through the stipulation of Qanun No. 6 of 2009 concerning empowerment and protection of women as regulated in Aceh regional regulation. This strategy is expected to accelerate the increasing women participation and position since each development process is carried out with an understanding based on the gender equality perspective to raise awareness that there are differences in capacity, potential, aspirations, interests, and needs between men and women in the development sector (Parawansa, 2006).

The conflict becomes a review related to this research because the emergence of Qanun No. 6 of 2009 is not inseparable from the upheaval and demands of a group or individuals, especially women who want to get their rights after being long oppressed during the conflict. This is the main basis for the stipulation of Sharia Law (Apriani, 2009) in line with the objective of the gender issue which aims to achieve equality between women and men. A gender-based work division valued by the development planners has important consequences for the type of initiated development (Cleves, 2007). Thus, it becomes interesting to examine how Qanun as Sharia Law in Aceh applies the law concerning protection and empowerment of women as arranged and determined in line with the gender equality issue. Further, related to that, the researchers are interested in conducting the study entitled Implementation of Sharia Law as the Gender Equality Manifestation in the province of Aceh.

2. Literature Review

Liberal Feminism

The review of regional regulations related to Qanun No. 6 of 2009 concerning protection and empowerment of women to create gender equality in the Acehnese society, especially to create fairness in the public sector between the role of men and women, is a part of the social system. The initiation of Sharia Law becomes a part of the legal system in the province of Aceh which certainly impacts the social life of its people. The arising impacts will trigger the occurrence of social change because long history and culture have placed women as the subordinate of men (Lubis, 2006).

Feminism takes the inequality of classical gender ideology as the starting point of the problem formulation. With reference to gender ideology, the actuality behind the concepts and characteristics can be investigated with the possible changes in unequal or injustice gender ideology. For this reason, the feminism emerged (Bainar, 1998). Feminism in the literature related to the discussion of theory and concepts became the main theory in this research. It is not only due to the movement in this theory that seeks to achieve equality between men and women, such as radical feminism and socialist Marxist feminism, but also because the theory focuses more on the political aspect. It is in line with the research objective that the researcher aims to examine gender equality issues through Sharia Law as stipulated in Qanun No. 6 of 2009 concerning protection and empowerment of women. Thus, this research objective is closely related to politics.

Related to patriarchal culture in Aceh, the cultures and attitudes in everyday life and women empowerment cannot be separated from the context of economic stability achievement. However, the discussion is more dominant in the politics that is closely related to the existing Qanun law. So, this theory tries to explain how Sharia Law implementation through the liberal feminism can affect other aspects of the gender equality manifestation in the province of Aceh. The liberal feminism theory serve as a sharp analysis of gender equality issues in the province of Aceh by examining the effectiveness of Qanun on the unequal women role in the public sector such as employment, politics, and education, and by comparing the fair stability of men and women role sharing with Qanun as a part of Sharia Law in the province of Aceh.

The Concept of Gender Equality

Ideas and concepts about the gender equality arise from the West through the Marxist movement with its social paradigm of conflict. The social paradigm of conflict is the only theory that discusses comprehensively (both theory and practice) how to eliminate any existing social imbalances, including gender inequality (Megawati, 1999). According to Karl Marx (1818-1883), gender inequality between men and women is not caused by biological differences but is caused by social discrimination in the industrial sector.

Viewed through Sharia Law in the province of Aceh with the stipulation of Qanun No. 6 of 2009, the issue of gender equality triggers different principles and views on the society related to the day-to-day life of Acehnese society. The difference emerges because the rules become the identity in the society. For example, when Acehnese women are outside the province and wear no hijab, they probably will provoke negative perceptions. Inversely, when non-Acehnese women wear no hijab, the perceptions might also be different. Thus, Acehnese women will sense their Acehnese identity with the rules as the controls. Obviously, this will be biased in the gender itself.

The stipulation of Qanun concerning women is the advocacy of women rights in the law, or also known as Feminist Jurisprudence (a court defending women rights). The aim is the establishment of women's emancipation in positive law to achieve women equality through the legal way. Qanun becomes a legal force for women which will affect the opinion of many people related to domestic violence (*Kekeerasan Dalam Rumah*

Tangga, KDRT), unequal treatment at work, etc. caused by differences in gender (Ainiyah, 2015).

The Ideology of Women's Liberation based on the Islamic Perspective

The historical phenomenon proves that Islam is a religion full of social values. The study on gender equality issue through Sharia Law in Aceh will be effective when being reviewed in the context of Islam because Sharia Law regulated in Qanun cannot be separated from the rules in Islam based on Qur'an and Hadith. Based on Qur'an Surah Al-A'raf Verse 157, as the cultural movement, Islam breaks down the backwardness and removes the bondage that binds human dignity (Bainar, 1998). The partnership between men and women has been inspired by the teachings of Islam. The future effort for women should be concentrated on intellectual empowerment to show the desired quality. The utilization of women resources is the potential strength for the society which will become a reality (Hasan, 2008).

In the 21st century, some people begin to say that this century is the resurrection century of women. So is the reality in Aceh. The post-conflict and post-tsunami phase should be the phases in which Acehnese women are revived. Religion is again challenged by the times with contemporary problems such as violence, injustice, and tyranny against women (Na'im, 2006). Discussions about Islam and women need to be done in a socio-cultural context in order to gain a proper understanding of women and what they must maintain in order to free women from the stereotyped problem caused by a patriarchal ideology which cornered women (Maulana, 2015).

It is necessary to conduct a review based on faith and Islam as a contextual foundation to formulate the Islamic feminism perspective. Diversity in the concept of feminism makes it possible to formulate feminism with Islamic norms as the basic ideology. Therefore, it can be concluded that the connection between feminism and Islam is that both are cultural movements with the liberation ideology.

3. Research Methodology

The review of women's positions after the implementation of Qanun No. 6 of 2009 as the gender equality manifestation in Aceh uses the qualitative approach. The Qualitative Approach is used based on the consideration that the activities of the actors directly or indirectly involved are related to the regional regulations as stipulated in Qanun and the social reality through the position of Acehnese women as the object to see the development of gender equality issues with the stipulation of regional regulation. The research method used in-depth analysis techniques, which examine the problem on a case-by-case basis because qualitative methodologies believe that each problem has different characteristics (Moleong, 2013).

This study uses a case study approach. The case study is used as a strategy with the main question of how or why, in which the researcher has little or no chance to control the investigated event and the focus of research lies in the contemporary phenomenon in a real-life context (Yin, 2015). Thus, this approach is expected to examine aspects of gender equality issues with the issuance of Sharia Law as stipulated in Qanun No. 6 of 2009 concerning protection and empowerment of women. Thus, the position of women can be seen in fact and based on reality from the stipulation of the law to date.

This research used Purposive and Snowball Sampling technique. Purposive Sampling as a technique of informants determination selected by the researcher was expected to find the key informants which really understand the occurred conditions and problems in the research location (Sugiyono, 2010). Snowball sampling technique was used to find other information needed in this research later. This technique was done by asking the key informants according to the criteria until the required data can be obtained (Sugiyono, 2011).

4. Results and Discussion

Aceh Sharia Law as the Manifestation of Gender Equality

In line with the tradition-based culture for generations, women roles in the domestic sector and men roles in the public sector have resulted in low women's access and participation outside the domestic sector. The followed consequence is quite logical that outside domestic sector, such as government and politics, are still patriarchal to date. Men dominate widely in the political field. This includes formulating the standard political rules that nullify the interests of women who must be satisfied as a minority group.

In the future, consistent and sustainable management is important to encourage the relevant sectors and community institutions to urge the gender dimension in the process of implementation, planning, monitoring, and evaluation in each program development so that the achievement of gender equality issues can be realized properly (Parawansa, 2006). Empowerment and protection of women will be the strong role in strengthening the gender equality in the province of Aceh. The stipulation of Sharia Law concerning women will be the strength for women to get recognition in the law and interaction guarantee in the public sector to create a sense of security and peace for women in every activity.

In the process of Sharia Law implementation concerning the protection and empowerment of woman, Aceh does have an equal purpose in scope. However, this research focused on Tanoh Gayo highlands at Central Aceh Regency because the biggest victim conflict there was civilians. This district becomes interesting to be the

location of research because the most significant impact felt by women during the conflict and after the stipulation of Sharia Law can be observed. As a result, how Sharia Law can affect the values of life and the position of women in the society can be examined.

Tanoh Gayo highlands are also part of the province of Aceh located in the middle of the mountains, making it very difficult to be developed, has some differences in customs with other areas of Aceh, and low education access especially for women. But the changes between post-conflict and after stipulation of Sharia Law are so significant compared to other conflict areas. Therefore, it becomes interesting to be studied as the focus of research because the topic relates to this research which examines the implementation of regional regulations as an issue of gender equality.

Implementation of Qanun No. 6 of 2009

Sharia Law as stipulated in Qanun No. 6 of 2009 concerning the protection and empowerment of women is a process framework to improve gender equality within the Acehese society. The formation of Qanun concerning the protection of women is due to gender imbalance experienced by women. The stipulation of Qanun aims to achieve equality between men and women in the public sector in a context consistent with prevailing norms and deprive women of the view that women are the subordinate of men. Thus, the Qanun is regulated in Aceh's regional regulations as part of the realization of gender equality.

Gender equality is applied in Aceh's Sharia Law to achieve a fair condition between men and women in their opportunities and rights as human beings. Consequently, Qanun No. 6 of 2009 is regulated in relation to the role and participation of women to be capable in politic, economy, social, culture, defense, education, national security, and equality in enjoying the development result.

The implementation process of Qanun in society is done by various activities. State Sharia Agency (*Dinas Syariat Islam*, DSI) as a related institution undertake several actions to ensure that regional regulations in Aceh can continue to run. They conduct socialization to various social circles such as schools and community groups (village groups, PKK (Family Welfare Movement, *Pemberdayaan Kesejahteraan Keluarga*), housewives, Friday prayers/fardh prayers) in every religious and non-religious moment that aims to all parties understand the rules contained in Sharia Law as stipulated in Qanun and apply the rules. They also put billboards, banners, and advertisements on every street corner and conduct raids and patrols for the effectiveness of the existing regulations implementation.

The main problems consisting of various aspects that must be faced in the development of women's empowerment program come from the gaps between men and women as the result of the life background with the history of conflict and the strong patriarchy (customs) that require women to be the subordinate of men in some public sector. In fact, the norm actually states that women also have the same rights as men. However, it is constrained by custom, for example in the affairs of making a living, expressing the opinion rights, etc. So, the government policy and community support are necessary to develop strategies for gender equality in development programs. One of them is with the establishment and stipulation of Qanun No. 6 of 2009 and the involvement of the society in applying it.

5. Conclusion

In general, the implementation of Qanun No. 6 of 2009 as the implementation of Sharia Law on the gender equality manifestation has a significant impact as the process of increasing the women strength to obtain recognized legal protection. After the implementation of Sharia Law, the Acehese women can have equality with men in the public sector which do not violate the norms or rules in Islamic law. The aim is to create equality between men and women to achieve justice and eliminate inequalities. Although the process of implementation faces various obstacles from various parties and various kinds of problems, the impact is greater in accordance with the goals and objectives of Sharia Law. To achieve this, the most important is the cooperation between the government and the community and the practice of mutual support, especially in the aspects of research studies related to the protection and empowerment of women to reduce gender inequality in Aceh.

References

- Ainiyah, Q. (2015). *Keadilan Gender Dalam Islam : Konvensi PBB Dalam Perspektif Mazhab Shafi'i*. Malang: Intrans Publishing.
- Amnesti Internasional. (1993). *Shock Terapy : Sebagai Tindakan Pemulihan Ketertiban di Aceh 1989-1993*. Laporan HAM.
- Bainar. (1998). *Wacana Perempuan Dalam Keindonesiaan dan Kemodernan*. Yogyakarta: PT Pustaka Cidesindo.
- Bintang, S. (2007, Februari 5). *Perang dan Damai di Kebun Kopi*. Pantau Article.
- Cleves, M. J. (2007). *Gender dan Pembangunan*. Yogyakarta: Pustaka pelajar.
- Furqon, Z. (2014). *Eksistensi Partai Politik Lokal di Provinsi Aceh dalam Sistem Ketatanegaraan Indonesia (perspektif UU no 11 Tahun 2006 tentang Pemerintahan Aceh)*. Jakarta: UIN: Syarif Hidayatullah.

- ICG, (. C. (2001, Juni 12). Aceh : kenapa kekuatan militer tidak akan membawa perdamaian kekal. ICG Asia Report No 17.
- Lubis, A. Y. (2006). Dekonstruksi Epistemologi Modern. Jakarta: Pustaka Indonesia Satu.
- Parawansa, K. I. (2006). Mengukir Paradigma Menembus Tradisi. Jakarta: Pustaka LP3ES Indonesia.
- Peraturan Daerah Provinsi Aceh, Hukum Online Aceh, 2012, Terkait Qanun Nomor 6 Tahun 2009, Tentang :
Perlindungan dan Pemberdayaan Perempuan. Aceh.
- Sugiyono. (2010). Metode Penelitian Kualitatif dan R&D. Bandung: Alfabeta.
- Yin, R. K. (2015). Studi Kasus : Desain dan Metode. Jakarta: PT Rajagrafindo Persada.