



Implementation of the Siyasaḥ Syar'iyah Policy in Aceh Province

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Abstract

This article discusses the Siyasaḥ Syar'iyah Policy and Aceh Qanun Post the GAM Peace Agreement. The purpose of this paper is to find out the background of the occurrence of the Siyasaḥ Syar'iyah and Aceh Qanun policies after the GAM peace agreement, how the impact of the Aceh Qanun after the GAM peace agreement, to how the implementation of the Siyasaḥ Syar'iyah and Aceh Qanun policies after the GAM peace agreement. This study used qualitative research methods. Where the data obtained through documentation or literature in the form of archives, magazines, articles, journals, newspapers and various sources and analysis so that researchers obtain information about empirical problems to be solved. This type of research approach is descriptive. Descriptive research is research that seeks to find solutions to existing problems based on data. From a series of research processes carried out, the authors conclude that since the Helsinki MoU was able to resolve the never-ending conflict between the Government of Indonesia and GAM which in the negotiation process resulted in 71 points, including discussions on economic development, the symbol of Aceh's flag. and disclosure of human rights violations that emerged as a form of commitment between the Government of Indonesia and GAM regarding the peaceful, comprehensive resolution of the Aceh conflict. sustainable and dignified.

Keywords: *Islam; Phase Transition; Siyasaḥ Syar'iyah*

Introduction

Siyasaḥ Syariyyah comes from two Arabic words, namely al-Siyasaḥ and al-Syar'iyah. Etymologically Siyasaḥ Syar'iyah is Tadbir (regulation), al-Ri'ayah (maintenance, maintenance), al-Ta, dib (Education, teaching) and al-Ishlah (remediation).¹ While the word syar'iyah is taken from the word syar'a which means to prescribe, explain and reveal, or anything that is prescribed for His servants about religion. Meanwhile, according to Abdu al-Salam al-Alim, according to Abdu al-Salam al-Alim, the terms of Siyasaḥ Syar'iyah are: Every syar'i action that is in accordance with the purposes of the Shari'ah in general and realizes goals that bring people closer to goodness and keeps them away from all harm. ²

¹ M Junaidi. Perang Dan Jihad Dalam Perspektif Fiqh Siyasaḥ Dauliyah (Telaah Historis Berbasis Teks Suci). Law and Justice. 2016. Vol. 1 No. 1. Pp 65-73

² Dr. Qazdafi zhat al-Ghananim. Mabadi'u al-Siyasaḥ al-Syar'iyah wa Dauruha fi al-Ishlah al-Tasyri' fi al- Daulah, Bahats 2007, hlm. 3

The people of Aceh in its long history have been known as people who are very close and even fanatical about the teachings of Islam, so that Islam has become a cultural identity and self-awareness. The implementation of Islamic law by the Aceh government has received a positive response to the central government with the ratification of the Law on the Implementation of Islamic law in Aceh, legally regulated in Law no. 44 of 1999 concerning the Implementation of the Privileges of the Special Province of Aceh and Law no. 11 of 2006 concerning the Government of Aceh. Law no. 11 of 2006 requires a number of other organic laws and regulations, especially the Aceh Qanun in the context of implementing Islamic law. This Qanun functions as operational legislation to carry out the mandate of the Law on the Government of Aceh.

Then on December 4, 1976 Hasan Tiro officially declared the establishment of the Free Aceh Movement (GAM) on Mount Halimun as a form of resistance to the Indonesian government for the disappointment they experienced. The emergence of GAM was immediately responded to by the New Order government by sending thousands of Indonesian National Armed Forces (TNI) troops to eradicate (GAM) which was considered the Security Disruption Movement (GPK). As a result of the emergence of GAM, many Acehnese do not dare to make a living, so many shops are closed and the economy is closed.

Qanun is a statutory regulation or rule of law that applies in an area (which in this case is the Province of Nanggroe Aceh Darussalam), considering the Aceh Government and the Aceh People's Representative Council at that time were being controlled by politicians from the Aceh Party - the local party that became the vehicle for the politics of former GAM combatants after the Helsinki MoU, so a cooling down must be carried out immediately.

After the signing of the peace agreement between the Republic of Indonesia and the Free Aceh Movement (GAM) in Helsinki, Finland, the community hopes that people's lives in Aceh will improve and be wide open. Given that the Helsinki MoU actually emerged as a way out in order to resolve the never-ending conflict between the Indonesian government and GAM. The formulation of the problem from this research is How is the implementation of the *Siyasah Syar'iyah* and Aceh Qanun policies after the GAM peace agreement?

Research Methods

The research method used is a qualitative research method. Qualitative research style aims to construct reality and understand its meaning. This study uses a qualitative research approach where qualitative research as a scientific method is often used and carried out by a group of researchers.³

Qualitative research is carried out to build knowledge through understanding and discovery. A qualitative research approach is a research and understanding process based on methods that investigate a social phenomenon and human problem. In this research, the researcher makes a complex picture, examines words, reports in detail from the respondent's point of view and conducts studies in natural situations.⁴

Qualitative research is an inquiry strategy that emphasizes the search for meaning, understanding, concepts, characteristics, symptoms, symbols and descriptions of a phenomenon, focused and multi-method, natural and holistic, prioritizing quality, using several methods, and presented in a narrative manner. In simple terms, it can be said that the purpose of qualitative research

³ Khudzaifah Dimiyati. *Teorisasi Hukum, Studi tentang Pemikiran Hukum di Indonesia 1945-1990*. Surakarta. UMS Press. 2004. Hal 48

⁴ Absori. *Epistemologi Ilmu Hukum Transendental dan Implementasinya dalam Pengembangan Program Doktor Ilmu Hukum*. Proceeding Seminar Nasional Pengembangan Epistemologi Ilmu Hukum. 2015. Surakarta. Pp 34-49

is to find answers to a phenomenon or question through the application of scientific procedures systematically using a qualitative approach.⁵

The essence of qualitative research is observing people in their environment interacting with them, trying to understand their language and interpretation of the world around them, approaching or interacting with people related to the research focus with the aim of trying to understand, explore their views and experiences to get information or data. required.⁶

Research as a knowledge system plays an important role in the development of knowledge. Qualitative research or qualitative research is a type of research that produces findings that cannot be achieved using statistical procedures or by other quantitative means.⁷

Discussion

1. The background of the Siyasaḥ Syar'iyah and Aceh Qanun policies after the GAM peace agreement

The people of Aceh in its long history have been known as people who are very close and even fanatical about the teachings of Islam, so that Islam has become a cultural identity and self-awareness. The people of Aceh unite religious teachings into customs and customary law in such a way that they are united and assimilated, which in the customary proverb is stated by the expression *Hukum ngoen adatlage dzat ngoen sifeut* (The relationship between sharia and custom is like the relationship of a substance (object) with its nature, namely inherent and cannot be separated).⁸

The implementation of Islamic law by the Aceh government has received a positive response from the central government by successively ratifying RI Laws, namely: first, Law Number 44 of 1999 concerning the administration of the Special Provinces of the Special Region of Aceh; second, Law Number 18 of 2001 concerning Special Autonomy for the Province of the Special Region of Aceh as the Province of Nanggroe Aceh Darussalam (NAD). Then Law 11 of 2006 was enacted on the Government of Aceh⁹

The implementation of Islamic law in Aceh is legally regulated in Law no. 44 of 1999 concerning the Implementation of the Privileges of the Special Province of Aceh and Law no. 11 of 2006 concerning the Government of Aceh. These two laws became a strong basis for Aceh to implement Shari'at Islam as a whole (kaffah).¹⁰ Which indicates that Syari'at Islam is part of state policy implemented in the Aceh region. Therefore, in the context of its implementation, it cannot be separated from the responsibility of the state.¹⁰

The implementation of religious life which is manifested in the form of comprehensive implementation of Islamic Shari'a (kaffah). This means that all dimensions of Acehese life are regulated by sharia law. These arrangements include the dimensions of politics, government, law, economy, education, health, socio-culture, and others. Therefore, the law enforced in Aceh is law that is based on religious teachings, namely Islamic Shari'a.

⁵ Natangsa Surbakti. *Pidana cambuk dalam perspektif keadilan hukum dan hak asasi manusia di Provinsi Nanggroe Aceh Darussalam*. Jurnal Hukum Ius Quia Iustum 17 (3), 456-474

⁶ Dianto. The Effect of Receptie Theory on Legal Concept of "Adat Barenti Lako Syara", Syara Barenti Lako Kitabullah. Journal of Transcendental Law. 2020. Vol. 2 No. 2. Pp 75-82

⁷ Farida Nugrahani, *Metodologi Penelitian Kualitatif* (Surakarta: LPPM Universitas Bantara, 2014), 3-4

⁸ Penjelasan Atas Rancangan Qanun Aceh Tahun 2014 Tentang Hukum Jinayat

⁹ Abdul Gani Isa, *Formalisasi Syariat Islam Di Aceh*, Yayasan Pena, Banda Aceh, hal.340-341

¹⁰ Syahrizal Abbas, *Analisis terhadap Qanun Hukum Jinayat dan Qanun Hukum Acara Jinayat*. (Banda Aceh: Dinas Syariat Islam Aceh, 2015. Banda Aceh. Universitas Syiah Kuala, page 83

Further acknowledgment of the implementation of Islamic law in Aceh in the context of state law is contained in Article 125 of Law no. 11 of 2006 concerning the Government of Aceh (UUPA).¹² In this law, Islamic law has become national law, both in the process of drafting legal materials, institutions and law enforcement officers, as well as increasing awareness of sharia law, the regulation of the Syari'iyah Court, the Prosecutor's Office, the Police, the Wilayatul Hisbah Police, the Baitul Mal and various other regulations regarding sharia signify Law No. 11 of 2006 as the legal umbrella for the implementation of Islamic Sharia in Aceh.

Law No. 11 of 2006 requires a number of other organic laws and regulations, especially the Aceh Qanun in the context of implementing Islamic law. Qanun functions as operational legislation to carry out the mandate of the Law on the Government of Aceh. The positivization of sharia law is carried out through a legislative process between the Aceh People's Representative Council and the Aceh Governor which is outlined in the Aceh Qanun. These qanuns will become material law and formal law in the context of implementing Islamic Shari'a in Aceh.¹¹

Aceh Qanun is a statutory regulation similar to a provincial regional regulation that regulates the administration and life of the Acehnese people (Article 1 point 21 of the LoGA). The definition of this qanun provides an understanding that the qanun in Aceh consists of two categories, namely the qanun that regulates the administration of government materials and the qanun that regulates the material of the life of the Acehnese people.

Etymologically *siyasa Syariyyah* comes from the word *Syara'a* which means something that is *Syari* or can be interpreted as regulations or politics of a *syari* nature. By terminological according to Ibn Akil is an action that practically brings humans close to the benefit and avoids damage.¹⁶ The main basis of the existence of the *Syar'iyah siyasa* is the belief that Islamic law was revealed for the benefit of mankind in the world and the hereafter by enforcing the law as fairly as possible even though the method he takes is not explicitly stated in the Qur'an and Sunnah.

Siyasah Syariyyah is every policy of the ruler whose purpose is to maintain human benefit, or enforce God's law, or maintain ethics, or spread security in the country, with anything that does not conflict with the texts, whether the texts exist (explicitly) or none (implicitly). The main objective of the *Syar'iyah siyasa* is the creation of an Islamic system of state regulation and to explain that Islam requires the creation of a just political system in order to realize the benefit of mankind at all times and in every country.¹²

Because Islam has regulated every life, including politics, politics also has its shari'a limitations, so that later gave birth to the term *Siyāsah Syariyyah* or sharia politics. In simple terms *Siyāsah Syariyyah* is defined as the policy provisions for managing state problems based on Shari'a. Abdurrahman formulates *Siyāsah Syariyyah* as laws that regulate the interests of the state, organizes people's problems according to the spirit (spirit) of Shari'ah and its universal foundations. for the creation of social goals, although this arrangement is not confirmed by either the Qur'an or the Sunnah of the Prophet. before being able to legally apply Islamic law,¹³

So that after the New Order, Aceh Province became the only province in Indonesia that was given a legal umbrella to apply Islamic law in various aspects of life. The award was based on Law Number 44 of 1999 concerning the Implementation of the Privileges of the Province of the Special Region of Aceh which was also supported by Law Number 18 of 2001 concerning Special Autonomy for the province. After that, the Aceh Regional Government can further regulate various aspects related to the implementation of *Siyāsah Syariyyah* by enforcing Islamic law as the law that applies to the

¹¹ Wahbah zuhaily. "Ushul Fiqh". *kuliyat da'wah al Islami*. (Jakarta :Radar Jaya Pratama,1997), page 89

¹² A.Djazuli, *Fiqh Siyāsah*, edisi revisi, (Jakarta: Kencana Prenada Media Group, 2003), Hal 29

¹³ Abdurrahman Abdul Aziz Al Qasim, *Al Islām wa Taqniinil Ahkam*, (Riyadh: Jamiah Riyadh, 177), 83

people of the province as a whole and obtains legal recognition from the Indonesian state.

The Province of Nanggroe Aceh Darussalam received this "special" designation based on Minister Hardi's Decree No.1/Missi/1959.20 In addition, in the Province of Nanggroe Aceh Darussalam there is a Qanun. Qanun is a statutory regulation or rule of law that applies in an area (which in this case is the Province of Nanggroe Aceh Darussalam).

The Qanun is only a statutory regulation that is enforced in the Province of Nanggroe Aceh Darussalam whose contents must be based on Islamic law which is a specialty of Aceh, which is indeed different from other regions which in the rules of Regional Regulations do not have to be based on Islamic teachings and also the rules of Qanun. can contain material and formal rules in the sharia court.

This matter is quite basic considering that the Aceh Government and the Aceh People's Representative Council are currently controlled by politicians from the Aceh Party – a local party that became the political vehicle for former GAM combatants after the Helsinki MoU. Negotiations after negotiations were carried out but only left a dead lock, so a cooling down had to be carried out. It has been three years since the cooling down has been carried out.¹⁴

After the signing of the peace agreement between the Republic of Indonesia and the Free Aceh Movement (GAM) in Helsinki, Finland, many hopes for improvement in the lives of the Acehnese are wide open. Apart from ending the conflict, the points of the peace agreement in fact still leave a lot of homework unresolved. Some of these include resolving incidents of past gross human rights violations and fulfilling the rights of victims. Issues regarding women and children also colored Aceh after the agreement.

According to the truth-telling and reconciliation process, the Aceh government has established the Aceh Truth and Reconciliation Commission (KKR), but this agency lacks support from both the central and local governments, this can be seen from the limited authority possessed by the Aceh TRC, and the absence of an umbrella. the law as a reference for truth-telling mechanisms after the annulment of the TRC Law Number 27 of 2004 by the Constitutional Court in 2006.

Komnas Perempuan also noted that the issue of sexual violence in the context of past human rights violations now depends on performance and support for the implementation of the Aceh TRC recommendations. Sensitivity to violence has also increased, including to criminalization as a result of discriminatory regional policies which are often difficult to discuss on behalf of the special autonomy authority of the Aceh Government.

In fact, the Helsinki MoU emerged as a way out to resolve the endless conflict between the Government of Indonesia and GAM which in the negotiation process resulted in 71 points which included discussions on economic development, the symbol of Aceh, and disclosure of human rights violations that were born as a form of commitment between The Government of Indonesia and GAM in relation to resolving the Aceh conflict in a peaceful, comprehensive, sustainable and dignified manner. The fact is that 16 years have passed since the signing of the Helsinki MoU, and the government has not carried out its obligations in fulfilling the rights of victims, which include the right to truth, justice, reparations and guarantees for the non-recurrence of crimes during the Aceh conflict.

The term *siyasa syar'iyah* according to Islamic political thought means "regulation of human welfare based on syara". The majority of scholars are of the opinion about necessity organize a *siyasa based on syara*", this is summarized in the statement of Ibn al-Qayyim al-Jauziyah: "*laa Siyasa illa maa wafaqa ash-Shara*" which means there is no *siyasa* except in accordance with *syara*". *mantuq* is not mentioned but understandably in the Qur'an it talks a lot about the fields of political, social and

¹⁴ Sujanto, *Daerah Istimewa Dalam Negara Kesatuan Republik Indonesia* 88 (Pt. Bina Aksara, Jakarta, 1988). Hal 57

economic life. This means that religion regulates all dimensions of life, not only religious rituals.¹⁵

Aceh province can be categorized as the only province that has used the concept of *Siyasah Syariyyah*. There are two important government policy actions that mark the practice of *Siyasah Syar'iyah* in Aceh in the field of enforcing laws or regulations. First, the Aceh government in implementing Islamic sharia has identified the objectives of sharia and universal principles whose main sources are the Qur'an, the Sunnah of the Prophet and *Ijma'* or several rules that have been agreed upon by the *fiqh* scholars through textual analysis. Second, if the state legal apparatus is of the opinion that the special rules are capable of promoting general welfare, of course, through a process of discussing what draft laws or special rules are believed to promote public welfare, the enactment of these special rules can eventually become law.¹⁶

The method of implementing the *Siyasah Syariyyah* policy in the province of Aceh based on policies or programs that have been or is being implemented can be seen from: 1.) The application of Islamic law which will be presented in a historical perspective; and 2.) Institutionalization of *Wilayat al-Hisbah* (WH). In the policy of applying Islamic law, it is necessary to base the application of Islamic values which are then translated into several Aceh Regional Regulations or known as *Qanun*. The institutionalization of the WH functions as a special institution that oversees the implementation of Islamic law in various aspects of worship, faith and *muamalat*.¹⁷

Since the start of the implementation of special autonomy based on Law no. 18 of 2001, many *qanuns* have been passed. The implementation of the Aceh *Qanun* after the GAM peace agreement, for example, in Article 6 of *Qanun* No. 4 of 2010 stipulates that the Aceh government is required to allocate a minimum budget of 10 percent (ten percent) of the APBA for the health sector excluding salaries. *Qanun* No. 4 of 2010 also requires the Aceh government and district/city governments to provide and maintain health facilities. At the empirical level, there are several obstacles faced in the implementation of the health sector, including health workers, both in number and type. Another problem related to human resources is the unequal distribution of health workers (*maldistribution*),

Furthermore, the enactment of Aceh *Qanun* Number 6 of 2014 concerning *Jinayat* Law and Aceh *Qanun* Number 8 of 2014 concerning the Principles of Islamic *Shari'a* which reaps pros and cons in society. The application of Islamic *Sharia* in the *Jinayat* field has been regulated in the Aceh *Qanun* which is an indication that the implementation of legal development is running in Indonesia, this is due to the transformation of *sharia* values in the daily life of the Acehnese people. Even though the implementation of *jinayat* in Aceh still poses problems and cons because there are those who think that there will be dualism in Indonesia. In the implementation of *Qanun Jinayat* and Islamic *Shari'a*, the problem that is often faced is the dualism of the judiciary towards the delegation of customary and *shari'a* authority, causing disputes and dissatisfaction in the community.¹⁸

Then, Aceh *Qanun* Number 13 of 2016 concerning the Establishment and Composition of Aceh Regional Apparatus and Governor Regulation Number 131 of 2016 concerning Position, Organizational Structure, Duties, Functions and Work Procedures of the Islamic *Sharia* Service, the Aceh government then formed the Islamic *Sharia* Service (DSI). In carrying out its authority, DSI has a problem, namely it cannot be too far away to touch the desired target. DSI no longer has the authority to oversee the implementation of *Qanun* directly because since the change in organizational structure, where *Wilayat al-Hisbah* (WH) as a unit of supervision and prosecution of violations of Islamic *Sharia* is no longer contained in the DSI structure. Currently, this authority is under the Civil Service Police Unit (*Satpol*

¹⁵ Suharti. (2015). *Al-Siyasah Al-Syariyyah* „Inda Ibn Taimiyah (Politik Islam Ibn Taimiyah). *Al-Ittihad Jurnal Pemikiran dan Hukum Islam*, 2 (2), 28.

¹⁶ Candra, Anton Afrizal. (2017). *Pemikiran Siyasah Syar'iyah Ibnu Taimiyah (Kajian Terhadap Konsep Imamah dan Khilafah dalam Sistem Pemerintahan Islam)*. *UIR Law Review*, 01 (02), 161.

¹⁷ Fajarni, Suci. (2015). *Pelaksanaan Siyasah Syar'iyah di Aceh*. *Jurnal Ilmiah Sosiologi Agama*, 9 (1), 111

¹⁸ Sanur L, Debora. (2020). *Implementasi Kebijakan Otonomi Khusus di Aceh*. *Politica*, 11 (1), 73-74

PP) and the WH in collaboration with other law enforcers. Here, DSI is the coordinator of the implementation of Islamic law and is only a regulatory agency.¹⁹

Likewise, with the existence of the Syari'ah Court (MS) which is the development of the Religious Courts. The obstacle faced by MS is the existence of MS which is under a vertical agency, so that MS has not been able to carry out its functions optimally. Human Resources (HR) MS is not adequate when compared to the types of cases and the volume under their authority. There is still a lack of human resources, judges and substitute clerks, both in terms of quality and quantity, very inadequate facilities/infrastructure, including the absence of a representative detention room, and the absence of a waiting room and children's courtroom, as well as other equipment related to children's cases.

Thus, in the implementation of the Siyasa Syar'iyah and Aceh Qanun policies, there are still many problems. There is a need for a re-evaluation of the special autonomy policy in Aceh based on the principles of granting special powers. This authority must also be in accordance with special principles or the widest possible autonomy for the Aceh government. In terms of facilities/infrastructure and human resources must also be further improved so that the implementation can run smoothly so as not to cause pros and cons in society.²⁰

Conclusion

The definition of this qanun provides an understanding that the qanun in Aceh consists of two categories, namely the qanun that regulates the administration of government materials and the qanun that regulates the material of the life of the Acehnese people. The main basis of the existence of siyasa Syar'iyah is the belief that Islamic law was revealed for the benefit of mankind in this world and the hereafter by enforcing the law as fairly as possible even though the method used is not explicitly stated in the Qur'an and Sunnah. Siyasa Syariyyah is every policy of the ruler whose purpose is to maintain human benefit, or enforce God's law, or maintain ethics, or spread security in the country, with anything that does not conflict with the texts, whether the texts exist (explicitly) or none (implicitly).

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²⁰ Sanur L, Debora. (2020). Implementasi Kebijakan Otonomi Khusus di Aceh. *Politica*, 11 (1), 72.

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