

## THE FORMALIZATION OF SHARIA IN ACEH TO DISCIPLINE THE FEMALE BODY

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### Abstract

*The formalization of sharia (particularly regional regulations on sharia in Aceh) since 2001 up to 2019 had incorporated economic and political contents between local and national elites. Such condition was a result of local and national elite interests gaining political advantages wherein sharia was utilized as a tool by the elites to dominate civilians. Due to political interests, civilians became marginalized by sharia. The current article demonstrates that local and national political elites had used sharia for their political interests without considering the substantial purpose of sharia itself. Women, in particular, are disadvantaged by the various regulations (qanun) issued by wilayatul khabibah as the guardians of sharia in Aceh. The article also aims to show existing contradictions between the ideal aspirations of wilayatul khabibah and the actual practice of regional regulations pertaining to sharia on the ground, namely the involvement of political elites in advocating sharia, which has not made people become more religious but provoked them to resist in secret instead. Data in the article were acquired through literature study, field observations, and in-depth interviews with a number of informants.*

*[Formalisasi syariah Islam di Aceh melalui Peraturan Daerah (Qanun) sejak 2001 hingga 2019 telah melibatkan kepentingan ekonomi dan politik antara elit lokal dan nasional. Situasi tersebut menyebabkan elit lokal dan nasional berebut kepentingan serta keuntungan politis dari Qanun untuk mendominasi marganya, sehingga menyebabkan kepentingan warga termarginalisasi. Artikel ini membahas elit lokal dan nasional yang memanfaatkan syariat Islam untuk*

*kepentingannya sendiri tanpa mempertimbangkan tujuan Qanun itu sendiri. Perempuan sering dirugikan oleh sejumlah aturan yang dikeluarkan oleh tim penegak syariat Islam (wilayatul khisbah). Artikel ini juga memperlihatkan kontradiksi antara aspirasi ideal dan praktik di lapangan lembaga wilayatul khisbah, yang mana keterlibatan elit politik dalam advokasi syariat Islam tidak mendorong lebih religius tetapi justru mendorong warga melawan diam-diam. Data artikel ini didapatkan dari studi literatur, observasi lapangan dan wawancara mendalam dengan sejumlah informan.]*

**Keywords:** Formalization of Sharia, Local Elites, *ulema*, Discipline the Female Body

## A. Introduction

The formalization of sharia in Aceh is by no means free from the political dimension of the elites.<sup>1</sup> Compromise between political elites in Jakarta and local politicians serving as head of regions had encouraged the emergence of regional regulations on sharia throughout Indonesia, such as those found in Aceh and South Sulawesi.<sup>2</sup> In fact, in its development, these political elites had even participated in designing these sharia-related regulations so that they can be developed in the regions as a political bargaining chip among the elites to secure political positions of power<sup>3</sup>. There has been a rather strong influence from Indonesian political elites in the implementation of sharia laws, particularly following the 1998 political reform.<sup>4</sup> Religious elites have also been involved in encouraging the formalization of sharia in Aceh, since they feel that they have authority

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<sup>1</sup> R. Michael Feener, "Social Engineering through Shari'a: Islamic Law and State-Directed Da'wa in Contemporary Aceh", *Islamic Law and Society*, vol. 19, no. 3 (2012), pp. 275–311.

<sup>2</sup> Michael Buehler, "Elite Competition and Changing State-Society Relations: Shari'a Policymaking in Indonesia", in *Beyond Oligarchy: Wealth, Power, and Contemporary Indonesian Politics*, ed. by Michele Ford and Thomas B. Pepinsky (Ithaca: Cornell University Press, 2014), pp. 157–76.

<sup>3</sup> Michael Buehler and Dani Muhtada, "Democratization and the Diffusion of Shari'a Law: Comparative insights from Indonesia", *South East Asia Research*, vol. 24, no. 2 (2016), pp. 261–82.

<sup>4</sup> Michael Buehler, *The Politics of Shari'a Law: Islamist Activists and the State in Democratizing Indonesia* (Cambridge: Cambridge University Press, 2016).

over the matter.<sup>5</sup>

The strong pressure to formalize sharia in Indonesia, as seen in Aceh, is inseparable from the rise of Islamic conservatism.<sup>6</sup> The rising power of the conservative faction indicates that the power of Islam in Indonesia is not only influenced by moderate groups such as Muhammadiyah and NU as the mainstream organizations.<sup>7</sup> Accordingly, the future of Islam in Indonesia is, ultimately, waged on the role of Muhammadiyah and NU with their ideology of Islamic moderatism.<sup>8</sup> Muhammadiyah as a power of civil Islam has been driving Islam's moderation to become a civilized and democratic power of civil Islam.<sup>9</sup>

What is most interesting regarding the drive to formalize sharia is that the conservative power has been flourishing in Indonesia through public universities. This is reinforced by the power of youths assembled in the Indonesian Muslim Students Action Union (*Kesatuan Aksi Mahasiswa Muslim Indonesia* – KAMMI), which serves as the principal policy-making committee of the Prosperous Justice Party (*Partai Keadilan Sejahtera* – PKS), as the *tarbiyah* group in campuses.<sup>10</sup> Actually, in terms of religion,

<sup>5</sup> Alexander R. Arifianto, "Rising Islamism and the Struggle for Islamic Authority in Post-Reformasi Indonesia", *TRANS: Trans-Regional and -National Studies of Southeast Asia*, vol. 8, no. 1 (2020), pp. 37–50; Syafiq Hasyim, *The Political Economy of Sharia and the Future Trajectory of Democracy in Indonesia*, Perspective, no. 108 (Singapore: ISEAS, 2019).

<sup>6</sup> Leonard C. Sebastian and Andar Nubowo, "The 'Conservative Turn' in Indonesian Islam: Implications for the 2019 Presidential Elections", *Asie Visions*, vol. 106 (2019).

<sup>7</sup> Martin van Bruinessen, "Introduction: Contemporary Developments in Indonesian Islam and the 'Conservative Turn' of the Early Twenty-first Century", in *Contemporary Developments in Indonesian Islam: Explaining the "Conservative Turn"*, ed. by Martin Van Bruinessen (Singapore: ISEAS Publishing, 2013), pp. 1–20.

<sup>8</sup> Ahmad Najib Burhani, *Islam Nusantara as a Promising Response to Religious Intolerance and Radicalism*, vol. 21 (Singapore: ISEAS–Yusof Ishak Institute, 2018); Ahmad Najib Burhani, *Between Social Services and Tolerance: Explaining Religious Dynamics in Muhammadiyah* (Singapore: ISEAS–Yusof Ishak Institute, 2019).

<sup>9</sup> Haedar Nashir et al., "Muhammadiyah's Moderation Stance in the 2019 General Election: Critical Views from Within", *Al-Jami'ah: Journal of Islamic Studies*, vol. 57, no. 1 (2019), pp. 1–24.

<sup>10</sup> Alexander R. Arifianto, "Practicing What It Preaches? Understanding the Contradictions between Pluralist Theology and Religious Intolerance within Indonesia's Nahdlatul Ulama", *Al-Jami'ah: Journal of Islamic Studies*, vol. 55, no. 2 (2017), pp. 241–64.

including sharia, it is inseparable from commodification by political and religious elites in Asia.<sup>11</sup> There are commodification of piety in Indonesian public spaces contested by conservative and progressive groups.<sup>12</sup> The struggle to seize public spaces truly occurs due to sharia issues.<sup>13</sup> The formalization of sharia can, ultimately, be observed as an articulation of Indonesian political Islam.<sup>14</sup>

Given that the formalization of sharia has garnered the support of national political elites, local elites, as well as religious elites, the power held by these advocates of sharia formalization implementation, which in this case is the state, consequently became stronger in the face of civilians.<sup>15</sup> Civilians, especially women, became marginalized in numerous aspects. These supporters of sharia formalization are of the opinion that women's life should be restricted. This includes activities such as leaving the house without being accompanied by a family member (*mahram*), becoming a politician, visiting (*silaturrahim*) or visited by a male friend, wearing clothes in public, and riding a motorcycle, all of these are monitored by the sharia police. All these activities are points of concern in Aceh's formalization of sharia, although sometimes it does not run effectively on the ground and there are violations committed by women. Since *wilayatul kebhisbah* considers that sharia law has been violated, they proceed to apprehend female offenders in public<sup>16</sup>. There are quite a lot of sharia issues that became topics of discussions due to numerous changes in communities

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<sup>11</sup> Pattana Kitiarsa, *Religious Commodifications in Asia: Marketing Gods* (London: Routledge, 2008).

<sup>12</sup> Noorhaidi Hasan, 'The Making of Public Islam: Piety, Agency, and Commodification on the Landscape of the Indonesian Public Sphere', *Contemporary Islam*, vol. 3, no. 3 (2009), p. 229.

<sup>13</sup> Jonas Jakobsen, 'Moderate Inclusivism and the Conversational Translation Proviso: Revising Habermas' Ethics of Citizenship', *European Journal for Philosophy of Religion*, vol. 11, no. 4 (2019), pp. 87–112.

<sup>14</sup> Wasisto Raharjo Jati, 'Radicalism in the Perspective of Islamic-Populism: Trajectory of Political Islam in Indonesia', *Journal of Indonesian Islam*, vol. 7, no. 2 (2013), pp. 268–87.

<sup>15</sup> Hakimul Ikhwan, 'Fitted Sharia in Democratizing Indonesia', *Journal of Indonesian Islam*, vol. 12, no. 1 (2018), pp. 17–44.

<sup>16</sup> Minako Sakai and Amelia Fauzia, 'Islamic orientations in contemporary Indonesia: Islamism on the rise?', *Asian Ethnicity*, vol. 15, no. 1 (2014), pp. 41–61.

that implement sharia law in relation with cultural and social changes.<sup>17</sup> The formalization of sharia, is in fact, unavoidable as part of the political struggle in Aceh.<sup>18</sup>

The implementation of sharia formalization in Indonesia can be observed in association with the idea of Arabization that emerged in non-religious higher education institutions due to the influence of a conservative spread of Islam oriented toward Salafism Tarbiyah.<sup>19</sup> The Arabization movement should be a concern in non-religious higher education institutions as it will create pockets of exclusivism. It will also provide less space for greater diversity in Islamic thoughts.<sup>20</sup> Marginalized women eventually respond to the formalization of sharia in Aceh.<sup>21</sup> With the formalization of sharia in Indonesia, in its development, young people in non religious higher education institutions will tend to be intolerant toward existing differences in Indonesia.<sup>22</sup> Post the New Order era and the Aceh Tsunami, the rise of Islamism has turned into a reality.<sup>23</sup>

Therein lies the power of civil Islam, such as Muhammadiyah and NU, and they need to play their role in developing the idea of progressive Islam for the sake of the Indonesian nation and people. Muslim civilians should not only be involved in partisan political movements, which

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<sup>17</sup> Wael B. Hallaq, *Authority, Continuity and Change in Islamic Law* (Cambridge: Cambridge University Press, 2001).

<sup>18</sup> Sidney Jones, *Political Power Struggles in Aceh* (Institute for Policy Analysis of Conflict, 2015).

<sup>19</sup> Mark Woodward, "Resisting Salafism and the Arabization of Indonesian Islam: a contemporary Indonesian didactic tale by Komaruddin Hidayat", *Contemporary Islam*, vol. 11, no. 3 (2017), pp. 237–58.

<sup>20</sup> Moch Nur Ichwan, "Alternatives to Shariatism: Progressive Muslim Intellectuals, Feminists, Queers and Sufis in Contemporary Aceh", in *Regime Change, Democracy and Islam: The Case of Indonesia*, ed. by Kees van Dijk (Leiden: Universiteit Leiden, 2013), pp. 137–79.

<sup>21</sup> David Kloos, "The Salience of Gender: Female Islamic Authority in Aceh, Indonesia", *Asian Studies Review*, vol. 40, no. 4 (2016), pp. 527–44.

<sup>22</sup> Alexander R. Arifianto, "Islamic Campus Preaching Organizations in Indonesia: Promoters of Moderation or Radicalism?", *Asian Security*, vol. 15, no. 3 (2019), pp. 323–42.

<sup>23</sup> Vedi R. Hadiz, "Indonesian Political Islam: Capitalist Development and the Legacies of the Cold War", *Journal of Current Southeast Asian Affairs*, vol. 30, no. 1 (2011), pp. 3–38.

often lead to social segregation.<sup>24</sup> Civil Islam needs to be considered as a force of Indonesian moderatism.<sup>25</sup> The force of civil Islam confronting the advancing force of conservatism in Indonesia, which makes it necessary to revisit civil Islam.<sup>26</sup> The idea of civil Islam is currently under tremendous challenges from the forces of conservatism.<sup>27</sup> In the context of sharia formalization, the progress and growth of the nation-state heading toward total democracy need to be observed. There is a conceptual confrontation for Islamic values between the progressive and conservative groups in Indonesia.<sup>28</sup> A shift in sharia discourse had already occurred from substantive toward formalism when Islam entered into the modern world.<sup>29</sup> Accordingly, we should not tolerate any sort of commotion about piety wrapped in various pious activities such as remembrance of Allah (*zikir*) carried out by political forces among the public.<sup>30</sup>

The current article employed the explorative qualitative approach that emphasizes on the linkages between one causal factor and another so that they create an impact on the object that functions as the focus of study, namely civilians. Data in the article were obtained through desk study, field observations, and in-depth interviews with a number of informants (source persons), including experts on Aceh's socio-political, socio-historical, and socio-religious contexts. The article intends to provide an analysis concerning the relationship between political elites and citizens, specifically women, in the context of sharia formalization

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<sup>24</sup> Robert W. Hefner, *Civil Islam: Muslims and Democratization in Indonesia* (Princeton, NJ: Princeton University Press, 2000).

<sup>25</sup> Robert W. Hefner, "Whatever Happened to Civil Islam? Islam and Democratization in Indonesia, 20 Years On", *Asian Studies Review*, vol. 43, no. 3 (2019), pp. 375–96.

<sup>26</sup> Gustav Brown and Amelia Fauzia, "Civil Islam Revisited", *Asian Studies Review*, vol. 43, no. 3 (2019), pp. 371–4.

<sup>27</sup> Arifianto, "Islamic Campus Preaching Organizations in Indonesia".

<sup>28</sup> Carool Kersten, *Islam in Indonesia: The Contest for Society, Ideas and Values* (Oxford: Oxford University Press, 2016).

<sup>29</sup> Jeffrey T. Kenney and Ebrahim Moosa (eds.), *Islam in the Modern World*, 1st edition edition (New York, NY: Routledge, 2013).

<sup>30</sup> Noorhaidi Hasan, "Piety, Politics, and Post-Islamism: Dhikr Akbar in Indonesia", *Al-Jāmi'ah: Journal of Islamic Studies*, vol. 50, no. 2 (2012), pp. 369–90.

in Aceh following the implementation of regional regulations on 2019. There seems to be a strong contradiction between the ideal concept of sharia, as a protector of civilians that aims to make the people of Aceh become more religious and obedient to the government and religion, and the reality of sharia formalization on the ground.

## **B. Formalization of Sharia, Local Elites and Ulemas**

In the context of Aceh, ulemas are one of the advocates in the implementation of sharia laws. They position themselves as advocates based on the argument of implementing moral control over social behaviors in public spaces.<sup>31</sup> Ulemas are staunch supporters of sharia formalization, with their narrow and conservative point of view, wherein some are even supporting it on account of individual interests. Therefore, a reinterpretation of sharia and the role of ulemas in Aceh is required so that it does not result in brutal behaviors in the community, as conducted by the military during the New Order regime when they implemented the Military Operations Zone (*Daerah Operasi Militer – DOM*) in Aceh.<sup>32</sup> Ulemas, classically, hold a key role in advocating for peace in Aceh, yet they are also advocators of sharia laws that are discriminatory to women in public spaces. This is due to ulemas being leaders of Islam in the community who can implement rules of Islam and governance. The ulemas in Aceh are given a revered position among the commoners and *ulebalang* (nobles).<sup>33</sup>

The ulemas of Aceh during the periods of war, Guided Democracy, and New Order were charismatic figures in the community.<sup>34</sup> Ulemas have strong influences, particularly in relation to issues of Islam post revolution. Their influence was very much considered as a balance of

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<sup>31</sup> Vedi R. Hadiz, 'A New Islamic Populism and the Contradictions of Development', *Journal of Contemporary Asia*, vol. 44, no. 1 (2014), pp. 125–43.

<sup>32</sup> Badrus Sholeh, 'Democracy, Regional Autonomy and Peace in Aceh', PhD. Dissertation (Melbourne: Deakin University, 2015).

<sup>33</sup> Shane Joshua Barter, 'Ulama, The State, & War: Islam-State Relations in the Aceh Conflict', *Negotiating the Power of Religious Non-State Actors* (Washington: University of Washington, 2009), p. 3.

<sup>34</sup> Mehmet Ozay, 'The sultanate of Aceh Darussalam as a constructive power', *International Journal of Humanities and Social Science*, vol. 1, no. 11 (2011), pp. 274–84.



power.<sup>35</sup> Accordingly, during Soekarno's period, they pushed for the implementation of Islamic law in Aceh, specifically. During the New Order, ulemas became supporters of sharia for the sake of Aceh's development and various government programs implemented by the state.<sup>36</sup> Such conditions have led to ulemas being considered as the long arm of power.<sup>37</sup> Ulemas along with the military were social groups that often confronted with common citizens, particularly those who were considered to oppose or disagree with government programs. They, the ulemas and *ulebalang* can punish common people.<sup>38</sup>

The ulemas in Aceh are of the view that sharia refers to the relationship between worship and faith, so it is an unavoidable obligation. The ulemas in Aceh have the task of spreading Islam, teaching about faith to the community. Faith is a most principal matter for Muslims as a global perspective.<sup>39</sup> Therefore, ulemas have stated that the main task of education and pedagogy is to teach Islamic faith to the people. The idea of fundamentalist conservative group began to emerge in Aceh following the 1998 reform.<sup>40</sup> If the faith of the Muslim community were incorrect, then their worship would be incorrect as well. But if their faith is correct, then their worship would undeniably be correct. Henceforth, a community of peace, safety, justice, and prosperity shall be created. The implementation of Islamic law is certainly expected by the community to progressively improve. However, sometimes the opposite happens, since the implementation is forced instead of being based on self awareness.

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<sup>35</sup> Nicola Colbran, "Realities and challenges in realising freedom of religion or belief in Indonesia", *The International Journal of Human Rights*, vol. 14, no. 5 (2010), pp. 678–704.

<sup>36</sup> Asma Uddin, "Religious Freedom Implications of Sharia Implementation in Aceh, Indonesia", *University of St. Thomas Law Journal*, vol. 7, no. 3 (2011), p. 603.

<sup>37</sup> Lene Pedersen, "Religious Pluralism in Indonesia", *The Asia Pacific Journal of Anthropology*, vol. 17, no. 5 (2016), pp. 387–98.

<sup>38</sup> Barter, "Ulama, The State, & War: Islam-State Relations in the Aceh Conflict", p. 12..

<sup>39</sup> Martin van Bruinessen, "Ghazwul Fikri or Arabization? Indonesian Muslim Responses to Globalization", in *Southeast Asian Muslims in the Era of Globalization*, ed. by Ken Miichi and Omar Farouk (London: Palgrave Macmillan UK, 2015), pp. 61–85.

<sup>40</sup> Martin van Bruinessen, "Genealogies of Islamic radicalism in post-Suharto Indonesia", *South East Asia Research*, vol. 10, no. 2 (2002), pp. 117–54.



There are contradictions between sharia law and actual practices that have been observed on the field, particularly during today's social media era.<sup>41</sup>

Teaching about worship and faith is conducted through Friday sermons, study groups, informal dawah, campus lectures, daily use, and all social activities. Islamic faith must be conducted in the community's daily life. All the teachings are taught at schools, in offices, in government institutions, and they must all be carried out 24 hours, daily and nightly in order for the Muslim community to reach perfection and become a complete Muslim community, and not a community that goes against Islamic faith.<sup>42</sup>

Such view is without a doubt one of the views in Aceh concerning the implementation of sharia formalization. However, not all states that faith is constantly connected with issues of Islamic jurisprudence. There are numerous issues of Islamic jurisprudence relating to matters of human relations and commercial transactions (daily interactions), which are certainly not issues of faith. Some matters of Islamic jurisprudence may correlate with matters of mandatory worship (*fardu 'ain* – that cannot be neglected by mature Muslims such as the five obligatory daily prayers). However, there are specific (*mahdhab*) worships that are not considered as compulsory for children. Some of these worships can even be delegated and postponed. Meanwhile, matters of faith cannot be represented by others.<sup>43</sup>

The formalization of sharia implementation is actually quite problematic. The people, generally, do not acknowledge the sharia law legally determined by *wilayatul hisbah*, because it is not the aspiration of

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<sup>41</sup> Fatimah Husein and Martin Slama, "Online piety and its discontent: Revisiting Islamic anxieties on Indonesian social media", *Indonesia and the Malay World*, vol. 46, no. 134 (2018), pp. 80–93.

<sup>42</sup> Hasan Bakti Nasution and Abdul Majid, "Ulema's Views on The Application of Islamic Law in Banda Aceh City, Indonesia", *IOSR Journal Of Humanities And Social Science*, vol. 22, no. 11 (2017), pp. 32–9.

<sup>43</sup> Arief Muammar, Amroeni Drajat, and Katimin Katimin, "The Relevance of Ali Hasjmy's Thoughts on Islamic Country of Islamic Sharia Implementation in Aceh", *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences*, vol. 2, no. 2 (2019), pp. 228–40.

common citizens.<sup>44</sup> Sharia does not only correlate with issues of faith and worship, it is also an issue of human relations, so there needs to be an understanding as to what sharia actually is.<sup>45</sup> This occurs because there are different opinions among scholars pertaining to sharia itself. The implementation of sharia on men and women requires an internalization of understanding rather than mere formalization.<sup>46</sup>

Consider a statement made by Yusni Sabi:

“The people of Aceh actually do not really care whether sharia law will be formalized or not, what is important is that the Muslim community can perform worship in peaceful and orderly fashion. Education can run properly. Social welfare can be achieved for all, to be honest, just this is enough. Whether the provincial government will implement sharia formalization or not. The citizens are not too concerned”.<sup>47</sup>

The implementation of sharia formalization is an issue that correlates with global and local issues. Women of Aceh attempt to negotiate between identity and globalization influence relating to sharia and the feminism movement, marriage, traditionalization of Islamic teachings relating to the use of hijab, being active outside the home, and traveling with the opposite sex.<sup>48</sup> Even in relation to activities of peace-building, which is dominated by men.<sup>49</sup> Women of Aceh negotiate between private and public issues as an Aceh identity taking place within a political structure that is influential in public space. Such matter refers to

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<sup>44</sup> Michael G. Peletz, “Gender, Sexuality, and the State in Southeast Asia”, *The Journal of Asian Studies*, vol. 71, no. 4 (2012), pp. 895–917.

<sup>45</sup> Kamaruzzaman Bustamam-Ahmad, “The Application of Islamic Law in Indonesia: The Case Study in Aceh”, *Journal of Indonesian Islam*, vol. 1, no. 1 (2007), pp. 135–80.

<sup>46</sup> Nasution and Majid, “Ulema’s Views on The Application of Islamic Law in Banda Aceh City, Indonesia”.

<sup>47</sup> Yusni Sabi, interview (19 Sep 2019).

<sup>48</sup> Stina Powell, Malin Ah-King, and Anita Hussénus, “Are we to become a gender university? Facets of resistance to a gender equality project”, *Gender, Work & Organization*, vol. 25, no. 2 (2018), pp. 127–43.

<sup>49</sup> Rahel Kunz, Henri Myrntinen, and Wening Udasmoro, “Preachers, pirates and peace-building: Examining non-violent hegemonic masculinities in Aceh”, *Asian Journal of Women’s Studies*, vol. 24, no. 3 (2018), pp. 299–320.

the negotiation between political structure and agency in the community.<sup>50</sup> There are national and local political dimensions in the formalization of sharia laws in Indonesia by political parties.<sup>51</sup>

In a broader context, the issue of sharia formalization occurs in several Southeast Asian countries, like Malaysia. Meanwhile, in Thailand, Burma, and Vietnam, it is the issue of implementing Buddhist values.<sup>52</sup> In Latin America, religious values advocate for social change and health issues, such as the case of the Anglican church in Chile.<sup>53</sup> This also deals with women connecting people despite of existing geopolitical boundaries.<sup>54</sup> The activities of women and the Muslim community in advancing society and local government occurred in Aceh after the Tsunami and the Helsinki agreement, as an agreement of peace in Aceh between the Government of Indonesia and the Free Aceh Movement (*Gerakan Aceh Merdeka* – GAM).<sup>55</sup>

Women in Aceh working for justice have reinterpreted sharia on the community and its influence on the behaviors of people who are often involved in conflicts amidst the Islamic militant and radical groups. The formalization of sharia did not consider women much in the institutionalization process, which connects between the confession of women and their activities in public spaces post reform.<sup>56</sup> Women became objects of the implemented law. Women should have their citizen

<sup>50</sup> Siti Kusujarti et al., “Unveiling the Mysteries of Aceh, Indonesia: Local and Global Intersections of Women’s Agency”, *Journal of International Women’s Studies*, vol. 16, no. 3 (2015), pp. 186–202.

<sup>51</sup> Michael Buehler, “Subnational Islamization through Secular Parties: Comparing ‘Shari’a’ Politics in Two Indonesian Provinces”, *Comparative Politics*, vol. 46, no. 1 (2013), pp. 63–82.

<sup>52</sup> Joseph B. Tamney, “Islam’s Popularity: The Case of Indonesia”, *Southeast Asian Journal of Social Science*, vol. 15, no. 1 (1987), pp. 53–65.

<sup>53</sup> Stina Powell, “Gender Equality in Academia: Intentions and Consequences” *International Journal of Diversity in Organisations, Communities and Nations*, vol. 18, no. 1 (2018), pp. 19–35.

<sup>54</sup> Gustavo Morello, “Why Study Religion from a Latin American Sociological Perspective? An Introduction to Religions Issue, ‘Religion in Latin America, and among Latinos Abroad’”, *Religions*, vol. 10, no. 6 (2019), p. 399.

<sup>55</sup> Kusujarti et al., “Unveiling the Mysteries of Aceh, Indonesia”.

<sup>56</sup> Muhammad Ansor, “Post-Islamism and the Remaking of Islamic Public Sphere in Post-reform Indonesia”, *Studia Islamika*, vol. 23, no. 3 (2016), pp. 471–515.

and political rights to be themselves.<sup>57</sup>

The women of Aceh are currently becoming victims of discriminatory politics under a regime that disadvantages women, which is known as the patriarchic regime.<sup>58</sup> Accordingly, in relation to the Islamic criminal code that prohibits women from being outside their home as well as couples of the opposite sex from being together are issues debated by women. Thus is also the case with polygamy.<sup>59</sup> If these regulations are implemented without caution, then women will be positioned as victims who are not expected by every citizen in a free country.<sup>60</sup> As citizens, the women of Aceh surely cannot be made into objects of sharia. In the context of international geographical conditions, Asia, Middle East, and Africa are regions that are affected by trade and purchase of labor services and citizen migration.<sup>61</sup>

### C. Disciplining the Female Body

In the following analysis the formalization of sharia and its correlation with women in wearing clothes in public, at the office, prohibition of wearing skirts, spandex/see through attires, jeans, short skirts, tight clothes, and the like can be clearly observed. Specifically, we will also discuss *Qanun Jinayat* (Islamic criminal code) in relation to adultery and *kehalwat* (affectionate contact between unmarried couples) in the Aceh community, so that we can observe how the formalization of sharia implementation is associated with women.

Regarding the disciplining of the female body, Michel Foucault

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<sup>57</sup> Abby M. Rolland, “Muslim Women Political Leaders and Electoral Participation in Muslim-Majority Countries”, *What All Americans Should Know About Women in the Muslim World* (2015), p. 19.

<sup>58</sup> Julia D. Howell, “Muslims, the New Age and Marginal Religions in Indonesia: Changing Meanings of Religious Pluralism”, *Social Compass*, vol. 52, no. 4 (2005), pp. 473–93.

<sup>59</sup> Grace V.S. Chin, “State Ibuism and One Happy Family: Polygamy and the ‘Good’ Woman in Contemporary Indonesian Narratives”, in *The Southeast Asian Woman Writes Back*, vol. 6, ed. by Grace V.S. Chin and Kathrina Mohd Daud (Singapore: Springer, 2018), pp. 89–106.

<sup>60</sup> Robert W. Hefner, “Review of Islamic Law in Contemporary Indonesia: Ideas and Institutions”, *Journal of Law and Religion*, vol. 24, no. 1 (2008), pp. 287–92.

<sup>61</sup> van Bruinessen, “Ghazwul Fikri or Arabization?”

very sharply explained that the discursive narrative on sex is stated as a form of discourse implemented within a space of power. Surrounding the theme of the female body, lust was the sole discourse particularly in the middle ages.<sup>62</sup> This is similar to Haryatmoko's statement that discourse on the female body is a matter that is considered negative, not because the female body is negative, but because the discourse developed is that knowledge and will understand it as one of the domination of power over objects. Knowledge about sex is not meant to understand what sex really is, but "the will to understand" as an instrumental object of discursive power.<sup>63</sup>

Meanwhile, *Qanun Jinayah* pertaining to criminal punishments applied to perpetrators of *kehalwat* with people who are not considered as *mahram* (family members who are haram to marry), sexual violence, sexual deviation, and rape are matters that can be regarded as complicated. This is because there is yet a definite measure of how the law will apply to the community. Particularly in relation to gays, lesbians, and those who are considered to have violated the Islamic law in public. This is why the Islamic criminal code is really a serious problem for the Muslim community in Aceh. The Aceh regional government along with *wilayatul hisbah* are demanded to provide clear boundaries in relation to the implementation of the Islamic criminal code in the community.<sup>64</sup>

The implementation of sharia law should be a free choice. Without any coercion to applying sharia law because it is a demand on the individual made by God not by fellow human beings. Such view is voiced by Ali Abdul Raziq, Hasan Hanafi, A Lutfhi Sayyid, as well as Mohammed Arkoun, Fazlur Rahman, and Nurcholish Madjid. There is no compulsion in conducting sharia law. In line with such concept, the Aceh ulema Ali Hasymi is also of the view that sharia law should not be coerced by a certain political regime. Especially to restrict the religious

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<sup>62</sup> Michel Foucault, *Seks dan Kekuasaan: Sejarah Seksualitas* (Jakarta: Gramedia, 1997), pp. 37–8.

<sup>63</sup> Haryatmoko, *Dominasi Penuh Muslibat, Akar Kekerasan dan Diskriminasi* (Jakarta: Gramedia, 2010), pp. 9–10.

<sup>64</sup> Nasution and Majid, "Ulema's Views on The Application of Islamic Law in Banda Aceh City, Indonesia".

freedom and public participation of women.<sup>65</sup>

A scholar from the Ar-Raniri State Islamic University of Banda Aceh stated that the current sharia implementation in Aceh is more a matter of politics due to the will of the governor and political elites. This is why, Professor Farid Wajdi, is of the view that the idea of sharia formalization in Aceh does not actually align with the spirit of Professor Ali Hasymi as an ulema and contemporary scholar in Aceh.

Consider the statement made by Professor Farid Wajdi:

“Formalizing sharia law in Aceh today is an unrealistic idea. This will merely be a part of the formalization of Islamic law that is unproductive. It will only create sheer fakes in the Aceh community. It does not educate the people to become more compliant with Islamic law. That is why, the idea and practice of sharia formalization become counterproductive to the transformative spirit of Islam”.<sup>66</sup>

In relation to Professor Farid Wajdi’s statement, we need to consider the perspective of a senior ulema and Acehnese academician, Professor Ali Hasymi, who did not justify his understanding of sharia to subsequently implement sharia formalization on the people of Aceh. This is because sharia is an individual (personal) awareness to God, as a submission to God instead of the state-government.<sup>67</sup>

Islamic law is revealed by God not to create injustice, but to support the prevalence of justice. God’s law is not a threat to both women and men. If there are assumptions concerning law that creates injustices, it is something that originates from the heart and mind of a person. God never gave authoritative rights for men over women.<sup>68</sup> Women should ask permission from men, men are stronger than women, and women are weak and powerless, these are constructions of thoughts that develop in

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<sup>65</sup> Muammar, Drajat, and Katimin, “The Relevance of Ali Hasjmy’s Thoughts on Islamic Country of Islamic Sharia Implementation in Aceh”.

<sup>66</sup> Farid Wajdi, interview (19 Sep 2019).

<sup>67</sup> Muammar, Drajat, and Katimin, “The Relevance of Ali Hasjmy’s Thoughts on Islamic Country of Islamic Sharia Implementation in Aceh”.

<sup>68</sup> Robert W. Hefner, “Modernity and the Challenge of Pluralism: Some Indonesian Lessons”, *Studia Islamika*, vol. 2, no. 4 (1995).

the society, they are not God's gift that cannot be criticized.<sup>69</sup> Such matters cannot be constantly neglected to justify the existence of thoughts that diminish the substance of Islamic sharia thoughts. Particularly Islamic thoughts that emerged in the early 19<sup>th</sup> century and continued into the 20<sup>th</sup> century.<sup>70</sup> Such Islamic thoughts, clearly, discriminate against women by stating that these are the thoughts of feminists born in the 1980s. While, essentially, they carry a most substantial legal message, which is equality.<sup>71</sup>

Mir Hosaini argues that positioning women as objects of Islamic law could be considered as contrary to the spirit of justice and equality before the law that God has revealed to mankind. It seems that there is a need to review how exegeses on Islamic law are conducted. How feminists provide their interpretations of Islamic law so that it does not position women as second human. If there are ideas that view women as an object of Islamic law, then they are closer to ideas of political elites and Islamic thoughts that emerged outside of socio-historical contexts, according to conditions occurring in the society. Islamic law cannot be a thought that is patriarchal in nature.<sup>72</sup> It is not constructive to develop equal relationship between men and women. It does not provide space for dialectics between texts and contexts. It does not provide space for equal rights to take place in order to understand religious texts that contain numerous meanings and have the potential of amending understandings of texts and theological thoughts. If all of that were to happen, merely based on the political thoughts of men forcing their will, making it unaligned with the climate of openness and democracy developing

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<sup>69</sup> Ahmed Ibrahim Abushouk, "Globalization and Muslim Identity Challenges and Prospects", *The Muslim World*, vol. 96, no. 3 (2006), pp. 487–505.

<sup>70</sup> Erna Anjarwati, "The Emergence of Religious Nationalism: Facing the Challenges of Pluralism in Indonesia", *Journal of Human Rights and Peace Studies*, vol. 3, no. 2 (2017), pp. 93–128.

<sup>71</sup> Ziba Mir-Hosseini, "Beyond 'Islam' vs 'Feminism'", *Institute of Development Studies Bulletin*, vol. 42, no. 1 (2011), pp. 67–77; Ziba Mir-Hosseini, "Hijab and Choice: Between Politics and Theology", in *Innovation in Islam: Traditions and Contributions*, ed. by Mehran Kamrava (California: University of California Press, 2011).

<sup>72</sup> Huma Ahmed-Ghosh, "Dilemmas of Islamic and Secular Feminists and Feminisms", *Journal of International Women's Studies*, vol. 9, no. 3 (2008), pp. 99–116.



throughout the Muslim world.<sup>73</sup> Modern Islamic thinkers need thoughts that place the positions of men and women on equal footing so that every member of the society has an equal position before the Islamic law. Both men and women will only be judged based on their faith and piety. It is commonly understood that there was a time when the power of political authority that encourages men to be deemed as having more authority over women existed. However, such thoughts, today, have undergone a process of epistemological decay.<sup>74</sup>

Given such a context of Islamic law understanding, the formalization of sharia with the “disciplining the female body” is undoubtedly not in line with the spirit of liberating Islamic law itself. Today, we must start to consider how Islamic law is able to provide equal space form both men and women.<sup>75</sup> Verses in the Quran should be guided toward a dialogical direction between texts and social realities, instead of pitting Quranic texts against social realities.<sup>76</sup> How does Islamic law maintain the family, maintain marriages to be on equal grounds, position men and women as fellow leaders in the household based on their abilities instead of their gender. Men and women are given equal attention by God. This is the basis of the struggle to achieve Islamic law justice in the society.<sup>77</sup>

In the society, there are often various understandings between men and women that are characterized by matters relating to sexuality, feminist, masculinity and femininity; monogamous and polygamous marriages. Lately, there have even been issues relating to the position

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<sup>73</sup> Maria Platt, Sharyn Graham Davies, and Linda Rae Bennett, “Contestations of Gender, Sexuality and Morality in Contemporary Indonesia”, *Asian Studies Review*, vol. 42, no. 1 (2018), pp. 1–15.

<sup>74</sup> Ziba Mir-Hosseini, “Muslim Women’s Quest for Equality: Between Islamic Law and Feminism”, *Critical Inquiry*, vol. 32, no. 4 (2006), pp. 629–45; Ziba Mir-Hosseini, “Towards Gender Equality: Muslim Family Laws and the Shari‘a”, in *Wanted: Equality and Justice in the Muslim Family*, ed. by Zainah Anwar (Kuala Lumpur: Musawah, 2009), pp. 23–63.

<sup>75</sup> Kurniawati Hastuti Dewi, *Indonesian Women and Local Politics: Islam, Gender and Networks in Post-Subarto Indonesia* (Singapore: NUS Press, Kyoto University Press, 2015).

<sup>76</sup> Mohammad Elius, “Islamic View of Women Leadership as Head of the State: A Critical Analysis”, *Arts Faculty Journal*, vol. 4 (2010), pp. 195–205.”

<sup>77</sup> Evelyn Blackwood, “Regulation of Sexuality in Indonesian Discourse: Normative Gender, Criminal Law and Shifting Strategies of Control”, *Culture, Health & Sexuality*, vol. 9, no. 3 (2007), pp. 293–307.

of transgender people who are considered to have no clear boundaries in Islamic law. Problems of sex and gender are most contrasting in the discourse about men and women relationship in society. Among the different gender of male and female, transgender, all are human beings with the rights to be respected and appreciated. There is no restriction imposed upon any of them all with their unique gender to receive God's divine reward. Accordingly, what is valued is one's submission to God or piety to God. Women and men should not be mutually dominating, but mutually supportive and completing one another instead. This is because both men and women are God's creation that have individual autonomy over their own self, as well as in choosing their work and social activities.<sup>78</sup>

Understandings on sharia need to consider the socio-historical context of a community. Additionally, the social context pertaining to the revelation of the command to implement law in a particular period should also be considered. This, subsequently, requires understandings of Islamic law to examine ethnographical and sociological issues as well as social realities occurring in the community.<sup>79</sup> We cannot implement sharia without paying attention to matters of human nature (anthropological) and ethics, because they will be the ones who will be impacted by the law. Islamic law or sharia is not free from the socio-historical contexts that function as a background for its emergence since the time of the prophet to this day.<sup>80</sup>

In the context of Southeast Asian history, issues of religion and sharia are often connected with gender and sexuality, which are understood and become a focus of attention at the macro level, thereby driving changes with various associations even actors of state, decision makers, and various means that lead to numerous impacts, subjects, and increased experiences.<sup>81</sup> Anthropologically speaking, there are different

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<sup>78</sup> Peletz, "Gender, Sexuality, and the State in Southeast Asia".

<sup>79</sup> Suzanne Brenner, "Private Moralities in the Public Sphere: Democratization, Islam, and Gender in Indonesia", *American Anthropologist*, vol. 113, no. 3 (2011), pp. 478–90.

<sup>80</sup> Platt, Davies, and Bennett, "Contestations of Gender, Sexuality and Morality in Contemporary Indonesia", pp. 1–15.

<sup>81</sup> Daniel Andrew Birchok, "Sojourning on Mecca's Verandah: Place, Temporality, and Islam in an Indonesian Province.", PhD. Dissertation (Ann Arbor: University of Michigan, 2013).

challenges, particularly them and the involvement of life fields that are temporary and multifaceted and multipurpose in nature. There are even frequent paradoxes and very clear special cases. The issue of sexuality is very closely related with gender and the narratives developed by the public.<sup>82</sup> This is where the issue of women and politics in the face of sharia becomes unavoidable as an interconnected activity, despite the fact that women are of politically marginalized.<sup>83</sup>

The implementation of sharia in Aceh had, historically, been carried out since the time of the Aceh Darussalam sultanate up to the pre colonialism period. Following Indonesia's independence, sharia law in Aceh did not garner much attention, particularly during the Soekarno era and the New Order era under Soeharto.<sup>84</sup> During the era of Guided Democracy in Soekarno's period and the Soeharto's New Order era, Aceh did not receive attention in terms of implementing sharia law in Aceh people's daily life. As a consequence, the people of Aceh demanded Jakarta the favor to keep its promise to give Aceh the freedom of implementing Islamic law in their daily and political lives.<sup>85</sup>

On account of the demand made by Aceh, it had been given a special status since 2001 to implement sharia in its political life. Hence, *wilayatul hisbah* (sharia police) was established to monitor and safeguard the implementation of sharia in the community. Such condition has persisted to this day in Aceh, which implements sharia formalization in state life. Aceh was granted special political autonomy by the central government, yet they are still unsuccessful in making their citizens feel as a part of the state policy.<sup>86</sup>

What's interesting from the formalization of regional regulation on sharia in Aceh is the cultural resistance carried out by the people of Aceh itself. Women are prohibited from wearing trousers, but they continue

<sup>82</sup> Terrell Carver, "Sexual Citizenship: Gendered and de-gendered narratives", in *Politics of Sexuality: Identity, Gender, Citizenship*, ed. by Terrell Carver and Veronique Mottier (London: Routledge, 1998), pp. 13–24.

<sup>83</sup> Peletz, "Gender, Sexuality, and the State in Southeast Asia".

<sup>84</sup> Michelle Ann Miller, "The Conflict in Aceh: Context, Precursors and Catalysts", *Accord: an International review of Peace Initiatives*, no. 20 (2008), pp. 12–5.

<sup>85</sup> Feener, "Social Engineering through Shari'a".

<sup>86</sup> Uddin, "Religious Freedom Implications of Sharia Implementation in Aceh, Indonesia".

to wear them. The prohibition of *kebalwat* (affectionate contact between unmarried couples) without *mubrim* applies, but young people continue to meet along the beachside and in city parks. There is a prohibition for women to ride motorcycles with their legs apart, yet young girls still continue to do this. There is even a prohibition to watch movies in cinemas, but they still watch movies by going to the city of Medan. All that the people of Aceh have done are forms of resistance against rules that are forced upon the community. In fact, in Aceh people still held tourism ambassador or beauty queen contests, and the most vulgar kind of resistance was done by conducting a transgender queen pageant.<sup>87</sup>

The disciplining of the female body operates systematically, but the people are no less ingenious in their means of resisting and negotiating. Disciplining the female body is an instrument of local political power with the support of the conservative group as a form of domestication of Aceh women. This is a form of gender inequality that occurs as a result of political interests between national and local elites on the basis of sharia formalization.<sup>88</sup>

#### D. Concluding Remarks

The formalization of sharia in Aceh has politically marginalized women. Women are relegated to be a domestic creature. Forms of female domestication such as minimal political participation in public spaces; prohibition to go outside the house alone; prohibition to socialize without the presence of *mabram*; and the prohibition of *kebalwat*. Even, prohibitions in using articles of clothing such as jeans, skirts, spandex, see-through, and watching movies at cinemas are forms of control over the body of Aceh's women.

Based on the occurring sharia formalization, the position of civilians, particularly women, are unequal to that of the state. The state assumes a powerful position, while women remain powerless. This, consequently, leads to women's position in public space becoming

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<sup>87</sup> Reza Idria, "Cultural Resistance to Shariatism in Aceh", in *Regime Change, Democracy and Islam: The Case of Indonesia*, ed. by Kees van Dijk (Leiden: Universiteit Leiden, 2013), p. 182.

<sup>88</sup> John R. Bowen, *Gender, Islam, and Law*, WIDER Working Paper Series, no. 152 (Helsinki: World Institute for Development Economic Research (UNU-WIDER), 2017).

powerless before the state. The state positions itself as controller of the people based upon the power possessed by men. The state, in terms of women's involvement as citizens, assumes a stance that is not democratic, but more lenient toward authoritarian.

The marginalization of women in public space and the various controls in place are caused by the formalization of sharia, which is supported by forces of conservative Islam. The forces of progressive and moderate Islam in Indonesia, represented by Muhammadiyah and NU, are challenged by conservative power that utilizes religion as a tool to mobilize the Muslim community, otherwise known as Islamic populism. The future of Islam in Aceh lies in the hands of moderate and progressive Islamic forces capable of taking on the role to provide alternative understandings against Islamic conservatism to encourage the women of Aceh to start movements and seize Islamic discourses. Conservatism occurred in Aceh due to forces of global phenomenon influenced by the power of Islamization and Arabization through higher education institutions and Muslim youths in Indonesia.

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