

The sharia on non-muslims: should they follow?

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Abstract

Since 2001, the Aceh provincial administration and legislative council have approved the Qanun Jinayat (behavior-governing bylaw) that obliges public in Aceh to follow sharia, the Islamic legal code. While it has been widely accepted by Aceh Muslims, the sharia implementation on non-muslim has sparked a huge debate. To understand the public opinion on this issue, we conducted face-to-face interviews and surveyed more than two hundreds fifty people in Aceh Tengah about their views following the case of Buddhists who were caned for violating sharia law. From the research that we did, our findings reveal that Acehnese people have different opinion on this. A half our respondents, including the non-Muslims do not see sharia law as a burden for them to live in Aceh. While the others, such as human rights activists and non-governmental organizations reported that this law enactment has prompted human rights abuses. Looking at the divisive views, the national and Aceh government are suggested to take further action to avoid more confusion among Acehnese people and religious conflict in the future.

Keywords: Sharia Law, Aceh, Non-Muslims

Abstrak

Sejak tahun 2001, pemerintah provinsi dan dewan legislatif Aceh telah menyetujui pemberlakuan Qanun Jinayat (peraturan perundang-undangan) yang mewajibkan masyarakat di Aceh untuk mengikuti syariah, kode hukum Islam. Meskipun telah diterima secara luas oleh Muslim Aceh, implementasi syariah bagi non-Muslim telah memicu perdebatan besar. Untuk memahami opini publik mengenai masalah ini, kami melakukan wawancara tatap muka dan mensurvei lebih dari dua ratus lima

puluh orang di Aceh Tengah mengenai pandangan mereka menyusul kasus seorang penganut Buddha yang dicambuk karena melanggar hukum syariah. Dari penelitian yang kami lakukan, temuan kami mengungkapkan bahwa orang Aceh memiliki pendapat yang berbeda-beda mengenai hal ini. Setengah responden kami, termasuk non-Muslim, tidak melihat hukum syariah sebagai beban bagi mereka untuk tinggal di Aceh. Sementara yang lainnya, seperti aktivis Hak Asasi Manusia dan Lembaga Swadaya Masyarakat melaporkan bahwa undang-undang ini telah menyebabkan pelanggaran Hak Asasi Manusia. Melihat pandangan yang terpecah seperti ini, pemerintah pusat dan Aceh disarankan untuk mengambil tindakan lebih lanjut untuk menghindari kebingungan masyarakat Aceh dan konflik agama di masa depan.

Kata kunci: *Hukum Syariah, Aceh, Non-Muslim*

Introduction

After gaining wider authority from central government in 2001, local government of Aceh declared itself to be the first region that implements sharia law or Islamic legal code in Indonesia. The impact of this is Acehnese government will have local regulations that are based on the teaching of Quran and hadith (one various reports describing the words, actions, or habits of the prophet Muhammad). And since the new scheme of authorities sharing, the implementation of sharia law has widespread at the regional level as the local government issued *Qanun* as the substitute of old local regulations. *Qanun*, the new title of peraturan daerah or regional bill in Aceh has some topic that are addressed in carrying out the law, including *Jinayat*, which rules out the punishment for the suspect.

In *Jinayat* itself, each violation will have different sanction, depending on how severe the offences that the person commits. One type of punishment that is usually faced by the suspect is caning. While many human right activists argue that this is abusive. However, Aceh authorities claim that this kind of sanction will become a wary, not only for the suspect, but also for public. Further, Aceh government and Ulama/religious preacher see that there is a need for the society to implement sharia law. Looking at the high rise of crime rate at the local level, the

calling to bring religious values on the regional constitution is seen as urgent to save the community. In addition to that, they also ensure that the law enactment in Aceh will bring their society to become more religious and prosperous in the future (Jati, 2013).

Even though the legal code that is implemented in Aceh has been controversial at the first place, many Muslims in Aceh agree that the sharia law has many positive effects on their life. Their arguments are based on some verses in Quran (Al-Maidah, verses number 49 and 50) which say:

“(49) And judge, (O Muhammad), between them by what Allah has revealed and do not follow their inclinations and beware of them, lest they tempt you away from some of what Allah has revealed to you. And if they turn away-then know that Allah only intends to afflict them with some of their (own) sins. And indeed, many among the people are defiantly disobedient. (50) Then is it the judgement of (the time of) ignorance they desire? But who is better than Allah in judgement for the people who believe (in faith).”

While for the caning punishment, they also argue that it is also the command from Quran which clearly states in An-Nur, verses number 2:

“The (unmarried) woman or (unmarried) man found guilty of sexual intercourse-lash each one of them with a hundred lashes, and do not be taken by pity for them in the religion of Allah, if you should believe in Allah and the Last Day. And let a group of the believers witness their punishment.”

Given the Islamic teachings foundation above, the clerics in Aceh clarified that the foundation of sharia law is solid and it is vital in guiding moral conducts in Aceh. Thus, it is an obligation for them to use it as the basic principles of life in the community. Even for some, this movement sounds moving backward from the political development process that Indonesia experienced, and inconsistent with the values of Democracy, the sharia law seems gaining a high level of support from Acehnese, particularly the Muslims.

While it is clear that the subject of the Islamic law is Muslims, the position of Non-Muslims has been debatable. As it is known, Muslims in Aceh do not live in homogeneous society. Along with them, there are Christians, Catholics, Hindus, and Buddhists who make up 1.2 percent of the population. When the Islamic legal code has been introduced, should they also follow the same path as their neighbours?

To answer the question, we surveyed and conducted interviews with more than 250 people in Aceh Tengah following the case of Christian named Remita Sinaga or Mak Ucok who was caned by the persecutor for selling alcoholic drinks (Simanjuntak and Ompusunggu, 2017). Differ to previous research which mostly focus on the implementation of sharia law (Isa, 2014; Fahmi, 2012) and the impact of Islamic legal system on the minority groups (Fanani, 2012; Crouch, 2009), in this paper we are trying to figure out the public opinion on this situation to assess the attitude of Acehnese toward the presence of sharia law in their community and to identify more efficient way to screen the problem of sharia law implementation in Aceh.

Sharia law in secular indonesia

Since the fall of Soeharto's authoritarian regime in 1998, Indonesia has implemented decentralization which gives wider authorities to the local governments. One implication of this is the introduction of regional religious regulations (sharia bylaws) that enforces some provisions of Islamic law in some provinces, including Aceh. Aceh, the region that is popular for its deep root of Islamic culture, then cited their movement to legalize Islamic values and teachings as a preservation of Acehnese Islamic heritage as well as an act to save the society from immoral conducts (Uddin, 2010).

Even though such policy has been criticized by many organizations, such as Amnesty International and Solidaritas Perempuan (Indonesian women's right organization), the local government of Aceh insists that the law has not violated the Indonesian constitution. The right to enact Islamic law itself is based on the mandate of Indonesian higher constitution after Aceh was given

special autonomy, partly in response to the 1976-2005 insurgency (Hamdani, 2013).

Besides Aceh, there are other regions that also have adopted sharia by-laws in recent years. Several districts of South Sulawesi, West Java, and West Sumatra have been trying to follow the Aceh government's path in order to legalise Islamic values. However, the sharia that is implemented in those areas does not include criminal code. Buehler (2008) points out that the sharia by-laws in most parts of Indonesia, except Aceh, are used by local politicians for gaining better image in front of the public. Besides it is merely symbolic nature, the initiative to bring the Islamic teachings into *Peraturan Daerah/Local Regulations* in the regions is not followed by supporting legal system.

The era of Islamic law in Aceh has started since 2002 with the issue of Qanun No. 11. In the following year, more regulations have passed and they dealt with the consumption of alcohol, gambling, and *khalwat* (being alone with someone of the opposite sex who is not a spouse or relative). Until 2014, Qanun has expanded its context from the type of offences to the penalty for violation of such laws that includes caning, fines, and imprisonment (Simanjuntak, 2015).

According to Qanun Number 6 of 2014, the type of punishment that will be received by the suspect if a person commits a sharia crime will be different for each case. The lightest sentence of all would be *khalwat* that includes maximum 10 strokes of caning. And the heaviest penalties are varied from 150-200 strokes of caning, imprisonment for 150-200 months or paying a fine of 1,500-2,000 grams of gold.

Based on the report from Amnesty International, up to 206 cases of caning have been carried out by Aceh Sharia courts from 2014 to 2016 which means on average there is a hundred cases per year. While most of the offenders are Muslims, several cases have included Christians and Buddhists that opted out to get the sharia punishment for violating regional regulations. Though these certain cases are rare, the sharia law that objected Non-Muslims has prompted a huge debate. Since Qanun does not mention clearly about the subject of the Islamic legal system,

each branch of sharia court in Aceh has different view about this. Andaryuni (2012) reported that this grey area that has not been clarified will become a severe problem if the government does not take further action. Moreover, she also claims that the policies have failed the minority groups who do not understand and follow the Islamic teachings. And if it is continued to imposed, the local government would violate the basic human rights of these people, that is conflicted with the basic value of Indonesian democracy.

The public opinion of SHARIA ON non-muslims

As the most populous Muslim country on earth, Indonesia has been praised for its effort in maintaining peaceful situation among heterogeneous community while still remains religious at pace. However, the introduction of Islamic law in Aceh has worried many as it would be the end of the secular democratic regime. Nonetheless, the Aceh government insists that the application of Islamic teachings and scriptures as a part of democracy process in Indonesia (Arfiansyah, 2015).

If the enactment of sharia law has been welcomed warmly by the majority of Muslims in several regions in Indonesia, the favourable views of sharia has not been found among global public, except in some countries like Afghanistan and Pakistan. The recent polls show that most people see the idea of sharia as a foreign proposal and they also believe that it is contradictive to the values of religious freedom. In other words, many people around the world still believe that sharia law is not compatible with the way of life of Non-Muslims, hence when there is a country implements Islamic legal system, Non-Muslims should be excluded from the target (Lipka, 2017).

While non-Muslims in Aceh are not subject to Islamic legal principles at first, the latest case of Christian who was sentenced in Aceh Tengah gained many reactions, especially from the Aceh outsiders. According to the newest amendment, the previous religious law that was previously only applicable to Muslims, has extended to Non-Muslims. Therefore, the Christian who violated local regulations for selling alcohol had been sentenced based on the sharia law.

research method and analysis

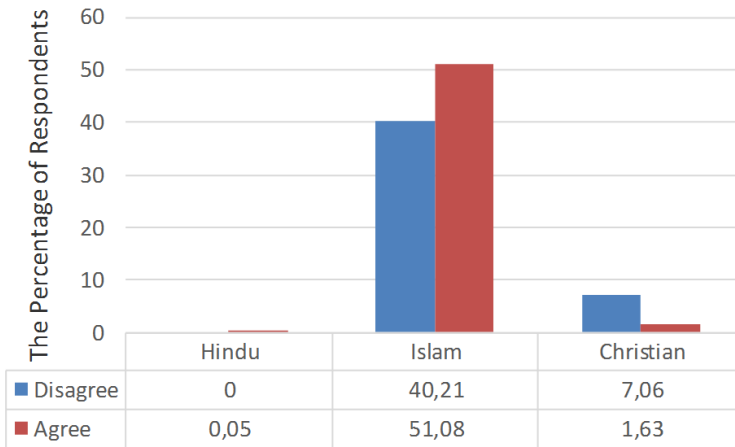
Since the launch of sharia law in 2001, the mass media have been focused on the view of religious preachers, regional leaders, Non-Governmental Organizations/NGOs and human right activists about the implementation of Islamic law in Aceh. However, the public voice has never been noticed besides the opinion from several people. Given the fact that public opinion has been largely ignored in this case, we conducted face-to-face interviews and hand them questionnaire that contains 34 questions in order to understand the stance of general public about the case of sharia law on Non-Muslims.

Due to the limitation of time to conduct the research, we only focused on one regency namely Aceh Tengah. The option to choose this particular area is related to the first case of Non-Muslim that was objected by sharia law in the region. Although the case against Christian in Aceh Tengah has been legally finished, yet the controversy around the case remains conflictual. Therefore, during the interview, we recorded that there is 27% of respondents that opt to abstain when they were asked about the enactment of Islamic legal code in their area. Besides they claimed that they do not know about the case, they themselves do not really understand the context of sharia law that has been introduced since 2001. As a result, they were reluctant to give any comment.

Regarding to the missing data on our survey, it will be inefficient to run logit and probit model to spot the trend of sharia law supporter on Non-Muslims. As an alternative option, we provide some graphs that shows the distribution of the respondents who agree and disagree whether Non-Muslims should be objected on religious regulations based on their religion and religiosity level.

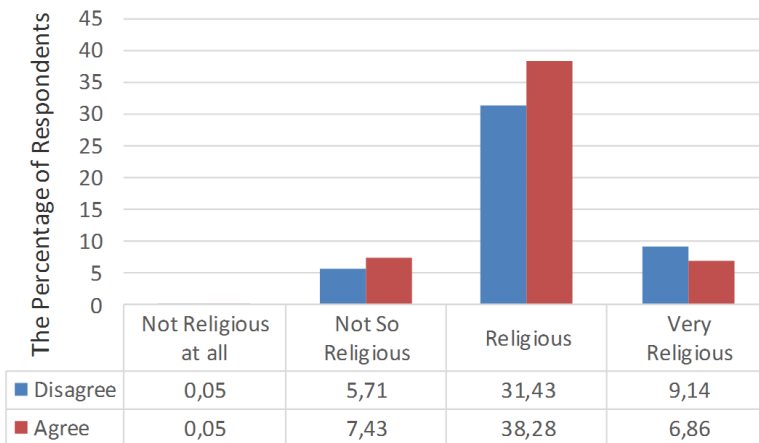
Graph 1

The Supporter of Sharia Law On Non-Muslims Based on Religion



Graph 2

The Muslims' view of Sharia Law On Non-Muslims Based on Religiosity Level

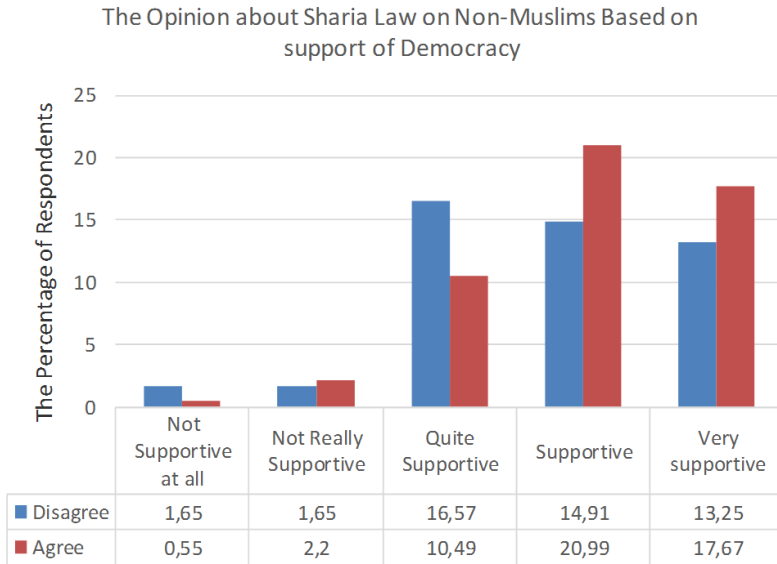


From the results shown, it is clear that the view among public is quite divisive. While more than 50% Muslims agree that the sharia law should be applicable to all, but it should also be noted that there is 40% of them do not agree with the inclusion of Non-Muslims into the subject of religious regulations. The more surprising fact is the statistics drawn from the second graph. It is seen from the report that very religious people do not really support the idea of Non-Muslims being objected by sharia law. Their percentage is even lower compare to the number of people who considered themselves religious.

Among the respondents that we could reach, they pointed out that the sharia law in Aceh is only exclusive for Muslims. And when there are Non-Muslims who choose to follow the religious regulations, they respect for their decisions. Another point that is considered important is the supporter of sharia law in Aceh also agree the democratic system in Indonesia, most of them even do not think that the sharia would be fit with the Indonesian people as a whole.

Even for non-supporter of democracy, the inclusion of non-Muslims into sharia law subject is still debatable. Below we present the graph that draws the correlation between the supporter of democracy and the view of local people about sharia law on non-Muslims.

Graph 3



conclusion

Based on the findings that we showed, it is clear that the inclusion of non-Muslims as subject of the sharia law in Aceh has not been approved by Acehnese people. Though many people agree of the idea, but they themselves admitted that they do not really understand about the context of religious regulation that has been implemented in Aceh since 2001.

Given this fact, we would suggest to the local government, particularly the sharia court to do socialization for the public in order to get them understanding about the regional regulations. At last, if non-Muslims remain to be the subject of Islamic legal code, they should be given another alternative sentence since what they believe in is clearly different with the majority. And if

the Aceh court keep pushing them to follow the legal system, it would violate their basic rights on religious freedom.

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