

SHARI'A ORDINANCES IN CONTEMPORARY INDONESIA

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I. Introduction

- a. Muslim population. Indonesian population (234.2 millions) is predominantly Muslims. According to the latest statistics in 1990, they constitute 87 percent of the total population.
- b. Position of Religion. According to state officials, Indonesia is neither a religion nor secular state. It is a state where Pancasila (Five Principles) is the basic principle of the state. The first principle is Belief in One God and that is why Ministry of Religious Affairs was established and where religious activities are supported by state.
- c. The Meaning of Shari'a. It literally means path. In the Islamic tradition, shari'a means religious ordinance that all Muslims should follow. In its specific meaning, shari'a is often understood as Islamic civil and criminal law.
- d. The objective of this paper. This paper is to describe the rise of movements that demanded the application of shari'a, the formulation of shari'a ordinances by some of the local legislative assemblies, and responses to those ordinances.

II. Historical Background

- a. The Jakarta Charter 1945. After a long period of debate in the public forum as well as in the official body of Independence preparation, the members Muslim and Nationalist leaders in BPUPKI decided to compromise and came to gentlemen agreement to incorporate the Preamble of Constitution the seven words, "Belief in One God with the obligation for Muslims to practice Islamic shari'a." A day following independence, these seven words were left out to avoid fragmentation within Indonesia people in newly emerging state. However, in 1957, the seven words known as the Jakarta Charter were acknowledged by President Sukarno as the spirit of the date after the Constitution Assembly failed to reach an agreement over the basis of State. This phenomenon never stops inspiring some Muslims later on to fight for the acknowledgment of the Jakarta Charter that enforces the practice of shari'a even though they do not necessarily demand an Islamic state.
- b. Dar al-Islam Movement. The period between the proclamation of independence in 1945 and the acknowledgment of Dutch to Indonesian independence, Indonesia was known to be in the time of revolution. After the revolution, Indonesia once again underwent military revolts that fought to establish Islamic state. These revolts were called Dar al-Islam movements in Aceh, West Java and South Celebes. What they meant by Islamic state is no other than a state that enforces shari'a law.
- c. Compilation of Islamic Law. During the time of cordial relationship between Suharto's and Islamists in the last decade of New Order,

the Compilation of Islamic Law was ratified and Islamic Court was given independent status from general court. The Compilation that includes family law has become the law in Islamic court. Some observers see that this policy is basically a manifestation of applying shari'a law.

III. Post-New Order (1989-Present)

- a. Reformation movement. Many observers saw Suharto's Islamic policy as an accommodation toward Muslim's aspiration, but many intellectuals, including the Muslims, were disaffected by the hesitation of the New Order regime to fight against corruption. In this situation, colored by financial crisis in 1997-1998, reformation movement emerged demanding the step down of Suharto and the end of New Order regime.
 - i. The fall of the authoritarian regime marked the beginning of democratization. Freedom of expression and forming political parties was granted under new regulations. The Islamists who were suppressed now obtained opportunity to rise in public. Some of them formed political parties but some others mass based movements. They have the same objective, the application of shari'a in public life.
 - ii. Demand for Decentralization. With the fall of New Order, the centralized power is no longer sustainable, and was replaced by decentralized one. Decentralization was blamed as the source of corruption. With this, local state institutions were granted more authority.
- b. Local Autonomy
 - i. Basic Concept of Autonomy. Local Government Act 2004 (Undang-Undang Nomor 32 Tahun 2004) was issued. This act granted the local government to manage their regions on their own wisdom under the principle of autonomy. In several regions, this great opportunity has been employed by local governments to promulgate ordinances concerning shari'a related issues, known as Perda Shari'a.
 - ii. Exception of Autonomy. Looking at the content of the Local Government Act, we find that not all public affairs are subject to local autonomy. Religion, court, security and defence, and fiscal remain the rights of central government. With these exceptions, especially religion, the Perda Shari'a has become a subject of debate.
- c. The Rise of Pro-Shari'a Movements in 2000s
 - i. Hizb al-Tahrir Indonesia. Hizbut Tahrir Indonesia (HTI) is a radical Muslim organisation whose origins go back two and a half decades. It espouses an ideology crafted during the 1950s by the Palestinian, Taqiuddin an-Nabhani. Hizbut Tahrir's international leadership exerts control over its Indonesian branch's activities to an extent virtually unprecedented in Indonesian political life. Like other radical Muslim movements, HTI is bitterly anti-Western and rejects capitalism, democracy, liberalism and pluralism. Its

objective is to turn Indonesia into an Islamic state that would be merged into a global caliphate or Muslim superstate.

- ii. Islamic Defenders Front. It was founded by Habib Rizieq al-Habshi in Jakarta around 2000. The main goal of this organization is to establish Islamic moralities and shari'a. It has been often involved in violent attack against the practice of prostitution, alcohol drinking and gambling. It is also anti-pluralism.
- iii. Indonesian Mujahidin Council. Founded in August 2000 by Abu Bakar Ba'ashir to serve as a consensus building body for Islamic groups within Indonesia. Though it is not a terrorist organization itself, the MMI has members from various terrorist organizations on its rolls. Its aim is the creation of an Islamic State in Indonesia. The current Chairman is Muhammad Talib.
- iv. Laskar Jihad. It was founded by Ja'far Talib in 2000 and first emerged on Ambon and Moluccan Islands. During 2001 and 2002, Laskar Jihad began to expand its activities sending militants to the provinces of Aceh and Papua, at opposite ends of the country. Although the group had announced its alleged disbandment after the Bali bombings in October 2002, it made a new appearance as early as 2003 when it requested the Indonesian government to provide office space in Papua. This militia organization demands the practice of shari'a.

IV. Shari'a District Ordinances

- a. Regulation on Head Veiling for Women (Jilbab)
- b. Regulation on Five Daily Prayers and Fasting during Ramadan
- c. Regulation on the Learning of the Qur'an
- d. Regulation on Charity Giving (Zakat, Infaq and Sadaqa)
- e. Regulation on Prostitution
- f. Regulation on Khalwat (a man and a woman in seclusion) and Adultery
- g. Regulation on Outdoor Presence of Women at Night
- h. Regulation on Ikhtilat (mixing of men and women)

V. Responses to Shari'a District Ordinances

- a. Pro-Shari'a Ordinances
 - i. Religious Intellectuals
 - ii. NGOs Activists
 - iii. Local Government
 - iv. Politicians
- b. Against Shari'a Ordinances
 - i. Secular Intellectuals
 - ii. NGOs Activists
 - iii. Student Leaders
 - iv. Central Government Officials

VI. Conclusion