

Research Article

Tracing the Influence of Sharia-Based Local Regulations on Students' Clothing in Public Schools

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Abstract.

Since the promulgation of Law Number 44 of 1999 concerning the Implementation of the Privileges of Aceh, almost all regions in Indonesia have enacted sharia regulations. This caused the penetration of Islamic values through legal regulations in the form of regional regulations. This paper aims to trace the influence of sharia-based local regulation in society through sociology and cultural studies, which is to refine the existent perspectives, such as a single sociological perspective or a single law perspective. The method used in this paper is juridical-sociological to obtain primary data from legislation and cultural studies and secondary data from previous research and phenomena. The finding of this paper is that the administrative defects of the legal content in the sharia-based regional regulations produce a sociological effect on one legal object, namely women in public spaces in the form of public schools. Furthermore, a newer hypothesis is also presented that stresses how regional regulations with sharia nuances leave permanent social effects on female students in public schools.

Keywords: Sharia-based Regional Regulation, Discrimination, female students, Public Schools

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1. Introduction

In 2016, the Indonesian government through the ministry of home affairs, decided to revoke 3,143 regional regulations in all regions in Indonesia. Although there was concern that the mass revocation was considered to be targeting regional regulations with sharia nuances, it was denied by the Minister of Home Affairs. In the official statement, the Minister of Home Affairs stated that the mass repeal of regional regulations was based on logic to facilitate investment. Thus, the regional regulations targeted for mass abolition are those that are considered to complicate the investment bureaucracy in the regions [1].

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This logic should be questioned in the implementation of the Indonesian state administration, since there are more problems that need to be resolved in the implementation of regional regulations, especially those with sharia-based in various regions. These regional regulations began to be promulgated as a result of the promulgation of Law Number 44 of 1999 concerning the Implementation of the Privileges of Aceh. The simplification logic used is that when one region, which refers to Aceh, can enact a regional regulation based on the religious values of the majority, it thus can be applied to all regions in Indonesia.

The most essential thing that is missed from the implementation of sharia regulations in Aceh is that administratively and sociologically these regulations can apply there. Administratively, the implementation of sharia regulations is convergent in Aceh by the Law Number 44 of 1999 concerning the Implementation of Aceh's Privileges. The law is a strong legal standing as it becomes the basis for the implementation of sharia regulations in Aceh in accordance with the order of laws and regulations in Indonesia [2].

Sociologically, sharia regulations in Aceh exist, become regulations that are legally enforceable, and are obeyed by the community because Islamic sharia is a regular value that has existed for a longer time and was obeyed before Aceh declared to join the Republic of Indonesia [3]. Thus, the values that enter the Acehnese society, whatever their form, must adapt to the Islamic sharia values that have been internalized first [4].

The two essential things above are often ignored in the legal-making process of sharia-inspired regional regulations outside Aceh. Regions in Indonesia that promulgate local regulations with sharia nuances put forward the logic that legal regulations can be promulgated because they prioritize and guarantee the interests of the majority group, in this case Islam. The biggest effect is not on the problem of administrative errors in determining regional regulations that are not in accordance with the order of Indonesian laws and regulations, but on the sociological effects that arise in regions that enact sharia-inspired regulations.

In 2018, *Komnas Perempuan* (National Commission on Violent Against Women) released its findings that there were 421 regulations in various forms, ranging from local regulations to circulars targeting only one legal object, namely women. In its statement, the Commission stated that the 421 regulations, which often have sharia nuances, position women as objects that are always regulated in regulations related to Islam. While men hardly become the objects of law in these regulations. Inequality

in the arrangement of these objects makes regulations with sharia nuances often not gender-friendly [5].

Gender inequality in local regulations with sharia nuances has even reached the level of entities that should be free from the values of the majority religion; that is public school. Several studies discussed the use of the hijab as a uniform, as those carried out by Zinira [6] and Smith-Hefner [7], among others. In her research, Zinira [6] concluded that wearing hijab in public spaces had shifted from identity motives to identities mixed with statements of social status [6]. In addition, Smith-Hefner [7] in his research summarized the long track of the shift in the wearing of the hijab in public spaces towards uniformity since the collapse of the New Order [7].

In addition to this research, contemporary cases of forced hijab wearing occur throughout 2021 to 2022. For examples are those that occurred at SMK Negeri 2 Padang, West Sumatra and SMA Negeri Banguntapan Bantul, Special Region of Yogyakarta. Based on the explanation above, this paper aims to trace the forms of social consequences caused by administrative errors in the implementation of sharia-based local regulations outside Aceh. Furthermore, it presents a novel hypothesis through the cultural studies perspective regarding the motives that make discrimination in public schools through forcing the use of uniforms based on the majority religion to persist today.

2. Research Method

The methods used in this paper are juridical-sociological and cultural studies. The juridical-sociological is used to find out how legal regulations as texts are read as contexts that occur in society. This method is used to see the basis for determining the administratively wrong sharia-inspired regional regulations as well as to read the context of the implementation of sharia-based regional regulations. From this method, the link between policy and acceptance by the community as an object of law will be found. The second method is cultural study. It is used to understand how the sociological phenomena created by the enactment of regulations with sharia nuances are also intertwined with other disciplines of thought outside the realm of law and sociology.

The first object of the study is the legal regulations in the form of Law Number 44 of 1999 concerning the Implementation of the Privileges of Aceh, Law Number 18 of 1999 concerning Regional Government (and its amendments), Law Number 11 of 2006 concerning the Government of Aceh, and Law No. -Law Number 12 of 2011

concerning the Establishment of Legislation. The three objects will be read as one comprehensive text as regulations that form the basis for the emergence of regional regulations with sharia nuances. The second is several studies in scientific journals that contain research on the implementation of sharia-inspired regional regulations in Indonesia. This object will be a compass that leads to the sociological reality that occurs in society as a result of the implementation of a sharia-based regional regulation, namely the imposition of greater legal obligations on women than men. The third object is several studies in scientific journals that contain research on cultural studies. The study uses other disciplines that may have an indirect influence on women's discrimination. Specifically, it is directed to trace the status quo created by the implementation of sharia-inspired regional regulations. So that it can be found the consequences of imposing legal obligations on women, in this case wearing clothes in public schools in accordance with Islamic religious values. It serves as a guide regarding the existence of another hypothesis in the reality of why local regulations with sharia nuances still continue to exist in the Indonesian constitutional order and are even able to penetrate public spaces such as public schools.

3. Results and Discussion

3.1. Errors in the Content of Local Regulation with Sharia Nuance in Administrative Law

The existence of Islamic law in the Indonesian legal system is divided into two major categories of interpretation. The first is the group that interprets formally. This group emphasizes that the implementation of Islamic law in Indonesia must reach a formal level or form. So that there is a need for formal forms of legislation that strictly regulates the application of Islamic law in the order of Indonesian legislation [8].

The second group is a group that only emphasizes that the implementation of Islamic law in Indonesia can be carried out at a substantial level. This means that the implementation of Islamic law in Indonesia does not need to be specifically grouped in the formal legal order. But it only needs to be inserted in the form of legal regulations in which it contains the spirit to present Islamic values in the implementation of the constitutional system [9].

The disagreements between the two groups surfaced when Indonesia-as the New Order collapsed, underwent democratization improvement, marked by the promulgation of Law Number 18 of 1999 concerning Regional Government and Law Number 44 of

1999 concerning the Implementation of the Privileges of Aceh. The two laws ignited a very strong spirit of decentralization after almost 32 years, Indonesia experienced an imbalance in the distribution of power between the center and the regions.

In practice, the bearers of the formal flow of Islamic law did not succeed in penetrating their thoughts at the level of the order of laws and regulations in the form of laws. Asshiddiqie (2017) stated that the implementation of Islamic law should not be fought for in a political way. This is because Islamic values are too sacred and too broad to be imposed only in administrative matters of a purely political nature [10]. The failure to formally mainstream Islamic law at the legal level of the Constitution does not make this spirit subside. With other efforts, the mainstreaming of Islamic formal law is moving towards local regulations.

Various regional regulations with sharia nuances have been promulgated in Indonesia since 2000. In the records of the Directorate General of PP, Ministry of Law and Human Rights, in 2006 there were 82 regional regulations with sharia nuances that were questioned to regulate their content with the following distribution: [11].

TABLE 1: The distribution of regional regulations with sharia nuances at issue in Indonesia.

| No | Content in question | Year | Amount |
|----|---------------------------------------|-----------|-----------|
| 1 | Eradication of community disease | 2003-2006 | 24 |
| 2 | Management of Zakat | 2002-2006 | 27 |
| 3 | Appeals for Muslim dress | 2000-2006 | 18 |
| 4 | Good at reading and writing Al-Qur'an | 2002-2005 | 13 |
| | Total amount | | 82 |

From the table, it can be seen that the two content items at issue in the regional regulation are the appeal to dress Muslim and be good at reading and writing the Qur'an. The contents become problematic because they are applied in the public sphere. In the sense that not all people who are in a space where the law is applied, in this case a regional regulation with sharia nuances, have a homogeneous identity.

In Law Number 23 of 2014 concerning Regional Government which is an amendment to Law Number 18 of 1999 concerning Regional Government, it is regulated that regional regulations may not contain the following matters:

1. Foreign policy;
2. Defense;
3. Security;
4. Justification;

5. Fiscal and Monetary;

6. Religion

These six things are purely the authority of the central government. Therefore, all regional regulations with sharia principles should be invalidated because they are administratively wrong in accordance with Law Number 12 of 2011 concerning the Establishment of Legislation. However, in reality, the sharia-based regional regulation still persists, has binding validity, and even continues to be reproduced. These local regulations have left a sociological influence on the Indonesian people, especially women.

3.2. The Sociological Influence of Regional Regulations with Sharia Nuances

The sociological influence of the promulgation of sharia-based regional regulations is most felt by women. This happens because these regulations create unequal legal obligations between men and women. For example, referring to table 1 above, the appeal for Muslim attire is material that only targets women. Women in various regional regulations with sharia nuances often experience restrictions on their body autonomy. They experience restrictions in dressing and activities outside the domestic sphere with the opposite sex [12].

Candraningrum [13] compiled a list of sharia-based regulations that are indicated to discriminate against women [13]. The list contains 40 local regulations throughout Indonesia, outside Aceh, which contain material that discriminates against women and the penetration of Islamic religious values in the public sphere. Of the 40 regional regulations, 17 regulation contain material on community disease prevention, 12 regulate Muslim clothing as public servants (ASN), and 11 regulate moral behavior in public spaces/schools such as the obligation to be able to read the Qur'an to enter public schools, wearing Muslim clothes as state school students, and when registering as a prospective bride at KUA.

Godir, et.al [14] explained that the logic of enforcing a regional regulation with sharia nuances comes from *the qanun* promulgated in Aceh. The problem is, the *qanun* in Aceh is full of restrictions on women's bodies. *Qanun* places women as legal objects that are not equal to men. The reality that occurs in Aceh is an internalization that occurs due to the collaboration of conservative Islamic values, institutions that support conservatism, as well as power relations created by the local government [14]. The problematic state

of the *qanun* was actually applied to a regional regulation with sharia nuances. This results in the same bad result in the form of women discrimination.

Two contemporary cases that occurred as a result of the implementation of a sharia-inspired regional regulation in Indonesia that discriminated against women in the public sphere were the uniformity of student clothing in public schools that occurred at SMK Negeri 2 Padang, West Sumatra and SMA Negeri Banguntapan, Bantul, Yogyakarta Special Region. The two public schools applied the uniformity of student attire between 2021 and 2022 [15, 16]. The case that occurred in Padang even prompted the issuance of the Decree of the Three Ministers, the Minister of Religion, the Minister of Home Affairs, the Minister of Education and Culture on February 3, 2022, covering five points as follows:

1. Students, educators, and education staff in schools organized by local governments at the primary and secondary education levels have the right to choose to wear uniforms and attributes: without the peculiarities of a particular religion; or with the peculiarities of a particular religion, in accordance with the provisions of the legislation.
2. Local governments and schools give freedom to students, educators, and teaching staff to choose to wear uniforms and attributes as mentioned.
3. In order to protect the rights of students, educators, and education staff, local governments and schools may not involve, order, require, encourage, or prohibit the use of uniforms and attributes with certain religious characteristics.
4. Local governments and/or school principals in accordance with their authority are obliged to revoke regulations, decisions, instructions, policies or written appeals related to the use of uniforms and attributes in the school environment issued by regional heads and/or school principals that contradict this Decree, at least 30 working days from the date the decree is enacted.
5. In the event that the local government and/or school principal do not implement provisions in this Decree:
6. Local Government: to impose disciplinary sanctions for the principal, educator, and/or education personnel concerned in accordance with the provisions of the legislation:

7. Governor: as the representative of the central government, imposes sanctions on the regent/mayor in the form of written warning and/or other sanctions in accordance with the provisions of the law:
8. Ministry of Home Affairs: imposes sanctions on regents/mayors in the form of written warnings and/or other sanctions in the event that the governor as the representative of the central government does not implement the provisions.
9. Ministry of Education and Culture: impose sanctions on the school concerned regarding school operational assistance and other government assistance sourced from the Ministry of Education and Culture in accordance with statutory provisions;
10. Ministry of Religion: provide assistance and strengthening of religious understanding and moderate religious practices to the local government and/or schools concerned; and may give consideration for the granting and termination of sanctions as referred to in letters a, b, c, and d. The provisions in this SKB are exempted for students, educators, and education staff who are Muslim in Aceh Province, according to the specificity of Aceh based on the provisions of the laws and regulations concerning the Aceh Government [17].

Unfortunately, the decree was canceled by the Supreme Court on 7 May 2022 because it was considered contrary to a higher legal regulation when it was submitted through a judicial review mechanism [18]. The cancellation is concrete evidence that the regional regulations with sharia nuances have a sociological effect that is still happening to women today. Through regulations with sharia nuances, women are inherited sociological effects with heavier obligations, become objects of lower regulations than men, and now their power over their bodies is increasingly narrowed in the public sphere, in this case public schools.

3.3. Other Motive Beyond Law and Sociology: Status Quo?

Apart from the relationship between law and sociology in the implementation of sharia-based regional regulations, there are two other things that are also intertwined economics and Islam. Smith-Hefner [7] stated that initially the hijab was a statement of resistance aimed at the New Order; an order that curbs Islam. In his research, it was noted that the use of hijab among female students in Java was 3% in the 1970s and rapidly increased to around 60% in the late 1990s. Along the way, in the 2010s these

findings were strengthened by a wave of Islamization, which led to Arabism, which occurred in Indonesia [6].

Mayaningrum and Triyono [19] continued that although not directly related, the process of Islamization of Indonesia, one of which was through a sharia-based regional regulation that encouraged women to wear Islamic religious attributes, shifting religious values from something ideological to something economical [19]. It didn't happen suddenly. Rusadi [20] states that there is an intersection between economic values and religious values through fashion. This intersection cannot be separated from the role of the media and brands in mainstreaming efforts to commodify religious values which are reflected through fashion [20]. In strengthening its commodification hegemony efforts, the media often uses advertisements. Mayaningrum and Triyono [19] accurately captures one of the images in the advertisement that best describes the commodification of women wearing hijab through advertisements featuring school children who are all wearing hijab.

With the presence of discourse through a very accessible medium, a hypothesis is created that wearing the hijab is the easiest way to show that a woman is a pious person. Pepinsky et.al, [21] stated that since the process of Islamization has taken place in Indonesia, the commodification of piety has experienced a very wide amplification through media. This is evidenced by the increasing number of public figures who wear hijab when appearing in public, in this case television [21]. This process encourages the occurrence of social piety in the middle class which is divided into two functions, spiritual satisfaction and proof of self-existence [22].

The collaboration of the values above, ranging from the economy, media, to the commodification of piety creates a value that is internalized in a wide public space, in this case public schools that should be free from the majority religious values. A value that is considered true by the majority religion, amplified repeatedly through the mass media, and is shown constantly in the public sphere can finally reach consensus as an absolute truth that even leads to the status quo. Subsequently, the discourse in the sharia-based regional regulation regarding women's discrimination which has penetrated subtly even to the realm of public schools has been reduced. This makes the production and reproduction of discrimination carried out by regional regulations with sharia nuances in schools continues today and continues to have sociological consequences on women.

4. Conclusion

From the explanation above, it can be concluded three things that make regional regulations with sharia nuances are still perpetuated and reproduced to discriminate against women in the public sphere. First, local regulations with sharia nuances are administratively wrong products. It is proven that according to the order of laws and regulations, sharia-based regional regulations can only be implemented in Aceh because there is a specific law enforcement in that region. In addition, materially the content of local regulations with sharia nuances is an unequal legal product. This can be seen from the fact that regional regulations with sharia nuances often place women as legal objects that are lower than men.

Second, errors in enacting regulations with sharia nuances have sociological effect on women that they are legal objects unequal to men. It continues to occur and is getting deeper in its tracks. This can be seen from the evidence that discrimination has even reached public school that should be free from the values of the majority religion. There is no improvement in overcoming discrimination against women in the public sphere, proven by the revocation of the Three Ministerial Decree issued in response to the case of forced hijab imposition at SMKN 2 Padang, West Sumatra. The Supreme Court as the state institution authorized to examine the content of legal regulations under the law states that the decree which actually has very good content is declared contrary to higher laws and regulations.

Third, there are two other values that are intertwined outside of law and sociology that perpetuate discrimination against women through regional regulations with sharia nuances. The two values are economy and religion. They are strongly intertwined in the era of Islamization through various fluid forms, starting from the commodification of piety, showing piety in public spaces, and amplification through mass media. The result is a status quo which subtly states that there is nothing wrong with the Islamization process that comes through a regional regulation with sharia nuances. The status quo has succeeded in reducing the main discourse that sharia-based regional regulations are problematic legal products and leave a deep sociological effect for women. That is why regional regulations with sharia nuances continue to be lasting and reproduced even at the level of public spaces such as public schools in the form of uniform use of hijab in schools.

Conflict of Interest

The author declares that there is no conflict of interest in the writing of this paper.

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