



# Tales of the Unexpected: Contesting Syari'ah Law in Aceh, Indonesia

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**Tales of the Unexpected: Contesting Syari'ah Law in Aceh,  
Indonesia**

A dissertation presented

by

**Reza Idria**

to

The Department of Anthropology

in partial fulfillment of the requirements for the degree of Doctor of

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## **Abstract**

### **Tales of the Unexpected: Contesting Syari'ah Law in Aceh, Indonesia**

My dissertation examines a wide range of social and political impacts that have emerged from the state implementation of Syari'ah (Sharia) in the Indonesian province of Aceh within the last two-decades. Syari'ah is Islamic way of belief and practice but in Aceh it was initially imposed by the central government as a political move to undercut popular support for the Free Aceh Movement (GAM). After the peace settlement, its political characters intensified. Seeing the current implementation of Syari'ah as a state-directed project, my research investigates the everyday workings and Acehnese popular perceptions of the Syari'ah law. Despite the government's enormous efforts to strengthen its enforcement, my study found that the enforcement of Syari'ah law has become the subject of popular resistance among many groups in Aceh. Various groups ranging from local Muslim intellectuals, women's rights activists, to punk communities have come forward to contest the state Syari'ah project. Drawing upon a timely picture of internal contestations in Acehnese Muslim society I demonstrate the unexpected outcomes of enforcing Syari'ah through a modern state bureaucracy. This complex scenario offers its own valuable lessons for our understanding of the relationship between religious law and the modern state.

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## Glossary and Abbreviations

Adat	local custom, tradition
Algojo	public caning executioner
BRR	<i>Badan Rehabilitasi dan Rekonstruksi</i> , Rehabilitation and Reconstruction Agency
Bupati	regent, head of regency
Cambuk	caning/whipping
Dayah	Acehnese traditional Islamic boarding school
DOM	<i>Daerah Operasi Militer</i> , Military Operation Zone
DSI	<i>Dinas Syariat Islam</i> , State Syari'ah Office
DPR	<i>Dewan Perwakilan Rakyat</i> , the National Parliament (People's Representative Council)
GAM	Gerakan Aceh Merdeka,
Gampong	village
Geuchik	village head
Golkar	<i>Golongan Karya</i> , Functional group, an Indonesian political party, Suharto's party
HAM	<i>bak-bak azasi manusia</i> , human rights
HUDA	Himpunan Ulama Dayah Aceh, Aceh Dayah Ulama' Association
Hudud	punishments for certain crimes that are already determined by God in the Quran
Jakarta	Indonesia's capital, for most Acehnese the word is synonymous with the central government
Jilbab	headscarf
Jinayah	Islamic criminal code
Kabupaten	regency
Khamar	alcoholic beverages
Khalwatillicit	sexual relationships
KODAM	<i>Komando daerah militer</i> , area military command
Komnas HAM	<i>Komisi Nasional Hak-hak Asasi Manusia</i> , the National Commission on Human Rights
Kopassus	<i>Komando Pasukan Khusus</i> , Special Forces Command, an Indonesian Army special forces unit that conducts special operations missions for the government.
Maisir	gambling
NGO	non-governmental organizations
POLRI	<i>Polisi Republik Indonesia</i> , the Indonesian Police
Qanun	Regional law
RPJM	<i>Rencana Pembangunan Jangka Menengah</i> , the medium-term development plans
SatPol PP	<i>Satuan Polisi Pamong Praja</i> , municipal police
Syari'ah	Acehnese/Indonesian transliteration for Sharia or Islamic Law
Ta'zir	discretionary punishment
TNI	<i>Tentara Nasional Indonesia</i> , the Indonesian Armed Forces
Walikota	mayor
Waria	male to female transgender people
WH	<i>Wilayahul Hisbah</i> , Syari'ah Police
Ulama'	religious scholar(s)
UUPA	<i>Undang-Undang Pemerintahan Aceh</i> , Law on Governing Aceh (LoGA)

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## Prologue: “Make Aceh Great Again”

*“Islam began as something strange and will revert to being strange as it began, ...”* ~ Prophet Muhammad.

### A. An Arrival Tell

On June 1, 2016, flight AirAsia AK 423 from Kuala Lumpur brought me to Sultan Iskandar Muda International Airport, in the Indonesian province of Aceh. The arrival area was packed -- Ramadan, the holy month in the Islamic calendar, was only one week away, and Acehnese were flocking home from places across the archipelago and abroad to spend the special month with those they love most.

Since 2013, I have regularly returned from the United States, where I study, to Aceh, where I was born and raised, not only to spend the Ramadan with my family but also to conduct my dissertation research. What follows here is the result of those trips. In my dissertation, I look at the impacts of the application of *Syari’ah*<sup>1</sup> (Indonesian/Acehnese transliteration for Arabic Sharia) or Islamic law on the Acehnese people’s daily lives. In particular, I pay attention to the unexpected and the unintended consequences of the current Syari’ah implementation. Before delving into the complexity of this research topic, it is fitting to begin this introductory chapter with an “arrival tell” (Grayman 2013, 198) to describe my field site, investigate stereotypes of Aceh, and formulate the research questions I have pursued.

On this trip in 2016, my younger brother Haikal picked me up from the airport. We immediately set off on the half-hour drive to downtown Banda Aceh, the provincial capital. Over email I had arranged to meet a fellow researcher, who had arrived in town a few days earlier, at a

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<sup>1</sup> In this dissertation all non-English terms are italicized at first instance only.

coffee shop (*kedai kopi*) called Chek Yukee. I loved the idea of meeting there -- after a turbulent connecting flight from Kuala Lumpur what could be more restorative than a cup of Acehese coffee? The bright afternoon sun would have also been a welcome treat had the car's air conditioning worked properly.

As my brother sped up the car, we both put the front windows down hoping for some breeze to fill the car. Our car ride was relatively quiet except for the noise coming from the wind whipping through the open windows. Haikal and I only had a short conversation during the ride.<sup>2</sup> He was busy checking his smart phone anytime the traffic stopped. I tried to tune in to the car's FM radio searching for current local news, but only managed to find one local station playing non-stop Acehese *dangdut remix* songs. Too much for me in that moment, I switched the radio off.

Meanwhile, my eyes were drawn to the many billboards, hanging posters, and banners of political campaigns along both sides of the main road to Banda Aceh -- signs of an upcoming election. About six months later (January 2017), the people of Aceh would go to the polls to vote for a new governor and vice governor as well as several district heads across the province. Most billboards included full-length photographic portraits of politicians and the emblems of political parties supporting them. Banda Aceh, as both a municipality and the capital of Aceh province, has always been the epicenter of political contests. I was of course familiar with many of the faces running for the upcoming election. Some were incumbents running for the same positions they had won four years prior. Although the campaign period had not officially begun yet, many candidates were *mencuri start* (stealing the start) to familiarize voters with their names, their slogans, and their programs, which

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<sup>2</sup> My status as the oldest son in the family has given me that sort of authority which I sometimes enjoy it [with some guilt]. I have three older sisters, but I am the oldest of five younger brothers. It is a kind of family orientation in Aceh, also Indonesia in general, that senior men in a family would have more authority and control over younger family members (on modern Indonesian families see Shiraishi 1997; Boellstorff 2005; Lindquist 2004).

remained largely the same as the previous elections. On the billboards they all smiled and had clearly been photoshopped to appear lighter-skinned.

Although I had observed so many odd things happening in Aceh during the last two decades, even so I was taken aback by the slogan in large letters, and in English, on one billboard: “Make Aceh Great Again.” The political party behind the billboard was *Partai Aceh* (Aceh Party), a regional party formed by former members of the Free Aceh Movement (*Gerakan Aceh Merdeka* or GAM). The 2005 Helsinki Memorandum of Understanding that had put an end to three decades of conflict between GAM and the Indonesian government stipulated that local political parties (*partai lokal*) could be formed in Aceh to contest seats at the district and provincial election levels. The MoU offered new tools for former combatants to exercise power and to re-organize politically, under the auspices of democracy. Partai Aceh has dominated the Aceh regional and provincial parliaments since 2009.



Figure 1: “Make Aceh Great Again” billboard

Upon my arrival back to Aceh, media coverage of Donald Trump's 2016 campaign for the US presidency was providing publicity for his political slogans and campaign style, fueling the global march of rightwing populism. Members of Partai Aceh had recently shown a similar tendency through

invocations of a mythical “Aceh exceptionalism” (Kloos 2018) to distinguish their political agenda from that of other local and national political candidates. At the same time, it is doubtful that Partai Aceh was interested in the substance of Trump's political positions; as a party whose members are virtually all Muslim, they were either unaware of or willing to overlook Trump's many Islamophobic public proclamations, such as his claim that “Islam hates us,” (*CNN*, 10 March, 2016) or his campaign promise to “ban all Muslims from entering the United States” (*The Guardian*, 8 December, 2015).

I recall that “make Aceh great again” moment not only to show how to connect the post-conflict and post-tsunami Aceh with the wider world but also how often the place I call home became unfamiliar to me in unexpected ways.

My interest in the notion of the unexpected has been shaped by my life experiences. I grew up immersed in Acehnese culture and have lived through the historical and political transformation of the region since the period of armed conflict. I witnessed the unexpected collapse of the Indonesian New Order regime from the “outskirts of the country” (Steedly 2013), and fled with other survivors to the hills when the unexpected tsunami wiped out most parts of the city of Banda Aceh on 26 December 2004.

Mark Currie has written of how “a study focused on the idea of the unexpected is a study focused on the future, on the way that we anticipate and fail to anticipate what lies ahead” (Currie 2013, 2). Stories and the unexpected, however, always have some necessary connection, “that the relying of an unexpected event is one of the primary functions of narrative”(Currie 2013, 5). But, most of what we call stories refer to events that already happened or took place in the past. I don't think that study on the unexpected has to focus on the future per se. I remember before I left for fieldwork, my late mentor, Mary Steedly, who passed away unexpectedly in January 2018, suggested that I might start this dissertation research by collecting stories, stories about people, stories that a society tell themselves about themselves, stories that are shared and believed, stories that shape people's behavior,

of what Clifford Geertz would call culture (Geertz 1973). However, as James Siegel has shown for mid-20th century Aceh, culture is not always about “shared meanings” but also “mistranslations and historical discontinuity” (Morris, 2007; Siegel, 1969). Mary-Jo Good and Byron Good’s recent works on the post-tsunami Aceh and elsewhere in Indonesia also inspire and inform me to focus not only on stories and narratives but also subjectivity of those afflicted by conflict, violence, and trauma (B. J. Good, Subandi, and Good 2007; Mary-Jo DelVecchio Good and Good 2013; B. J. Good 2015; Mary-Jo Delvecchio Good 2015).

As we passed Mesjid Raya (the Great Mosque) of Baiturrahman, I noticed the giant renovation project underway behind its walls. I asked my brother to stop and drop me off in front of this landmark of the city. I had about half an hour to wait until my appointment time, so I thought I might use this time to satisfy my curiosity about the renovations. From there I could reach Cek Yukee in five minutes by walking. So, I let Haikal go.

I had first learned about this renovation plan when I had returned to the city for my second summer research trip in June 2015. The Aceh provincial government at that time had just announced the proposed plan to expand the mosque. It immediately drew a range of criticisms from across Aceh society, not only because the renovation project was estimated to cost more than USD \$100 million (Rp 1.4 billion) (*Serambi Indonesia*, 19 June, 2014) — an unthinkable amount for most people living in the province, one of Indonesia’s poorest —<sup>3</sup> but also because the project would annihilate historical landmarks within the mosque’s inner plaza as well as the surrounding area.

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<sup>3</sup> According to 2016 data of the Indonesian Central Agency, 841,000 or 16.41% of Aceh’s 5 million population live in poverty, making it the second poorest province on Sumatra Island and the 5th poorest out of 34 provinces nationwide. See [https://www.bps.go.id/website/pdf\\_publicasi/Data-dan-Informasi-Kemiskinan-Kabupaten-Kota-2016--.pdf](https://www.bps.go.id/website/pdf_publicasi/Data-dan-Informasi-Kemiskinan-Kabupaten-Kota-2016--.pdf). Retrieved 25 September 2019.

Built around the sixteenth century, Baiturrahman (lit. the House of the Merciful) is one of the oldest buildings in the city of Banda Aceh. It has stood witness and survived some of the most tragic and catastrophic events that have shaped Aceh's history. The mosque was burned down by the Dutch army at least twice during the colonial war (1873-1914), and more recently it withstood the force of the Indian Ocean Tsunami that struck large parts of Banda Aceh on 26 December 2004 with catastrophic effect.<sup>4</sup> Widespread belief in the province holds that the mosque was spared by divine intervention. It was also one of the few places that provided asylum for the displaced during the three decades of armed conflict in the province that came to an end in 2005 only after the tsunami prompted GAM and the Indonesian government to stop fighting and sign a peace agreement.



Figure 2: Baiturrahman Great Mosque renovation

Baiturrahman has been the subject of several renovation projects since the colonial era. The building's exterior has undergone visible transformation, evident in comparison of the current

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<sup>4</sup> In the city Banda Aceh alone, about 167,000 people perished directly from the tsunami. See (Borrero, Synolakis, and Fritz 2006, 93–104).

appearance with old photographs of the mosque, especially those taken by the Dutch colonial authorities. However, in terms of scale, nothing compares to the current reconstruction project. The mosque's new courtyard is the result of an outward expansion onto 8 hectares, and below the mosque the construction of an underground parking area has recently been completed. However, the most important and perhaps most controversial development was the recent installation of twelve retractable electric umbrellas in its front plaza, which some local critics have derided as a manifestation of the Acehese government's obsession with majestic architecture as well as the current tendency toward "Arabization," in this case in imitation of the Prophet Holy Mosque in Medina, Saudi Arabia (*Tirto.id*, 16 April 2017).

The installation of electric umbrellas was especially contentious because it would require the removal of the Kohler Tree, the legendary shady Java olive tree under which Major General J.H.R Kohler, a commander of three thousand Dutch soldiers, was killed by Acehese fighters during the colonial war.<sup>5</sup> Local historians consider the Kohler Tree a living monument (*satu-satunya saksi hidup*) from the colonial period, a crucial element to commemorate the failure of the Dutch's first attempt at invading Aceh and their subsequent retreat to Batavia (modern-day Jakarta) in total humiliation. Tarmizi Hamid, a historian and curator of classical manuscripts, and Haikal Afifa, executive director of *Institute Peradaban Aceh* (Aceh Institute for Culture and Civilization), came forward to defend the importance of keeping the Kohler tree alive; both condemned the government's ignorance of Aceh's

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<sup>5</sup> Kohler was shot to death while standing under the olive tree as he was trying to lead his troops into the mosque on April 14, 1873 (more on the Aceh war see Van t Veer 1969).

colonial history.<sup>6</sup> Hundreds of people also signed a petition through [change.org](https://www.change.org) to vote down the renovation plan.<sup>7</sup>

The Mayor of Banda Aceh, Illiza Sa'aduddin Djamal, refused to comment on the project despite it taking place in her municipal territory, telling the press that it was the provincial government's project. The governor gave no response to the critics either. Udin Pelor, a prominent comedian and senior artist in Banda Aceh, told me at that time “when people are in power they learn how to practice the proverb *anjing menggonggong kafilah berlalu* (the dogs bark, the caravan moves on). They used to do the barking, now they are the ones controlling the caravan.”<sup>8</sup> As the project moved forward, the public was shut out from the decision-making process and blocked from even witnessing ongoing renovations. I snuck beyond the fencing wall to get a quick look at the renovation, and saw that the Kohler Tree was gone -- the government contractor had cut it down.

Governor Zaini Abdullah eventually addressed the public on the supposed necessity to Aceh of the project to expand and decorate the mosque: Baiturrahman is full of historical sites (*sic*) and its beautification would attract increased numbers of Muslim tourists. He told the press “Visitors coming

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<sup>6</sup> “Pohon Kohler Saksi Sejarah di Masjid Baiturrahman Ditebang, Warga Protes” *Detik News*. <https://news.detik.com/berita/d-3076943/>. Historian Tarmizi Hamid clarifies that the original Kohler tree actually did not survive until the 21st century. The Java olive tree that grew until very recently in front of the mosque was replanted by Governor Ibrahim Hasan in 1988. He, however, nonetheless condemns the Aceh government’s plan to remove the tree (*Detik*, 21 November, 2015).

<sup>7</sup>The petition was created by an Acehnese named Dendy Montgomery who was more concerned with the loss of green open space (*ruang hijau*) due to the mosque construction project. The petition, however, did not gain significant attention as it was signed only by 584 people. See, <https://www.change.org/p/>, retrieved 25 September 2019.

<sup>8</sup> “*Ureung meunyoe ka lam jaroe nyan ka carong lagee kbeun pepatab anjing menggonggong kafilah berlalu. Jameun jih drob gob, jinoe keumudoe ka bak jaroe.*” Udin Pelor, personal communication, 7 August 2015. At the time I conducted the primary fieldwork for this dissertation the governor of Aceh was Zaini Abdullah, one of the former leaders of GAM. Needless to say, GAM had long been a harsh critic of any Indonesian policy.

to Banda Aceh would feel incomplete without praying in the Baiturrahman, so we need to renovate it to make it more beautiful” (*Merdeka.com*, 8 January 2015). On many occasions, Abdullah has asserted his aim to strengthen the image of Islam in Aceh in the eyes of outsiders.

Indeed, as a region with a rich, centuries-long Islamic tradition, Aceh has long been famous for the devotion of its Muslim community. Only within the last fifteen years have two additional words come to characterize Aceh and the Acehnese: “*Tsunami*” and “*Syari’ah*”. The former refers to the catastrophic earthquakes and tsunami of December 26, 2004, which consequently made Aceh “known to the world” (Samuels 2019). Mention the tsunami to any Acehnese and they will relate a captivating story about the day the earth trembled and the ocean struck. The latter refers to the implementation of Islamic law, formally granted for Aceh by the Indonesian central government since 1999, and increasingly the reason Aceh has been hitting the international headlines, especially after the 2004 tsunami as a conservative brand of political Islam has demanded the strictest implementation of the law in the region.

It may come as no surprise that Islamic law would be implemented in Aceh, as the province is home to five million of self-proclaimed devout Muslims, almost 98% of its total population, and has been famous for its cultural, political, and social orientation towards Islam. More complicated are the questions of exactly how and why, which as I will show go well beyond the religion itself, and are rooted in Acehnese tradition, history, and identity, the long struggle for independence, and conflict with outside forces, including the Indonesian central government. I will come to this in due course.

From the beginning, however, I will be clear that the *Syari’ah* in Aceh has very little in common with Islamic law under ISIS, Boko Haram, or Al-Qaeda, despite invoking the same term “Sharia.” To take one example, at the time I conducted ethnographic research in Banda Aceh, the mayor of the city was a woman, Illiza Sa’aduddin Djamal, who, regardless of her controversial policies, had been

recognized as one of the best “women executives” in Indonesia<sup>9</sup> -- what would be seen as a scandalous development in the eyes of the aforementioned fundamentalist groups.

Nevertheless, the adoption of neo-medieval forms of physical punishment (*bukum cambuk di depan umum*, or public caning) and its widespread implementation within the last decade have created a profoundly negative image of the province and its population, and Islamic Law. Aceh has been portrayed in international media outlets as Indonesia’s most conservative province, its inhabitants generalized as notoriously proud Muslims unanimously in favor of the Syari’ah regime.<sup>10</sup> As Reed Tylor has noted “The implicit claim that Aceh is lacking basic human rights is one that has been repeated over and over again in the international media” (Taylor 2015). Indeed, the application of the law has been problematic. Yet, this study will also show that Aceh cannot be understood as an entirely backward land of fanatics, where women’s lives are defined by the constant fear and oppression of Sharia law.<sup>11</sup> A closer look at the Syari’ah and Acehnese Muslim everyday attitudes towards the law will reveal a host of ironies, inconsistencies, and unexpected realities. For instance, for all its devotion

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<sup>9</sup> See for example “Walikota Banda Aceh Terima Penghargaan Top Eksekutif Muslimah”, *Antero*, 21 April 2015, <https://anterokini.com/2015/04/21/> Retrieved 25 September 2019.

<sup>10</sup> Some example can be read as follows “Indonesian Aceh Province Enacts Islamic Syari’ah Criminal Code” *ABC Net*, 24 October 2015. <http://www.abc.net.au/news/2015-10-24/> <http://www.bbc.com/news/world-asia-34612544>, and <http://www.smh.com.au/world/>, Retrieved 26 September 2019.

<sup>11</sup> The news outlets across the world have dubbed Aceh with titles such as “Indonesia’s most conservative province” and “Indonesia’s ultra-conservative district.” See for example, “Syari’ah in Aceh: Patrolling the Streets Indonesia’s most conservative Province, *ABC News*, 17 March 2018, <https://www.abc.net.au/news/2018-03-18/>. “Ultra-Conservative Indonesian District Bans Unmarried Couples for Dining Together,” *Time*, 6 September 2018, <https://time.com/5388182/>, retrieved 26 September 2019.

to Islam, Aceh is also a place where *ganja* (cannabis) has been getting people high for generations.<sup>12</sup> Life in Aceh under Syari'ah law cannot be understood without uncovering such ironies and contrasts.

## **B. Statement of Problem and Research Questions**

I have two motivations to write this dissertation topic. First, on a personal level, despite my religious upbringing, my undergraduate training in Islamic law, and my magister program on Islamic Studies, I still felt disconnected from the conditions in Aceh since Syari'ah law was imposed in Aceh in 1999; I hope that this present study will remedy this gap in understanding. Second, as a corrective to the media's tendency to overemphasize the Aceh Syari'ah authority's policing power over Acehnese society, which creates the impression that all Acehnese support or obey the imposition of Syari'ah law without question.<sup>13</sup> I aim to provide a closer look to reveal how Acehnese do not behave as a monolith, and under certain conditions even act in clear protest against the will of the Syari'ah authority.

The New Years' Eve celebrations of 2011 provide an example of the limits to the power of the Syari'ah authorities. That night, thousands of people went out on the streets to greet the New Year, despite local prohibition of such celebrations on religious grounds. Coming to join the crowd with some friends, I saw for myself the powerlessness of the Syari'ah police (known locally by the abbreviation of WH, *Wilayatul Hisbah*) in the face of so many people gathering to celebrate New Year

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<sup>12</sup> Ganja has been traditionally used by the Acehnese as part of recipe to cook meat. People believe marijuana can soften any types of meat faster and make the absorption of flavor better. Most local restaurant selling curry soup (mostly mutton) are said to have added marijuana in their main menu. Sometimes people can get high and fall asleep after eating *sie kameng* (mutton curry). Ganja already has a long history of existence in the region. Since the colonial times ganja has been both widely consumed and condemned. For a colonial account on this matter see for example (Kruyt 1877; Tagliacozzo 2005), For a recent case see for example "Aceh Police Destroy 9 Hectares of Marijuana" (*The Jakarta Post*, August 29, 2016) It is an open secret among the Acehnese that during the armed conflict, some elements of the military and Indonesian police were involved in marijuana production and smuggling.

<sup>13</sup> See for example some visual documentaries aired at international broadcasters such as Australian SBS, "Syari'ah Showdown" <https://www.youtube.com/watch?v=fOABjtNMYXQ>, or BBC's "Arrested for Hugging!" [https://www.youtube.com/watch?v=eMHP\\_ddQIU8](https://www.youtube.com/watch?v=eMHP_ddQIU8). retrieved 26 September 2019.

with fireworks and blowing trumpets even though the Aceh Council of Religious Scholars (Ulamā') or MPU and the municipal government of Banda Aceh had forbidden both.<sup>14</sup> This remarkable situation was evidently not planned as thousands of people spontaneously came out of their own volition to join the celebration, arriving on foot, in their cars, or on motorcycles (Idria 2018). As it became clear that the joint patrol of Syari'ah police (WH) and national police were not able to enforce the restrictions, the crowd concentrated in Simpang Lima (lit. five junctions), the iconic junction in the city center. Women, families with toddlers, even elderly people left their homes to join the crowd. One of my friends repeatedly shouted that trumpets should not be banned on religious grounds, let alone for the sake of the New Year's celebration, invoking the Angel of the Trumpet in Islamic eschatology. "Trumpet is Islamic!" he shouted, eliciting laughter from the crowd. The police made no arrests that night.

Another example of resistance to the state Syari'ah project came from the Banda Aceh Lesbian, Gay, Bisexual, Transsexual, and Queer (LGBTQ) community, namely Putroe Sejati Aceh and Violet Grey (see chapter five). In 2010, members of this organization managed to host a transgender beauty pageant festival and crowned Aceh's first queer queen. The event predictably sparked outrage among Islamists, who demanded answers from the government as to how such an event could be held in the province where Syari'ah law prevails (*Aceb Kita*, 15 February, 2010).

Conditions have changed in the following years, as especially after the government chose to deploy more WH and national police, sometimes even the army was involved, to prevent such subversive actions from happening again. Both events were mostly excluded from and have gone

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<sup>14</sup> On 30 December 2011, an announcement was issued in the front page of *Serambi Indonesia* newspaper declaring that the government of Banda Aceh and the Ulamā' Council of Aceh (MPU) have prohibited New Year's celebrations on religious grounds, and that a force of 1000 Syari'ah Police (WH) would be deployed, joined by Islamist groups, to seal off the beach near Banda Aceh in order to prevent unlawful celebration. Fireworks and trumpets sold for the event would be seized (*Serambi Indonesia*, 30 December 2012).

unnoticed in academic writings on contemporary Islam in Aceh. Nonetheless, both events have left a great impression on me and influenced the decision to write my dissertation around this topic.

My present study asks: what forms of protest against the state implementation of Syari'ah are emerging? Why and how do people come to vocalize resistance? Why has Syari'ah become a point of identification for some Acehnese Muslims and not for others? Why for some does it exist in continuity with older practices of Islamic piety, whereas for others it represents simply an ideological instrument of the state? Has the implementation of Syari'ah resulted in advancing justice for Aceh society? And ultimately, what is an accurate picture of life under Syari'ah law in Banda Aceh today?

### **C. The *Madani* City: Banda Aceh as My Fieldwork Site**

After taking some pictures of the Baiturrahman mosque under renovation, I crossed the street to head to Chek Yukee, the kedai kopi, making my way along a new pedestrian sidewalk. Banda Aceh indeed has enjoyed the influx of aid prompted by the 2004 natural disasters; Aceh province received no less than \$7 billion in aid for reconstruction projects. Banda Aceh now has stronger and broader infrastructure, greater access to health clinics, and tsunami early warning systems. There is a new graduate program in disaster management at Syiah Kuala University, the biggest university in Aceh. Although signs of the destruction wrought by the tsunami are still visible in many corners of the city, Banda Aceh currently has what many Indonesian cities lack: a new water supply and drainage system, pedestrian sidewalks, modern waste management, and of course, wide asphalt roads. However, many locals have raised concerns about the levels of funding required to run and maintain those facilities. During the first five years of the post-tsunami reconstruction process, money poured in by the international relief agencies largely served as the community's financial savior. After the agencies withdrew, Aceh has been left struggling as its economic growth slows, unemployment increases, and poverty rises (*The Guardian*, 26 December, 2015).

The City of Banda Aceh has nine subdistricts: Kuta Alam, Meuraxa, Jaya Baru, Banda Raya, Lueng Bata, Ulee Kareng, Baiturrahman, Kuta Raja, and Syiah Kuala. There are 90 villages (*Gampong*) and 17 supra-villages (*Mukim*) under Banda Aceh municipality. Mawardi Nurdin and Illiza Sa'duddin Djamal, who ran respectively for mayor and vice mayor of Banda Aceh in 2012, proposed a vision “*Terwujudnya Banda Aceh Model Kota Madani; Kota Ramah dan Bermartabat*” (Developing Banda Aceh as a Role Model of Civilized City: a Familiar and Honorable City) that would guide their programs and policies (Manan et. al 2018, 5). The concept of *Madani* was taken from an Arabic word *Madina* which means civilized. Mayor Nurdin passed away in 2014 due to illness, and was succeeded by Vice Mayor Illiza Sa'duddin Djamal, who became the first woman to serve as a mayor in modern-day Aceh. Mayor Illiza officially declared the slogan “Banda Aceh Kota Madani” on 22 April 2014 in conjunction with the celebration of the city's 809<sup>th</sup> anniversary.

Although the term *Madani* can be traced back to the time of Prophet Muhammad and the concept of *Madinah al-Fadhiblah* coined by philosopher Al-Faraby, Banda Aceh's conception of *Madani* has been more aligned with the contemporary version introduced by Malaysian politician Datuk Sri Anwar Ibrahim (Santoso 2014). Indeed, Malaysia has become a model for Aceh in implementing *Syari'ah* since 1999.<sup>15</sup> By *Madani* city, Illiza proposed her vision to make Banda Aceh a tolerant city that respects diversity, obeys the law, and provides ample common space. Some of the city's residents, however, dismiss these slogans as mere lip service insofar as most of her policies contradict the vision she conveyed (Syaftrizaldi 2019, 209–10). In the following chapters I will show in greater detail how

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<sup>15</sup> Personal communication with Rusjdi Ali Muhammad, Head of the State *Syari'ah* Office (*Dinas Syariat Islam Aceh* 2010-2013). 27 August 2016. The reference to Malaysia as the model to follow, especially to the State of Kedah, was also made by Indonesian Minister of Home Affairs Syarwan Hamid as early as 1999 (see chapter one).

people of Banda Aceh have perceived and contested these ideas. First, I shall continue my journey to Chek Yukee.

I slipped into an alleyway between two multi-story buildings that led me up to the Krueng Aceh River. The river runs to the strait of Malacca and splits the heart of the provincial capital into two almost equal parts. I headed to Chek Yuke following the Krueng Aceh River sidewalk. I passed a white board with a rather blurry text reading “unmarried boys and girls may not be together!”, an ultimatum set by the WH. The text alerted visitors about the application of religious law in the area. A row of saman trees that grow in parallel along the riverbank were shadowing my walking path. Dry wind brought a fishy smell from the sea. The weather of Aceh in June this year seemed to have crept a few degrees higher.<sup>16</sup> Within the last few years, I often heard that hotter temperatures in Aceh could be attributed to the tsunami because it had wiped out all vegetation in many parts of the province’s coastal areas, eliding the fact that the immense demand for wood during the reconstruction period has made conditions worse. It is widely known that many former GAM fighters, police, and military personnel are involved in illegal logging activities.

Directly across the Krueng Aceh river is a little Chinatown called Peunayong. There can be found historic Hindu and Buddhist temples and two churches, one Catholic church and the other is the Methodist.<sup>17</sup> These were also hit by the tsunami in 2004, but thanks to the international aid have since been renovated. The Catholic Sacred Heart church was built by the Dutch in 1920. It is located just next to the Iskandar Muda military regional command headquarter (KODAM). The KODAM

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<sup>16</sup> The climate in Banda Aceh is normally hot, windy, and overcast. The temperature varies from 76°F to 93°F and is rarely below 74°F or above 96°F. The drier season usually begins in mid May, lasting until mid September. Local forecast is given in Celsius.

<sup>17</sup> Banda Aceh Central Agency on Statistics (BPS) in 2016 provides a list of the city’s religious communities by number of adherents: Muslims 264.015, Buddhists 3.070, Catholics 600, Protestants 342, Hindus 150.

main building is a massive four-story complex of cold, plain white walls, projecting arrogance like a forbidden palace, with a spacious backyard facing the Krueng Aceh River basin. Under the leafy sidewalk, across the river, can be seen a statue of a white elephant side by side with a statue of a soldier holding a rifle in front of the KODAM main entrance. As far as I know, these are the only two sculptures depicting living creatures in the city. The white elephant is an effigy of the Aceh Sultan's *Gajah Putih*, the royal elephant that symbolizes power of the old Aceh rulers.<sup>18</sup>



Figure 3: The White Elephant statue in front of KODAM in Banda Aceh

The white elephant's trunk is raised upward, as is typical for elephant statues. One of his front legs is lifted as if to step forward. While outsiders may overlook the stillness of the statue's posture, some people in Banda Aceh have interpreted this gesture as an allegory for the inescapable Indonesian

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<sup>18</sup> In many Asian countries, white elephant is often depicted as a metaphor for the ordering of social status and royal hierarchy, see Barbara W. Andaya "Gates, Elephant, Canon and Drums: Symbols and Sounds in the Creation of a Pattany Identity" in (Jory 2013) pp 31-52. In countries like Burma and India, white elephants has always been a symbol of peace and stability, see (Sochaczewski 2008).

military discipline: even the Sultan's famous white elephant has been subjected to punishment, forced to stand with one leg raised, forever. This anecdote resonates with Acehese experiences during the repressive days under the military emergency (1989-2004). It was a time when, as James Siegel has noted, “a peasant could not even sell a cow without giving 10% to the army” (Siegel 2000, 71). It was common during this time for anyone living in the “Veranda of Violence” (Reid 2006) to be randomly stopped and interrogated by the Indonesian army, forced to stand with both arms raised and one leg lifted until the interrogation was over. That situation often led to more tragic consequences: torture or summary execution.

A call to prayer blared from the loudspeaker upon Baiturrahman’s minaret as I continued my walk toward Chek Yukee. From a distance I could see the crowd already jamming the coffee shop. Still a few hundred steps to get there. Amidst the sounds of the evening call to prayer, the flowing river, and the blowing wind I heard the noise of people chattering, like buzzing bees. I know a lot of Acehese men, most of them married, who appear to have little time for anything other than sitting and talking in kedai kopi.<sup>19</sup> The coffee shop could tell a lot about gender relations in Aceh, but that will deserve a separate study. Many civil servants (PNS) can also be observed in kedai kopi, during working hours when presumably they should be found in their offices. Chek Yukee is one of the city’s favorite places for such patrons: the Banda Aceh police headquarters is located about a half kilometer away, and police officers wearing uniforms are visible at Cek Yukee during the morning hours.

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<sup>19</sup> Among the Banda Acehese, there are two types of coffee shop. The first one is kedai kopi literally means the traditional coffee shop. Kedai kopi is characterized by the presence of traditional baristas, and no coffee machine. Warkop serves only coffee with some Acehese snacks. The second one is the *café* characterized coffee brewed by electric machine and a more elaborated printed menu. The cafe came to Aceh with the tsunami. One is assumed to be willing to spend more money if one chooses to come to cafe instead of kedai kopi.

Situated on the Krueng Aceh riverbank, Chek Yukee is attached to a multi-story shop-house building that has two floors and three widely opened front doors. Tables and chairs are scattered inside and outdoors. There is a space for baristas in the corner and a small desk for the owner of the coffee shop to accept cash from customers. In most Banda Aceh coffee shops, rather than stand in line to place an order, patrons sit at a table and wait for a steward, or simply shout over to the baristas. Acehnese coffee is typically prepared with lots of sugar or condensed milk, known locally as *sanger*, and comes served with a plateful of Acehnese sweets and deep-fried snacks. Enjoy first and pay later.

Kedai kopi is indeed a resilient Acehnese institution. It has provided an asylum for many local men. During the period of conflict, it functioned as a neutral zone for all circles providing space and opportunity for Acehnese men to meet without fear. Acehnese journalist Hotli Simanjuntak recalls his memory about this time in the *Jakarta Post*:

“When the conflict was intense, nearly all residents, especially men, were suspected by the military of joining GAM and hiding in village homes. Male members frequented coffee shops to avoid being suspected by soldiers, who were hunting GAM followers in their villages”(Simanjuntak, 2010).

Elsewhere I have documented that one of the very first places to function shortly after the 2004 tsunami were the coffee shops (Idria 2006). In the aftermath of the disaster, people from every corner of the world flocked into Aceh province forming “the largest humanitarian intervention in modern history” (Grayman 2013, 7). Along with the recovery process many kedai kopi in Banda Aceh quickly transformed themselves to receive multi-national soldiers, members of national and international agencies, non-government organization volunteers, and tourists who wanted to see the impact of the disaster of 2004. After the tsunami, the most significant change with many kedai kopi is that whereas previously the kedai kopi was an exclusively male space, women are now present, although they do not spend as much time there as men do. It is an already accepted norm to arrange a meeting with female friends in kedai kopi, especially in an urban setting like Banda Aceh or Langsa, a city on the east coast of Aceh, the two places where most data in this present study were gathered.

Despite measures taken by local governments and Islamist groups to limit the presence of Acehese women in coffee shops, such actions do not appear to have changed the new status achieved by Aceh kedai kopi as a non-gender segregated space.

Most of Chek Yukee's female visitors I have met are university students who join their male cohorts to enjoy coffee and free wi-fi.<sup>20</sup> In Banda Aceh, women who come to kedai kopi mostly wear *jilbab* (headscarf), partly as personal choice, though it is mandated in the dress code regulated by Syari'ah law. Some women choose not to conform and are ready for the risk.<sup>21</sup> In this way, Acehese women's presence at *warung kopi* offers a contrast to reductionist portrayals of Acehese women as victims without agency. Still, any such agency is severely curtailed since Aceh's public sphere and politics remain dominated by men, and of course it is true that women are subjected to an array of repressive measures should the law be followed to the letter.<sup>22</sup> In Chek Yukee, however, it is clear that such regulations are not strictly applied. I have heard that occasionally WH pay a visit to Cek Yukee to ensure that patrons are conforming to the state Syari'ah dress codes as well as following the prohibition on unrelated men and women sitting together, but I have never encountered a concrete story yet. Probably the proximity of Cek Yukee to KODAM matters in discouraging WH raids, as the Indonesian military are outside the Aceh Syari'ah jurisprudence.

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<sup>20</sup> Currently, a kedai kopi without wi-fi can be predicted to close within a few weeks due to lack of customers. With one exception -- the *Warung Kopi Solong*, which manages without wi-fi thanks to its history and reputation as the most visited coffee shop in Banda Aceh. The owner of Chek Yukee is a former barista at Solong.

<sup>21</sup> In an urban setting like Banda Aceh so far Syari'ah police will only approach and issue nasehat, religious advice, mostly without threat of physical force. The story is different in rural areas where Islamists from local Dayah (*traditional Islamic boarding school*) deliberately patrol and insult women who do not wear jilbab in a public space.

<sup>22</sup> For example, in 2015 the government of Banda Aceh restricted public movement by women unaccompanied by male relatives during nighttime. Mayor Illiza Saduddin Djamal, defending her policy claimed that she merely defers to the Aceh governor's instruction on that matter (*Tempo*, 4 June 2015).

My friend sat at the corner waiting for me. He was the only *bule* (Indonesian slang for a foreigner, Acehnese use the same term too) at Chek Yukee that day, easy for me to spot him. I passed by a few tables and greeted some people I know to be Chek Yukee regular visitors. My old friend Muhammad was also there. I stopped by his table first to greet him and three others sitting with him. “*Jeh hai, Teungku Harvard ka troh geuwo!*” (Mr. Harvard is home), exclaimed Muhammad, laughed at me and gave me a bro-style handshake. Muhammad is known as a funny guy, and I concur. He was actually the one who told me the anecdote of the Sultan’s white elephant now trapped in front of KODAM. But his humorous nature belies a contrasting side of his past.

Muhammad originally comes from Pidie district, about two hours' drive from Banda Aceh. In 1999 we went to study at the same Islamic institute, IAIN Ar-Raniry, and subsequently got involved in student political activism during the tumultuous years after the fall of Suharto. As the armed conflict escalated, he lost two of his brothers at the hand of the Indonesian army (TNI). The Kopassus unit (the Indonesian special forces) kidnapped and tortured them to death. The family found the bodies left on the village street, as Muhammad told me at that time. That tragic story is probably one of the reasons why he later dropped out of college and chose to join the GAM rebellion. He became a spokesman for GAM in Atjeh Rayeuk district (Aceh Besar). In 2002 he was arrested and sentenced to five years in prison. Muhammad had spent about two years in jail when the earthquakes and tsunami struck on December 26, 2004. The prison wall was damaged, allowing Muhammad to escape. In 2005, after the Helsinki peace accord was signed, Jakarta granted amnesty to all members of GAM including Muhammad. From 2006-2011 he became an important figure behind the Irwandi-Nazar gubernatorial administration. He ran for the Aceh provincial parliamentary election in 2011 and then regional election in Pidie district in 2014, both times unsuccessfully. I wondered whether he would run again in the upcoming election. “No, might be next, *Insha Allah*, God willing,” he smiled. Well, I joked, he should therefore focus on fasting during the Ramadan, as that might bring some luck for his next

political plans. He laughed and warned that fasting would be hard because the already hot June temperature was expected to become higher when the holy month began. He added, as if to himself, “But what do you expect? We are in the land of Syari’ah, the Veranda of Mecca. The hotter it is the closer we get to Mecca.”<sup>23</sup>

#### **D. Sharia<sup>24</sup> in The Contemporary World: A Modern State Project**

There is a recurrent focus on Sharia, today understood largely as “Islamic code of behavior law,” in global media outlets, invariably associated with the oppression of women and “barbaric” practices like corporal punishment. In the popular imagination of segments of the public across Europe and the US, Sharia law represents a direct threat to Western law, in some cases leading lawmakers to ban Sharia (*USA Today*, 2019). This image is perpetuated by certain militant Islamist groups, such as ISIS and Boko Haram, who proclaim their severe repressions as an implementation of the Sharia law. However, Islamist fundamentalists and anti-Sharia lawmakers in the West alike can be said to misunderstand what the term in its precise definition stands for.

For instance, Harvard Law School Professor Noah Feldman in an op-ed titled “Why Sharia” in *New York Times Magazine* (Feldman 2008), correctly points out that “one reason for the divergence between Muslims and Western views of Sharia is that they are not using the same word to mean the same thing.” However, in Arjomand's criticism of the piece, by focusing solely on the legal aspects of Sharia, Feldman overlooks the sociological and anthropological aspects of the term.<sup>25</sup> Indeed,

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<sup>23</sup> “*Peu tapike teuma? Geutanyoe nyoe di bumoe Syariat, Seuramoe Makkah, maken suum maken rab u Mekkah*”

<sup>24</sup> When discussing about Sharia in a wider context I will use the international transliteration of the term in order to distinguish it from the Aceh’s Syari’ah.

<sup>25</sup> Said Amir Arjomand wrote a sharp response to Feldman’s article, pointing that Feldman has dismissed the fact that Islamists in Muslim majority countries are now using Syari’ah and the coercive power of the state to

definitions of Sharia are not only divergent between Muslims and Westerners, but also among Muslims themselves. According to some Muslims, Sharia law is inscribed in the Quran, therefore it is forever in its absolute divine sense, intangible, immutable and perfect, providing answers to all questions and detailed rules to solve all problems. Nevertheless, after Prophet Muhammad died and Muslim societies continued to grow, many questions were left unanswered. It was left to religious scholars (Ulamā) to understand divine will (*Fiqh*) and systematize methods of attaining this understanding (*Ushul Fiqh*). This process produces a particular law in a given case (*Hukm*). Hukm, not Sharia, is the Arabic term equivalent to law. Like any other law, it is a historical phenomenon produced by human efforts.

What, then, is Sharia's relationship to Hukm, and how did it come to mean what it does today? Etymologically, Sharia (in a modern Latin transcription it sometimes appears as *Shari'a*, *Syari'ah* or *Syariat* in Indonesian/Acehnese transliteration) is an Arabic word that means “path to water,” “the path,” “the method,” and “the way” (‘Ashmāwī 1998; Al-Jauziyya 1995; Hooker 2003; Hallaq 2009; A. Salim 2004). Scholar of Islamic Law Muhammad Said ‘Ashmāwī argues that the original and correct meaning of Sharia was that “initially applied by the first generation of Muslims” (quoted in A. Salim 2008, 13). Wael Hallaq in *The Impossible State* argues that in the past morality was the central domain of the Sharia, which stimulated what he calls “the subsidiary domain” in the intellectual and practical spheres (Hallaq 2013). This meaning crystallized at the time when the structure of Muslim society, politics, education and economics was laid down in and from the core, regulated not only by technical Sharia rules but also by a pervasive Sharia ethics (Hallaq 2005; 1997; 2011; 2009). After all, as contemporary scholars Jasser Auda, Ahmad Badry Abdullah, Idris Nassery among others, have argued, Sharia is about ethics, the common good, and wisdom. For them, it is a gross misconception for the

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secure power and intimidate their rivals, and they are able to do so by having established the definition of Syari'ah as the rule of law. See Arjomand “Why Syari'ahh” (Arjomand 2008), retrieved 5 October 2019.

word “Sharia” to be associated only with punishment (Auda 2011; 2008; Nassery et al. 2018; Abdullah 2014).<sup>26</sup>

The profound change of the usage of the term Sharia has been contingent upon the complexities of Islamic history, over the course of varying liberal and fundamentalist periods (Ahmed 1988). Arskal Salim has shown that “over time the meaning of Sharia was extended to incorporate moral legal rules, either derived from those in the Qur’an or in the Prophetic traditions” (2004, 83). After encounters with the colonial powers and violent engagement with “the hegemonic influence of modern Western legal system,” Sharia has been commonly translated as “Islamic law” assuming its equivalency to Western positive law (Hefner 2011b; 2012, 2). Since the 20th century, in many Islamic countries, notably in North Africa and Southeast Asia, the modern concept of Sharia has been partially adopted and combined with legal systems inherited from colonial powers.

Recently Islamic Law has become the acceptable translation of Sharia circulated among both Muslims and non-Muslims -- an analogy not without its flaws. First, it suggests a singular, monolithic Islamic law, an idea contradicted by, as I shall show below, the case of the implementation of Syari’ah in Aceh. Whereas Sharia is immutable and perfect, Islamic law exhibits a range of diverse forms and applications across various contexts. Second, this translation assumes the concept of law in the Western modern sense, which has to do with organizing the relationship between people and society. In Islam, the relationship (etiquette) between God and humans has been the first concern of Sharia. This relationship was regulated in considerable details, notably in Fiqh manuals of worship (*fiqh al-ibadab*), such as prayer, fasting, pilgrimage, etc. which set out its principles, boundaries, and ways of practicing it properly. Whenever it comes into social and political domains (*mu’amalah* and *ahwal al-*

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<sup>26</sup> On tracing the true meaning of Sharia, most authors I mention above made special reference to the work of Muslim jurist Ibn Qayyim Al-Jauziyya (d.1373), especially his celebrated book *I’lam al-Muwaqi’in* (Al-Jauziyya 1995, 14–15).

*syakhsiyah*), Sharia becomes pluralistic and more diverse as Muslim societies grow and develop in different ways.

The term conveys different meanings for Muslims depending on background, history, and social environment. In his study on the implementation of Sharia in northern Nigeria, Brendan Kendhammer acknowledges that “all Sharia is local” (Kendhammer 2016, 213). But, the role of the state in dictating and controlling its meaning has been immense. This has also been the case for my lived experience in Aceh. Before 1999, the word Sharia was synonymous with a faculty at the State Islamic Institute of Ar-Raniry in Banda Aceh called *Fakultas Syari’ah* or Sharia Faculty. Sharia was barely used as a term to refer to law, let alone punishment. At that time, when referring to Islamic law, the terms *fiqh* or *fikah* were more commonly used. Sharia when used at all simply meant “Islam” or *ibadah* (worship) rather than referring to legal questions as it would today, despite how the Aceh contemporary government or some researchers treat it.

The contemporary formalization of Syari’ah in Aceh was first offered and promoted by the Indonesian central government in 1999 (see more details in chapter one). The aim was to undercut popular support for GAM (Drexler 2009; Aspinall 2009; Miller 2008; M. N. Ichwan 2011a). Under the Indonesian law Number 44/1999, Syari’ah is included as a central point in the special autonomy package proposed to end the armed conflict in Aceh. However, from 1999 to 2004, the state-directed Syari’ah project was relatively unsuccessful, if not a complete failure, either in reducing Acehese support for the GAM rebellion or in disciplining the Acehese into new codes of conduct. The climate of violence due to the armed conflict rendered many of the institutions established to support the implementation of Syari’ah unable to properly function during that time. Nonetheless, for many ordinary Acehese, the word Syar’ah began to lose its meaning.<sup>27</sup>

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<sup>27</sup> Mary-Jo and Byron Good’s article of the Iranian Moharram festival provides a powerful example regarding the impact of the state’s control in appropriating the meaning of religious ritual and religious terms. Good and Good show how the Muharram ritual, like any other strong religious position from which the basis to

A significant number of scholarly works have been devoted to investigating developments in the nature and function of Syari'ah in Aceh. Most of them heavily emphasize its legal enforcement (Bowen, 2003; Buehler, 2016; Bush, 2008; Feener, 2013a, 2013b; Feener & Cammack, 2007; Feener et al., 2016; Ichwan, 2011; Kloos, 2018; Lindsey, Tim, 2007; Salim, 2008, 2015, 2010; Salim & Azra, 2003).<sup>28</sup> A few more recent articles have begun to fill the gap by showing how the implementation of Syari'ah has not only been shaped “by state actors but also by non-state actors” (Großmann 2016, 86; Afrianty 2011; Dijk and Kaptein 2016; Steele 2018; Taylor 2015; Kloos 2014b; Jauhola 2013; 2012). Still, scholars have rarely dealt with what I would call “organic reactions” of the Acehnese population in contesting the state hegemonic interpretation of Syari'ah. This dissertation responds to the place of the people who currently raise the issue by contesting the implementation of the law.

From a significant number of academic writings that have explored many contemporary issues concerning the imposition of Syari'ah law in Aceh, there are two seminal works that I consider as my forerunners in this present research subject. Below is my brief review of their works and a clarification of how my present study differs from them.

The first is R. Michael Feener's *Sharia as Social Engineering*. In this book, published in 2013, Feener disputes the view of Syari'ah as an “unwanted gift from Jakarta” often espoused by local opponents of Syari'ah in Aceh and cited in the works of scholars who study post-New Order Aceh (see for example in Bowen 2003; Aspinall 2009). For Feener, Syari'ah is neither the central government's tool for weakening Acehnese support for the GAM separatist movement nor is it an ideological project for recovering Aceh's lost past; rather it is a future-oriented agenda in which state

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critique the ruling elites often came from, loses its capacity for challenging the existing political order (see Good and Good 1988). This is also the case with Sharia once it is made law by the state.

<sup>28</sup> In the chapters that follow I will engage with this body of work and will put some particular studies in conversations with mine.

institutions and resources are deployed as instruments of social transformation for regional and national development. According to Feener, Syari'ah has been conceived as means of social engineering to make improvements to Acehese society. Vision and strategy to implement Syari'ah in Aceh are not new plans, but formed the agenda of the so-called "Aceh technocrats" since the 1970s. Feener examines the roles of state-affiliated Ulamā,' "Sharia bureaucrats," and the codification of statutory legislation" (Feener, 2013b, p. 7). The book is based on direct day-to-day observation, interviews with contemporary Aceh Syari'ah authorities, as well as a great breadth of historical and textual materials including sources in vernacular language. Above all, Feener aims to show that "there is thus more to the story of Shari'a in Aceh than just politics" (p. 9).

The second book is *Becoming Better Muslims: Religious Authority and Ethical Improvement in Aceh, Indonesia* by David Kloos (Kloos 2018). As the title of the book indicates, Kloos focuses on Acehese Muslims' inner and personal processes of ethical improvement and looks at "how ordinary people negotiate the totalizing discourse of Syari'ah in the context of their everyday lives". The book consists of five chapters plus an extensive introduction providing a comprehensive theoretical background for his study. The first two chapters of the book set an historical account of the emergence of "Aceh exceptionalism," local Islamic authorities, and their relationship the modern state in Aceh. Furthermore, drawn from the life histories of his several Acehese interlocutors, Kloos theorizes what he calls the concept of "religious agency" defined as the "capacity of individual Muslims to engage in religiously defined moral actions" (Kloos 2018, 160). Kloos rejects the portrayals and impression that the Acehese are passive subjects in the current implementation of Islamic law. His work also claims that the Acehese gradually have tried to alter the official understanding of Syari'ah according to the general consensus of the community. This is a sharp critique of Feener's work; however, like the latter, Kloos avoids in-depth discussion concerning the negative and more complicated effects of the politics of Syari'ah law in contemporary Aceh. Thus, on the one hand, Kloos and Feener are relatively

successful in offering alternative pictures to the Syari'ah and the Acehnese, as they challenge existing stereotypes, dating to the colonial era, of Aceh as a region of exceptional piety, vulnerable to fanaticism, and inherently violent. As Kloos demonstrates, these stereotypes can be avoided by showing that popular discourse on sins, personal failure, ambivalence, and imperfection is very much alive among Acehnese Muslims and shapes their perception and pursuit of Syari'ah. On the other hand, since the books do not accommodate narratives of agency of the "other" Acehnese, most of whom are also religious, but belong to vulnerable groups such as Aceh punks, LGBTQ groups and other Muslim minorities (by this I refer to those accused of membership in "deviant" religious sects). As I will show, relying on the notion of religious agency alone provides an inadequate understanding of the dynamics of the Syari'ah implementation and its impacts on Acehnese daily lives. Such understanding requires a different lens to consider the questions: why must the accepted ways to "become better Muslims" in Aceh be in line with what the mainstream will allow it to be (not merely by those in official positions but also with those whom they share and distribute politics and economic power)? Why must Acehnese's expressions of religiosity conform to the mainstream interpretation of the law? What if they envision "different" ways to become better Muslims? What are we to make of the persecution of those not following the general consensus of the community? A thorough understanding of the official and non-official power sharing in Aceh will reveal why not everyone can claim the same rights to become better Muslims under Syari'ah as implemented.

I found intention to limit or avoid discussion of the politics of the implementation of Syari'ah in Aceh problematic for two reasons. First, the status of Islamic Law, except for the elites, was not a burning question in Aceh until rather recently, more or less until the fall of the New Order. As I have indicated above, before 1999 "Syari'ah" was not a word much used by the Acehnese in everyday speech. Second, it would give no place to the voices who challenge the state's interpretation of Syari'ah.

By accounting for such voices, my present study shows that there is far more to uncover from the politics of Syari'ah in present-day Aceh.

Furthermore, my present work could not have been undertaken without the data, critiques, and analysis from many recent works on post-conflict and post-tsunami Aceh (Siegel 2010; 2009; 2013; 2008; M.-J. D. & B. G. Good 2013; B. J. Good 2014; Grayman, Good, and Good 2009; Grayman, Jesse H., Good, Byron J. 2015; Grayman 2013; Birchok 2016; 2015; 2019; Feener, Kloos, and Samuels 2016; Samuels 2019; M. N. Ichwan 2011a; Afrianty 2015; Afriko 2010; Sila & Salim 2010; Salim 2008; 2015; Jauhola 2013; Smith 2017). Without a doubt, this present study owes much to the above important studies on this topic. I will engage with them directly or indirectly in my text.

## **E. Themes and Theoretical Conceptualization**

I build this dissertation on three anthropological thematics: (1) the anthropology of Islam; (2) the anthropology of resistance and (3) the anthropology of policing.

### **E.1. Anthropology of Islam: Sharia & Identity Politics in the Postcolony**

It is a truism now for an anthropological study of Islam that multiple forms of beliefs and the developments of its practice among Muslims have been influenced by their social and political circumstances, geography, and the patronage of governing bodies and individuals (Geertz 1971; Gilsenan 1983; Eickelman 1976; 1981; Gellner 1983; Bowen 1984; Ahmed and Rosen 1989). Such a view did not crystallize in the anthropological discipline instantly. In 1968, Clifford Geertz published *Islam Observed* splitting with the account of Islamic studies models in searching for single religious essence. Gabriele Marranci pointed out that Geertz's *Islam Observed* was remarkably the first book by an influential anthropologist featuring the word "Islam" in its title (Marranci 2008, 34). But for some of his critics, Geertz's *Islam Observed* obscures or says very little about the doctrines, practices or principles about Islam itself (more on criticism to Geertz's approach, see el-Zein 1977; Tapper 1995; Ahmed 1988; Asad 1986; Varisco 2005). Besides Geertz, during 1960s-70s studies in various regions

of the Islamic world were conducted by prominent social theoreticians such as Ernest Gellner, Paul Rabinow, James Siegel, Pierre Bourdieu, although the last two had little to say about Islam itself. Meanwhile, there were efforts among some late-modern anthropologists working on Muslim societies to conceptualize in what way Islam as an analytic object of anthropological study should be approached ethnographically. Vincent Crapanzano's work on the Hamadsha, a Sufi order in Morocco, reveals how their expression of Islam is constructed and manifested in the complex interrelationship relationship of social structure (Crapanzano 1973). Michael Gilsenan, in studying a Sufi order in Egypt, approaches Islam from a Weberian perspective as a dogma that justifies a particular conduct, with the *Ulamā'* as a solemn and proper translation of the dogma. The study features the Sufi saints as its charismatic manifestation (Gilsenan 1973). Dale Eickelman (1976) through his study on Maraboutism in Morocco emphasizes on continuous social change in the community as being the result of perceived disparity between symbolic ideals and social reality. Then came Talal Asad (1986) to start a long debate on how one can study Islam and Muslims without falling into a well-known essentialist trap. Asad writes that "Islam is neither a distinctive social structure nor a heterogeneous collection of beliefs, artifacts, customs, and morals. It is tradition" (Asad 1986, 14). The tradition is heterogenous, but "they are in coherence with the founding texts of Islam". Therefore "anthropologists interested in Islam must therefore pay close attention to the ways in which such coherence is achieved and sustained" (Mahmood & Landry, 2017). Following Asad, a line of scholars have highlighted the urgency of studying how texts and traditions are both utilized in and constituted by various Muslim communities. Asad's "discursive tradition" influenced an area of anthropological inquiry on Islam for several decades, including works on family law and gender and have established a foundation for anthropological and historical reflection on what Muslims think of political Islam and what counts as good Islamic practice (Asad 1986; 1993; 2007; Anjum 2007; S. Mahmood 2004; Hirschkind 2006; 1991; Abu-Lughod 1990; 1986; 2002).

Asad's "discursive tradition" has been a major breakthrough in the modern anthropological study of Islam. In Asad's own definition, "The Islamic discursive tradition is a tradition of Muslim discourse that addresses itself to conceptions of the Islamic past and future, with reference to a particular Islamic practice in the present" (Asad 1986, 14). In practice, it is a mode of engagement with sacred texts that are learned and communicated through processes of pedagogy, training, and debate. The relevant discursive activities encompass not only the institutional production of authorized knowledge in Islamic academia and other formal education but also everyday commentaries by ordinary people. Echoing Asad, Saba Mahmood and Jean Michael-Landry write "Islamic traditions are heterogeneous but they are in coherence with the founding texts of Islam. Anthropologists interested in Islam must therefore pay close attention to the ways in which such coherence is achieved and sustained" (Mahmood & Landry, 2017).

The above view is not uncontested. Preoccupied with the task to understand the phenomena of piety and discourse of religiosity among ordinary Muslim in their everyday lives (popular Islam), many researchers from the "discursive tradition" camp tend to avoid discussions on the so-called politics of religion in its strict sense. Furthermore, it is observable that the majority of Muslims today are actually not involved or lack of interactions in the production of authorized religious knowledge and therefore majority of them will not refer to the founding text of Islam when claiming their Islamicness, while at the same time remaining persistent in their choice and commitment to not only be Muslims but to become "better Muslims" (Kloos 2018). Thus, the view that Islam is a discursive tradition remains contested. Gabriele Marranci (2008), for example, has argued that "Islam is essentially an emotional category -- that Islam is about the feeling of being a Muslim" (quoted in Schielke 2010). Islam, according to Schielke and Debevec, is not only a normative doctrine of spiritual order but also a set of practices that are "very sincere in some moments and contradictory in others"

(Schielke and Debevec 2012, 1). Samuli Schielke has called attention to the ambivalence and everyday failure of one becoming a good Muslim (Schielke 2010).

Nonetheless, there are Muslims who view their own religion as unitary, timeless, monolithic, and unchanging (see for example in Launay, 1992; Parkin et al., 2000). Such a view, it cannot be denied, matches the perception common among non-Muslims post-9/11 of the singular Muslim character, hostile to modernity (Mamdani 2002; Mahmood 2004; Asad 2007; Varisco 2007). However, a closer look at Muslims beliefs and practices reveals that Islamic doctrines are subject to ongoing and intense interpretation and contestation among Muslim themselves. This is also true whenever the term Sharia is invoked. In fact, just as Muslims may differ widely from each other from place to place, so too Sharia, even within a single territorial polity as I will show in the context of Aceh.

As many students of Muslim societies have carefully observed, the practices and enforcement of Sharia as “positive law” vary not only with time but also with place (Salim 2015; Ahmed and Rosen 1989; Hefner 2005; 2012; Vikør 2005; Dupret 2018; Vogel et al. 2008; Salim 2008; Rosen 1989; Otto 2010; 2008; Hallaq 2005; 2009; Bowen 2003; Messick 2018; 1993). In fact, in the history of Muslim societies, Sharia was never a single book of statues imposed by a government. Its location, as Knut Vikør has pointed out, was always “between state and civil society” (Vikør 2005, 254).

Anthropologist Robert Hefner in his edited volume concerning the implementation of Sharia law in eight Muslim countries (Hefner 2011b) maps out the types, forces, sources, and activists behind the enforcement of Sharia and shows that they come from different Islamic backgrounds.<sup>29</sup> Hefner’s book shows how the term has been distorted and manipulated for political reasons by colonial state

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<sup>29</sup> Several of the book's contributing authors assess the implications of the main currents of Shari'a opinion and activism and center their study within four issues: democratization and citizen rights; gender relations; the place of non-Muslims and minority Muslim sects in society; and pluralist tolerance in Muslim countries featured in the book; Indonesia, Egypt, Turkey, Saudi Arabia, Iran, Afghanistan, and Pakistan (Hefner 2011b).

powers and has been continued by many postcolonial states in various Muslim countries. In most recent cases, Sharia has been invoked by “armed militants willing to carry out spectacular acts of violence to get their way” (Hefner 2011b, 2). More recent works by Peletz (2020), Nakissa (2019), Hussin (2016), Buehler (2016) and Kendhammer (2016) have further shown the complex relationship between Sharia and the politics of the modern nation-state. Indonesian political elites and a section of the Acehnese have been the one successful example in establishing and practicing Syari’ah as a tool of “governmentality” (Foucault 1991).

To return to the point that there were and are many Sharias, I situate my study of the implementation of Syari’ah in Aceh to see it not as an abstract truth, but rather as a social phenomenon, a macro-social activity, and a culture in transformation. As I shall make clear throughout this dissertation, the current implementation of Syari’ah was made possible by a complex process of political decision making. I will show that Syari’ah and its implementation in Aceh continue to be heavily dependent on the political climate of the region. Therefore, this study aims to contribute to the already established body of scholarship on Syari’ah politics (see for example An-Na’im, 2009; Arjomand, 1984, 2004; Bayat, 2010, 2013; Buehler, 2016; Hefner, 2011b; Kendhammer, 2013, 2016, 2017; Menchik, 2016; Otaeyek & Soares, 2009; Soares & Osella, 2009; Volpi, 2011). Rather than the politics of the powerful, my work will focus more on the “politics of small things”(Goldfarb 2006). Along with long-standing anthropological concerns for the marginalized, neglected, and excluded, my study considers stories of Muslims who are politically and culturally marginalized by other Muslims who use the forms of modern government and institutions to expand their influence. Special concern is given to some vulnerable groups such as punks, the LGBTQ community, and those accused of belonging to deviant religious sects. By the same token, I acknowledge that popular resentment from below cannot be adequately explained without attention to the mentality and behavior of the ruling elites. To that end, the present study also attends to those whom Judith Butler has called “the figure

of a psyche that turns against itself' (Butler 1997, 15). In this study, these are the individuals in the regime's elite circles, the paradoxes of their lives and works.

## **E.2. Anthropology of Resistance: Theorizing Resistance and Its Limits**

Resistance has become a common category of analysis in the social sciences; its precise meaning depends on the context. Apart from scholarly discourse, the decision to use the word "resistance" in this dissertation was clear: the Malay word "*lawan*" (lit. enemy, resist, to act against), on the one hand, has been used by the Syari'ah authorities in Aceh to stigmatize those who are not in line with their will, and on the other hand, has been re-appropriated by these accused enemies to combat the stigma and political attitudes toward them. Thus, in my case study, resistance can be considered as an indigenous or native category.

The problem of studying resistance begins with its conceptualization. I have initially explored this theoretical part in my previous work (Idria 2016a; 2018). Michel Foucault (2008; 2013; 2015) says power and resistance are correlative concepts; the possibility for resistance to emerge always goes hand in hand with histories of groups suffering from the power imbalance. Foucault also asserts that power is not merely sustained by violence and coercion, but also in authority and the capacity to monopolize authority (Foucault 2003; 1991). Theoretically speaking, after Foucault, just like power, resistance has become ubiquitous, and there is no consensus on the meaning of the term. The terminology has always been problematic, with significant contradictions and disagreements; this remains true in more recent texts, for example in Scott (1985), Comaroff (1985, 1991), Hirsch and Lazarus-Black (1994), Ortner (1995, 2016), Wedeen (1999, 2013) Hollander and Einwohner (2004), Pratt (1994), Butcher (2009), Camps-Febrer (2013), Medina (2013).

Anthropology has long been an important arena for the investigation and conceptualization of resistance. Efforts to conceptualize resistance have been by turns broad and rigorous, from choosing "whether any given act fits into a fixed box called resistance" (Ortner 1995: 175) to how it

is formed from relatively organized and fixed movement to less institutionalized and more everyday forms of resistance. In the complex network of resistance actions, whether covert or openly confrontational, there are many articulations, practices and significations aiming to combat, challenge, and undermine the dominant power.

The history of Aceh is full of stories of oppression and of fierce resistance against “any infringements on its freedom to arrange its own affairs” (van Dijk 2015, 187). As I have shown in the historical outline above, there have been enough studies concerning types of resistance that are overwhelmingly attributed the Acehnese almost to the point that “where there is Acehnese there is resistance.” This expression repeatedly invokes narratives of the Acehnese’s armed struggles in fighting the Dutch colonial power (ruled in Aceh from 1874-1942) and a series of armed revolts against the Indonesian central government since Indonesia’s independence in 1945. To return to the context of my study, since the contemporary Syari’ah law has been implemented by a post-colonial state with a long legacy of corruption, manipulation, and authoritarianism, Syari’ah as the state project certainly has not been immune to resistance. However, I wish to make it clear at this stage that when I refer to the word resistance, I do not mean “resistance” strictly in the sense of organized and relatively fixed movement to overthrow the government, but it looks at forms of subtle resistance, at less visible and articulated in various modes, in everyday lives that anthropologists are adept to.

Some Syari’ah resistance explored in my preliminary fieldwork, indeed, took the form of defensive strategies (i.e., subversion rather than confrontation) and often were performed in an unconventional manner. Increasingly, I pay attention to the line between “public vs. hidden transcripts,” the line where Scott sees the battle for “testing the limits,” where subordinates, unsure of dominants’ effective powers, might bring hidden transcripts to a public sphere (Scott 1985, 192; Camps-Febrer 2013). Hidden transcripts are usually opposed to the public display of language, rituals,

and behaviors that a group or individual performs in front of others.<sup>30</sup> Scott's concepts of "weapons of the weak" and "hidden transcripts" have been foundational in theorizing resistance in the discipline of anthropology. However, in some cases applying these concepts to describe the Acehnese's counter-actions against the Syari'ah authority would be problematic, since criticism against the state project of Syari'ah is not voiced solely by the least powerful people and not always hidden from public. Instead they gradually have become more visible as a variety of more powerful groups have become involved.

Furthermore, it is problematic to use the term resistance when people who mock and laugh at the Syari'ah authority in many cases are the same people who willingly attend official ceremonies where the authority communicates its power, for instance, through the public canings. Here, as Achille Mbembe calls, one should find and explain an intrinsic relationship, "illicit cohabitation," between the dominant and the audience (the dominated) which makes the regime in power capable of continuing to exercise its power through ceremony and violence (Mbembe 1992, 15).

Meanwhile, attempts to enforce Syari'ah law in Aceh have created absurd situations, as they inevitably result in conflict among people and competing legal and political systems. The fetishization of law (Jean Comaroff and Comaroff 2006), the intention of power to display through ceremony and symbols as well as the spread of fear through violence as it is now directed by mediocre state apparatuses make possible carnivalesque encounters that allow the oppressed to make fun of the absurdity of their situation. Having established this logic, a more specific definition can be offered for what I mean by resistance within this study: a distinctive situation that arises out of encounters and interactions and derives from, borrowing Mbembe's term, "illicit cohabitation" between rulers and the ruled who happen to share the same living space – resulting in a mode of relationship that Mbembe

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<sup>30</sup> According to James Scott hidden transcripts are those acts of dissent that occur within a space and among a group of people that share the same position in a given relation of dominance. These transcripts do not usually reach the other side of the power relationship because of the reaction they would entail (Scott 1990, 196).

has called “mutual zombification.” Thus, my attempts to capture contestations, resistance, or better to use the term “friction” (Tsing 2005) within the implementation of the Syari’ah law should be limited around the complex relationships and the contest of ideas among the Acehese Muslims toward living an Islamic life now and then.

### **E.3 Anthropology of Policing**

Following Emile Durkheim (1997), Bronislaw Malinowski (1926) emphasizes that law and society develop together and therefore “the idea of a lawless society is in fact oxymoronic” (Mutsaers 2019). Meanwhile, Jean Comaroff and John Comaroff (2006) emphasize the intimate relationship between law and violence in the post-colonial societies. As the Comaroffs argue, it is not because they are lawless polities; on the contrary, they are “infused with the spirit of law” (p. 20). The Comaroffs have demonstrated that authorities in the postcolonies responsible for the enforcement of the law and administration of justice “often caused disorder instead of order” (Comaroff and Comaroff 2016; 2006; Comaroff and Comaroff 2004).

The implementation of Syari’ah in Aceh does not operate outside the framework of modern state. Since 2002 Aceh has produced no less than 200 Qanuns (regulations at the provincial level). In the following chapters I will show that a policed order (Foucault 1978) is the goal of Syari’ah law’s enforcement. The establishment of *Wilayahul Hisbah*, roughly translated as Syari’ah Police (*Polisi Syariah*) and introduced only in Aceh, has been one of the most controversial elements of Syari’ah law in the province.

From the very beginning of its implementation the government has practically translated Syari’ah in its narrowest sense as the enforcement of public morals and place the WH in the frontlines of the law enforcement. Although some early architects of the state Syari’ah project in Aceh were ambivalent about the WH status, with some even refusing to call WH “police”, the unit gradually evolved as such. Like other state-sanctioned policing units, WH was established as “a prerequisite for

social order” (J. Comaroff & Comaroff, 2016; Comaroff 2013; Garriot 2013). Today they are what Peter Manning calls “the immediate face of government” (Manning 2010), in the context of Syari’ah governance in Aceh. Indeed, forms and expressions of resistance I discuss in this dissertation generally emerged against this new policing unit and its claim of law enforcement efforts; a rebuke to the “impossible mandate” (Manning 1994, 1997). In the field of policing studies, as Manning suggests, the police mandate can be studied as a cultural fact: a discourse about what police are, what they do, and why (Manning 1997).

It is a truism that Indonesia is relatively an under-policed country. Joshua Barker (Barker 2009; 1998), Jaqui Baker (Baker 2012), Kari Telle (Telle 2015), Muradi (Muradi 2014), Sharyn Graham Davies (Davies 2018), Adam Tyson (Tyson 2013), among others, have offered their significant contribution to our understanding of the role of police and community policing in Indonesia. However, discussions on Religious Police such as the WH of Aceh, their legitimacy, and how, in the case of Aceh, they endure the intrinsic relationship between law and violence (Benjamin 1996; Jean Comaroff and Comaroff 2006; 2016) remain to be written.

As the methods of anthropology are designed to look at locality and to what has gone unnoticed, one may find the Aceh and Syari’ah I am referring to in this study are very different from the Aceh and *Sharia* discussed by political scientists or Islamologists. Above all, this present study is not about law nor about violence per se, but what comes up as the result of the politicization of Syari’ah that has been neglected or gone unnoticed in contemporary studies on Aceh.

#### **F. Aceh: The Veranda of Mecca and the Longue Duree**

Some general remarks about Aceh and the formation of its Islamic identity are in order, firstly to understand the importance of Islam for the Acehnese, and secondly to examine why they react the way they do in relation to the current implementation of Syari’ah law. The historical accounts given in this section have appeared in countless materials about Aceh and are chronologically presented in

almost the same manner; some repetitions may be necessary for readers unfamiliar with the broader context of Aceh and Indonesia.

Aceh today is a self-governing region within the Republic of Indonesia (see chapter 2). The province currently is home to approximately 5 million people.<sup>31</sup> Geographically located in the northern tip of Sumatra, the province extends from *Kabupaten* (district) Aceh Singkil on the west coast, through Banda Aceh/Aceh Besar in the north, and eastward to Kabupaten Aceh Tamiang. The Province is inhabited by ten indigenous ethnic groups. The ethnic majority (around 87%) are the Acehnese, who occupy the wide coastal plain region from east to the farthest west of the provincial territory. The rest of the population (13%) belongs to at least seven ethnic minorities: Gayo, Alas, Tamiang, Kluet, Aneuk Jamee, Singkel, and Simeulu. The Gayonese and the Alas occupy the highland of the north and the mountain valley of the Alas River. Simuelue and Pulau Banyak are the islands off the west coast. All Aceh indigenous ethnic groups have their own languages but virtually everyone in the province speaks the official language of Bahasa Indonesia.

Up to 98 percent of the population are bound by Islam as a common faith. Among Indonesians, Aceh has a reputation of being the veranda of Mecca and having a conservative Muslim population. Colonial narratives have long portrayed the Acehnese using the terms “*fanatik*”, “rebellious,” and “hard-headed” by which Islam contributed the most to that characterization. However, such epithets are not received with negative connotations by many people in Aceh, as long as they are grounded in the centrality of Islam in their identity.

The history of the Islamization of the Archipelago (Nusantara) spans the 8th to the 17th centuries. Sufi missionaries were the ones who first introduced Islam to the region and beyond. They

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<sup>31</sup> This record refers to the latest government statistics 2017, see <http://aceh.bps.go.id/linkTableDinamis/view/id/196>, retrieved 29 September 2019.

arrived in the island of Sumatra as early as the 8th century AD. The Sufi orders who “prioritized social over politico-legal transformation” (Fauzi Abdul Hamid 2009, 158) are also widely known as dogmatically relaxed wandering mystics who readily assimilate with indigenous people anywhere they arrive. The Sufis present Islam in ways that are described as “peaceful, tolerant and adaptive” (Hodgson 1974, 34; Ricklefs 1981; Azra 2004). Upon its arrival in Aceh, Islam gradually transformed the traditions of the locals which were previously influenced by Hinduism and Buddhism, while continuing to accommodate in various degrees the legacies of Hinduism and Buddhism in local cultures.

When the Italian traveller Marco Polo arrived in Sumatra in 1292 AD he found the king of Perlak (nowadays East Aceh) and his people already converted to Islam. Marco Polo notes, “This kingdom, you must know, is so much frequented by the Saracen merchants that they have converted the natives to the Law of Mahommet” (Marco Polo 1818: 601). Over subsequent centuries, in the “Age of Commerce” (Reid 1990) Islam continued to play a pronounced role here, and many Acehnese voluntarily helped spread Islam to the rest of Sumatra, Java, and beyond. The archipelago's first Islamic kingdom Samudera Pasai (Pasee) was established in modern-day North Aceh.<sup>32</sup> Acculturation was evident in the process of Islamization of Sumatra and beyond. The Malay language, instead of Arabic, was used to teach Islam. The Islam of the Sufi missionaries explains more about Islam in Java, which tends to be described by historians as a syncretic Islam. In Sumatra the story of Islam and its dynamics is more contingent upon the times and trends in the global Islamic movement, as will be discussed further below.

### **F.1. The Sultanate of Aceh Darussalam: The Imagined Golden Age**

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<sup>32</sup> Sumatra or Sumatera Island derives its name from Samudera. Due to Samudera Pasai's influence in its time, the whole island come to be known as Sumatra (Reid 1969, 1).

Meanwhile, the word “Aceh” itself appeared in the historical record around the early fifteenth century.<sup>33</sup> As the influence of Samudera Pasai in the east coast started to decline, some local elites and merchants who controlled the pepper trade in the northern tip of the island joined together to develop the port city of Bandar Aceh to become the center of a new independent polity: the Sultanate of Aceh Darussalam, Aceh the Abode of Peace (henceforth Aceh). The establishment of the Sultanate was also “a reaction to heavy-handed Portuguese intrusion in Sumatra in 1510s” (Reid 2014, 81). Perhaps for this reason Aceh received military resources and assistance from Ottoman Turkey that helped them to build a strong navy force (Alves 2015).

The sultanate gradually gained large-scale control over the Malacca Strait. The Aceh Sultans' income mostly derived from collecting tolls from international traders passing their naval territory and in return, they gave them protection from piracy. At that time, the Malacca Strait was one of the world's most important international trade routes. As a multicultural city, Bandar Aceh was an attractive place for international merchants, travelers, and religious scholars. Aceh began to establish its status as a cosmopolitan meeting place (Snouck Hurgronje 1906, 47–48; Siegel 1969, 37). According to Edward Aspinall “ethnicity played no role in the ideology of the court or government” (Aspinall 2009, 23). The ruling class that emerged at the center of the sultanate's power was comprised not only of local people but also Indians, Arabs, Chinese, Turks, Bugis, Abyssinians, and Persians.

In the interior, pre-colonial Aceh was divided into several *Nanggroe* (states) ruled by a local nobility, known as the *Uleebalang* (chieftains), whose hereditary status was legitimized by the sultan's official letter called *sarakata*. As officers of the sultan, the Uleebalang were responsible for governing day-to-day affairs in the Nanggroe. However, as Siegel (1969) has emphasized, the nature of the

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<sup>33</sup> The author of *Adat Atjeh*, written in the nineteenth century, writes: “On Friday the 1st of Ramadan, in the year of the flight of the Holy Prophet of God, Sultan Juhan Shah came from the windward and converted the people of Aceh to the Mahomedan faith” (Siegel 1969, 39)

Uleebalang's relationship with their people in the Nanggroe was predominantly economic: they were less interested in governing than in trade (see also Schlegel 1978).

Siegel further explains that pre-colonial Acehnese society operated by stressing “the absence of unity or integration” and developing “the notion of translation and even mistranslation rather than shared meanings at the heart of the social” (R. C. Morris 2007, 378; Siegel 1969). The Aceh Sultans themselves, according to Siegel, had never shown interest in ruling the interior. They governed only the port and were busy with controlling the pepper trade and collecting tolls in the Malacca Straits, their main sources of wealth.

Between the Sultans and the Uleebalang, there was the third elite class called the *Ulamā'*, or religious scholars. *Ulamā'* is an Arabic word, a plural form of *'alim*, meaning those who possess knowledge. In Malay usage, the word *Ulamā'* refers to both the plural and singular form of religious learned people. The term and its place in Acehnese society, as well as the establishment of their authority, came with Islam. Islamic doctrine holds “*Ulamā'* as the heirs of the prophets.<sup>34</sup> The manifestation of this doctrine has been the basis for the establishment of *Ulamā'*s authority in all Muslim societies, and Aceh was no exception. Unlike the Sultans and the Uleebalang, the *Ulamā'* status was never hereditary: one cannot be born as an *Ulamā'*. The status is achieved through religious education; in the case of Aceh, this involved spending a considerable amount of time in a *Dayah* (traditional Islamic boarding school). Staying in a *Dayah* far away from one's village would help alleviate one's status to become an *Ulamā'* (Siegel 1969). As I have indicated above, since the main concern of the noble families in both the interior and the coastal areas was controlling market activities, the people of Aceh developed a closer connection with the *Ulamā'* than with either the Sultan or the Uleebalangs.

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<sup>34</sup> It derives from the Prophet saying (hadith) transmitted by Abu Dawud, Ibn Majah and Turmudzi.

Aceh continued to be an important place for international trade as over half the world's pepper came from this territory (Reid 1969, 14). During the earlier pepper economic boom, Aceh expanded its territory by conquering Samudera Pasai and Pidie in 1520s and securing its status as the most powerful kingdom in Southeast Asia (Ito and Reid 2015). Furthermore, as Islam continued to spread throughout the archipelago, Bandar Aceh became a popular stopping place for Muslim pilgrims (*the hajj*) journeying to Mecca. The pilgrims began to call Aceh by the honorific title *Serambi Mekkah*, "Veranda of Mecca" or "Doorway to Mecca"(Reid 1979; Azra 2004; Laffan 2003).

Even today many Acehnese believe that there was no Aceh before the arrival of Islam -- that Aceh would have never been born had Islam not come to the region.<sup>35</sup> Aceh grew as both polity and society where its political and social institutions, economy, and the family had been established based on Islamic doctrine.<sup>36</sup> Proud of its history as the point of entry of Islam to the archipelago, it is not uncommon for people in modern-day Aceh to boast that the province actually deserves the main credit for its role in Islamizing what would become Indonesia.

The Sultanate of Aceh Darussalam reached the summit of its political importance and economic power in the 17th century under the reign of Sultan Iskandar Muda (1607-1636 AD). The work of French historian Denys Lombard (Lombard 1967) and more recently Takeshi Ito (Takeshi 2015) shed light on this period, when Iskandar Muda orchestrated a series of unsuccessful attacks to expel Aceh's sole maritime nemesis at that time, the Portuguese, who had already occupied Melaka

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<sup>35</sup> Personal communication with UIN Ar-Raniry historian Nurdin AR, 23 July 2016

<sup>36</sup> James Siegel, however, has shown that by the 19th century and the early 20th century Aceh was a fragmented and almost unintegrated society. Aceh "composed of four encapsulated groups existing side by side". They were the royal family (sultan and his family), the Uleebalang (chieftains), the Ulama' (religious scholars) and the villagers (ureung gampong) and each of them had its own conception of the nature of both Aceh and Islam (Siegel 1969, 68-69).

(Malacca) since 1541. Most of his fleet was destroyed in the battles of Melaka. His successor Iskandar Thani and four queens in sequence (Khan 2017) who ruled Aceh for half century after him likewise failed in their attempts to evict the Portuguese.

## **F.2. Destiny Disrupted: The Colonial Encounter**

The Aceh sultanate's power gradually waned with the growth of European colonial forces in the Malay Peninsula. After the opening of the Suez Canal in 1869, European countries, especially the British and the Dutch, became more aggressive in seeking the sources of pepper and other spices from Sumatra. Tension began to escalate after the Dutch East India Company (VOC) complained that their ships were often pirated and threatened by the Aceh naval force preventing access through the Malacca Strait. In 1871 the so-called Anglo-Saxon Treaty between the Dutch and the British deliberately put Aceh and the island of Sumatra under Dutch control. The British in exchange gained control over the Dutch Gold Coast in Africa (Reid 1969). Aceh refused to be the subject of the treaty.

However, at that time the Ottoman Empire was already weak and lacked the military resources to fight the Dutch. Aware of this situation, the Sultan of Aceh first tried to negotiate by sending diplomats to meet with representatives of Dutch and British forces in Singapore. A series of diplomatic meetings ended in deadlocks. Eventually the Dutch declared war on Aceh on 26 March 1873.

The first Dutch invasion of Aceh in April 1873 failed. The Acehnese killed General Kohler who led the force. He was shot in front of the Baiturrahman mosque in the episode recounted at the beginning of this introduction. The Dutch sent the second military expedition from Batavia in November 1873, this time with a larger military force, and ultimately captured the *Dalam* (Sultan's palace) and seized Sultan Alauddin Mahmudsyah. Before the Dutch arrived, however, the sultan's family already fled to Keumala, in Pidie district. Alauddin Mahmudsyah died of cholera in 1874. His only son Muhammad Daudsyah died at the age of 3. This year marked the beginning of a dreadful war

which ended only in 1904 when Muhammad Daud Syah was captured and sent into exile by the Dutch East Indies government in 1907.<sup>37</sup>

In the sultan's absence and after many of his Uleebalangs (who already lost their income from trade) agreed to work with the Dutch colonial officers (Siegel 2000b: 71), the rebellion found new leadership under the Ulamā'. The Ulamā' took over and provided a new ideological direction: the colonial war became *jihad* against the infidels. Teungku Chik Di Tiro Muhammad Saman (also known as Teungku Tiro), an Ulamā' from Tiro, Pidie, emerged as the most charismatic figure to lead the rebellion. He gave protection to the sultan's remaining family members. A powerful ring of Ulamā' and followers supported Teungku Tiro in waging the war against the colonial infidels in the name of *Prang Sabil* (I. *Perang Sabil*), war in the path of God.<sup>38</sup> The Aceh Ulamā' invoked countless rewards of paradise awaiting those willing to sacrifice their lives in a war against the infidels. While the Ulamā' referred to Quranic teaching as the source of waging the jihad, James Siegel argues that lay Acehnese learned about jihad and the promised paradise mostly through an epic poem entitled *Hikayat Prang Sabil* (Siegel 2014).<sup>39</sup> Teungku Tiro and his Ulamā' circle were very successful in mobilizing the Acehnese fighters (mostly consisting of peasants in rural areas) and directing guerrilla warfare for

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<sup>37</sup> Some historians say the Aceh war ended in 1912 (Alfian 1987), others say it ended in 1942 with the arrival of the Japanese (see Van 't Veer 1969). As James Siegel has noted since the war had no formal conclusion, the date the war ended has never been precisely determined (Siegel 1969: 5, 2014: 29).

<sup>38</sup> To my reading, with the exception of Ibrahim Alfian's book *Perang di Jalan Allah* (Alfian 1987), many students of Aceh have vaguely translated the phrase "Perang Sabil or Prang Sabil" as "Holy War". The Arabic word "Sabil" means path or street. Talal Asad argues that the translation for holy in Arabic is "muqaddas" and it never applies to war, unless for places such as Bayt al-Muqaddas (the Holy House) or for spirits. This goes the same with the term "Jihad" which is often mistranslated as Holy War too. On general misconception of jihad and holy war see Talal Asad's *On Suicide Bombing* (Asad 2007, 11).

<sup>39</sup> Hikayat is a classical Acehnese literary form. Hikayat Prang Sabil was chanted in rhythmic and melodic song. In village areas, part of the Hikayat Prang Sabil is still sung by Acehnese mothers as a lullaby. Regarding the content of the Hikayat Prang Sabil (see Alfian 1987).

almost two decades. Teungku Tiro died in 1891. Rumors circulated that an Uleebalang who worked for the Dutch had poisoned him.

By 1914, the Dutch had practically put down all forms of organized resistance in Aceh. Many militant Ulama' were either captured or killed. The Dutch forced those who survived to stay away from politics. At the community level, the colonial government allowed the Ulama' to take roles in domestic law. General J.B van Heutsz and his advisor Christiaan Snouck Hurgronje received the most credit for the victory over Aceh. The latter was a well-known Dutch Islamologist, ethnologist, and notorious colonial advisor for the Dutch East Indies government. His role was crucial to the Dutch military efforts to subdue the Acehnese, especially after the colonial government followed his advice to bring the Uleebalang under their control while suppressing the Ulama' by military force.

### **F.3. Adat and Islam**

Approximately between 1891 to 1892 Snouck Hurgronje spent eight months in Aceh to collect information. He was curious why it took so much time and so much cost for the Dutch to defeat Aceh. Based on his meticulous observation on Acehnese life, including kinship, beliefs, rituals, plays, household, and culinary practices, Snouck produced two extensive ethnographic volumes entitled *The Acehnese* (Hurgronje, 1906, 2 Volumes, originally published in Dutch entitled *De Atjehers* in 1895).<sup>40</sup> From 1895 to 1905 Snouck also wrote hundreds of pages of advices to the colonial government, both in Kutaradja and Batavia, on how to deal with the Acehnese and Muslims in the East Indies in general (Nubail 2015; Snouck Hurgronje 1957).

It is worth to noting that before establishing his profile as the most important colonial advisor on Aceh, Snouck already received a strong reputation as an expert on Islam. Snouck studied Arabic at

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<sup>40</sup> The monograph became a standard reference on 19th-century Aceh. Due to his sarcastic tone and bias by his official position in the Dutch colonial administration during the Aceh war, the unavoidable details in *De Atjehers* have only fueled the Acehnese people's love-hate relationship with Snouck even to the present.

Leiden University and wrote his doctoral thesis on the Muslim pilgrimage to Mecca. In 1884 he traveled to Mecca, but the city was forbidden to non-Muslims. He moved to Jeddah. Here he was reported to have converted to Islam in 1885.<sup>41</sup> He wrote an influential account of the Meccan community in the latter part of the 19th century (Witkam 2007).

At the time of his conversion and his study of Islam in Mecca, the holy city was already heavily under the influence of Wahhabism. Likely Snouck arrived in Aceh in 1891 with a Muslim modernist doctrine in mind, as is clear from his ethnographic work in which he claims in full confidence that Acehese religious rituals and their judicial practices were not Islamic by the Muslim modernist standard, in contrast to what the Acehese thought of themselves. He claimed that worship rituals and legal systems applied in Aceh were largely based on local norms called *Adat*, an Arabic word that means custom-- rules accepted, inherited, and practiced by the community.

Clifford Geertz has pointed out that in the Archipelago, *Adat* is another name for order “applying equally to forms of etiquette, rules of inheritance, methods of agriculture, style of art, and rites of invocation” (Geertz 1980, 51). *Adat* was generally unwritten, simply passed down from one generation to the next by practices and oral transmission, until it had become internalized as the consensus of the community. For the Acehese people, however, the source for their consensus is nothing but Islam, and hence Aceh is synonymous with Islam.

Snouck radically separated *Adat* from Islam. *Adat* had never been a *law* before Snouck coined it. He insisted on using the term *Adat Law* (*Adat Recht*) to refer to local Muslim practices in dealing with legal matters (Snouck Hurgronje, 1906). Consequently, he saw Islamic law in Aceh as merely a

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<sup>41</sup> The truth about his conversion continues to be subject to popular and scholarly debates (see Van Koningsveld, 2016).

secondary, supplementary, source for the Acehnese. In short, as Siegel underscores, Snouck viewed that Syari'ah in Aceh "was honored but only to be ignored" (Siegel, 2009, p. 106). This understanding was translated in the Dutch colonial government's policies by privileging Adat over *Agama* (religion). In practice, it was a way to undermine the authority of the *Ulamā'*, pursuant to the strategy to separate the Acehnese from their religious leaders. This creation of customary law, the practice of "lawfare" in John Comaroff's term, was also practiced by colonial governments elsewhere, as "the effort to conquer and control indigenous peoples by the coercive use of legal means" (J. L. Comaroff, 2001, 306, see Lauren Benton 2009).

Snouck's pupils, notably Van Vollenhoven and Mohammad Koesnoe, developed the theory that Adat is equivalent to law in the modern sense and promoted into the so-called the science of Adat Law (In. *Hukum Adat. D. Adatrecht*) (Holleman 1981; Benda-Beckmann and Benda-Beckmann 2011). Their view on Adat as the law of the land has been adopted and taught in postcolonial Indonesia through university training. Both ordinary Muslims and Indonesian elites (i.e. scholars and government authorities) came to speak of Adat law in contradistinction to Islamic law.<sup>42</sup>

Whereas before and during the colonial war many ordinary Acehnese Muslims would not have separated Syari'ah and Adat, seeing them as complementary rather than contradictory, most Acehnese nowadays draw a clear distinction between what they perceive as less Islamic Adat and the more properly Islamic Syari'ah, undermining confidence in legitimacy of the former in favor of the latter.

#### **F.4. Jihad, Images of Rebellion and the Formation of "Acehnese Exceptionalism"**

To return to the final period of the colonial war in Aceh, the Dutch were surprised that sudden and sporadic attacks continued to occur frequently even when there was no single charismatic *Ulamā'*

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<sup>42</sup> Given their sentiment to Snouck's role during the Aceh war, many Indonesian Muslims would also identify Snouck's theory on the superiority of Adat over Syari'ah as "the devil's theory" (I. *Teori Iblis*) popularized by Indonesian scholar Hazairin (Hazairin 1976; see in Lev 1972),

left to instruct the Acehnese to do so. Such action was committed mostly by an individual, a *mujahidin* (this term refers to those practicing jihad, but at that time they might never call themselves using that term) who often burst, in a sudden appearance, on a marketplace or in a tram racing to kill or to get killed by Dutchmen.<sup>43</sup> Not part of an organized strategy, Acehnese mujahidin hoped for nothing but to gain paradise (Siegel 1969, pp. 82-83). At least 120 Dutchmen were killed in random attacks of jihad between 1901-1930s. The Dutch colonial government was bewildered by the attacks, which even targeted Dutch women and children.

Since they believed the war had ended, they could not categorize such phenomena as acts of war (Kloos 2014a, 26). The psychiatrist F.H van Loon was sent from Holland to lead the investigation into what motivated such murderous hatred from the Acehnese., establishing a mental asylum in Sabang, the Island of Weh, just off the coast of Banda Aceh.<sup>44</sup> David Kloos has noted that the Dutch colonial government attributed such violent attacks to “the mere primordial traits of the Acehnese race” which included lunacy (Kloos 2014a, 26–27). For ordinary Acehnese, however, having perceived their struggle against the Dutch as the war under the banner of Prang Sabi, killing the colonial infidels was part of performing jihad. They wanted to kill, and the goal was to be killed. They had something concrete to look for: the rewards of paradise.<sup>45</sup>

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<sup>43</sup> The attacks came to be known as “Atjeh Moorden” (Aceh murders) in Dutch literature, a suicide attack directed at the lives of random Dutch residents. See Siegel “The Curse of Photograph 1901” (J. T. Siegel 2005b), and David Kloos “A Crazy State” (Kloos 2014a)

<sup>44</sup> Kloos, *ibid.* On general colonial policy and the development of colonial mental hospital in Indonesia see Hans Pols “The Development of Psychiatry in Indonesia: From Colonial to Modern Times” (Pols 2006)

<sup>45</sup> For more discussion and interesting exegesis about the phenomena of Jihad in Aceh in the early 20th century see Siegel “Victory without Surrender: the Jihad in Aceh” (Siegel, 2014)

Historians note that the Aceh war was the longest and the costliest war for the Dutch in the Netherlands East Indies. The Dutch lost around 16,000 soldiers in Aceh. For the Acehnese, the war was significantly more devastating, as it cost the lives of over 150,000 people including women and children.<sup>46</sup> However, what the Acehnese continue to mourn until today is the loss of their civilization. As the Acehnese proverb says “*gadob aneuk meupat jirat, gadob adat pat ta mita*”: if one loses a child one will still find his/her grave, (but) when one loses one’s culture there will be nowhere to look for it.

### **F.5. The Emergence of the Religious Modernists: Anti-Colonial Revival**

The 1930s Aceh was marked by a new development of Islamic learning. A group of young learned Muslims, later came to be known as the Aceh reformist *Ulamā’*, were committed to modernizing Islamic teaching. They established several modern Islamic schools (*madrasah*) in Aceh’s east coast, notably in Pidie and Bireuen, to supersede the Acehnese traditional Islamic boarding school *Dayah*. Furthermore, the establishment of the Aceh branch of the *Sarekat Islam*<sup>47</sup> in 1916 marked a new development of Islamic thought in Aceh, namely the modernist or reformist *Ulamā’*. Kloos (2018) notes that this movement did not last long in Aceh due to the increasing polarization between the younger and the older generations. In 1916 a trans-local Islamic organization called *Thawalib*, originally formed in West Sumatra, also opened its Aceh branch. A decade after that, in 1927, the soon-to-be largest Indonesian Muslim modernist organization *Mubammadiyah* opened its branch in Banda Aceh. *Thawalib* was largely active in South Aceh which was home to many migrants from

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<sup>46</sup> Aceh war fatality statistics on the side of the Acehese vary, with estimates of total deaths ranging from 100.000 to 150.000 people (see Alfian 1987; Reid 1969; Oktorino 2017).

<sup>47</sup> Established in 1905, *Sarekat Islam* was the first Indonesian Islamic movement “to claim a social basis in Islam” (Kloos 2018, 44).

Minangkabau, West Sumatra, while Muhammadiyah secured its followers in the urban areas and of the Aceh east coast. The rivalry between these two intensified.

In the West coast, notably in Tapaktuan, Muhammadiyah was banned. Since both of the organizations were registered as educational institutions, both Muhammadiyah and Thawalib did not arouse Dutch suspicion. The colonial government even strongly supported Muhammadiyah activities in Banda Aceh.

The reformist teachings were often attributed to the puritanical doctrine of Muhammad Abduh and Jamaluddin Al-Afghani who at that time were responsible for the spread of “Pan-Islamism” in the Muslim world. The Muhammadiyah movement (founded in 1912 in Java) was seen as a model adopted by the Aceh Muslim reformist leaders that stressed their program in education and social work. Economically, after the collapse of the pepper trade and the defeat by the Dutch, many Acehnese men were left with no income to furnish their families. This made a good condition for the reformist *Ulamā’* to bring them into their teaching (Kell, 1995; Siegel, 1969). The Dutch did almost nothing to prevent this movement from growing. On the surface Islamic modernist activists demonstrated that they were staying out of politics by focusing on religious education. Perhaps, the Dutch might have seen the modernist movement as compatible with strengthening their ethical policy and considered it in line with modernity they tried to promote in the colony. The reformist movement culminated with the formation of *Persatuan Ulamā’ Seluruh Aceh* (All Aceh *Ulamā’* Association or PUSA) in 1939, and the election of Daud Beureueh of Pidie as the leader of PUSA.

#### **F.6. Social Revolution & Indonesian Independence**

In the early 1940s, PUSA activities shifted into the anti-colonial movement. Their leaders began to make contact with the larger Indonesian struggle for independence.<sup>48</sup> In 1942, during World

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<sup>48</sup> According Anthony Reid the establishment of a Java-based education organization named *Sarekat Islam* around 1919-1922 was influential for making a connection between the Acehnese and other fellow Muslims in the archipelago. In 1935, around 35,000 Acehnese attending colonial government schools and many others

War II, the PUSA leaders welcomed the Japanese to establish military bases in regions where they had more influence. The collaboration between the PUSA and the Japanese troops was successful in defeating the Dutch forces in 1942. Many Dutch soldiers were detained in the Japanese concentration camps where they starved. Although occupying Aceh for only a relatively short period of time, the Japanese followed the Dutch strategy in bringing the Uleebalang onto their side. After the Japanese left Indonesia in 1945 following their defeat in the war, the Dutch forces tried to re-occupy Indonesia. But they never showed any interest in returning to Aceh. The PUSA leaders used that moment to eliminate their long-time rival, the Uleebalang. A civil war, termed by historians of Aceh as social revolution, took place in the region between 1945-1946. The PUSA movement hunted and killed the Uleebalangs and their families. Those who survived the purge fled to Java. After successfully eradicating the aristocrats, PUSA Ulamā became the only religious and political representative in Aceh ahead of Indonesian independence.

When Soekarno-Hatta proclaimed Indonesian independence in Jakarta on 17 August 1945, the young PUSA members showed their enthusiasm to join the new republic, expressing what historian Anthony Reid calls “enthusiasm for a common destiny” (Reid 2005, 335). They persuaded their teachers (Ulamā) to support Soekarno. Enthusiastic expressions included collecting and donating a large amount of wealth (gold) to financially support the birth of the new nation-state. But as Marcel Mauss has taught, there is no pure gift; the gift always creates specific obligations and expectations from both the receiver and the giver. From the Acehnese side, the donation came along with aspirations for recognition from the national independence leaders, including for the Islamic values that had taken root in the construction of Acehnese identity. The gift served as a guarantee to

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participated in Islamic boarding schools. Reid notes “the novel idea began among the younger generation of a nationalism centered on Indonesia rather than Aceh” (Reid 2005, 345).

Soekarno, Indonesia's first president, that Aceh was ready for everything and willing to sacrifice anything to help establish the new Republic.

In return, Acehnese leaders urged Soekarno to declare that Islam would still have a special place in the Acehnese political and social lives. If independence would not result in an Islamic Indonesian state, the Acehnese at least wanted a separate Islamic region. Soekarno knew what to expect from the Acehnese. He accepted the donation calling Aceh widely as *Daerah Modal* (Special Region which Provides Resources) for Indonesia, while promising a special autonomy status for Aceh to accommodate the official place for Islam in the province. He appointed the PUSA leader Daud Beureueh to be the first governor of Aceh. However, in Soekarno's eyes, and hence in the Indonesian central government's view, Aceh always had a strong separatist tendency, and the concession was intended to limit the potential for trouble in the region.

#### **F.7. Darul Islam: The Republican Revolt**

In 1950 Soekarno dissolved the autonomous region of Aceh and deliberately incorporated the province into East Sumatera (Sumatera Timur). The Acehnese were angry. They felt betrayed. In 1953 Beureueh proclaimed Aceh's allegiance to *Darul Islam/Tentara Islam Indonesia* (the Islamic State/Indonesian Islamic Forces) or DI/TII, a rebellion movement that first emerged in West Java then received support in Central Java, Sulawesi, and Sumatra. It is clear, however, that the idea of maintaining the nation of Indonesia was still the primary goal of the DI/TII. Both Kartosuwiryo and Beureueh were nationalists and "Republiken" in nature. The name of Indonesia had never been detached from the banner of their struggle. The goal of the Darul Islam rebellion was to make Indonesia more Islamic. As some historians argue, the rebellion was a struggle to instill Sharia law as the law of Indonesia (Formichi 2012b; 2012a; Boland 1982; Dijk 1981). Soekarno preferred a military approach to crush the bid. Meanwhile, an Acehnese young man named Hasan Muhammad Tiro was studying at that time at Columbia University and worked part time at the United Nations office. Tiro

came forward to support Beureueh's movement from abroad. He wrote a letter from New York as an ultimatum for Jakarta to stop genocide in Aceh. To embarrass Indonesia, Tiro threatened to open a representative office of the Republik Islam Indonesia at the UN (Reid 2005, 347). He would lead another kind of secessionist movement against Indonesia a few decades later.

After seven years of civil war, a ceasefire was agreed upon in 1959, whereby the leader of DI/TII in Aceh Daud Beureueh stopped the rebellion.<sup>49</sup> In the peace agreement, the central government offered a degree of autonomy for Aceh including the right to apply Syari'ah law. The status of Aceh as a special province was restored and given a new name: *Daerah Istimewa Aceh* or D.I Aceh (the Special Region of Aceh). However, only three months after the ceasefire, Soekarno declared a return to the 1945 constitution and invalidated many of the points of the 1959 peace accord. The autonomy status of Aceh accomplished nothing but a new name, Daerah Istimew. As a result, the image of "the Jakarta traitors" became stronger in Acehnese minds. Daud Beureueh continued to be a charismatic leader for the Acehnese even though he did not occupy any political position after the ceasefire. By the time Soeharto took over power from Soekarno after the massacre of the communists in 1965-66, Beureueh's influence was already weak. Many of his former close associates had been coopted by the central government in exchange for money and political positions. To cut off his connection with his people, Beureueh was kidnapped and brought to Jakarta by *Kopassus*, the Indonesian special forces, where he was put under house arrest. After Beureueh became incapacitated by senility (it was rumored that he was drugged), the government began to encourage the Aceh community to return to traditional practices that had previously been eradicated by PUSA.

#### **F.8. The Free Aceh Movement (GAM): Shifting from Islam to Nationalism**

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<sup>49</sup> In West Java, Kartosuwiryo was also defeated. He was captured and executed in 1962.

By the early 1970s the nature of the Aceh conflict shifted from a rebellion in the name of Islam into an ethno-nationalist movement (Aspinall 2009). The armed struggle was pursued by a new rebel group called *Gerakan Aceh Merdeka* (The Free Aceh Movement or GAM) led by Hasan Muhammad Tiro, the former Columbia graduate student mentioned above. After becoming a successful businessman, as described in his diary entitled *The Price of Freedom* (Tiro, 1981), Hasan Tiro returned to Aceh in 1974, three years after a huge natural gas reserves had been discovered in Arun, North Aceh. Some scholars identify the outbreak of the GAM rebellion as a result of a “natural resource curse” following this discovery (Kell 1995; Schulze 2004; Miller 2008). The installation of a natural gas facility in Lhokseumawe beginning in 1971 by the Indonesian government in cooperation with the American company Exxon Mobil brought the increasing Indonesian military presence in the region.<sup>50</sup> A large share of the Arun field exploitation belonged to Exxon Mobil; while the project benefited the central government in Jakarta, very little of the profit from the vital project operations remained in or flowed back to Aceh.

In his memoir, Hasan Muhammad Tiro wrote that one of the GAM’s goals was “to close down foreign oil companies and to prevent them from further stealing Aceh’s oil and gas” (Tiro 1982, 78; Schulze 2004). However, in GAM’s official rhetoric later on, neither Islam nor natural resources exploitation would be put forward as the cause of the rebellion; instead there was an insistence that the fight against the Indonesian government was based in “historical consciousness.” Tiro, according to Anthony Reid, might be “obsessed with history” (Reid 2005, 335). For Tiro, once the people of Aceh have come to learn and understand their history, there is no way for them to accept a ruler other than themselves. In Tiro’s pamphlets, the Dutch never defeated Aceh. His doctrine emphasized

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<sup>50</sup> see also International Center for Transitional Justice’s report on Exxon Mobil’s role in employing the Indonesian army to protect its facilities in Aceh and its connections to human rights abuse committed in the region, <http://ictj.org/sites/default/files/ICTJ-Indonesia-Aceh-Exxon-2008-English.pdf>

Aceh's origin as a sovereign nation-state rather than Islam or economic injustice as the foundation and cause of the Acehnese rebellion. He was successful in persuading a group of Acehnese medical students who at that time studied at the University of North Sumatra to join his movement. They stood with Tiro at Gunong Halimon, Pidie, to declare the separation of Aceh from Indonesia on 4 December 1976.

Jakarta did not wait long to respond to the GAM independent movement. Soeharto, following Soekarno's policy to deal with the troubled Aceh in the 1950s, adopted a hard-power approach: a military operation. Kopassus was deployed and quickly repressed the rebellion. Most of GAM's first generation fled from Indonesia to lead the movement in exile, notably in Stockholm, Sweden, and Kuala Lumpur, Malaysia. In the 1980s, Tiro recruited a new wave of GAM combatants after he agreed with Muammar Qaddafi, President of Libya, to include his troops in Qaddafi's sanctuaries and facilities created to train liberation movements around the world (Kell 1995; Aspinall 2009; Schulze 2004). Kopassus, again, was deployed to anticipate the return of Libya-trained GAM combatants. This time Indonesia designated several regions where GAM had a potential base including North Aceh, the District of Pidie, and Aceh Timur (East Aceh) as a military operation zone (DOM). Kopassus in collaboration with local security apparatuses committed atrocities from 1989 to 1998, leading to the death and disappearance of thousands of Acehnese (Al Chaidar 1998). The rape, torture, and killing of civilians in Aceh for more than a decade remained unknown to the outside world until the very last days of the New Order Regime. The fall of Soeharto opened a new phase for the GAM movement to recruit combatants and posed a serious challenge for the turbulent republic. Policies offered by the central government were unsuccessful in defusing the aspiration for independence (Miller 2008; Aspinall 2009). A bloody armed conflict, once again, became unavoidable until the tsunami of 2004 pushed it to stop.

“What doesn’t kill you makes you stronger” wrote Nietzsche in *Twilight of the Idols* (Nietzsche and Large 2009, 57). Little was left for the Acehnese after the destruction of their political and social institutions, their dignity, law, and civilization by the violence of colonial and civil wars. One thing remained which could not be taken away: Islam. “One cannot separate Aceh and Islam and vice versa,” writes Acehnese scholar Hasan Basri, who further claims “anybody who is Acehnese must be a Muslim” (Basri 2010, 187). Nothing could shake their claim that Aceh is synonymous with Islam. Islam continues to offer them the spirit of resistance against any forms of foreign interference that challenge its place in their lives. For outsiders, however, this cemented inherent rebelliousness in the image of Aceh as a region full “with a brave and hard-headed people”(Shaharom 2006, 23) and people who possess an “unruly and independent spirit” (Reid 2006, 62). Nonetheless Peter Riddle has warned, “it should be remembered that violent assertiveness is an effective catalyst in identity formation”(Riddle 2006, 47).

Until today Islam indeed still plays a very important role in most Acehnese’s daily lives and is visible socially in the structure of Acehnese communities through practices, rituals and holidays, whether for those living in towns or villages. In that sense, it is not surprising that why Syari’ah repeatedly pops up as the first solution to deal with the Aceh problem, even when the Acehnese themselves have stopped asking for it, as in the recent case with the GAM movement. In direct proportion to the claim for the centrality of a strong Islamic identity, it is no simple matter for the Acehnese to reject the Syari’ah even when it came as a new legal form, because despite the term's permutation, Syari’ah still means Islam to them. But, when there is considerable act of resistance against the law, the next question is which Syari’ah they want. There is no formula to explain this phenomenon yet. Do those who accept the implementation of Syari’ah really mean they want it as the rule of law? Is it limited only as an Islamic penal code or *budud*? Furthermore, in what ways are ordinary Acehnese Muslims’ vision of Syari’ah different from that of the Aceh Syari’ah authorities?

## **G. Anthropology at Home: Notes on Research Methodology**

I have mentioned above that I was born and grew up in Aceh. Consequently, it is difficult to plot the “real timeline” of my fieldwork in the region. I share a similar experience and feeling with those conducting anthropology at home that seems to have “no beginning and no end” (Strathern 1987). While I conducted my primary fieldwork for this study during 22 months between June 2016 to May 2018, I really began gathering considerable data and supporting materials for this present work in 2011 when I was involved in a joint research project called the Islamic Research Programme (IRP). In 2013 I started my anthropology training at Harvard University and since then I traveled back and forth to Aceh to investigate recent developments in the nature and function of Aceh’s Syari’ah. My anthropological training at Harvard has brought more nuance to the ways I think about and look at Aceh.

Doing fieldwork at home is not a new development in the discipline of anthropology (Jackson 1987; Steedly 2013; Ellis & Bochner 2000). However, when I choose to go home to conduct fieldwork, I still came across various difficult questions. How should one study culture where one lives in it? How to conduct fieldwork in the setting with which one has intimate knowledge? How to make the familiar unfamiliar? Conducting fieldwork in a setting I have intimate knowledge about might prevent me from experiencing a sort of immersion and new cultural encounter. I was certainly wary of the failure to go beyond the self-evident. However, having a geographical distance from Aceh within the last five years (by studying in the US and through my marriage to my wife who spends most of her time in Singapore) and the obligation to write this dissertation in a foreign language have given me some distance from the place I call home.

I sometimes consider my work as an ethnography of past and present lived experiences. I build this present study on the basis of a wide range of sources. In addition to interviews and participant observation, I studied history as well as contemporary and classical literature of Aceh, local

newspapers, court reports, correspondence, and social media posts relevant to my dissertation topic. Those are important sources for the situations sketched and descriptions of events in this dissertation. Above all, this study has also been preceded by my life experience, my participation and involvement in some historical events and cases I brought to this study. This doesn't mean that during my primary fieldwork I skipped archival research. Libraries in Banda Aceh and Jakarta welcomed me. I was flattered to gain trust to sketch various personal and family histories of my fellow Acehnese for the purpose of this study. To be able to get and share their stories, I followed, listened and talked to them, and on some occasions lived with them.

As a researcher and a member of Aceh society I have access to the Acehnese sources necessary for this research, both written and spoken. I maintain a good relationship with a group of young committed journalists in Banda Aceh. I owe a lot to them on the notions of “event,” “story,” “accident,” “incident,” and “investigation” that form this dissertation.

## **H. Chapters Breakdown**

Based on the above descriptions of problems, the chapters of this dissertation are arranged chronologically and will be divided into the following parts of discussion:

**Prologue** “*Make Aceh Great Again*” serves as an introduction of this present study. It establishes the context of the research, reaches back into Aceh’s long history with Islam and resistance, and summarizes current understanding of Sharia in the Muslim world and beyond.

**Chapter One** “*The Origin of the State Implementation of Syari’ah Project in 21<sup>st</sup> Century Aceh*” traces the original motivation of the current implementation of Syari’ah in Aceh and argues that Syari’ah was granted to Aceh as a political idea. This chapter shows that under the supervision of the military rulers Syari’ah became the new code of conduct and its implementation continues to be inherently political.

**Chapter Two** “*Syari’ah, Disasters, and the Politics of Patronage: The Political Economy of Syari’ah*” investigates how and why the implementation of Syari’ah resumed its significance in the aftermath of

the earthquakes and tsunami of 2004. One of the major changes in post-tsunami Aceh has been the full adoption of Syari'ah as the law of the province. This chapter analyzes several phenomena that changed the face of Aceh after the tsunami, including the new political economy of Syari'ah that emerged after the peace agreement was reached between GAM and the Indonesian government in 2005. The massive destruction inflicted by the tsunami waves in 2004 had developed fairly strong religious sentiments among the people of Aceh. This condition became a significant factor in the repositioning of the political status of Ulamā' among the Acehnese people. In the post-tsunami years, the Acehnese also began to show various attitudes and reactions against the implementation of Syari'ah that never occurred before.

**Chapter Three** “*Two Stages for Performance in Aceh: TV Eng Ong and The Carnival of Public Caning*” reveals that the implementation of Syari'ah has spurred on the birth of two forms/model of performance stages in the region with very different aims. The first model is the caning punishment stage and the second model belongs to traditional art performance, TV Eng Ong. In this chapter I discussed “two stages” to contrast and to find similarities of the effect of caning punishment with art performance. For some people who attended both models of the stages, in one way or another would see its similar value; that is, to entertain. This chapter discusses how both stages became the sites of resistance to the implementation of Syari'ah in the province.

**Chapter Four** “*Muslim Punks and State Syari'ah*” analyzes why in the past years the local government of Aceh places the “problem” of punks squarely in the context of the implementation of Syari'ah law. In this chapter I will investigate why Acehnese rebellious youth choose punk to express their identity rather than other style-marked identity. The case of punk youth in Aceh demonstrates that Syari'ah state attempts to limit ways of being have not gone uncontested. In the process, punks, as well as other social groups in Aceh, continue to negotiate the limits of the Syari'ah state.

**Chapter Five** “*Wilayatul Hisbah and the Limits of Syariah Policing*” discusses the new policing unit introduced along with the implementation of Syari’ah in the Aceh Province. The policing unit known by local term WH (abbr. *Wilayatul Hisbah*) is one of the most controversial elements of the Syari’ah in Aceh. The media has often portrayed them as a coercive force and has assumed them to be tremendously powerful. However, while members WH are often viewed as the ones who perpetuate acts of violence, below I will show they have often been subjected to violent acts themselves at the hands of both ordinary citizens and other police forces as well as the army and other high-ranking government officers. Below, I will reflect on several cases and discuss how the Aceh Syari’ah state is trying to achieve order through policing and how it deals with the failure to fulfil the mandate.

**Chapter Six** *Crimes and Punishments under Syari’ah Law in Aceh* analyzes how new crimes are defined and prosecuted under the Syari’ah law. I have built this chapter around the first case of homosexual activity prosecuted using the Syari’ah criminal code in the province. I have chosen this case because it was the first of its kind and was the subject of mass public interest. Through this case, I describe not only the experience of LGBTQ people under this new enforcement of Islamic criminal law but also how they dealt with challenges such as violence, stigmatization and criminalization beyond a legal framework.

**Epilogue** *Syari’azation and Its Discontents* serves to reveal the fate of some central figures to my present study. The fate these figures illustrates the future of Syari’ah and how it ties continuously to the politics of the region. This concluding chapter also extends the notion of “unresolved tensions” often experienced by anthropologists doing ethnography at home.

## Chapter 1: The Origin of the State Syari'ah Project in 21st Century Aceh

“Lack of historical sense is the original error of all philosophers” (Nietzsche, *Human, All-Too-Human*)

### Opening Remarks

In this chapter, I address the following questions: why did Syari'ah come to be implemented in Aceh? How did it become the law of the province? What (political) factors account for this?

To the present, the implementation of Syari'ah in Aceh has received a great deal of scholarly attention. However, the political motivations behind its current adoption into the legal system of the province have not been explored. Increasingly it is assumed that the Acehnese have asked for it. Feener (2013a), for instance, argues that the enforcement of Syari'ah in contemporary Aceh has no political motivation, but is driven by a local desire to use Islamic law as a tool of social transformation and to remake Aceh in the aftermath of the 2004 tsunami. Meanwhile, Abubakar (2003), Ali Muhammad (2003), and Abbas (2015) have emphasized the idea that Syari'ah is the gift that the Acehnese had already long requested. The argument is based on the centrality of Islam to Acehnese identity and the historical precedent of the Darul Islam rebellion. These local scholars also indicate that Syari'ah is the achievement of the politics of the periphery against the center. In this telling, politics played a role behind its reenactment as “it allows local elites to gain political currency by opening up new sources of revenue that were previously beyond their reach” (Buehler 2008, 257).

In contrast to the above arguments, I argue that imposition of Syari'ah in Aceh should be understood as purely a political project of the Indonesian central government. I do not deny that there has been a combination of religious, historical, and social forces at play at the local level (see for example in ICG report, 2006), but I consider that these forces have been manipulated and encouraged

by the architects of the Syari'ah project at the national level and their local collaborators in order to push for the implementation of the law in Aceh; Aceh Syari'ah and its consequences continue to be inherently political. In other words, a collaboration between the central government and Acehnese politicians working for the Indonesian government has led to the imposition of Syari'ah law in Aceh. These politicians were prompted to find strategies to respond to the re-emergence of separatist challenges in 1998-2004. I share this argument with Aspinall (2007); Miller (2009); Ichwan (2011); and Missbach (2016) who have indicated a similar view in their works. My view, however, is largely informed by my own experience and engagement as an Acehnese and student activist who lived in Aceh during the turbulent times of 1998-2009.

This chapter will trace and analyze the conditions that have made the implementation of Syari'ah in Aceh possible in the present and why it was not possible previously, for instance during the Soekarno and Soeharto era, in order to shed light on why the Syari'ah policy in Aceh has been historically a political project. I argue that without examining these historical contingencies, it is impossible to understand why Syari'ah was imposed, rejected, and later adopted, how its meaning has changed, to borrow from Iza R. Hussin's work on Syari'ah in Malaysia, from "a broad pathway through life, to a narrow line of codes" (Hussin 2016). This chapter will also offer an indispensable backdrop for my further discussion on the Acehnese's different attitudes towards Syari'ah law. I will also include early divergent views over the meaning and the uses of Syari'ah in contemporary Aceh.

Michelle Ann Miller (2009) has noted that most of the scholarly works on policy initiatives regarding the peace process between the government of Indonesia and *Gerakan Aceh Merdeka* (GAM/the Free Aceh Movement) have concentrated on developments since the beginning of Abdurrahman Wahid's presidency (1999-2001) (see for example in Schulze 2004; Missbach 2012; Aspinall 2009). This is also the case with the discussions of the politics of Syari'ah in Aceh. Ichwan (2011) for example focuses on "the politics of shari'atization" in Aceh largely on the period after the

Megawati presidency (2001-2004). This overlooks the important decision-making processes under the Habibie presidency: the period when Syari'ah law was first proposed and turned into an instrument to solve the armed conflict in Aceh. Studying policies under the Habibie administration is indispensable for understanding what had happened in Aceh since 1998 onwards. In this chapter, I will analyze the central government's political moves and institutional practices in dealing with the Aceh problem leading up to the drafting and the passing of Law number 44/1999 on the special status of Aceh. In so doing, I will explain the forms of connection and interaction between Acehnese elites and the Indonesian central government during this period. Following McGibbon (2006), I define the Acehnese elites as "those members of the upper echelons of the provincial legislature and government and their main political advisors" (2006: 317). Narratives and analysis presented here are based on written documents produced during and about that period as well as interviews with Acehnese legislators (representatives of Aceh at national and local parliament of 1999-2004 and after) and student activists, which I conducted during my preliminary research during the summer of 2015 and in the month of June, 2016.

### **A. Economic Crisis and the Fall of the Authoritarian Regime**

*"Violence is the midwife of every old society pregnant with a new one"* (Marx 1990, 916)

In 1998 Indonesia was a "country in despair" (Dijk 2001) suffering from two interrelated economic and political crises. The Asian financial crisis which erupted in mid-July 1997 devastated the country's economy, but it was not until early January of 1998 that the New Order's age of development came to see itself on the edge of "the age of crisis" (Vickers 2005, 204).<sup>51</sup> By April 1998, Indonesia

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<sup>51</sup> Crisis or krisis first was the most popular word during this time. It was first referred to monetary crisis, later overall Indonesia's economic and social crisis at that time was referred to as *Krismon* (Krisis Moneter).

went into a freefall after the national inflation jumped approximately 46% (Nasution 2000). In Jakarta, Indonesia's capital, students from various universities organized a series of demonstrations marching for days protesting against the rise in prices; gradually the demonstrations turned against Soeharto.

Indonesia was thrown into chaos after four students from Trisakti University were shot dead by the police on May 12.<sup>52</sup> Thousands of people took to the streets joining the students' protest. Riots broke out in Jakarta and soon spread across Indonesia's major cities. In Jakarta and Medan, *massa* (rioters) burned public buildings and looted shops and malls.<sup>53</sup> By May 15 at least 170 people had been killed and scores of women, most of them ethnic Chinese, had been raped by rioters in Jakarta. On May 18, students of Jakarta universities began to occupy the National Assembly (DPR) headquarters and demand the resignation of Soeharto and *Reformasi* (democratic reforms) for Indonesia. The students' protests persisted despite the brutality of the Indonesian armed force (TNI) and the police (Polri). Against all expectations, they successfully forced Soeharto to step down on May 21, 1998, bringing to an end 32 years of "enforced stability" (Nordholt and Van Klinken 2007).<sup>54</sup> The anxiety of "the weakened state" (Mary-Jo DelVecchio Good and Good 2008) and the uncertainty over the future of the distribution of power was manifested by an intensification of violence in many parts of the country (Siegel 2006; Spyer 2002; Sidel 2007; Van Klinken 2007).

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<sup>52</sup> James Siegel has offered an interesting interpretation on what happened between May 13 until the resignation of Soeharto on May 21. See (J. T. Siegel 1998b, 74–108). For analysis of the violence that followed Soeharto's downfall see John Sidel's *Riot, Pogrom, Jihad* (Sidel 2007).

<sup>53</sup> In many parts of Jakarta and Medan, North Sumatra, much of the hostility was directed at ethnic Chinese. The Chinese population in Indonesia is about 5%, but widespread belief holds that they control much of Indonesia's economy. Discrimination against ethnic Chinese has been carried out by governments in Indonesia since the colonial period. See, Sidel, *ibid*.

<sup>54</sup> Although a few years before Soeharto's downfall the Indonesian public had grown increasingly cynical about the ruler and his family as well as about media censorship, virtually no one expected that Soeharto would step down. See Adrian Vickers (2005), especially pp. 200-203.

Soeharto's vice president and his long-time favorite cabinet member, B. J. Habibie, took over the presidency in the thick of that post-authoritarian predicament. In his first days in office, he faced mass popular protests, religious violence, and economic recession; most challenging of all was the threat of national disintegration (Dijk 2001; Crouch 2000; Miller 2009). Three provinces, known as troubled regions or “*daerah rawan*” (Robinson 1998) under the New Order regime, namely East Timor, Aceh, and West Papua, demanded independence, coming forward “to claim on historical grounds” that they were ideologically, culturally, linguistically, and racially distinct from the rest of Indonesia (Aspinall & Fealy, 2003).

Secessionist movements were active in West Papua since the 1960s and in East Timor and Aceh since the 1970s. The movement was weakened in East Timor in the late 1970s after Indonesia carried out a genocide that killed more than 25% of the East Timor’s population. In West Papua and Aceh, the 1970s the secessionist movements grew stronger. Thus, the military implemented *Daerah Operasi Militer* (Military Operation Zone, DOM) status in 1977 in Papua, the first of its kind in the country, and applied that martial law to the province of Aceh in 1989. Following the fall of Soeharto, those movements emerged to reclaim their momentum. However, thanks to international support only East Timor was politically closer to freedom.<sup>55</sup> Three weeks after taking office, Habibie ordered the release of the East Timor independence movement leaders and offered an autonomy package to the Timorese, to be decided through a referendum: a vote for the autonomy package would be to remain part of Indonesia, while rejection would count as a vote for independence (Kingsbury 2009).

In Aceh, the Free Aceh Movement (GAM) also took advantage of growing national instability. GAM propagandists actively visited one village after another, mostly through evening *dakwah* (an

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<sup>55</sup> The East Timor leaders were diplomatically successful in bringing the international community to join them to put pressure upon the Indonesian reformasi government.

open-air sermon) in rural areas, drawing crowds of supporters.<sup>56</sup> The special place in the world of the nation of Aceh (*Bangsa Aceh*)<sup>57</sup> and its golden history were central to GAM's propaganda, which blamed Aceh's decline on illegitimate colonial rule by the Java-dominated Indonesia. Only by freedom would the glorious past be recovered, and lost *marmab* (dignity)<sup>58</sup> be regained. They also warned the villagers to prepare for the return of *Wali Nanggroe* Hasan Tiro, the supreme leader, who could arrive at any time, by a submarine or helicopter.<sup>59</sup>

At every rally, GAM propagandists consistently used the slogan “*Wali karap troh geunoe, sibak rukok teuk Aceh ka mardehka*” (Wali is on the way home and after we finish one more cigarette Aceh will be independent [from Indonesia]). The “one more cigarette” (*sibak rukok teuk*) metaphor emphasized how close the Acehnese people were to their long-awaited freedom.<sup>60</sup> By the time of

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<sup>56</sup> The propaganda activities were often termed as “Dakwah Aceh Merdeka” or socialization of Aceh independence. The word “dakwah”, derived from Arabic *da'wa* (proselytizing), was used to appropriate the independence campaign activities that often took place in the mosque courtyard or *meunasah* (village prayer place). Many GAM propagandists had an Islamic education background, having grown up in traditional Islamic boarding schools (*Dayah*) before joining the movement. They were adept at engaging the crowd with a mixture of religious doctrines and anti-central government agitations.

<sup>57</sup> According to GAM orators, the nation of Aceh occupied the best position on the highest side of the earth (*Bangsa Aceh bangsa tseuneubeeb ateub rung donja*).

<sup>58</sup> The Acehnese (also Malay) word *marmab* derives from Arabic *murū'ab* which connotes the concept of human dignity.

<sup>59</sup> In Pasee (North Aceh) people were urged to clean up the nearby beach, because the Wali's submarine could land there. In Jiem-Jiem, Pidie, a helipad was already set up. Hasan Tiro in fact would not show up until a decade later. Tiro had fled from Aceh shortly after he issued the proclamation of independence in 1976 and had never returned to Aceh since, living first in the USA and later in Sweden. GAM re-emerged for a brief time in 1988 with the return of a new generation of GAM combatants after they received military training in Libya. Anticipating their growth, Soeharto put Aceh under the Military Operation Zone status.

<sup>60</sup> It was a powerful phrase when the spirit of resistance against the central government was at its peak. As it became clear that Aceh would never achieve independence, the phrase “sibak rukok teuk” has become an ironic line used by ordinary Acehnese to mock former GAM leaders who, after the Helsinki peace agreement, occupied

Soeharto's ouster, Aceh had been wracked by bloody armed conflict for almost three decades. Since 1989, the province had been put under the military operation status, known by the local acronym DOM (*Daerah Operasi Militer*). Led by the TNI special unit force known as *Kopassus* (*Komando Pasukan Khusus*) the counterinsurgency operations involved 12,000 soldiers stationed in the region. Soeharto's downfall in 1998 did not immediately revoke the DOM status from Aceh, but the political turbulence at the national level had weakened military control over the province and in turn, accelerated recruitment for the GAM.

In addition to GAM's efforts in expanding its bases, antipathy towards the central government increased among ordinary Acehnese as they became more aware of the state's brutal violence in the region.<sup>61</sup> Reports of human rights violations (*Pelanggaran Hak Asasi Manusia/HAM*) during the DOM era became accessible to the public.<sup>62</sup> As Grayman has noted "press freedoms and the rapid growth of civil society organizations were hallmark features of Indonesia's reform movement after the fall of

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many strategic positions within the provincial government, a visible reminder of their failure to keep their promises (see more in chapter two).

<sup>61</sup> The scale of mass atrocities committed by the Indonesian army in Aceh was largely unknown before the fall of Soeharto. Not only for Indonesians who lived outside the province, but even for many Acehnese who lived in the capital city of Banda Aceh, for example, would have never heard about the atrocities that had taken place for decades in rural Aceh. The DOM status was never made public until General Wiranto came to declare an end to the status had ended in August 1998. Most of the young generation in Banda Aceh knew GAM as a separatist movement only by the name *Gerakan Pengacau Keamanan* (GPK) or Gang of Security Disruptors. See my personal reflection of this situation in "Letters to Maop" (Idria 2019).

<sup>62</sup> For instance, "Shock Therapy Restoring Order in Aceh 1989-1993," Amnesty International report about political killings, abductions and tortures peaked in Aceh in 1990 and 1991, was translated and circulated among Acehnese student activists (Amnesty International 1993). The year of 1998 also marked the publication of the book entitled *Aceh Bersimbah Darah: Mengungkap Penerapan Status Daerah Operasi Militer (DOM) di Aceh 1989–1998* which portrays in detail crimes against human rights committed by the army in Aceh. This book was written by three Acehnese intellectuals and journalists named Al Chaidar, Sayed Mudhahar, and Yarmen Dinamika and widely read and used by Acehnese students to support their arguments for the necessity of why referendum for Aceh is needed and for human rights violators have to be brought to the international court (Al Chaidar 1998). The human rights (HAM) argument further differentiated the goals of Acehnese students' activism from those of goal with GAM's.

the Suharto regime” (Grayman 2013, 25). During this time, Aceh also witnessed an important generational shift in political activism. Two new terms, namely *kekerasan negara* (state violence) and *hak asasi manusia* (human rights, HAM), were born and entered Acehnese students’ discourse. Many students were attracted to a new type of activism, becoming *aktivis HAM* or human rights activists. Some students who studied in Bandung and Yogyakarta (Java) brought home for their friends Che Guevara t-shirts and books by leftist intellectuals, generating a sense of rebellion. Acehnese student activists took upon themselves the responsibility to serve as the mouthpiece for the victims of the military operations in demanding compensation and justice from the central government.<sup>63</sup> A few also rushed to learn about Hasan Tiro and his writings on independence from 1976.<sup>64</sup> Although they never publicly supported the GAM rebellion, student activists began sharing similar appeals to the importance of Aceh’s pre-colonial history (*sejarah Aceh*) and the need to recover *marwah* after decades of humiliation by the state military apparatuses. Above all, it was a time for many ordinary Acehnese to share a greater sense of camaraderie, seeing themselves as the common victims of New Order oppression. Even without organizational ties to GAM, support for independence became nearly universal among Acehnese.

The upsurge in support for secession became stronger after some university lecturers and public intellectuals joined or established civil society organizations (*Lembaga Swadaya Masyarakat*, LSM) with an orientation towards human rights and social justice. They worked hand in hand with student activists and journalists to reveal the abuses that occurred during the DOM era and afterward. There

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<sup>63</sup> This sentiment is not new in Indonesian history, see Anderson (2006); Lee (2016); Strassler (2010)

<sup>64</sup> At that time The Indonesian translation of Tiro’s diary entitled *Price of Freedom: an Unfinished Diary* began to circulate among student activists. I just submitted my application to study at the State Islamic Institute (IAIN) Ar-Raniry. Like many other Acehnese students, I had never heard Hasan Tiro’s GAM before the government called them by the term *pemberontak* (rebels or separatists).

was a burst of foreign donor support for Indonesian NGOs especially those working in conflict areas like Aceh (Aspinall 2009: 126). With international networks and funding sources available, Aceh's LSM became the most powerful medium for critiquing the central government's military approach.

Meanwhile, preoccupied with the East Timor referendum agenda and the promise to hold the first post-*reformasi* (reforms) democratic election, Habibie dismissed the growth in Aceh of dissenting voices against the central government. As Miller has pointed out, the dominant view in Jakarta regarding the Aceh uprising was to dismiss it as merely “a reaction to counterproductive policies and practices of the New Order” (Miller 2009, 7). Perhaps Jakarta politicians at that time did not perceive GAM was a real threat because they believed Soeharto had crushed the movement and prevented its resurgence through the designation of DOM.<sup>65</sup>

President Habibie himself believed that the Aceh problem “could be gradually addressed through democratization” (Miller 2009, 8). In particular, he avoided any negotiations with GAM. Needless to say, the military leadership would have dismissed the negotiations even if Habibie had pursued them. Retired Lieutenant General Syarwan Hamid, then-Minister of Home Affairs, had asserted that in Aceh “the only thing we cannot accept is GAM. That's all. We can accept almost 100 percent of everything else” (cf. Aspinall 2009: 128). As Kingsbury & McCulloch (2006, 199) have pointed out “rather than being a force for unity, the military has become in part responsible for much of the internal conflict that threatens Indonesia's stability.”<sup>66</sup> On the one hand, Habibie needed support, or at least not a backlash from TNI if he wanted his administration to function effectively.

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<sup>65</sup> The DOM status allowed the army's special force (Kopassus) to operate with impunity against the rebels and civilians (Kell 1995; Drexler 2009).

<sup>66</sup> Kingsbury & McCulloch (2006) also pointed out the significant involvement of TNI in the relationship between the business and security sector in Aceh, especially after Arun LNG (Exxon Mobile) began to operate in Aceh in 1973.

Under Suharto, TNI had dominated the Indonesian government. Habibie, famous as a brilliant engineer but also a notoriously fragile politician, had no power to challenge the military status quo, leaving him no choice but to include many retired military generals in his *Reformasi Pembangunan* (Development Reforms). On the other hand, Habibie's pick of hardliners such as Syarwan Hamid, Wiranto, Faisal Tanjung, and A.R Pramono who were alternately in charge of leading the armed operations in Aceh during DOM era, sparked doubt about Habibie's effort to solve the Aceh problem.<sup>67</sup> In Aceh, the GAM rebels benefitted from the unstable politics at the national level. Jakarta was forced to recognize the strength of the pro-independence movement and its widespread popular support only after they learned that hundreds of village chiefs had transferred their allegiance to GAM. GAM combatants were also reported to have begun threatening non-Acehnese communities, especially the Javanese, to leave the province (*Kompas*, 1 June 1998).

Under this mounting pressure, Habibie sought to respond to the Acehnese students' demands by ensuring justice to victims of the military operations. Habibie sent members of the National Commission of Human Rights (Komnas HAM) to Aceh on 4 June 1998 (Kurniawan 2018). The result of the Komnas HAM investigation on evidence related to war crimes including the findings of mass graves and torture camps no doubt sent shock waves reaching local and national civil and military authorities. Wiranto, Minister of Defense and Security, was infuriated at Komnas HAM, denouncing the evidence they had presented as "lies," arguing that skeletal remains exhumed by Komnas HAM from several killing fields, notably in Pidie, Aceh Utara, and Aceh Timur, were actually victims of the purge of communists in 1965 (Miller 2009, 19).<sup>68</sup> Acehnese student activists too rejected the Komnas

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<sup>67</sup> For example, in June 1998 thirteen university students of Banda Aceh went on a hunger strike demanding Hamid and Wiranto be brought to military court (Miller 2009, 15-16).

<sup>68</sup> Miller also discovered that Colonel Desiri Munar, the regional army commander in North Aceh, likewise too denied the findings. He claimed that people who disappeared from Aceh were actually not killed nor arrested, but they were still alive somewhere in Malaysia as many of them already fled Aceh "to avoid being butchered

HAM report, for a different reason. For the student activists, the report that cited only 944 Acehese killed during the DOM did not reveal the true scale of the atrocities and genocide in Aceh. In return, Acehese student leaders and representatives of NGOs cited no less than 39,000 Acehese killed or disappeared during the DOM (*Jakarta Post*, 13 August 1998, cf. Miller, *ibid*).<sup>69</sup>

On August 7, 1998, Habibie commissioned General Wiranto to visit Lhokseumawe, North Aceh. At Habibie's order Wiranto apologized for the atrocities the TNI had committed during the DOM era. He proclaimed the end of DOM status and promised to withdraw all non-organic troops from Aceh in a statement:

“Today, as the leader of ABRI and with the blessing of the President, I have decided that I will leave Aceh's security in full to the Acehese themselves namely to the *Ulamā'*, community leaders and all levels of the society, including all ABRI units belonging to the Aceh Regional Police and Aceh Regional Military Command. To the Armed Forces I commander Maj Gen. Ismet Yusaeri, I give you one month to withdraw all non-organic Aceh troops, back to their respective bases.” (*Kompas*, 8 August 1998).<sup>70</sup>

Wiranto's apology made little impact in calming Acehese anger towards the *aparatus* (state military apparatus). Meanwhile, Wiranto showed his own reluctance to comply with Habibie's order to pull out the non-organic troops from Aceh (Miller 2009). Eventually, he postponed the army

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by GAM” (Miller 2009: 20). In addition to this, the DPR (People's House of Representatives) also established and sent their own team to investigate the findings. But one could judge the the military's indirect influence on the result of the DPR investigation was obvious, assince the DPR committee was led by Let. General Hari Sabarno, the head of the TNI/ABRI faction in the parliament., Indeed, in the report submitted, investigators appointed by the DPR concluded no direct connection between the army's presence and casualties during DOM era. Maj. General Pramono, former commander of Kodam I Bukit Barisan, then Inspector General of Industry and Trade under Habibie administration, even claimed that the DOM military operation had never existed, and askinged if anyone could bring him a legal/official document showing otherwise (Miller, *ibid*).

<sup>69</sup> Miller noted that the actual death toll from the DOM period is unknown. Other sources she quoted also cite vary within the broad range of 1,600 to 6000 deaths (Miller 2009, 19).

<sup>70</sup> “Dicabut Status DOM Aceh”, *Kompas* 8 August 1998.

withdrawal in order to prevent what he called a “security vacuum” in the region (*Jakarta Post*, 13 August 1998). Tensions heightened as the students continued to demand the troops be pulled out from Aceh. The Indonesian Ulama’ Council (MUI) Aceh branch stepped in to support Wiranto’s decision. Aceh’s MUI chairman Ibrahim Husen pledged to assemble all Aceh Ulama’ to back up the central government effort to control Aceh’s security (Miller 2009, 22). The state’s use of MUI to support both their development programs and military operations had been common since the early establishment of Soeharto's New Order regime.<sup>71</sup>

In Lhokseumawe, incidents of stone-throwing at Kopassus units by residents on 30 August 1998 escalated into mass riots lasting for days. Several people were killed (*Serambi Indonesia*, 4 September 1998). Following Wiranto's visit, the army also conducted a systematic operation to remove evidence of military operations in the province.<sup>72</sup> By the month of October 1998, *Serambi Indonesia*, the only daily newspaper in the province, began to report the resurgence of *petrus* (abbr. *penembak misterius*) the mysterious shooters notorious under the Suharto era.<sup>73</sup> After the Indonesian police chose to apply the term *OTK* (*Orang Tak Dikenal*, unknown person) in naming the unknown perpetrators, *Serambi*

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<sup>71</sup> On MUI Aceh and the 1965 communist purge connection in Aceh see Bruinessen (1990); Kell (1995); Morris (1983)

<sup>72</sup> Kopassus removed and destroyed all places and buildings that used to be military-strategic posts (*pos satts*). They sometimes did it by provoking villagers to burn those places. For example, on 20 August 1998, several district military personnel in the district of Pidie were reported to provoke the villagers to burn former Kopassus post called Rumoh Geudong just a few hours after the Komnas HAM investigators found several remains buried underneath and in the backyard of the place (Yappika 2007, 14)

<sup>73</sup> *Petrus* derives from *penembak misterius* (mysterious shooter) or *pembunuh misterius* (mysterious killer) an acronym given to an early 1980s military and paramilitary operation directed by the Suharto regime to “eliminate crime.” The killings reached its peak in 1983-1984 when criminals and those accused of being criminals were abducted, shot dead and left in public space. Around 5000 accused criminals were executed in this extrajudicial way between 1983-1984 and later Suharto claimed credit for the killings see Barker (1998); Rafael (2018); Siegel (1998).

Indonesia gradually adopted the term in their daily reports, as did the Acehnese.<sup>74</sup> Earlier on, Serambi Indonesia reported that the OTK were targeting random people to instill terror throughout Aceh. Later on, most of those murdered men were identified as locals who had collaborated (known in Aceh as *cuak*) with the Indonesian army during the DOM era.<sup>75</sup>

## **B. Ensuring Justice: A Failed Attempt**

Addressing the Aceh and national security situation, on 15 November 1998 Habibie established *Dewan Penegakan Keamanan dan Sistem Hukum* (Council for the Enforcement of Security and Law, or DPKSH). The council was given the mandate to advise the government on strategies and policies to resolve national stability problems. The council also included seven senior military generals. Again, Habibie's inconsistency with his civic agenda was revealed when he appointed the hawkish Wiranto to lead the council. Wiranto arrogated Aceh's security decision to himself, launching a new counter-insurgency operation called *Operasi Satgas Wibawa* (Restoring Authority Operation).<sup>76</sup> Wiranto's favorite order was "shoot on sight" (*tembak di tempat*). The operation killed at least 42 and arrested 160 Acehnese (Miller 2009, 29).

On 13 January 1999, a few Acehnese student activists writing under the name *Angkatan Intelektual Darussalam* (Darussalam Intellectual Generation) petitioned the central government to hold a referendum on Aceh, the first such public call. Two weeks later, from 31 January to 4 February 1999,

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<sup>74</sup> For the discussion on OTK, see Good (2015)

<sup>75</sup> Cuak or Tenaga Pembantu Operasi (operating assistant) was recruited by the army during DOM era. GAM soldiers were generally to blame for the killings of cuak, but they rejected the accusation and instead blamed TNI for carrying out the killings to silence their own collaborators.

<sup>76</sup> Miller also notes that popular among the Acehnese at that time was to explain Operasi Wibawa as an acronym for Wiranto Basmi Warga Aceh (Wiranto Exterminates the Acehnese People).

Acehnese student activists organized *Kongres Mahasiswa Pemuda Aceh Serantau* (Acehnese Students and Youths Congress) in Banda Aceh. The congress issued only one recommendation to address the Aceh problem: a referendum. The congress also commissioned the establishment of *Sentral Informasi Referendum Aceh* (Aceh Referendum Information Center) or SIRA. Muhammad Nazar, a student of State Islamic Institute Ar-Raniry (IAIN Ar-Raniry) was elected to chair the SIRA presidium. Most members of SIRA presidium were Ar-Raniry students who studied in *dayah* before they entered the college. Sharing the same educational background, the SIRA referendum agenda immediately received support from *Rabithah Taliban Aceh* (Dayah Students Union, RTA) the largest Muslim student association in the province. Later on, their teachers, known also as the traditionalist *Ulamā'*, joined to form *Himpunan Ulama' Dayah Aceh* (Aceh Dayah *Ulamā'* Association or HUDA) to support the call for a referendum. Gradually, GAM leaders also showed their interest, although never made it public, with SIRA referendum agenda. No doubt GAM saw it as a strategic move that would help them to achieve their independence goal. The year of 1999 was the most critical time for the relationship between Aceh and Jakarta in the post-Soeharto era. Habibie could no longer ignore Aceh.

Habibie flew to Banda Aceh on 26 March 1999 to deliver the second national apology for victims of the military operations, with the intention of holding a dialogue with the Acehnese people at the Baiturrahman mosque. A huge student demonstration greeted Habibie's arrival.<sup>77</sup> This was the first student demonstration I joined.<sup>78</sup> Most of the students could not reach the Baiturrahman because

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<sup>77</sup> "Habibie Minta Maaf, Mahasiswa dan Pelajar Aceh Tuntut Referendum" (*Kompas*, 27 March 1999). The clash between students and the army in front of the mosque on that day was reported by *Rakyat Merdeka*, "Habibie Datang, Aceh Bergolak", (*Rakyat Merdeka*, 27 March 1999).

<sup>78</sup> A few days before Habibie's visit, I went to Darussalam to get my application form to study at IAIN Ar-Raniry. All new applicants received a bandanna from senior student activists with the word "referendum" printed in it.

the security forces intercepted. We centered ourselves at the Pante Pirak bridge, about 500 meters from Baiturrahman. The Baiturrahman loudspeaker enabled people outside to follow the speeches going on in the mosque. SIRA and RTA who co-organized the action instructed students to chant *Shalawat Badar* (an Islamic poem on the Battle of Badr) and *Hikayat Prang Sabi*. We were told if the army shot and killed us, we would die as *syahid* (martyr) and go straight to paradise. No one expected to die, of course, though more than anything else at that time there was an atmosphere of growing excitement at the prospect of fighting the central government.

I remember that Habibie, delivering his speech in tears, read a long list of promises, among them recovering the special status of Aceh in matters of religion, culture, and education, giving amnesty to GAM political prisoners, taking care of the DOM orphans, improving the Acehnese economy, and solving Aceh's transportation problem by building railways to Medan, North Sumatra. Habibie asked only two commitments from the people of Aceh: "stay with Indonesia, and please do not ask for referendum nor independence." Except for the local government officials, it was certainly hard to find ordinary Acehnese who would trust the promises. Many took handwritten notes though, for the purpose of recording *bukti*, the proof for later that the list read by Habibie would turn out to be another lie from the central government. Habibie also encouraged the audience to vote in the upcoming election planned for 7 June 1999. At the end of the ceremonial visit, leaders of student activists were allowed to meet the president. They took the opportunity to denounce Habibie and his "long list of empty promises." On the Pante Pirak bridge, a clash between the students and the soldiers became unavoidable. Students were beaten and shot with gas, with 117 rushed to the hospital.

Drexler has rightly noted that for the Acehnese students, since Habibie did not hold his high-ranking military officers accountable, a referendum was seen as the only road toward justice (2008: 127). No doubt, many people both in Aceh and abroad questioned why only East Timor was given the referendum option while other "troubled" provinces were not. Even Abdurrahman Wahid (Gus

Dur), who later became the third president of Indonesia, was reported to comment in an international forum in Cambodia: “If there is a referendum in East Timor, why can’t there be one in Aceh? This is called unfair” (quoted in Drexler 2008, 182). Habibie explained the reason to *The Straits Times* journalist in an interview published on 5 August 1999:

“In (East) Timor, it’s just like in the United States, Puerto Rico. Aceh is just like, for the United States, Georgia. You cannot separate Georgia — or New York, or Alaska, or California, or Washington — from the United States of America.” (quoted in Miller 2009, 13)

The truth was more complicated than the awkward analogy to United States territory would suggest. Habibie's own odd relationship with the TNI had become strained since he offered the referendum option for East Timor without much consultation with the military leaders. As it became clear that Timor Leste would choose independence from Indonesia, the army got angrier at Habibie and considered his policy to be an embarrassment to the Republic. On the other hand, the TNI's economic interest in Aceh was beyond what Habibie could anticipate. It was proven later as his party Golkar, where many former army generals held important positions, forced him to resign from the presidential election race.

### **C. Special Status and the (Re)birth of Syari’ah Proposal: Straying from the Conflict Path**

Meanwhile, politicians and power brokers in Jakarta continued to search for “effective solutions” other than allowing the Acehnese a referendum. Before Habibie’s visit to Aceh in March 1999, government representatives had organized several meetings with some high-profile Acehnese figures living in Jakarta. Kaoy Syah, an Acehnese and member of the national parliament (1997-1999), captured different stages of the meetings in his book entitled *Keistimewaan Aceh dalam Lintasan Sejarah* (Syah and Hakiem 2000). He noted no less than twenty meetings to address the Aceh conflict arranged between January to July 1999. They met in various places, but predominantly in a place he called Widya Chandra IV/19 in South Jakarta and the office of the Minister of Home Affairs. All meetings were

under the supervision of the DPKSH members and officials from the Ministry of Home Affairs. The meetings discussed the possibility of giving economic compensation and political autonomy for Aceh, but the question remained how far the Acehnese would go if such extensive power was offered to them. They invited Aceh Governor Syamsuddin Mahmud to Jakarta to meet President Habibie on 6 February 1999.

At that meeting, as Kaoy Syah noted, the option to enforce Islamic law (*Syariat Islam*) in Aceh was initially brought to the table alongside two other major plans: investigating human rights violations and granting the Aceh authority power to control up to 80% of revenues of its natural resources (Kaoy Syah 2000, 44-48). Governor Syamsuddin Mahmud was, however, more interested in discussing “the inequitable division of the yield from the exploitation of Aceh’s natural resources” (Siegel 2000, 337). In his view, economic injustice was the root of the Aceh problem. He requested the return of 80% of revenues from natural resources extraction projects in Aceh. He also called for a federal-state system. He believed that if Indonesia adopted federalism, it would satisfy all parties, including GAM. Hence, it would end the armed conflict. He too acknowledged that *Syariat* (Syari’ah) was important for Aceh, but the law could be implemented later on, after Aceh received its federal status (*Republika*, 6 February 1999).

Following up on his meeting with Governor Mahmud, on 6 March 1999, President Habibie established a new committee called the Presidential Advisory Team on Aceh (*Penasehat President Urusan Aceh* or *TPPUA*). Habibie appointed Usman Hasan, an Aceh-born politician and former Indonesian Ambassador to Mexico, to lead the committee. Other prominent members of the TPPUA included A.R Ramly (army), Soerjadi Soedirja (army), Rifai Harahap (army), Ali Yafie (MUI), Ibrahim Risjad (businessman), Sjamsul Kahar (journalist, media owner), Muhammad Saleh (journalist), and Alyasa Abubakar (IAIN professor, later appointed as the first State Syari’ah Agency). TPPUA helped Habibie draft several points which he delivered during the Aceh visit on 26 March 1999 I have described above.

The TPPUA committee made sure that options for a referendum or a federal state would not be on the list of Habibie's promises.<sup>79</sup>

On 7 June 1999, most Acehnese responded to the call to participate in the general election with a massive boycott.<sup>80</sup> In some former DOM districts notably Aceh Utara, Pidie and Aceh Timur, where GAM's influence was strong, only 1.4% of the population went to vote. Habibie became fully aware that his visit and the promises he brought to Banda Aceh did not achieve their goals. The security situation in the province deteriorated further. Violence and bloodshed were a daily occurrence. There was killing on a large scale, mostly perpetrated by the TNI, including "one of the most notorious massacres of 1999" (Aspinall 2009, 99) when the Kopassus, led by Colonel Sudjono, brutally ambushed a dayah in Beutong Ateuh, West Aceh on 23 July 1999. Kopassus executed the dayah leader, Teungku Bantaqiah, and fifty-six of his students.<sup>81</sup> The Beutong Ateuh massacre consolidated the traditionalist HUDA Ulama' to support the referendum.

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<sup>79</sup> Interview with Muhammad Saleh, July 2018. Saleh was a member of TPPUA, a part-time journalist and leading figure of the National Committee of Indonesian Youth (KNPI) Aceh branch. Saleh claimed that his role at that time was mostly supporting any current information the TPPUA needed in Jakarta. He was not involved in drafting the Syari'ah policy.

<sup>80</sup> SIRA called for a boycott of the vote stressing that the election would not give any benefits for Aceh. TNI, meanwhile blamed GAM for the low percentage of election participation. GAM was accused of threatening to kill anyone who voted.

<sup>81</sup> Bantaqiah was accused of supporting GAM and stockpiling of weaponry. Bantaqiah had a long record of having negative relationship with the Indonesian state. He was arrested in 1993 due to his anti-government sentiments, reflected his teachings according to a military report, but no evidence was found that he ever had a connection with GAM. Bantaqiah received amnesty after Habibie visited Aceh in 1999, but he was assassinated three months after his prison release. Two months after the ambush, 25 Indonesian soldiers were put on trial in Banda Aceh military court. They were found guilty but later appealed. Colonel Sudjono who led the operation had gone missing before his trial was held. Because Sudjono had never shown up to court, other officers, had never been forced to take responsibility either (Ishak 2003).

By July 1999, TPPUA and the Ministry of Home Affairs made another form of “progress” by completing the outline of legislation on “the Distinctive Status of the Special Province of Aceh,” later known as Law Number 44/1999. The provisional bill indicated that Aceh would be granted the right to implement Islamic Syari’ah and to regulate its own religious, education, and customary life affairs, and mandated the provincial government to establish an Ulamā’ council that would have the same level of power as the local parliament in decision-making on policy.

In this newest draft, the TPPUA committee transformed the offer to apply Islamic law as the primary point that would define the special status of Aceh. In general, except for point number four, which gave the Ulamā’ more power to be involved in policymaking, the proposed special status provided nothing new for Aceh. The central government had offered similar privileges in 1959 when it quelled the Darul Islam rebellion, although they were not implemented after the peace. Therefore, the sudden decision in 1999 to re-offer Aceh the right to implement Syari’ah law must be questioned. In the first place, this was the law proposed by the central government that had eliminated the word Syari’ah from its national constitution in 1945 and rejected Aceh’s proposal to implement Syari’ah regulations in 1968.<sup>82</sup>

#### **D. Why Syari’ah?**

In the late 1990s Indonesia, the collapse of the Soeharto dictatorial regime was followed by the popular demands for the total implementation of Syari’ah. Calls to return to Syari’ah were voiced

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<sup>82</sup> In 1966, the Indonesian government formalized the establishment of Aceh Ulamā’ Council (Majelis Ulamā’ Aceh) to prevent the communist influence in the region and allowed Aceh to draft its first Syari’ah legislation. The Aceh government and the council of Ulamā’ worked together to draft the legislation they called Peraturan Daerah Propinsi Daerah Istimewa Aceh Nomor 6/1968 tentang Ketentuan-ketentuan Pokok Pelaksanaan Unsur-unsur Sjari’at Islam. The draft stipulated that, as Feener has summarized it, “the provincial government had to support and encourage Islamic worship (Ar. ‘ibādāt) to preserve Islamic morality (Ar. akhlāq), and to foster the promotion of “syiar Islam,” as well as giving mandates for the government to be more active in the fields of education, da‘wa, and upholding the duty to “enjoin the right and forbid wrong” (Feener 2013b, 133). However, the draft was rejected by the central government as soon as it was proposed in 1968.

by the Islamists throughout the country. During this period, widespread support for the adoption of Syari'ah to be “the law of the land” was also voiced elsewhere, from South Asia to Sub-Saharan Africa. Islamists considered secular democracy to have failed to deliver its promises. The phenomenon is sometimes discussed as a fundamentalist backlash against modernity (Meshal 2014; Egginton 2011; Rashid 2011; Bayat 2012; 2013) or an expression to offer alternatives to European modernity (Eickelman and Piscatori 1996; Agrama 2012; S. Mahmood 2004; Hirschkind 2006). In the 20<sup>th</sup> century, most Islamic countries under colonial powers experimented with the condition of legal pluralism with selective Syari'ah codes, mostly on private matters pertaining to inheritance and marriage. The condition continued under post-colonial regimes. Syari'ah laws were introduced “as efforts at social transformation or as bargains with Islamic movements” (Kendhammer 2013, 291). Indonesia was not exceptional to the trends. The country has witnessed the emergence of various Islamist groups, some of them calling to return to the golden Islamic pre-modern golden age, others aimed to Islamize modernity (Brenner 1996; Hefner 2016; Rudnycky 2010; Feener and Cammack 2007; Hoesterey 2015).

#### **D. 1. Islam and The Indonesian National Contest**

During the early post-Soeharto era, calls to amend the national constitution and return to the “Jakarta Charter” — the nation’s original hopes according to the Islamists — were constantly voiced by many Indonesian Muslim groups (R. W. Hefner 2011a; M. N. Ichwan 2011b; van Bruinessen 2013). The term “Jakarta Charter” refers to the 1945 national debate among Indonesia’s founding fathers concerning the place of religion in the constitution. The debate took place a few months before Indonesia proclaimed its independence on August 17, 1945, when the communists, Islamists, and secular nationalists participated to seek an ideal form for the new state and to draft its constitution.

Soekarno who represented the secular nationalist group suggested Pancasila (lit. five pillars)<sup>83</sup> be the constitutional preamble and the sole basis for Indonesian ideology. He put forward the idea that Indonesia should not be a secular nor a religious state but what he hailed as “the Pancasila State” (M. N. Ichwan 2011b, 8)

Meanwhile, the Muslim groups insisted on including a precise wording in the constitution stipulating that all Indonesian Muslims should observe Islamic law. They proposed seven words that read “*Ketuhanan dengan kewajiban menjalankan syariah Islam bagi pemeluk-pemeluknya*” (Belief in Almighty God with the obligation for its Muslim adherents to carry out the Syari’ah) (Boland 1982, 25–26). The original draft, later called the Jakarta Charter, accommodated the desires of Muslim leaders to have Syari’ah law implemented.<sup>84</sup> However, when the constitutional draft was finalized and signed by the Preparatory Committee for Indonesian Independence (PPKI), the proposed seven words were excluded from it. Both the nationalist and communist leaders contended that Muslims should not be privileged as people of other denominations as well as communists and secular nationalists had contributed equally to the Indonesian struggle for independence. The majority in the committee voted that the reference to *Ketuhanan Yang Maha Esa* (Belief in One God) sufficed to acknowledge the role of faith in the Indonesian constitution and to recognize the diversity of Indonesian society.

Many Muslim leaders outside the committee, however, felt betrayed (Hefner 2000: 37). Among the Islamists, the elimination of the seven words from the Pancasila continued to be depicted as an act of treason, the rebuttal of the Muslim's right to have Syari’ah law implemented in their own

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<sup>83</sup> Pancasila consisted of the following five principles (1). Belief in One God (2). A Just and Civilized Humanity (3). National Unity (4). Democracy (5). Social Justice for All Indonesians.

<sup>84</sup> The “Jakarta Charter” was drafted and signed by 9 committee members: Soekarno, Muhammad Hatta, Muhammad Yamin, Achmad Subardjo, AA Maramis, Abdul Kahar Muzakkar, Abikusno Tjokrosuyoso, dan Agus Salim. Also known as Panitia Sembilan.

homeland. The Darul Islam rebellion in the 1950s was seen as an attempt to restore the Jakarta Charter. In the post-Soeharto days, the Jakarta Charter remained “a contentious constitutional issue” that Islamic parties and militant groups have sought to restore (Morris 1983; Hosen 2007; Hefner 2011).

The fall of the New Order regime became a milestone for the Islamists to bring back the option of implementing Syari’ah for Indonesia. Islamic parties born after the fall of Soeharto, including the National Awakening Party (PKB), the Crescent Star Party (PBB), and the Prosperous Justice Party (PKS) again brought up the issue of the Jakarta Charter. So did the New Order United Development Party (PPP) which largely represented Muslim politics under Soeharto. PBB politician Yusril Ihza Mahendra was very insistent in conveying the need for amendments of the 1945 Constitution and replacing the rule of law which has so far adopted the rule of law left by the colonial with the rule of law that contains Islamic Syari’ah (Amal & Panngabeau, 2004).

Besides Mahendra, two other public figures known for calling the need to formalize religious law for Indonesia were Deliar Noer and Amien Rais. However, none of them explicitly offered a concrete concept of Syari’ah for the Indonesian state. Noer, for instance, only insisted that Islamic teachings are embedded and inseparable from Muslim life, this should be recognized and formalized under the state law (Noer 1999: 21-22). Rais expressed similar ideas, but at the same time, he acknowledged that Islam did not command to establish a political institution like the modern state. On the other side, there were also several figures such as Nurcholis Madjid, Abdurrahman Wahid, Azyumardi Azra and young Muslim intellectual group *Jaringan Islam Liberal* (Liberal Islam Network) who chose to promote ideas that Syari’ah should not be regulated by the state. Azra, a renowned liberal Indonesian Muslim scholar, for example, argued that there are no countries in the Muslim world that could be taken up as a role model for Syari’ah law enforcement. Therefore, he was doubtful about

the prospect of Aceh Syari'ah and that Syari'ah could succeed or bring something positive for Indonesian Muslims except romanticism (Azra, 2001; see also Bustamam-Ahmad, 2007).

At the popular level, Islamic militant groups such as *Front Pembela Islam* (Islamic Defenders Front, FPI), *Hizbut Tabrir Indonesia* (Indonesian Party of God, HTI) and *Majelis Mujahidin Indonesia* (Indonesian Mujahidin Council, MMI) emerged in public calling for a total and mandatory implementation of the Syari'ah (Buehler 2016; van Bruinessen 2013).<sup>85</sup> After they held a series of public rallies, the central government responded by passing Law Number 22 on Regional Autonomy. Several Indonesian provinces and districts, notably South Sulawesi, Solo, West Java, West Sumatra, Lombok, Bulukumba, Cirebon, rushed to pass local regulations (I. *peraturan daerah* known by Indonesian acronym *Perda*) which enshrined elements of Syari'ah (van Bruinessen 2013: 2, 11-12). This gave a little satisfaction to the Islamists to see that the central government had accommodated their aspirations.

#### **D. 2. Islam and The Post New Order's Aceh Context.**

However, the 1998-1999 Aceh showed an opposite direction against those national trends. Before September 1999, the month by which the central government fixed the plan to implement Syari'ah in Aceh, there were no marches, rallies, or demonstrations to demand Syari'ah by the local community, nor were there any Syari'ah regulations proposed by the Aceh provincial parliament -- even after Law Number 25 on Regional Autonomy gave them the right to do so. This was not because

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<sup>85</sup> FPI is an Islamic paramilitary group infamous for its violent attacks on minority groups and sweepings of bars in big cities, known for its close ties with the police force on FPI in Aceh see (Salim & Sila, 2010). Hizbut Tahrir Indonesia is Indonesia's branch of an international Islamic movement called Hizbut Tahrir meaning the Party of Liberation, first emerged in Jerusalem in 1953 and made a public appearance in Indonesia right after the fall of Soeharto in 1998. This movement aims to establish an Islamic Caliphate to unite all Muslim countries in the world. In 2017, the Jokowi administration revoked the HTI's permit to operate in Indonesia, where it now functions as. It has become an illegal Muslim organization in Indonesia nowadays. Majelis Mujahidin Indonesia (MMI) or Indonesian Mujahidin Council was founded in 1999. Allegedly to have a linked with al Qaeda, MMI was listed as a terrorist organization by the US government in 2017.

the Acehnese were immune to change and hostile to the dynamic of the religious ideas expressed by their fellow Muslims in the country and beyond, but the security issues in Aceh had created a very different situation and outcome.

After the central government began to announce the possibility to pass the Special Status bill, the situation changed. There was news about “headscarf raids” (*razia jilbab*) happened as early as April 1999 as a group of men was reported to stop and physically attack women wearing improper Islamic dress (Großmann 2016, 91, fn. 12). In Gayo Highlands, some men cut the hair of girls not wearing jilbab (J. R. (John R. Bowen 2003, 232) It was rumored that the perpetrators were GAM. However, there was little evidence that such raids could have been conducted by GAM members. GAM leaders had claimed repeatedly that their struggle did not seek to enforce Islamic law. They would not do anything to support the central government plan to apply Syari’ah in Aceh. In addition to that, given the month of April 1999, when the raid case was reported to happen, Aceh was under *Operasi Satgas Wibawa*, a renewed military operation orchestrated by General Wiranto. In May 1999, the central government even launched a new military operation called *Operasi Radar Rencong* which covered the whole of Aceh (Törnquist and Birks 2010, 61). In chronicling this series of events, I argue that there was very little chance for any group to be able to conduct such raids without having the army allowed it or instigated it to happen. Not that there were no Islamist groups in Aceh with their desire to have Syari’ah implemented -- there were, even more in one or two decades before. The latest incidents where Islamists marched and voiced their demand for Syari’ah was recorded between 1989 and 1993. At that time, two prominent ulamā, Teungku Bantaqiah in Beutong Ateuh and Teungku Ahmad Dewi in Aceh Timur, led anti-vice raids and anti-government preaching. Teungku Ahmad Dewi was already executed by the TNI in 1989. Teungku Bantaqiah who led “the white robe movement” received the same fate in July 1999 as I have described above.

Therefore, there are at least two reasons why there was no march demanding Syari'ah in Aceh. First, local Islamist groups had seen the consequences of conducting such an action. Based on their experience, they believe that such demand might lead them to the fate of Teungku Ahmad Dewi and Teungku Bantaqiah. Second, the majority of Acehnese did not see it as something relevant to what they had asked from the government. As Miller noted: the HUDA Ulamā' who already proclaimed to support SIRA's referendum "did not oppose Islamic law, but they argued that the Acehnese already practiced Syari'ah in their daily lives" (2009: 54). Ulamā' of HUDA also viewed the decision to implement Islamic law in Aceh as "a cheap political deal between political elites" and, as expressed by one leader of HUDA Teungku Zamzami, as "an empty cheque" (Miller, *ibid*).

Muhammad Nazar, once the leader of SIRA, for instance, told me that for proof of why the people of Aceh in 1998-1999 were not enthusiastic about the Islamists and the state's Syari'ah agenda, one can also refer to the failure of Islamist FPI and HTI to extend their influence in Aceh.<sup>86</sup> Nazar says:

"They wanted us to have Syari'ah, seeing Aceh as an experimental place to apply it. Because they thought we are fanatics, they thought we would accept it. They got it wrong. No one in Aceh wanted to join them. Ulamā' did not support them. We (student activists) did not support them either. We told them,... I was the one who told them, to FPI, leave Aceh."<sup>87</sup>

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<sup>86</sup> Personal communication, 12 March 2018. I should note that here Muhammad Nazar expresses his view when he was a student activist as well as his current view on the implementation of Syari'ah. However, many reports and as my following chapters would show during his tenure as vice governor of Aceh 2006-2012, his rhetoric and policies did not reflect this view at all.

<sup>87</sup> *ibid*

Other Islamist organizations such as *Laskar Jihad* and KAMMI (Indonesian Muslim Student Action Union) that received much appreciation in other provinces also could not find followers in Aceh at least until after the tsunami of 2004 (Ishak 2008, Ichwan 2011).

Thus, to understand why the Indonesian central government insisted on applying Syari'ah in the province, despite the lack of significant demands for it from the Acehnese, it is important to examine the argument used by Habibie's Presidential Advisory Team on Aceh (TPPUA). I consider this committee to be the first architect of the Syari'ah project for Aceh. Working through the media archives of this institution, I found that Usman Hasan, the head of the advisory committee, was featured several times in media explaining the TPPUA's strategy to solve the Aceh problems. I selected fragments from Usman's media interviews that revealed his opinion and reasons for the TPPUA to include the implementation of Syari'ah in the Law on the special status of Aceh.

For instance, in August 1999, *Republika*, the largest Muslim daily newspaper in Indonesia, published an interview entitled "*Ir. Usman Hasan: Perlu Dikumandangkan Syariat Islam*" (Ir. Usman Hasan: the Necessity to Declare Syari'ah). Asked about his opinion regarding the situation in Aceh and the relevance of the law proposed, Hasan answered:

"In my opinion the authorities there (in Aceh) are indeed weak. Weak in terms of quality. Therefore, to separate the Acehnese people from the provocateurs (GAM), the authorities need to be strengthened. That is from a physical point of view. Meanwhile, from a mental point of view, it should be declared that Syari'ah is applied in Aceh. Of course, the Syari'ah that does not contradict our national laws. This means that the Acehnese people have to respect non-Muslims who live in Aceh. This proposal is in accordance with the law currently being discussed in the DPR. So we stay in line and do not deviate from that rule.

By declaring that Syari'ah applies in Aceh, it can create an inner or mental-spiritual division between the non-Islamic (non-religious) criminals and the good society, namely the religious community. So when it is declared it will separate (between the two). Another reason to declare the implementation of Syari'ah, because I heard from various sources that Aceh Merdeka (GAM) itself did not want to use Islamic ideology. Their argument is that if (they) use Islamic ideology (they) will not receive any reception or support from foreign audiences, who are generally non-Muslim. So if

Syari'ah is applied, it will separate the people (the Acehnese) from Aceh Merdeka. Say, it's (Syari'ah) like a wall.”<sup>88</sup>

Syari'ah, in Hasan's mind, was an imagined wall. Separation is why it was proposed. The wall would keep the criminals — by the criminals here Hasan means the GAM rebels — out of the Acehnese community. Hasan's statement about Syari'ah that aimed to separate the Acehnese and GAM should be juxtaposed with some earlier observers who claimed that the Syari'ah law was proposed to seduce the GAM fighters. These observers clearly assumed that GAM had strong ideological ties with the earlier Darul Islam rebellion. Hasan's answer above indicates otherwise. The central government was fully aware that the GAM movement was secular. They wanted the Acehnese to acknowledge it. The GAM movement was not an Islamic struggle, unlike the jihad against the Dutch during the colonial war. Therefore, GAM's response to (reject) the declaration of Syari'ah was needed. Had the GAM waged the jihad, as some Acehnese might think, they should have accepted Syari'ah. If they rejected it, then the Acehnese should have no reason to support GAM. Applying Syari'ah would be a parameter, an experimental device, to prove it.

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<sup>88</sup> English translation is mine. Here I provide Usman Hasan's comments in Bahasa Indonesia: “Saya melihat aparat yang berada di sana memang lemah. Lemah dari segi kualitasnya. Oleh karena itu, untuk memisahkan rakyat dengan para provokator, aparat perlu diperkuat. Itu dari segi fisik. Sedangkan dari segi mental perlu dikumandangkan bahwa di Aceh berlaku syariat Islam. Tapi tentu saja, syariat Islam yang tidak bertentangan dengan hukum-hukum nasional. Berarti orang-orang Islam sangat merespek dengan orang-orang non-Muslim yang banyak tinggal di Aceh. Usulan inipun sesuai dengan UU yang kini tengah dibahas di DPR. Jadi kita tetap sesuai dan tidak menyimpang dari aturan itu. Dengan dinyatakannya syariat Islam berlaku di Aceh dapat dijadikan seleksi batiniah atau mental spiritual antara para pelaku kriminal yang non-Islami (nonagama) dengan masyarakat yang baik, yaitu masyarakat agamis. Jadi dengan dikumandangkan itu akan terpisah. Alasan lain dikumandangkannya syariat Islam, karena saya mendengar dari berbagai informasi bahwa Aceh Merdeka sendiri tidak mau menggunakan ideologi Islam. Alasannya, kalau menggunakan ideologi Islam tidak akan mendapat sambutan atau dukungan dari pihak luar negeri yang umumnya non-Muslim. Jadi kalau berlaku syariat Islam, maka akan terpisah antara rakyat dengan Aceh Merdeka. Katakanlah itu temboknya. *Republika*, “Ir. Usman Hasan, Perlu Dikumandangkan Syariat Islam”, (*Republika*, 21 August 1999) Online archive available <https://www.republika.co.id/berita/dunia-islam/islam-nusantara/08/11/24/16165->, retrieved 1 October 2019

In another interview with national daily newspaper *Kompas*, Usman Hasan was consistent with his view:

“The breakthrough to settle the Aceh conflict is to declare the application of Syari’ah in Aceh ... By doing that, it will become clear whether or not the GAM is Islamic. If the GAM proves to be un-Islamic, the [Acehnese] people will not support it.” (*Kompas* 25 July 1999, quoted in Ichwan 2011: 191)

After the TPPUA finalized the draft, they handed it over to the parliament members. The unexpected full approval given by all legislators at the House of Representatives (DPR) is another important fact that justifies my suggestion for the root and political motives behind the contemporary Aceh Syari’ah. In 1999, lawmakers from Soeharto’s Golkar as well as from the military still dominated the parliament. They were just defeated, but in minor percentage, by the Indonesian Democratic Party-Struggle (PDI-P) which was also a secular nationalist party by origin. During the New Order era, politicians from both parties were hostile to Islamic movements. Surprisingly, all of them also joined the consensus to support Islamic law for Aceh (Miller 2009: 52). In this dramatic turn, United Development Party (PPP) which just replaced Pancasila with Islam as its foundational ideology, came forward as the petitioner rolling up of the law-making procedures at the parliament. Golkar legislators under Karya Pembangunan faction (F-KP) were the first to sign the petition (Syah and Hakiem 2000, 165). The army faction (F-ABRI) also soon proclaimed its endorsement for the Syari’ah implementation in Aceh, as a means of staving off independence.

Kaoy Syah and Lukman Hakiem (2000: 244) noted that on 27 August 1999, the House Representatives leader Hari Sabarno (F-ABRI) commissioned a special task force to follow up on the petition (*usul inisiatif*). This small committee consisted of Chairuddin Harahap (Golkar-FKP), Suparwantoro (F-ABRI), Teuku Syahrul (Golkar-FKP), Muchtar Aziz (F-PPP) and Sujanto (F-PDI, Indonesian Democratic Party). From 8 to 20 September 1999, a series of parliamentary hearings took

place in Senayan, Jakarta. On 22 September 1999, the House of Representatives agreed to promulgate the petition into the law..

### **E. Which Syari'ah? “*Syari'ah yang bagaimana?*”**

After all parties in Jakarta agreed on the provisional legislation and the bill was ready to pass, it was still unclear which form of Syari'ah--*Syariat yang bagaimana?*--would be implemented. In May 1999, Minister of Home Affairs Syarwan Hamid told the press that the application of Islamic Syari'ah (Law) in Aceh would not be in total (*tidak total*). “It will not enforce the beheading,” he said (*Serambi Indonesia*, 26 May 1999). According to Hamid, only those rules of Syari'ah acceptable to the Government of the Republic of Indonesia would be applied. His statement resonates with those of Usman Hasan's I described above. Hamid gave several examples of Syari'ah principles that would be allowed to apply such as the use of “*basmallah*” (Ar. In the name of God) in the opening of Regional Regulations, the use of Arabic letterhead, and determining Friday as a holiday. In short, “like what they have applied in the state of Kedah, Malaysia,” said Hamid (*Serambi Indonesia*, *ibid*).

On 27–28 August 1999, Hamid flew to Banda Aceh with a special agenda to present the components of the new draft of the law to representatives of Aceh's provincial parliament (DPRD) and the MUI. At the meeting, Hamid guaranteed “if Aceh's DPRD wants to change a holiday from Sunday to Friday, with enough regional regulations, no problem. We at the center are ready to receive reports, no need to ask for agreement” (Miller 2009, 128). Such statement emphasized on the central government's commitment to give Aceh the right to implement Syari'ah. However, it demonstrates further how narrow was the understanding of Syari'ah the central government had in mind.

Following the visit, although Law Number 44 / 1999 had not been officially declared to public, Hamid urged the local government to produce supporting regulations that would enable the Syari'ah implementation. On September 6, 1999, the Aceh provincial government issued its first Syari'ah regulation, namely *Peraturan Daerah* (Perda) Number 451.1/21249 concerning “Socialization of

Syari'ah to the People of Aceh" (*sosialisasi Syariat Islam bagi masyarakat Aceh*). The first legislation consisted of the obligation for all female civil servants to wear the hijab (headscarf). This first piece of Syari'ah legislation, considered by student activists to be as trivial as the idea of having the Sunday holiday changed to Friday, was unsurprisingly backed by the imam of the Baiturrahman Grand Mosque and rector of IAIN Ar-Raniry, Safwan Idris, both of whom were members of MUI. Following the enactment of Perda Number 425, Baiturrahman Grand Mosque officially required visitors to dress in Islamic clothing (Miller, 2009, 54). Professor Safwan Idris of IAIN Ar-Raniry soon emerged as one of the most eminent supporters of implementing Syari'ah in Aceh. Women activists and university intellectuals began to voice their criticism against the Perda, attacking the provincial government's lack of understanding of the principles of Syari'ah by prioritizing such a regulation.

Acehnese leading women activist Suraiya Kamaruzzaman recalls her memory of that year and her disappointment with some figures at the provincial government:

"It's just not acceptable that people who were educated in Islam and teach Islam could pass and support such a regulation. It was shocking to think that one even could think in that way. Why targeting women? Didn't they think of their mothers, sisters, daughters? Why about dress? *Jilbab wajib*? If you (...recording is not clear) that would be a different story. But they are, come on...<sup>89</sup>

On 22 September 1999, just a few weeks before he left the presidency, Habibie signed Law Number 44/1999 concerning the Special Status of the Daerah Istimewa Aceh (though it would be effective on October 4 as the date of the signature indicated). The law stipulates "Aceh's specialness is the recognition of the people of Indonesia to the Region of Aceh because of its spirit of struggle

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<sup>89</sup> Interview with Suraiya Kamaruzzaman, 12 October 2016. Suraiya Kamaruzzaman is the founder of Flower Aceh, one of the earliest civil society organization in Aceh which focuses on gender inequality and women empowerment. Read also Peace Women's interview with Suraiya Kamaruzzaman here <https://www.peacewomen.org/content/indonesia-how-are-womens-rights-being-defended-aceh-indonesia>

and intrinsic values of the community which have been maintained for generations as their spiritual, moral and humanitarian foundation.” The implementation of Aceh’s specialness which included: a. the organization of religious life; b. organization of traditional life; c. organizing education; and d. the role of the Ulamā’ in the determination of provincial and district policies. Chapter I, article 1, point 10 defines Syari’ah as a guide to the teachings of Islam in all aspects of life. Point 11 defines Adat as: a rule or deed in accordance with Shari’a which has been followed, respected, and honored since long ago as the foundational elements of life.<sup>90</sup>

## **F. GAM’s and Public Responses**

As Usman Hasan had expected, GAM rejected the promulgation of Law Number 44. Abdullah Syafi’ie, GAM’s military commander, commented on the inclusion of Syari’ah law as “irrelevant”. Syafi’ie said “if we die, we become syahid [martyrs]. Remember that!... The TNI is like devils” (Miller 2009: 54). Miller also noted that GAM’s leaders in Sweden immediately issued an official statement rejecting the autonomy solution for Aceh urging the Acehnese to dismiss it as it is not in accordance with their true aspiration. In the statement, GAM also condemned Jakarta for pursuing “deplorable” stick and carrot” methods to solve the Aceh problem” (GAM statement, 27 September 1999, quoted in Miller: 54). At least until 2005 GAM was still consistent to dismiss Syari’ah law, claiming they have different priorities to pursue. Confronted by journalists, for example, Malik Mahmud Al-Haytar, former GAM Prime Minister, had claimed that Syari’ah was not GAM priority.<sup>91</sup>

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<sup>90</sup> Syariat Islam adalah tuntutan ajaran Islam dalam semua aspek kehidupan. Adat adalah aturan atau perbuatan yang bersendikan Syariat Islam yang lazim dituruti, dihormati, dan dimuliakan sejak dahulu yang dijadikan landasan hidup. (UU Number 44/1999)

<sup>91</sup> See for example an interview with GAM Prime Minister Malik Mahmud “Syariat Islam bukan Prioritas GAM” (Syari’ah is not GAM’s priority), (*Detiknews*, 14 August, 2006)

The GAM's refusal to accept Syari'ah law has been discussed in a number of studies showing this insurgent group as essentially secular-nationalist in orientation. It was not Islam but nationalism and years of exclusion by the central government that played the major roles in perpetuating the rebellion (Schulze 2007; Miller 2008; Drexler 2008; Aspinall 2009; Patria 2010). Islam, for GAM, was and is important as a defining feature of Aceh's culture and identity.<sup>92</sup> However, since many other people across the Archipelago also share Islam as a common bond, Islam was not a distinguishing factor to set Aceh apart from the rest of Indonesia (Aspinall 2013).

Aspinall writes: "(w)hat unique in Hasan Tiro's approach was the centrality of history to his political vision... In earlier episodes of resistance, historical references were always secondary to the emphasis on Islam. In *Aceh Merdeka* materials, Islam did not disappear, but it was overshadowed. Historical arguments had become the foundation for the entire ideological edifice; without them it would have collapsed" (Aspinall 2009, 68–69). Indeed, in his memoir entitled "*The Price of Freedom: An Unfinished Diary*" Tiro claimed that the reason for him to form Aceh-Sumatra National Liberation Front (ASNLF, GAM's original name) because history has called him to do so. According to Tiro, Aceh deserved independence due to "illegal transfer of sovereignty over our fatherland by the old, Dutch colonialist to the New, Javanese colonialists" (Tiro, 1984, p. 17). The main goal is to take independence back, nothing else. And for that reason, Tiro refused to meet with a delegation, mostly members of the provincial parliament of Aceh, when the group traveled to Stockholm in July 1999 in

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<sup>92</sup> In several occasions I talked to a few leading members of GAM such as Nur Djuli, Munawar Liza Zain and Irwandi Yusuf who came with the same idea about the position of Islam in GAM's struggle. For these GAM leaders, the Syari'ah proposal that came along with autonomy law was a trap. According to Djuli, for example, by having Syari'ah law instilled in Aceh, the Indonesian government wanted to depict the image of GAM to the wider world as no more than a radical Islamist group with links to al-Qaeda and therefore could justify Indonesia's military operation in the province. Some Western journalists have unfortunately bought this line, speaking of GAM as "fundamentalist" Islamic rebellion. This claim seriously distorts the picture (see also Aspinall 2009, 2013).

an attempt to open dialogue with him. Tiro objected to the meeting and claimed the representatives as “not educated and they don’t represent the Acehese people” (Miller 2009, p. 55).

Meanwhile, back in Aceh. Tgk Ibrahim Bardan, chairman of the Aceh Dayah Ulamā’ Association (HUDA) and head of Dayah Malikussaleh in Pantan Labu, North Aceh, warned that the government's move would not be able to resolve the Aceh problem. He told *Gatra Magazine* “We are glad. But what is the motivation of the central government to give such privileges to Aceh? Ask Bardan. For him, if it [Syari’ah] was expected to solve the Aceh problem, then using that method would be mere nonsense (*Gatra*, 23 October 2000).

An objection to the government proposal to implement Syari’ah law in Aceh was also expressed by an Acehese intellectual and Islamic scholar named Teuku Amir Husein, Chairman of the Aceh Syuro Masyumi Majelis, and Member of the Aceh National People's Committee (Kenira), during a public seminar initiated by the Student Senate of the Syari’ah Faculty of IAIN Syarif Hidayatullah and held in Jakarta on September 29, 2000. Husein claimed that he was deeply offended by the introduction of Islamic law in Aceh. He said, “since we are all Muslims in Aceh, we follow Islamic law in our daily life, if Syari’ah is implemented now, have we been infidels in Aceh before?”<sup>93</sup> Husein stressed that the main problem in Aceh was the issue of injustice and human rights violations, and remained suspicious of the government's motives for implementing Syari’ah law in Aceh: “It was only an attempt to divert attention. It's not enough to just play with words. There is a legal process going on against human rights violators in Aceh. That is the thing that needs to get attention” (*Gatra*, 30 October 2000).

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<sup>93</sup> Back then when I was an undergrad at IAIN Ar-Raniry, in public seminar held at Ar-Raniry auditorium on 23 April 2000 I was also struck listening to a similar expression by a female lecturer at IAIN Ar-Raniry when she said “How dare Indonesians claim to give us Syari’ah? We Islamize them, we taught them Islam. Without Aceh there will be no Islam in the whole archipelago.”

Indeed, in Banda Aceh after the central government declared that Law Number 44 was officially promulgated, there was little public enthusiasm, and no figure emerged as the champion of its implementation. Governor Syamsuddin Mahmud was not satisfied with the law. He flatly stated that he was not fully involved in drafting Law Number 44. He was invited to give his opinion on the final version of the law: “a kind of statement status... about Aceh’s special [but] not really special autonomy” (Miller 2009: 53).

Against the central government's decision to apply the law, various angles of criticism were voiced by local intellectuals. Otto Syamsuddin Ishak, for example, in *Dari Maaf ke Panik Aceh* (Ishak 2008) claims that the Acehnese who were involved, at local or national levels, in the proposition and drafting of Syari’ah policy were “Acehnese middle class that had been Indonesianized during Suharto’s New Order” (p. 358; see also Ichwan, 2011a, 191). Ishak echoes Hasan Tiro’s opinion of members of the Aceh legislature as having been indoctrinated by Indonesia. As Aspinall and Fealy have pointed out, under Soeharto “the main functions of local governments — provincial, district, city and village — were loyal to support and implement national policies and directives” (Aspinall & Fealy, 2003, 2). Ishak also suspected the significant role played by Safwan Idris, rector of IAIN Ar-Raniry and member of MUI Aceh, in pursuit of his ambition to become the Minister of Religious Affairs (Ishak 2008, 358; Ichwan 2011,191).

On 20 October 1999, Indonesia elected a new president: Abdurrahman Wahid, known by his nickname Gus Dur. He was a renowned Javanese Muslim cleric. By contemporary Indonesian standards, he has been celebrated as a proponent of liberal Islam. Gus Dur, nonetheless, was a controversial figure for the Acehnese during the turbulent years. He claimed himself to be the prophet for the Acehnese people (“*Saya ini nabinya orang Aceh*”) boasting his deep knowledge on Aceh and claiming to know what the Acehnese actually want. On 15 September 1999, Gus Dur and Amien Rais

visited Aceh where they unveiled the referendum banner in front of Baiturrahman and promised to consider the referendum agenda once they were in power (Crow 2000).

At the beginning, Gus Dur's election victory provoked a short period of euphoria among the Acehese student activists as well as for some conservative Muslims, for two different reasons. Student activists were hopeful that Gus Dur would continue to support their referendum agenda. After Gus Dur became president, Amien Rais was also elected as the leader of the national assembly (MPR). It was a promising moment for the student activists to contextualize the call for referendum. On 8 November 1999, SIRA organized the largest referendum rally in Aceh, as approximately one million people gathered in front of Baiturrahman. Unexpectedly, Gus Dur dismissed the rally and claimed that no more than 500 people had participated. His comments hurt the Acehese students and soured their relationship with him.

As for some conservative Muslims in Aceh, Gus Dur's former position as the leader of Nahdhatul Ulama, the largest Muslim organization in Indonesia, led them to perceive Gus Dur's victory as the victory of Islam. They viewed his election as an opportunity to consolidate power and to urge the immediate implementation of Syari'ah without delay. The conservative Muslims' ascendancy under Gus Dur's presidency marked a new trend towards implementing Syari'ah law in Aceh, as in the case presented below.

### **G. Popular Response: The First Public Caning**

On 27 November 1999, a few weeks after Gus Dur won the election, approximately two months after the passing of Law Number 44, the village elders of Mata Ie, South Aceh, invoked Syari'ah to apply a punishment they claimed to be in accordance with the Quran. *Gatra* magazine for its December 1999 edition reported about the case under the title "Cambuk buat Penzina" (Caning for Adultery) (*Gatra*, 30 November, 1999).

The Mata Ie story begins with the arrest of a villager named Zul (initial) by a group of young men when he was working in his rice field. They took him to the village hall where all village elders gathered to convene the *mabkamah* (court). Evidence was found and witnesses testified before the audience that Zulkarnen had committed adultery with a woman named Kurniawati. She came from the same village as Zulkarnen. Both were forced to confess their illicit affair. By the time of the trial, Kurniawati acknowledged that she was already pregnant as the result of the affair. The trial was led by the village head (*geusyik*) the village imam (*imuem*), and other village elders (*tuba pent*). After the confession was made, Zulkarnen and Kur were sentenced to receive *jilid* 100 strokes. As both had been unmarried prior to the affair, they could not be sentenced by *rajam* (stoning to death) for the sin they committed. The elders took Zulkarnen to a soccer field where all Mata Ie villagers already gathered forming a huge crowd. Zulkarnen received 100 lashes on his back. The sentence carried out by 10 village men who whipped his back 10 times each and left him bloodied. After fulfilling the punishment, Zulkarnen was taken to the nearby hospital. Zulkarnen, however, stated that he was satisfied that he had served the sentence. He acknowledged that he already felt guilty for months; now he felt free. His female accomplice, Kurniawati, was not flogged because she was already pregnant at that time; her flogging was postponed until after her child was born. It is unclear whether her punishment was ever carried out, as the Aceh conflict escalated and details of the case were lost.

Nonetheless, Muhammad Ali, Head of the South Aceh Religious Court, expressed his support for the community's action (*Gatra* 1999). *Gatra* also interviewed rector of IAIN Ar-Raniry Safwan Idris, who asserted that the village elders were justified in performing such a trial and punishment because they no longer trusted the government's law. Idris reiterated his own call for the implementation of Islamic Syari'ah: while Syari'ah was already declared, there were still no rules on how it should be implemented. Above all, it is important to note that the public caning administered by the Mata Ie village elders was the first public punishment that happened in Aceh, contrary to some

accounts claiming that the first public caning was carried out in Aceh only after the tsunami (for example in Feener 2013a: 239; Afrianty Salim 2015: 3; Grossman 2016: 90). Following the Mata Ie case, several instances of vigilante violence were reported where men and women caught breaking Syari'ah were badly beaten by a mob.

Gus Dur's presidency lasted less than 22 months, but in that time he managed to bring further harm to Aceh with his “liberal-minded” inconsistency towards Syari'ah and his policy coopting the traditional Ulamā'. Usman Hasan, who lost influence during the Gus Dur presidency, said in an interview that the central government during the Gus Dur period became a victim of whispers (*korban pembisik*). Claiming to bring an effective strategy to solve the Aceh problem, in his view, many lobbyists and benefit seekers approached Gus Dur with false stories, just to please his ears. As Hasan described, they “wear turbans and introduce themselves as Ulamā', and claim to represent Aceh” (*Tempo*, 2003). As a result, Jakarta was pressured to increase offers and concessions to Aceh. On the other hand, Indonesia was now forced to acknowledge GAM's strength. It was reported that by mid-2000, GAM claimed to be in control of almost 75 percent of the province (*Amnesty International*, 2002). To govern the population under their control, GAM established government systems and administration including tax collection, Islamic courts, and issuing birth and marriage registration certificates with the GAM logo. The relationship between GAM and dayah-based traditional Ulamā' in rural areas became stronger during this time. Many important positions such as *qadbi* (judges), *khatib* (religious preacher), and *imuem* (imam) in the GAM administration were occupied by Ulamā' from dayah (Afriko 2010, 28).

A few days before Abdurrahman Wahid was impeached by the House of Representatives, Jakarta passed Law Number 18/2001 granting special autonomy to the Aceh province including a stipulation on the implementation of Syari'ah. Under this law, the official name of Aceh changed from *Daerah Istimewa Aceh* (the Special Region of Aceh) to *Nanggroe Aceh Darussalam* (the State of Aceh Abode of Peace). Other main provisions contained in this new law included: an increase in revenue

sharing from natural resources, the creation of regional symbols and flags, and the establishment of Syari'ah courts. This law also states clearly that the main purpose of the application of Syari'ah in Aceh is to promote Islamic principles of justice that will lead to social and political welfare for the people of Aceh. This law again promises considerable power for the Aceh authority to regulate its own affairs. On 9 August 2001, Law Number 18 (or the Nanggroe Aceh Darussalam law) was approved and signed by President Megawati, who described the law as “main pillar of conflict resolution” (Miller 2009). Undoubtedly, leaders of GAM saw these new concessions as a continuation of the central government's strategy to divert public attention from the roots of the Aceh conflict. For GAM, the implementation of Syari'ah in Aceh was a trick to associate GAM and Acehnese Muslims with global Islamic terrorism. They therefore rejected Law Number 18.

#### **H. Building Collaboration: the Ulamā' and the Technocrats**

Law Number 44/1999 envisions the establishment of an independent Ulamā' council (Majelis Permusyawaratan Ulamā') with a similar position and “decision-making powers as the provincial legislature” (Miller 2009, 59). But, who are the Ulamā' in question? Who will fill the position in the council? One possibility was the Indonesian Ulamā' Council (MUI) Aceh branch. However, Jakarta was in a difficult position to set up and make use of MUI Aceh because their influence in the region had declined. Many ordinary Acehnese has lost their trust and respect towards MUI after the latter was used to win Golkar and to support other New Order development agendas in Aceh. It is worth stepping back here to consider the complex history of the Aceh Ulamā' to explain how this situation came to be.

As I have mentioned briefly in the introductory section, the Ulamā' took over the leadership of Aceh society after the aristocratic power was weakened by the Dutch colonial presence. Since then, the Ulamā' role in politics has been immense, from leading fierce resistance against the colonial regime to directing the people of Aceh to join the Indonesian revolution. Some prominent Ulamā' figures

came forward to declare *Perang Sabil* (a war in the path of God) against the colonial infidels. During the war, however, the Dutch military forces persecuted only the anti-colonial *Ulamā'*, allowing those avowedly apolitical *Ulamā'* to continue fulfilling their role as a religious authority. However, unlike the *Uleebalangs*, most of the apolitical *Ulamā'* did not work for the Dutch colonial government, instead moving to rural areas to establish *dayah*<sup>94</sup> They were known for accommodating traditional practices, including, as accused by Muslim modernist, those connected with Hinduism, common among Acehnese in rural areas. Gradually, this group came to be known as the traditionalist *Ulamā'* as opposed to the modernists, in Acehnese today *Ulamā' Dayah*.

Meanwhile, in the early 20th century Aceh was also marked by the rapid growth of a Islamic modernist movement, which posed a serious challenge to the traditionalist *Ulamā'* and their position in the society. Their teachings were subject to criticism by the modernists, who accused the traditionalists of *bid'ah* (innovation)--religious practices that have no precedent in the time of the Prophet. The modernists also denounced all practices rooted in Sufi teachings, such as the veneration of saints (*tawasul*), the celebration of the Prophet's birthday (*mawlid*), and funeral practices such as *talkin*. As Michael Feener has noted, "over the middle decades of the twentieth century, relations between 'Traditionalist' and 'Modernist' *Ulamā'* became increasingly fraught through steepening competition for the hearts and minds of Aceh's Muslim community" (2013: xv). In 1936 the Aceh modernist *Ulamā'* formed All *Ulamā'* Aceh Association (PUSA). Under the charismatic leadership of Daud Beureueh, the PUSA *Ulamā'* pursued its religious and political agenda, namely purifying Islamic practices from all *bid'ah* endorsed by the traditionalists and evicting the Dutch from Aceh. In 1942,

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<sup>94</sup> *Dayah*, derived from Arabic *zawiya*, is an Acehnese traditional boarding school. Up until today a *dayah* is usually located in an area outside the village settlement. It normally consists of several buildings that are used as places to study and live. Before the 21st century, the *dayah* income came from generous donations and students who studied in the *dayah*. A *dayah* leader was also commonly received income from his role in managing a *waqf*, religious endowment of land.

with Japanese help, the PUSA Ulamā' arrested and interred the Dutch in a camp in the mountains and left to starve.<sup>95</sup> The Dutch forces never returned to Aceh after World War II, even as they sought to reassert colonial control over the rest of the Archipelago. In 1945, the PUSA Ulamā' expelled the Japanese. PUSA also took advantage in the vacuum of colonial authority to eradicate their old rivals, the Uleebalangs. After the social revolution, the PUSA saw the traditionalist Ulamā' as their only remaining rivals. Although never escalating into an open civil war, the rivalry between the two persisted.

The PUSA rebellion against Soekarno under the banner of Darul Islam in 1952 did not receive support from the traditionalist Ulamā'. One of the traditionalist Ulamā' leaders, Muda Wali Al-Khalidy, even issued a *fatwa* (religious decree) declaring the PUSA rebellion as *bughat* (considered as a grave sin) because it fought against the legitimate central government. The rebellion ended with Soekarno's promise that Aceh would receive regional autonomous status with the right to implement Syari'ah law. In 1962, Daud Beureueh was granted a pardon (Feener 2013b, 36). However, after the defeat of the Darul Islam movement, Beureueh and other reformist Ulamā' no longer exercised their previous authority, and their political and religious activities were strictly surveilled by the state apparatuses. It was a promising situation for the traditional Ulamā', who received benefits from the central government and grew their influence. But, the regime change at the national level in the mid-1960 again changed the configuration of religious leadership in Aceh. In 1965 Soeharto came to power after the massacre that killed more than one million Indonesian communist sympathizers. The extermination of the Indonesian communist party constituted a major turning point in the Aceh-Jakarta relationship. The Aceh Ulamā', both reformist and traditionalist, and Soeharto's New Order regime shared a similar interest in seeing Indonesia rid of the PKI (Sjamsuddin 1985; Kell 1995).

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<sup>95</sup> Personal communication with James Siegel, 5 March 2020.

Indeed, the very first Indonesian Ulamā' council (Majelis Ulamā') was established in Aceh under the supervision of the military regional command of Aceh. The purpose of the council's establishment was to prevent the communist ideology from growing in Aceh. At this time, some of Daud Beureueh's companions were already coopted and given roles under the state-sanctioned Ulamā' Consultative Assembly (*Majelis Permusyawaratan Ulamā'/MPU*). The first leader of MPU was Teungku Abdullah Ujong Rimba, a former member of PUSA who had joined Daud Beureueh in the early DI/TII revolt. After the cease-fire, Teungku Ujong Rimba disassociated himself from Beureueh and became one of the Darul Islam's important figures and the central government collaborator (Feener 2013: 108). But, the relationship of the New Order regime and the Aceh Ulamā' was entirely contingent; "were only temporary allies of convenience" (Kell 1995: 29). After they wiped out all communists in Aceh, the relationship became once again fraught with mistrust.

Soeharto's regime was based on the dichotomy between "order" and "disorder" which provided the grammar of the New Order ideology (Good 2015, 72; Pemberton 1994). Soekarno and the communists were depicted as representing the Old Disorder. To disassociate from Soekarno's legacy, the New Order promised to be a modern state in the purely Weberian sense: privileging efficiency, political stability, and goal-oriented activity with an emphasis on economic development. Since its strategy to restore order was centered on improving Indonesia's economic situation, Soeharto's favorite term was *pembangunan* (development). Given Indonesia's status as a Muslim-majority country, Soeharto realized that it would be crucial to include Muslim intellectuals (*cendikiawan Muslim*) into his administration, but he wanted only those who supported his development agenda. In 1990, Soeharto instructed Habibie, his favorite technocrat, to establish an organization called the Indonesian Muslim Intellectual Association (*Ikatan Cendikiawan Muslim Indonesia, ICMI*). ICMI was intended to be an institution to engineer figures of learned Indonesian Muslims with a development orientation. They were also expected by Soeharto to fill the positions at the national Ulamā' council (MUI).

With regard to Aceh, Suharto had always been suspicious of the Aceh reformist Ulamā' due to their spirit of rebellion. To secure the national election in 1978 Soeharto is believed to have ordered the kidnap of Daud Beureueh. The army took Beureueh to Jakarta. Without Beureueh, Soeharto's new political party (Golkar) was able to win the election in Aceh. At the same time, Soeharto determined that the traditional Ulamā' were "ideologically incompatible" with the New Order regime. The Uleebalangs, known to be accommodative to the central power, were no longer existing. Most members of this group had been killed during the social revolution in 1945. After the Darul Islam revolt in 1960s, the New Order central government, however, found a new channel to collaborate with Aceh local leaders through the establishment of state universities, namely Universitas Syiah Kuala and Institute Agama Islam Negeri Ar-Raniry.<sup>96</sup> Alfian (1978), Morris (1983), and Kell (1996) have noted the emergence of a new group of Muslim intellectuals (*cendikiawan baru*) in Aceh whose authority increased with their appropriation by the state.<sup>97</sup> They were the product of higher education and the state considered them fitting into the category of "modernist Islam." As Morris writes:

"It was this desire for pembangunan (development) that laid the foundation for a "technocratic development" linkage between a segment of the Acehnese leadership and the New Order center. But this vertical linkage between center and periphery did not allow for elite unity within Aceh. In part this was so because the center needed a local leadership group dedicated to its development ideology in competition with the Islamic claims of the Ulamā', and in part because the "new elite" of Aceh elaborated a definition of the situation that favored region over religion. It was clearly in the center's interest to seek out, relate to, and reinforce a strategically useful component of the

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<sup>96</sup> Syiah Kuala, the first state university in Aceh was established in 1961 following the settlement of the Darul Islam rebellion.

<sup>97</sup> Technocrat in general sense is a technical expert, academic professional, who holds political office. Technocrats are often elected for their specific skills that compliment whatever crisis a nation is going through (Fischer 1990). On the emergence of the Acehnese technocrats and the rise of technocratic vision in Aceh under the New Order regime (see Morris 1983, 251-268; Kell 1995, 29-31 & 43-45; Feener 2013b: 44-45).

Acehnese leadership and thereby reduce its coherence. And it was also in the interest of those leaders who came to control the flow of resources from the center to the region to maintain that their position was derived from presumed expertise.” (Morris 1983, 254-255)

The first two state universities in Aceh established under the Soekarno’s presidency were part of the Darul Islam settlement but the outcomes of this establishment largely benefited Soeharto New Order. People who taught and studied at these universities formed a group of “upper class” (Kloos 2018, 80) and became known as the Aceh technocrats. Most of them filled out important political and religious positions under the New Order regime.

Nonetheless, it took a while for the technocrats to instill the New Order’s development agenda in Aceh due to the strong influence of the *Ulamā’* at the grassroots level.

Under the New Order regime, Soeharto restricted the number of political parties in Indonesia to only three parties, namely Golkar (established by Soeharto), PDI (representing the legacy and ideology of Soekarno), and PPP (umbrella group for all Islamic parties and organizations formed during the Old Order). The Aceh *Ulamā’* endorsed only the PPP, the party bearing the Kaaba as its political icon. Since 1971 PPP always won elections in Aceh. Some PPP leaders at the national level were in fact Acehnese. For the people of Aceh, PPP victories at the national level were tantamount to supporting the *Ulamā’*. Soeharto was unhappy with the Acehnese who did not vote Golkar.

The political configuration and the relationship between the Aceh *Ulamā’* and the state changed significantly after Ibrahim Hasan seized the governorship of Aceh for Golkar in 1986. He had only one year to shoring up his position to win the general election in 1987. He immediately set out to establish harmony between the *Ulamā’* and government officials, firstly in order to please Suharto, secondly to execute the development program. Governor Hasan began with a new routine: every time he went down to visit districts and small towns, he always took the time to visit the *dayah*. According

to some sources, he did this every other month. He claimed it as a form of showing respect for the Islamic scholars.

Hasan came with gifts and promises to help finance Dayah construction or renovation. Initially, almost all Aceh Ulamā' from Dayah would refuse any kind of government assistance, as it was feared this would open the door for further government intervention. In the past, the Ulamā' commonly did not accept donations from aristocratic families lest they gave up *marwab* to the benefit of the wealthy, aristocratic, or today the state officials.

But Governor Ibrahim Hasan never tired of attempting to win the hearts of the Ulamā'. He continued to visit Dayah, gradually cultivating relationships with some Ulamā', notably in Samalanga, North Aceh, and Dayah Budi Lamno, West Aceh, the two most important centers for traditional Dayah education during the New Order era. As their relationship grew closer, Hasan began to mobilize the influence of the Ulamā' in the area to campaign for Golkar. It worked. Ibrahim Hasan rose to fame and was recognized by Soeharto as the first governor of Aceh who could bring Golkar to win elections in Aceh. However, there was another mainstream developing among the Acehnese, at the expense of the influence of the Ulamā' associated with the government or who sat in an assembly financed by the state.

The role of the official Ulamā' during the New Order era was not that of a fully independent advisor to the authorities. All statements had to be government approved. But there were some Ulamā' who maintained their independence, not so much due to their desire to stay away from the government, but because the Islamic practices they professed are considered incompatible with the government's modernity project.

After Reformasi, the channel to extend the central government's power in Aceh did not change, nevertheless the influence of the technocrats who had filled the channel during the New Order had weakened following the fall of Soeharto. As Rodd McGibbon has noted, "considering the region's

strong sense of political identity, the central government risked provoking another rebellion if it could not secure support from local elites through which it was to govern Aceh” (McGibbon 2006, 320). Law has been the means for the central government to maintain ties with their local collaborators. Therefore, the plan to prevent Aceh from breaking away must include the promulgation of the new law. For three decades the New Order regime had witnessed that the Ulamā’ remained one of the most important elites of Acehnese society. Therefore, their support should be secured.

The promulgation of Law Number 44/1999 clearly orders the establishment of a new Ulamā’ council with greater power. However, the central government would not take the risk of handing over the mandate directly to the so-called traditionalist Ulamā’ (Ulamā’ Dayah). They had already been excluded from power for decades by Soeharto and his technocrats as they were considered incompatible with the development agenda. For its part, the new Reformasi regime in Jakarta was uncertain how far the Ulamā’ would go if they were to empower them as their new ally. Finally, the Reformasi central government returned to the New Order blueprint of identifying potential local collaborators at the state universities. Michel Feener has noted:

The primary architects and agents involved with developing Aceh’s Islamic legal system during this period—including the founding head of the State Syari’ah Agency (DSI), Alyasa Abubakar, and the long-serving head of the Ulamā’ Council (MPU), Muslim Ibrahim—shared a broad background of education and teaching in Indonesia’s system of State Islamic Studies Institutes (I. Institut Agama Islam Negeri/IAIN) as well as involvement with various da’wa programs. They were thus seasoned exponents of the position that Islam held great potential for contributing to the promotion of state-sanctioned agendas of social stability, national integration, and economic progress. These Acehnese Muslim academics, politicians, and religious leaders vigorously promoted the idea that the state implementation of Shari’ah could serve as both a solution to the ongoing conflict with GAM, and as the basis for re-establishing social order. Working with officials of the central government in Jakarta, they came to oversee the development of a new Islamic legal system in Aceh. (2013, p. xvi)

I, however, would argue a different point of view regarding the involvement of Abubakar and Ibrahim in the Aceh Syari'ah project. While there is no doubt about their commitment to Islam and Syari'ah, the political context is key to understanding how they acted in the roles as purely state agents within the state Syari'ah project.

By mid-2000, Law Number 44, in effect since the previous year, had not produced anything but a few reactions that immediately faded away. The focus of the population was entirely preoccupied with dealing with armed violence. The TNI and GAM continued to spread terror. The establishment of Ulamā' Consultative Assembly (*Majelis Permusyawaratan Ulamā'*) or MPU in 2000 as mandated by Law Number 44 changed only the name of the Indonesian Ulamā' Council (*Majelis Ulamā' Indonesia*) or MUI to MPU (Barter 2011). Figures of Ulamā' who filled positions in MPU in 2000 were largely the same people from the previous MUI council. Furthermore, although there was already a regional regulation mandating the provincial government of Aceh to establish a State Syari'ah Office (*Dinas Syariat Islam*), not until 2002 would the office come into being. Overall, amidst the escalation of the armed conflict, none of the institutions established to support the application of Syari'ah functioned properly.

At the same time, a significant number of political assassinations were carried out by the unknown (OTK, *Orang Tak Dikenal*) targeting important figures in Aceh. The victims included Professor Safwan Idris, the rector of State Institute of Islamic Religion (IAIN), a former member of MUI and one of the leaders of the newly established MPU.<sup>98</sup> In May 2001, former vice governor of Aceh Teuku Djohan was shot dead in front of Baiturrahman. Precisely one year after the assassination of Professor Idris, rector Syiah Kuala University, Dayan Dawood was also shot dead on his way to

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<sup>98</sup> I was still a freshman at this college when he was assassinated. The OTK put two bullets in Professor Idris' head. He was shot in front of his house, located just next to our university buildings. This tragic event happened on September 16, 2000, see (Idria 2019).

campus. Killing the professors and putting their bodies on display to be witnessed by their students undoubtedly left the consequences far beyond the killing itself, and was aimed at instilling terror (Idria 2019).

### **I. Abdullah Puteh: from a “Syari’ah Champion” to Prison**

It is important to note that Aceh had a new governor in November 2000 named Abdullah Puteh. Born in Aceh Timur (East Aceh) and having spent most of his career as Golkar politician in Jakarta, Puteh returned to Aceh and promised to be the champion of Syari’ah (*penegak Syariat Islam*).

By 2002, following Law Number 44/1999 on Special Status of Aceh and Law Number 18/2001 on Special Autonomy of Nanggroe Aceh Darussalam, three regional legislations were passed by the Aceh provincial parliament mandating the establishment of institutions to oversee the implementation of Syari’ah. First, *Majelis Permusyawaratan Ulama’* or Consultative Assembly of Ulama’ (MPU) regulated under the provincial regulation (Perda) Number 3/June 2000. According to this Perda, all regional laws passed by the local government must pass through consultation with this council. Second, *Dinas Syariat Islam* or State Syari’ah Office or DSI provisioned under Perda Number 5/August 2000. This agency has been given mandates to draft Syari’ah bills and to coordinate the activities of local government in strengthening Islamic teaching into the wider community and preventing them from deviant teaching (*In. aliran sesat*). Third, *Mabkamah Syariah* or Syari’ah Courts. This institution is actually not new but simply a renaming of the religious courts existing since colonial times in Indonesia (Lindsey & Hooker, 2007, p. 223). The promulgation of Law Number 18/2001 also marked a new phase in which the central government has placed the power to define the scope and practice of Syari’ah squarely in the hands of their local collaborators namely the provincial government of Aceh. Governor Puteh needed the three supporting institutions mentioned above to pursue the government Syari’ah project in Aceh.

As Feener has noted “Puteh consolidated his base of local support with further appeals to the formalization of the role of Islam in the provincial government” (2013b: 191). Returning to Aceh as a governor, Puteh became aware that many traditionalist *Ulamā’* (*Dayah Ulamā’* or *rural Ulamā’*) have become more influential among student activists and the public in general because they openly supported Referendum. Some of the *Dayah Ulamā’* were known to have a strong relationship with GAM. When he was in office, President Gus Dur also viewed the *Dayah Ulamā’* of Aceh as his potential collaborators. Finding that his *Nahdhatul Ulamā’*’s teaching and traditions had a lot in common with practices in traditional *dayah* in Aceh, Gus Dur aimed to build a stronger relationship with the *Dayah Ulamā’*. It was reported that Gus Dur poured money and other resources he received from the Sultan of Brunei into into the *Dayah Aceh* (later it became a corruption case, a scandal known as “Brunei Gate” which contributed to the impeachment of Gus Dur from the presidential office).<sup>99</sup>

Gus Dur’s “generosity” led many traditional *Ulamā’* in Aceh to proclaim their allegiance to Gus Dur’s *Nahdatul Ulamā’* (NU). Arguably, before Gus Dur’s presidency, NU had very little influence in Aceh. With Law Number 44/1999, which legalized the establishment of Aceh’s new *Ulamā’* Consultative Assembly (MPU), Puteh had found a way to approach the traditionalists and brought them to fill in position at MPU. In June 2001, Puteh identified and invited 181 *Ulamā’* from all districts in the province to a meeting called *Muzakarah Ulamā’ Aceh*, for the purpose of gathering the Aceh *Ulamā’* to meet and elect the new organizing committee of the MPU. Since most of the attendees were

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<sup>99</sup> Afdal Yasin Panglima Bareh, an Acehnese politician who claimed to be a person in charge for Gus Dur’s agent affairs in Aceh and founder of a charity organization called Yayasan Aswaja (*Ahlussunnah Wal Jamaah*) acknowledged that he had distributed money that Gus Dur received \$600,000 that Gus Dur had received from Hassanal Bolkiah, the Sultan of Brunei, to traditional *dayah* in Aceh. The problem was that Gus Dur did not report that he received the donation from Sultan Bolkiah to the Indonesian People’s Representative Assembly (DPR-RI) (*Tempo*, 2 September 2003).

Dayah-based they secured the MPU leadership by electing Muslim Ibrahim and Daud Zamzami from the traditionalist camp. Alyasa' Abubakar, professor at IAIN and representing the modernist camp, failed to gain enough votes. Governor Puteh was pleased by the new leadership composition in the MPU: it would create a balance of power between the traditionalists and the reformists. Whereas MPU had previously been dominated only by "University-based Ulamā", with the dual power it became easier for Puteh to deal with both camps (for more detail about the contest during the MPU Muzakarah see Ichwan 2011; A. Salim 2008, 157). In January 2002, Governor Puteh appointed Alyasa' Abubakar<sup>100</sup> as the first head of the State Syari'ah Office (DSI).

In 2002, after the DSI was established and gaining the MPU support, Governor Puteh worked with the provincial parliament, dominated by the secular party Golkar, to draft and pass a series of bylaws regulating creed, worship, and religious symbolism as well as criminal sanctions for gambling (*maisir*), illicit sexual relations (*kehalwat*), and the use of intoxicants (*kebamar*)

On 4 March 2003, on the first of Muharram 1424 according to the Islamic calendar, Governor Puteh declared the full and comprehensive implementation of Syari'ah (*Pelaksanaan Syari'at Islam dengan Kaffah*). As usual, the ceremony took place in front of the Great Mosque of Baiturrahman. Puteh

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<sup>100</sup> Alyasa' Abubakar was born in Takengon Central Aceh on January 12 1953. His father was a reformist Ulamā' and a modernist thinker. Abubakar went to madrasa for his elementary Islamic learning. In 1970 he went to Banda Aceh to study at Faculty of Syari'ah at State Islamic Institute of Ar-Raniry (IAIN). He wrote his BA thesis on how inheritance is handled among the Gayonese in reference to Islamic jurisprudence and Indonesian family law. While studying at IAIN he also attended traditional boarding school (dayah) in Lambhuk Banda Aceh. In 1977 Abubakar was granted a scholarship to continue his study at Al-Azhar University in Egypt. He chose to focus on Ushul Fiqh and completed his master's degree in 1980. He returned to Banda Aceh and became the permanent teaching staff at IAIN Banda Aceh. In 1984 Abubakar pursued his doctoral program at State Islamic Institute Sunan Kalijaga in Yogyakarta, where he also concentrated on Ushul Fiqh. He was appointed as acting rector of IAIN Ar-Raniry after rector Safwan Idris was assassinated by unknown in September 2000. He remained in this position until 2001. By January 2002, Governor Abdullah Puteh appointed Alyasa Abubakar as the first head of DSI.

guaranteed that the Syari'ah implementation would address the region's lawlessness and sufferings derived from armed violence. He proclaimed that Syari'ah in Aceh would be *lex specialis derogate lex generalis* which would create economic opportunities and better social services for Acehnese Muslims who suffered from greater poverty and a weaker educational system compared to the rest of the Indonesian provinces. In April 2003, Puteh issued Governor decree Number 9/2003 to stipulate that all regulations made by the Aceh government should be called Qanun.<sup>101</sup>

As Nur Ichwan has observed, the decree also stipulates that the implementation of Syari'ah in Aceh is within the framework of Indonesian law and part of the country's legal system. Aceh Syari'ah court and all legal products are exclusively under control of the secular Supreme Court (M. N. Ichwan 2007).

However, the Aceh security situation grew worse day by day. The increase of violence became a pretext for President Megawati to declare martial law (*Darurat Militer*) in the province on 19 May 2003, giving the Indonesian armed force full control over the region. As the anthropologist Elizabeth Drexler has aptly noted: "every failed attempt to hold perpetrators accountable was followed by renewed instability, underlining the state's inability to subordinate violence to the law" (2008: 125). However, the imposition of martial law was never successful in defeating GAM militarily. Instead, it added to the unprecedented loss and prolonged psychological sufferings for ordinary Acehnese (Good, Good & Grayman 2010). Extrajudicial killings, arbitrary arrests, beatings and rape cases were daily occurrences (Idria 2019). By the year 2003 the US Committee for Refugees reported that more

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<sup>101</sup> There is no corresponding phrase as Qanun Syari'ah or Qanun al-Islami in pre-modern Muslim discourse. Norman Calder (1996) argues that this is partly of a product of Western perception and has been introduced to Muslim societies through that sort of language under the Ottoman sultans (Calder 1996, 988).

than 16,000 civilians had been killed during the military operations and more than 200,000 people were displaced. The International Organization for Migration (IOM) reported a year later that 104,703 persons had been displaced (IDPs) and 26,000 houses had been torched since the beginning of martial law (IOM report, 2004).

Under martial law, the highest authority in Aceh was KODAM (the military regional command). The KODAM commander, an army general, was in charge of the situation and issuing policies. The civilian government under Governor Abdullah Puteh only had little to do, so Syari'ah continued to be the primary concern. Governor Puteh changed the MPU composition by allowing more traditional Ulamā' to join the Ulamā' assembly. Implementing Qanun Number 11/2002 on *Syiar* (Syari'ah socialization) Puteh ordered all government office billboards to be changed to Arabic letters as well as to inscribe *Asmaul Husna* ("99 names of God") on the fence surrounding the governor palace. He instructed all districts and municipalities to do so. Sulaiman and Klinken (2007) have pointed out under Puteh's governorship "religion and custom were manipulated to support the government's conflict resolution strategies, while the elite was smothered with money and facilities to keep them on side" (Sulaiman & Klinken 2007, 248; cf. Feener 2013b, 191), a characterization with which I mostly agree.

Puteh's career ended in disgrace. He was found guilty on several corruption-related cases in 2004, giving the lie to his promise that Syari'ah would create a more pious society by ending moral decay and corruption. He was taken to Jakarta where the trial, sentence, and punishment were decidedly not Syari'ah law.

Under martial law, the Indonesian armed forces and the police continued the violence in the province with killings, rapes, lootings, and tortures. The media constantly reported on this, but the rest of Indonesia, notably the middle class in Jakarta, remained silent about situation in Aceh (Siegel 2002). The Syari'ah project in Aceh continued under the auspices of Regional Military Command

(KODAM) Iskandar Muda. The army supervised the establishment and the growth of the religious bureaucracy in the region, especially in the districts of intense conflict. In 2002, the first regional DSI was to open in Takengon, Aceh Tengah, where many Javanese migrants lived and had an armed militia that supported the Indonesian army. After President Megawati declared martial law in May 2003, the KODAM Iskandar Muda commander ordered DSI to open in every district and municipality in Aceh Province (ICG 2006; Alyasa' Abubakar 2005b, 157).

### **Concluding Remarks**

When I came to meet former Aceh governor Syamsuddin Mahmud in January 2016, he did not change his opinion regarding the position and decision he took in 1999. However, perhaps due to the conversation topic or the limits of his memory, I did not get too much by way of comment from speaking with him. Unfortunately, two other important figures who would have been my key informants-- Usman Hasan and Kaoy Syah--had already passed away when I began this research topic. However, I discovered Hasan's interview with the national magazine *Tempo* published in 2003, approximately three years after the promulgation of Law Number 44. In 2003, Usman Hasan was appointed a special advisor to the Ministry of Security and Defense Office, under Megawati's presidency. In this interview, published under the title "*Pemerintah Plin-Plan Soal Aceh*" (The Government is Wishy-Washy about Aceh) Hasan had changed much of his rhetoric and made no mention of Syari'ah at all when he was asked what Aceh actually needed:

“There are actually five basic problems that cause structural and political dissatisfaction in Aceh. First, the central government’s injustice, in many ways. Second, discrimination. There is no Acehnese who becomes director of SOEs there. Third, the unfulfilled sweet promises. For the people of Aceh, a promise is a debt that must be paid. So, the Acehnese feel betrayed. Fourth, there is a feeling of being left behind followed by a lack of compensation given to them compared to Aceh's contribution to the central government both during the independence struggle and the contribution through natural resource revenues during the period of development. Fifth, the

tremendous atrocities committed by the security forces during the enactment of DOM from 1989 to 1998.”<sup>102</sup>

Answering the question of why the Syari’ah was proposed in 1999, Hasan makes a reference to Soekarno’s approach to end the Darul Islam rebellion in 1959, “It was a good example; why don’t we try the same with GAM?” This statement, of course, contradicts his own view that I have discussed earlier where he emphasized that Syari’ah was needed as a wall to separate between GAM from the Acehese people. Hasan acknowledged that the government was wrong to assume that ordinary Acehese and GAM would accept Law Number 44, regretting that “The core of that Law is Syari’ah, but GAM is indeed secular, and we got it wrong.”

However, Syari’ah law has been applied in no way to be revoked. I recall what Andi Mahdi, an Acehese intellectual who studied in Qom, Iran, once told me:

“When the word Syari’ah has been used to name a law, thus its principles being perceived to have enshrined in the regulation, it is no longer possible for all Muslims to take action against it. There are psychological, religious and political consequences for the Acehese Muslims to deal with the unwanted gift that may not be calculated by politicians in Jakarta. Or maybe they indeed expected it that way? Why is it impossible to repeal the law? The answer is because the word Syari’ah is a very strong word, as meaningful as the word Aceh for the Acehese. It means Islam for many of us. Thus, even though many of us have criticized the law from the very beginning when it was proposed, but to demand the law to be repealed, no one will do that. It is

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<sup>102</sup> “Sebenarnya ada lima akar masalah ketidakpuasan struktural dan politik di Aceh. Pertama ketidakadilan pemerintah pusat dalam berbagai hal. Kedua, diskriminasi. Mana ada orang Aceh yang jadi direktur BUMN di sana. Ketiga, perasaan tidak terpenuhinya bermacam janji manis. Buat orang Aceh, janji itu kan hutang yang harus dibayar. Jadi, orang Aceh merasa ditipu. Keempat, ada perasaan ketertinggalan dalam pembangunan yang diikuti dengan Kurniawatiangnya kompensasi yang diberikan dibandingkan dengan sumbangan Aceh pada pemerintah pusat baik zaman perang kemerdekaan maupun sumbangan pendapatan sumber daya alam pada masa pembangunan. Kelima, adanya kezaliman yang luar biasa yang dilakukan oleh aparat keamanan akibat diberlakukannya DOM sejak 1989 hingga 1998.” Usman Hasan, *Tempo*, 5 May 2003, pp. 23-24. Also available online at <http://www.tempointeractive.com/hg/mbmtempo/arsip/2003/05/05/WAW/>

like... as if we were against ourselves, against our own identity. Can you do that? Most of us cannot... No, you cannot.”<sup>103</sup>

What followed was indeed a massive pressure for all government parties in Aceh. The Syari’ah has been handed over to them and they are obligated to translate this political idea into real regulations. Up until 2003, the period covered in this chapter, Aceh parliament had drafted at least 35 Qanuns. The provincial legislature proposed 24 Qanuns in 2002 and 11 in 2003. However, only 4 out of the 35 Qanuns passed are directly related to the implementation of Syari’ah (Alyasa’ Abubakar 2003, 110).

Law after law has been passed by the provincial government, and there are more laws to come, but none of them has as its priority the resolution of the “five basic problems” of Aceh as mentioned by Usman Hasan above.

To conclude this chapter, I shall come back to what I said at the start: without a detailed knowledge of this history, it is impossible to understand the role and the place of Syari’ah in present-day Aceh let alone to explain the impact of the implementation of Syari’ah and the gradual resistance against it voiced by Acehnese Muslims themselves.

I have explored the political motivations behind the adoption of Syari’ah law in the province. It came as the central government’s strategy to respond to the separatist movement. Although it was clear from the very beginning that GAM had never asked Syari’ah, and even rejected the idea as soon as it was offered, the central government persisted in the Syari’ah project in Aceh as a means to winning the hearts of ordinary Acehnese, most of whom did not distinguish between the word Syari’ah and *Ibadah* (worship), and therefore Islam itself. Eventually, as Syari’ah has been implemented, it has served as a medium for the central government to strengthen ties with their local collaborators in the

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<sup>103</sup> Conversation with Andi Mahdi, Banda Aceh, October 2016 (undated)

province. Nevertheless, the implementation of Syari'ah did not show any significant contribution to solving the ongoing armed conflict in Aceh until the earthquakes and tsunami struck the province in 2004. In the following chapter I will show how the disasters managed to dramatically change the landscapes of the political, social, and religious life of the Acehnese.

## **Chapter 2: Syari'ah, Disasters and the Politics of Patronage: The Political Economy of Syari'ah in Aceh**

### **Opening Remarks**

This chapter investigates how and why the implementation of Syari'ah resumed its significance in the aftermath of the earthquakes and tsunami of 2004. One of the major changes in post-tsunami Aceh has been the full adoption of Syari'ah as the law of the province. This chapter will analyze several phenomena that changed the face of Aceh after the tsunami, including the new political economy of Syari'ah that emerged after the peace agreement was reached between GAM and the Indonesian government in 2005.

### **A. The Tsunami of 2004: Disasters in the Abode of Syari'ah**

Around 7:15 on the morning of December 26, 2004, 9.1 magnitude earthquakes shook the city of Banda Aceh. A few minutes afterward, a series of loud explosions was heard along with the tsunami waves moving towards the coastline. The wall of water inundated the city, dragging and destroying everything in its path. Unimaginable waves reached a height at 30 meters. People fled on foot but the waves overtook them. The force of the tsunami flattened more than half the city of Banda Aceh. The catastrophe killed nearly 170,000 people in the province. After the waves receded, dead bodies were scattered everywhere on the roads, under bridges, and inside ruined buildings. Some were stuck in barbed wire and hung on trees. As a result of the force they had been subjected to, most of the dead bodies were naked and decapitated, swollen and blackened. Most of the infrastructure covering more than 800 km of the Sumatra coastline vanished in just one terrifying blow.

In the following days, survivors began forming rescue groups to search and retrieve dead bodies from under rubble and ruins as well as inside swamps created by the tidal waves. I joined and

worked with volunteers for months to collect dead bodies and helped clean up the city from debris. The city was filled with a peculiar odor, the uncanny smell that keeps returning in the years after. As I have written elsewhere (Idria 2019), unlike those killed during the ongoing war in the province, when the disasters hit, most of the tsunami victims were never identified. They were buried together in mass graves.

Anthropologist James Siegel has said that the tsunami arrived in Aceh without a name. No warning and no escape. The unexpected catastrophe was extraordinary. It was “outside the Acehnese's capacity to name it out of their extant vocabulary” (Siegel, 2014). “Ie Beuna,” a generic term in Acehnese language which refers to the presence of a huge amount of destructive water, was adequate only to describe the flood, not the tsunami. Acehnese allowed another language and other people to explain it. Hence, the tsunami became “a foreign force with a foreign name” (2005a, 167). The tsunami called on foreigners to help Acehnese recover from its impact. Thousands of relief workers, journalists, donors, and researchers from around the globe suddenly flocked to Aceh. At the time the tsunami hit, the province was under martial law. Aceh had been the arena of combat between the Indonesian armed forces (TNI) and the Free Aceh Movement (GAM) for almost three decades. The tsunami forced TNI and GAM to observe an undeclared ceasefire. Under humanitarian imperatives (Grayman 2013) the government of Indonesia had no choice but to open the province allowing foreign aid and relief workers to come in, at the same time, as Mary-Jo and Byron Good have remarked, “risking international witnessing of consequences of decades of deadly conflict” (Good & Good 2013, 195).

A few weeks before the tsunami, Indonesian Corruption Watch listed Aceh as the most corrupt region among the country's 32 provinces. Aceh's governor, Abdullah Puteh, had just been arrested due to corruption allegations and was detained in Jakarta waiting for the trial. The Jakarta

prison, more than 1000 miles away from Aceh, saved him from the tsunami.<sup>104</sup> Puteh, who had insisted on expanding the implementation of Syari'ah into a total (*kaffah*) and comprehensive system, was the first high-profile politician being arrested by Indonesia's Corruption Eradication Commission (Komisi Pemberantasan Korupsi) since the anti-corruption super-body started operating in 2003. The fact that Puteh was not prosecuted in the Syari'ah court (*Mahkamah Syari'ah*) added to the popular claim that "playing with Syari'ah" (*main-main dengan Syariat*) was the reason why Aceh was hit by the tsunami.

In *Problems of Suffering in Religions of the World*, John Bowker writes "suffering, in one form or another, is a common experience that religions give a central importance place, it is often said that suffering is an important *cause* of religion in which men can feel reassured in the face of catastrophe" (Bowker 1970, 1). Indeed, in the early days of the tsunami aftermath, most Acehnese interpreted the tsunami through a religious lens. I witnessed religious activities arising among survivors--myself included. Islamic eschatology shaped people's interpretation of the cataclysmic event. Some people saw the calamity as punishment; others worked to find *bikmah* (wisdom) behind it (Idria 2010; Samuels 2019). Two common stories explained the tsunami as the punishment of God: first, God was angry because some young Acehnese Muslims had joined the Christmas celebrations on Saturday night 25 December 2004; second, a story was told about a group of Indonesian soldiers accompanied by Acehnese youngsters, male and female, who went to make a "beach party" nearby the tomb of a respected Muslim scholar from the 17<sup>th</sup> century named Teungku Syiah Kuala.<sup>105</sup> They were told to

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<sup>104</sup> On 18 November 2009, Puteh was released from prison. Ironically, when he returned to Banda Aceh on 14 January 2010, Puteh was greeted and welcomed as a hero. A prayer and feast were held for him in Banda Aceh by a group of Dayah Ulama' (*Tempo*, 14 January 2010)

<sup>105</sup> The story about 'a beach party' organized by the Indonesian Military on Saturday night, on the eve of 26 December 2004 was also printed in *Sabili* Magazine number 14, XII, 28 Januari, 2005. The story was also recalled in the recent work of Annemarie Samuels (Samuels 2019, 135).

have committed sinful acts by drinking alcohol and having sex on the beach, all vices that aroused the wrath of God. He sent the earthquakes and tsunami to punish them and the whole city in the morning after.

Beyond such stories, circulated orally among tsunami survivors in Aceh, the unfortunate conditions encountered by the Acehnese decades before the tsunami struck have prompted a number of Indonesian Islamic scholars to point out what they thought to be the cause of the tsunami. Abdurrahman Al-Bagdady, a lecturer in the Hidayatullah High College Jakarta, wrote a book entitled *Tsunami Tanda Kekuasaan Allah* (Tsunami: Signs of God's Power) invoking a classic claim that any misfortune that befalls a Muslim community is a consequence of their moral corruption and their negligence to live under the guidance of Islamic law. In the book, Al-Bagdady explains the disaster of 2004 using Qur'anic exegesis<sup>106</sup> to show the interconnectedness between the divine punishment and natural calamities (Al Bagdady 2005, 44–70).<sup>107</sup> Al-Bagdady also claims that God sent his punishment to the Acehnese because many of them had betrayed the Indonesian government by joining the separatist GAM (Al Bagdady 2005, 45, 72). It is hardly surprising that many Indonesian nationalists

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<sup>106</sup> In the Qur'an, narratives of lost peoples in the past such as Ād, Thamūd, Sodom, and stories of His apostles such as Noah, Moses, Hūd, Lot, and Ṣāliḥ are included by specific features of calamities, indicating punishment from God as revenge toon human sinful behaviors (evil deeds). From the Qur'an, Muslims learn are taught that the people of Prophet Lot had violated the law of God by doing engaging in homosexuality and consequently they were chastised with a storm of stones. Economic corruption and unjust government were the reasons behind the destruction of Prophet Shu'aib's people. God punished them by earthquakes and mighty blasts. The Flood had drowned Prophet Noah's people, including his son, after they insulted the prophet as a liar and irrational. Qarūn and the Pharaoh were two dissenters who lived in the time of the Prophet Moses. God buried them in the earth and the sea because of their arrogance. For more about punishment stories in the Qur'an, see Muḥammad b. 'Abd Allāh al- Kisa'ī, *The Tales of the Prophet of al- Kisa'ī*. (Al- Kisa'ī 1978).

<sup>107</sup> In his book, Al-Bagdady recalls Sūrah Al-Ḥadīd (57: 22) and Sūrah al-A'rāf (7: 96-100). pp. 64-70.

who opposed the separatist movement in Aceh shared that Al-Bagdady's view.<sup>108</sup> They spread the claim that God has shown His divine retribution to punish GAM and its supporters, the Acehnese.

Other scholar named Saefulloh M Satori wrote a small book with an unusually long title *Biarkan Kami Pergi Bersama Tsunami, Tsunami Lautan Hindia Menuju Episode Sejarah Akhir Zaman: Aceh dan Tiga Penenggelaman Bumi (Let us go with the tsunami, the Indian Ocean Tsunami is heading to the Episode of the Last Hour: Aceh and the Three Submerged Lands)* (Satori 2005). In a sub-chapter entitled 'Siapa Orang Aceh?' (Who are the Acehnese?), Satori discusses the connection of the disaster with the political situation in Aceh, wasting no time in attacking GAM as the cause of the 2004 disaster. According to him, GAM combatants were not fighting for Islam nor pursuing an agenda on the Islamic path, as many Acehnese Muslims desired. Similarly to Al-Bagdady, Satori argued that the GAM rebellion against the legitimate state, which provoked violence and bloodshed, eventually brought the Acehnese to face the calamity of 2004 (Satori 2005, 53–65). Theological style aside, the above two books coincide with a view long held by the Indonesian middle class concerning the political situation in Aceh, as discussed by James Siegel (Siegel, 2002). Most of the Indonesian middle class had become aware of the atrocities committed by TNI in Aceh over the decades, especially under the province's martial law status. Still, GAM was blamed for provoking TNI to take the brutal action against them. Caught in the middle, the majority of the Acehnese, unable to exit, were victimized. Meanwhile, from Jakarta, most politicians and former army generals equated GAM with Aceh, therefore, all Acehnese were GAM. Ten years after the tsunami, another take was offered by a renowned Jakarta-based Salafi preacher, Khalid Basalamah, who has claimed on his Youtube channel that Aceh was hit by the

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<sup>108</sup> At that time, the prevalence of this view among Indonesians was observable through an online forum provided by detik.com at <http://forum.detik.com/archive/index.php/t-76428.html>. Retrieved October 2016.

tsunami because many people in Aceh smoked *ganja* (marijuana) or consumed it as seasoning in their daily food.<sup>109</sup>

Meanwhile, most Acehnese religious scholars, while acknowledging the role of God as the sole power creating the disasters, worked to find wisdom behind the catastrophe. Hasanuddin Yusuf Adan, a lecturer at the Islamic State Institute in Aceh (IAIN Ar-Raniry), wrote a book about the 2004 tsunami, comparing the Aceh's unfortunate situation with the story of Sabā', the people of 'Ād, the people of Noah and the people of Sāliḥ as told in the Quran (Adan 2005). He connected the calamity of 2004 to the loss of Aceh's status as the "Verandah of Mecca," the sobriquet underlining Islam as the core of Aceh's entity and identity. According to Adan, the status given to honor the piety of Aceh's ancestors has been contaminated by the immoral behavior committed by some Acehnese and Indonesian policymakers (pp. 164-168). His book was a call to the people of Aceh to learn and return to the glorious history of the Islamic Sultanate of Aceh.

Muslim Ibrahim, chairman of Aceh Ulama' Consultative Assembly (MPU), told a journalist that there were many evildoers in Aceh before the tsunami struck the province. Corruption, murder, rape, torture, adultery, and many other iniquities were the reason God sent His reminder to Muslims in Aceh.<sup>110</sup> Alyasa' Abubakar, head of the State Syari'ah Office (Dinas Syariat Islam or DSI) since 2002, published a book entitled *Bunga Rampai Pelaksanaan Syariat Islam: Pendukung Qanun Pelaksanaan Syariat Islam* (Alyasa' Abubakar 2005a, 61) in which he renews the argument for the importance of Syari'ah to Acehnese identity. Furthermore, in almost every Friday sermon (*kebutbah*) in the months following

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<sup>109</sup> Basalamah's video sparked anger among the Acehnese Muslims. Basalamah was forced to apologize which he did and the video has since been deleted from his channel. (*Portalsatu*, 19 June 2016)

<sup>110</sup> Muslim Ibrahim quoted Sūrah An-Nisā: 93 in his interview with *Hidayatullah* magazine. See *Hidayatullah*, number 10/XVII, February 2005, p. 57.

the tsunami, many Acehese preachers repeatedly called the disasters of 2004 a prophecy about the need to turn to the complete implementation of Syari'ah. The condition was observed by the anthropologist Annemerie Samuels: "in the aftermath of the disaster, religious and state authorities invoked a broad array of religious explanations to speed up the implementation of Islamic bylaws and the establishment and activities of Syari'ah institutions" (Samuels 2019, 131; see also Feener 2013b). The result and consequence of the intense call to return to the implementation of Syari'ah in the aftermath of the tsunami were immense, as I will show below.

### **B. "We are very serious about implementing Syari'ah": the Bireuen Caning Stage.**

Amidst the debate about the cause of the tsunami and the calls to turn to the total implementation of Syari'ah, the Indonesian government supported the idea that rebuilding Aceh after the tsunami should be accompanied by plans to promote religious reform. On 10 June 2005, perhaps as a gesture that the provincial government of Aceh has started to recover from the devastating tsunami, Acting Governor Azwar Abubakar issued a new gubernatorial decree stipulating the instructions, methods, and procedures of public caning (*Pergub Nomor 10 tentang Petunjuk Teknis dan Tata Cara Pelaksanaan Hukum Cambuk*). Witnessed by Teuku Umar District Military 012 commander (Danrem Teuku Umar) Colonel Zahari Siregar and the regent of West Aceh Nasruddin, Azwar Abubakar officially signed the executive order. The ceremony took place in Bustanul Arifin Mosque, Dayah Serambi Mekkah, Meulaboh (Tripa and Hamzah 2019b, 116–17). Azwar Abubakar told the press "We are very serious about implementing Syari'ah. We will implement Syari'ah comprehensively" (*Serambi Indonesia*, 11 June, 2005).

A few days after the issuing of the governor's decree, the regent of Bireuen, Mustafa Glanggang, declared that Bireuen (218 km from Banda Aceh) was ready to be the first district to officially impose public caning. On 14 June 2005, he held a meeting with journalists concerning Bireuen's plan to immediately carry out the caning punishment. Echoing Azwar Abubakar, Mustafa

Glanggang promised that under his administration Bireuen would become a *pilot project zone* for the comprehensive Syari'ah implementation. "Gambling is now rife (*marak*) and uncontrollable in Bireuen,-- we need Syari'ah law," said Mustafa Glanggang (*Antara*, 14 June 2005). At that time, Syari'ah court in Bireuen was handling a number of criminal cases that violated Qanun Number 13/2003 especially on gambling (*maisir*). In total, Mustafa told the journalists, there were 26 convicts who would be punished by public caning in front of public. Friday, June 24, 2005, was set as the date for the execution of the caning sentence.

Officials in Bireuen became busy with the caning ceremony preparations. With 26 convicts in detention, Mustafa Glanggang thought it might be best to carry it out separately in several locations rather than all in one place. As the caning punishment day was approaching, Mustafa Glanggang still wasn't sure who would be the executioners (*Tempo*, 14 June 2005). At that time, Bireuen had not properly established the *Wilayatul Hisbah* (Syari'ah Police) or WH institution yet. Consequently, no one had been trained to do the caning, though there was a manual to follow based on the governor's decree. Ultimately, through the Bireuen Syari'ah court, the district announced that the punishment would be carried out in the courtyard of the Great Mosque of Bireuen. The Syari'ah apparatuses set up the caning stage, erecting colorful and beautifully decorated tents in front of the mosque, and printing public announcements to invite people to join the caning *eksekusi* (from English "execution" but *eksekusi* here means to carry out). It would become an important public event for the people of Bireuen. In the aftermath of the tsunami, Bireuen received little attention from international humanitarian organizations due to the minor impact of the catastrophe in the district. The acting governor and other high-rank officials in the province, supposedly busy supervising the tsunami recovery processes in Banda Aceh, would come to Bireuen to witness the ceremony.

On June 24, after the Friday prayer, thousands of people came out to attend the first public spectacle of punishment in the courtyard of the Bireuen Great Mosque. It became clear that only 20

out of the 26 Syari'ah convicts were brought to the mosque courtyard. Officials from the Syari'ah Court announced the audience that one person was sick and five others had fled Bireuen on the day before the *eksekusi*. A journalist of *DetikNews*, a well-known Jakarta-based online media, reported details of the ceremony:

One! Two! Three! Four! Five! Six! That is the sound of the officers counting as the executioner whipping his rattan cane to 15 prisoners in front of the Great Mosque of Bireuen - five hours from Banda Aceh, Friday (6/24/2005). Beautifully decorated stage. Interestingly, the prisoners whose bodies were covered with special white uniforms were welcomed like heroes. They were immediately welcomed by hugs, kisses on both cheeks, and received gifts! The kiss hugs were half-hearted from officials in *Tanah Rencong* (the Land of Rencong). The first kiss came from Acting Governor of Nanggroe Aceh Azwar Abubakar. Then followed by Bireun Regent Mustafa Glanggang, Kajati (Provincial Chief Prosecutor) NAD Andi Amir Ahmad, Kajari Bireuen M Adnan and the Head of Aceh Syari'ah Office Alyasa Abubakar. After the flogging, some neatly wrapped gifts are handed over to the convicts. It is told that the Koran is inside the present box. After being flogged, none of the convicts suffered injuries. Only Hasan Basri Thaib who later complained of dizziness and is currently to be treated in an ambulance by the medical personnel. Indeed, at this moment a number of doctors and medical personnel were mobilized. There are at least four medical teams. How does it feel to be whipped? Unfortunately, until now journalists have not been able to approach the convicts. They are now free. But, judging from their reactions after being whipped one knows how the flogging feels. For example, there are convicts, getting whipped so quickly, smiling happily while waving their hands at the audience. There are also those who say takbir immediately "Allahu Akbar!" God is great! (*DetikNews*, 25 June 2005)

Unlike the gripping story on the first ever-reported caning punishment carried out by the village head and Adat-leaders of Mata Ie, South Aceh, as I have described in chapter one, the above journal shows the contrasting situation of the Syari'ah punishment carried out by the state officials. The Bireuen caning report bears resemblance to a carnival-like event. The crowd booed the criminals, clapped, but then also received them back like heroes. Some people complained that each convict had received only five to six strokes for offenses they had committed. Since the government had declared the total implementation of Syari'ah law based on the Quran and Hadith, the authorities argued that

the number of strikes applied to punish the convicts cannot be found anywhere in the Quran, Hadith, or any classical Islamic penal law manuals (*Kitab Fiqh Jinayah*).

According to Alyasa' Abubakar, the type of Syari'ah punishment applied in the Bireuen caning and Aceh, in general, is a discretionary form known in Islamic law as *ta'zir*. There are three types of sanctions recognized in Islamic penal law: *hudud* or *hadd*, *qisas*, and *ta'zir*. *Hudud* or *hadd* is a type of punishment for offenses that are fixed in the Quran. *Qisas* is the Quranic concept of retributive justice to offenses that involve intentional bodily injury and loss of life. *Ta'zir* is applied to offenses mentioned in the Quran but with no specific punishment described (see also Hallaq 2009, 551–58; Alyasa' Abubakar 2005b; 2003). Alyasa' argued that since Islamic law in Aceh would be applied gradually (*perlahan-lahan*), *Hudud* and *Qisas* could not be applied until people became fully educated. Thus, for Syari'ah law in Aceh at the current stage, the appropriate type of punishment is discretionary (*ta'zir*). Alyasa' claimed that the aim of enacting the spectacle of punishment was more about broadcasting to the world that Syari'ah law prevails in Aceh.<sup>111</sup> However, it is likewise evident that the case of public caning in Bireuen tells much about post-colonial modern state experiments and political improvisation (Mbembe 1992) a drama involving the authorities, the criminals and the audience. This precedence has continued until very recently as I will show further (see more in chapter three).

Bustami Abubakar, an anthropologist at IAIN Ar-Raniry, has investigated how the people of Bireuen responded to the event and what they thought of it. He wrote an article entitled "*Respon Masyarakat Bireuen terhadap Pelaksanaan Hukum Cambuk*" (Bireuen Community's Responses towards the

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<sup>111</sup> On several occasions in, public seminars and interviews Alyasa' Abubakar was consistent in putting forth the argument that public caning is needed to announce to the people of the world (*kepada warga dunia*) that Islamic Law is implemented in Aceh. However, Alyasa' never explained in detail why others (people of the world) should know that Aceh has applied Syari'ah law. In a seminar, I once asked him whether the law was still legitimate if we apply it without the recognition from people of the world. His answer:, it was not the question of legitimacy but of about respect-- , other people should respect the Acehnese's decision to implement Syari'ah law and they know how to behave when they come to Aceh.

Implementation of Caning Punishment). According to Abubakar's investigation, many people in Bireuen, while agreeing that the convicts should be punished in accordance with Syari'ah law, saw the punishment as *pura-pura* (fake) and only applied to poor people (B. Abubakar 2007, 118–19).

Learning from Bustami Abubakar's account, a decade later or so I came to interview ZK and FH, two of the 26 convicts flogged on the stage in Bireuen in 2005. FH was reluctant to talk about his memory of the event. He was more curious about how I had found out who he was. I told him that there is a record about the case in the Syari'ah court. There was a long silence then he decided to end the interview and return to working in his rice field.<sup>112</sup> ZK was more open to talking. He did not find it difficult to recall details about the case. It's been awhile, he said, but he showed that he lived with the memory of that event. It started with the story of the arrest. ZK and his friends were gambling in his *jamboe* (a sort of semi-gazebo) next to Gampong rice field. They did it just for fun. He recalled no more than a hundred thousand rupiahs (\$10) of money found in, to use the Syari'ah court term, "the gambling arena". Still, he acknowledged that what they did was an act of gambling. He knew that gambling is considered sinful in Islam. "*Kamoe maen cuma keu blo rukok*" he said in Acehnese language, meaning that it was just petty business. One played and used the money one got from the game to buy a pack of cigarettes or so. Indeed, according to ZK, there was a rule among the players that anybody winning the game would buy cigarettes and share it with others. No one was to lose.

ZK also recalled that they were arrested by members of the national police, not by the WH. They were detained for two months in prison. In June 2005, they heard that they would be prosecuted and punished according to Syari'ah law. ZK had no idea what that punishment would look like. When his family came to visit him in prison, some officers promised that if they paid some money to the

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<sup>112</sup> Interview with FH, 7 June 2016

police, ZK would be released from prison and would avoid the public caning. The whole family collected money and gave it to the officers, but ZK remained in prison.<sup>113</sup>

On the day the caning punishment was carried out, ZK received much attention from the audience. He got six lashes, but he felt no pain, he said. He was, however, confused about why he was booed by the spectators but then received hugs, kisses and even a gift from the officials as he stepped down from the caning stage. He laughed gently when he told me this part of the story. However, ZK believed that he and his friends were treated like that by the officials because they wanted to impress the international media and workers who came to witness the punishment. He suspected Mustafa Glanggang's background as a journalist of *Serambi Indonesia* before becoming a politician might have motivated him to perform for the attention of foreign journalists and other international workers who had come to Bireuen. He was good at it; at least he knew how to position himself before news reporters, according to some people.<sup>114</sup>

For ZK, however, being caned on the stage made him aware that Syari'ah law had been applied in Aceh. Prior to his own experience, he had never heard of such an event ever taking place. None of his gambling friends had ever been caned before. Following the punishment ceremony, he was ashamed and thought he would not be able to go out of his house anymore, but many friends and relatives visited him at home, donated some money, and encouraged him to regain his spirit again (*agar bersemangat kembali*). When recalling the events of 2005, he told me that Syari'ah is good for Acehnese society, but that the implementation of the law should be fair and just. Above all, some people I interviewed in Bireuen still considered that the 2005 flogging was just a trick from Mustafa Glanggang

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<sup>113</sup> Interview with ZK, 8 June 2016

<sup>114</sup> Interview with ZK, 9 June 2016

to cover many other cases that the Bireuen district government did not seriously handle.- Indeed, in December 2007, Mustafa Glanggang surrendered to the police office after he was hunted by the state apparatuses for several criminal cases including corruption charges. Like Abdullah Puteh, his corruption case never went through the Syari'ah court. Nurdin Abdul Rahman, a former exiled-GAM official, became the regent of Bireuen in 2007. Under the Nurdin Abdul Rahman administration (2007-2012), it is observable that Bireuen never carried out any public punishments. In order to understand why certain crimes go to the Syari'ah court and why certain regents implement different types of punishment, the following sections will reflect upon the process of lawmaking and the place of the Aceh Syari'ah law under the larger Indonesian constitution.

### **C. The 2005 Helsinki Peace Agreement and the Place of Syari'ah in the Law on Governing of Aceh (LoGA)**

The earthquakes and tsunami on 26 December 2004 put everything in a new perspective. Since February of 2005, leaders of the Free Aceh Movement (GAM) and the Government of Indonesia (GOI) sat together in a series of roundtable meetings under the auspices of the Crisis Management Initiative (CMI). On 15 August 2005, witnessed by Martti Ahtisaari, former president of Finland and chairman of CMI, GAM and GOI signed a memorandum of understanding (MoU) in Helsinki to end one of the bloodiest conflicts in Southeast Asia.

Aceh achieved, to some extent, a new status within the Indonesian jurisdiction namely "self-government." There are at least ten key points in the agreement relevant to summarize here to understand how significantly the social and political life of the Acehnese have changed after the Helsinki accord. First, on *governing Aceh*. The first point in the Helsinki MoU stipulates that "a new Law on the Governing of Aceh (LoGA) will be promulgated." This point is followed by the principle that Aceh is given "the rights to exercise its authority within all sectors of public affairs except on foreign affairs, monetary and fiscal matters, external defense, national security, justice, and freedom

of religion which are sectors that belong to the authority of the central government of Indonesia”. Second, on *political participation*. The Indonesian government “agrees to and will facilitate the establishment of Aceh-based political parties”. Third, on the *economy*. Aceh is “entitled to retain seventy percent (70%) of the revenues from natural resources in the territory of the province”. Furthermore, Aceh also has the right “to set and raise taxes to fund official internal activities”. Fourth, on the *rule of law*. “Aceh legislature will redraft the legal code for Aceh on the basis of the universal principles of human rights”. Fifth, on *human rights*. A Human Rights Court will be established for Aceh. Furthermore, the Truth and Reconciliation Commission (TRC) “will be established with the task of formulating and determining reconciliation measures”. Sixth, on *amnesty*. The government of Indonesia “will grant amnesty to all persons who have participated in GAM”. Seventh, on *reintegration to society*. “People who during the conflict have renounced their citizenship of the Republic of Indonesia will have the right to regain it”. Eighth, on *security arrangement*. “GAM undertakes to demobilize all of its 3000 military troops and the decommissioning of all arms.” The Indonesian government will withdraw all elements of non-organic military and non-organic police forces from Aceh. Ninth, on the *establishment of the Aceh Monitoring Mission (AMM)*. Tenth, on the *dispute settlement*. “In the event of disputes regarding the implementation the Head of Monitoring Mission will make a ruling which will be binding on the parties” (CMI 2005).

From a legal point of view, the content of the Helsinki MoU can be divided into two parts. The first comprises some points that can be implemented straightforwardly without having to change any existing regulations, for example, points on reintegration, compensation, amnesty, decommissioning arms, and military relocations. The second comprises points that cannot be implemented without changing existing regulations such as establishing local political parties, human rights court, TRC, and revenues shares. The second part is why the drafting of LoGA was needed as soon as possible for implementing the Helsinki Accord. As Bernhard May notes “the new law was

supposed to provide Aceh with the framework for effective self-government that previous laws had failed to deliver and expectations in Aceh were high” (May 2008, 42). Since the LoGA would include numerous aspects of Acehnese life ranging across education, public health, investment, natural resources management, and the judiciary system, many issues emerged, especially on how to bring the LoGA in line with the Indonesian constitution. The LoGA was drafted by the Aceh Provincial Legislature based on the input of various stakeholders in Aceh and the central government in Jakarta. It took almost a year for the various parties to agree on the language and content proposed in the LoGA. Eventually, after a considerable delay, in July 2006 the central government legalized the draft by passing Law Number 11/2006 called *Undang-Undang Pemerintahan Aceh* (UUPA, law on Aceh’s governance).

Although the topic of Syari’ah formed no part in the above Helsinki MoU discussions<sup>115</sup> and given that its implementation had no significant contribution to ending the Aceh conflict, it did not prevent the central government and some Aceh politicians from continuing the Syari’ah project in the province. Against the will of former GAM elites, even “against the wishes of many, perhaps a majority of Acehnese” (Good & Good 2013, 206), university scholars, official Ulamā’ and members of Aceh provincial parliament worked hand in hand to make sure that articles on acknowledging and implementing Syari’ah be included in the UUPA.<sup>116</sup> The UUPA reaffirmed Syari’ah law as part of the points of identification in the special status of Aceh. As I shall show, UUPA not only gives a new legal

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<sup>115</sup> Damien Kingsbury wrote a thorough account of the peace process in Helsinki, describing the negotiations round by round (see Kingsbury 2010). From his account it is clear that there was no talk about Syari’ah between the Indonesian government and GAM during the meetings.

<sup>116</sup> Interview with Unsyiah legal expert Mawardi Ismail, 30 July 2016.

basis for the implementation of Syari'ah in Aceh, but also provides a more contested interpretation regarding the place of religious law within a modern state legal system.

Article Number 241/UUPA distinguishes between *Qanun Aceh*<sup>117</sup> and *Qanun Jinayah* (Criminal Law). Qanun Aceh then refers to any regional regulations that do not directly deal with Syari'ah law. However, unlike the status of regional regulation (*peraturan daerah* or known by its acronym *perda* applied to the rest of the Indonesian provinces), which can be revoked under any conditions by the central government (Law Number 32 of 2004 concerning Regional Government), Qanun Aceh and Qanun Jinayah can be revoked only through judicial review and by the Supreme Court. This status is promulgated in article 235/UUPA. Paragraphs (1) through (4) of this article state: (1) the government's supervision/oversight of Qanun is carried out in accordance with the national constitution; (2) the (central) government may revoke Qanun when it is in contrary with: a. public interest; b. other Qanun; and c. higher constitution, unless otherwise stipulated in this Law. Furthermore, in paragraph (3) Qanun can be examined by the Supreme Court in accordance with the national constitution; (4) Qanun as referred to in paragraph (3) the implementation of Islamic Syari'ah can only be revoked through a judicial review by the Supreme Court.

Furthermore, another distinction between Qanun Aceh and Qanun Jinayah can also be observed in the different types of sanctions that they are empowered to regulate. Article Number 241/UUPA paragraph (2) states similarly to Law Number 32 of 2004 on Regional Regulation that Qanun Aceh can contain a maximum of 6 (six) months imprisonment and/or a maximum fine of Rp. 50,000,000.00 (fifty million Rupiah). This provision does not apply to the field of Qanun Jinayah

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<sup>117</sup> Article Number 1/UUPA distinguishes between Aceh Qanun (*Qanun Aceh*) and Regency/City Qanun (*Qanun Kabupaten/Kota*). Paragraph (21) states that Aceh Qanun is "a kind of regional regulation that regulates the administration of government and the life of the people of Aceh,." Whilewhereas the Regency/City Qanun only regulates only the district-level government and the community within its regional/municipal territory.

(Criminal Law). In paragraph (4) Article Number 241/UUPA states that Qanun Jinayat is exempt from the aforementioned provisions. It follows from article Number 241 paragraph (4) that it can be considered as proposing a very specific status of Islamic Syari'ah in the UUPA. This paragraph, according to interpretation of the proponents of the implementation of Syari'ah penal law, has made clear that Qanun Jinayat can in its own right lay down all types of sanctions as long as they are deemed necessary and in accordance with the principles of Islamic law (Alyasa' Abubakar 2008, 47–48; 2009, 2–4; see also Ali Abubakar 2014, 517–19). Article Number 241 also corresponds to article Number 128 on the new roles of the Syari'ahh Court. In paragraph (3) of article Number 128/UUPA it is stated that the Syari'ah Court has the authority to examine, hear, decide, and settle cases covering the fields of *abwal al syakhsiyah* (family law), *muamalah* (civil law), and *jinayah* (criminal law) based on Islamic Syari'ah. In paragraph (4) it further explains that provisions concerning the fields of *abwal alyakhsiyah* (family law), *muamalah* (civil law), and *jinayah* (criminal law) as referred to in paragraph (3) are regulated by Qanun Aceh. According to Al Yasa' Abubakar (2008, *ibid*), UUPA is strengthening the implementation of Syari'ah and for this reason the locus of Syari'ah law in Aceh should be understood in terms of law on a specific subject (*lex specialist*).

Furthermore, the tsunami of 2004 has contributed significantly to changes in the way Indonesians view Aceh (Siegel 2005a). It “brought back Acehese to Indonesians” (Grayman 2013). It also changed the political situation in the region (Good 2014; Grayman, Good & Good 2009; Good & Good 2013; Reid 2006; Aspinall 2009) and the direction of the Syari'ah implementation, as I will continue to explain below.

#### **D. Post-Tsunami Recovery: “Humanitarianism Replaced Politics”**

After the Helsinki MoU was signed, the Rehabilitation and Reconstruction Agency for Aceh and Nias (*Badan Rehabilitasi dan Rekonstruksi*, BRR) established by President Susilo Bambang Yudhoyono in April 2005, found the security situation had become more conducive to executing the

Aceh rebuilding plans. BRR received \$884 in direct funding from the state budget to finance housing, infrastructure, and other post-tsunami community empowerment programs. BRR also coordinated with local and international NGOs to channel the aid. In total Aceh received around \$7 billion in donations from people around the globe, making the post-tsunami rehabilitation and reconstruction in Aceh one of the largest humanitarian interventions in history (Grayman 2013).

People living in the tsunami-affected areas began to discover the wisdom (*bikemab*) left by the tsunami. The peace agreement was no doubt also a blessing extended by the tsunami to the people residing in rural areas, who suffered the most during the armed conflict. For many Acehnese it was time to celebrate a short moment when, to borrow James Siegel, “humanitarianism replaced politics” (Siegel 2005a, 167). As Siegel notes Acehnese, forgotten during the conflict even by Islamic groups, came to receive profound attention (*ibid*).

I observed at that time that outside debates among the elites on what must be done first to implement the Helsinki MoU, ordinary people in Aceh were more concerned about dealing with the influx of humanitarian assistance, the scale of infrastructure reconstruction, employment opportunities beyond Aceh standards, and foreigners and their lifestyles. No doubt, many preoccupied with how to actively participate in rebuilding Aceh. Annemarie Samuels notes that “the will to improve” (Li 2007) among the Acehnese themselves was the major driving force to rebuild Aceh (Samuels 2019). Indeed, the magnitude of the disaster and its devastating impacts have attracted an international presence to the region. People from all over the world came not only to offer help but also wanted to learn from Aceh. As Good & Good have remarked, “Aceh is also a reminder that sites of conflict may, at some moment in history, also become laboratories for reworking center-periphery relations in society” (2013, 192), more specifically “as a kind of laboratory for new forms of governance” (*ibid*, 206).

#### **E. New Political Configuration: Politics (again) Replaced Humanitarianism.**

In December 2006, Irwandi Yusuf and his running mate Muhammad Nazar won the gubernatorial election. They become the first new governor and vice-governor of Aceh to win the election without the supports of political parties. The Helsinki MoU allowed an independent candidate to run for office. Irwandi Yusuf was a former GAM spokesman. Muhammad Nazar was a top member of SIRA presidium. Both of them had been imprisoned by the Indonesian government when Aceh was under martial law. They received amnesty from the Indonesian government after the Helsinki peace agreement. GAM created a committee, comprising the returned exiles, to select the candidates. In an internal poll, Irwandi-Nazar came in third place. The winner of that poll, Nashruddin bin Ahmed, declined his own candidacy and chose to stay out of politics. As a result, most GAM elites from the returned exiles circle chose to back the candidate who came in second in their internal poll, Humam Hamid-Hasbi Abdullah. The candidate backed up by the former GAM elites also attracted the endorsement of United Development Party (PPP) on the national level. However, Irwandi-Nazar saw the public campaign as an opportunity to agitate that their candidacy, independent from national political parties, truly represented GAM's ideology and the Acehnese interests. They won the election.

Irwandi has been known for his “secular” mind by Acehnese standards. Nazar's ambiguous stance regarding the place of Syari'ah in contemporary Aceh has been discussed in the previous chapter. Above all, in the early days of their administration, both men showed no particular interest in implementing strict Syari'ah law.<sup>118</sup> Michael Feener notes that in 2007 there was a sharp decrease in Syari'ah court data about criminal cases involving Qanuns Number 12, 13 & 14/2003 which are

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<sup>118</sup> I have made initial studies of the archives of *Serambi Indonesia* dated from 2005 to 2007. Between October 2005 to December 2006 there were at least 75 to 104 cases related to Syari'ah law enforcement. For 2007, I hardly found any articles or news reports concerning the implementation of Syari'ah, and consequently, no records to be found on the implementation of caning during this time. Instead, disputes arising from disaster rehabilitation and reconstruction projects, as well as conflicts regarding the distribution of compensation to victims of conflict, predominated in the headlines of daily media reports.

offenses related to alcohol, gambling and khalwat. In 2005, there were 107 cases and in 2007 the total dropped significantly to 58. As Feener argues, it was not because there were fewer incidents related to the offenses; instead, the incidents were settled outside the Syari'ah court, most of which, as he quoted from officials of the Syari'ah agency, "are settled by Adat" (R. M. Feener 2013b, 175–76). However, Feener ignores the political dynamics behind the decrease in the cases brought to the Syari'ah court. In my opinion, the settlements outside the court were not a result of popular intentions, let alone the initiative of the WH officers who were given the authority to decide. Rather, under Irwandi-Nazar leadership, the WH's legal and political power were more limited with regard to proceed the case through legal procedures. In a public statement, Irwandi made clear his view on the implementation of Syari'ah

In my opinion the Syari'ah in Aceh today is not Islamic. Islamic Syari'ah is not a matter of punishment or symbols. Syari'ah must be carried out in accordance with Islam, not just one side only. In Islam, empowering the economy is Syari'ah, treating people honestly is Syari'ah, improving welfare is Syari'ah, health is the essence of Shari'a. Punishment aims to eliminate these "diseases." Does it make sense that in a society where there are still many economic problems, unjust government, unemployment, then there is a penalty to mutilate hands for thieves? I strongly disagree. I have given my statement about this, I will cross out the Qanun" (cf. Afriko 2010, 26)

Irwandi's stance toward Syari'ah was greeted by progressive circles in Aceh. University intellectuals and some middle class in Banda Aceh, among others, found him as their new ally. Elites in GAM leadership, although becoming Irwandi-Nazar's rival during the 2006 political election, still voiced the same idea that the state Syari'ah implementation should not be a priority for rebuilding Aceh (*Tempo*, 14 August 2006). However, one group, mostly Ulama' and santri (students) of Dayah, including those who claimed to have supported GAM during the independence struggle, became disillusioned with Irwandi's policies towards Syari'ah. Although they opposed the Syari'ah option given by the central government in 1999, the reason for which became more clear after the peace agreement, the Dayah circles (mostly HUDA affiliated) were hopeful that when Aceh came under the authority of former GAM, then they would be rewarded for their past support with a leading role in defining

and determining the direction of the implementation of Syari'ah in Aceh. The dream was born in the early 2000s when President Abdurrahman Wahid poured in money given by the Sultan of Brunei. But after Gus Dur was impeached, the relationship between the traditional Dayah Ulamā' and the government had worsened again. As the provincial government continued to transfer the authority for the implementation of Syari'ah to the hands of the official Ulamā' council, university-based scholars and other government affiliated institutions, the Dayah Ulamā' reverted to supporting the independence referendum.

After the tsunami, Dayah's power and influence emerged, reinforced by the financial assistance and recognition of BRR as well as the fear and trauma of the disasters. Of course, the question arises as to how BRR could prioritize funding and attention for Dayah Ulamā' and santri while the purview of their work was predominantly related to infrastructure development in tsunami-affected areas. According to a lecturer at UIN Ar-Raniry, it began with a number of critical comments issued by some Dayah Ulamā' in the media towards BRR's rebuilding agenda.<sup>119</sup> Those Ulamā' questioned the source of funds (*sumber uang*) used and brought by BRR and foreign NGOs to Aceh. They constantly warned the people of Aceh concerning the dangers of using money from unclear sources (*uang tidak jelas*). Such money was not only *haram*--prohibited by religion--it could be used to distort the faith of the people of Aceh.<sup>120</sup>

After reading such comments in media, leaders of BRR were reported to feel that if they did not approach and win the hearts of the Dayah Ulamā', the latter could hamper BRR's work. BRR decided to form a special department given a mandate to attend to religious matters in Aceh namely

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<sup>119</sup> Interview with FM, a lecturer at UIN Ar-Raniry, 6 August 2016.

<sup>120</sup> See for example "Ulamā' Dayah Minta Masyarakat Selektif Terima Bantuan" (NU Online, 12 July 2005)

*Deputi Bidang Agama, Sosial dan Budaya* (Deputy for Religious, Social, and Cultural Affairs). In addition, BRR proposed to the MPU that they work together in order to create a network with the rest of Dayah Ulamā', most of whom resided far away from Banda Aceh, at the BRR headquarters. On March 15, 2006, BRR held *Muḥakarah Ulamā' Aceh* (the meeting of Aceh Ulamā') intended to absorb (*menyerap*) their aspirations and to accommodate their proposals within the BRR plans to rebuild Aceh. Since then, official funding had been set up by BRR in the name of empowering Dayah. Figures of Dayah started to show up regularly in the provincial capital. On most occasions, they appeared as honorable guests in various BRR ceremonies ranging from official meetings, program launching to *peusijek* (to cooling down) new homes for tsunami survivors. The term “*Ulamā' Kharismatik*” (Charismatic Ulamā') became familiar as it was used by BRR officials and then the daily newspapers. Furthermore, to secure a conducive work environment, BRR also accommodated and hired former elite members of GAM into the agency, giving them many important positions and access to construction contracts.

#### **F. New Power and Politics of Patronage: The Political Economy of Syari'ah.**

According to David Kennedy “How gains and losses will be distributed between those who lead and those who lag and how the struggle between winners and losers will be carried out are questions best addressed by thinking of politics and economics as intertwined projects and close collaborators in the distribution of political authority and economic reward” (Kennedy 2013). I will address similar questions in this following section through a discussion of the key factors and patterns of relationships that have seen former GAM combatants who previously were in the “anti-Syari'ah law” camp slowly become part of the executors of that very law.

As BRR showed its commitment to work with the Ulamā' and started to channel more funds and assistance to religious activities, Aceh witnessed the growth of many new Dayah after the tsunami. To use an Indonesian idiom, Dayah *tumbuh seperti jamur di musim hujan*--flourished like mushrooms after a rainstorm. Apart from several grand Dayah that already existed in Aceh since the beginning of the

19th century, and some even established long before that (see Feener 2013), suddenly many “petty” Dayah (some locals called them *Dayah mini*) of various types sprang up all over Aceh.

This condition continued after the election of new heads of government in Aceh at the end of 2006. The government, both provincial and municipal, followed BRR’s strategy of allocating a considerable amount of funds for “the development of Dayah,” channeling the funds either through BRR programs or other tactical fund posts. The number of funds distributed to Dayah varied ranging from 100 million to 300 million Rupiah (\$10,000 to \$30,000), depending on the reputation of the Dayah and how many students they comprised at the moment the fund was proposed. On the one hand, the policy to fund Dayah was a form of political patronage, a “strategic-relational” part of “the quotidian practices of everyday corruption” common in the post-colonial Indonesian state (Aspinall & van Klinken, 2011). Many of the newly elected political leaders in 2006 came from GAM circles, through connections built during the conflict. Most of them had studied or received asylum from Dayah when Aceh was under martial law. Furthermore, those newly elected politicians, both from the executive government and legislature, saw *potensi massa*, “the potential of the masses,” gathered in Dayah as important for their supporters and future voters. It would be easy to secure the connection, to control and measure their *potensi* through Dayah-related activities. Indeed, some Dayahs have thousands of students and teachers.

To justify the disbursement of funds to Dayah, slogans about the primacy of Dayah, historically and religiously, were created and framed in billboards and newspaper advertorials. These campaign aimed to show that those who run the government cared about Dayah, hence they cared for Islam. Traditional Dayah resumed its significance and gradually came to represent the official Islamic thought in Aceh. Qanun number 11/2002 mentions that Aqidah (Islamic Creed) officially recognized in Aceh is *Ahlussunnah wal Jamaah* (followers of the Prophets and his companions). Dayah Ulamā’ claimed that the teachings and doctrines they taught in Dayah truly represented what the

Qanun has mandated. The traditionalist religious practices once condemned by the reformists suddenly found their place in the community. As a matter of fact, a new tendency arose among parents in Aceh: motivation to send their children to study in Dayah, either to full-time in Dayah or by a “half-day education” mixed between Dayah and regular schools. As one mother in Banda Aceh said to me, “After the tsunami there were so many bad incidents, we read about promiscuity, drugs, people were not afraid of God anymore. I have two children. I sent them both to Dayah, so they would become pious, saved in the world and the hereafter.”<sup>121</sup> This particular expression is also common elsewhere, described by some anthropologists as the phenomena of a piety turn in the Islamic world (Mahmood 2004; Hirschkind 2006; Schielke and Debevec 2012).

Besides money and material assistance, the government also provided training for teachers and scholarships for Dayah students. Some local observers critically indicated that the government-Dayah connection was sustained because there was “dirty practice” going on, including bribery, budget manipulation, and corruption involving politicians from the parliaments, officials of the government, BRR workers, and Dayah administrators. Such practice was an open secret and continued until very recently.<sup>122</sup> Fear of *potensi massa* as well as a taboo on talking about the behavior of the Ulamā’ kept most people silence against such practices. Sometimes, however, under a satirical tone, some people might share what they thought of it public discourse. For example, Jarjani Usman, a lecturer at UIN Ar-Raniry, wrote an article for *Serambi Indonesia* under the title “Teungku Mafia” (Usman 2010). Teungku is a title given by the Acehnese for the Ulamā’. Jarjani’s *Teungku Mafia* refers to religious scholars who deceive the government officials. According to Jarjani, for the sake of receiving financial

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<sup>121</sup> Interview with Ibu Nashriah, 19 June 2017.

<sup>122</sup> Such practice is confirmed by TA who is working at Badan Dayah.

assistance a *teungku mafia* would create a kind of makeshift building and furnish a list of nonexistent students, supplying false information in the form requesting money from the government. When there was an inspection from the government, about which they often received advance warning, signaling the link of collaboration between the two, *teungku mafia* would “hire” children from the neighboring villages to be present at their fake *Dayah* building. However, as I have described repeatedly, the *Ulamā’* and their position in Aceh society remain unshakeable. Jarjani Usman’s piece was a rare case.<sup>123</sup> A few writers responded to Jarjani’s article accusing him of insulting *Ulamā’* and *Dayah* (see for example Ilyas 2010; Marzuki 2010).

Some developments I try to indicate below have further strengthened the position of *Dayah* in contemporary Aceh. Although a closer look will reveal that *Dayah* is not a single entity and doctrines taught in *Dayah*, even in the very traditional ones, are also not monolithic, a certain sentiment under a certain circumstance could lead it to become otherwise. BRR and other NGOs would soon finish their project and leave Aceh by the end of 2007. The notion of *Dayah* gradually became a thing, a category, a new source of power. Problems arose as more and more *Dayah* were established but with no sustainable source of income to run and finance the boarding school system. Therefore, the competition to secure financial access derived from the government budget intensified. On the one hand, the official implementation of *Syari’ah* assumed the importance of *Dayah* to support the state project and the law enforcement it aimed to carry out. On the other hand, since the implementation of *Syari’ah* has been directed by the state, appropriated by state budget, and managed through state institutions, scant opportunities were available for the people of *Dayah* to be involved in the decision-

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<sup>123</sup> Jarjani Usman told me he learned the case from his own village in Pidie (90 KM from Banda Aceh). He took me to his village sometime in October 2017 and showed me the *Dayah* whose leader he referred to as *Teungku Mafia* in his article. It contained several wooden buildings and was located in a small field, full of grass and scrubs and a few coconut trees. I saw no activities in that location.

making and control of the direction of the Syari'ah implementation--not to mention that most of them are not civil servants. In short, the architecture of Syari'ah in Aceh remained in the hands of official Ulamā' who were drawn from university-based scholars. Among people in the traditional Dayah circles, they did not even recognize those running the DSI as Ulamā'.

Nearing the end of the work period of tsunami aid organizations in Aceh, some issues arose and created the conditions in which the existence of Dayah became extremely important. For example, in early 2007, rumors became widespread about a purported *program pemurtadan* (conversion program) run by Christian missionaries. In the same year, Irwandi Yusuf passed a governor's decree regarding "Guidelines for the Construction of Houses of Worship" (Pergub Number 25/2007). The new regulation was considered by Islamist groups, including some Dayah Ulamā', as facilitating and empowering non-Muslims to establish more houses of worship in Aceh, thus counter-productive to the spirit of Syari'ah enforcement in Aceh. Irwandi was increasingly seen as an enemy of Syari'ah law. Furthermore, to consolidate and receive official recognition from the state, the HUDA Ulamā' urged the establishment of Dayah official agency as mandated by UUPA. Furthermore, the MPU council, which was previously only operated at the provincial level, came to be formed at the district and municipality level. In Lhokseumawe, North Aceh, for example, 100 Ulamā' took the test on February 3, 2008 in order to fill the council. Among the test requirements to become an official Ulamā', an applicant should be above 35 years old and able to read the *kitab kuning* (lit. yellow book, Islamic classical texts) such as *Mabally*, *Bajuri*, *Fathul*, and *Muin* (Tripa and Hamzah 2019a, 12). This policy opened new opportunities for the Dayah Ulamā' to get closer to the state administration.

Furthermore, as the LoGA allowed Aceh to form local political parties, leaders of Dayah Ulamā', under the HUDA umbrella, declared a new political party called *Partai Daulat Aceh* (Aceh Sovereignty Party, PDA). Apart from claiming "their real disappointment" at seeing the decline in the condition of the enforcement of Syari'ah under the leadership of Irwandi-Nazar, the motivation for

Ulamā'-turned-politicians to compete in the 2009 upcoming political election was provoked by their view that Irwandi-Nazar as secularists were incompatible with the Islamic status of Aceh, and therefore did not deserve to lead the province. Furthermore, in a break with GAM's influence, some young Dayah Ulamā' began to question Hasan Tiro's commitment to Islam, citing two facts: Hasan Tiro had married a Jewish, not a Muslim, woman, and he had never declared an open statement about supporting Syari'ah law in Aceh (which he refused to declare from the very beginning). For those who opposed GAM's power, these two facts were evidence enough to spread the claim that there would be no future for Islam in Aceh under GAM-affiliated leadership, including Irwandi-Nazar (Afriko, 2010).

Showing they have power and are ready to compete, the public of Aceh began to witness an outbreak of vigilantism perpetrated by a number of students from Dayah (santri), notably in the North Aceh and East Aceh Regions (Mahdi Syihab, 2010; Afriko 2010; Feener 2013b). They took Syari'ah law into their hand. The reason for this, as put forward by the santri leaders, was that the government under Irwandi-Nazar no longer cared about the enforcement of Syari'ah law. In 2008, Irwandi's decision to merge the WH into Satpol PP (Public Order Police) was considered an insult that undermined the place of Syari'ah in Aceh. Irwandi was also reported to reduce the budget allocation for the implementation of Syari'ah at the DSI.

In January 2008, the Dayah santri organized a mass prayer called "Zikir Akbar," involving more than 10,000 students from various Dayah across Aceh. The Zikir took place in front of Mesjid Raya Baiturrahman. They invited Irwandi Yusuf to come and declare his commitment to implement Islamic Syari'ah. Irwandi declined the invitation. Such a gesture triggered more anger among Dayah students towards him. By the end of 2008, Irwandi decided to change the composition of his gubernatorial cabinet. The decision included expelling Alyasa' Abubakar from the State Syari'ah Agency. The conservative Muslims in Banda Aceh saw this measure as a step that weakened the

implementation of Syari'ah. Ziauddin Ahmad, a relative unknown, was appointed as the new head of the State Syari'ah Agency. The Dayah Ulamā' took no interest in commenting on the reshuffle.

At this juncture, I recall a seminar I attended in 2007 at Sultan Hotel, Banda Aceh, where I heard Waled a central figure of HUDA criticize the implementation of Syari'ah in front of many members of Aceh civil society networks. Waled, instead of pronouncing Syari'ah properly, used the local slang "*cari'ab*" (which literally means "looking for a meal"). According to him, that was what the government actually was up to with Syari'ah; both local and central governments used Syari'ah for material gain. Therefore, according to Waled, people should refuse to call what has been formalized by the government as "Syari'ah."<sup>124</sup> I was fascinated by his comment. I could not understand how a renowned Ulamā' rejected Syari'ah. Gradually I apprehended that such sarcasm was not an expression of disagreement with the idea of implementing Syari'ah in Aceh; rather, the traditional Ulamā' envisioned a more comprehensive Syari'ah law, a complete religious legal system that would regulate far beyond the scope of the existing Qanun.

Responding to the decline in Irwandi's commitment to Syari'ah law enforcement, students from several Dayah took action to demonstrate the need to strengthen the implementation of Syari'ah, through their own methods: *razia* or vigilante raids. Santri Dayah announced their presence with wholesale arrests of those violating Syari'ah regulations. They claimed to act in support of the duty of WH, a unit responsible for overseeing the implementation of Syari'ah but not fully functional due to the limitations of their budget under the Irwandi administration. Such vigilante actions mostly targeted women accused of not wearing proper Islamic dress, or took the form of intensive raids on the so-called secluded places such as beaches, cafes, and hotels to look for unmarried couples having illicit

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<sup>124</sup>However, recently many Dayah-based Ulamā' have changed their opinion, and many of them now have become the Syari'ah supporters.

sexual affairs (*kebahwat*), gamblers, or those selling alcohol. Their raid activities were reported widely, but the authorities took no action to prevent them. Islamic Defenders Front (FPI), a Jakarta-based radical Islamic group that came to Aceh during the tsunami emergency but found no Acehnese interested in joining them, suddenly found a group to connect with. Habib Rizieq, the national leader of FPI, came to visit Aceh several times in the aftermath of the tsunami. He met several leading Dayah Ulamā' with the goal of creating an FPI Aceh branch. The image of the pious and militant Acehnese might have led Rizieq to perceive that the province would be receptive to FPI agenda; in fact, Rizieq failed to attract Dayah Ulamā' at that time. Among the majority of Indonesian Muslims, FPI in the early days of its emergence was considered part of the Salafi-Wahabite revival. In attacking traditional Islamic practices, the Salafi group recalled the modernists who dominated Islamic thought in Aceh in the early 20th century. Perhaps their past rivalry with the modernist PUSA explains the traditional Dayah Ulamā' group's hesitancy to welcome FPI. Additionally, there was a rumor about an FPI connection to the army; two influential Ulamā', namely Waled Nuruzzahri and Abu Paya Pasi cautioned their colleagues and students not to build any connections with FPI because they suspected TNI might be behind the emergence of the radical group (Afriko 2010, 45). However, a few years later, it seems their disappointment with Irwandi might have provoked some people in the Dayah community to form a new alliance with FPI. As a result, in a meeting that took place on 27 November 2008, a Dayah leader from Lhokseumawe, Muslim At-Tahiry of Dayah Darul Mujahidin, was appointed as the first FPI commander in Aceh. Since FPI never got along with members of any traditional Islamic boarding schools in other provinces, the new FPI-traditional Dayah alliance seemed an anomaly.

Seeing the increasing number of HUDA Ulamā' fill important positions in the MPU, Irwandi and former GAM elites commissioned the establishment of a new Ulamā' council called Majelis Ulamā' Nanggroe Aceh (Ulamā' Council of Nanggroe Aceh, MUNA). There was no official statement

that MUNA was established to represent GAM's interest within this contest of religious authority. However, the MUNA leadership committee comprised a group of Ulamā' who had supported GAM during the conflict and continued to back Irwandi-Nazar. Furthermore, to limit the santri Dayah movement in taking Syari'ah law into their hands, Irwandi pushed former GAM combatants who had already re-organized themselves into a transition committee called *Komite Peralihan Aceh* (KPA) to take control and prevent the santri from conducting vigilante raids in their regions. KPA saw the santri movement as a threat to their local businesses. Many of them were owners of cafes and recreational spots that became the target of the santri raids. In some cases, the clashes could not be avoided (Afriko 2010, 34).

Controlling the influence of HUDA and winning the hearts of the Ulamā' and santri Dayah, Irwand-Nazar accelerated the formation of the Dayah Education Agency. In 2008, empowering Dayah was listed as one of the government's top priorities. It is stipulated in the Aceh Qanun on education (Qanun number 5/2008). In section eight, article 32 of the Qanun, the Aceh Government recognizes Dayah as both traditional and integrated (modern) Dayah education. The Qanun also stipulates that Dayah can offer a diploma equivalent to a university bachelor's degree. Furthermore, it calls for an official agency to oversee the development of Dayah to be established, called *Badan Pendidikan dan Pengembangan Dayah* (Dayah Education and Development Agency). It is also important to note that it was the time when Irwandi and other former GAM leaders worked to form a new local party named Partai Aceh (Aceh Party, PA). They never fully transformed into a local political party until May 2008, one year before the general election where six local political parties in Aceh would compete with many established national parties for legislative seats.<sup>125</sup> After the establishment of PA was complete, Hasan Tiro returned from his self-imposed exile in Sweden.

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<sup>125</sup> In 2009 there were six local political parties eligible to cast the vote namely Partai Rakyat Aceh (Aceh's People Party, PRA), Partai Bersatu Aceh (United Aceh Party), Partai Suara Independen Rakyat Aceh (Aceh

On 11 October 2008, the Sultan Iskandar Muda airport was packed with thousands of people waiting for the return of the Supreme Leader (*Wali Nanggroe*). Tiro arrived by a small commuter flight from Kuala Lumpur accompanied by his former “ministers.” The security was tight. No one was allowed to greet the man who had now returned to Aceh for the first time since 1976, when he had proclaimed the Free Aceh Movement. Tiro was taken by a convoy to the Great Mosque of Baiturrahman. A huge stage was set up and the courtyard of the mosque was filled with hundreds of thousands of the Acehnese, including myself. It was reported that Partai Aceh flags were erected from Banda Aceh to Langsa. Aceh became *merah*, red, filled with the color of GAM. Standing for a few minutes before the crowd, Tiro spoke no words. Malik Mahmud, GAM’s former prime minister, delivered a speech on his behalf. After Malik Mahmud closed his speech, Tiro stood again. A microphone was handed to him. He said a greeting in Arabic and then in Acehnese, a very soft, almost unheard, “*lon ka lon woe*,” I am home. That was it. He waved his hand and was taken back to his chair. After that ceremony, except for his close circles, no one ever heard from Tiro. Everywhere he went he was securely guarded by former combatants. From the media I read that he took several trips back and forth between Banda Aceh and his hometown in Sigli. Other than that, people only needed to know that *Wali* was around and that he loved drinking Coca-Cola (Ilyas and Nurdin 2010, 54; Tempo 2008).

The return of Hasan Tiro, although he said nothing to the Acehnese, was “a defeat before the battle” for politicians of national political parties who were about to face the legislative election in Aceh. They nevertheless worked to find a strategy to save their face. Politicians of national parties which from the very beginning used Islamic law as their political tool to gain votes in Aceh, found the

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People’s Independent Voice Story, SIRA), Partai Aceh Aman Sejahtera (Safe and Prosperous Aceh Party, PAAS), Partai Aceh (Aceh Party), and Partai Daulat Aceh (Sovereign Aceh Party).

moves made by traditional Dayah santri could be a force to balance Irwandi Yusuf and GAM's political influence. Golkar and two national Islamic parties PKS and PPP tried to attract Islamist voters in the 2009 parliamentary election with the promise to pass new a Islamic Criminal Code or *Qanun Jinayah*, hoping they could gain enough seats.<sup>126</sup> The 2009 general election not only marked the participation of local political parties, it was also the first time for Indonesians were able to vote for a candidate directly, rather than voting for the party. As predicted, the majority of Acehese voted Partai Aceh politicians who won the most legislative seats at both provincial and districts level.<sup>127</sup>

### **G. The Emergence of Public Resistance to the Syari'ah Law**

Shortly before leaving the parliament building, members of the departing Aceh Representative Council (DPRD Aceh), comprised of members of national political parties such as Golkar, PDI-P, PKS and PPP passed the new draft on Islamic Criminal Code or *Qanun Jinayah*. Provisions in this new Syari'ah code included stoning to death for those who committed adultery and 100 lashes for homosexuality. The new draft provoked both local and international backlash. Eventually, the Syari'ah Criminal Code was postponed because Governor Irwandi Yusuf refused to sign it.

Behind Irwandi's refusal to sign *Qanun Jinayah* there were the efforts and reactions of Acehese civil society organizations that forced him to do so. After the draft of *Qanun Jinayah* was published in *Serambi Indonesia* newspapers, hundreds of human and women's rights activists formed an advocacy network called *Jaringan Masyarakat Sipil Peduli Syariat/JMSPS* (the Civil Society's Network concerning

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<sup>126</sup> The drafting of Islamic Criminal Code actually started in 2007 after Irwandi Yusuf ordered the State Syari'ah Agency (DSI) to draft a unified Islamic Criminal Law to replace a separate existing Qanun on gambling, intoxication and unlawful sexual activities. The plan was conducted by DSI step by step involving many parties including Ulama', academic intellectuals, women activists and other figures. On the drafting process of Qanun Jinayah and its dynamic see (Großmann 2016)

<sup>127</sup> On anthropological account of the 2009 legislative election in Aceh see Grayman (2013, 298-305)

Syari'ah). JMSPS comprises several local NGOs, such as the Human Rights-NGO coalition, Aceh Legal Aid Foundation (LBH), women volunteers on humanitarian issues (RPUK), Flower Aceh, KKTGA, Aceh Judicial and Monitoring Institute, Violet Grey, Women Voice Radio, Gender Working Group, SEIA, Fatayat NU, Kontras Aceh, Center for Human Rights Studies-Unsyiah, Sri Ratu Safiatuddin Foundation, and Komunitas Tikar Pandan and Sekolah Menulis Dokarim, two local organizations that I co-founded. Activists of the network worked together for months and used various strategies, from lobbying to organizing a series of demonstrations. They went to the Aceh Parliament condemning members of the parliament and the governor of Aceh had they not stopped proposing the law.

From a series of meetings with Irwandi, in which I also actively participated, he told us that some members of the Aceh parliament had distorted (Irwandi used the word *bajak*, hijacked) the Islamic Criminal Code bill. Their motive was to embarrass him. The original draft, according to Irwandi, did not include provisions on *rajam* (stoning to death) against fornication or homosexuality. Following the procedure that a bill draft should be made public for a period of public review, the whole draft of the new Islamic criminal code was advertised in *Serambi Indonesia* newspaper. Suddenly the public saw that *rajam* was listed in the draft. The hardliners came forward to support it. It was a difficult situation for Irwandi. He was aware that Qanun Jinayah is a very sensitive issue. He allowed the JMPS network to lead a series of demonstrations condemning the provincial legislature and asking the governor to stop the process of promulgating the Islamic Criminal Code. Irwandi was grateful with the JMPS actions. He had a strong reason not to sign the Qanun.

However, since the UPPA allow regional governments (regents and mayors) in Aceh to draft and pass their own regulations the Acehnese began to witness the promulgation of various controversial Qanun, especially at the district level. This phenomenon emerged after 2009 as hundreds of NGOs finished their program and left Aceh. In 2010, for instance, Ramli MS, regent of West Aceh

issued a regulation, forbidding women from wearing jeans and tight clothing. Women in Meulaboh were stopped by WH on the streets and in the markets. Islamic dress according to Qanun in Meulaboh only allowed women to show their faces and palms. A series of raid on women were reported after the promulgation of Qanun on Islamic dress. Women were questioned and their names and address will be recorded in notes if they did not conform to the rules.

In the following year, 2011, the mayor of Lhokseumawe, in North Aceh, also promulgated his own “Syari’ah law” banning women to straddle on motorcycles. Meanwhile, the city of Langsa restricted any form of outdoor performing arts that do not strictly conform to Syari’ah. Since 2010 the mayor of Banda Aceh has prohibited its citizens from celebrating New Year's Eve. The mayor also launched a moral project “to re-educate” (*pembinaan*) the punks, claiming to bring them back to the path of Islam (see chapter four). As a result, Aceh has repeatedly been portrayed in international media outlets as Indonesia’s most conservative province, as if inhabited by only notoriously proud Muslims in favor of the Syari’ah regime. Those perplexing regulations added to a number of cases and abuses by WH officers as well as the infamous attitude of some regional government officers who furthered the notorious reputation of Syari’ah law in Aceh. For example, on 15 July 2010 two members of WH in Langsa raped and tortured a 20-year-old female student they had in custody (see chapter five). Official Ulamā’ authorities have also issued various prohibitions against ordinary activities that according to them are incompatible with Syari’ah and Acehnese culture, such as celebrating New Year's Eve and other forms of “un-Islamic” public entertainment. In some districts, women are prohibited to go out without the accompaniment of their male relatives.<sup>128</sup>

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<sup>128</sup> See, for example, Human Rights Watch, “Policing Morality: Abuses in the Application of Syari’ah in Aceh, Indonesia”, HRW report 2010, 4 December 2010.

Recently, the Aceh Syari'ah authorities have contracted their efforts on policing women's dress, organizing public canings, forbidding public entertainment, and issuing many prohibitions concerning private matters. Along with the intensification of the implementation of Syari'ah in some regions in the province, a wave of counter-discourse against the new dominant view has also emerged. There are books and media articles written by contemporary Acehnese intellectuals, such as Fuad Mardhatillah (2009), Affan Ramly (2010), Husni Mubarak (2009), Teuku Harits Muzanni (2011), and TM Jafar Sulaiman.

In one of his regular columns, an Acehnese intellectual TM Jafar Sulaiman writes:

“It is going to be natural that gradually people will oppose, fight, and blame the Syari'ah, because (in Aceh) Islam has been formalized into a state law and carried out with state power. It will be a different situation should everyone learn Syari'ah by heart and through knowledge, not through coercion and no state apparatus to force us. To put it in a simple way, so long as there are no changes in the direction of how the Islamic Syari'ah being implemented, then our history will continue to provide means of resistance to it. Does Islamic Syari'ah need to be abolished? The answer could be yes (TM Jafar Sulaiman, *Syariat Islam Tidak Perlu Dibela*).” (T. J. Sulaiman 2010)

In a way, his critique echoes Waled Nu's sarcastic comment about the implementation of Syari'ah as *cari'ab*. I was also fascinated by TM Jafar Sulaiman's courage in writing the above paragraphs, especially when faced with accusations of being the enemy of Syari'ah. Perhaps his confidence in making such a bold public statement is based on his holding a degree in Islamic law; that he has a degree in Islamic studies and is still critical about the Syari'ah is interesting in itself. In that sense, Syari'ah for Acehnese is like a hyperobject: they are forced to respond to it—substantively, politically, legally, socially, and culturally.

Qanun Number 11/2002 states that Islamic Creed (*Aqidah*), Worship (*Ibadah*) and Islamic Symbols (*Syiar Islam*) are the subjects of Syari'ah implementation and must be protected by the government. In the matter of Akidah, the state Syari'ah recognizes and accepts only those of *Ahlussunnah Wal Jamaah* (followers of the Prophet's tradition and his companions) for Muslims in Aceh. Consequently, it rejects the place for other schools of Islamic thought (madhab) such as Shi'a,

Ahmadiyya and other minor madhabs. Since the boundaries and practices of *Ahlussunnah Wal Jamaah* are not clear, anyone could easily be accused of heresy or of not being a true believer. The Dayah Ulamā' claim that their teaching is the only one that follow the Ahlussunnah wal Jamaah. The consequence of not following the teachings of Ahlussunnah wal Jamaah (hence the Dayah) are thus enormous.

On Saturday, November 17 2012, Tgk. Aiyub Syahkubat, a religious leader in Bireuen was struck down and slain by a group people who had cast suspicion on his religious beliefs. Aiyub, according to reports, defended himself by sword and drove the attackers off the pavillion. He was able to fell several of them before he was disabled by a bullet from an official at which point the crowd finished off Aiyub's resistance, striking with their blades and throwing his corpse into the study hall they then burned down. It is said that 130 police arrived to put an end to the incident but could do nothing. One of the attackers and one of Aiyub's students were killed and dozens were wounded (*Atjeh Post*, 18 November 2012).

Aiyub was an Ulamā', but he was accused of teaching against Ahlussunnah wal Jamaah and therefore spreading heresy in Bireuen. In 2011, he had been ordered to re-declare his Islamic creed (*shahada*) by the MPU council, but he refused to do so. In December 2015, my friends and I visited Jambo Dalam, the village where Aiyub had lived. According to some people we spoke to, he had indeed been religious and learned. His problem was that he never went to learn from any formal Dayah. People from a Dayah in Bireuen told us that Aiyub had no capability to read *kitab kuning*, either in Arabic or Jawi. It was proof that he had not learned Islam from the right path. Maybe he had a supernatural power, according to others, but he did not understand Syari'ah. His teaching was not Ahlussunnah wal Jamaah. Having supernatural power does not mean someone is allowed to teach, said others. What a religious leader should teach is a doctrine based from the *kitab*s. He could perform curing rituals, but not teaching about Islam, because he would mislead people, told an Ulamā' from

the MPU council in Bireuen. Aiyub persisted; he was tortured to death and his prayer house was burned down. Some of the perpetrators were arrested by the police but members of the Ulama' council who accused Aiyub had gone astray and have never been brought to the court.

Another case of heresy allegation befell a group of young people who hosted a regular religious study in their organization called Gafatar. They got into trouble for two reasons: because they did not learn from the *Dayah Ulama'*, and because they were openly very critical about the application of *Syari'ah* in the city of Banda Aceh. The latter brought them into conflict with the law, as the mayor of Banda Aceh reported them to the police who charged them with religious blasphemy. Five leaders of Gafatar were brought to court and imprisoned for 4 years (*Tempo*, 15 June, 2015). As these cases show, what counts as the effort to become a better Muslim is still largely determined by the mainstream's hegemony and the distribution of power shared among them. For example, while someone may, through David Kloos' (2018) understanding of "religious agency," act in a way that puts them at odds with conforming to *Syari'ah* law as officially dictated by the state, I assume that the people described in Kloos' study are still within the circle mandated in the *Qanun*, namely the followers of *Ahlussunnah wal Jamaah*. In other words, they follow the teachings of traditional *Dayah* that has claimed itself as the sole interpreter on how to become a better Muslim; beyond that circle, such efforts may well meet a violent end.

### **Concluding Remarks**

In the wake of the tsunami, the Helsinki Peace Agreement is considered to be one of the most important wisdoms (*bikmah*) for the lives of five million Acehnese. This province devastated by civil war for more than three decades suddenly found the momentum to recover after the tsunami. New hope arrived with the influx of foreign workers and a vast amount of foreign aid. The tsunami disaster contributed notably to the realization of peace, after previous attempts under President Habibie, Gus Dur, and Megawati failed. Following the Helsinki Peace Agreement, the Government of Indonesia

withdrew 24,000 troops and police from Aceh. Since 2006, to implement the points agreed upon in the Helsinki Peace Agreement, the central government had to withdraw more than half of the total security forces from Aceh. The Indonesian government, however, became concerned about their diminished control of Aceh. Furthermore, with the stipulation of UUPA, the influx of donations and foreign workers to Aceh was seen by Indonesian “nationalists” as a threat—if Aceh could establish connections with foreign countries it would further alienate Aceh from the Republic.

Meanwhile, the tsunami disaster also left horror and extraordinary trauma for the people of Aceh. The impact on the psychology of the community led many of them to turning more religious. Islamist preachers and hardline groups have called for a return to the enforcement of the Islamic Syari’ah, which was idle under martial law. During the tsunami emergency, the people of Aceh tended to keep silent when the government chose to develop policies to strengthen the implementation of Syari’ah, even though they knew it was not what they needed. Furthermore, following the Helsinki Peace Agreement, there were changes in the region’s political configuration, actors, and roadmap for the implementation of Islamic law in Aceh. Many former members of GAM, a group previously opposed to the Syari’ah proposal, came forward to support Syari’ah, especially after they occupied powerful positions in Aceh. The same conditions also apply to traditional Ulamā’ groups. Their connection with GAM during the conflict period gave them grounds to demand more power to be involved as the initiator of the implementation of Syari’ah. In areas where the regents and mayors were considered less strict in applying Syari’ah, groups from Dayah took over law enforcement by street vigilantism.

Under post-military rules, the re-enactment of forms of classical Islamic law has been an effective way for the central government to remain in control of security in Aceh. As I indicated in the first chapter, from the very beginning the Indonesian military was actively involved in shaping the implementation of Syari’ah. After the post-tsunami reconstruction period in Aceh was completed,

some individuals and groups began to realize that the Syari'ah had become a political tool used by the regional authorities. There are many cases where Syari'ah has been used to violate human rights and the promises of democracy in the province. Such conditions are allowed to occur without too much interference by the state (central government). Like the previous chapter, this historical chapter offers an indispensable backdrop for my further discussion on the Acehese's different attitudes towards Syari'ah law. In the next chapter I will continue to discuss how individuals and groups marginalized by the application of Syari'ah react and fight for their rights. As they have witnessed the tragic consequences when openly opposing the implementation of Syari'ah law, these groups have returned with a more subtle strategy and tactics to fight against the dominant system and hegemonic power.

## Chapter 3: Two Stages for Performance in Aceh: *TV Eng Ong* and The Carnival of Public Caning

### Opening Remarks

The special autonomy given to Aceh to implement Islamic law has spurred the birth of two forms or models of performance stages in the region, each with very different aims. This chapter is an attempt to set out the main factors explaining how these two models of stage performance coexist at the same time in present day Aceh. The first is the art performance stage, and the second is the caning stage for punishing Syari'ah violators in public. As for the latter, its central manifestation -- its display of police and demonstration of its power -- is theatrical. Against this backdrop, the condition of Acehnese entertainment, especially the performing arts, after the implementation of Syari'ah in the province, is thrown into sharp relief. The following analysis is intended to provide some sense of the human and situational factors that may determine which model becomes more dominant in Aceh in the future.

### A. Two Stages

#### Stage 1: *TV Eng Ong*.

A direct broadcast from RRI, *Radio Republik Indonesia*, the national Indonesian radio station, in Banda Aceh is in progress. However, it is broadcasting not from the radio studio but rather from the room referred to as the auditorium. A man wearing a '*tangkalok*' cap, reminiscent of Dokarim, a marginal poet during the colonial war period, is holding a microphone and is in continual contact with an "on-the-ground reporter". His voice fades in and out, possibly due to the poor functioning of the loudspeaker or in order to create the sense of an uneven signal from the scene. The man is encased in a cube-shaped box resembling a large television, complete with an antenna and loudspeaker. A sign 'live' is hanging in front of the screen. On top of the large box are printed the words: *TV Eng Ong*.



Figure 4: TV Eng Ong Performance

Source: Komunitas Tikar Pandan

Amongst the watching crowd a young woman in a black *jilbab* (Islamic female head-covering) carrying a microphone packaged in a plastic mineral water bottle acts as the on-the-ground reporter communicating with the *tangkulok*-wearing broadcaster. A teenage boy carrying a large camera on his shoulder is following the young reporter. But his camera is a fake! As it gets closer to the audience, it is evident that it is only a wooden box to which a red colored kerosene can funnel has been attached. There is a small light on top of the box representing the camera. As he comes closer and directs the light in the direction of the audience member being interviewed, I see written in small letters on the camera the same words: TV Eng Ong.

There is a question and answer exchange between the reporter and the audience in response to prompting from the broadcaster in the television set, which elicits much laughter from the audience. Several audience members are invited to enter the 'television'. The broadcaster shouts out: "*Njoe tv*

*aséli, Eng Ong, jeut teubiet jeut tamöng.*”<sup>129</sup> “Tonight we can see stimulating and entertaining expression, even though this is a story about the wounds of conflict, but another time males and females may not be allowed to appear on the same stage, and the performance may even be banned by the WH!”<sup>130</sup> says the broadcaster while laughing and grimacing wryly. The audience applauds. This live broadcast is, of course, a scene from an art performance.

Although stages and performances in other parts of the Archipelago and the wider world are unequivocally associated with entertainment or with art, this is not necessarily the case in Aceh. I will now describe another form of performance--another stage, with a very different function.

### **Stage 2: Public Caning**

This stage is situated in front of the mosque, to the left-hand side, in front of a yellow-fringed marquee characteristic of events attended by Indonesian officials. There are rows of empty plastic seats that will be occupied as soon as people come out from the mosque. This is Friday; the day Muslim men in Aceh are required, in accordance with Syari’ah law, to attend the Friday prayers in mosque. As the congregation leaves after the prayers, there is an announcement inside the mosque that there will be a caning of sinners.

A number of people hurriedly exit and leave the mosque yard. Most of those leaving are those who have cars, including cars with white numbers on red plates, indicating the car of a government official. It is not clear why they do not stay to witness the performance that is to be held on the already prepared stage. Maybe they feel suddenly hungry, as they have not yet had lunch; maybe it is also that the spectacle is intended only for the ‘small-fry’ as it is one of their own who is to be exposed as a

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<sup>129</sup> An Acehese sentence meaning: “this is true television, Eng Ong, able to be entered and exited”.

<sup>130</sup> The term WH, used in the original, is an abbreviation of *Wilayatul Hisbah*, frequently referred to by Acehese as the Syari’ah police (see chapter five).

sinner; or perhaps they leave in protest against such an event being staged, in rejection of the use of caning. However, there are still lots of people who have not left, all of them male, teenagers and adult men, maybe because women do not come to the mosque on Fridays. My friend Jim, probably because he is a foreigner, becomes the center of attention for the children, until an official begins calling for the offenders to be brought to the stage. I see a group of women beginning to move in from the side of the square, and get the sense that they have been ordered to attend.

A securely closed paddy wagon approaches the fenced off stage, followed by an ambulance. On the side of the ambulance are the words "General Hospital, Jantho, Aceh Besar": the location of the caning stage. I approach the doctor and nurse who get out of the ambulance. This is the procedure we have to follow, the nurse tells me. We check the offender, determine that he or she is healthy before the caning, and then treat the wounds caused by the punishment, adds the young female doctor from within the ambulance, in response to my question about why they are here.



Figure 5: The caning stage

An official from the courts comes onto the stage and reads out the judge's disposition from the Jantho Syari'ah Court. It details what 'sin' has been committed by those in the paddy wagon resulting in them having to act out this 'performance'. They are accused of committing adultery as they were caught in the act of kissing, though both are married to other people. On the basis of their transgression they are to receive eight strokes. Another official outlines what is going to take place on the stage. The caning will not hurt, he says, as it is only intended to shame. He then quotes several verses from the Quran. In order to shame: this is indeed a performance stage that has been prepared to present a spectacle!

Two uniformed women get out of the front of the paddy wagon, the back of which is still securely closed. The female offender is first taken out of the paddy wagon; a WH escorts her onto the stage. The person administering punishment, who is holding a rattan cane about a metre and a half long, is already on the stage. He is wearing a ninja-like mask. The official with a microphone gives the flagellator instructions to begin, and counts from one to eight. The whip-wielding figure strikes in accordance with his instructions. The person beside me mumbles *ka peulaku lom singoh mangat keunong lom*.<sup>131</sup> When the male offender is brought on stage many of the audience shout out. The mumbler beside me now also calls out, ordering the flagellator to strike as hard as he can and more than eight times. Someone else shouts out that the male 'sinner' should be struck with a bigger cane. The flagellator pays no attention to the demands for more punishment, as he delivers the same number of strokes, striking eight times. The performance is then declared over and everyone leaves.

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These two very different stages are a contemporary phenomenon connected by a single theme: stages for performance in Aceh. The two stage models reflect a classic tension between the

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<sup>131</sup> A phrase which translates loosely as "Do the same again, expect the same punishment".

understanding of performance from the viewpoint of local culture and humanistic values versus its interpretation from a religious perspective, against a background of politics and social conflict. Both performance stages have their aficionados who feel entertained and both are designed as spectacles. Both models are rooted in the long experience of Acehnese history and have come to symbolize alternate preferences for interpreting what is appropriate to watch. The question then is which interpretation will dominate the fate of the performance stage in Aceh in the future. In this chapter I will outline the origin of the differing perspectives that have led to the development of these two stages and how they exist together today.

### **B. The Legacy of War and the Politics of Syari'ah: The Face of the Performing Arts in Aceh in the Post New Order period**

The performance in the form of a parody of a television program on the first stage described above, which I saw along with other viewers in the auditorium of the Banda Aceh RRI station on 13 December 2010, was part of a night of theatre performances presented by young victims of conflict, in collaboration with a number of professional performers. The event was part of a Participatory Theatre Workshop (6-13 December 2010) organized by Komunitas Tikar Pandan, a cultural organization active in Banda Aceh since 2003. Some university students from a number of Acehnese tertiary institutions have been the driving force behind the organization's rapid development. Nowadays the community hosts all kinds of cultural activities in Aceh such as theatre and film festivals, painting exhibitions, and literary discussions. They also publish a cultural journal and the works of Acehnese writers, and have established a creative writing school, a bookstore and a mini cinema. The organization has been involved in various post-conflict and tsunami humanitarian projects.<sup>132</sup>

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<sup>132</sup> Komunitas Tikar Pandan refer to themselves as a cultural league as they encompass several organizations such as Sekolah Menulis Dokarim, Jurnal Kebudayaan Gelombang Baru, Aneuk Mulieng Publishing, Institute Tukang Cerita TV Eng Ong, Metamorfosa Institute, Gallery Episentrum Ulee Kareng, and Toko Buku Dokarim.

Since 2007, Komunitas Tikar Pandan has held participatory theatre workshops involving survivors of the conflict in collaboration with several local and international organizations.<sup>133</sup> The activists involved in the organization believe in the important role that culture and the arts play in dealing with the post-conflict and post-tsunami problems in Aceh. As well as a medium for recovery from the trauma of the bloody conflict between the Free Aceh Movement (GAM) and the Indonesian army (TNI), the children's theatre workshops and the performance of TV Eng Ong are seen as a means of reconciling the past and the future of the children whose parents either participated in or were victims of both sides of the conflict in Aceh.<sup>134</sup> Matters such as these are neglected by the government, leaving it to civil society to take up the role. In the performance in the radio auditorium above, there were also several Japanese watching in the front row. Some of them took part in the TV Eng Ong, assisted by a translator. The Japan Foundation also sponsored several Japanese theatre performers who collaborated with Tikar Pandan for the workshop.

TV Eng Ong, as the focus of attention that night, was something new in terms of form as well as in representing a new mood in Aceh after the domination of terror during the armed conflict. The idea of TV Eng Ong came from Agus Nur Amal, who was wearing the cap like Dokarim and acted as the broadcaster in the performance.

According to Agus, he designed TV Eng Ong while he was with refugee children in the Pante Raja region, one of the areas in the Pidie district most affected by the tsunami of 26 December 2004. He thought hard about the best way to treat the trauma affecting the refugees. Agus tried to find a

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<sup>133</sup> Komunitas Tikar Pandan's archive indicates that they have worked with Teater Garasi (Yogyakarta), Care International, IOM, Teater Embassy (The Netherlands), and the Japan Foundation.

<sup>134</sup> Interview with M. Yulfan, Komunitas Tikar Pandan activist and the activities coordinator for the Participatory Theatre workshop, 13 December 2010 and 18 January 2011.

medium that would allow those in the surrounding area to tell their stories, particularly as Acehnese have many memories of conflict and natural disaster. However, they had real problems in telling their stories under normal conditions. In this context the TV provided a space with, according to Agus, a “magical power”. Everyone felt they were entering a different space, allowing a shift in identity with a shift in space. Everyone could go in and out and tell their stories. Moreover, the stage became a medium to connect the village leaders with the villagers, particularly as the conflict and tsunami had created tensions between the village head and the rest of the community, which could not be solved in the community meeting hall (*meunasah*), as would be the case under normal conditions. Agus gave an example: once the village head entered the TV Eng Ong space it was as if he became another person who gained attention and was listened to more seriously by community members. Furthermore, inside the television box the conflict victims were free to tell of their trials and tribulations throughout the war. Beforehand it was incredibly difficult to get them to talk. Agus hoped that TV Eng Ong would appear in every Acehnese village as a medium of communication between community members.<sup>135</sup>

Agus Nur Amal has long been famous in Jakarta as an artist who fuses classical Acehnese arts with modern story-telling and acting techniques. He has performed in Java and overseas. But he had never performed in his own community. Not many people in Aceh knew of Agus. It was only when he began to appear routinely every morning on the commercial television station in Jakarta, telling regional stories that he had learnt from a medicine seller in Aceh, that he began to receive the attention of audiences in his home territory. Agus’ effort and his creation TV Eng Ong during the post-conflict and tsunami rehabilitation period have evidently stimulated interests among the Acehnese in their stories and narrative traditions, such as *Dangderia*, also known as *Ratoh PMTOH*. Performing arts in

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<sup>135</sup> Interviews with Agus Nur Amal at several meetings in Banda Aceh and Jakarta.

Aceh have long been submerged beneath the turmoil of war and natural disaster but the tsunami allowed for the reemergence of these art forms. The following section will outline the manner in which the performing arts in Aceh have been influenced by the succession of war and natural disaster, how artistic activities and the political and social conditions have been linked together throughout a long and calamitous history.

### **C. The History of War and the Collapse of the Performing Arts in Aceh**

We have enough reports by adventurers, traders, missionaries and political emissaries who visited Aceh during the era of the Sultanate (1276-1904)<sup>136</sup> to be able to conclude that the arts and entertainment in those times had not forbidden in the name of Syari'ah.<sup>137</sup> Writers have described the excitement of activities such as cock- or bull-fighting and kite-flying competitions. These activities have been practiced and handed down among the nobility and commoners, yet occasionally they have been resisted by religious leaders on the pretext of purifying the faith of their co-religionists. On another level there are several art forms such as dance, percussion, and poetry which are presented in a more 'sacred' form, as they are considered to have a strong connection to religious teachings or association with religious figures and revered proselytizers. The names of some of those proselytizers are commemorated in the movements and sounds of performances which they are considered to have created, such as *Sendati*, *Rapa'i*, and *Saman*.<sup>138</sup>

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<sup>136</sup> The period of the Islamic sultanate in Aceh, extending from the time of Samudera Pasai to Aceh Darussalam up until the fall of the latter monarchy to the Dutch.

<sup>137</sup> Several eyewitness reports of the Acehnese sultanate and daily life of the people have been compiled by Anthony Reid in his edited collection *Witnesses to Sumatra: A Travelers' Anthology*, (see Reid 1995).

<sup>138</sup> See a more detailed account about the traditional Acehnese dances and musical instruments in Margaret J. Kartomi, *Musical Journey in Sumatra*, see (Kartomi 2012).

The rupture began in 1873 when the Dutch declared war against the Acehese Sultanate. The war undoubtedly resulted in the curtailment of all forms of entertainment and the loss of audiences. We are somewhat fortunate that during this dire period the Dutch Orientalist Snouck Hurgronje – even though his name, even today, is still reviled in Aceh – was a source of information about all kinds of Acehese games, dances, and stories which he collected and documented during his time as an advisor to the Dutch colonial government. There is no specific note about performance stages during the time Snouck was working in the district of Kutaradja (now Banda Aceh) or when he accompanied an expedition to the Gayo highlands (which he detailed in his later ethnographic study (Snouck Hurgronje 1903)) as he focused his attention on Acehese interpretations of Islam.

At a distance we can understand the reasons given the climate of war and the relatively limited range and short duration of Snouck's activities in Aceh. We do, however, have a complete picture of Dokarim (Abdul Karim), a popular troubadour of the time, who was photographed by Snouck and helped him transliterate the *Hikayat Prang Goumpeni* (A Tale of Colonial War). Dokarim was a proto-troubadour who wandered from one district to another during the Aceh war. He entertained the Muslimin soldiers (the nickname of Acehese guerrillas) yet was also able to safely visit the residence of the colonial governor (Grayman 2015).

After Dutch colonization, the next mention of the performing arts, in the narrower sense of the definition, dates back to the period of Japanese occupation after they successfully drove Western colonial powers from the region. This refers to the well-known travelling theatre troupe called *Geulanggang Labu*.<sup>139</sup> Their shows found a place in Aceh due to the Japanese need for propaganda to

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<sup>139</sup> Although there is not much written commentary about the history of Geulanggang Labu, there is an article by Fozan Santa titled “Genesis Teater Aceh: Geulanggang Labu” which was published in two parts in the newspaper *Serambi Indonesia* 6 April and 13 April 2008 (Santa 2008). There is also another written piece by Sulaiman Juned titled “Sandiwara Gelanggang Labu Terancam Punah”, however, some of the information is

promote the notion of Greater East Asia along with hatred against Western colonialism. The Japanese government actively promoted this form of theater as a means to agitate and win the support of the community. Although the Japanese left the Archipelago in 1945, *Geulanggang Labu* continued to perform in the communities with their active economic support. The Darul Islam Rebellion in the 1950s, which spread throughout Aceh, was perhaps the reason for the dissolution of the theater group as an organization, even though individually the members kept performing in several districts while working as medicine sellers (*Tukang Obat*). Teungku Adnan PMTOH was famous in this field and became an important icon of theatre acting much loved by Acehnese people.<sup>140</sup> However, their efforts were short-lived, cut short by the massacres of people accused of involvement in the Indonesian Communist Party in Aceh. After the outbreak of the Aceh Independence rebellion the art of traveling theatre faded from Acehnese memory.

The establishment of the Aceh Independence Movement (GAM) in 1976 by Hasan Tiro and associated violence has had a longer-term effect on the arts in Aceh. In the 1980s the rebellion invited in the presence of the Indonesian military in numbers that were more than sufficient to wage war against the population of Aceh. The military approach and declaration of a war zone resulted in several areas of Aceh supportive of the GAM guerrillas experiencing pressure and restrictions, including on the arts. The implementation of a night curfew in several areas such as North, East, and Central Aceh and Pidie,<sup>141</sup> and the declaration of Aceh as a Military Operation Zone (DOM), played a large part in

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not accurate. See <http://sjuned.blogspot.com/2009/01/sandiwara-gelanggang-labu.html>, retrieved 20 November 2019.

<sup>140</sup> For a brief discussion of Adnan PMTOH see Siegel's *Shadow and Sound: The Historical of a Sumatran People*, (Siegel 1978, 267–82)

<sup>141</sup> In order to limit GAM's room to manoeuvre and destroy its guerrilla fighters, Jakarta launched a military operation in Aceh code named Operation Red Net from 1989 to 1998 in those areas considered to support the guerrilla groups, that is North Aceh, East Aceh, Pidie, and Central Aceh. Megawati Soekarnoputri

extinguishing enthusiasm for the performing arts. Night is the most important time for performing arts such as *seudati tunang*, *dangderia*, and *rapa'i pasee*, and for mass religious rituals using rhythmic and artistic forms such as *dike* (*zikir*) and *dalae* (*dalail khairat*). The military operation throughout that time effectively eliminated these activities.

However, in Banda Aceh, the center of government activity that was more easily controlled by Indonesia in the period from the end of the 1980s up to the fall of the Soeharto regime in 1998, a number of stage performers had begun to produce modern theatre, and there were occasional *debus* performances, as well as attempts to introduce contemporary dance in Aceh. The names of several stage performers and contemporary dancers/choreographers, such as Maskirbi, Hasyim KS, AA Manggeng, Junaidi Bola, Anton Setiabudi, T Januarsyah, and Yun Casalona, began to become known albeit only among a very small sector of the public in Banda Aceh. Adnan PMTOH, who subsequently became Agus Nur Amal's teacher, occasionally appeared on local radio and TV broadcasts. His *Ratoh PMTOH* competed with religious lectures broadcast on the same night. The New Order institutionalized the arts in order to control them. Arts councils were set up at the provincial and district/municipal levels but served to undermine rather than encourage artistic creativity. Several traditional rituals and dances, for instance, were identified as local assets, only to be recast as *exotica* detached from any community ownership.

The political turbulence of 1998 that brought down Soeharto and his New Order regime did not allow the performing arts in Aceh to regain their true place and devotees. Although the military area status (DOM) was rescinded in the period following the fall of the New Order regime, it was not for long, as GAM used the reformation to increase their influence and activities. Indeed, political

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implemented a large-scale military emergency throughout Aceh beginning in 2003. For more information about the Aceh conflict and its problems see (Reid 2006)

tension and the frequency of armed violence became more evident than in previous decades. While other areas of the Archipelago were welcoming the benefits of reformation including in artistic activity, Aceh was faced with a series of new conditions, such as military and civil emergency, while also gaining a reputation as an area of Islamic law (*wilayah Syariat Islam*).

Amidst the heated atmosphere of the war between GAM and TNI, themes of war and peace, hatred and suffering found greater representation in literature. Several of the artists mentioned previously chose to become poets and use the pen and words as a means of expression. At the same time performing arts such as dance, *debus* (martial arts imbued with supernatural powers), and percussion parades that had previously been documented and institutionalized became little more than rites to promote the will of the powerful. Dances and percussion performances were found only at the governor's residence and government ceremonial events. Occasionally they were also used as tools of political party campaigning. The art studios set up under the aegis of the power holders were more often than not dependent on the 'mood' of the wife of the governor or mayor.<sup>142</sup>

During this time, the level of creativity found in even those performing arts that were independent was in free fall. It was impossible for artists to gather as the military emergency administrators had the right to suspect and arrest any group of more than five adults in the one place at the same time. That number was considered by the army more than sufficient to institute a revolt, including from a stage.

Despite that situation, there was one group during this time that perhaps unknowingly played an important role in keeping alive the strong narrative based tradition of acting and story-telling in Aceh. The group consisted of the traveling medicine sellers alluded to previously who routinely

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<sup>142</sup> This situation is not distinctly Aceh as it is a Soeharto era legacy throughout the Indonesian archipelago. See for example in John Pamberton's *On the Subject of Java* (Pamberton 1994).

performed in the most easily accessible venues for the population: the traditional markets. Their efforts, I suggest, were unconscious, as they were tied to their economic activity of selling medicine. In other words, their main profession was not that of performance. Reciting poetry, especially in the form of Acehnese traditional *Hikayat*, together with acting and percussion skills were important tools to attract the attention of potential buyers. Whether or not it was because their presence escaped the attention of the military emergency administrators, they were not considered a danger in attracting an audience. Consequently, even though entertainment for a wedding celebration sometimes attracted the attention of the military, there were no significant restrictions on the medicine sellers' performances in traditional Acehnese markets.

The 2004 earthquake and tsunami brought to an end the Indonesian military blockade and the emergency status. The impact of international aid and monitoring were as significant as the tsunami itself in overturning the existing situation. In the recovery process from the trauma of the disaster certain bodies thought of using the arts as an effective medium to restore the passion for life of the Acehnese. A group of artists temporarily based at the Banda Aceh Arts Centre put on *Zikir Keliling Ubat Ate* by visiting the refugee camps for several months in the early post-tsunami period. The performance of *Ubat Ate* (medicine for the heart) consisted of *zikir* (recitation of God's names) chanting alternating with story reading, and *naẓam* (stories of the prophets) poetry accompanied by traditional percussion from artists and refugees. The tsunami victims responded very enthusiastically to this activity, which combined religious messages with entertainment and reference to the suffering of the disaster.

Volunteers from outside of Aceh and from overseas brought with them their own distinctive forms of entertainment and performance. However, the kinds of modern arts from outside that were introduced as part of well-intentioned rebuilding efforts, were not so readily received either by the

tsunami victims or Acehese in general. They had been marginalized for too long to be receptive to modern performing arts at that time.

Several colleagues and I experienced this situation ourselves in using modern theatre as medium of entertainment for victims living in refugee camps in Aceh. Our collaborative performances with Teater Garasi from Yogyakarta highlighted the difference in responses to the same story from the victims of the natural disaster in Aceh compared to the response of the earthquake victims in Yogya. Modern theatre in this context refers to our attempts to introduce narrative forms, staging, and lighting that are not usually used with traditional travelling plays or the storytelling of medicine sellers, which perhaps are still part of the collective memory of Acehese. We also included several participatory scenes in order to engage the audience in our collaboration. However, our efforts failed to mobilize the Acehese audience to join in the performance and even to elicit applause. By contrast, audience members in Yogya, who had been victims of the earthquake disaster in 2006, got emotionally involved and became part of the performance. I interpreted these differing reactions to be a result of Acehese exclusion from modern theatre, whereas the community in Yogya was already familiar with the kind of theatre we were using at the time.

There have admittedly been efforts by several actors to introduce modern theatre to Aceh. Theatre groups such as *Teater Mata*, *Teater Kosong*, and *Teater Bola* are known to have been active at the Banda Aceh Arts Centre, along with two theatre groups from tertiary institutions, Teater Rongsokan (IAIN, now UIN Ar-Raniry) and Teater Nol (Universitas Siah Kuala). However, these groups more often perform in theatre events staged outside of Aceh rather than presenting their work in their home environment. Perhaps because of the non-conducive political situation, theatre performances sometimes held at the Banda Aceh Arts Centre have been very poorly attended. Thus, modern theatre remains alien to Acehese society.

#### **E. Syari'ah Politics and Efforts to Silence the Voice of the Arts**

The euphoria surrounding peace in Aceh represents a blessing after the tsunami disaster and it provides the opportunity to reinvigorate the Acehnese arts world. During the period of rehabilitation and reconstruction hundreds of arts competitions were held, in writing, poetry reading, theatre, music, and storytelling, all in celebration of peace. Even though disaster survivors were somewhat ill at ease with the art forms NGOs used in their competitions, the desire to rise from the abyss was evident in the number of people who joined in and followed them. In part, the numbers also reflect the large amount of aid circulating in Aceh during the post-tsunami rehabilitation phase.

The model of interactive storytelling, which has been continually popularized by medicine sellers and professional performers working outside Aceh, such as Agus Nur Amal, again found its audience during the period of the peace process and the post-tsunami reconstruction. Both local and foreign NGOs used the medium of local storytelling to promote their programs. Unfortunately, however, community appreciation of the art forms associated with the post-disaster and conflict rehabilitation process did not last long.

The subsequent implementation of Syari'ah law by the government was a continuation of war in another form for the arts in Aceh. In post-military rule, the scope of Syari'ah has become an inexplicable and uncontrollable force that sets the limits to Acehnese's freedom of movement. At the same time as Aceh was opened to the wider world, the intensity of Syari'ah law implementation dramatically increased. The fear of foreign influences, conversion to another religion, and radical ideas began to develop (or be incited) alongside the reconstruction and rehabilitation projects in Aceh. The upholding of morality and waging war on all forms of immorality became the main agenda of Syari'ah authority. Through legal regulation, Syari'ah matters have been institutionalized into a government agency. More WH personnel have been recruited, and officials from the State Sharia Office (DSI) have been integrated into civilian police units in order to increase the agency's power to intervene.

These are the officials who nowadays go on patrols to guard against anything considered a threat to Syari'ah implementation.

The government also introduced a new model of punishment, namely a spectacle punishment in public, staging criminal bodies before the crowd and flogging them. This has emerged as a new performance stage for the people of Aceh to witness. Take the *Penjelasan* or an official explanation of the Qanun No 11/2002:

The threat of a caning penalty for those who commit a violation of the Syari'ah is intended to both make the perpetrator more aware of the severity of his deed, and at the same time, to serve as a warning to society at large so that they do not do the same error. The intention seems to be that caning penalties will be effective in accomplishing both goals provided the person punished in this way will feel ashamed. Caning penalties are also considered less expensive than incarceration, thus saving the government funds.<sup>143</sup>

Specifications for how the caning stage should look and what is to be performed can be found in Aceh Governor decree Number 10/2005 regarding technical instructions of Public Caning. Article 2 mentions that the execution of caning is the authority and responsibility of the Public Prosecutor. Paragraph 2, the prosecutor appoints an *algojo* or executioner. In article 1, paragraph 10, a whip is a hitter made of rattan with a handle and with a diameter between 0.75 to 1 cm and a length of 1 meter. Paragraph 11 states that the executioner is a Wilayatul Hisbah officer who is appointed by the Public Prosecutor. Furthermore, the caning punishment must be carried out in an open space so that it can be witnessed by many people. The caning must also be attended by prosecutors and medical doctors. The article also states that the distance between the convicted men/women and the executioner should

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<sup>143</sup> "Penjelasan as Qanun Provinsi Nanggroe Aceh Darussalam Nomor 11/Tahun 2002 tentang Pelaksanaan Syariat Islam bidang Aqidah, Ibadah, dan Syiar Islam," in *Himpunan Undang-Undang, Keputusan Presiden, Peraturan Daerah/Qanun, Instruksi Gubernur* berkaitan *Pelaksanaan Syari'at Islam*, edisi ketujuh (Banda Aceh: Dinas Syariat Islam, 2009), p. 313. English translation of the *Penjelasan* is quoted from Feener's *Sharia as Social Engineering* (Feener 2013b, 235).

be between 0.70 and 1 meter with the executioner standing on the left side of the convicted. Caning should hit the back of the convicted person. The closest distance between the location of the caning and the community is 10 meters. Furthermore, article 9 mentions that upon receiving the caning punishment, the convicted must wear thin clothes that cover *awrat* (genitalia). For convicted men, he must be in a standing position without support. While women should be in a sitting position. Article 10 states that each person can be flogged by one executioner. Whereas article 11 states that the caning should be stopped temporarily if the convicted person is injured as a result of caning or ordered by the doctor in charge.<sup>144</sup>

These details are to show what kind of instruments and properties are required for the authority to set a caning stage and who is authorized to perform the spectacle.

For some Acehnese, the conditions of the war emergency continue under the guise of Syari'ah. Spying, raids, detention, and all kinds of prohibitions have been implemented in the name of Syari'ah. Stages for the public canning of Syari'ah violators have been set up. The formalization and associating of local law with Syari'ah has led to a backlash from Acehnese. Many groups do not agree that what is being implemented in Aceh is Syari'ah law. There are those who consider that Acehnese *Syari'ah* is already sufficient, and a new law is not needed. However, as Acehnese identity is so entwined with Islam, critical voices are subdued due to the fear of being labeled anti-Islam. Resistance to the arts, wherever it has come from – initially it was thought to have begun in traditional religious schools (Dayah) in Aceh – has taken the form of rejecting any form of outdoor performing arts. In the words of renowned contemporary Acehnese literary writer, Azhari Aiyub, “The Syari'ah regime hates festivity”. For example, an invited band from outside Aceh will be denied permission or else told to separate males and females in the audience. In other words, every performance in Aceh has to conform

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<sup>144</sup> Peraturan Gubernur Aceh No.10/2005 tentang Petunjuk Teknis Pelaksanaan Hukuman Cambuk.

to what the authorities determine as Syari'ah morality. It also applies to the work of arts. Only arts which support Syari'ah will be allowed and accepted.

However, the definition of what constitutes Islamic Syari'ah is still unclear. As a result the local community can entertain itself by watching the absurdity of the different interpretations of how to interpret Syari'ah. For instance, the performers Duo Maia, who came to Aceh in 2010, usually perform in Jakarta and elsewhere in a funk or punk style. However, in Aceh they have to 'falsify themselves' by dressing in a traditional *slendang* (scarf) and long-sleeve blouse. Or in the years before she was caught up in a pornographic video case, one could find billboards and posters of the Indonesia celebrity Luna Maya wearing a *jilbab* (Islamic headdress), promoting an Acehese regional cellular telephone card. In the arts, as in Acehese politics and the bureaucracy, interpretation of the *Syari'ah*, in practice, stops at the level of symbols.

In another context in the Aceh art world, the climate surrounding the implementation of *Syari'ah* is used to assert its own authority by a body that should facilitate artistic activity, the Aceh Arts Council (Dewan Kesenian Aceh - DKA), which is the organization that oversees the arts in Aceh. Although the council is a New Order legacy, in my view it has become more rigid than its predecessor in transforming itself into a kind of new authority that takes delight in people coming to request permission for an artistic performance. As a result, to hold a performance in Aceh requires passing through at least three hoops to obtain three different permissions. First, permission has to be obtained from the Police; second from the DSI; and third from the Aceh Arts Council. Failure to obtain permission from any one of these results in the event being declared illegal and liable to be shut down. Various cultural communities such as Komunitas Tikar Pandan have protested against these layers of permission.

Although the Governor of Aceh at that time, Irwandi Yusuf, was known to be quite liberal minded and has refused to sign several controversial Qanun, he faced great pressure, as these laws and

regulations are linked to religion. The pressure represents a type of inexplicable power that is essentially formless, yet has cultural resonance for Acehnese, as it is taboo and considered against the public good to oppose something that is linked to religion. Consequently, the governor would let things pass if he deemed it was not in his best interests to do otherwise.

At the same time the Syari'ah regime is subservient to the military, as was admitted to me by a WH who acknowledged that they are powerless against uniforms and weapons. If they see someone in military uniform and with weapons in breach of the Syari'ah law, all they can do is pray. Moreover, government or military performances are not subject to the same prohibitions that govern everyone else in the region. The visit by the well-known rock band Slank in 2009, in which they used an open stage and allowed the sexes to mix, obtained permission without any protest as they were sponsored by the authorities.<sup>145</sup> Popular singers such as Ahmad Albar, Christine Pandjaitan, and others have entertained the governor and colleagues at the only five-star hotel in Aceh. No doubt, the WH officers were ordered to patrol far away from the venue. However, as they still need to show they are carrying out their duties and guarding the status of Aceh as a Syari'ah domain, the WH display their success in catching violators by staging caning performances and inviting the public to watch.

While there are many people who come to watch, there are also some who refuse to accept anything decided by Syari'ah authorities. Under certain conditions this protest is clear; for example, the story of New Year's Eve in 2010 which I have described in the introduction when thousands of people were on the streets to greet the New Year. Fireworks exploded in the air until dawn and trumpets were sounded, even though the day before the MPU and the municipal government of Banda Aceh had forbidden both. This situation was amazing and evidently not planned as people came out of their own volition to join the celebrations. I saw for myself the powerlessness of the WH in the

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<sup>145</sup> Interview by the writer with a WH officer, with the initials Sy, 28 December 2010.

face of so many people wanting to celebrate New Year with fireworks and blowing trumpets. It was as if they wanted to say that they need entertainment and festivities and are capable of choosing what to enjoy. And it certainly is not via the performance stages recently chosen for them by the authorities.

However, in 2015 I found myself in a different state of emotion and situation in front of the caning stage. I had received information that some defendants who had violated Syari'ah law would be punished by public flogging at Al Badar Mosque, Banda Aceh. Before joining the Friday Prayers, I saw a stage and a banner was already set up in front of the mosque. After the prayer, the mosque imam announced through a microphone asking the *jamaah* not go home immediately, because witnessing the implementation of God's law is important. Here are my fieldnotes of what happen before the caning stage:

By 2 pm on Friday, June 12, 2015, hundreds of spectators have crowded around the edge of a stage raised in the middle of Al Badar Mosque's plaza in Kuta Alam, Banda Aceh. Most of them are men who just came out of the Friday prayer (*jumu'ab*). The stage stands almost a meter tall and is surrounded by metal fences. Its floor is carpeted in red. On that day seven people will be flogged after they were found guilty of committing crimes against Syari'ah laws (*jarimah*). About five meters next to the stage, Illiza Sa'duddin Djamal, the mayor of Banda Aceh is seated under a decorated tent chatting with other government officials. She fans her face repeatedly. It is a hot sunny afternoon; some people begin to impatiently knock the metal fence demanding the authority to start the punishment ceremony. An official, using a microphone, apologizes and tries to calm down the audience by explaining the reason for the delay; that they have to wait for the convicts to be brought to the location. Two paddy wagons followed by an ambulance enter. At the same time, a number of women and children are also moving up toward the stage.<sup>146</sup>

The ceremony is opened with the recitation of verses from the Quran. Imam of al-Badar mosque then comes onto the stage. He delivers a brief spiritual guidance, saying that people altogether should watch the punishment, so that it serves a lesson for everyone not to commit any act that contravenes Syari'ah laws. He insists that although the caning could cause pain, it would not normally inflict permanent damage. It will not hurt and violate human rights (*Hak Azasi Manusia*) as many outsiders often have

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<sup>146</sup> Women and children are not obliged to join and perform Friday congregation, so they came and joined the occasion from the outside mosque yard right after the Friday prayer had done.

criticized concerning the enactment of public caning in the province. He claims, the punishment ceremony aims more for public shaming (*untuk memermalukan*) rather than hurting (*untuk menyakiti*) those guilty of breaking Islamic laws.

After the imam closes his remarks, the first offender, a woman, is taken out of the paddy wagon. She wears a white cotton robe. The WH escort her onto the stage. She smiles and waves her hand to a jeering crowd. She is booed by the audience for showing such gestures. Meanwhile, two officials from Syari'ah court, one of them holding a rattan cane about a meter and a half long, also come on the stage followed by two WH, a medical doctor, and an *algojo*, the executioner administering the punishment. The algojo who is wearing a brown cloak and a ninja-like mask stands on the right side of the caning stage, the rest of the officials take the left side of the stage. The woman is ordered to kneel down.

Using a microphone, an official reads out the judge's verdict from the Syari'ah Court that Rani, the female offender, is arrested for committing *ikhtilat* (unlawful sexual activity). She is sentenced to get six strokes by the judge from the Syari'ah court (*Mahkamah Syariah*) reduced by the amount of time she has spent in detention. The official once again repeats the preacher's message that the caning would not hurt but she should feel ashamed about the offense against God's law she has committed. As the official gives the algojo instructions to begin the punishment, Rani suddenly raises her arms and moves rhythmically up and down. It looks like she imitates the traditional Acehnese dance *Saman* on the stage. As some journalists are rushing to get closer to take pictures of her unexpected action, Rani holds up two fingers next to her face giving a *selfie* mode. The entire crowds burst out in laughter, including the officials. One of them can be heard laughing into the microphone. It rings out loudly, as is fitting on the mosque square.

But it is only for a moment; soon after that, Rani is booed and heckled again by the jeering crowd. They shout demanding the algojo to strike her as quickly as possible. The algojo delivers the punishment, striking her back six times while she repeatedly chants, "*hana malee lon, hana malee lon. Awak kah nyang haruuh jib malee*" (I'm not ashamed! No, I'm not ashamed! You all should be ashamed of yourselves"). The crowds continue to mock her while she is taken back to the paddy wagon.

The next offender, Jalal, a man convicted of having a sexual affair with Rani, is called to be brought onto the stage. He gets six lashes, also reduced by his detention time. Unlike the female offender who has to kneel down following the punishment procedure, he is ordered to stand up while getting lashed. People shout to the algojo that Afzal should get more and harder strikes on his back. "*Nyan agam hai, jib agam poh beukha!* He's a guy, he's a guy, beat him harder, beat him more! Scream the crowds. Jalal only looks down, never returning the gaze of the spectators. After lashing Afzal, the algojo continues to strike in sequence five other men found guilty of consuming alcohol and gambling. Each of them gets six to eight strokes. The crowds closely follow the canings with jeering, cursing, taking photos as well as filming the ceremony with their mobile phones. The punishment is then declared over, and everyone leaves. Rani's dancing on the stage is widely reported in Aceh local media.

The public caning ceremony has its own procedures. From several ceremonies that I document, they are conducted almost in the same order. Another similarity is that in the caning punishment that I describe above, which took place in Jantho about five years ago, many people still refuse to watch the punishment. They rush and leave the mosque immediately after prayers. However, some people who remain stand there to watch the punishment, their attitude increasingly aggressive. However, on that day, Rani dancing on the stage surprised me the most.

After the punishment was declared over, I tried to meet with Rani, but officers forbade me. They immediately brought Rani into the paddy wagon. After talking to some WH officers I received information that Rani worked in a beauty salon in the Merduati area. Easy for me to find it, though at that time I was not sure whether she would like to talk to me.

A few days after the punishment ceremony I visited Rani's salon. It was a women's beauty salon. Since the Banda Aceh Qanun of 2011 banned mixed-sex salons, I invited her to meet in the coffee shop next to her salon. When I introduced myself as a researcher, Rani was a little surprised. She thought I was a newspaper reporter. I told her that I have many journalist friends too and often come with them in searching for information.

Rani is around 40 years old. She is a widow. She has been married 4 times and has a daughter. Rani was arrested by WH when she spent time with Jalal in the salon. They had just met and wanted to have a serious relationship. Somebody might have reported about Jalal coming to her salon to the WH. Rani thought it was her beauty salon rival who did that. There are several salons side by side there along the street. She had no idea where Jalal is after they were flogged in public. Maybe he's already too scared to show up, said Rani. She laughed and said she did not care.

I asked her why she was so brave to dance on the stage, with the crowd before her and in front of the mayor. She laughed again. She said, "people wanted to watch something, so I entertained them. I also hate the mayor. She has disrupted our business several times."

Rani added that last year one of her cousins had also been arrested by the WH for gambling. When they were whipped on the stage, they attacked the algojo and received much praise from the audience. She laughed again telling that story and said “I can't hit WH, they must be too strong for me. So, why not just dance. I cannot dance actually. It was not a proper dance, I just wanted to mock them. I did not plan to do it. I just wanted to move and do something as I saw people mocking me.”

I remember reading from newspapers about the convicts who attacked the algojo, perhaps a year ago. Footage from the incident can be seen on YouTube. I told Rani, in my opinion it is not because they are men that made them brave enough to attack WH, but that the types of offenses they were accused of had had a decisive influence on the way the convicts behaved on the caning stage. I have seen many men who were convicted of sexual offenses, and they did not react on the stage. They mostly looked down, just like Jalal. In contrast, those arrested for gambling or drinking alcohol usually looked more relaxed and shameless being on the caning stage. Maybe I was wrong, but Rani was the only woman who was convicted with a sexual offense who could turn the caning stage into her performance stage.

On November 14, 2015, I received information that Rani had again been arrested by the WH. This time she was accused of being a pimp. She was handed over to the national police and would be charged with anti-trafficking law.

### **Concluding Remarks**

The preceding account has traced the problematic history of the performing arts in Aceh, constrained by religious orthodoxy, repeatedly repressed during times of military conflict, cultivated under conditions of peace, then restricted again. In the contemporary period performance is imprisoned between two competing forces. The first is the emergence of the community's awareness of their history and culture that has come out of the post-war/tsunami disaster recovery phase. The second is the hegemony of the power holders who want to perpetuate their domination. The latter

have found an effective new strategy in the power of religion. The strange approach and double standards towards the performing arts of the current Syari'ah regime in Aceh is evident in the caning stage I described in the introduction. Those who oversee the mandate covering Syari'ah implementation are prepared to order the separation of males and females in schools and at wedding receptions. However, in my experience, that same demand is forgotten in the case of a public caning which they require to be viewed by the two sexes whom they (conveniently) forget to rigidly separate. Moreover, their desire to put on a show and shame the offenders, inciting members of the audience to verbally abuse them, would seem to contradict their efforts to uphold morals and order in accordance with Islam. On the other hand, there is the innovative performance stage of TV Eng Ong developed by local artists drawing on the wealth of their own traditions. This group has endeavored to create a new medium of communication to help heal the various forms of community trauma, and imagine an Aceh free from the constraints and conditions of emergency. However, at every step the existence of groups that follow this second model is threatened if they do not fall in line with the demands of the Syari'ah authorities. Whatever the case, both stages are still competing, working to gather together their devotees.

It is a truism that resistance is a complex social phenomenon. People who flocked the streets to greet the New Year which was prohibited by the Syari'ah authority; the behavior, or better to say action, of the Friday congregations who refused to witness the caning punishment by simply leaving the mosque; and the woman who chose to dance on the caning stage to mock the authority and the audience altogether--all have showed that resistance to Syari'ah law can occur and be expressed in a broad range of behaviors and actions. In the following chapter I will focus on resistance and problems with the implementation of Syari'ah that occurred among the Acehnese subcultures, especially among the Banda Aceh punk community.

## Chapter 4: Muslim Punks and State Syari'ah

### Opening Remarks

Over the past few years, the government of Aceh has contextualized the “problem” of punks in terms of the implementation of Islamic law. This chapter begins with the “Aceh for the Punk” concert that ended with the arrest and detention of punks. In the following sections, I will demonstrate different views among Acehnese regarding of the punk community’s existence in Banda Aceh and then will move beyond the level of discourse to examine how “dealing with punks” has become a part of state practice connected to the implementation of Syari’ah.

#### A. The Crackdown

I came to know Dema when he was taking shelter at Komunitas Tikar Pandan, an NGO for cultural programs in Banda Aceh. It was December 10<sup>th</sup>, 2011, and Dema had arrived shortly after midnight, rushing to enter our building when we had just finished our weekly ‘movie night.’ He briefly told us that the Wilayatul Hisbah (WH) were hunting punks outside our office and he wanted to avoid them. No one at Komunitas Tikar Pandan had known him before this moment. However, as the news spread quickly about the punk raid that had just happened, it was not difficult for us to identify Dema, with his spiked hair and chains, as the type of person they were looking for.

We had heard the news about the punk crackdown through social media just before Dema entered our office. Information spread quickly that night. 65 youths had been detained by both civil police and the WH after being accused of falsifying their concert permit. Dema would tell us more about the concert he and his friends had organized, how everything seemed to be going well with the event until the Banda Aceh authorities had come to arrest them. The concert was entitled “Aceh for the Punk: A Music Parade and Fundraiser for Orphanages.” It took place at the Aceh Cultural Centre (Taman Budaya Aceh) and featured punk bands from various parts of Indonesia, including Jakarta,

Bekasi, Lampung, Jambi, Pekanbaru and Batam. Shortly after three bands had performed, police officers and members of the WH accompanied by the Deputy Mayor of Banda Aceh, Illiza Saaduddin Djamal, stormed the venue, rounding up those who were wearing punk clothing, and had mohawks, tattoos, and chains. They were arrested and brought to the local police station. Many were badly beaten. Dema was fortunate having managed to escape the raid on his motorbike. I once asked him why he chose Komunitas Tikar Pandan, rather than somewhere else. He said it was happenstance, though did not deny that he was familiar with our culture-based organization's activities and had known where it was located.

Komunitas Tikar Pandan's headquarters are housed in a sprawling, decrepit mansion set in a semi-rural area with fences wrought of living trees and has been a popular cultural center in Banda Aceh since 2003. Formed during the military emergency, Komunitas Tikar Pandan was founded by a group of local artists and student activists, including myself, in order to create a space for creative activities. Framing its activity in terms of a cultural movement and cultural critique, Komunitas Tikar Pandan had chosen a safe way to launch protests against political violence in Aceh during the conflict. Komunitas Tikar Pandan was also the main critic of the BRR (the Rehabilitation and Reconstruction Agency) during the post-tsunami rebuilding program.<sup>147</sup> In 2007 Tikar Pandan further evolved to become the Liga Kebudayaan (Cultural League) with several organized divisions working and managing themselves independently but remaining under the same umbrella organization, Liga Kebudayaan Komunitas Tikar Pandan or Komunitas Tikar Pandan Cultural League. These divisions include Sekolah Menulis Dokarim (The Dokarim Writing School), the Dokarim bookstore, TV Eng

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<sup>147</sup> Further discussions about Komunitas Tikar Pandan; its history, people, roles and activities, see Jesse Hession Grayman "Humanitarian Encounters in Post-Conflict Aceh, Indonesia" (PhD Dissertation, Harvard, 2013), see also chapter three. Komunitas Tikar Pandan's engagement in advocating punk and other minority groups in Aceh has briefly been sketched in my "Cultural Resistance against Shariatism in Aceh" (Idria 2016a) and Dough Hendrie (Hendrie 2014).

Ong& Institute TukangCerita (Institute of Traditional Story Telling), Metamorfosa Institute, *Jurnal Kebudayaan Gelombang Baru (The New Wave Journal)* and the Tikar Pandan Public Library. In 2011, the Liga Kebudayaan Komunitas Tikar Pandan also launched a new division called Museum HAM Aceh (the Aceh Human Rights Museum). Its facilities included a multi-purpose space which has been used for a museum and a mini library dedicated to the memory of the Aceh conflict. Komunitas Tikar Pandan also uses this space to run film series, book readings, lectures and discussions concerning violence and human rights issues.<sup>148</sup>

Following the 2011 punk concert incident, a number of local civil society organizations and NGOs offered assistance to those who suffered from the police crackdown. Lawyers from Banda Aceh's Legal Aid Institution (LBH) offered to provide free legal aid to release the arrested punks. When Dema arrived at Tikar Pandan, he asked for advice on the situation. The LBH staff recommended that we provide a little space for Dema and his fellow punks to stay. In the meantime, they would provide legal aid. Tikar Pandan agreed to allow Dema to stay in its office's garage. Some of his fellow punks later joined him there, but none stayed as long as Dema.

During the course of Dema's stay at Tikar Pandan, I sought out opportunities to get to know him better. This was not always easy. For example, I found that there was almost no chance to talk to him before the sun went down. I was not sure whether he was afraid of something or someone, or whether it was just a habit. Dema's daily schedule was the reverse of ours.

As far as I could tell, he would go to sleep in the morning and woke up in the evening. He would start his "day" with leftovers found in the kitchen. He was extremely skinny and ate very little.

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<sup>148</sup>This project has been organized by Komunitas Tikar Pandan in cooperation with several human rights-based organizations such as LBH Banda Aceh (Legal Aid Agency of Banda Aceh), Kontras Aceh (Commission for "the Disappeared" and Victims of Violence) and Koalisi NGO-HAM Aceh (Human Rights-Based Coalition).

A colleague at Tikar Pandan called him a walking skeleton. Sometimes, Dema would ask Tikar Pandan members for coffee and cigarettes, but he never complained if people were unresponsive to his begging. Nights were spent surfing the internet, modifying his punk uniforms and writing songs for his band.<sup>149</sup> Whenever I spent time in the Tikar Pandan office at night, he would ask me to look at song lyrics he had been writing during his stay in our office. Unsurprisingly, these were all protest songs and his critique of “the mainstream”. I thought this would be the first time in my life to deal with a person who has who embodied such calmness.

Dema would open up in time and later spend hours talking to people he could trust. Dema sounded like a Balinese name, although he was not from Bali. In fact, Dema had been born and raised in Banda Aceh. His full name was Arabic. Dema repeatedly told me – with a smile on his face – that his ancestors came from the Arabian Peninsula. In Indonesia, descendants of Arabs are often associated with the family of the Prophet Muhammad and his companions. After I learned this, I sometimes called him “Sayyid Dema” or “Habib Dema,” as many people with Arabic ancestors are called. He told me his family did not use this *laqab* (honorific). Sometimes, I joked that the Prophet would not be happy if he knew that one of his descendants had become a punk. Dema laughed at this, but then argued that there had been a lot of Muslim punks *avant la lettre* since the early days of Islam, even during the prophet’s lifetime. “What?” I said, “Who?” His answer surprised me. They were the Sufis, he said. The Sufis dressed and lived unlike ordinary people. Like punks, they were not interested in materiality. Also, there have been many cases of Sufis being persecuted throughout Islamic history.

I asked, “Do you consider yourself to be a Sufi, Dema?”

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<sup>149</sup> In our discussion of punk, Dema explained that, for him, ‘punk’ covers a wide range of musical forms, including hardcore, black metal, and punk-reggae. Through this last form, Dema argues, he had found it easiest and most enjoyable to deliver his punk message. In pursuit of this, Dema and some friends formed a band called “Dema in Dema.”

“No,” he answered immediately, “I am a punk.”

Dema’s family background and his views on early Islamic history inform some of the ways in which he understands and articulates his engagement with punk, and vice versa. Thus, he offers a striking example of the complexities that characterize the diversity of the Muslim experience in contemporary Aceh. This descendant of the Prophet had rejected ‘mainstream’ society for several years. In a small city like Banda Aceh, his appearance draws attention. For many people, Dema and his fellow punks look like aliens. As Faisal Ali, a leading Acehnese Ulamā’, has expressed it, “Tattoos? Piercings? Dyed hair? That’s weird for Aceh. We’re not ready for that,” adding “This is our community, and in this community, you are not allowed to act like that.”<sup>150</sup> The “West” is commonly blamed for the behavior of Dema and his friends. Punks have been accused of being westernized and of seeking to westernize Acehnese society. Dema himself did not really care about this. Having decided to reject society, he was prepared for society to reject him in return.

## **B. Punks in Aceh**

The history of punk in Aceh, and in Indonesia more broadly, remains to be written. The first punk community began to become publicly visible in Banda Aceh around 1998. According to Dema and his friend De Bes (pseudonym), punks emerged in the context of rising political tensions between Acehnese separatists and the central government in Jakarta following the fall of the New Order regime. At that time, punk activists worked hand in hand with student activists to promote the possibility of a referendum about Aceh’s independence from Indonesia.<sup>151</sup> Many of the graphics, posters, murals and pamphlets circulated in support of the referendum movement in 1999 were created by Aceh’s

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<sup>150</sup> See Patrick Win, “Anarchy in Aceh: Criminalizing Punk Rock under Islamic Law,” (Global Post, 7 February 2012).

<sup>151</sup> Interview with Dema, De Bes and Jal Kayee (also pseudonym), 6 January 2013 in Banda Aceh.

punks. While many of these punks were also local university students, they had distinguished themselves from other campus activists with the punk clothing they wore during a series of public demonstrations. They formed several rock bands, playing concerts at the Banda Aceh Cultural Park (Taman Budaya Banda Aceh) as a means of voicing their protest to the ongoing political violence in Aceh.<sup>152</sup>

Despite these efforts, attempts to find a peaceful solution for the political crisis in Aceh proved unsuccessful during the early years of the twenty-first century. The situation changed dramatically, however, as a result of the devastating tsunami of December 2004. Like nearly all segments of society, Banda Aceh's punk community suffered great human losses. It would take years for the community to recover.

One punk told me that the re-emergence of the punk community in Banda Aceh started on September 9<sup>th</sup>, 2009. His choice for this date to anchor his narrative – evoking the popular punk rocker fascination with the emblematic numbers 999 and 666 – was seemingly intentional.<sup>153</sup> It appears, however, that punks had started to become visible again in post-tsunami Aceh before this symbolic date.<sup>154</sup> Dema himself claims to have been a punk since 1998. Looking back, he stated that the punk community in Banda Aceh would have never grown to its present size were it not for the 2004 tsunami and the Helsinki peace agreement.

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<sup>152</sup> Punk's strong relationship with students and civil society activists can also be clearly seen in the event called "Occupy Banda Aceh," a public demonstration in front of the Governor of Aceh's office on November 11, 2011. For more on this, see "Occupy Banda Aceh," <http://www.acehkita.com/berita/hari-ini-aksi-occupy-banda-aceh/>, Retrieved June, 2016.

<sup>153</sup> Interview with Lowbat Boeloek, 8 January 2013 in Banda Aceh.

<sup>154</sup> For example, on New Year's Eve of 2008, punks rallied around the city of Banda Aceh even though the Ulama' had officially banned the celebration of this holiday.

The economic boom in Banda Aceh after the disaster was a significant factor, with reconstruction jobs attracting punks from different parts of Indonesia. Some of his fellow punks who had flocked to Aceh from other parts of Indonesia might not have been aware of the social and political setting as well as the consequences of the implementation of Islamic law in the region. The rest of them, who had already been aware of what was going on, chose to stay and fight for their rights.

The public profile of Aceh's punks has evolved considerably over the past decade. In early 2011, the local daily *Serambi Indonesia* listed several punk groups active in Aceh, including Rantai Hitam (Black Chain), Museum Street Punk, Rock in Love, Damai Boleh Ribut Boleh (Peace Ok Chaos Ok), Netral, Anak Brutal (Brutal Kids), Ello, Tanggoel Rebel (Rebel Dam), Jusuid Guero, Black Green, Breume + Horizontal, and Lem of Gun.<sup>155</sup> Additionally, there were hundreds other punks in Banda Aceh who had chosen not to join in a group or in what punks would like to call the “scene.” Many of them congregated in a number of well-known spots, including the Dutch colonial cemetery (*Kerkhof Peutjoet*), the Tsunami museum and the Blang Padang green at the heart of the city.<sup>156</sup>

Dema identified two different types of punks. The first refers to those who choose to live as homeless “nomads”. The second group consists of those who have stable addresses work at regular jobs or are active students do not always wear punk gear and only hang out with other punks from time to time. The first group often considers the second to be “posers.” In their view, these ‘occasional punks’ are mostly teenagers imitating a punk-look “just for fun” without the motivation to become a “real” punk, that is, to commit themselves to the ideals of a punk ethic. Although many of his friends

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<sup>155</sup>*Serambi Indonesia*, 11 February 2011.

<sup>156</sup> See also Jauhola, Marjaana and Bolong, Yudi (2017) “ACAB. Studying up the rule of law in Banda Aceh, Indonesia”, *Punk & Post Punk* 6(2), 213-32, Special issue ‘Punk Indonesia’ (Jauhola and Bolong 2017)

were highly critical of these posers, Dema himself had a rather moderate view. He believed that the original punk community in Aceh had also started as a posers, after which some of them went on to become “true punks”.

Another striking senior figure within Aceh’s diverse punk community is De Bes. De Bes was first attracted to the punk lifestyle and ideology when he was a student at Gajah Mada University (UGM) in Yogyakarta. His sobriquet De Bes (Bes stands for *besi*, Indonesian for iron) comes from his well-known habit of using scrap metal, especially rusty nails he finds on the streets, as clothing accessories. De Bes, who is often seen carrying around a small guitar, has been involved in a number of traditional music projects with local artists. He is also an occasional lecturer in archeology at the State Islamic University of Ar-Raniry, an institution that has been central to the design and implementation of Aceh’s current Islamic legal system (Feener 2013b, 88-90). While this might seem strange to some, as I will show, complex relations with Islamic ideals and institutions characterize the lives of a number of prominent figures in Aceh’s punk scene.

I also came to interview Lowbat Boeloek (pseudonym), one of the leaders of an Acehnese punk group called Tanggoel Rebel (Rebel Dam), on several occasions. When I interviewed him, he was finishing his studies at the Economics Faculty of Syiah Kuala University. Lowbat had formed a community of punks during the early days of post-tsunami reconstruction. It included 27 members, who, according to Lowbat, shared solidarity, a sense of family, and a spirit of community service.<sup>157</sup> He claimed that the punks in his group regularly perform the five daily prayers (*salat*). He added that the government of Banda Aceh should recognize and be grateful for his punk group, as they often helped to clean Banda Aceh’s streets from rubbish. The punks were not just hanging out, but positively contributing to the city, Lowbat claimed.

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<sup>157</sup> Interview with Lowbat Boeloek, 8 January 2013 in Banda Aceh.

While conforming to basic religious and civic ideals, Lowbat was highly critical of Aceh's Islamic legal system. In his view, aesthetic taste in hair and clothing styles were a matter of individual choice, not something the state had the right to aggressively intervene in. He emphasized that their choices of dress and deportment were sincere expressions, to be contrasted with the hypocrisy of those who claimed to be 'religious' by only wearing Syari'ah dress code. Punks, he argues, ought to resist such hypocrisy.

As the community grew and became more visible, the state Syari'ah apparatus (in cooperation with Satpol PP) started to crack down on them. These anti-punk police actions have attracted considerable attention both domestically and abroad (see in Moore, 2012; Balowski, 2012; Idria, 2013; Hendrie, 2013). In Jakarta and Yogyakarta, punks expressed their solidarity with their fellow punks in Aceh. One group, called Solidarity for Aceh Punk United, rallied in front of the national police headquarters in Jakarta on December 19<sup>th</sup>, 2011. In Yogyakarta, punks gathered on December 22<sup>nd</sup> of that year to condemn the crackdown. International expressions of support for Aceh's punks took place in Moscow, San Fransisco and London, under the slogan "Punk is Not Crime." A Seattle-based metal and punk label, Aborted Society, initiated the 'Mixtape for Aceh' project on December 14<sup>th</sup>, 2012, calling on punk music fans to create cassette and CD compilations of punk music, which were subsequently to be shipped to punk fans in Aceh in early January. "Support Indonesian Punks," a Facebook campaign based in Sweden, called on punks around the world to post pictures of themselves in full punk attire. By December 16<sup>th</sup>, 4,500 people had signed up (Balowski 2012).

Reactions – mostly online – were also heard locally as human rights groups in Aceh condemned the arrests. Aceh Human Rights Coalition executive director Evi Narti Zain said that the police actions were violent and illegal. Other human rights groups, such as LBH and Kontras Aceh, conveyed similar statements.

A particularly forceful response came in the form of an article entitled “Aku Azhari, Aku Seorang Punk: Apa Ada Masalah Besar?” (I Am Azhari and I Am a Punk: What’s the Big Deal?), first posted on Facebook on February 13<sup>th</sup>, 2011.<sup>158</sup> Within a few hours, more than 170 comments were posted. The author of the article, an Acehnese, Azhari Aiyub, is a well-known figure in the Indonesian literary scene. While he does not regularly wear punk clothing or live on the streets like many other punks, he has expressed strong solidarity with Aceh’s punk community in his writing. In this article, he identifies as a ‘punk’ in support of those whose human dignity had been injured by the arrests and the detentions of those involved with the ‘Aceh for the Punk’ concert. The main argument of his article, which ranges across a broad spectrum of topics from punk ideology to nihilist philosophy and anarchy, was that the existence of punks signified a powerful reaction to the increasingly pervasive hypocrisy and corruption of contemporary society.<sup>159</sup>

In sharp contrast with these expressions of solidarity stood the responses of Acehnese Islamic organizations most of whom expressed their support for state officials and their crackdown on the punks. Several Muslim student organizations, including KAMMI, HMI and PII, signed a joint press release declaring their full support for any action to ensure the implementation of Syari’ah.

Teuku Zulkhairi, a leading member of the Rabithah Taliban Aceh (Aceh Muslim Student Association) and the former President of Banda Aceh’s State Islamic University Graduate Students Association, is one of the main figures involved in mobilizing popular support for the government’s

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<sup>158</sup>[http://www.facebook.com/note.php?note\\_id=10150142263646015](http://www.facebook.com/note.php?note_id=10150142263646015), accessed on 15 July 2011. This article has also been published in *Distraction Zine* 4 (June 2011).

<sup>159</sup>Azhari told me that he had previously sent the article to several local media outlets, but they all rejected his article despite the fact that none of his submissions had been rejected by those publications before. Interview with Azhari Aiyub, 16 March 2011 at Banda Aceh.

actions against the punks.<sup>160</sup> In an article entitled “*Menyorot Komunitas Punk Aceh*” (Observing Aceh’s Punk Communities), Zulkhairi attacked those who defend punks as “playing around with issues of Human Rights” and called those supporting punks as people “whose way of thinking should be questioned.”<sup>161</sup> Arguments that appeals to “Human Rights:” (*Hak Asasi Manusia*) are subversive and dangerous to public order have a long and tragic history in Aceh. During the conflict, appeals to human rights were made by many Acehnese activists, including members of the Rabithah Taliban Aceh, in response to abuses committed by the Indonesian military. In the post-disaster, post-conflict period, however, appeals to Human Rights have come to be increasingly discounted by many Muslim groups in Aceh as symptoms of westernization and even Christianization – and thus as a threat to the implementation of Syari’ah.

Teuku Zulkhairi’s statements are in accordance with sentiments common among many Ulamā’ (Muslim scholars), who support the project of state Syari’ah in Aceh. At the same time, they resonate with a set of concerns that have a broader base in contemporary Acehnese society. Religious authorities and ordinary Acehnese commonly refer to the 2004 tsunami in Islamic terms, perceiving it as a critical moment in the moral development of the Acehnese Muslim community (see, e.g., Idria 2010; Samuels, 2019).

As Kloos argues in his contribution to *Islam and the Limits of the State* (Feener, Kloos, and Samuels 2016), the changes wrought on post-disaster, post-conflict Aceh have been regarded with suspicion as much as they have been welcomed. It is a common view in Aceh that outside cultural influences are threatening the moral foundations of Acehnese society. From this perspective, it

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<sup>160</sup> The Rabithah Taliban Aceh or RTA is an organization of students of traditional Islamic boarding schools (*dayab*) in Aceh.

<sup>161</sup> *Harian Aceh*, 24 January 2012.

becomes clear why it is feasible, or even logical, for conservative opinion leaders to compare the revival of punk to issues like human rights and foreign intervention.

In this framework, changes resulting from the ‘opening up’ of Aceh in the aftermath of the tsunami and the peace process have come to be presented by some as signs of the detrimental intrusion of non-local, non-Islamic values into Acehnese society. In the following section, I will move beyond the discursive level to examine how “dealing with punks” has become part of state practices connected to the implementation of Syari’ah.

### **C. Punks and the Socialization of Syari’ah**

In the recent years, the government of Aceh has placed the “problem” of punks squarely in the context of the implementation of Islamic law. Government officials in Banda Aceh have stressed that they are driven by a desire not to punish the punks, but rather to “re-educate” them. Banda Aceh’s Deputy Mayor, Illiza Sa‘duddin Djamal, who led the raid on the “Aceh for the Punk” concert, characterized punk as a “a new social disease” (I. *penyakit sosial baru*) (*Serambi Indonesia*, 10 January 2012). She told the media that her motivation to take action against the concert was to intervene against a group whose lifestyle contravened Islamic law and local social norms. As she expressed it, “they must be re-educated (I. *kembali dibina*) in order to bring them back to the path of Islam and the Acehnese culture (*Tempo*, 15 December 2011).

In Illiza’s view, the punks’ social disease must be cured through processes of education and socialization (I. *pembinaan*). In addition, she stressed that she viewed it as her responsibility – both as a government representative and a mother – to guide those youngsters who had gone astray. Behind these emotionally and politically charged justifications, problems at multiple levels with the government’s response to the incident may be noted. One set of problems is procedural in nature.

Critics of the legal handling of the ‘Aceh for the Punk’ crackdown have pointed out that the Deputy Mayor was not following standard regulations when the youngsters were arrested, and she

subsequently asked security officials to detain and ‘educate’ (I. *membina*) the punks at the police academy in the mountain town of Saree – where the detainees were under the exclusive authority of the state police. There, as the world saw through photographs and videos that swept across the international media, the detained punks were beaten, arrested, shaved and jailed without trial.

Another more important problem concerns the apparent continuation of New Order practices within the framework of state Shari’a. In mid-December 2011, I visited the detained punks in the boot camps in Saree to see how the *pembinaan* process was being carried out. I observed that the detainees were forcibly bathed in what was called a ‘holy lake’ (I. *kolam suci*) but was actually a stagnant pond on the police barrack grounds, to ‘purify’ their bodies. After this humiliating ‘cleansing’ ritual, they were forced to perform a series of militaristic exercises.<sup>162</sup>



**Figure 6:** Aceh punks in the "re-education camp", Saree Police Academy

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<sup>162</sup> Public humiliation in the forms of such mock ‘purification’ rites has been common in village vigilante enforcement of Syari’ah norms in many parts of Aceh (Feener 2013b, 244-246).

The police officer in charge told me that the punks were going under *pembinaan* so that they could learn to physically and morally discipline both their bodies and their souls. When I asked who decided on this “reeducation” program, the same officer responded that the government of Banda Aceh had both allocated a budget and dictated the content of the program ‘instructing’ the punks according to the standard operational discipline of the police camp.<sup>163</sup>

The Indonesian term for this kind of “reeducation” (*pembinaan*) is derived from an Arabic root word with connotations of literal “edification.” The Indonesian form, however, uses prominent jargon popularized by the authoritarian New Order regime to justify its acts of repression. During the Soeharto era, the term was used euphemistically for indicating diverse acts of violence carried out by the state apparatus against its own citizens. In Aceh during the conflict, *pembinaan* was often understood to refer to torture at the hands of the military. Given these associations, it is not surprising that critics of the government’s actions against the punks in 2011 raised specters of past atrocities, and thus sparked sharpened condemnation.

On more formal grounds, critics highlight the fact that no articles exist in either the provincial laws of Aceh (*qanun*; including those pertaining to Shari’a) or the national legislation (KUHP) that would justify the state’s arrest of the punks or their treatment while under detention.<sup>164</sup> The Chair of the National Commission for Child Protection, Arist Merdeka Sirait, sharply condemned the detention without charge, the head shaving, the ritual cleansing and the military-style treatment, arguing they

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<sup>163</sup> Interview with police officer at the Satpol Compound in Saree, 15 December 2011.

<sup>164</sup> Personal communication with staff members of the LBH Banda Aceh, Hospi Novizal Sabri, and Fauzan Febriansyah. 15 December 2011.

were breaches of human rights.<sup>165</sup> Points of procedure, however, are only one – and one might argue, a minor – aspect of the differences of opinion between provincial government officials and the public supporters of punks in Aceh. On a larger, conceptual level, their respective positions reflect a fundamental disconnect between their respective views on the legitimacy of the coercive enforcement of normative morality. Moreover, they also reflect dramatically divergent understandings of how outward forms of dress and deportment are seen in relation to interior spiritual and psychological states.

For Aceh’s punks and many of those concerned with their plight, the issue at hand is that of individual liberty and freedom of expression – a position that might be seen as reflecting particularly “romantic” conceptions of the relationship between a person’s inner self and its outward forms of expression. The dynamic of external forms in relation to the interior state of one’s soul are, however, viewed differently by many of the architects and agents of Aceh’s state Syari’ah system. For them, visible markers of sartorial style are not only reflective of the state of one’s soul. Rather, the adoption (or even enforcement) of particular forms of dress and deportment are seen as important means for instilling desired moral values in individuals – as reflected in the conceptions of *syiar* and *sosialisasi* that dominate the work of Aceh’s State Syari’ah Office (DSI; see Feener 2013b, 202-212).

Acehnese officials, who view Islamic law as a potential tool for programs of social transformation, aim “to use the new Islamic legal system to bring about sweeping social change in both the regulation of society and the character of individual Muslims to conform to a particular set of modern ideals”(Feener 2012).<sup>166</sup>

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<sup>165</sup> Balowski, *Direct Action*.

<sup>166</sup> A larger discussion is developed in his book: Feener, *Sharia and Social Engineering* (2013b)

In pursuit of this project, the institutions of Aceh's Islamic legal system devoted much of its attention to programs to "socialize" Syari'ah laws (I. *sosialisasi*). *Sosialisasi* thus became the rubric under which their work was conceptualized, as the term came to be used in connection with activities ranging from mass-media campaigns and religious sermons to roadside checkpoints and WH patrols. Common throughout these *sosialisasi* programs was an overriding concern for outward expressions of piety, including "respect" for Islamic symbols (I. *syiar*), and the wearing of "proper" Muslim dress (Feener 2013b, 197-205). These concerns were often regarded by critics as focused on "merely" symbolic aspects of Islam, while neglecting what they viewed as more "substantial" concerns.

Such critiques, however, often miss one important aspect animating state Syari'ah projects of *sosialisasi*: the ways in which the designers of the system perceive the connections between outward signs and inward states. Following a model of moral pedagogy well established in Islamic traditions, but ultimately reaching back to Aristotle, the architects of Aceh's contemporary Islamic legal system see the enforcement of good habits of deportment as facilitating the eventual inward transformation of individuals.<sup>167</sup>

This ideal formulation of the state Syari'ah system, however, was not immune from compromise and contestation as it came to be implemented through the machinery of an inefficient and unprofessional state with a long legacy of corruption, manipulation, and authoritarianism.<sup>168</sup> The WH, an institution conceived as a major engine of *sosialisasi*, came to be regarded in some circles as

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<sup>167</sup> R. Michael Feener, personal communication, 16 May 2014.

<sup>168</sup> Videos of the WH's harsh treatment of suspected offenders are numerous on the internet. For edited clips of a WH patrol and interviews with detained punks with English commentary and subtitles, see this documentary by Farish Noor and his team: <http://www.channelnewsasia.com/tv/tvshows/inside-indonesia/going-it-alone/1104300.html>, . Retrieved June 2016

little more than thugs as a result of their heavy-handed treatment of individuals perceived to be in violation of public standards of morality (Otto & Otto, 2016).

With the increasing openness of public discourse in post-disaster, post-conflict Aceh, critiques of the WH's 'arrogance' and 'hypocrisy' spread beyond coffee house conversations to a prominent position within popular media discourse (Feener 2013a).

Tensions between the ideal formulations of "socializing" Syari'ah by using the state apparatus of the legal system to facilitate public moral education and the exigencies of day-to-day practice in a highly contested political arena increasingly impacted the ways in which the Islamic legal system actually worked and the ways in which its work was popularly perceived. One of major milestones along this twisted path came in 2007, when the WH was taken from the DSI's supervision and placed under the authority of the state police (Satpol PP, see Chapter 5). This move had substantially heightened the negative image of the WH in the minds of many Acehnese, as Satpol had a long history of association with authoritarian action and was commonly regarded by many in Aceh and across Indonesia as the state's 'destroying force' (I. *pasukan gusur*). Satpol's uncompromising and threatening public image was one that evoked conceptions of control, rather than moral persuasion. The WH were thereafter clearly seen as a 'Sharia Police' force – with all the negative connotations that such a designation carried for many in post-conflict Aceh.

The move to combine the WH with the state police was authorized under then-governor Irwandi Yusuf (see Chapter 5). During the conflict, Irwandi had been a representative of the Free Aceh Movement (GAM) and shared the former rebel organization's cynicism regarding the implementation of Syari'ah. GAM's leadership was –especially before the tsunami and the Helsinki peace agreement– extremely critical of Syari'ah and saw it as a central government tactic to manipulate the needs of the Acehnese for independence (Missbach, 2016). During the first half of his term as governor, Irwandi expressed his opposition to the expansion of the Islamic legal system by curtailing

state funding for its institutions and refusing to sign or implement the controversial Islamic Criminal Code (*Qanun Jinayat*) passed by outgoing members of the state legislature in 2009 (Großmann, 2016).

Foreign observers have praised Irwandi as a secular and moderate governor who valued pluralism and freedom of expressions. It might have been expected, then, that he would have been critical of the persecution of punks and their right to free public expression. It became clear, however, that he was either unwilling or unable to intervene in any way to mitigate the treatment of those arrested and detained at the ‘Aceh for the Punk’ concert. Rather, Irwandi increasingly acted in ways that attempted to avoid alienating parties in Aceh supportive of the state Syari’ah project, a trend which strengthened during his campaign for a second term as governor in 2011.

These political re-configurations significantly contributed to shaping the ways in which state officials responded to the “Aceh for the Punk” concert, and further complicated a complex social landscape characterized by “the emergence of new and contested expectations and activities in the pursuit of Islamic religious and social ideals” (Feener 2013b).

#### **D. Aceh’s Punks: Enemies of the Syari’ah or Enemies of the State?**

Punk, at a very basic level, is a subculture best understood as being part youthful rebellion, part artistic statement (Sabin 1999). During its heyday, from 1976 to 1979, it was a highly visible element of youth society both in the UK and the US. It manifested itself primarily in music, expressing a range of attitudes, from an emphasis on negationism (rather than nihilism); a consciousness of class-based politics (with a stress on ‘working class credibility’); as well as belief in spontaneity and ‘doing it yourself’ (Hebdige 1979). Ian Moran has described punk as a “Do-It-Yourself Subculture” (2011). Punk’s “DIY ethic” implied a range of tactics for subverting mainstream culture. As such, it had a lot to share with other subcultures expressing “alternative” aesthetics, including the hippy movement, leading some to see the emergence of punk as a new manifestation of counterculture of the 1960s (Sabin 1999, 4).

There is, however, considerably diversity within the punk scene and, as Sabin suggests, punk should not be reduced to the “ideologically sound” prism of the 1980s and 90s. Instead, the diverse manifestations of punk should be viewed and analyzed within their own specific contexts. In Indonesia, punk communities appeared mostly in large cities, such as Jakarta, Bandung, Surabaya, urban Bali, and Yogyakarta. In these places, punks were recognized as a distinct social presence with a particular public image. In the rather different urban social contexts of smaller cities, however, other dynamics informed the popular perception of the punks, particularly in relation to other kinds of “deviant” behavior. In Banda Aceh, people generally knew very little (if anything) about the nature and the history of the punk community. As a result of this, they often tended to lump punks together with motorbike clubs and young beggars. During the post-disaster, post-conflict period, these views influenced broader public reactions to the diverse groups that emerged and either identified themselves, or were popularly identified with, “punk” in this provincial context.

In Aceh (as elsewhere), punks highlight what they see as a sharp distinction between social convention and the free expression of one’s “true self”. The way that punks dress and behave in public are troubling for the authorities in Banda Aceh. Police regularly intervene to break up gatherings of punks in parks and other public places across Banda Aceh, and their sometimes heavy-handed tactics have significantly furthered tensions with the punks (Jauhola and Bolong 2017; 2014).

At the same time, the punks’ continued insistence on the public display of their counterculture is a source of deep irritation for many state Syari’ah officials. As one WH officer in Banda Aceh told me, “Punks have to respect the culture of Aceh and Islamic Law. If they don't do so then they have to leave Aceh. There is no place in Aceh for those who do not follow Syari’ah.”<sup>169</sup> For supporters of

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<sup>169</sup> Interview with ‘Sy’ (a pseudonym), 24 April 2011 in Banda Aceh.

the state Syari'ah system, public norms of dress and deportment are critical to their project of transforming Acehese society in line with their understanding of Syari'ah ideas.

To further complicate the issue, one has to recognize that – contrary to dominant media polemics in Aceh – there is no dividing line between “punks” and “Muslims” in reality. Dema, Lowbat Boelock, and the other punks I spoke to all maintained that many punks “are still good Muslims.”<sup>170</sup> While acknowledging that there are diverse types of punks in Banda Aceh – including those who commit offenses against the Syari'ah such as gambling and drinking alcohol – they asserted that some of them were diligently prayed and fasted. Addressing this range of personal religious observance among Aceh's punks, they said – rhetorically-- in what ways this was different from Acehese society more broadly.

The perception of a double standard leads to frustration among those punks who continue to uphold what they see as “Islamic” belief and practice while at the same time being persecuted by state Syari'ah officials. In this respect, the plight of at least some of Aceh's punks might be viewed in relation to the broader phenomenon of state action against “deviant” groups.<sup>171</sup> According to Dema, punks must unite and fight against such unjust persecution.<sup>172</sup>

The “Aceh for the Punk” concert that ended with the arrest and detention of punks from which Dema had fled was itself a major attempt by the punks to push back against their persecution by state officials. The idea of the “Aceh for the Punk” concert was conceived and developed through

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<sup>170</sup>Interview with Dema on 13 December 2012 in Banda Aceh.

<sup>171</sup> For more on the campaign against “deviant” religious teachings by the institutions of state Syari'ah in Aceh, see (Feener 2013b, 120-126; Ichwan 2016).

<sup>172</sup>Interview with Dema on 13 December 2012 in Banda Aceh.

a series of meetings in which Lowbat had brought together many of Aceh's leading punks in search of ways to create a more positive image. The concert was to be organized as a charity event to raise money for orphans. However, the most important message of this event can be seen in the phrase they chose for the concert title, "Aceh for the Punk."

Lowbat insisted that they wanted to claim Aceh as a safe place to live for everyone, with punks in particular, through this event. Their argument for the possibility of punks living harmoniously in "Islamic" Aceh was based on a view held by Lowbat, Dema and a number of other punks in Aceh that their way of life was compatible with what they understood to be the ideals of Syari'ah. Islam, in their view, could not be limited by the narrow understanding of certain state agencies.

Ironically, the "Aceh for the Punk" concert was part of a broader campaign of public activity through which Aceh's punks sought to demonstrate to their neighbors just how normal they were. Other activities in this campaign had included their involvement in a broader activist scene, most notably through demonstrations against corruption and acts of political violence.<sup>173</sup> For example, they had joined in a peaceful demonstration in front of the governor's office during the celebration of Human Rights Day. In addition, Lowbat claimed punks had helped the Banda Aceh government clean the city by collecting garbage from the city streets and public places, despite the government labeling the punks as "society's trash" (*Sampah Masyarakat*).

It seems that these efforts had been successful, at least to some extent, before the crackdown on the concert. For example, *Serambi Indonesia* accepted an article by a young writer named Makmur Dimila with the title "Punks Are Also Human Beings."<sup>174</sup> Providing information about Muslim punks

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<sup>173</sup>Acehnese Anti-corruption organizations such as GeRAK and MATa acknowledge the involvement of punks as their regular supporters in public demonstration against corruption.

<sup>174</sup>Makmur Dimila, "Punk Juga Manusia," *Serambi Indonesia*, 19 January 2011.

and their positive activities in many parts of the world, Dimila argued that people cannot judge the morality of punks by only looking at their dress and hairstyles. Dimila's arguments echoed those of Dema, Lowbat, Dedi, and other punks who had attempted to broaden the perspective of their Acehese neighbors by calling attention to the ways in which punks had established themselves in other parts of Indonesia.

Thus, they often use the "Muslim punk" community in Yogyakarta as an example, since they are known to dress like punks while being practicing Muslims. In addition to singing in the streets as punks do elsewhere across the country, this group regularly gathers in religious study groups they call "PUNKajian" – playing on the common Indonesian term for religious education (*pengajian*).<sup>175</sup>

### **E. Criminalization of Punk**

Some of the fault lines between punks and state officials in Aceh can be traced through local media discourse. It was the popular daily newspaper *Harian Aceh*<sup>176</sup> that appears to have first publicly cast punks in their charged symbolic role of opposition to Syari'ah by publishing an anonymous letter to editor entitled "*Punk Ancaman Bagi Syariat Islam*," ("Punk is a Threat to Islamic Sharia"). The letter warned readers about the presence of an "un-Islamic culture" in Banda Aceh with the author urgently demanding the local government take serious action to defend the implementation of Islamic law.<sup>177</sup> The media campaign against Aceh's punks was continued in the province's largest local newspaper, *Serambi Indonesia*. Its January 6<sup>th</sup>, 2011 headline highlighted the story of a mother who had lost control

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<sup>175</sup><http://punkmuslim.multiply.com/>,

<sup>176</sup>*Harian Aceh* is a popular daily newspaper and owned by Muhammad Nazar, the former lieutenant governor of Aceh (2006-2012).

<sup>177</sup>*Harian Aceh*, 5 December 2010.

of her daughter who had joined a punk community. In her attempts to get her daughter back, she appeals for help from the WH. The story was accompanied by a dramatic photo of the mother crying in front of the DSI (*Serambi Indonesia*, 6 January 2011).

Such analyses of punks as threats to social and family order became a rather common element of the media coverage of clashes between punks and the police (including the WH) during raids. As the issue was propelled to public prominence and tensions escalated, a number of parties attempted to intervene, inviting both police and representatives of punk communities to dialogue sessions.

A number of such discussions were held in Banda Aceh. For instance, in March 2011, the Law Faculty of Syiah Kuala University organized a public seminar on the issue. There, WH officers, punks, and academics sat together in search of “common understanding.” However, physical clashes between the police and punks continued. Just before the start of Ramadhan, on July 29<sup>th</sup>, 2011, the WH conducted raids against punks at several locations in Banda Aceh (*Harian Aceh*, 28 July 2011).

During one of these actions, a punk name Rully (aka ‘Oyie’) was arrested and beaten by the authorities. A journalist from *Harian Aceh* told me that the beating occurred within sight of the Deputy Mayor of Banda Aceh.<sup>178</sup> The Deputy Mayor’s support of aggressive police campaigns against Banda Aceh’s punks was seen by many critics as related to her interest in promoting the city’s struggling tourism industry. In December 2010, the municipal government launched the “Visit Banda Aceh 2011” campaign, promoting the city as a center of ‘Islamic Tourism’ (I. *Banda Aceh Bandar Wisata Islami*).<sup>179</sup> In her attempts to crackdown on punks, however, she was able to draw on a larger base of

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<sup>178</sup> Interview with Jun Ha, a *Harian Aceh* journalist, 2 August 2012 in Banda Aceh.

<sup>179</sup> One (anonymous) Acehnese cultural analyst told me that he was absolutely convinced that there was a strong connection between the raid on the punks and the Islamic tourism program launched by the government. Interview with One 12 December 2013

public support motivated by concerns beyond the city's "Islamic" public image, including those sympathetic to the broader project of state Syari'ah as a means of social and moral reform.

As elsewhere, punks in Aceh present a striking visual profile in public, marked by symbols including leather jackets, accessories, piercings, tattoos, and colorful Mohawk hairdos that serve to distinguish them from most people in society. However, the divide between punks and supporters of the state Syari'ah system runs far deeper than the specifics of sartorial style. The issue is not only that they look very different, or even unsightly, in this "Abode of Islam." Rather, the architects and supporters of the Islamic legal system maintain that the "correction" of such deviant behavior is a necessary step toward transforming individuals according to their understanding of religious ideals. Such views on "improving" people through coercive measures of conformity with expressed public ideals stands in sharp contrast with what might be described as the punk ethic of rebellion against established social norms and its sharp critiques against perceived hypocrisy.

The state's response has been the criminalization of punk. This strategy has served to impose a model of absolute distinction between the categories of "punk" and "Islamic." Despite arguments from punks such as Dema, Lowbat, and De Bes and their supporters that those two categories are by no means mutually exclusive, public opinion has been dominated by both government rhetoric and mass media discourse on punks as a source of "moral disorder" and "social disease."

The crackdown on punks can thus be seen in relation not only to broader debates over human rights and freedom of expression, but also as reflecting particular dynamics of state attempts at limiting the range of "acceptable" ways of being Muslim in contemporary Aceh. However, in the face of these attempts, Aceh's punks have responded by maintaining efforts to broaden the possibilities of being both Muslim and punk.

Despite continuous harassment by WH and Satpol PP officers, concert punks have maintained their presence in Banda Aceh's public spaces in the years after the raid on the "Aceh for the Punk".

The case of punk youth in Aceh again demonstrates that the Syari'ah state's attempts to limit ways of being have not gone uncontested. In the process, punks, as well as other social groups in Aceh (as I will show in the following chapters), continue to negotiate the limits of the Syari'ah state.

## Chapter 5: Wilayatul Hisbah (WH) and The Limits of Syari'ah Policing

### Opening Remark

In this chapter, special concern is given to the new policing unit introduced alongside the implementation of Syari'ah in the Aceh Province. The unit, known in Arabic as *Wilayatul Hisbah* (known locally by the acronym WH), roughly translates globally as Sharia Police or *Polisi Syariat* in the Indonesian context. WH has appeared countless times in the international media and is mostly understood by outsiders as the coercive force of the contemporary Aceh Syari'ah regime, violently oppressing women, punks, the LGBTQ community, and other minorities in defense of the implementation of Islamic law. This chapter asks who are the WH officers? What are they doing? What are the consequences of their work?

A number of studies have been devoted to tracing the formation of WH in Aceh, mostly from a legal point of view (Alyasa' Abubakar 2009; Ali Muhammad 2017; Armia and et al 2016; Feener 2013b; 2013a; Salim 2015; B. Otto and Otto 2016). These scholars have emphasized the importance of the institution to the state Syari'ah project while acknowledging that this policing unit is one of its most controversial elements.<sup>180</sup> What these scholars have not shown is how the WH has been the target of Acehnese backlash. My research has gathered various forms of criticism against WH ranging from questioning the scope of their authority, attacking their credibility, making fun of them on social media to assaulting them physically.

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<sup>180</sup> In *Sharia as Social Engineering* Michael Feener noted twice that the WH is “the most high-profile and polemicized institution of state Shari‘a in contemporary Aceh” (Feener 2013b, 15, 219). Like Feener, Dutch criminologist Benjamin Otto (2016) has also paid close attention to the work of WH. In their publications, Feener and Otto included sections about going patrol with WH personnel in Banda Aceh in order to understand how WH members carried out their work.

I have divided this chapter into three parts. First, I will reflect on the history of the WH's introduction into contemporary Aceh and will begin my discussion with the genealogy and the concept of religious policing in Islam. Second, I will examine contemporary WH's work and their strength and weakness, through several violent cases involving WH in the city of Langsa and Banda Aceh. I aim to show the limits of their abilities and how they deal with internal and external conditions that are far from being ideal. In particular, I will use this part to reflect my understanding on "the impossible mandate" (Manning 1974, 1978; Comaroff & Comaroff 2016) towards the act of policing. Third, reflecting upon the concept of "subjectivity," (Good et al 2008; Good 2012; Samuels 2019) I seek to analyze the paradoxes of the implementation of Syari'ah through stories of "that human thing" (Karpiak 2018), stories of individuals that often go unnoticed and unrecognized in the face of other dominant narratives (Grayman 2016; Samuels 2019).

#### **A. Wilayatul Hisbah: Syari'ah Police**

The term Wilayatul Hisbah derives from two Arabic words: *wilaya*, meaning "territory," and *hisbah* which refers to "accountability or the act of making calculation" (Shah et al, 2013: 61). On his review on the work of Ibn Taimiyya, Ralph Hattox states that "while the institution of hisbah can be traced to that of Graeco-Roman Agoranomos, the moral and the ethical ideas that comprise the hisbah itself are purely Islamic" (Hattox 1985, 64).<sup>181</sup> In modern Islamic literature, hisbah is widely understood in terms of market-control authority, an institution whose effort was ensuring correct commercial practices and regulating economic behavior in accordance with Islamic ethics. Many major works on

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<sup>181</sup> More about hisbah in classical Islam (see Glick 1971; 1992; Hattox 1985; Foster 1970; Meshal 2014).

Islamic economic institutions do not exclude discussions on hisbah.<sup>182</sup> These works show that crime is not central to the concept of hisbah.

However, Muslim authors in classical periods understood hisbah in a much wider sense. The term was discussed exhaustively in both legal and theological works connoting its various meanings from counting good deeds, guardian against vice, to self-evaluation (Salim et al, 2015). Muslim jurist Al Māwardī (d. 1058 AD), for instance, in his theoretical groundwork concerning the administration of an Islamic State entitled *Al Abkam Al-Sultaniyya*, explains that the doctrine of hisbah is associated with the Quranic induction of *amar ma'ruf nabi munkar*, “enjoining what is right/just and forbidding what is bad/evil” (Quran 3: 110). Al Māwardī affirms that a leader of the Islamic community is responsible for the promotion of virtue and the prohibition of vice, ensuring individuals in the community guard against evil when it is spread among people (Māwardī 1989).

According to Al Māwardī the duties of *amar ma'ruf* can be classified as follows: (1) related to the duties towards God, such as prayer, fasting, and the hajj (Islamic pilgrimage to Mecca), etc; (2) related to human interest and utilities, such as buying and selling, as well as other *muamalah*; and (3) the combination of responsibilities towards God and human beings, such as *zakat* (alms-giving). In fact, the Shafi'i jurist Al Juwaynī has pointed out that Sharia principles are rooted in the duties of commanding good and forbidding evil, therefore, in ensuring ethical standards and maintaining justice to achieve public welfare and prosperity, hisbah and Sharia are indispensable. Ibn Khaldun, Muslim's great historian and sociologist, has tracked the foundations of hisbah since the reign of the Prophet Mohammad. The Prophet is reported to have practiced and promoted hisbah during his time. His regular inspection of a market is seen as the earliest practice of hisbah. Such practices would later be expanded by the four caliphs after him. Notably, the second caliph Umar bin Khattab was reported

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<sup>182</sup> For example, see Al-Saqti *Fi Adab al-Hisbah* (Ethics of Market Guardians) (Saqti 2017)

to have performed hisbah by regularly patrolling not only the market but also the streets of Medina to make sure that everything was in place (Zuḥaylī 1998, 54–59).

Another prominent Islamic law theorist Ibnu Taimiyah introduced *hisbah* principles as a doctrine of governance in his book entitled *Al-Hisbah fi al-Islam aw Wazifah al-Hukmah al-Islamiyyah* (1992). According to Ibnu Taimiyah, the responsibility of hisbah is collective. Fundamentally speaking, it is a duty and obligation of all able Muslims. He notes “every man is responsible to the extent of his ability.” Ibn Taimiyah emphasizes that the form of a hisbah institution can be adjusted to the needs, era, and the culture of the society. This is a relative matter (according to needs) which cannot be explained clearly and in detail in Islamic Law. What matters for Ibnu Taimiyah is that the *mubtasib* (officer) appointed to carry out hisbah duties has to be a figure who upholds trust and is wise, just, and obedient to Allah and Rasul (see also Siddiq Armia et al 2017). Furthermore, as Feener has noted throughout Islamic history although hisbah’s form and name have changed throughout history, it “consistently [has] shared some connection with state power” (Feener 2013a: 220).

It is obvious in Aceh that this classic concept of hisbah is what the Syari’ah authorities in the province aimed to revive. Hisbah in Aceh is now understood as the practice of policing that is carried out by muhtasib according to the Syari’ah law. However, instead of calling the officers muhtasib, local people call them WH or Polisi Syariat.

## **B. The Formation of Wilayatul Hisbah (WH) in Aceh**

Local Regulation of Aceh Province Number 5/2000 on the Implementation of Islamic Law in Article 20 states that the formation of a “civil servant investigation unit” is allowed for investigating matters which interfere with the implementation of Islamic Law. Furthermore, Qanun No. 11/ 2002 provides the explanation and the basis of the formation of Wilayatul Hisbah. The qanun states:

"The Regional Government is obliged to form an institution that has the authority to control or supervise the implementation of the provisions stipulated in this Regional Regulation, so that it can be implemented properly”.

Wilayatul Hisbah is defined in this qanun “as a state body tasked with addressing infractions of Aceh’s Syari’ah legislation through the mechanisms of “reprimands” (*I. tegur*) and “advice” (*I. nasehat*)” (quoted in R. M. Feener 2013b: 143). It is again clear that in this qanun the main duty of this institution is “to reprimand and to advise” the violators of Islamic Law. This legislation does not, however, give the WH authority to prepare and pursue indictments, and thus “they must work together with the civilian police and the public prosecutor’s office in order to bring a case to the Shari’a Court” (R. M. Feener 2013a, 20). Initially, WH was recommended to be placed under the Indonesian State Police Agency (POLRI), but POLRI at that time did not approve the plan. Consequently, from 2000 to 2001, WH was still limited to the discourse of the government (Haryanto 2014). One year after formally declaring the implementation of Syari’ah, the provincial government of Aceh did not take any action to establish such an institution.

Furthermore, in early 2004, Aceh Governor Abdullah Puteh issued Decree No. 11/2004 concerning “Work Procedures and Organizational Structure of the Wilayatul Hisbah”. The decree underlines the authority of the WH as follows: (a) to conduct oversight of the implementation and violation of laws and regulations in the field of Islamic Syari’ah, (b) to conduct spiritual guidance and advocacy against anyone who based on preliminary evidence should be suspected of violating the laws and regulations in the field of Islamic Syari’ah, (c) to reprimand, advise, prevent, and prohibit anyone who is reasonably suspected of having, was or will violate the laws and regulations in the field of Islamic Syari’ah, (d) to delegate cases of violation of laws and regulations in the field of Islamic Syari’ah to investigators. Based on this decree it is also mandated that WH is placed under the State Syari’ah Office (*Dinas Syariat Islam* or DSI).

Referring to the Aceh governor's Regulation Number 10 of 2005 regarding the technical instructions for implementing the caning law, Paragraph 11 states that the executioner (*algojo*) is an

officer of the Wilayatul Hisbah and appointed by the prosecutor. To carry out this particular job, members of WH are trained to use a rattan cane and follow a technical procedure to whip an offender in accordance with Syari'ah law. An *algojo* will be given a different uniform and mask to cover his face when administering the punishment. This look, deriving from this additional authority, defines the image of WH worldwide today.

In further developments, after the Helsinki agreement, Law Number. 11 of 2006 or the Law of the Government of Aceh (UUPA) was promulgated. In Article 244 Paragraph (1), it is stated that "Governors, Regents/Mayors in enforcing public order and peace can form SatPol PP (*Satuan Polisi Pamong Praja*)", whereas in Paragraph (2) it is also stated that "Governor, Regent/Mayor in enforcing Syari'ah Qanun can form the Wilayatul Hisbah Police as part of the SatPol PP." Finally, the newest legal basis for WH came from the Government of Aceh under Irwandi Yusuf who passed Governor Decree 47 of 2008 concerning the "Main Tasks and Functions of the SatPol PP Unit and the Wilayatul Hisbah of the Province of Aceh". Based on these provisions, WH was moved to become part of the SatPol PP defined as an institution that enforces the Governor/Regents/Mayor's qanuns under the Aceh Government in the administration area of public order and the implementation of Islamic Syari'ah.

No doubt, the Syari'ah authorities of Aceh want their citizens to view WH as both religious law enforcers and the epitome of goodness and morality (*teladan moral*), as they are set to be the frontline Syari'ah agents. Alyasa' Abubakar, the first head of the State Syari'ah Office and one of the WH's Aceh original architects, came forward with his objection in many public seminars to the common use of the term "Sharia police" (I. *polisi syariat*) when referring to WH, both as institution and personnel. According to him, WH has existed in Aceh in the past. For Abubakar, WH is not the police nor the army. It is a term used by society to put WH in a negative light. Although one can also observe that Abubakar was not always consistent in his writings with his own refusal to use the term *Polisi Syariat*.

Rusjdi Ali Muhammad, another head of DSI (2011-2013), in his book *Revitalisasi Syariat Islam di Aceh* (Revitalization of Syari'ah in Aceh), explains the importance of establishing WH. He wrote that in Islamic law there are three institutions responsible for protecting and upholding the rule of law. The first one is *Wilayatul Qadba* or *Tabkim* (court) to resolve disputes in society. The second one is *Wilayatul Mazalim*, which has the role to resolve disputes between government officials or noblemen who do not want their cases to be taken to the court, and *Wilayatul Hisbah* (cautionary and supervisory institution) to inform and reprimand people if they do not obey the rules. He has insisted that the duties to supervise the implementation of Islamic Law cannot be given to regular police, the existing National Police (POLRI) or Public Order Enforcers (SatPol PP), because they do not have the knowledge and experience to solve problems related to the enforcement of Islamic Law in Acehnese society. Therefore, it is necessary to have a “special police” who maintain a different etiquette and moral standard to enforce Islamic Law (Ali Muhammad 2003). In reality, some Acehnese have witnessed WH act like regular police officers on many occasions. The media has also often portrayed them as a coercive force and has assumed them to be tremendously powerful.

However, while members WH are often viewed as the ones who perpetuate acts of violence, below I will show they have often been subjected to violent acts themselves at the hands of both ordinary citizens and other police forces as well as the army and other high-ranking government officers. Below, I will reflect on several cases and discuss how the Aceh Syari'ah state is trying to achieve order through policing and how it deals with the failure to fulfil the mandate.

### **C. The (Un)surprising Attack.**

On 27 August 2016, *Serambi Indonesia* reported on an attack against Ibrahim Latif, the head of the State Syari'ah Office (DSI) who was also serving as acting commander of WH in the city of Langsa. He was assaulted by a *warga* (citizen). The case happened right after Friday prayers in the mosque of Karang Anyar where Ibrahim Latif delivered a sermon as the *khatib* (preacher). He told journalists

that, after the congregational prayer, a man confronted him as he was talking to a friend. The man, later identified as Jalaluddin, a former member of the District Legislative Assembly (DPRK) in Langsa, suddenly pushed Latif and repeatedly punched him in the face in front of many people.

“Jal said to me ‘this is going to be the last time you come to this mosque, you are a disgrace, you embarrass people of Karang Anyar. You have slandered (*menfitnah*) Karang Anyar in newspapers.’ And then he punched me, in my face. People tried to break up our fight, but he kept cursing me and again threatening me not to come to the mosque again. I let people take him away.”  
Ibrahim Latif, (*Serambi Indonesia*, 27 August 2016)

Latif believed the attack was related to his job as the head of the State Syari’ah Office in Langsa. “How can somebody prohibit me from visiting mosques? This is a serious threat. I have never feared threats from anyone. I have endowed my body and soul to defend the religion of Allah” Latif told a *Go Aceh* journalist (*Go Aceh*, 27 August 2016). He insisted that it was part of his duties to visit mosques in Langsa. The assault case was reported to the national police office. Meanwhile, also confronted by journalists, Jalaluddin said that he had become outraged by everything Latief had told media about Langsa, especially concerning people’s attitude towards Syari’ah. Another media outlet reported that Latif and his WH squads came to the Karang Anyar village Jal and his family live in, to stop a midnight *keyboard*, a musical performance in 2013. The raid was reported by the media and made people of Karang Anyar ashamed. Jal considered his attack on Latif an act of revenge.

The attack was condemned by Ikhsan Azhar, a chairperson of the Indonesian Islamic Student Association (PII) in Banda Aceh. Azhar released a statement:

“Very uneducated. A former member of the city council beating people exactly like a thug. I think this does not make sense. It seems he has a mental disorder. Beating in a mosque, especially against a Friday preacher, reflects how people still prioritize emotions and arrogance in addressing a problem” (*Liputan Rakyat*, 30 August, 2016)

When I read about the attack on Ibrahim Latif in *Serambi Indonesia*, I was no doubt surprised and asked myself how such a thing could happen. First of all, vigilante violence related to the

implementation of Syari'ah was usually classified as normal news usually involving groups of people, mostly young-male villagers, who found an unmarried couple by bursting into their house/room or in other secluded places, dragging, beating and bathing them with dirty water.<sup>183</sup> However, this time, the head of the DSI in Langsa had become the victim of violence. I need to find out why. Second of all, under the leadership of Ibrahim Latif, the city of Langsa had become well-known for being a place where Islamic Law was enforced more strongly and strictly than the rest of the province. Raids and patrols enforcing the Syari'ah laws were daily occurrences there. One would assume that the city had a more competent and better equipped WH that would make people think twice before taking actions against them.

I immediately contacted AN, a long-time friend who was teaching at State Islamic Institute Cot Kala (IAIN) in Langsa, eager to learn his opinion about the assault. AN told me that he was not shocked by the case. "Actually, it was not a surprise attack," he told me. "If you look into some archives in 2012 or 2013, I cannot recall exactly when, but I am sure there were reports that Wak Him had been hit by other *warga* before, at least twice." Wak Him is Ibrahim Latif's nickname. According to AN, Latif was "often" (*sering*) hit by the people of Langsa because he made Langsa look bad through his comments in media as if the city was full of people disobeying Syari'ah law. This is similar to what Jalaluddin told the journalists after he was arrested for punching Ibrahim Latif. AN added that some people in Langsa considered Latif to be arrogant and a lover of publicity. "He likes to dramatize things around himself. Perhaps he sees himself as Syari'ah law itself... (laugh)." It was not a surprise that even his nickname Wak Him sometimes was the acronym WH, to the same as the acronym of

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<sup>183</sup> Vigilante violence is not uncommon in Indonesia. Many students of Indonesia, from different angles, have described phenomena of domestic violence, vigilantes, and mobs running amok (Columbijn 2002; Aspinall 2008; Van Klinken 2007; Siegel 1998a; 1998b). In post-tsunami Aceh, David Kloos argues that people found a new name to justify the vigilante violence, "in the name of Syariah" (Kloos 2014b).

Wilayahatul Hisbah. Nevertheless, when AN used the sentence “*awak nyoe diprang WH di sinoe*” meaning that people here are waging war against WH, it sounded exaggerated. I had visited Langsa several times in 2012 and 2015. I knew some people in the city who were critical of the implementation of Syari’ah, however, “waging war against WH” was something unexpected much less Ibrahim Latif being attacked in a mosque. I decided to go back to Langsa to investigate how “the war” looked on the ground.

#### **D. Langsa: The Syari’ah Frontier**

I stayed in Langsa in October 2016<sup>184</sup> and, beginning in February 2017, I spent another 6-weeks conducting fieldwork to update my existing data about the implementation of Syari’ah in the city. Besides Banda Aceh, I consider Langsa to be geographically unique to my research topic because the city is located near the border of North Sumatra Province, Indonesia’s fourth most populous province, whose population is 40% non-Muslims.

Decentralization in post-Suharto Indonesia resulted in regional divisions constituted in the phenomenon called *pemekaran* (blossoming). Langsa used to be the capital city of Kabupaten Aceh Timur (East Aceh district). Since 2002, the Aceh Timur District was divided into three new administrative regencies namely Kabupaten Aceh Timur, Kabupaten Aceh Tamiang and Kota Langsa. The government moved the capital of Kabupaten Aceh Timur to Idi Rayeuk. In 2006, Kabupaten Aceh Tamiang also had its own capital city called Karang Baru. Langsa became an administrative city and remains the largest city near the border of North Sumatra. Given its distance, many people in Langsa, culturally and administratively, feel closer to Medan, the capital city of North Sumatra. It took

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<sup>184</sup> By early November 2016 my fieldwork was interrupted for a couple of weeks because I had to leave for Singapore to be with my wife welcoming our first daughter.

9 hours by bus for people from Langsa to go to Banda Aceh, while only 3 hours for them to get to Medan.

In 2008, I remember Ziauddin Ahmad who had just replaced Alyasa' Abubakar to become the Head of DSI said in a seminar "Langsa is in the frontier. It is the place where we should show (*menampakkan*) our neighbors that we have Syari'ah law." Therefore, it is not surprising that the state application of Islamic Law in this city was attempted to be stricter than Aceh's other cities from the very beginning. However, the multicultural background of the Langsa population and "the openness" of the people in this city to *the entertainment world* (*dunia hiburan*) seem to have created a lot of obstacles for the strict implementation of Syari'ah. In 2010, a group of researchers at IAIN Langsa conducted a survey on Langsa citizen's perceptions about the implementation of Syari'ah in their region. The survey results show that 33% of the people of Langsa agreed that the application of Islamic law has increased their religiosity, while 48% said it had no effect. 19% ignored the question. In total, support for the application of Syari'ah was significant. 83.4% of respondents said they supported the implementation of Syari'ah Law in Langsa. Another result of the survey also shows that approximately 62% respondents agreed about caning being enforced (Ansor and et al 2010).

It is important to note that the above survey was conducted shortly before two members of WH of Langsa were arrested for gang-raping a woman while they held her in custody. The case happened on January 12<sup>th</sup>, 2010. The woman, NT, was a university student. She was hanging out with her boyfriend, BD, also a university student, when they were stopped and brought to the WH office for interrogation. They were detained overnight by the officers who, according to law, had no authority to do so. In the middle of the night, three off-duty WH members came back to their office and raped NT. Two WH members were arrested by the police and one is still missing. *The Jakarta Post* called the case "a serious blow to the credibility and morality of WH in Aceh province" (*The Jakarta Post* 2010). Indeed, the case sparked outrage across the province and beyond. The case was used by many human

rights activists, national and international, as evidence that Syari'ah law had been imposed in an abusive fashion (Human Rights Watch 2010).

However, another serious blow to the credibility of Syari'ah authority in Langsa came two years after through the case of Putri Erlina's suicide. Putri was a teenager who hanged herself three days after she had been arrested by members of WH in Langsa. The death of Putri Erlina was reported by *Tempo* on September 17<sup>th</sup>, 2012:

“A 16-year-old girl hanged herself to death in her room, shortly after her arrest by sharia police in Langsa, Aceh. The exact reasons why she killed herself are not known. She somewhat explains herself in a letter which she addressed to her father. Putri's suicide attracted huge attention because it came on the heels of her detention by Sharia Police in Aceh.

In the early hours of a Monday, two weeks ago, Aceh's Wilayatul Hisbah, or sharia police, conducted a raid at the Merdeka Square of Langsa, in search of teenagers who were hanging out at those hours. According to Aceh's *qanun* (Islamic bylaw), Aceh's religious police are authorized to oversee the enforcement of Islamic sharia law across the province, including Langsa. Both Putri and her friend were arrested, where they were subjected to interrogations and had to sign a police statement, vowing that they would not spend nights outside their home or hang out with boys or men at any time. Putri and her friend were spared lashings and a hefty fine because both were underage. But apparently, the local newspaper learned of this detention. On Tuesday, September 4, the local paper ran the following news report: Two Underage Prostitutes Nabbed at Dawn! The item said that two underage girls had been arrested by sharia police while they were in the midst of young boys at Merdeka Square in Langsa. The report mentions also the rumor that sharia police are hunting down a pimp.

Putri did not feel at home at her aunt's place. After staying the night, the very next day, she asked her aunt to return her to her home in Aramiah village. "Despite being stopped, she insisted on returning home that very day," said Nurul, Putri's mother, who has been divorced for two years from Yusri, Putri's father. Meanwhile, at the village, gossip about Putri's detention had intensified. An Aramiah resident told *Tempo* he learned of a rumor that Putri had been arrested by sharia police after reading the news in a local daily. Upon her arrival at Aramiah, Putri still dared to walk about outside her home. She exchanged greetings with neighbors passing her home. That evening at the village of Aramiah, not far from Putri's home, her neighbors were preparing a bride for a wedding procession which was to take place in another village. At sunset, Yusri told Putri to go inside her house. Upon completion of the evening prayers, Yusri mingled with the neighbors who were making the wedding preparations. This included Putri's elder and kid brothers. For about three hours, what Putri did inside the house was not monitored. At about 9.30 pm, Putri's younger brother returned home to drink. This is when he saw his sister

hanging from the ceiling of her room. The family agreed that Putri was to be buried at Matang Seuliman.

Two days after the burial, her aunt found a letter tucked away inside a bag carried by the junior high school dropout. The letter read: “Father, please forgive me, I caused you shame among the people. But I swear I've never sold my body to anybody. On that particular night, I simply wanted to watch *kibot* (keyboardist) at Langsa, then I sat around on the field staying out late with my friends. Now I don't know what to do. Let me seek life on my own. I am of no use now” (*Tempo* September 17<sup>th</sup>, 2012)<sup>185</sup>

As *Tempo* mentions, the case attracted huge attention. Like the rape case perpetrated by three WH members mentioned above, the suicide of Putri again sent a shockwave throughout Aceh. In the beginning, the case caught people's attention mostly because of the way Putri took her own life. Such a suicide case was seen as uncommon in Aceh. It appears that most people in the province consider the low suicide rate as a result of Islamic teaching. In Islam, suicide is considered a grave sin and paradise is forbidden to those who do it. This doctrine is believed to have prevented most suicides from happening. However, Putri apparently could not take it after her arrest having been named as a prostitute by *Prohaba*, a local media outlet, in its headline.

In the wake of Putri Erlina's suicide, many people released statements and organized actions to condemn WH. The public demanded that the Syari'ah authorities in Langsa be held accountable for the suicide case. LBH Apik (Legal Aid Society for Women) led the advocacy and offered assistance to Putri Erlina's family. The legal aid organization summoned Ibrahim Latif to the role he played as the head of DSI in Langsa. Defending his institution, Latif held a press conference to deny his WH members' involvement in the death of Putri Erlina. According to Latif, WH brought Putri Erlina and her friend to the office only for interrogation. It was not a detention, but an effort to get the girls to

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<sup>185</sup> The report entitled “Why Would Putri Erlina, 16, Kill Herself?” is available online at [www.tempointeractive.com](https://en.tempointeractive.com) <https://en.tempointeractive.com/read/430040/why-would-putri-erlina-16-kill-herself>, retrieved 12 December 2019.

explain. As the suicide did not immediately occur after the arrest, Latif argued that there was no link between the arrest and Putri Erlina's suicide. What Latif did not say was that his WH members immediately contacted a journalist from *Prohaba* to tell them about the arrest. This led to the headline in *Prohaba*.

After Putri's suicide note was circulated widely, it became clear that she felt deeply ashamed by *Prohaba* calling her a prostitute. The Acehnese public soon developed a narrative that there was a connection between the Putri's arrest and the public shaming provoked by the media report. Furthermore, as *Prohaba's* credibility was put into question, Putri Erlina's case divided many Aceh journalists, mostly young, into two camps. One was comprised of journalists working for *Prohaba* and its sister periodical, Aceh's largest daily newspaper, *Serambi Indonesia*. Both daily newspapers are owned by *Kompas*, Indonesia's largest media group. The second camp was comprised of journalists from *Aliansi Jurnalis Independen's* (Alliance of Independence Journalist, AJI) Aceh branch. On September 17<sup>th</sup>, 2012, AJI called a press conference and said that *Prohaba* journalists had violated Indonesia's Journalists' Code of Ethics. Taufik Almubarak, AJI's chairperson, said that "Prohaba's provocative and un-ethical headline" caused Putri to kill herself. Journalists from *Prohaba* and *Serambi Indonesia* denied the accusation. AJI's statement was followed by a wave of public comments asking the government to stop Prohaba from printing its daily paper. Perhaps, seeing how the accusation against them became a threat to their business, *Serambi Indonesia* and *Prohaba*, began to frame the accusation against them as part of global attack on Syari'ah. They reported the AJI journalists to the police demanding that AJI Banda Aceh's chairperson, Taufik Almubarak, be charged with criminal defamation.

A few weeks after the dispute with AJI intensified, *Serambi Indonesia's* journalists established a new journalist group called *Kaukus Wartawan Pembela Syariat Islam* (the Caucus of Journalists who Defend Islamic Syari'ah, KWPSI). On October 10<sup>th</sup>, 2012, they met with and sought support from the

Aceh Ulamā' Council (MPU). In the KWPSI statement released under the heading “requesting the Ulamā' supports” one could learn what the Caucus was about:

“KWPSI was born to jointly protect the Islamic Shari'a and the Acehese Marwah from NGOs and foreign parties who want to undermine and weaken the enforcement of Islamic Syari'ah in this area. As journalists, we are responsible for reporting about the correct enforcement of Islamic law rather than creating a frightening impression like the portrayal of foreign media that does not seem to expect the establishment of Islamic law in Aceh. We request the support from the Aceh Ulamā'.” (*Serambi Indonesia*, 11 October, 2012)

It is not clear why AJI did not pursue the same strategy in approaching and asking support from the Ulamā'. Perhaps, because the KWPSI had done so in advance and received support. The Caucus was not exclusively joined by journalists from *Serambi Indonesia* group, but also from other media outlets, Islamic activist organizations and politicians. Together, they claimed to defend the implementation of Syari'ah against anti- Syari'ah journalists and NGO activists who value human rights (HAM) more than Syari'ah. After KWPSI met the MPU, Faisal Ali, a council deputy chairman, told *Serambi Indonesia* that he suspected that the Putri case had been exaggerated in an attempt to weaken Syari'ah. He said “it is very irrelevant when there is an organization or individual that links the death of Putri Erlina because she was captured by the WH. Many people have been arrested by the WH and even flogged in front of a large crowd, but no one has committed suicide. So, this case must be thoroughly investigated, so that slander (*fitnah*) does not arise” He fully supported KWPSI and Ibrahim Latif of Langsa, who had just been summoned by LBH (*Serambi Indonesia, ibid*).

Eventually, the dispute between AJI and *Serambi Indonesia*'s group was settled by the Indonesian Press Council (*Dewan Pers*). Still, the “dispute over journalism ethics and Shari'a” left them with no clear consensus (Steele 2018). As a matter of fact, KWPSI launched a weekly gathering (*pengajian*) as a forum for journalists to learn more about Syari'ah. The *pengajian* regularly featured an *Ulamā'* as an invited speaker. They chose a coffee shop called *Rumoh Atjeh* to be their regular meeting place. However, since *Probaba* continued to appear as the paper “devoted to sex, crime and mysticism”

appealing to lower class readers with pictures of sexy women or female celebrities not wearing Islamic dress, some people became skeptical about KWPSI's commitment to defend Syari'ah law. As a result, KWPSI *pengajian* were often mocked by a group of student activists and social media users, apparently in support of AJI Banda Aceh, who had created pamphlets and used the hashtag #SyariatkanMedia (Shariatize Media!) to point out that if *Serambi Indonesia* did not change the look and the focus of its sister *Prohaba*, then KWPSI was clearly more interested in defending its newspaper business more than Syari'ah. Jabal Husin Ali, one of the student activists who had initiated the #SyariatkanMedia movement said that the existence of sex and crime-oriented media like *Prohaba* could damage people's minds and cause moral degradation in Aceh (*Okezone* 14 October 2012).

Above all, the Putri case has significantly changed people's perceptions about the implementation of Syari'ah in Langsa and Aceh in general. In Langsa in 2017, I realized that the 2012 Putri Erlina suicide case was very important when understanding the dynamics associated with the people of Langsa's attitudes towards the implementation of Syari'ah. Putri Erlina's suicide had left a profound impact. For some Acehnese women activists, Putri Erlina's suicide should not just be seen about one teenager killing herself but as an act of resistance,<sup>186</sup> a protest against the dominant, arrogant and abusive law enforcement. Indeed, Putri's suicide continues to haunt the Syari'ah authority and the Acehnese society as a whole.

Hadi (pseudonym), a member of the Langsa WH acknowledged that that the 2012 case not only affected the ways in which ordinary people and activists looked at the WH and DSI critically, but also created new networks and strengthened connections among the proponents of the state Syari'ah implementation who had felt threatened by the emergence of criticism towards them. For example, in the wake of condemnation and the summons filed by Acehnese women activists and LBH APIK

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<sup>186</sup> Interview with Norma Manalu 19 August 2017

against Ibrahim Latif, Syari'ah authorities in Langsa found a new ally with KWPSI journalists. This is the reason why Ibrahim Latif and his policing activities in Langsa received enormous attention, because KWPSI media kept recording and reporting everything he did in the name of protecting the Syari'ah.

#### **E. The War against *Keyboard*: Policing Morality**

One of the Syari'ah regulations proposed by DSI in Langsa under the leadership of Ibrahim Latif was the banning of keyboard performances. *Keyboard* here refers to musical performances by a digital piano keyboardist, usually with one or two additional singers. A loud sound system typically accompanies the performance. People tend to sing along and dance in front of the keyboard stage. Syari'ah authorities and hardliners in Langsa had considered such performances as gateways to other sinful acts. They had found female singers too provocative and their voices and styles of dress as *maksiat* (vice). According to Ibrahim Latif, the events were often used by young people for mingling between the sexes and consuming alcohol.<sup>187</sup> In 2011, Mayor of Langsa Usman Abdullah issued a decree to prohibit *keyboard* music. Later, he slightly modified the decree stating that keyboard was only to be prohibited in the evening (no later than 6PM).

Many people in Langsa have indeed loved *keyboard* for decades. The couple who I rented from in Langsa, Rudiyan (44) and Fahmina (38),<sup>188</sup> told me they enjoyed *keyboard* and found it did not contradict their Islamic faith. "People have been playing keyboard since I was a teenager. Even during the conflict. No one ever problematized it. We had a wonderful wedding party with a very loud *keyboard* performance" said Fahmina. "When there is a *dakwah*, we will also attend the *dakwah*. My

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<sup>187</sup> Interview with Ibrahim Latif, 7 February 2017

<sup>188</sup> Both are pseudonyms

husband, especially, loves listening to preachers.” *Dakwah* refers to a religious ceremony featuring an invited preacher, usually taking place after Isha prayer. Some preachers are also entertainers, so when *dakwah* features a famous preacher, it will draw a large crowd, similar to a *keyboard* performance.

Rahmina also had also known about the Putri Erlina case. She felt sorry for her. “A poor girl. I understood her feelings. We were all shocked. It is an unforgiven insult on us, on women, to be called *pelacur* (prostitute). It is unacceptable to have her name fully printed in a newspaper where the paper called her a whore. I thought her family, as you can read from the letter she left, I believe her father also got too angry with her. Perhaps she felt no one left supported her. She took her own life. Our religion prohibits that. I wish that God forgives her. He will.” Rahmina added if similar treatment ever happened to her daughter (she has one, also a teenager now) she would sue the media company and the WH. I asked whether she would really do that; she just laughed.

One day Rahmina told me she too had had an unpleasant experience with WH. It had happened a few months before I came. She went to Pajak Ikan, a fish market in Langsa Kota on motorcycle, wearing a helmet but not a proper *jilbab* (headscarf). As she passed Ahmad Yani Street, she was stopped WH officers. Two of the officers approached her and asked why she was not wearing a *jilbab*. She told them that she was wearing a helmet and still covering her hair.

“I often did that, if they wanted me to cover my hair then my helmet did cover my hair. What’s the problem? I wandered in the Pajak without taking off my helmet. Nobody could see my hair. But they did not accept it. Then they also problematized my dress. It was too tight and un-Islamic, they said. Then they wanted my identity and I had to go to an officer sitting behind a table to fill a form. He had a bunch of papers there. I saw Wak Him (Ibrahim Latif) was standing there.”

Rahmina was initially given a lecture about Qanun No.11/2002 on Islamic dress. She was asked to make a statement on stamped paper stating that she would not repeat her actions. Furthermore, so

she could be released from the scene, she was required to call her family to bring a skirt, loose clothing and a headscarf. She called her husband Rudiyan, who also had to sign the statement as a witness.

Just across the street, next to the house I rented, lived a family of artists. Anto J, the husband, was a keyboard player and his wife, Amna, was a singer.<sup>189</sup> Asked about how the decree banning keyboard affected their business, both, in a very soft-spoken tone, complained about the decree had been unfair to them. I found it interesting that they responded to me very calmly. Anto J is ethnically Javanese. He came to Langsa a few months after the 2004 tsunami. He married Amna and became a Langsa resident. Anto J, perhaps given his origin, said he did not want to be involved in any protests against the Syari'ah authorities. "We look at the good side. The government has not banned *keyboard* performances entirely; it only limits the times for performances. We can still have customers and can be invited to perform during the daytime", said Anto J. Asked whether they knew about the Putri Erlina case, Anto J reminded me that Putri Erlina had been taken to the WH office because she was attending an evening *keyboard* performance. It was in 2012, one year after the Mayor of Langsa issued the banning. It showed that people were still performing *keyboard* even though there was a decree banning it. In practice, people know the law was there, but that it was only enforced when the WH came to remind them.

Indeed, the Mayor's decree was not very effective. Although I only stayed in Langsa for a short period, I received several *kenduri* invitations<sup>190</sup> featuring *keyboard* performances, even during the evening. Ibrahim Latif's effort to enforce the *keyboard* ban had not been easy. Several times, he faced

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<sup>189</sup> Anto J and Amna are pseudonyms

<sup>190</sup> I attended several weddings and *sunatan*, a ceremony of circumcision for young boys, considered here as an Islamic puberty rite for male teenagers entering adult life. A friend told me that a family in Langsa usually will wait until they have enough money to invite a *keyboard* performer before they decide when to celebrate the *sunatan*.

serious challenges. This is apparently what my friend AN had told me above, that the attack against Ibrahim Latif in the August of 2016 was not the first time.

Ibrahim Latif was open to talk about the attacks against him. He acknowledged that the assault on him happened at the Karang Anyar mosque in 2016 was connected to his effort to enforce the Langsa Mayor's decree in that village in 2013. He recalled the story to me. They came to Karang Anyar to disperse a *keyboard* performance on Sunday night August 25<sup>th</sup>, 2013. When Ibrahim Latif and his WH entourage arrived at the location in the back of the Baburrahmah Mosque Karang Anyar, they were immediately confronted by a group of young men who, according to Latif, were drunk. "We immediately went on stage to stop the ladies in sexy dress. She was dancing with several young men who were heavily drunk. It was truly a music performance that is very much against Islamic law." Ibrahim Latif's personnel who got on stage received backlash from the drunken young men. A physical clash was inevitable. He remembered that his WH personnel were beaten, punched and kicked. A young man also threw a stone at Latif's head. He was hurt and taken to a medical emergency unit.<sup>191</sup>

Besides the Karang Anyar clash, Latif also provided me with a list of the attacks on him stressing the risk and threats he had often faced while leading Syari'ah law enforcement in Langsa. The list included March 18<sup>th</sup>, 2013, when Ibrahim Latif was attacked by a man who did not accept that his wife was netted (*terjaring*) in an Islamic dress raid conducted by WH. Furthermore, on December 3<sup>rd</sup>, 2013, the WH office in Langsa was attacked by a group of least 50 teenagers, seven of whom were arrested. Furthermore, on August 7<sup>th</sup>, 2015, Ibrahim Latif and his WH squads were reprimanded by a high-ranking Langsa official when they tried to stop an evening *keyboard* performance at his house. With

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<sup>191</sup> Interview with Ibrahim Latif, 7 February 2017. However, I also heard a counternarrative from two people from Karang Anyar who claimed that nobody was drunk that night. The youths of Karang Anyar fought against Ibrahim Latif and his entourage because they were outraged by the arrogance of the WH personnel entering their village disrespectfully.

the help of national police in Langsa, the music performance was successfully disbanded. Lastly, on August 18<sup>th</sup>, 2016, they also had difficulty dispersing a *keyboard* performance at Gampong Alur Pinang. Again, with the help of the national police, they evicted the performers and their audience.<sup>192</sup>

Violent attacks and insults against WH also took place in other districts and municipalities in Aceh. For example, the WH of Lhokseumawe was attacked when they raided a cafe in the Cunda, Subdistrict of Muara Dua, Lhokseumawe on May 9<sup>th</sup>, 2015. The WH officers were not only stoned, but they were also threatened with a gun. A WH officer, Herimuddin, was hit on the brow by a stone thrown at him. He was injured and had to receive medical treatment. In 2017, WH Lhokseumawe also was attacked by a *geng motor* (motorcycle gang). However, so far, as I have learned from the list, Ibrahim Latif and the WH of Langsa received the most threat and attacks.

Most of the clash and assault cases mentioned above happened in Langsa, as Ibrahim Latif and his WH personnel had wanted to enforce the law on banning evening entertainment, especially *keyboard* performances. The backlash also came when officers wanted to ensure that people in Langsa obeyed Qanun No. 11/2002 that Muslims should dress in an Islamic fashion covering the intimate parts of their bodies.

Even recently, the media has still reported on resistance against WH in Langsa. On September 26<sup>th</sup>, 2019, for instance, *Rakyat Aceh* wrote the story *Emak-Emak Muda Serang WH* (Young Mothers Attack WH), reporting on women in Langsa resisting WH officers who conducted a raid and found their clothes to be un-Islamic. As usual, Ibrahim Latif was the one who talked to the journalists and told the chronology of what happened. It started with a raid conducted in response to reports from people (*laporan-laporan warga*) that there were quite a lot of women wearing tight clothes and no headscarves while roaming the Langsa market (Pasar Pajak Langsa). “A number of young women were

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<sup>192</sup> *Ibid*

netted in the raid," said Ibrahim Latif. He continued that there were a number of young mothers who did not submit to the raid, shouting and swearing at the officers. They did not want their identities recorded or to sign a statement. They even refused to be put in the WH patrol car to be taken to the DSI office. "They held a fight, pushed the officers. There was almost a riot and physical contact with the officers," said Ibrahim Latif.



Figure 7: WH & SatPol PP office in Langsa, before the split.

According to Hilal (pseudonym), a member of the Langsa WH, the attacks and threats against them were proof of how difficult it was to enforce Syari'ah in Langsa. The more they tried to enforce the law, the more backlash they received. He also pointed out that Ibrahim Latif had been serving as the head of DSI in Langsa since 2010, arguably making him the longest serving personnel in the DSI and the WH. No doubt, due to his commitment and role, Latif was the most respected person in the institution. He is also known to people in Langsa by his nickname Wak Him (also by the acronym WH). Therefore, it is not an exaggeration when one says that Latif might see WH as himself since the acronyms are the same.

Furthermore, Latif's insistence that the WH of Langsa not to be merged with Public Order Police (*Satuan Polisi Pamong Praja* or *SatPol PP*) was supported by the Mayor of Langsa, Usman Abdullah. So far, Langsa is the only case in the province where WH has been placed directly under the DSI and independent of SatPol PP. Without the need to coordinate and share responsibilities with SatPol PP, Ibrahim Latif gained full control of WH in Langsa. However, the decision to place WH under the DSI, therefore breaking with SatPol PP, has caused another obstacle for the institution to function properly since its administrative and legal position has become increasingly weak.<sup>193</sup> I will explain why below.

#### **F. Problems with Coordination: Policing & the “Impossible Mandate”**

As Peter Manning suggests, the police's mandate can be studied as a cultural fact: a discourse about what police are, what they do, and why they do it (Manning 1977; 1997; 2010). Manning writes: “based on their legal monopoly of violence police have staked out a mandate that claims to include the efficient, apolitical, and professional enforcement of the law”(Manning 1977, 8).

Originally, the WH was placed directly under the DSI. This changed after Irwandi Yusuf became the governor of Aceh in 2007. He implemented a new policy to merge WH and SatPol PP. Irwandi passed Governor Decree No. 47/2008 concerning the “Main Tasks and Functions of the SatPol PP Unit and the WH of the Province of Aceh”. The governor decree defines SatPol PP as the officers who watch over and maintain government policies within their working area, while WH is an institution or a unit which has the authority to advise people about mandatory religious rules (Abubakar 2009, 22). On the WH side, this creates a condition of what Manning would call as “impossible mandate” a pressure put on them by public who are expecting more from the officers

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<sup>193</sup> Interview with Thanta, 8 February 2017.

rather than the reality of their work. In practice, WH and SatPol PP main duties involve two sorts of activities that can be done together: patrolling for prevention and responding to citizens reports on Syari'ah law violations. But the nature and reputation of the two policing units are completely different. Some critics have said that the merging was Irwandi Yusuf's intention to sully WH with the bad reputation of SatPol PP (see chapter two).

According to its official webpage, SatPol PP has existed since the very early days of the Republic of Indonesia.<sup>194</sup> On March 3<sup>rd</sup>, 1950, the Ministry of Home Affairs officially instructed every residency head to form a Public Order Enforcers Detachment called *Satuan Polisi Pramong Praja*. SatPol PP is different from the Indonesian National Police (POLRI). SatPol PP only enforces the implementation of provincial/municipal government rules and regulations. Meanwhile, they don't have the authority that the POLRI has, namely the right to investigate and arrest violators who can be prosecuted in a court of law.

Furthermore, Law Number 32/2004 concerning Regional Government, particularly Article 13, states that the authority of provincial regional governments includes the implementation of public order including community protection, and Article 148, which states that the SatPol PP Unit is designated as a regional apparatus. Law No. 32/2004 can be used as a legal basis for the existence of the Civil Service Police Unit and Community Protection Unit. In 2010, the central government issued Government Regulation No. 6/2010 concerning the roles and facilities of the municipal police. The law states that SatPol PP's authority is "carrying out non-judicial control measures against members of the public, apparatus or legal entities that violate regional regulations and/or regional head regulations."

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<sup>194</sup> Tracing its history, PP Satpol has existed since colonial times. At that time, the police organization was divided into three types, namely *Pangreh Praja Police* (Bestuurpolitie), *Polisi Umum* (Algemeene Politie), and *Polisi Bersenjata* (Gewapende Politie).

In practice, local governments throughout Indonesia usually mobilize SatPol PP to enforce Law No. 26/2007 concerning Urban Planning. The unit is sent to close illegal business locations, evict street vendors, take action against beggars, prostitutes, and other kinds of issues which create public demand. The local governments also send them to evict residents living on local government-owned land. SatPol PP is also given the authority to oversee law enforcement towards local civil government employees.

Although members of SatPol PP are obliged to “uphold the legal norms, religious norms, human rights, and other social norms that live and develop in society,” it is observable that in almost all Indonesian cities they are nevertheless viewed negatively, mainly due to frequent occurrences of violence when they carry out their duties. The SatPol PP is notorious for expelling, tearing down, and burning property as well as even hurting citizens. Until now, demands to disband SatPol PP have often been voiced by protesters.

As Otto & Otto have pointed out “Co-operation between the WH and the Satpol PP is therefore prerequisite to enforce Aceh’s Shari‘a-based criminal regulations. However, the different institutional and social backgrounds of the two forces and its officers have made this very difficult to achieve” (Otto & Otto 2016, 193). As Benjamin Otto writes:

“I noted that members of both units often regarded each other in a negative way. The Satpol pp was regarded by members of the WH as a bunch of rude, non-believing and violent men, whereas Satpol pp officers considered the members of the WH as “weak, hypocritical people without any explicit authority.” As one WH official put it: “They are rude people. They are also not happy with us. As soon as the Director is not around, they enjoy annoying and insulting us (Otto & Otto, *ibid*)

This sheds light on the relationship between WH and SatPol PP in Langsa. As the relationship between the two institutions had become extremely fraught, in 2013, Ibrahim Latif proposed to the Mayor of Langsa that WH should be placed under DSI. Tension remained. On Tuesday, February

23<sup>rd</sup>, 2016, hundreds of Satpol PP member attacked WH personnel at the DSI Langsa. According to Ibrahim Latif, members of SatPol PP could not handle the media's negative portrayal of them after it had been reported that WH had arrested five women who were suspected of being "prostitutes" but the women were backed up by Satpol PP and officials" (Portalsatu, 23 Februari 2016).

In the aftermath of the attack, Ibrahim Latif 's request was seen by members of WH in Langsa as the right decision and a good move to revitalize the true meaning of the Syari'ah policing. Some of their views of their job resonate with the classical understanding of the term *hisbab* described in the first part of this chapter.

“WH has the duties to implement *amar ma'ruf nabi munkar*, to teach kindness and to prevent ungodliness. However, since we are working in the state system, then we are a state institution, paid by the state to prevent the violation of Islamic Law and give help to those in need. Our job is also supported by the Syari'ah Court”<sup>195</sup>

Thanta [pseudonym], another WH Officer, added that WH's duty is not only about ensuring proper Islamic clothing and taking actions towards the violators of *qanun jinayah*, such as adulterers, gamblers and drunkards, but they are also responsible for making sure that the economic matters in the society are carried out according to Islamic Law. They have gone to traditional markets to make sure that the scales are set honestly, usury isn't occurring and to make sure everyone maintains cleanliness as regulated by the government of Langsa. WH members also make sure that the food sold

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<sup>195</sup> Zaki [pseudonym], interview on February 15, 2017.

in the city is *halal* and any kind of entertainment performed is not against Islamic Law. Zaki and Thanta both agree that WH should be independent from SatPol PP.

Siddiq Armin et al (2017) has conducted a study on obstacles that will impact WH's performance in overseeing the implementation of Syari'ah. One of the problems they underline is the uncertainty of WH members' career path. Similar to Marzuki's argument, WH's unclear position in the nomenclature in the national staffing system and state administrative law causes their functional career path to be uncertain. Commonly, a WH member, who has gone through strict training to do his job professionally, finally becomes a regional employee with different tasks and duties. Since there is no continuing career path regulated by the state for WH, they will be asked to accept the circumstances. So far, the legal basis for the WH existence can only be found in UUPA. There are no presidential regulations or ministry regulations that regulate the functional position of WH in particular. As a matter of fact, there is no annual budget from the central government to fund the WH's activities. According to Dedy Yuswady, head of the Aceh Satpol PP/WH, each district/municipality in Aceh now employs approximately 200 WH, both contract employees and civil servants, so that if the number is multiplied by 23 districts and cities throughout Aceh, the WH personnel in the province amounts to at least 4,600 people.

The situation in Langsa was highlighted in Thanta's following statements:

“60 WH officers in Langsa City are contract employees, meaning that they do not have a fixed salary and there is no guarantee that they can continue to work if the local government does not have a budget allocation for the WH. There is no WH officer in Langsa City with PPNS status. Our routine activity is standing on the road, at least twice a week, usually done after Ashr prayer. If there are motorcyclists who don't wear headscarves or men who only wear shorts, we will wave (our hand) to ask the person to stop. But we have no power to force people to stop. If the person we are calling indeed stops, then we usually pull them off the road and will ask for an identity card to show, then give advice like “lady, your pants are too tight, go get some good ones that shows your faith. That's it.”

PPNS (*Penyidik Pegawai Negeri Sipil*) is a term for civil servant investigators who have the authority to investigate incidents and detain suspected Syari'ah law offenders for 30 days. The integration of the WH into the SatPol PP, while risking sharing the bad image of SatPol PP, was thought to be a good opportunity for some WH members to be promoted as PPNS. In reality, as Feener also indicates, the process was slow and only a few members of the WH received PPNS status (Feener 2013b, p. 223).

Furthermore, local critics and international human rights activists have pointed out that the promulgation of Syari'ah bylaws has inspired the rise of the certain type of vigilante violence in the region, mostly perpetrated by members of the community at large (see reports by Human Rights Watch, 2010; Setara Institute 2014). Although the Aceh Syari'ah authorities have publicly stated that they have not supported acts of violence perpetrated either by the WH or the community (HRW 2010, Feener 2013a; Kloos 2014), in practice, they have shown no real effort to prevent non-state actors from actively becoming involved in community policing. Such practices have often led to vigilante violence. As Feener has also pointed out, "in fact, the WH is often called in only after vigilantes have already taken matters into their own hands. When they arrive at the scene in such cases, the role of the WH has sometimes been to assert protective custody over the suspects to shield them from further violent vigilante reprisals" (R. M. Feener 2013b, 197).

Furthermore, the WH's nomenclature, which is only recognized by the Aceh province's *Qanun*, makes their position weak in the eyes of the community, other government officials and state apparatuses, such as the national police and the army. WH officers have no right to carry weapons, no authority to make arrests and have to coordinate with the Satpol PP or the national police when taking action. They also cannot submit cases directly to Syari'ah courts but through public prosecutors. Meanwhile, for members of the community throughout Aceh, the implementation of Syari'ah law provides them with a legal basis to participate in law enforcement actions. They have perceived the notion of Syari'ah *keaffah* (applied in total) promoted by the government as a call to action. Another

reason for them to participate in vigilante action is the common perception that the official institution established by the state to oversee Syari'ah has failed to fulfill its duties (see Chapter Three). This reflects that “when the legitimacy of the criminal justice system becomes weak, communities *will* seek alternative mechanisms for maintaining social order” (Mutsaers 2019).

Indeed, in several interviews conducted with community members who have committed vigilante acts against suspected Syari'ah law offenders, they have said that they did not believe that the WH could handle cases without the assistance of the community. This has become one of the motivations for the community to take the enforcement of Syari'ah Law into their own hands. Benjamin Otto and Jan-Michiel Otto have also shown that the role of the WH in enforcing Syari'ah is often limited to the extent that local communities are willing to cooperate with this policing unit.

To address a lack of personnel due to limited budgets, city and district governments have been expanding *hisbah* networks by recruiting *mubtasib gampong* (village-based WH). In some districts, regents and mayors have asked each village under their territory to send two people to be trained as *mubtasib* by DSI. At the beginning, it was a good demonstration of the classical doctrine of *hisbah*'s notion that the *amar ma'ruf nabi munkar* is a collective responsibility. However, it is observable that the program did not always work because WH personnel recruited in *gampong* eventually demanded monthly salaries which the regional governments did have the budget for.

### **G. Being a (former) WH in the Age of Hypocrisy: The Life Story of a Syari'ah Police Officer**

Andrew Faull in *Police Work and Identity: A South African Ethnography*, points out that “stories are central to police work”. He writes “when officers respond to calls for service, they respond to stories. When they take statements, they record stories. When detectives investigate cases, they do so in search of stories (Faull 2017, p. 1). In the above sections, I have laid down the legal foundation and the operational structure of WH. In this section, I will focus on the personal story of a former WH member named Wawan and his subjectivity. By subjectivity, I refer to inner reflections and experiences

of a human subject (Biehl, Good, and Kleinman 2007). Furthermore, as anthropologist Annemarie Samuels has noted, “subjectivity is not just actively created but also contingent on unexpected, sometimes otherworldly, events that happen to people” (Samuels 2019, 98).

In the afternoon of July 5<sup>th</sup>, 2017, after a brief meeting at Cek Yuke coffee shop, Wawan and I went to a number of places which are frequent targets of WH operations. According to Wawan, when serving as a WH officer in the city of Banda, he often dealt with offenses against Syari’ah criminal code, such as adultery, alcoholic beverages, and gambling. Sometimes they were ordered to solve problems which were not regulated by the Qanuns, such as the emergence of a punk community in Banda Aceh. Indeed, Wawan became one of the driving forces in rounding up punk musicians in Banda Aceh when the anti-punk phenomena was at its peak between 2010-2013 (see Chapter 3).

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“I used to patrol in this area. This is *pusat maksiat*, (center of vice)” Wawan told me pointing to an open field near the beach with his fingers.

This location was in a village which was completely destroyed by the tsunami. More than half of the village’s inhabitants did not survive. Now the village had returned to normal and was full of new residents. Some inhabitants who had survived the tsunami decided not to return to this region. If they were financially stable, they bought or rented houses in nearby areas far from the beach and leased their property to people who had come from outside the area. The tsunami has created spatial effects which has led to geographical segregation. Most people who live near the coastal areas are financially weaker than those who live on higher, more expensive territory. Based on a survey conducted by a research institute in Banda Aceh, more than 40% of the occupants of the houses in the area which was struck by a tsunami are people who came from different regions that did not experience the tsunami in 2004. They could rent houses in the tsunami zone because it was cheaper.

According to Wawan, sinful activities often happen in areas where a lot of poor people live. He did not say that those people commit sinful activity because they are poor. He assumed that because they did not experience the tsunami, most of them had no fear to God. The 2004 tsunami is indeed important to Wawan's life. It did not leave any immediate marks but resonated several years later. This was what Wawan thought he had experienced.

“All of us have a past. My past, in religious term is called full of *kejumudan* (backwardness). I have experienced many things. There is a lot of disgrace in my life which I actually want to hide. But several *Ulamā'* stated that it is better to share our past stories to other people so that it becomes *tarbiyah*, which can be a type of lesson for ourselves and other people”

By *tarbiyah*, Wawan means education or lesson for himself or other people. What he considered “backwardness” in his past life is that he failed to learn from the tsunami disaster and still pursued the temptations of the entertainment world. He used to play music a lot. He was a guitarist and composer for a well-known *musikalisasi puisi* and Wawan still sounded proud whenever he recalled this memory. I challenged him sometimes by questioning why he was still glad to talk about this. He told me that it was an achievement. It was his way to express gratitude. He told me that no other group from Aceh in 1990 could perform at Graha Bakti Budaya, Taman Ismail Marzuki, Central Jakarta. That opportunity was difficult to get even for artists in Jakarta at that time. Having invited and performed there, Wawan had an opportunity to become acquainted with some prominent Indonesian artists, such as Rendra, Yose Rizal Manua and Garin Nugroho.

#### **H. “Why Did I Want to Become a WH?”**

In her book *After the Tsunami* (2019), Annemarie Samuels has demonstrated how the notion of subjectivity in Aceh has been shaped and reshaped by the process of remaking everyday life after the conflict, after the tsunami, and after Syari'ah.

Wawan claimed the tsunami of 2004 has changed his life. “Its effect is like being reborn,” he said. However, this did not come immediately. By the end of 2007, he started to experience a crisis. One of the reasons for this was that his activities as an artist begun to give him discomfort. He felt as if he had committed a large number of sins. At that time, Wawan was participating in many programs to help the tsunami victims. His musical group received a lot of invitations to perform. His income was abundant. He was also a permanent employee for a government institution, earning a lot by Acehnese standards.

However, he did not receive an answer for his troubled feelings. He felt as if God was waiting for the right time to punish him. His wife started to feel as though she could not communicate with him. His behavior made his children feel uncomfortable being around him. His wife could not tolerate this situation and file for a divorce. After the divorce, Wawan alienated himself from his friends. He went back to his hometown in Takengon in the Gayo highlands. After that, he moved to Bandung, West Java. Then his brother informed him that he had received a summons from his office because he had been absent for a long time. Wawan finally returned to Banda Aceh. As a civil servant, he still had to come to the office to work on a daily basis.

Wawan still experienced confusion and stress. At this time, he went to the office but could not work. The only place that gave him peace was the *mushalla* (Islamic prayer room) in his office. An official in his office introduced Wawan to a religious teacher from *Majelis Tabligh*. Wawan felt peaceful when he visited the teacher’s place and learned from him. He wanted to become a better person and devote his life to religion.

This was a time when he, to use his own phrase, was “back to normal” (*kembali normal*). He always took his sarong to the office, wearing it for prayer and always reminding other people to pray when the *azan* called them to do so. He regularly visited Tgk Zainuddin, a lecturer at UIN Ar-Raniry, also an expert in *tasawwuf* (sufism). At certain times, he would go to Labuhan Haji to study with

Abuya Amran Waly, the son of Abuya Muda Waly Al-Khalidy, the *Ulamā'* who played an important role in the rise of traditional *dayah* in Aceh. He took *tareqat Naqsabandiyah*. After learning *tasawuf*, Wawan said that he could “move on” (*saya bisa* move on).

His interest in *tasawuf* led him to start asking his colleagues to study religion frequently. For Wawan, *dakwah* (da'wa, religious teaching) should be conducted anywhere to anyone at any time. Wawan also decided to always wear clothes associated with Sufi students. Some of his colleagues started to think that he was out of his mind. “Yes, they said I went insane,” Wawan said.

His routines in the *mushalla* at his office made the head of the department where he worked, the Department of Culture and Tourism, start to think that Wawan was not making his maximum contribution to the office. Wawan then asked to be transferred to the office of Satpol PP/WH in the city of Banda Aceh. Because there are two divisions in the office, namely Public Order Enforcers and WH, he was asked to choose one. “I want to be a WH because I want to be awake.” He felt that becoming a WH was the right thing to do since he wanted to uphold the Islamic Law in Aceh. Consequently, he was transferred to become a WH. He was probably the only WH member in his squad who was not an alumnus of IAIN Ar-Raniry. However, Wawan said that religious knowledge was not a matter of which school a person went to, but his or her willingness to always learn.

Wawan found the means to learn and enhance his religious practice in WH. Here, they conducted studies and always conducted congregational prayers (*shalat jamaah*). Going on patrol was a way for Wawan to see people. “We need to see people if we want to teach them religion.” He gave the ideal picture of how a WH fulfills his duty and uses his authority.

His job as sparked his motivation to work again. He felt as if he occupied a role for the city of Banda Aceh. “*Saya merasa jadi ada guna.*” Wawan has a robust posture. He was born in 1973, which made him older than his colleagues who were recruited after they had finished college, mostly at IAIN (now UIN) Ar-Raniry.



Figure 8: Admonishing the punks

Source: Wawan, with permission.

Wawan was also a skilled martial artist skills, in both judo and karate, so the members in the WH often relied on him to be the team leader when they conducted operations, unannounced inspections and raids based on the reports from the public. He became one of the leaders in rounding up the punk youth in Banda Aceh. In 2011, he joined the national police at a punk concert at Taman Budaya Aceh. He disagreed with my use of the word “arrest” when referring to this police action. However, the government did arrest the punks. I told him that I had visited them in the police academy in Seulawah mountain. Wawan insisted that they were regulating the punks because that was the duty of WH. He was disappointed with the mayor’s decision to give the responsibility to educate these punk kids to the police. It should be taken over by the Ulamā’ council.

“There is an annual budget that benefits the Ulamā’ council, money that they can utilize not only for saying things are bad, or *haram* and so on, but also to talk to people directly like what we did in WH”

According to Wawan, one WH officer should ideally supervise 100 people. However, when Wawan was working there, there were only 38 personnel. Therefore, in order to uphold Islamic Law, Wawan and his team decided to conduct patrols daily and went to every corner in the city. Technically, their job was only to go around and show the public that un-Islamic activities would be watched over. “The task was difficult; we could have three shifts in a day. It was difficult indeed, but if we saw it as a religious service, it would not feel hard.”

Wawan did his job as WH in the City of Banda Aceh for almost three years (2011-2013), until he experienced two incidents which made him quit his position as a WH. The incidents which made the Government of Banda Aceh realize the decision to transfer Wawan to the WH Department was a mistake.

The first case was when a government official conducted immoral actions in Peunayong region. Wawan asked me to write the chronology in detail, “So there will not be any slanders” he said.

“We were in the Kupiah Meukeutop Mosque performing Maghrib prayers in congregation. All of a sudden, we got a phone call from the head of Satpol PP/WH at that time, Mr Edi. He received a phone call from the Regional Secretary, Ampon Din. Yes, I remember, it was Ampon Din, you remember him? Our teacher. He said that there was a citizen report that there was immoral activity at a salon. Since it was a call of duty, we decided to leave the prayers in the mosque. There were 12 of us, so we would perform the congregational prayer later after we finished our duty.

Then, we went from Kupiah Meukeutop to Peunayong. We turned on the siren right away. Semi-military. We were like that when we had an operation target, now in Peunayong. The salon workers were smart. There was a guard outside who used a padlock to lock the door, to make it seem that there was nobody inside. Because we were used to stuff like that, we knew exactly that it was a sign that there were people doing sinful activities inside. We secured the guard. We took the key and it was true that there were people inside. Because we were a trained team and we were used to arresting people like that. Two members stayed outside and the other two faced the salon workers. The members outside kept the public from interfering. We know that the public in Aceh have a strong tendency to conduct vigilante acts.

And then.. (the recording is interrupted with a friend coming to greet Wawan). Then, the other team members went upstairs. I was the one who broke down the salon door. The lights were dim in that room. Wow, it was so romantic (laughs). I broke down that door. I was a Muay Thai trainer, so I could break down the door in one attempt. After that, I saw a woman lying down with, sorry, no clothes. The man was nowhere to be seen. After we investigated, my subordinate said, “Ustadz, there is a man behind this door,” the man was wearing nothing as well. So, we opened the door

so the lights could come in. We told both the man and the woman to put on their clothes. Apparently, the man was one of the founders of.. I forgot what his office is called, it's in Beurawe. Okay, he was a *Khatib Jumat* (Friday Sermon preacher), a *haji* who was quite rich in Aceh. *Khatib Jumat*, a *haji*, and also known as a figure who enforces Islamic Law. I was so shocked at that time. I was really shocked because I know him as a *Khatib Jumat*, a rich *Haji*, and a prominent figure in a village in Banda Aceh. So, this man that I arrested was a government official. But religion does not see someone's rank or position. So, I stayed *amar ma'ruf nabi munkar.*"

As a result, the *Haji* was brought to the mayor's office for the Investigation Report. According to Wawan, the case spread among the public. Journalists started to come to the mayor's office. The Government of Banda Aceh was trying to cover up the case. Wawan was disappointed. They were not even allowed to answer questions from journalists. For Wawan, it was contradictory to his belief about the duty of *amar ma'ruf*. The identity of the woman having affair with Haji B went unnoticed, lucky for her. The case was closed.

A few days after the release of Haji B and his mistress, a journalist named Muhammed Saleh from *Modus Tabloid* contacted Wawan. According to Saleh, the news about the arrest of Haji B had become public gossip. While many were talking about it, no media outlet had written a clear report about it. Wawan felt that they were trying to silence the journalists and get rid of the evidence, so he decided to speak to the public. He asked the journalist to write his real name, not a pseudonym or initial. For him, it was a test of his commitment and a way to fight the leaders' hypocrisy.

The case did not stop there. Wawan was also involved in the arrest of several important people in the government, such as a section head in the mayor's office, a member of the Regional House of Representatives from West Aceh, and a government official from Meuraxa. Wawan wondered why most of the people he arrested were high ranking government officials and none of the cases which involved them was processed further. Finally, at the end of 2013, he arrested the adjutant of the Mayor of Banda Aceh, who was suspected of conducting immoral activities with a female university student in a car.

When he arrested the adjutant, Wawan and his group were threatened that they would be reported to the mayor. Even when the head of SatPol PP/WH of Banda Aceh came to see him at the location, he asked Wawan and his team to let the couple go.

“I was asked to tolerate them. I have no toleration for sinful behavior. Because I also arrested gamblers, drunkards and people who do *kebahwat*. All of them received punishment, why did these officials get exceptions?” asked Wawan.

However, the Haji B case never became a problem for the municipal government of Banda Aceh. City residents are still cynical about the case. During caning ceremonies attended by the mayor at that time, people would not infrequently shout “Whip Haji B, whip Haji B.” When Illiza failed to win the mayoral election of 2017, some people said it was the punishment for her because she was not consistent with her promise to uphold Islamic law.

Wawan was transferred from WH one week after the arrest of the mayor’s adjutant. He is officially working at a small government unit for Banda Aceh. He has more time now to do *dakwah* and to sit at Cek Yuke. Most, if not all, members of the Syari’ah police in Aceh belong to intimate networks of people who have been living and sharing the same space and culture, including coffee shops. That is the case with Banda Aceh. Dema, my punk friend (see Chapter Three) is now often seen sitting at the same coffee shop with Wawan, the former WH who arrested him a few years ago.



**Figure 9:** Wawan and Dema, meeting at Chek Yukee

### **Concluding Remarks**

I have referred to violent incidents involving WH in the above discussion, it is not my intention to provide a comprehensive list of violent acts perpetrated members of WH nor emphasize their violent behavior while enforcing Syari'ah law. In contrast, I aim to show that although WH and DSI are part of the modern bureaucratic state, they are not wholly the type of authority that has a monopoly on the legitimate use of violence in Weberian sense. Instead, as the long list of attacks on them have shown, they have often become victims of violence not only from the community they aim to enforce order on but also from the authorities that have created them as “a prerequisite for social order.” I found that by looking at the limitations of WH, both as institution and as personnel, one will see the condition of “the impossible mandate” of Syari'ah policing, the paradoxes of WH's work to meet the high expectations of society while facing their own “nightmare” since the politics of the state and bureaucratic system often place them in difficult positions.

Furthermore, the personal story of Wawan and his “moral subjectivity” that has changed his lived experience in an unexpected way reveal what the state Syari’ah project is about. In the following chapter, I will further demonstrate the impact of policing culture under Syari’ah law after the Islamic Criminal Code (Qanun Jinayah) is officially applied in Aceh. I will further unpack the intrinsic relationship between law and violence, between the WH, the community and other state institutions, through an examination of a case of the criminalization of a gay couple in Banda Aceh in 2017.

## Chapter 6: Crimes and Punishments under Syari'ah Law in Aceh (The Case of *Liwath* & LGBTQ Criminalization)

### Opening Remarks

This chapter investigates how crimes are defined and prosecuted under Syari'ah law in Aceh. In 2014, Aceh's government passed a comprehensive new Islamic criminal code called *Qanun Jinayah*. In classical Islamic law, crime (*jarima*) refers to any act that is prohibited by religious law or behaviors discouraged by God. Such criminal acts are subject to mandatory or discretionary penalties. Fundamentally speaking, the penalties for criminal offenses in Islamic law are divided into two groups. The first, prescribed penalties, which include *budud* and *qisas*, specify the limits and procedure of punishment as prescribed in the Quran and the Hadith. The second, discretionary penalties, are determined by or at the discretion of rulers, known as *ta'zīr*.

As Mark Cammack has suggested, “an empirical examination of contemporary Islamic law demonstrates that modern expressions of the law cannot be understood by reference to the classical legal literature alone. To understand the nature of contemporary Islam, we must examine its existence and operation in the real world” (Cammack 2016, 2).<sup>196</sup> I have built this chapter around the first case of homosexual activity prosecuted using the Syari'ah criminal code in the province. I have chosen this case because it was the first of its kind and was the subject of mass public interest. Through this case, I describe not only the experience of LGBTQ people under this new enforcement of Islamic criminal

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<sup>196</sup> Cammack's article “The Punishment of Islamic Sex Crimes in A Modern Legal System: the Islamic Qanun of Aceh” is also available online at <https://www.swlaw.edu/sites/default/files/2017-04/6%20The%20Punishment%20of%20Islamic%20Sex%20Crimes.pdf>, retrieved 12 December 2019

law but also how they dealt with challenges such as violence, stigmatization and criminalization beyond a legal framework.

### A. The Case

On Tuesday night, March 28<sup>th</sup>, 2017, several youths, mostly university students, broke into a boarding house and battered a young gay couple. The raid (*penggerebekan*) which took place in Rukoh village, Darussalam, was filmed and went instantly viral through Whatsapp. The 2-minute and 50 second video shows how the couple was beaten and humiliated by the mob. In it, one of the young men, is beaten while trying to reach a cell phone on the floor while completely naked. He uses one of his hands to cover his genitals and raises another to plead to the attackers. He is not pleading for the beatings to stop, which seems impossible, but asking if he can call someone. His partner, wearing blue shorts, is cornered by the assailants, and then pushed and punched. He covers his face with his hands, crying. While they continue beating, cursing, and yelling at the naked young man, the attackers eventually allow him to dial a number. The young man then calls a relative and asks to be picked up. He cries and says he wanted to go home. This is where the video ends.

Although the video does not reveal the rest of the story of the raid, those familiar with acts of vigilantism that have become more in the province could predict what happens next.<sup>197</sup> The mob will drag the couple to the village *meunasab* (a public prayer place) and bathe them with filthy water before handing them over to the Syari'ah Police (WH). How the couple will then be prosecuted by Syari'ah

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<sup>197</sup> Communal violence has been rife in Indonesia since colonial times (Colombijn & Linblad, 2002; Van Klinken, 2007). Currently in Aceh it has taken on a new pretext for street trials (this is confusing phrasing). David Kloos argues that in post-conflict and post-tsunami Aceh, a complex and versatile conflict regarding social control and moral authority has contributed significantly to the increase of vigilante violence in the province. Kloos points out that “*Syariah* serves as a powerful label for explaining and justifying the actions” (Kloos 2014b, 61).

law will provoke a lot of attention. This is the first publicized case of gay sex raid after Aceh's legislature passed the new Syari'ah criminal code (Qanun Jinayah) Qanun No. 7/2014. Aceh's parliament and Governor Zaini Abdullah agreed to adopt version of the Qanun Jinayah with minor modifications that then Governor Irwandi Yusuf refused to sign in 2009 (see Chapter Two). The new Qanun Jinayah omitted *rajam* (stoning to death) from the list of punishments but added an additional punishment to those who committed *limath* (sodomy, sexual intercourse between men) and *mushaqab* (lit. means "rubbing," sexual intimacy between women).

On the next day after the raid, I visited Rukoh with two friends, Ucok Suparta and Azhari. Gampong Rukoh is located in Darussalam, a subdistrict in the Banda Aceh municipality, just behind the State Islamic University (UIN) Ar-Raniry's main campus. We arrived around 10 am. Before heading directly to the boarding house where the raid had taken place, we met with the village chief (*geuchik*) first, a standard procedure when visiting a village in Aceh. Nowadays, almost every Gampong in Aceh has a permanent office and is usually easy to find because it is always located near the *meunasab*. That is also the case with Gampong Rukoh.

We found only one staff member working behind a table in the front office. He told us that Harmidi, Geuchik of Rukoh, was out picking up his wife at a nearby market. He suggested that we wait. I asked the officer trying to get information about the gay raid story from him. He did not respond. Again, he asked me to wait for the geuchik instead, seemingly for procedural reasons, since refusing to engage in conversation is unusual in a gampong. Giving up, I left him and followed my friends to the office's spacious front yard. Besides a prayer house, the office had a small library and an empty security post. Overall, the office grounds looked much better kept compared to other geuchik offices I had visited. This was like because Rukoh was severely damaged by the tsunami in 2004 and received a lot of during the reconstruction process. We stood under a large banyan tree in the office front yard, smoking, and waiting for the geuchik.

After about fifteen minutes, from under the tree, we could see a man entering the office. However, he was not the geuchik we had been waiting for. He talked to the front staff, then waved his hand, calling us to come in. He introduced himself as Bang Rudi, the *Ketua Pemuda* (youth leader) of Gampong Rukoh. His title belied the fact that he was 48 years old.<sup>198</sup> The officer suddenly approached us and told us that Bang Rudi was the right person to get information about the raid.



**Figure 10:** Bang Rudi, Rukoh youth leader

Neither Bang Rudi nor the village chief took part in the raid. Bang Rudi only received a call from the villagers after they brought the two young men to the village Meunasah.

“I went to pick up Pak Geuchik first. When we arrived, people already bathed the gay couple with dirt. They tied up their hands. We could not prevent the village youths from doing that. Look, here in Darussalam, our village is located just next to the two universities. Every year hundreds of new students would come and live in many

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<sup>198</sup> Under Suharto’s New Order, the term *pemuda* (youth) changed from referring to a certain age (the revolutionary age under Sukarno’s Old Order) to refer to men in their productive age participating in national development (Lee 2016; Parker and Nilan 2013; Anderson 2018; Ryter 1998).

boarding houses we have in Rukoh and our neighboring villages. Some of these students came to this office to report themselves and registered to be residents, but many others didn't do so. We know only names and their addresses. That is because their landlords provide us with copies of their identity cards. Personally, I do not know who they are. I meant the raiders though they live here too. Village elders did not get involved. Anyhow, *Ara*<sup>199</sup> one of the boys caught doing the *limath* last night... I remember when he came here. He registered and started to live here almost two years ago, but I barely see him around. He never joined any village activities. The other guy, I do not know. He told us his name was *Tata*<sup>200</sup>; he came from Langkat (North Sumatra). I also couldn't name all who participated in the raid. I know Roy, who lives in the same house with Ara (laugh)... I just met him last night. I got his phone number. I can give you his (phone) number if you want. Many people here have been involved in taking care of the village, preventing cases like what happened last night from happening again. Yeah, that people found homosexuality case as something new here. This never happened before. But there were a number of *kehalwat* (close proximity/illicit sexual relationships between members of the opposite sex) cases before. Many, many times, it's quite often we dealt with *kehalwat* cases here. You know when students live nearby, male and female, and they are far away from their parents. No one really watches what they are doing."<sup>201</sup>

Our interview with Bang Rudi was interrupted by the arrival of Pak Geuchik Harmidi and his wife. Harmidi greeted us and introduced his wife. I noticed that Bang Rudi talked to us in Bahasa Indonesia while Harmidi and his wife used Acehnese. Knowing our reason for coming to his office, Harmidi expressed his disappointment that such a case could happen in Rukoh. He said the gay couple had "polluted" the village. Harmidi told my friend Ucok, the journalist, not to write bad things about Rukoh. I confronted him with information from Bang Rudi that cases against Syari'ah law had not been uncommon in Rukoh before, including many cases on illicit sexual activity (*kehalwat*) among university students. Harmidi nodded that it had happened. He accepted the fact while excusing that

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<sup>199</sup> Ara is a pseudonym. In our conversation Bang Rudi mentioned his real name.

<sup>200</sup> Tata is a pseudonym.

<sup>201</sup> Interview with Bang Rudi, 29 March 2018. Italic words and words in bracket are mine.

little could be done to prevent it. Many people looking to rent a room in their village are university students. However, after the Syari'ah had been implemented, he saw the decline in numbers of the *khalwat* cases. "I was born here, I went to study at IAIN (now UIN Ar Raniry), so I very much understand the situation here. It was much worse before we had Syari'ah. Now people have become aware and willing to take action to protect Islam in Aceh." He, too, expected the *khalwat* cases would continue to happen. There is no way to completely eradicate such lousy behavior "because they were young" he said. However, homosexuality was just unthinkable to him. "*Nyan peunyaket jameun that*" (homosexuality is an ancient disease), he said. "*Na uroe jeb masa Nabi Luth. Nanggroe sampe gen gulong.*" Harmidi referred to the time of Prophet Lot and the people of Sodom.<sup>202</sup>

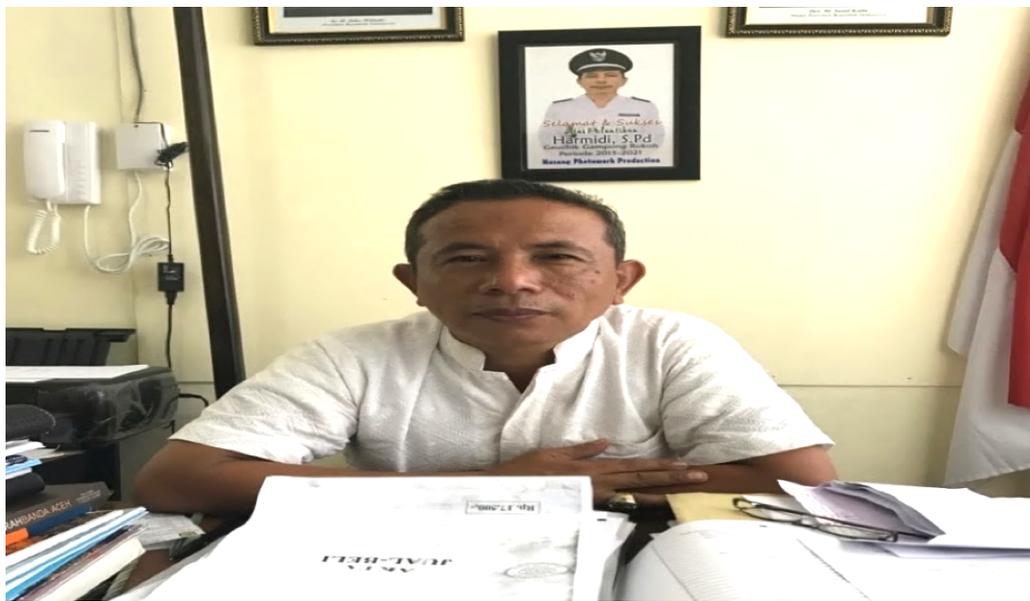


Figure 11: Rukoh's head of village (gampong)

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<sup>202</sup> Interview with Harmidi, 29 March 2018.

His wife, who only joined our conversation before we left, said something slightly different. For her, homosexuality is a new trend, a new disease. She said, “*Hana tasangka jinoe kana. Hantom na baroe kon. Nyan ata diba le awak Barat. Aneuk muda tanyoe ka ikot-ikot peunyaket nyan. Lumat that, kiban dipenulaku ata nyan, rot likot? Hana ta teu’oh bayangkan pib*” (“We didn’t expect that they exist now. We never heard about this before in Aceh. Westerners bring that (homosexuality) here. Our youths are following that disease. It’s disgusting. How did they do that? From behind? (laughter). I cannot imagine.”). My friend Azhari told her that gay people are not new in Aceh. She insisted she had never heard about it before. She knew some *waria* (male to female transgender people) working for beauty salons in Peunayong, a Chinatown of Banda Aceh. “But, they look different,” she said.

Bang Rudi gave us the phone number of Roy (pseudonym), one of the raid’s perpetrators. We said thanks and left the *geuchik* office.

## **B. The (Intimate) Perpetrators**

Roy, who led the raid, answered my phone call. He said it was no problem if I wanted to come and talk to him. I wanted to know what actually occurred during the raid. He was in the boarding house that he shared with Ara and three other occupants. All of them are university students. Roy is a student at the State Islamic University Ar-Raniry and grew up in Blangpidie, Southwest Aceh. Saiful and Jamal, two other tenants who live in that boarding house, also came from Southwest Aceh. They both went to study at Syiah Kuala University. From them, I learned that Ara was a nursing student in a private nursing academy, also located nearby Darussalam. Saiful and Jamal only added some information as they mostly let Roy talked to us.

Roy was thin and tall. His mohawk-styled hair and wearing a pair of ripped jeans are not the typical appearance of a student of UIN Ar-Raniry. I told him I used to teach at UIN Ar-Raniry. He just nodded. As we talked about the raid, Roy received a call from the WH office. WH investigators asked him to come to their office tomorrow as he had been named as a witness. After he talked to the

WH officer, Roy began to tell us the details about what happened before and during the raid and took us to look at the condition of the boarding house, a fragile-looking semi-permanent white wood and brick building. As we moved closer to the building, it became clear to me that it was poorly constructed and did not have enough ventilation. The building was pretty low so that it could easily withstand floods during the rainy season. Indeed, this housing was located in the western part of Rukoh, which used to be a swampy area. Many students from lower class families could only afford to live in this part of the village.

Roy was suspicious when he saw Ara and his friend Tata coming into the room around 8 pm. He had seen Tata several times coming to Ara's bedroom and only leaving in the morning indicating that Tata had slept there. At 10 pm, he asked Saiful to join him to peak at what Ara and Tata were doing in the room. It was easy for them to crack a little hole in the wall made of a thin plywood. "We saw that, we saw they did it" he said. They took turns peering at Ara and Tata making love. "I was shocked. The lights were dim, but I could see what they were doing. I can't believe they did that."

Roy prompted Saiful to call people around their boarding house and ask them to join the raid. Roy waited there to make sure that the couple did not leave the room. He did not try to knock on the door but just let them continue inside. I asked him why he did not stop them by himself. He seemed unsure how to answer, then replied that he needed proof and witnesses. In a few minutes, hundreds of people had surrounded the house. They then broke the door and treated the couple as can be seen from the video that circulated afterward. Roy had no idea who had recorded the raid since a lot of people came to join the attack.



Figure 12: The raid location

Sometimes Roy trembled when telling how he eventually decided to do the raid. He told me he simply could not accept the fact that Ara was gay. He had regarded Ara like his younger brother, who, just like him, was away from their families as he pursued higher education in Banda Aceh. He was so shocked to realize that Ara was gay. Ara, for him, was a very polite and friendly guy (*sic*).

“He is a nice guy. We sometimes hung out together for dinner. He would tell us lots of stories. Yeah, sometimes he looked a bit feminine (*kayak perempuan*). I thought he behaved like that because he is younger among us and spoiled. I really did not expect that he’s gay and would do that here”

I told him that Ara could face a very harsh punishment according to the Syari’ah criminal code. Both Ara and Tata could get 100 lashes. Roy did not respond to my point about the law. For him, what Ara and his partner did was a sin. He had seen people raiding other (straight) couples, but not a gay couple. According to Roy, what those men and women doing was, of course, immoral and sinful. However, Ara’s sexual orientation is *more (lebih)* wrong, in his words. It would spread disease to other

people in Aceh. Roy's view on gay people was like that of the Rukoh village elders I have mentioned above. Although they had mentioned that Aceh already has Syari'ah law, they did not talk about the law or how law enforcement would prosecute the case. No one brought up that gay sex is part of crimes stipulated in Qanun Jinayah, which is now a active law in Aceh nor did they call Ara and his partners criminals. When I told him that his action going into other people's private property could also be charged because it was an act against the National Criminal Code (KUHP), Roy simply refuted my point. He did not feel guilty about what he had done the previous night. "Our religion obliges us to stop evil wherever it exists."

However, as pointed out above, Roy did not immediately stop the practice of *limath*, even if he considered it a vice and sinful behavior, and he felt obliged to interfere with. Instead, he had waited for people to come before they broke the door. Finally, I asked him whether he hit Ara during the raid. He said no. He did not attack Ara but did strike his partner. "I did not want to hit Ara. He is my friend," said Roy. Yet, it was also clear that none of them wanted Ara to return and live there anymore. Just like many other Indonesians, they didn't want a gay roommate, friend, colleague, or even family member.

### **C. The Law: Qanun Jinayah (Syari'ah Criminal Code)**

The will to implement a more comprehensive Islamic criminal law began in Aceh in 2009 when several politicians at the Aceh provincial parliament submitted a draft bill called Qanun Jinayah. The then Governor Irwandi Yusuf refused to sign it. As a result, the law could not be enacted. The situation changed following the conflict and divisions between the GAM elite, which resulted in Irwandi being ousted from the Aceh Party that he co-founded. This rift was followed by Irwandi's defeat in the 2012 Aceh gubernatorial election. Zaini Abdullah (former GAM minister) and Muzakir Manaf (former GAM top commander) were elected as the new Aceh governor and deputy governor. Besides being supported by the majority of former GAM combatants who had joined the Aceh Party, Zaini and

Muzakkir were also supported by hardline Islamic groups, who were disappointed with Irwandi. Some reasoned that Irwandi was too secular for them (see Chapter Two). Indeed, besides political factors and Jakarta's hidden support to win Zaini-Muzakkir, Syari'ah was one of the campaign issues put in play by Irwandi's opponents, who drew on his decision to attack him for having a tendency to nullify the Syari'ah implementation in the province.

Politicized Syari'ah came with further consequences. The Zaini-Muzakkir victory was used by Islamic militant groups to demand the process of legalizing Qanun Jinayah be continued. These groups comprised of Dayah leaders and students, politicians, the Muslim journalists caucus, Muslim student associations, and Islamic Defenders Front (FPI). They issued frequent joint calls on behalf of Islamic community organizations (Ormas Islam), demanding that Zaini Abdullah speed up the comprehensive implementation of Islamic penal law.

In 2013 Zaini ordered the State Syari'ah Office (DSI) prepare a draft bill concerning Islamic Criminal Procedures. The draft was then legalized on December 13, 2013, and formally called *Qanun Acara Jinayah* (Qanun Number 7/ 2013). The reason given for the legalization of the material source of law was that the Aceh Qanun of 2003, which regulates offenses concerning alcohol (*kebamar*), gambling (*maisir*) and sexual contact outside marriage (*kehalwat*), was difficult to enforce because there were no details and procedures.

With the existence of the Qanun Acara Jinayah, the handling of several criminal cases in Aceh would be different compared to the criminal law procedure in Indonesia in general. For instance, in the Indonesian criminal justice system, the authority of judges is to examine, hear and decide on criminal cases submitted by the Public Prosecutor. While in the Syari'ah judicial system, in addition to the above authority, the judges of the Syari'ah court must accept if criminal offenders come to confess and request punishment even without going through a prosecutor. Furthermore, in Qanun Acara

Jinayah, detention will only be carried out for investigative purposes. This Qanun also allows non-Muslims who want to be punished by Syari'ah law to submit a request to the Syari'ah Court.

After having the criminal code procedures promulgated, on October 22, 2014 the Government of Aceh passed Qanun Number. 6 on Syari'ah Criminal Codes called Qanun Jinayah. According to Syahrizal Abbas, who had just served as the Head of DSI, Qanun Jinayah was compiled based on guidelines from the Koran and Hadith (Abbas 2015, 15).

Qanun Jinayah consists of 10 chapters and 75 articles and regulates three main things, namely, criminal offenders, criminal acts (*jarimah*) and criminal sanctions/punishments (*uqubat*) (Abbas, 2015, p.11). It is important to note here that Qanun No.11/2002 only stipulates that Syari'ah violators are defined as those who (1) spread a religious deviant teaching, (2) deliberately leave the Islamic faith or insult the religion of Islam, (3) do not perform Friday prayers three times in a row without acceptable reasons (illness, traveling, insanity, among others), (4) provide facilities/opportunities for Muslims not to fast in the month of Ramadan, (5) eating or drinking during the daytime in the month of Ramadan, and (6) do not dress according to Islamic dress code (not covering the intimate parts of the body or *awrah*). In 2003, three other offenses were added, namely *kehamar* (alcohol), *maisir* (gambling) and *kebahwat* (illicit sexual relationships). In Qanun 2002 and 2003, the Syari'ah authority did not use the words *jinaya* or *jarimah* as equivalent to law on crimes and its offense category.

The 2014 Qanun Jinayah states that those who commit crimes against Syari'ah law will be punished with ta'zir in the form of prison sentences (*penjara*), or caning in public (*cambuk di depan umum*), or fines (*denda*). Qanun Jinayah regulates ten types of actions included in the *Jarimah* category and subject to punishment (*uqubat*), namely, alcohol, gambling, seclusion, *ikhtilat* (an attempted act of adultery), *zina* (adultery), *qadzaf* (false accusation of adultery), sexual harassment, rape, *liwath* (a consensual sexual relationship between men), and *musabaqah* (a consensual sexual relationship between women).

Mark Cammack argues that the last four sex offenses (sexual harassment, rape, *liwath* and *musabaqah*) listed and stipulated in Qanun Jinayah “are not clearly rooted in classical Islamic rules”. While the inclusion of *liwath* and *musabaqah* in Qanun Jinayah can be seen as a reflection of the revival of religious conservatives and their literalist interpretations in Indonesia, Cammack points out that the inclusion of rape and sexual harassment indicates “the influence of ideas from the West” (Cammack 2016, 31).

Furthermore, punishment in this Qanun consists of *hudud* and *ta'zir* penalties. Stoning to death (*rajam*), as proposed in the 2009 Qanun Jinayah, was ruled out. *Hudud* penalties are in the form of caning (maximum 100 strokes), whereas *ta'zir* penalties consist of the primary *ta'zir* punishment and additional *ta'zir* punishment. Major *ta'zir* penalties include caning, fines, imprisonment, and restitution. In contrast, additional *ta'zir* penalties consist of coaching by the state, compensation by parents/guardians, termination of marriage, revocation of permits and cancellation of rights, confiscation of certain items, and social work (Fadhlullah 2017, 21).

Objection and criticism against the implementation of Qanun Jinayah in 2015 came from primarily female Acehnese human rights activists. These activists worked with a number of civil society organizations at the national level, such as *Solidaritas Perempuan* (Solidarity for Women) and the Institute for Criminal Justice Law (ICJR). The ICJR demanded the examination of the contents of the Qanun.

*Solidaritas Perempuan* and ICJR's main criticism of the provisions in the 2014 Qanun Jinayah focused on three things. First, problems regarding the formulation of criminal norms (multiple interpretations, discrimination, overcriminalization, repetition with national criminal law policy) have the potential to target vulnerable groups, namely: women, children, LGBT. Second, the bylaw has the potential to violate the fair trial of suspects and defendants because, in practice, it is selective, discriminatory, and not regulated by correct procedural law. The final criticism regards criminal

punishment, which is degrading to human dignity, including the use of corporal punishment, in this case public caning (ICJR 2016).

ICJR and Solidaritas Perempuan submitted a letter to the Supreme Court asking it to declare Qanun Jinayah Number. 6 of 2014 as invalid and having no legal binding. The Supreme Court rejected the request stating that the plaintiffs did not have enough evidence to proceed with the judicial review (*Serambi Indonesia* 2016a).

#### **D. The Investigation**

Two weeks after the raid, the gay couple were still being held under detention at the SatPol PP/Wilayah Hisbah (WH) headquarter, known to people in Banda Aceh as the WH provincial office. Although the case happened under the city of Banda Aceh's jurisdiction, Ara and Tata were detained in the WH provincial office. After a few attempts to set up an appointment, I met Marzuki, chief department of investigation at SatPol PP/WH. Ucok, my journalist friend, joined me.

Marzuki is one of the most approachable WH officers known to journalists, Ucok told me. He is very dedicated to his job. He is open to everybody who wants to know about the enforcement of Islamic Law in Aceh. Indeed, after a quick internet search, I found that Marzuki has appeared countless times in national and international media reports about the implementation of Syari'ah in Aceh. Marzuki studied at UIN Ar-Raniry and graduated from the Faculty of *Syari'ah*.

The SatPol PP/WH Office had just held an anniversary ceremony the day we visited. They had cooked several big pots of beef curry. We were invited to eat before we could continue with an interview. After we had a *kenduri* (meal), Marzuki took us to his office where several WH investigators were working. The investigators stared at us and continued to work with on papers and computers. All of them were PPNS (civil servant investigators) who have the authority to investigate, interrogate and spy to gather evidence on criminal offenses related to Syari'ah law. They belong to the elite unit at the SatPol PP/WH office.

Marzuki objected to my request to meet Ara and Tata in person. Instead, he pointed to a TV screen that was projecting several live CCTV video feeds. I realized that the PPNS in this room could watch and monitor those in their detention rooms using Jeremy Bentham's panopticon of our age. I wondered which one were Ara and Tata. The images on the screen were black and white, sometimes blurred. Marzuki did not respond to my curiosity. He instead explained the unit's job.

“In the Investigation Unit, we PPNS have four authorities, namely interrogation (*memeriksa*), spying (*memata-matai*), going undercover (*menyamar*), and, after getting enough evidence, we will work with the (national) police and public prosecutors to bring the case to the Syari'ah court. Basically, our main duties are based on two principles: *preventive* and *repressive*. For the preventive part, we conduct regular patrols and encourage members of the community to take part in enforcing Syari'ah law. Don't take it wrong. We did not encourage people to take action like beating up the offenders or bathing them with dirty ditch water. That practice is not *syar'i* (in accordance with Syari'ah) at all. But we want them to conduct surveillance and report to us actively. Indeed, community cooperation is needed here. As for now, there is a BAM (Anti-Immoral Act), which was officially formed by the Mayor of Banda Aceh. This BAM consists of the village youths, and if there is a violation of Syari'ah law, they are the first responders to take preventive actions. They have been briefed not to commit any unlawful acts.<sup>203</sup>

I confronted him with images from the raid video showing that it was violent and illegal to take such actions against anyone. He denied that the Syari'ah law caused vigilante actions. Like Geuchik Rukoh, he said they could not control the mob, and could not stop the circulation of the raid video. Marzuki said that the case of Ara and Tata is the first *liwath* case that the WH had handled. Before the legislation of Qanun Jinayah, there were at least two similar cases of homosexuality, alleged gay men arrested by members of the community in Banda Aceh. At that time, WH had no legal basis to prosecute the suspects, so they were handed to the national police. The national police also could not proceed with the case to the court because the Indonesian Criminal Code does not regulate immoral

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<sup>203</sup> Interview with Marzuki, 20 April 2017. Words in bracket and emphasis are mine.

offenses. Now Marzuki knew that the world was staring at his institution. He told us that he received a lot of phone calls from Jakarta and foreign countries, asking the WH to release the gay couple.

The Ara and Tata gay sex case is the first notable case for the Syari'ah authorities in Aceh to enforce and socialize Qanun Jinayah and its procedures stipulated in the Qanun Acara Jinayah. That is why they (the provincial WH) took over the handling of the case from the Banda Aceh municipal WH. He insisted that what they are doing was law enforcement. Ara and Tata were arrested because they violated the law, not because of their status. Therefore, accusations from outsiders must be refuted, said Marzuki.



Figure 13:WH Chief Investigator

Marzuki showed us a copy of a newspaper page with a statement of condemnation from Human Rights Watch (HRW) regarding the arrest of Ara and Tata. He threw the newspaper and laughed. According to him, Syari'ah in Aceh is a formal law, legalized by a sovereign state, the government of Indonesia. Condemning the implementation of law enforcement in one country violates the rights of the people in that area, he argued.

Also, there was a case where my wife's friend involved. He is now the chairman of the national LGBTQ community. Hartoyo, you know him, right? Hartoyo is my friend (laughter) too. He was one of the first gay people to be captured by the community here in Banda Aceh. Remember the case? On the one hand, he is my friend. On the other hand, perhaps I am one of the most hated persons to him now, given my job. But, for me, between friends and work, we have to separate them.

Marzuki was referring to Hartoyo, one of the leading figures in the contemporary Indonesian LGBTQ community. A local community arrested Hartoyo and his gay partner in the southern area of Banda Aceh on January 22<sup>nd</sup>, 2007. They were detained in the police office (not WH) where they were harassed and sexually abused by the policemen. A year later, Hartoyo brought the case to Aceh court. However, the judge did not blame the police, but rather questioned Hartoyo's sexual orientation. The judge even said that the police officers' attitudes were morally and religiously justified, because Islamic Law forbids homosexuality. One of the judges was reported to say that "The police had done the right thing in their treatment of him thereby preventing another tsunami hitting Aceh" (Jauhola 2013, 77). Indeed, the police officers were found guilty for abusing Hartoyo and his partner. They were sentenced three months in jail, but with a six months trial (Ichwan & Idria 2013). Hartoyo was disappointed and left Aceh. Since then, he has become an outspoken critic of the abusive implementation of Syari'ah law in Aceh. However, I was surprised to hear that Marzuki also knew Hartoyo in person.

Marzuki told us that the investigation of the Ara-Tata case had been completed. In a few days, his unit would work with the Public Prosecutor Office to bring Ara and Tata to trial in the Banda Aceh Syari'ah court. According to Qanun Number 6/2014, their offense was punishable by a maximum of 100 lashes, 1,000 thousand grams of gold, or a maximum of 100 months in prison. Marzuki added that Ara and Tata had agreed not to be assisted by lawyers.

#### **E. The Trial: Banda Aceh Syari'ah Court**

Wednesday, May 10<sup>th</sup>, 2017. A toddler laid down on the marble floor in the Syari'ah Court of Banda Aceh. He turned his face to his parents who were sitting in the waiting chairs. He was sweating.

“*Trep that lagoe? Ho cit Ara, Ara.*” (Why does it take so long? Where is Ara.. Ara.), he said in Acehnese. He had a northern dialect. His tiny right hand was tapping the floor. His other hand was wrapped in a cast. “He broke his hand a few days ago,” said his mother, who also seemed tired of waiting. Eventually, she no longer forbade her son to lay on the floor. Ara, who the toddler mentioned, was his brother.

I attended the first trial for Ara and Tata. According to the court receptionist, Wednesday is the regular day for judges in the Banda Aceh Syari’ah court to examine and decide verdicts on cases violating Syari’ah criminal law. The waiting room and the outside of the court had never been this crowded, the receptionist added. She was astonished by the number of journalists coming to cover the trial on that day. However, like the rest of the court staff, she understood that trial was the first case with the charge of *liwath*.

The case had been on the media for weeks. After almost two hours had passed, I decided to sit next to Ara’s parents. I learned from Marzuki, the WH investigator, that the family lived in Bireuen, about a four-hour drive from Banda Aceh. I approached them and asked if they did not mind if I sit next to them. They were polite. First, they thought I was asking them to move to the corner. I told them not to move. I wanted to sit with them.

Understanding my gesture, they began to welcome me. With the courtesy typically shown by people from a small village in Bireuen, they let me play with their young child. I chatted with the child for a few minutes showing him pictures of my young daughter. The toddler asked if I had any games on my phone. I did not but I could download one if he wanted to play one. The mother interfered and held the kid.

I tried to talk to Ara’s parents. Every so often, they glanced at the closed courtroom door. Ara’s father, Pak M, was around 50 years old, but I guessed that his financial situation and the case made him look older. It had been a month after the arrest. Ara and his partner had been in WH’s detention.

Pak M did not try to shy away from the journalists who were reporting the case. Several journalists made jokes about homosexual activity and laughed to themselves. The court staff apparently had heard about the conversation, then scolded the journalists and told them to respect the defendant's parents who were waiting in there.

Two female public prosecutors, judging by their uniforms, entered the room and sat next to us. They were also waiting for the trial to begin.

Pak M and his wife wanted the case to end soon. They did not have enough money to go back and forth from Bireuen to Banda Aceh. With his eyes slightly teary, Pak M told me that he did not believe Ara did what people accused him of doing. He probably socialized with the wrong people, but there was no way he did *liwath*. Pak M said that he had sent Ara to Dayah since he was a child. Pak M insisted that what the media had written about his son was misleading.

The trial started at 10 am, after being allowed to follow the opening and listen to the judge reading the case title, identities of the defendants, the other visitors and I were suddenly instructed to leave the courtroom. It was very disappointing because we had been waiting since early morning for the trial to start only to find out that we could not attend the actual trial.



Figure 14: The Trial of Ara and Tata

After about an hour waiting, the trial was over for that day and would resume next week. Ara and Tata were brought to a temporary detention room next to the court hall. I followed Ara's family to the detention room, hoping to talk to Ara and Tata. The detention room was guarded by two officers. One from the prosecuting counsel's office and the other was from the national police. They did not talk much, but it surprised me that they were quite friendly. The civil prosecutor officer went to the corner of the corridor, lit a cigarette and said that this could happen to anyone. He asked Ara's parents to be patient. Ara's mother wanted to see her son. The officer allowed her to get closer. I went along with Ara's mother and was allowed to approach Ara. The officer thought that perhaps I was a family member of Ara.

From behind the prison bars, Ara hugged his mother and said, "Why did God let this thing happen to me, mom." He talked to his mother in Bahasa Indonesia. His father carried Ara's youngest sibling in his arms. The toddler did not seem to understand why his older brother was in the detention room. As his small hands were reaching for his brother through the bars, he smiled and asked to go

inside. Everybody sobbed upon hearing the toddler's request. He seemed perplexed and eventually cried too.

Tata sat at the corner of the detention room. He covered his face with his t-shirt. He looked excruciatingly traumatized. None of his family was around. It was clear that he would not respond to any questions. Ara, after a while, composed himself. He started playing using hands with his brother. I just stood there. I couldn't find anything to say and had no questions to ask. I just stared at them. Ara's mother gave her son a drink and food. She ignored Tata, who remained seated in the room's corner.



Figure 15: Ara's mother visit

The officer escorted four more defendants, two girls and two boys. The WH caught them committing *ikhtilat*. The two boys joined Tata and Ara's detention room, while the girls were placed next to them. I was told by the officer that all of them were university students. I passed by their door. One girl looked at me. I tried to have a conversation with her. She was crying when I ask her what was happening. She said she did not want to marry her boyfriend. She was sure that her family would

force her to do so. She and her boyfriend were just having fun when they were arrested. She said she wanted to finish college. The other girl didn't speak. Because I had no idea what to say, I moved to the next door.

When Ara's mother brought her younger son to the bathroom, I approached Ara again. He still stood at the door facing outside. Perhaps his eyes were trying to follow where his mother and brother were going. Both of his hands were out from the door bars. I asked him how he felt. He just shook his head. "*Malu, bang*" or "I feel mortified," he said.

He asked how I knew his family. I told him I had just come across them in the court hall. I asked whether he had a phone number since I wanted to talk to him later. He did not. He instead gave me his father's cell phone number. I wondered why he and Tata did not want to have a lawyer. He told me he did not understand whether he or Tata could have one. When they took him to Satpol PP/WH detention, an officer gave him a letter, a letter of consent not to be assisted by a lawyer. He signed it. He added, even if he could have one, he would not have had the money to afford it. I told him there was a legal aid foundation in Banda Aceh where he could ask for legal assistance. The officers came and said our time was up. Ara and the five other defendants would be transported back to the Satpol PP/WH office. The prosecutors had scheduled them for another trial next week.

## **F. The punishment**

At the second trial, May 17<sup>th</sup> 2017, the judges sentenced Ara and Tata to 85 strokes in public. It would be reduced to 83 strokes because they had spent three weeks in detention. The Public Prosecutors scheduled them to be punished in front of the public on May 23<sup>rd</sup> at 9 am. Coincidentally or not, the judges' ruling came on May 17<sup>th</sup>, the International Day Against Homophobia. I talked to Marzuki after I had gotten the news that Tata and Ara had been sentenced to public caning. Marzuki said,

"Hopefully, this homosexuality case will be the first and the last. It is a lesson for our LGBT friends. Actually, we have collected many public reports. We know where they

are. We just wanted them to know we wanted to prevent our society from the disease. We have medical reports, many of them are HIV-positive, some already have AIDS. Why doesn't Human Rights Watch speak from a community health perspective as well? Why is it always the public caning that they are concerned about? In fact, our caning law is mild; no one dies because of the caning. The punishment is under the supervision of the state; it's not an arbitrary process. No. You, researchers, have to be honest in observing, whether or not we are cruel. Because our real goal really is *tadabbur*. For public's lesson. So, it must be done in a public place. In Malaysia, in Singapore, they do it in a confined space, beating the convicts much harder than us. Why don't people go to Singapore to protest?"<sup>204</sup>

What Marzuki said in his last sentence was familiar to me. I had heard a similar point from members of WH in Langsa and Lhokseumawe, who found outsiders condemning the practice of public caning in Aceh to be interference with their efforts to implement Syari'ah law in their territory. To be in contradiction with outsiders' responses has become a new motivation for them. This attitude is also the same as their contemporary politicians. They often behave as though something must be done against the will of the world. This is how they gain attention.

As part of the preparation for their punishment, Ara and Tata were transported to Kajhu prison. An invitation to witness the caning of the gay couple was circulated. Almost everybody who received the message passed around over to others through WhatsApp. It reminded me again of how fast the raid video of Ara and Tata went viral a month ago.

On Tuesday the 23<sup>rd</sup>, I went to Syuhada Mosque, Lamgugop, the location where the caning would take place. As I expected, thousands of people had gathered in front of the mosque. Typically, the caning stage ceremony would take place right after Friday prayers because it was easy to assemble people. I have indeed witnessed many people refuse to watch public caning by leaving the mosque immediately after the Friday prayer. It was different this time as people did not immediately leave. I was not sure why. Syuhada Mosque is located only a few hundred meters from Darussalam. It is also

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<sup>204</sup> Interview with Marzuki 17 May 2017.

close to the place where the mob battered Ara and Tata. It was not without intention that the Syari'ah authority chose the Syuhada mosque. Its proximity to the two universities' main campuses of Darussalam would easily attract the crowd.

All in all, many people came to witness the caning ceremony. Foreign journalists and human rights activists arrived from Jakarta to see the punishment. Some of them posted live reports and pictures of the caning stage on Twitter and Facebook. I chose to stay and watch from a short distance. My journalist friend, Ucok, wanted to get closer to the stage to take pictures. He had a press identity card. It would be easy for him even to get into the metal fence set as the demarcation line between the audience and the caning stage. Ucok planned to write about the *liwath* case for his site, Acehkita.co

I had attended and observed people's behavior toward public punishment in Aceh multiple times. In Banda Aceh alone, I attended no less than 20 public canings as well as others in Jantho (Aceh Besar) and Langsa. Usually, for my fieldwork, I would try to get very close to the caning stage. On that day, I had no motivation to do so. Somehow, I thought I should not be there, especially when I saw Ara's father was also there. Ucok found him in the crowd and told him that I was standing in the mosque's front yard. Pak M arrived from Bireuen the previous night not to witness the punishment but to bring Ara home immediately after the ceremony. He must have been humiliated by the situation. He told me it was time for Ara to go back to Dayah. Apparently, he would not allow Ara to finish his final year at the nursing college. Ara had spent six years in Dayah, told Pak M. He believed that Dayah was the best place for Ara and his future life.

The previous week, right after the second trial, I had heard a different story from Ara. But I did not want to confront Pak M with it. I thought he was the one who knows what is right for his family during that difficult time. I also had time to talk to Tata after that. He also planned to immediately return to Langkat. He had a sister living in Banda Aceh, but it would be too shameful for him and his sister if he chose to stay.

From a distance, the punishment rites sounded routine. An imam delivered a short *nasebat* (reprimand), an officer from the Syari'ah court read the verdict, two medical doctors, and several algojo (executioners or tormentors) came on to the stage. Next to Ara and Tata were four other convicts to be punished alongside them. These were the two girls and boys I met at the Syari'ah court. Each would receive 30 lashes for their khalwat cases. After the two straight couples were flogged one by one, Tata received his turn. He was caned by two algojo, and each hit respectively him 40 and 43 times. He was offered water to drink in between strokes. Ara was the last convict to be punished. Three algojos alternately hit his back for 83 times. People cheered, mocked, booed, yelled, and took pictures. One might wonder how many people from the audience would have thought that the convicts could be them.

I greeted Pak M and Ara before they left for Bireuen. It would be the last time I saw him. We talked several times over the phone as I wanted to follow updates about Ara and his life after the punishment. Ara stayed in Dayah. He cut off connection with anyone in Banda Aceh. In December 2018, I returned to Aceh for a winter break. I gave Pak M a call. His wife picked up the phone and told me Pak M had passed away from *darab tinggi*, (hypertension), in November. I suddenly felt cold.

### **G. Criminalization of LGBTQ in Aceh**

Jean Comaroff and John Comaroff in *The Truth About Crime: Sovereignty, Knowledge, Social Order* (Jean Comaroff and Comaroff 2016) claim that crime is “a master signifier for the diagnosis of social division, disruption, difference, disorder” (p.52). They look for the truth about crime and find criminality lies in the way it functions as a medium in which ideas about social life are understood, shaped, and acted upon. Crime is, they argue, basically a reflective “metaphysical optic” in which people understand and act on their social world, reshaping their politics and public, sovereignty and forms of government. James Siegel in his now classic *A New Criminal Type in Jakarta* (1998) has analyzed the relationship between crimes, criminals, criminality and the state in Indonesia. He

demonstrates how the New Order regime not only instilled new ideas about crime, fear, ghosts, authenticity and national identity but also turned its own citizens into criminals, then criminalized the criminals, not by law but crime.

The legislation of Syari'ah criminal code (Qanun Jinayah) in Aceh in 2014 has turned ordinary Acehnese into accidental criminals. Historically, before the legislation of the Syari'ah Qanuns, LGBTQ people in Aceh had never been targeted by law enforcement. During the conflict era (1976-2005) LGBTQ people were not the focus of media reporting, although this does not mean that they did not exist. As a matter of fact, same-sex relationships between men in Aceh was reported by Snouck Hurgronje a century earlier in his famous colonial ethnography on the Acehnese. Snouck writes “the paederastic habits of the Acehnese, and (as many think) the use of opium, cause the majority of them to set a lower value on intercourse with the opposite sex than is usual among other native populations” (Snouck Hurgronje 1906, 361).

According to Anthropologist Tom Boellstorff, in addition to “normal” (heterosexual), there are many “genre” sexual and gender subject positions in contemporary Indonesia. There are transsexual or *waria* (also known as *banci*), *tomboi* (female-to-male transgendered persons), *bissu* (male transvestites) and the relatively new term gay and lesbian. All of them, according Boellstorff, are culturally specific and historically contingent (Boellstorff 2002, 93).

Here, I repeat the claim that the tsunami of 2004 had opened Aceh to a broader world. It was the pivotal moment when the Aceh population came into contact with various parties who arrived and offered help in the rehabilitation and reconstruction of the tsunami. It was also the moment for minority groups in Aceh such as the LGBTQ community found their momentum to recover and participate together in rebuilding Aceh. Along with other victims of the conflict and the tsunami, the LGBTQ community of Aceh developed their strength and awareness that they have similar rights as citizens before the law.

Ivana, a queer activist of Banda Aceh, recalls how at that time they wanted to participate in “building back Aceh better”, but with their own identities.<sup>205</sup> Being aware that their position that could be difficult for the public to accept, the LGBTQ group's strategy at that time was to utilize, or “to subvert” according to Marjaana Jauhola (Jauhola 2013, 70) the momentum of commemorating International Days, especially on gender and minority rights. In 2007, Ivana and other queer activists joined the Gender Working Group march in Banda Aceh, they hold a banner “*Waria juga Manusia*” (queers are humans too). It was their first public appearance confidently using *waria* identity.

Ivana recalled that the year of 2007 marked several important events deemed essential for the emergence of the LGBTQ movement in Aceh. A few queer and gay activists in Banda Aceh founded an organization called Violet Grey. It was the first local NGO working for gender and sexual minorities in Aceh. With financial assistance from an international NGO, Violet Grey activists could run projects on HIV-AIDS prevention and sex-education. Ivana stressed that the arrest and torture of Hartoyo and his gay partner, the GWG demonstration and the establishment of Violet Grey could be seen as an interrelated pre-conditions for them to consolidate and create a better network to survive.

Moch Nur Ichwan has noted that between 2007 to 2010, LGBTQ activists in Aceh “had actively organized themselves, anticipating possibly more significant discrimination and violence” in the name of Syari’ah and other political triggers (M. N. Ichwan 2013, 169). According to Ichwan LGBTQ communities in Aceh were even more active than many other LGBT groups in other regions, perhaps except for Bali, Yogyakarta and Jakarta (M. N. Ichwan 2013, *ibid*). Marjaana Jauhola (2012) argues while gays and lesbians are hidden in public, waria or queer people have assumed a relatively public role in Aceh. Indeed, in the city of Banda Aceh there are some waria hot spots in Banda Aceh, such

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<sup>205</sup> Interview with Ivana, 1 June 2017

as in Peunayong and Merduati. *Waria* are usually involved in wedding ceremonies, working as make-up artists as well as arts performers. However, since the formalization of Syari'ah law, Marjaana noted that their practice has been restricted due to "unclear demarcation of both sexes" (Jouhala 2013, p.15).

Ichal (pseudonym) who co-founded Violet Grey acknowledged that the case of Hartoyo had motivated him to create an organization that provide aid and advocacy to marginalized LGBTQ people in Aceh. After the Hartoyo case, Ichal cooperated with Aceh Legal Aid Foundation and some established LGBTQ organizations at the national level such as *GAYa Nusantara* (Archipelago Gay/Style) and *Arus Pelangi* (Rainbow Stream).

A few days after the Ara-Tata public caning, Ichal and I met at a meatball soup café in Peunayong,, the small china town in Banda Aceh mentioned in the introduction. According to Ichal, Peunayong is “the only small piece of paradise land left for Waria in Aceh.” Ichal was an actor and had performed in many parts of Indonesia. He had good connections outside Aceh, but was concerned about the situation in the province where he was born and grew up in.<sup>206</sup>

Putra (pseudonym), Ichal's friend joined us. Putra was 32 years old. He had never left Aceh. Like most Acehnese, when starting a conversation about the implementation of Syari'ah, at first, he did not see it as a problem. Both Ichal and Putra found being gay did not contradict their Islamic faith. Being active members of Violet Grey almost a decade ago and having connected with many LGBTQ organizations at the national level, they were often involved in *kajian* (course, lessons) where they educated themselves not only how to deal with living as social, political and economic minorities but also religious ones. To me, Putra sounded familiar with Islamic teaching. He distinguished between Syari'ah, Islam and the *Qanun Syariat* that is currently enforced in Aceh. He criticized the latter.

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<sup>206</sup> Interview with Ichal, 3 June 2017. I conducted a series of interview with Ichal between May and June 2017, following the Ara-Tata case. For an unknown reason to me, in June 2018 I learned Ichal passed away.

However, like many other Acehnese, he did not dare to say so publicly. Additionally, he had never considered coming out. His family would definitely not support him. Ichal had a somewhat different situation with his family. He grew up with a single mother who had been very supportive of him. However, Ichal did not have the courage to publicly announce that he is gay.

Putra joked that Syari'ah in Aceh, before the existence of the Qanun Jinayah, was very beneficial for gay people like him. It was easy for him and his partner to move everywhere. No one was suspicious of why two men slept in one hotel room. At that time, the existing Qanun only regulated that illegal sexual relationships violating Syari'ah law were illicit relationships between men and women. There would be no request to show a copy of marriage certificate when a couple booked a hotel, for instance.

Ichal also agreed about the situation. Prior to the existence of the Qanun Jinayah, among LGBTQ community in Aceh only those of waria were directly impacted by the implementation of Syari'ah law. This was also confirmed by Ivana in a different occasion. Although the implementation of Syari'ah did not target waria at that time, it negatively affected their beauty salons business. Qanun Kota Banda Aceh no.11/2002 prohibited mixed-sex salons and massage parlors, two major sources of livelihood for *waria* in Banda Aceh (Jauhola 2013, 73). There was also an incident, known later as *Insiden Gang Kelinci*, in 2008 where a number of *waria* were attacked and dragged from their beauty salon in Gang Kelinci street. One of the *waria* victims from the incident named Cut Sherly decided to form an organization for *waria* in Banda Aceh. With the help of her friends who worked for Violet Grey, Sherly founded Putroe Sejati Aceh (Authentic Girls of Aceh, PSA). Together they developed a network for local waria linking them to larger waria organizations, national and international. Cut Sherly became the chairperson of PSA.

### **Aceh Transsexual Ambassador Festival**

On February 14<sup>th</sup>, 2010, PSA organized a controversial event named *Duta Waria Aceh* (Aceh Transsexual Ambassador). Nurdin Hasan, a contributor for *The Jakarta Globe*, reported from the scene.

“In their best Acehnese costumes, kitsch jewelry and towering hair buns, 40 transsexuals sashayed down a stage on Saturday to loud club music, disco lights and rapturous applause as they competed in the Miss Transsexual Aceh 2010. The streets of Aceh may be monitored by the Wilayatul Hisbah, or Shariah Police, but that did not deter the audience in the auditorium of the Radio Republik Indonesia building in the provincial capital, Banda Aceh, as they welcomed the finalists with screams and whistles. There was no seat left unoccupied. Drag queens, homosexuals and members of Aceh's minority communities forked out Rp 10,000 for tickets to the show, with some having to sit on the ground or watch from the balconies. Transsexuals entertained the audience by lip-syncing to local songs and dancing to dangdut music. Some wore sexy outfits while others donned the hijab, the Muslim headscarf. The winner of the Best Transsexual Catwalk wore a sash with the words "Cet Work," a misspelling of the word catwalk, splashed across it. Organized by Putroe Sejati Aceh (True Sons of Aceh), an organization that provides shelters for transsexuals, the 40 contestants represented 23 districts and cities in the staunchly Muslim province. University student Zifana Letisia, from North Aceh, was crowned the pageant winner and will represent Aceh at the Miss Transsexual Indonesia 2010” (Hasan 2010)<sup>207</sup>

Ivana was involved in organizing the festival. They were backed up by Violet Grey and received a small donation from their “national friends”. She knew the festival would become a controversial event. However, they insisted on the need to do it for the sake of teaching the public about their existence. It was a different time, recalled Ivana. “We were brave, because we received lots of supports from international NGOs. You know, many Aceh Human Rights activists were easy to get in touch with at that time. Now, we are in a very different situation.”

However, besides financial issues, which they solved by “*tek-tek-an*” (each member of PSA donated money), another obstacle at that time was how to get the permits to run the event. They had to get an official permit at least from two institutions, one from the Mayor of Banda Aceh and another

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<sup>207</sup> A full story of the report is available here <http://gudang-arsipku.blogspot.com/2010/05/miss-transsexual-aceh-2010.html>, latest accessed on 21 December 2019.

from the Ulamā' council (MPU). Luckily it was at a time when the city of Banda Aceh had just launched the tourism program calling visitors around the globe to come to the city. As a result, the event was proposed to be in line with the government program, but they did not explicitly say the title of the event in their request letter. Ivana was not sure, but she guessed they put “charity and cultural event” as the event’s name in the proposal. They applied the same strategy in order to get the letter from MPU. They did not ask for the permit from the MPU but a letter of recommendation to host the event. Perhaps seeing only the title of the event proposed, the MPU gave them the letter they needed. After newspapers, local and national, reported on the transsexual festival in Banda Aceh, PSA received a large number of threats from Islamists group. The MPU also condemned them for deceiving them for the permit (see Idria 2016a). Ivana laughed recalling this part. It had been an exciting moment in her life. WH could not take actions against them because until 2013 Qanuns related to Syari’ah offenses regulated only matters on gambling, consuming alcohol, *kehalwat* and Islamic clothing and symbols (*syiar*). This case frustrated the Shari’a police when they had to handle cases where transsexuals or gay people involved (see also M. N. Ichwan 2013). The situation has changed a lot after the government of Aceh passed Qanun Jinayah in 2014 which listed and set up punishment for actions commonly associated with LGBTQ persons.

Politically speaking, it is no coincidence that the legalization of Qanun Jinayah in Aceh which criminalizes gays and lesbians occurred alongside a burst of open hatred and threats against LGBTQ throughout Indonesia in 2013. Consequently, *waria* in Aceh suddenly received more threats. People mocked them when walking on the street and discriminated against them in markets and work places. They are generally considered sinners, people who violate Syari’ah (Ichwan & Idria, 2013).

In 2016, Human Rights Watch reported that the rights of Indonesian sexual and gender minorities had truly come under attack (Human Rights Watch, 2016). Politicians and religious figures were competing to appear publicly and make statements condemning LGBTQ as Indonesia's biggest

problem. For instance, Indonesian Ministry of Research and Higher Education argued “that members of the lesbian, gay, bisexual and transgender (LGBT) community should be barred from university campuses” (*The Jakarta Post*, 27 January, 2016). His statement was supported by the speaker of the House of Consultative Assembly. Countless incidents followed where LGBTQ people were violently abused and harassed.

In Aceh, following the Ara-Tata case, the number of *waria* who have been exposed to violence has been high. Researcher Jeanna Nilsson relates the phenomena of anti-LGBTQ activity in Aceh to Mayor of Banda Aceh, Illiza Sa'duddin Djamal's understanding of LGBTQ issues (Nilsson 2018). Based on her assessment regarding a number of Illiza's public statements on LGBTQ people, Nilsson concluded that Illiza has portrayed them as “threat, disease, deviancy from traditional gender norms, family problem, and a crime”(Nilsson 2018, 43). Illiza also insisted that “LGBT behaviour” should be considered as incompatible with the Acehese Muslim identity.

Indeed, from February through March 2016, Mayor Illiza constantly spoke to the media calling for Acehts to join her combating LGBTQ people. Similar to many other national figures, she claimed that LGBTQ is real threat to Islam and the Acehese culture. The municipal government of Banda Aceh formed a special team to eradicate LGBTQ phenomena. “LGBT is rife, what is to be done” was her talk's title given in a public lecture at Syiah Kuala university on March 8<sup>th</sup>, 2016 where she claimed that she owned data that 500 LGBTQ people were in Banda Aceh.

Illiza is fond creating her own persona through social media, especially through Instagram posts. On February 1, 2016 Illiza posted a picture of herself holding a gun and wrote a caption, “LGBT go away from our land Veranda of Mecca!”



Figure 16: Mayor Illiza's anti-LGBT social media post

Source: Instagram

Some people considered Illiza's obsession with the LGBTQ community to be part of her campaign efforts to run again as mayor of Banda Aceh in 2017. However, hateful comments about LGBT made by politicians both at the local and national level have made people in Aceh and elsewhere in Indonesia feel as though they have the justification for vigilante action against the LGBTQ community.

In Aceh, as I have shown with the Ara-Tata case, the perpetrators of violence against LGBTQ rarely refer to the law. They have acted because of different motivations. Anthropologist Tom Boellstorff (Boellstorff 2005b; 2002) has pointed out that it is not merely religious interpretation that

has been the cause of many anti-gay sentiments in Indonesia but the idea of heteronormativity and what he has called “state straightism” which preoccupied Indonesians.

In a post-conflict setting like Aceh, Acehnese who have experienced armed conflict violence and have lived in a hyper-masculine atmosphere for decades may find the process of reclaiming their Acehnese-Islamic identity suddenly disrupted by the emergence of an LGBTQ community, who are in fact Acehnese themselves and Muslims. Amid these conditions, people like Ara and Tata suddenly have had to face inhumane treatment carried out by their own neighbors and have ended up with a criminal status before the law while the perpetrators of crimes against them never obtained such a status.

### **Concluding Remark**

The current Syari’ah authority’s attitude as well as enormous attention given by the Aceh public toward the Ara-Tata case reflects a larger picture of the increasing official and social hostility against LGBTQ community in Indonesia in recent years. LGBTQ people continue to be stigmatized and discriminated against.

In Indonesia, same-sex sexual contact, as long as the act is not classified as a rape case, sexual harassment, pornography and human trafficking, is not considered as a crime by law but is considered social disease, source of calamity, mental disability, infectious, abnormal, unnatural, and against religious norms (Boellstorff 2005a; 2005b; 2016; Suryakusuma 2004; Blackwood 2010; Yulius 2015; Murtagh 2013; Wieringa 2002). While LGBTQ activity is not considered illegal, there are no laws in Indonesia that protect the LGBTQ community or support their sexual orientation.

Jean and John Comaroff point out that “without legality there could be no such thing as criminality, *sensu stricto*. And vice versa” (p. 9). In criminalizing the LGBTQ people, Aceh has stepped further. Having its own *lex-specialist* under the national constitution, the province developed its own definition of crimes, criminals and type of punishments applied against those who commit

criminal acts. Aceh Syari'ah Criminal Code known locally as Qanun Jinayah listed homosexuality and lesbianism under the category of *jarimah* (criminal act) which carries *uqubat* (punishment) of being whipped in public a maximum of 100 times.

Although the authority claimed that the contemporary criminal law applied in Aceh is based on the Quran and Hadith, the two main legal sources for Muslims, my assessment above has shown that the Syari'ah criminal code in Aceh is a historical product and driven by social and political dynamics including moral panic instilled by the state. According to Nur Ichwan, “with an absence of LGBT intellectuals who are experts in Islam, the production of LGBT Islamic knowledge relevant to the context of Aceh is difficult, even though they can ask other intellectuals to speak for them” (M. N. Ichwan 2013, 164). Jeanna Nilsson has noted that in the field of Islamic studies, progressive Muslim thinkers such as Junaid Jahangir and Hussein Abdullatif have argued that the source of discrimination against LGBTQ, despite strong opposition from classical and contemporary Islamic scholars regarding same-sex relations, occurs not because of their biological conditions but mostly refers to the absence of legal contracts (Nilsson, 2018). As Marzuki, the WH, once told me that he and his personnel had never arrested LGBTQ people because they are gay, but due to the *limath* offenses. However, in reality, this is also not the case. On January 28<sup>th</sup>, 2018, a joint raid-operation between the national police and the WH arrested 12 *waria* in five beauty salons in Lhokseumawe. Kiki. One of the victims told me that they were working in their beauty salons when the police, the WH and members of Islamic groups arrested them.<sup>208</sup> They were forced to take their clothes off. The police shaved their hair and placed them in detention for two nights, with no recourse to any law.

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<sup>208</sup> Interview with Kiki (by phone), 6 February 2018.

## Epilogue: Syari'azation and Its Discontent

In July 2017, two months after Ara and Tata were publicly caned, Irwandi Yusuf, who had just returned for his second term as Governor of Aceh (for 2017-2022 term)<sup>209</sup> announced his plans to modify the procedure of enacting the caning punishment. Irwandi proposed that instead of caning the defendants in public, it should be done in closed locations. It is indispensable to address Ara and Tata's case here since it has received considerable attention and pressure from the national and international communities.

In his meeting with President Jokowi in Jakarta in early July 2017, Irwandi warned that the investment climate in Aceh would face grim prospects if caning continued taking place in public places (*AJNN*, 12 July 2017). No foreign investors would be willing to invest in Aceh. The dream of the previous regime (referring to Zaini Abdullah-Muzakkir Manaf who served in 2012-2017) of making Aceh an Islamic/halal tourism destination had failed. In a response similar to those of other presidents before him, as I have explained in chapter one and chapter two, President Jokowi let the Acehnese people take care of this matter on their own. He asked Irwandi to straighten this out at the provincial level, because Aceh possesses distinctive autonomy on legal issues, including the implementation of Syari'ah Law.

Despite his awareness of the risks, Irwandi insisted on proposing necessary revisions to how the caning punishment should be implemented. As soon as he introduced the planned revisions, various

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<sup>209</sup> In 2011 Irwandi sought a second term but failed to win. The 2011 gubernatorial election marked the split between him and other former Europe-based GAM elites who continue to control Partai Aceh (PA). Irwandi founded the current Partai Nasional Aceh (PNA). His victory in the 2017 gubernatorial election sent a strong message about the end of the domination of Partai Aceh. Partai Aceh is still holding the majority seats in the Aceh provincial parliament (DPRA) but since 2014 their percentage has significantly dropped.

Islamic organizations in Aceh immediately expressed their strong objections to the proposal. Since Irwandi's rationale for the proposed changes was the investment climate, his political rivals instantly used such a justification to attack him. They accused Irwandi of putting a higher priority on the economy rather than Islamic Law. For some, the word “investment” (*investasi*) is synonymous with providing full opportunities for outsiders to exploit Aceh. Thus, Irwandi was accused of preferring foreign interests. This attack is not new for Irwandi. In chapter two, I have pointed out that critics who address problems of the implementation of Syari’ah are labeled secular, deviant, or accused of attempting to abrogate Islamic Law in Aceh. Underlying such accusations is politics. Irwandi's political opponents, especially those from former GAM factions whom he defeated in the 2017 gubernatorial election, provoked several Dayah-based Ulamā’ and their supporters to reject Irwandi's proposal.

Some PA and other Islamic parties politicians have frequently used global news coverage, which is often negative about Syari’ah Law, as a prevalent issue to agitate their bases: that outsiders are trying to undermine and intervene with Aceh's sovereignty.<sup>210</sup> This way, such politicians attempt to win public sympathy and brand themselves as the defenders of Islam in Aceh.

The people of Aceh, who are mostly armed-conflict survivors and have been exposed to the narrow nationalism inherited from GAM as I have discussed in chapter one, could easily be provoked by outsiders' critical perspectives and those questioning their commitment to Islam. If Acehese people do not themselves agree with how the government implements Syari’ah Law, they nevertheless are accustomed to agree that Aceh is equivalent to Islam. Thus, criticisms of Syari’ah coming from the international community elicit a strong reaction. In the Introduction and chapter one I have explained that before being formalized as the state law in 1999, most Acehese associated the word “*Syari’ah*”

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<sup>210</sup> See for example “Penerapan Syariat Islam di Aceh Sering Diintervensi Asing” (The Implementation of Islamic Sharia in Aceh has been intervened by foreigners) (*Portalsatu*, 17 May, 2017).

(Sharia) with acts of worship. Syari'ah was rarely used as a term to refer to law, let alone punishments. At that time, with regard to Islamic law the terms *fiqh* or *fikah* were more commonly used. In other words, before Syari'ah was made law by the government it was just another name for the common good. This also explains why sometimes there is a strong pro-Syari'ah sentiment among the public at large. As I have seen in many occasions, the very same public who condemned those criticizing Syari'ah would be the ones involved in acts of undermining the law. Above all, since discussions or debates about Syari'ah and law in Aceh did not commonly occur, only a small number of Acehnese people would reflectively assess why those negative criticisms on the implementation of Syari'ah Law in Aceh came to light in the first place. Some people were aware that such negative coverage on the media was caused not only by lack of understanding of things happening in Aceh but also by flaws in terms of the current implementation of the Syari'ah in Aceh.

In chapter two, I discussed how new political configurations have emerged in Aceh after the tsunami and the Helsinki Peace Accord. Former GAM combatants were compensated materially and with new political status. After they transformed into a major local political party, they became a new force that dominated executive and legislative branches of government. Former GAM guerrillas with little experience and knowledge of how to provide public services suddenly found themselves in a modern state administrative system. They were not trained in governance; nevertheless, after seizing power, people in Aceh expected to see former GAM leaders as new policymakers and policy implementers who were different from former politicians they used to fight against. There were public demands and pressures upon them. Most of them were clearly not ready.

Finding themselves in such a situation, many of these former GAM members-turned-leaders were left only with one option: to show off their commitment to Islam. Since Aceh is the only Indonesian province that has adopted Syari'ah as the law, this made it easy for politicians to claim that defending the implementation of Syari'ah is equivalent to protecting Aceh, or calling for the need to

return to Syari'ah. In reality, the claims and calls were not about Syari'ah as such, but about the new law labeled as Syari'ah. In practice, the leaders often did not even recourse to Syari'ah when taking legal action. Meanwhile, their belief in the identity of Aceh as equal to Islam has remained unshakeable. Gradually some Acehnese called public attention to the discrepancy between Syari'ah and law. But most elites I am dealing in this dissertation cared only about the special (political) status they received from having Syari'ah law formalized in Aceh. Possibly such confusion continues largely because Islamic education and institutions in Aceh had been damaged from colonial times to the New Order era. Still, it was never successful to damage the equivalence of Aceh with Islam among its people.

What I want to point out here is that, after former GAM consolidated their powers in Aceh, the Syari'ah Law implementation became their official representation of Islam. Partly this is because Syari'ah is the political formula readily available for them to utilize. They no longer viewed it as a trap, as they had previously when they were fighting against the central government of Indonesia. Instead, in the mold of the oppressed who took power from their oppressors, former GAM members opted to run their administrations just in the way their very enemies ran theirs.

On the other hand, the massive destruction inflicted by the tsunami waves in 2004 had developed fairly strong religious sentiments among the people of Aceh. For many, the tsunami was a warning or even a punishment, meaning that the people could no longer ignore Syari'ah. This condition became a significant factor in the repositioning of the status of *Ulamā'* in Aceh. The implementation of Syari'ah required new institutions endorsed by the state; after the tsunami this demanded meeting with some traditional *Ulamā'* who needed political institutions to make up for lack of popularity amongst Acehnese. Those marginalized during the New Order regime (which preferred technocrats and university-based *Ulamā'*) emerged as the new elite groups.

Thus, several traditional *Ulamā'* and former GAM members shared a common trajectory; they changed their view regarding the implementation of Syari'ah Law. Those who previously objected its

application because Aceh was already very Islamic, suddenly became the assertive supporters of it. Today, Islam in Aceh is deemed different because it implements Syari'ah Law. For politicians in Aceh, this special status must be protected. In return, they expected to garner people's support because they had supported Syari'ah Law in the first place.

In fact, although there is also popular support to its implementation, the provisions of Syari'ah were not popularly understood. Gradually, only two practices came to be identified with Syari'ah: policing morality through the special unit known as WH and the spectacle of public punishment, namely hukum cambuk (caning). For those in power, public caning and strict supervision of people's moral standards become critical indicators of their success. Chapter three addresses the issues on the enactment of public caning as a form of power-display--Syari'ah law at work. However, my study found that it also has given rise to the occasion for some people to reject this particular practice. Those who see in it power and cruelty refused to attend, for instance by not staying for the caning ceremony after the Friday prayers. There should be a formulation for the role of the dissident-but-inarticulate spectators as I have described in chapter three. In this chapter I discussed "two stages" to contrast and to find similarities of the effect of caning punishment with art performance. I intended to show the role of the crowd and how the convicted behave on the caning stage. Above all, the central manifestation of having punishment and art performance staged should be seen as theatrical. For some people who attended both models of the stages, in one way or another would see its similar value; that is, to entertain. While many "real" entertainments have been forbidden by the Syari'ah authority, watching the canings probably gives some relief to some people. For others they stimulate fantasies or wishes against authority. Thus, the performativity of caning can describe the political burden of Syari'ah implementation and the politics of people who refuse it.

I dedicated chapter four and chapter six to further uncoverin how the state creates an image of lawbreakers and treats, and in many cases, lets the mob treat them illegally, in the name of Syari'ah.

The enemies targeted, mostly youths, were given status as the immoral, the dirty, and the deviant. In order to exercise and justify the importance of the Syari'ah Law enforcement, the government actively scrutinizes the presence of Syari'ah violators such as artists, women, punks, and LGBTQ communities. Their presence and looks are claimed inappropriate before Aceh's culture and religion (Islam). Being put in such a position, those marginalized are motivated to combat the stigma and treatment they received.

Furthermore, I present chapter five to describe the morality policing phenomena, which currently serve as the core of the state's implementation of Syari'ah Law. This chapter also analyzes the weaknesses of the characters of the state actors and the messiness of its administration to incorporate religious law into a modern state system. Corrupt governmental apparatuses and hypocrisies displayed by the elites have motivated the marginalized to fight back bravely. Their resistance is often spontaneous, unplanned, and unexpected.

In many occasions such resistance is interestingly ambiguous. People in Aceh continue to be ambivalent towards their religious identity. It is difficult to solely claim that this dissertation is a study on the resistance against Syari'ah law. It is evident that resistance to the Syari'ah is resistance to lots of things. Sometimes, the challenge to mainstream Islam is clear, as in the case of Gafatar, mentioned in chapter two. In other cases (see chapter three, chapter four, chapter five and chapter six), the reactions can be seen as resistance against a new political force, that is Syari'ah policing, that is too restrictive. This suggests that studying resistance might well include both kinds of cases.

Sherry B. Ortner has pointed out that one of the problems that cause “ethnographic thinness” in resistance studies is that religion is not handled within them. According to Ortner, “religion is always a rich repository of cultural beliefs and values and often has close affinities with resistance movements as well” (Ortner 1995, 180). Most resistance studies do not touch upon ritual sensitivity in relation to practices of resistance. I have explained elsewhere that in the study I undertook, I chose to look at

resistance from the standpoint of individual religiosity, religious institutions, and ceremonies of religious punishment, because in these domains I believe one can look at how people become subversive or ambivalent. This redefines what constitutes politics, internal and external, in everyday practices of resistance (Idria 2016b, 128).

To return to Irwandi's plan to privatize the caning punishment, Irwandi continued to show that he was the anomaly of the tendencies of the former GAM members who shifted their perspectives on the position of Syari'ah for Aceh. Up until I wrote this dissertation, he was the only politician of the executive branch brave enough to have criticized the current implementation of the Syari'ah Law even though he has sometimes displayed inconsistencies regarding his own stance in this regard. As an example, Irwandi chose to keep his mouth shut when punks, LGBTQ communities, and the religious sects who allegedly spread false teachings were hunted down in 2011. He did not intervene when the district heads and mayors carried out this illegal operation. There was a political logic for him to look the other way: the year 2011 was an election year when Irwandi's first term as the Governor was coming to an end, and he had already planned to run again for reelection. His split from other former GAM members cost him the nomination from Partai Aceh for the next gubernatorial election. Irwandi eventually lost even though he did not show any support to "the enemies of Syari'ah."

That Irwandi was re-elected as governor in 2017 proved that the people of Aceh were growing tired of the politics of identities and religions. Likewise, in the Banda Aceh election, people voted down the popular incumbent mayor Illiza Saaduddin Djamal. Irwandi did not deny the claim that he did not have the adequate background and knowledge to talk about Syari'ah from the perspectives of religion. As a bureaucrat, he said, he thus spoke by using government logic.<sup>211</sup>

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<sup>211</sup> Interview with Irwandi Yusuf, 19 June, 2017.

In 2017, I voted for Irwandi. I also supported his plan to move the caning punishments to locations away from the public stage. At the time, upon learning that I was researching the impacts of Syari'ah Law implementations for Aceh, one of Irwandi's close aides invited me to join the team drafting *Rencana Pembangunan Jangka Menengah* (the medium-term development plans, RPJM). This RPJM serves as a blueprint of developments for the province for a period of five years (2017-2021). I joined the cluster filled with experts on education and Syari'ah.

In several meetings, I emphasized that using “investment” (*investasi*) or “human rights violations” (*pelanggaran HAM*) as a rationale to de-publicize the caning punishment would not work at the moment because certain factions, especially those affiliated with Dayah, would certainly reject such reasoning. Therefore, I recommended that Irwandi should find a justification that people would find more readily acceptable: the rationale should come from Islam.

Initially, Irwandi continued to believe that the people would support his plan. He told me if people had indeed wanted stricter Syari'ah and caning to be held in public places, they would have voted for Zaini Abdullah or Muzakkir Manaf, who, as Irwandi's opponents in 2017 election, often used Syari'ah issues when campaigning, promising to implement a stricter version of it. “But, as you see, the people voted for me,” said Irwandi. In his view, this meant people would support his policies.<sup>212</sup>

However, those who resisted Irwandi were not just ordinary people. The Deputy District Head of Aceh Besar, Waled Husaini, for example, openly expressed his strong objection to Governor Irwandi's policy. Husaini, a Dayah-based Ulamā'-turned politician, told the journalists, “We will still carry out the caning punishments before the public. We should be afraid of Allah, not others, when it

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<sup>212</sup> Interview with Irwandi, 2 July, 2017

comes to implementing Syari'ah Law.”<sup>213</sup> For Husaini, if caning were to be conducted inside jails, the deterrent effects for the convicts would be minimal, and the public would not be able to learn the lesson. “We implement Syari'ah Law in Aceh, not other laws. So, why have Syari'ah Law if caning is done in the prisons,” he said.<sup>214</sup> Tu Bulqaini, the leader of HUDA, also challenged Irwandi by claiming that it was not because of the implementation of Syari'ah that investors did not come to Aceh but because the government was corrupt and there were no adequate public facilities that would support anyone interested to invest in the province. He gave an example of the chronic electrical generator problems that seemed to have posed unsolvable power crises in the province for decades. “The problem is with *cari 'ab*, not Syari'ah,” said Tu Bulqaini.<sup>215</sup>

Despite being rejected by many people who did not support him during the 2017 gubernatorial election, Irwandi's plan to privatize the implementation of caning punishment was not scrutinized in its legal aspects. Legally speaking, such a proposal was against the *Qanun Acara Jinayah* (Islamic Penal Law Procedure) which stipulates that caning punishment must be conducted before the public. Nonetheless, as I have mentioned in chapter six, the debates about Syari'ah from legal aspects are not common in Aceh. The Acehnese people did not consistently question who drafted those Syari'ah regulations, what the drafters' qualifications were, or what sources were referred to, if those regulations could then be called Syari'ah Law.

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<sup>213</sup> “Aceh Besar Tolak Pergub Jinayah” (*Waspada Aceh*, 4 April 2018)

<sup>214</sup> Ibid.

<sup>215</sup> The word *Cari'ab* (literally means foraging, a metaphor for one looking to gain personal wealth). A recording of Tul Bulqaini's speech on this matter can be found in a YouTube video entitled “Pesan Tu Bulqaini Tentang Syariat Islam dan Investor Asing” <https://www.youtube.com/watch?v=QIb4e3Tuy94>.

In any case, Irwandi finally agreed to seek advice from Ulamā' who might be able to find propositions that could justify the implementation of caning within enclosed places such as inside prison buildings. Irwandi summoned Ulamā' from MPU and former heads of State Syari'ah Office (DSI), such as Alyasa' Abubakar and Rusjdi Ali Muhammad. With these people joining the meeting, Irwandi wanted to discuss the possibility of findings opinions from Islamic doctrine that could explain that it was not mandatory for caning implementations to be held in public places.

The meeting with the Ulamā' strengthened Irwandi's argument. Muslim Ibrahim, one of the most prominent clerics from MPU, for example, asserted that Al-Quran only requires the presence and witness of the kind, honest, and just people as a basis for a punishment to be conducted. Therefore, the lay public doesn't necessarily need to witness any forms of punishment. Another prominent figure, Alyasa Abubakar, referred to his decade-old argument, with a new spin; whereas he had said previously that caning should be done in public places as a way to show the world that Aceh had implemented Syari'ah Law, by that same logic, now that the world has seen it, the public caning can now be revised per Aceh's contemporary needs.

Equipped with the Ulamā''s support, Irwandi issued a new gubernatorial regulation, which states that caning punishment will take place inside the prisons (Aceh Gubernatorial Regulation Number 5 the Year 2018). On behalf of the Aceh Government, Irwandi and the Ministry of Law and Human Rights of the Republic of Indonesia agree to conduct caning punishment in prison locations. This agreement was signed by Governor Irwandi and the Head of Aceh Ministry of Law and Human Rights, Yuspahrudin, in front of the Minister of Law and Human Rights, Yasonna Laoly.<sup>216</sup>

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<sup>216</sup> This agreement was signed by Governor Irwandi and the Head of Aceh Ministry of Law and Human Rights, Yuspahrudin, in front of the Minister of Law and Human Rights, Yasonna Laoly

After the signing ceremony, Irwandi told the journalists, “people, if they like, can still witness the caning punishment even though it is now conducted in the prisons. However, the number of people who can witness will be dependent on the capacity of the jails. Children can no longer witness it, and people can no longer bring their cell phones. Just imagine a form of punishment seen by minors who then cheer and applause. Is this even recommended by Islam? What if the entire process was videotaped and the video was uploaded on YouTube? A convict would bear a damaged image for the rest of his or her life once punished. What if the convict later becomes a public figure?”<sup>217</sup>

Several progressive intellectuals and human rights activists in Aceh welcomed Irwandi's decision to issue Gubernatorial Regulations Number /2018, which specifies a procedure for conducting caning from inside correctional facilities. Women activists from the Civil Societies Network for Syari'ah (JMSPS) said Irwandi's move had been positive developments for the application of Syari'ah Law in Aceh. As asserted by Norma Manalu, a woman activist, she now found the spaces to participate again in efforts to better the situation related to the religious law.

However, this progress did not last long. Aceh continues to throw the unexpected. Toward the first anniversary of Irwandi Yusuf second term, Irwandi was again brought down by a shocking incident.

### **The Fall of Irwandi and the Future of Syari'ah Law**

On Tuesday evening, July 3, 2018, the Corruption Eradication Commission (KPK) detained Irwandi Yusuf over accusations that he had received bribes of a commitment fee related to the allocation process of Aceh Special Autonomy Funds (DOKA). KPK launched a parallel sting operation in two separate places, Banda Aceh and Radelong, the capital of Bener Meriah. In addition

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<sup>217</sup> Anterokini “Mengapa Pasangan Gay di Banda Aceh dihukum Cambuk di Halaman Mesjid bukan di Penjara” (*Anterokini*, 14 July 2018).

to Irwandi, the KPK also arrested Ahmadi, the Head of Bener Meriah district, and eight other people in connection with the corruption case. They were grilled overnight in Aceh regional police offices before being flown to the KPK detention center in Jakarta the following morning.

It was not the first time for the people of Aceh to witness their leaders being detained and flown to Jakarta by anti-corruption officials. As I have mentioned in chapter one, in December of 2004, only a few days before the unimaginable tsunami hit the province, KPK jailed Governor Abdullah Puteh for his role in marking up the price of a helicopter purchased using public funds. Still, many Acehnese, though supporting the KPK operation, watched in shock when their Governor was again taken away from them. Wawan, whom I met on the morning after Irwandi got arrested, told me he too was shocked to hear the news. It is commonly accepted that once KPK has arrested somebody, they already have enough evidence against that person. Therefore, everyone in Aceh knows that they have very little chance to see Irwandi again as Governor. The news about Irwandi being nabbed in the KPK sting operation spread with such powerful magnitude as to shake the whole of Aceh.

The KPK named Irwandi a suspect within just a few hours after he was interrogated in Jakarta. That status automatically forced him to become a non-active governor. Those who knew Irwandi both at home and abroad were greatly disappointed. The reactions among his supporters was mostly fury, with some claiming that the KPK action was politically motivated. They suspected the central government was behind the arrest. The day after the arrest, supporters of Irwandi gathered in front of the grand mosque of Baiturrahman to demand his release. Many of them would not deny that Irwandi might have received illegal fees related to Aceh regional budget allocation process; still, they questioned the amount of confiscated cash, which was only around Rp 50 million (\$4000) found with him during the sting operation. According to the KPK spokesman, Irwandi has accepted Rp 500 million (\$40,000) from the Bener Meriah district head to secure procurement projects and budget allocations. In either case, the amount was too little, even for the standard of “social approval” that a

high-ranking authority could benefit from his position. It is no secret that the act of bribing and taking bribes is so prevalent in Indonesia.

Aceh remains one of the most corrupt provinces in Indonesia. Worse, the central government has ignored the arbitrary use of state money for the last two decades. Many have witnessed a spike of corrupt practices in Aceh since the peace process and the post-tsunami build-back-Aceh projects were launched. But, many people within the central government consider the increase of corruption in Aceh as a temporary price to be paid for peacekeeping.

Irwandi's political opponents cheered the arrest euphorically. The hardline Islamic Defenders Front (FPI) demanded that Irwandi's hands be mutilated following Syari'ah Law. However, KPK would only prosecute Irwandi by using the Corruption Law, a national law, not Syari'ah law.

After Irwandi's detention, the Gubernatorial Regulation on the implementation of caning in a closed location was canceled. One month after the Irwandi's arrest, I came to witness another caning punishment at the Uleelheu Mosque, a historic location in the city of Banda Aceh. Just before a woman was caned for a khalwat conviction, I asked a WH officer why caning was still implemented before the public. He replied that Irwandi's regulation was no longer in effect because Irwandi himself was in prison.

The future of Syari'ah Law in Aceh will continue as a political idea. The politicians will continue to fetishize the law issuing policies, regulations, and policing actions in the name of Syari'ah. Likewise, resistance to it will continue. Since no sane person in Aceh could bear the burden of being labeled anti-Syari'ah, resistance will continue through unexpected means.

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