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## **Has sharia brought justice?**

Lily Zakiyah Munir, Director, Center for Pesantren and Democracy Studies (CePDeS), Jombang, (lilyzm@hotmail.com)

Presidential Decision No. 11/2003 inaugurating the Sharia Court (Mahkamah Syariat) in Aceh was issued on March 3. The Sharia Courts in Aceh will be the first of their type in Indonesia and will have the authority to examine, decide and settle civil law cases, material cases and crimes such as murder and torture punishable by qishas (punishment equitable to the crime). The stoning to death punishment (rajam) is not yet incorporated into the system.

In the history of Islam, including in Indonesia, formalization of the sharia has always raised controversy. Its proponents argue that as Muslims are the majority in the country, it is just logical that sharia be formally enforced as a legal basis in Indonesia. They appeal that Muslims return to the Koran and Prophet's sayings (Hadith) so that all social, political and conomic problems can be resolved.

The opponents do not oppose sharia, but refuse the first group's interpretation and understanding of it. Sharia is often understood by the first group as no more than fiqh, Islamic laws codified by Islamic scholars centuries ago.

The problem arises when a particular madzhab (fiqh school) has to be chosen and adopted as the formal legal reference. There are various schools equally recognized and accepted by Muslims.

The largest Islamic organization, Nahdlatul Ulama (NU), for example, recognizes four major schools and all of them are regarded as valid. How can we now choose only one of them and refuse the others? Isn't forcing a version of sharia and nullifying the others against the spirit of Islam itself? This group, moreover, argues that for centuries Muslims have been living under the guidance of sharia. Regardless of the fact whether sharia is formalized or not, they have practiced it, anyway.

Let us learn from history. Let us look at Iran back in the 1980s. Two years after the victory of the Islamic revolution, Khomeini put restriction on women's space in the public sphere.

He obligated women to wear jilbab (headscarfs) and imposed it on women in markets, offices, schools and other public places. Under the banner of sharia, the Imam brought women back to the domestic sphere as if it were advocated by sharia. While women were Khomeini's strong supporters in the revolution, they turned out to be marginalized and rigidly controlled after all the victories.

Let's see Afghanistan. In the name of sharia, Taliban laid off all of their women employees regardless of their status and positions. They did not care whether the job was the sole source of income for the women and their families. Women were banned from education. Women teachers and women doctors were not allowed to work. Those who secretly continued the work in their homes were whipped when discovered.

A book titled *My Forbidden Face* written by an Afghan teenage girl vividly illustrates her testimony about all the atrocities. And all of these were committed in the name of the sharia.

One may argue that sharia in Aceh will have its own form, which does not resemble Iran or Afghanistan. "We are obviously different from those in Afghanistan or Iran. We are Indonesian, with our own cultures," said a government official in Aceh in an interview. But who can guarantee it? Who can ensure that sharia in Aceh will do justice to women, when many prominent ulema understand the Koran textually to refer to men's superiority over to some respondents, there has been no change after sharia was formalized two years ago. "Social ills such as KKN (corruption, collusion and nepotism), prostitution or violence against women remains unchanged," said one of the informants. What is actually the *raison d'etre* of sharia? The ultimate goal of sharia (*maqasid al syari'ah*), as widely understood and accepted is the welfare of all people.

The basic teachings of Islam, that should be reflected in the implementation of sharia, can be summarized in a few words.

The Prophet Muhammad, when asked about this, referred to a verse in the Koran: "Allah commands justice (*adl*), the doing of good (*ihsan*), and giving (of your wealth) to kith and kin " (*an-Nahl*: 90).

These three teachings, when summarized into one, means justice. The ultimate goal of sharia, welfare of all human beings should be achieved within the framework of justice, the basic essence of Islam. Have we done justice in the formalization of sharia?