

which embraces many religious and cultures. Hence, government must protect and promote the rights of all its citizens and prevent discrimination. This article will examine the implementation of shari'a bylaws and their implications for religious minorities. Specifically, the following two questions will guide the argument of this paper: Is there any relations between democratization process and regional autonomy with the emergence of shari'a bylaws? How did religious minorities experience living under shari'a bylaws? In this paper, I will argue that shari'a bylaws have a negative impact on religious minorities in Indonesia. This paper consists of three parts. The first part examines the background of the emergence of shari'a bylaws. The second part will assess impact of shari'a bylaws on religious minorities' rights. The third part will provide some suggestions on how to protect the rights of religious minorities.

The background of the emergence of shari'a bylaws

The process of democratization and regional autonomy which has taken place since the fall of the Soeharto regime has had positive and negative effects for Indonesia. On the one hand, the fall of Soeharto opened many opportunities for Indonesias to reform its political system to be more democratic. The event also rebalanced the power of the central government, which often treated regions as a government branch with no real authority. On the one hand, regulating decentralization through regional autonomy made the government more effective, efficient, and democratic. On the other hand, the creation and implementation of 'Islamic Shari'a' regional bylaws (*Perda Syariah Islam*) in many regions has been one of the 'negative effects' in the country which constitutionally declares itself as a religiously neutral state. This can be seen as an example of Islamic radical groups in Indonesia using democratic processes for an undemocratic purpose.

In this respect, the regional religious regulations or shari'a bylaws actually emerged as a response to the regional autonomy law which was passed in 1999. Under this new regulation, local governments at the district level have authority to issue their own regulations. And the central government cannot intervene in local administration (Assyukanie, 2007). In fact, regional autonomy may succeed if can achieve two outcomes. Firstly, its implementation is followed seriously by improving the government's bureaucracy. This is important to emphasize government services. Secondly, regional autonomy should create a governance finance that is oriented for people needs (Mulia, 2006: 23). Therefore, the increase in local autonomy must be coupled with democratization. This is important as a protection against the misuse the laws. Hence, people should be involved in the choosing of leaders and creating of policies. (Erb *et al.*, 2005: 11)

The enactment of the Decentralized Law in January 2001 represents a fundamental change in the relationship between and position of the central and local governments. But there are many weaknesses in its implementation. This is because the

both Islamic parties (the National Awakening Party and the National Mandate Party) and Islamist parties (the United Development Party, the Justice Party, and the Crescent and Star Party) only took 38 % of the vote. While, in 2004 the Islamic and Islamist vote again was 38 % (Bush, 2008: 182). The nationalist vote which is represented by the Democrat Party, Golkar Party and PDI-P Party, was the winner of the above national elections. It reminds us about the debate between the Islamic-oriented politicians and the leading *kebangsaan* (nationalist) groups during the formative era in Indonesia. At that time, the nationalist groups won the debate and Pancasila (Five Principles) then became state ideology (Eliraz, 2004: 78-79). Indeed, Pancasila (Five Principles) clearly respects all six dominant religions in Indonesia and gives equal rights to all Indonesian people.

It is important to note that though the struggle of the formalization of shari'a Islam in national level ended in failure, the proponents of Shari'a Islam still carry on with their cause. In fact, they use local (provincial and district) parliaments, along with the introduction of autonomy packages and direct elections as the strategic way to formalize shari'a Islam. This has resulted in the enactment of shari'a bylaws (*Perda syari'ah*) in dozens of provinces and districts throughout Indonesia (Hasan, 2009: 40). Some national magazines in Indonesia such as *Gatra* and *Tempo* reported that the supporters of shari'a are pursuing a strategy of controlling districts before spreading shari'a to provincial and national levels. This strategy is described as "from village to city" and promoting shari'a through the slow lane (Hara, 2010: 47-48). Clearly, the struggle to formalize shari'a Islam remains alive.

Moreover, the implementation of shari'a Islam in Aceh has encouraged other regions in Indonesia to follow this success. After the central government allowed Aceh to implement shari'a through a special autonomy law, other regions began to imitate Aceh by introducing regional regulations (*perda*), decrees (*keputusan*), instructions (*instruksi*), and circulars (*surat edaran*). And all of these laws contained Islamic injunctions (Salim, 2007: 126). In this regard, it is widely known that Aceh has been the pivotal inspiration and pioneer of the implementation of the shari'a bylaws in Indonesia. Advocates of shari'a sought to imitate Aceh's example and insisted that the central government give them the same opportunity (Hasan, 2009:43). Although the social, political and historical background of Aceh in implementing shari'a bylaws is certainly different from other regions, advocates of shari'a Islam thought that they deserved to have the same rights as Aceh.

Fransiska Silalahi, had to wear a veil for three years at school (Kamil, 2009: 135). This type of situation would clearly subject non-Muslims in Padang to social-psychological pressure.

Discrimination against religious minorities not only occurs in Padang, but also in other regions which implement shari'a bylaws. Research on "The implementation of Shari'a Islam in regional autonomy era: its implications toward civil rights, women rights, and non-Muslim rights" that was conducted by CRCS (Center for the Study of Religion and Culture) UIN Jakarta (Kamil *et al.*, 2007: 135) provides a useful insight into the reach and impact of shari'ah bylaws. CRCS studied six regions where shari'a bylaws caused discrimination toward religious minorities. For example, many non-Muslim women were forced to wear Muslim female dress every Friday. Teachers and students at certain SMU (high schools) were also required to wear the veil. If they refused, their parents were required to declare their children as non-Muslims.

Research by the Wahid Institute also states that non-Muslim women in Padang (West Sumatra) and Bulukumba (South Sulawesi) are obliged to wear veil after the implementation of shari'a bylaws. One of non-Muslim students reported that she felt stressed wearing veil. She thinks that she lives in the community which hates her. This is because most of the people have forced her to obey the regulations that contradict with her religious belief. Besides that, her Christians friends have also accused her of converting to Islam because of her decision to wear Muslim female dress (Wahid, 2009: 140). Hence, one of the Christian leaders in Padang stated that the enactment of Shari'a bylaws had caused a serious psychological problem for non-Muslim students.

Discrimination against religious minorities has also occurred in Aceh, particularly after the implementation of sections of 4 and 5 of Provincial Regulations 5/2000 which regulate standards of dress to all people who live in Aceh, including non-Muslims and tourists. There are many Western women wearing Muslim veils around Banda Aceh. The obligation to wear Muslim female dress was also applied to a Chinese woman working at BCA (secular bank) (Kamil, 2009: 135).

Perda No. 5/2003: use of the headscarf for Muslim women in Bulukumba (South Sulawesi) takes a different approach. Non-Muslims in this area have been told to put on a headscarf at certain events, even though they are not subject of this shari'a bylaw. One of the respondents of research that was conducted by Rohaiza Ahmad Asi (2007: 8-12) witnessed a situation where outsiders entering Muslim villages were told to put on the headscarf. Relating to this situation, representatives from local community in Bulukumba stated that shari'a bylaws have already breed intolerance.

The above examples clearly show that shari'a bylaws that are applied to minorities violate of religious liberties. Besides that, the regulations also lack a spirit to protect diversity of people's belief in Indonesia. Unfortunately, discrimination toward

Similarly, this has also occurred at the national level, as evidenced by the growing numbers of churches and church institutions which have been destroyed by hard-line Muslims (Tanthowi, 2009: 25). Interestingly, CRCS UIN Jakarta's research (Kamil *et al.*, 2007: 190-194) has confirmed that in areas where shari'a bylaws apply, non-Muslims often experience damage to their place of worship. Minority Christian groups are forbidden to worship or hear mass in their own homes. This research also reveals that 74 % respondents from non-Muslim groups stated they have experienced difficulties in worshipping. It can be said that shari'a bylaws promote intolerance and discrimination against the rights of worship of other groups.

Instead of protecting the rights of religious minorities, some regional governments in Indonesia support discrimination and intolerance toward non-Muslims. This fact can be seen from the organisational structure in the Religious Department of Cianjur. The Department of Religion in Indonesia was actually created to deal with religious affairs to all religions. As a result, all religious groups should be represented. Nevertheless, there is no office or officials in charge of non-Muslim services in the Religious Department in Cianjur. Non-Muslims have to go the Provincial Religious Department in Bandung if they encounter problems relating to their religious (Tanthowi, 2009: 27-28). Ironically, this discrimination is not only in terms of service, but also in budgeting matters. Hence, entire budgets are allocated exclusively for Muslims and religious minorities do not receive anything from the Department. This situation certainly contradicts the Indonesian constitution which requires neutrality in dealing with all religions.

Shari'a bylaws in many regions have undermined the civil rights of religious minorities. It has been argued from the CRCS UIN Jakarta's research that many non-Muslims experience difficulties in becoming civil servants (29.5 %), receiving subsidies from local governments (12 %), and opening places of business during Ramadan (13 %). Besides that, some groups have also encountered obstacles in becoming leaders because they are non-Muslims (Kamil *et al.*, 2007: 201-203). Opportunities to become a civil servant are most often accorded to the majority. It is not surprising, because under Islamic rule, non-Muslims cannot be appointed as caliph or president. Shari'a bylaws also create a paradigm in which non-Muslims' leadership skills and other qualities are seen as inferior to Muslims. Proponents of shari'a bylaws believe that non-Muslims' status under shari'a can be understood by looking the concept of *dhimmi* (non-Muslims under Muslim rule). According to this concept, non-Muslims are allowed to live under Islamic rule and Muslims should regard them religious. Yet, non-Muslims have to obey Islamic law. They also have to pay *jizya* (a form of poll tax) to guarantee their loyalty towards the country and the Islamic government protecting their security (Hosen, 2005: 435).

