

faced many obstacles and failures? Are there any solutions can be done to implement Islamic Law in Indonesia?

Researching the implementation *adat* law and Islamic Law in *Suku* Donggo, this paper argues that the implementation of Islamic Law in Indonesia must be done by the culture. Top-down approach forced by the government regulation and formal/legal system will trigger rejection from the community. The regulation produced by the government is not easily implemented as its regulation contradicts with the culture and people habit. The implementation of Islamic law has to be understood as a dynamic action not a static tool. It should follow the local pattern and blended with the culture and local custom.

One of the difficulties in conducting research on *adat* law, Islamic law, and politics in Donggo Bima is the limited literature. There are not many researches have been done in Donggo both conducted by western as well as local researcher. Several books and research that stored in the local library, most of them are researching Bima language and economic development; while research on *adat* law, Islamic law and local politics in Bima are very limited. *Adat* law, is not new term, *adat* means 'custom' or 'tradition' and carries connotations of sedate order and consensus. *Adat* law was first introduced by Snouck Hurgronje an expert of East Asian Literature in 1894. In his book *De Atjehers (The Aceh)* Hurgronje writes about *adat* law in Aceh, he called the traditional or *adat recht*. Later The traditional *recht* developed by one of his students, Prof. Cornelis van Vollenhoven who later becomes a Profersor of *adat* law in Leiden University. Vollenhoven discussed in detail the relationship between *adat* law and the Dutch East Indies government in his *Adat Recht van Netherlands Indies (The Adat-law of the Netherlands-Indies)*, where the Dutch colonial government include *adat* law in its legislation in 1929 in the *Indische Staatsregeling (Colonial Constitution)*.

After Hurgronje and Vollenhoven, there are many legal experts conducted research of *adat* law in Indonesia. Some of them are Jaap Timmer (2005) in Papua, Michael Picard (2005) in Bali, Lena Avonius (2004) in Lombok, Dik Roth (2002) in south Sulawesi, Greg Acciaioli (2001.2002) and Tania Li (2001.2002) who examined the indigenous peoples (indigenous community) movement in relations with the international movement. A research about indigenous peoples and indigenous law in Bima; however, are very limited. Two well-known researchers on Bima history are Henri Chambert-Loir from the Ecole Française d'Extreme-Orient who conducted research in Bima since 1971, and Dr Hj. Siti Mariyam daughter of the last Sultan Bima, Sultan Muhammad Salahuddin. However Loir more focused on the studies of ancient texts of Bima kingdom, while Hj Siti Maryam also examines the history of the Sultanate of Bima.

Research about *Syariah* law is also widely conducted in Indonesia, especially after the resignation of Suharto and after the implementation of *otoda* (Otonomi Daerah

There is not exact date when Islam has spread to Donggo. There is not research and historical records describing the early spread of Islam in this tribal community. The only reference can be used in this research is a narrative and oral story of Donggo tribal leaders. People in Donggo had learned about Islam between 1940 to 1945. Haji Abas Oya, one indigenous leader in Donggo predicted Islam was learned by people in Donggo since 1942, just before the occupation of Japan in Bima (Haji Abas Oya, interview, 02/03/2011). Another indigenous leader, Abdul Majid Bakry said the spread of Islam in Donggo was in the early 1940 (Abdul Majid Bakry, interview, 03/05/2011).

Haji Abas Oya, Abdul Majid Bakry and Muhammad Ali Ta'amin are three traditional leaders who have a very strong influence to the community. The three along with two other figures, Haji Muhammad Jamaluddin and Abu Wia Yasin led Donggo society movement against injustice in development and the military rule in 1972 (Rangga, 2001).

The efforts to spread Islamic values in Donggo have been started since the establishment of Sultanate Bima. Hilir Ismail, a local historian describes in his book *The role of the Sultanate of Bima in the national history* (2004) the spread of Islam in Donggo has been started since 1640, but has found difficulties and failed. The main problem causes the failure is the weak top-down strategy using power and authority. According to Puteri Siti Maryam, the daughter of Sultan Muhammad Salahudin, since the first Sultan of Bima, Sultan Abdul Kahir, the government seeks to spread Islam by using power. One of them was sending *Jeneli* (head of sub-district) and Islamic scholars to Donggo who have mission to convert people in Donggo to Islam. The mission failed as it got rejection from the people. (Puteri Siti Maryam, interview, 02/08/2011).

Abdul Majid Bakry, a Donggo indigenous leader who lives in Dompu argues that the use of power to spread the Islamic values will trigger resistance from the community. *Dou* Donggo believed that their ancestors soul will help their lives by worshiping the spirits of their ancestors. They believe that the ancestor's spirit will stay in the statues, large rocks and sacred trees. Those practices are not accepted and contradict with Islam, and for that reason the *Jeneli* supported by the Sultan has banned the practices by destroying the statues, stones and sacred trees. This action created anger and rejection to Islam. Even the laws and rules of the sultanate that were very closed to Islamic teaching could not be implemented in Donggo (Abdul Majid Bakry, interview, 03/05/2011).

The people in Donggo accept Islamic values for the first time since Sultan Muhammad Salahudin took over the power. According to Puteri Siti Maryam the new approach in spreading Islam was by mixing the culture and Islamic values. This strategy was the key success of Sultan Muhammad Salahudin for spreading Islam in Donggo. He never use military power as previous Sultans: On the other hand, Sultan Muhammad Salahudin appointed as one of the indigenous community leader and served people in

advices produced by *Tua Matengi Sara* then run and implemented by a *gelarang* or chief / village leader.

Before Sultan Muhammad Salahudin joined the indigenous leader of *Dou Donggo*, this institution has not been established. Advice given by an indigenous leader personally, in many cases the advices given between one indigenous leader contradict with other indigenous leader. *Tua Matengi Sara* formation reduces conflicts that arise in the decision making proces.

Even though *Tua Matengi Sara* was an informal institution, but in the practices this institution was very respected by the community. This institution then had run by 3 senior leaders who run as both judicative and legislative functions of government; while the executive was run by a *gelarang* or chief. Most of problems in the community were resolved by the *Tua Matengi Sara*. While *gelarang* run the collective decisions taken by senior leaders who are members of the *Tua Matengi Sara*.

There are no official records in Sultanate Bima about *Tua Matengi Sara*. In *Sangaji Bo Kai*, the official record of the government of the Sultanate of Bima only explained about the role of senior indigenous leaders in a number of regions in Bima which has significant power and influence. It is not mention the existence of informal institutions *Tua Matengi Sara* mainly on indigenous communities living in Donggo.

Hilir Ismail (2004) senior historian who writes many books on indigenous communities in Bima also does not mention this institution. Hilir simply refer that it was a traditional institutions that perform the function as adviser and help *gelarang* as an official institution of the sultanate. Documents about the *Tua Matengi Sara* in this research widely obtained from oral story from some traditional leaders both in the Sultanate of Bima and *Dou Donggo*.

Abu Bakar Haji Ismail, vice chairman of *Majelis Adat Bima* and also a nobleman said the lack of information about the *Tua Matengi Sara* has caused by several things. First, *Dou Donggo* until the 1950's are not fully controlled by the government of the Sultanate of Bima. Donggo have their own custom rules that are different from the Sultanate of Bima legal system. Second, *Dou Donggo* also have customs and beliefs / faith that different to the Sultanate of Bima . Third, geographically *Dou Donggo* lives in the slopes area and separated by a bay to the central government (Abubakar Haji Ismail, interview, 17/02/2011).

Tua Matengi Sara finally turned into Institute of Traditional and *Syariah* Donggo (LASDO) that runs the *adat* law and Islamic law together. The function and role of LASDO including the implementation of *adat* and Islamic law in Donggo will be discussed in the next section in this paper.

specific name. This is to avoid rejection from *Dou* Donggo (Abubakar Ismail, interview, 7 April 2011).

Teachers who sent to Donggo were trained with Islamic religious prior departure. Some of them, according to Puteri Siti Maryam were graduated from *pesantren* (Islamic boarding school) in Java Island (Puteri Siti Maryam, interview, 02/08/2011). According to Abubakar Haji Ismail, Muhammad Salahudin advised teachers to avoid conflict with the people traditions in Donggo. "It is important, so that the Islamic values can be accepted by people in Donggo. This strategy is working very well" (Abu Bakar Haji Ismail, interview, 17/02/2011).

The Institute of *Adat* and *Syariah* Donggo (LASDO)

The important question to be answered when researching on the implementation of *Syariah* law and *adat* law in Donggo is how *adat* law can be mixed with *Syariah* law? How it is implemented? According to Ngani (2012) there are many *adat* law in Indonesian contradict with many other laws, including formal law and Islamic law. But in Donggo, Islamic law and *adat* law can be run simultaneously.

The Institute of *Adat* and *Syariah* Donggo (LASDO) is an informal organization formed by people in Donggo to change the traditional system *Tua Matengi Sara* that was disappeared after the reign of Sultan Muhammad Salahudin. This institution was established in 1951, since the collapse of the Sultanate of Bima and replaced by the Republic of Indonesia. The collapse of the sultanate led to the loss of the imperial system of governance models and some custom rules, including *Tua Matengi Sara* in Donggo.

LASDO consists of two institutions, namely *Majelis Adat* (*Adat* Assembly) and *Dewan Pengurus* (executive chamber). *Majelis Adat* consists of some senior indigenous leaders who are representative of each village / community; while the *Dewan Pengurus* amounted to 12 people running Indigenous Council decisions and paperwork. LASDO run an *adat* law which is a combination between traditional law, *Syariah* law and an unwritten law.

The law system implemented in *Dou* Donggo was successfully suppress crime and create harmony among the communities. Data from Polsek (police office) Donggo for example, from 2008 to 2011 there were only 2 crime cases occurred in Donggo sub-district. While in sub-district Soromandi, in 2011 there was not crime took over by the police in Soromandi. Soromandi is a new sub-district inaugurated in 2010.

Donggo unwritten *adat* law not only regulates Moslem but also Christian and Animism. This *adat* law is also implemented in Mbawa Village, Donggo which is 31.9 percent of the people are Christian and animism.

influence to the Sultanate of Bima because of trade, education and the spread of Islam. As a respect to the people from Malay, Sultan Muhammad Salahudin award a land to Malay people named *Kampung Melayu*.

Even though traditional clothes Donggo communities affected by Islam: however *Dou* Donggo did not recognize clothes they wore as an Islamic identity. Donggo society believes that the clothing they wore were traditions and customs clothes and an identity of Donggo community. Christian and animism also wear *rimpu* in certain events, such as marriage ceremonies, and death celebration. Even we can not distinguish what kind of religion they believe by the clothes they wear.

Alan Malingi, a cultural expert in Bima explains the spread of Islam in Donggo conducted by cultural strategy. It led Islamic values embedded in the traditions and customs. Islamic teaching community has been implemented without aware that they are carrying out other religious traditions.

"The ulama gave good example and behaviour. That behaviour was followed by the people. Finally, people do not realize that they are running other religious traditions. Because the tradition is good, they take it"(Alan Malingi, interview, March 4, 2011.)

In the case of the way hoe people in Donggo giving name to their baby, there was a shifting from traditional *Dou* Donggo to Islamic name. Islamic names widely used from the beginning 1940s. The people habits who ask indigenous leader to give a name to their baby accelerate the shifting. When indigenous leaders occupied by Islamic scholars then these scholars give Islamic name to the people.

Alan Malingi explained that the Malay culture at that time was regarded as an advanced culture. Similarly, the Malay language widely studied and used as a formal language of the imperial correspondence. An important Sultanate notes were written with the Arabic alphabet using Malay language. Because the Malay culture is considered more advanced, people in Donggo absorb Malay-Arabic names for their children (Alan Malingi, interview, March 4, 2011).

Nowadays it is very difficult to find people who traditionally use Donggo names. Most of them uses Malay Moslems name for their baby. This changing is not only to Moslems but also to Christian and Animism. In Mbawa Village sub-istrict Donggo that is more than 30% of the population are Christian, there are many Christians who gives Islamic name to their baby such as Ismail, Sa'diyah, Abdullah and Amin.

Ismail, one participant in the Focus Group Discussion give his girl baby name Sa'diyah which is an Arabic name. He is a Christian, his wife is also Christian, while her parents are animism. Ismail said that the name Sa'diyah he obtained from one of the traditional leaders. Name according to Ismail is a neutral and not associated with any

presented on the court which were based on Islamic law such as must be adult males, at least 2 people, and well known as an honest person. If there is no male witnesses then any one man can be replaced by two adult or married woman and well known as honest person (Abu Bakar Haji Ismail, interview, 17/02/2011).

The rules about witnesses are still used until today, although *Mahkamatus Syar'iyah* have been dissolved. *Majelis Adat* who takes over the judicial functions of the unwritten *adat* law is still use it in order to present a witness during the trial. Hilir (1994) mentions this rule is strongly influenced by the sultanate of Bima judicial system which was adopted Islamic justice system. There was a different between judicial sytem in Donggo and the Sultanante of Bima. One of them is the law that is used during the trial, *Dou* Donggo use Donggo *Adat* law and the sultanate of Bima use Islamic law that was mixed with local tradition.

In addition, the punishment system has been changed since Islam spread to Donggo. Flogging was implemented since the establishment of the *Mahkamatus Syar'iyah*. In addition, thieves are also required to return the stolen goods after paraded around the village with promise not to steal again.

Disobedience

The disobedience cases were not big issues in Donggo *adat* system before the spread of Islam. *Adat* law did not specifically regulate this issue. Problems only occurred when someone report the case to the indigenous leader in their community. According to the Chairman of LASDO Arifin, usually immorality cases such as adultery and premarital pregnancy resolved amicably (Arifin, interview, 14 April 2011).

Islam brought many change to the *adat* law and put disobedience cases to be an important case and must be resolved seriously. According to Arifin, Islam has influence *Majelis Adat* to put the case in top priority including infidelity and premarital pregnancy. This case will be completed in less than one month (Arifin, interview, 14 April 2011).

The punishment is also changing, in case of infidelity between married men and a woman; the judges will invite their husbands and wives on the court. The *Majelis Adat* will conduct a hearing and the member of *Majelis Adat* collectively will act as a judges. According to Abdul Majid Bakry who is also a Chairman of *Majelis Adat* on the case of infidelity, when the husband and wife in the trial give forgiveness the cheating spouse will be flogged. If the husband or wife in addition does not give forgiveness they will be flogged and expelled from Donggo. Mostly they move outside the island of Sumbawa (Abdul Majid Bakry, interview, 03/05/2011).

Cultural and tradition approach proposed by Sultan Muhammad Salahudin successfully introduces Islamic values to the Donggo community. The three strategies proposed by Sultan Muhammad Salahudin been accepted by *Dou* Donggo and implemented until today. These Islamic values are mixed with *adat* law has been used as a major foothold for creating harmony between communities and religions in Donggo.

We can learn from the success of Sultan Muhammad Salahudin and the failed of previous Sultan in order in introducing Islamic values to *Dou* Donggo to answer the question why formalization Islamic teachings in Indonesia are facing many obstacles and failures. The booming number of *Syariah* motivated *Perda* and regulations in Indonesia which reached 300 is a proof of the big wave of formalization Islamic teaching. These regulations however, are not effectively implemented.

Cultural approach as implemented by Sultan Muhammad Salahudin can be seen as an alternative strategy for developing Islam in Indonesia. A Donggo *ulama* Haji Abdul Majid Bakry says that the problem facing by most Moslem scholar in Indonesia is they thinking the formalization of Islam more than its essence: "We need more content than the wrapper" (Abdul Majid Bakry, interview, 03/05/2011). The development of Islamic values is more essential rather than the formalization of Islam.

