



Fiqh and Siyasa Model of Integration: A Study of The Constitution of The Sultanate of Aceh Darussalam

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Abstract: Fiqh is an abstract concept that is not bound to a particular case in space and time, so it becomes universal. Through a legal decision, the judiciary applies Fiqh to one of the cases in particular. It shows that Fiqh implementation requires other legal instruments, such as the judiciary. The implementation aspect of Fiqh is an object study for Siyasa Sharia, so Fiqh and Siyasa had to moderate and integrate into the law system. This paper examines the moderation of Fiqh and Siyasa in the Aceh Darussalam Sultanate and its integration into the law system. This study is a normative legal research that uses a historical approach. The data source for this research is primary legal material in the form of the constitutional text of the Sultanate of Aceh Darussalam, namely *Adat Meukuta Alam*, and other supporting texts. This study found that the constitution of the Aceh Darussalam Sultanate drew to moderate Fiqh and Siyasa. The results of this study conclude that Fiqh and Siyasa were integrating into a law system that complements one another.

Keywords: Integration, Fiqh, Siyasa, Sultanate, Aceh Darussalam

Abstrak: Hakikat Fikih adalah konsep-konsep abstrak yang tidak terikat dengan kasus dalam ruang dan waktu tertentu sehingga menjadi universal. Pihak berwenang—seperti lembaga peradilan—menerapkan Fikih terhadap satu kasus secara partikular melalui keputusan hukum. Hal ini menunjukkan bahwa penerapan Fikih memerlukan perangkat hukum lain yang diselenggarakan pihak berwenang. Aspek implementasi dari Fikih ini merupakan objek kajian Siyasa Syariah, maka Fikih dan Siyasa harus dimoderasi agar dapat terintegrasi ke dalam sistem hukum. Tulisan ini mengkaji moderasi Fikih dan Siyasa di Kesultanan Aceh Darussalam dan integrasinya ke dalam sistem hukum. Kajian ini merupakan penelitian hukum normatif yang menggunakan pendekatan sejarah. Sumber data penelitian ini adalah bahan hukum primer berupa naskah konstitusi Kesultanan Aceh Darussalam, yaitu *Adat Meukuta Alam* serta naskah pendukung lainnya. Penelitian ini menemukan bahwa konstitusi Kesultanan Aceh Darussalam disusun dalam rangka moderasi Fikih dan Siyasa. Hasil penelitian ini menyimpulkan bahwa Fikih dan Siyasa terintegrasi dalam sistem hukum yang saling melengkapi satu sama lain.

Kata Kunci: integrasi; Fikih; Siyasa; kesultanan; Aceh Darussalam.

A. Introduction

Sharia Law is equivalent to Fiqh in Arabic. The definition of Fiqh is a collection of practical Sharia Law from verses of the Qur'an and Hadith concerning law.¹ According to al-Qurṭubī, the word Sharia (*al-Syarī'ah*) means something prescribed by Allah to His servants, and it is a religion (*al-dīn*).² So, the meaning of Sharia Law is that it is a norm or regulation of Islamic law and is a unit of Islamic Sharia.³ On the other hand, the word 'Sharia Law' has a broader meaning than 'Fiqh,' as discussed by Islamic scholars in the context of implementing Fiqh.

It should underline that the Fiqh implementation requires Siyasa Sharia, namely government regulation called *qānūn*. The goals of *qānūn* are to maintain order, benefit, and stability.⁴ The government regulation itself is a servant (*khādim*) of the Sharia,⁵ because the task of the Islamic State is to maintain the religion and worldly affairs of Muslims.⁶ In carrying out this mission, the State also requires constitutional rules (*al-qānūn al-dustūrī*) and administrative regulations (*al-qānūn al-idārī*) to maintain sovereignty, fostering society, carrying out *da'wah*, fighting tyranny, helping people, taking action against violators of other people's rights, and conveying rights to their owners.⁷

Government regulations are not separated from Sharia because they originate from the morals or customs that live in society and become a part of the Sharia in the broad sense.⁸ According to Muṣṭafā Syalabī, Islamic Sharia (*al-syarī'ah al-islāmiyyah*) is a provision revealed by Allah to the Prophet Muhammad which contains theological teachings, matters related to soul improvement, and explanations related to human actions.⁹ In Islamic teachings, this phrase means a unity of Islamic ontology (Aqida), Islamic epistemology (Sharia), and Islamic axiology (Akhlaq), as illustrated below:

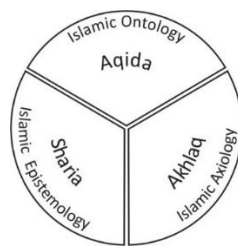


Figure 1. The ontological, epistemological, and axiological elements of Islamic Sharia

¹Abd al-Wahhāb Khallāf, *ʿIlm Usūl Al-Fiqh* (Kuwait: Dār al-Qalam, 1978). 11.

²Al-Qurṭubī, *Al-Jāmi' Li Ahkām Al-Qur'ān* (Cairo: Maktabah al-Tawfiqiyyah, n.d.). VI, 185.

³Syamsul Anwar, *Hukum Perjanjian Syariah* (Jakarta: Rajawali Pers, 2007). 6.

⁴Abd al-Wahhāb Khallāf, *Al-Siyāsah Al-Syarī'yyah Aw Nizām Al-Dawlah Al-Islāmiyyah Fī Syu'ūn Al-Dustūrīyyah Wa Al-Khārijīyyah Wa Al-Mālīyyah* (Cairo: Dār al-Ansar, 1977). 5.

⁵Abd Allāh Mabrūk Al-Najjār, *Al-Madkhal Al-Mu'āṣirah Li Fiqh Al-Qānūn* (Cairo: Dār al-Nahḍah, 2001). 5.

⁶Al-Mawardī, *Al-Ahkām Al-Sultāniyyah Wa Al-Wilāyāt Al-Dīniyyah* (Cairo: al-Tawfiqiyyah, n.d.). 16.

⁷Al-Juwayni, *Ghiyās Al-Umam Fi Tiyās Al-Zulm* (Iskandariah: Dār al-'Aqīdah, 2006). 68.

⁸Abd Al-Fattāh, *Al-Akhlāq Wa Al-Siyāsah; Dirāsāt Fī Falsafat Al-Ḥukm* (Cairo: Majlis al-A'lā li al-Ṣaqāfah, 2001). 91.

⁹Muḥammad Muṣṭafā Shalabī, *Al-Madkhal Fī Fiqh Al-Islāmī* (Beirut: Dār al-Jāmi'ah, 1985). 29.

This illustration shows that Islamic Sharia consists of faith, law, and morality, which Fiqh is a part of the law, so Fiqh is referred to as Sharia Law (*al-aḥkām al-syar'iyyah*). However, when discussing applied aspects of Fiqh, there is inevitably a need for government regulations originating from the Islamic axiology, namely morality. These regulations are drafted by the government and ulama through a deliberation procedure (*shūrā*) and based on Sharia purposes (*maqāṣid al-syarī'ah*).¹⁰

Deliberation (*shūrā*) is a procedure that brings together the government and the ulama, so this also causes Fiqh to integrate into Siyasa. In other words, Fiqh and customs (*adat*) integrate through the deliberation process (*shūrā*). Unfortunately, some scholars have misperceptions about this process and think there is a conflict between Fiqh and customs. For example, Snouck Hurgronje divided Acehnese society into two elements, namely elements of Islam and elements of *adat*, so he assumed that there was a conflict between Sharia Law and customs.¹¹

Contrary to Snouck's opinion, James T. Siegel rejects the idea of the separation between Islamic elements and the elements of *adat* in Acehnese society. He emphasized that they comprised *uleebalangs*, ulama, farming communities, and the Sultan. Siegel defines the people of Aceh as a group of people who had views that originated from Islam and custom (*adat*).¹² This means that Sharia Law is integrated into the Adat in People Act, which results in the integration of Fiqh and Siyasa.

Joseph Schacht stated that Islam does not distinguish between private and public law as known in modern Western legal systems.¹³ Joseph Schacht thinks this way because he limits Sharia Law to Fiqh, even though the Siyasa Sharia accommodated the public aspect of Sharia Law. Because of this criticism, Sharia law must be defined more broadly than Fiqh, including Siyasa. This perspective demands an expansion of the paradigm so that Fiqh and Siyasa become integrated. It is the topic discussed in this paper, and even specifically in the context of the Sharia Law implementation in the Sultanate of Aceh Darussalam. This topic also supports Sharia Law's implementation in the contemporary Aceh era.

In the Sultanate of Aceh Darussalam case, the institution is more advanced than other kingdoms in the Indonesian archipelagos. At the time, the Sultanate of Aceh Darussalam had become a State of law because the law was no longer a King's order like in other kingdoms. Even judicial power was not held absolutely by the Sultan but delegated to the supreme court (Mahkamah Agung) held by *Qāḍi Mālik al-Ādil*. Apart from that, the Sultanate of Aceh Darussalam also used Islamic ideology as its social bond, even though the primordial people of the Archipelago at that time still relied on family

¹⁰Abd al-Qādir 'Awdah, *Al-Islām Wa Awdā'unā Al-Siyāsiyyah* (Kairo: Dār al-Kitāb al-'Arabī, 1951). 78.

¹¹Snouck Hurgronje, *Aceh Di Mata Kolonial* (Jakarta: Soko Guru, 1985). I, 173.

¹²James T. Siegel, *The Rope of God* (Berkeley: University of California Press, 1969). 10-11.

¹³Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964). 113.

ties.¹⁴ All of these are a part of the constitution of the Aceh Darussalam Sultanate. Therefore, the constitutional text is the primary legal material in this study.

This research aims to answer two questions: 1) Does the sultanate's constitutions contain the policy regarding the application of Sharia Law? 2) What is the sultanate's policy in implementing Sharia Law in the Sultanate of Aceh Darussalam? This study uses a normative legal research method with a historical approach to answer these two questions.¹⁵ The authors applied this historical approach through analysis and synthesis to interpret several facts. The results analyzed and synthesized these facts compiled into a comprehensive interpretation.¹⁶

The primary data in this research is the constitutions made during the time of Sultan Iskandar Muda, namely *Qanun Meukuta Alam*. In legal research aims, the state constitution was part of legal dogmatics. According to Aulis Aarnio, legal dogmatics is the oldest type of legal study with two main activities: the interpretation of legal texts and the systematization of legal norms.¹⁷ The researcher must apply these two activities to understand legal texts stored in libraries, museums, or other collectors.

B. The concept of State and applying Sharia Law

The Sultanate of Aceh Darussalam is a union of the Kingdoms of Lamuri (Meukuta Alam) and Darul Kamal.¹⁸ According to Amirul Hadi, this unification occurred because of the marriage of Sultan Syams Syah's son, Ali Mughayat Syah, to Sultan Inayat Syah's daughter from the Darul Kamal Kingdom.¹⁹ According to Husein Djajadiningrat, since its first Sultan, Ali Mughayat Syah (1514-1530 AD), the constitution of the Aceh Darussalam Sultanate was based on Islam.²⁰ According to Ibrahim Alfian, the Sultanate of Aceh Darussalam was founded by its first Sultan on 12 Rabiulawal 913 H. The sultanate's constitutions, namely *Tazkirāt al-Ṭabaqāt al-Qanūn al-Syarī of the Kingdom of Aceh*, stated that the basic law of the State is Islam.²¹

Classical and contemporary Muslim scholars agree that the concept of the Islamic state is dualism. On the one hand, the state acts as a power that implements Sharia Law, and on the other hand, as a social institution. For example, Ibn Khaldun said that the essence of an Islamic State is the preservation of religion and the Siyasa.²² It is also the

¹⁴Anthony Reid, *Perjuangan Rakyat; Revolusi Dan Hancurnya Kerajaan Di Sumatera* (Jakarta: Pustaka Sinar Harapan, 1987). 23.

¹⁵Sudarsono, *Pengantar Ilmu Hukum* (Jakarta: Rineka Cipta, 2001). 261.

¹⁶Dudung Abdurrachman, *Metode Penelitian Sejarah* (Jakarta: Logos Wacana Ilmu, 1999). 89.

¹⁷Aulis Aarnio, "On Rational Acceptability. Some Remarks on Legal Justification," in *Law, Interpretation and Reality*, ed. Patrick Nerhot, 1st ed. (Dordrecht: Springer Science, 1990), 72-83. 73.

¹⁸T. Iskandar, *Nūr Al-Dīn Al-Rānirī; Bustān Al-Salātin* (Kuala Lumpur: Dewan Bahasa dan Pustaka, 1966). 31.

¹⁹Amirul Hadi, *Islam and State in Sumatra* (Leiden: Koninklijke Brill, 2004). 13.

²⁰Raden Husein Djajadiningrat, *Kesultanan Aceh* (Banda Aceh: Depdikbud, 1982). 17.

²¹Ibrahim Alfian, "Refleksi Tentang Gempa-Tsunami: Kegemilangan Dalam Sejarah Aceh," in *Aceh Kembali Ke Masa Depan*, ed. W Kusumo Sardono (Jakarta: IKJ Press, 2005). 99.

²²Ibn Khaldūn, *Muqaddimah* (Beirut: Dār al-Fikr, n.d.). 191.

view of modern Muslim scholars such as Muḥammad Abduh.²³ and contemporary Muslim scholars such as Abid al-Jabiri.²⁴

The emergence of the Modern State led to discussions about the ideal state system. Modern and contemporary Muslim scholars state that the Islamic State concept does not conflict with the model of a democratic system.²⁵ According to Yusuf al-Qaraḍāwī, a state concept in line with Islam is a civil society that technically can be realized through a democratic system.²⁶ The essence of democracy is the recognition of the freedom of citizens and the equality of human rights. It does not conflict with Islamic teachings because the Sharia recognizes equality and human rights. But regarding individual freedom, Islam limits it within the framework of the Sharia, not absolute freedom as desired by some people.

Based on the modern concept, the state has two functions: 1) a political function in (policy-making) and 2) an administrative function in implementing policies.²⁷ In the Islamic context, these two functions are the task of Siyasa Sharia. Based on Siyasa books, it can be concluded that there are three roles of the state as follows:²⁸

1. The role in making laws and regulations;
2. The role of organizing and managing to create benefits;
3. The role in regulating the relationship between the authorities and the people is the rights and obligations of each in achieving state goals.

According to Saim Kayadibi, the State is one of the seven essential values contained in Maqasid Sharia. Therefore, the State must carry out these three roles to achieve the two functions of the State as mentioned above, including the fiqh implementation.²⁹

The word implementation means application, which is in line with the definition of law in a narrow sense because the science of law studies the laws that apply in a particular country.³⁰ Thus, the science of law does not separate between the law and its application, so this occurred in the context of Sharia Law.

Talking about the application of Islamic teachings, Imam al-Juwaynī quoted the statement of ‘Usmān ibn ‘Affān: There are more things preserved by Allah through the Sultan than those preserved through the Qur’an.³¹ This statement shows the magnitude of the government’s role in implementing Sharia Law. Even Ibn ‘Āsyūr used this statement

²³ Muḥammad ‘Abduh, *Al-A’māl Al-Kāmilah* (Cairo: Dār al-Syurūq, 1993). I, 107.

²⁴ Muhammad Abid Al-Jabiri, *Agama, Negara Dan Penerapan Syariah* (Yogyakarta: Fajar Pustaka, 2001). 61.

²⁵ Muḥammad al-Ṭāhir ibn ‘Āsyūr, *Uṣūl Al-Niẓām Al-Ijtimā’ī Fī Al-Islām* (Tunisia: al-Syirkah al-Tūnisīyah li al-Tawzī’, 1985). 214.

²⁶ Yusuf Qaradhawī, *Fiqh Perbedaan Pendapat Antar Sesama Muslim* (Jakarta: Robbani Pres, 2007). 29.

²⁷ Inu Kencana Syafi’ie, *Ilmu Pemerintahan Dan Al-Qur’an* (Jakarta: Bumi Aksara, 2004). 29.

²⁸ Suyuthi Pulungan, *Fiqh Siyasa* (Jakarta: Rajawali Pers, 1999). 28.

²⁹ Saim Kayadibi, “The State as an Essential Value Ḍarūriyyāt of The Maqāṣid Al-Sharī‘Ah,” *Ahkam: Jurnal Ilmu Syariah* 19, no. 1 (2019): 1–18, <https://doi.org/10.15408/AJIS.V19I1.6256>.

³⁰ Bernard Arif Sidharta, *Refleksi Tentang Struktur Ilmu Hukum*, 1st ed. (Bandung: Mandar Maju, 1999). 111-117.

³¹ Al-Juwayni, *Ghiyās Al-Umam Fi Tiyās Al-Zulm*. 68.

as a concept in the context of Sharia Law implementation.³² According to Ibn 'Āsyūr, the Sharia Law can be realized through the following three factors:

1. Human nature factor (*al-wāzi' al-jibillī*);
2. Religious factor (*al-wāzi' al-dīnī*);
3. Government authority factor (*al-wāzi' al-sultānī*).

The human nature factor (*al-wāzi' al-jibillī*) is the inner urge to manifest goodness and avoid harm.³³ Sometimes, human nature factors are weak, so people go to cheat. If this happens, religious factors prevent people who want to commit injustice. But sometimes, the religious factor does not affect a person, so he continues to commit injustice. In this condition, the authority factor must take action against those who commit injustice to restore justice. According to Ibn 'Āsyūr, human nature (*al-wāzi' al-jibillī*) is a modality for religious factors (*al-wāzi' al-dīnī*). The authority is the executor of the realized religion factor.³⁴ It means the existence of *qanun* is a servant (*khādim*) for the Sharia Law.³⁵

Based on this concept, government authority is not absolute, and it is not even limited. But on the other hand, these limitations must not weaken government authority so that it can undermine the rule of law. As said by 'Abd al-Qādir 'Awdah: "The law without authority is like a body without a soul."³⁶ Thus, the implementation of Sharia Law must moderate Fiqh and Siyasa.

C. Written Constitutions

Constitutionalism as an idea not separated from religious discourse, Brian Tierney³⁷ quotes Pope Innocent IV in his comments on Decretales (c. 1250):

By nature, all men are free... I read of just and rightful jurisdiction where the sword given for vengeance is mentioned... But how this jurisdiction first began, I do not know unless perhaps God assigned some person to do justice... or unless in the beginning, the father of a family had complete jurisdiction over his family by the law of nature, though now he has it only in a few minor matters... Or again, a people could have princes by-election as they had Saul and many others... I maintain, therefore, that lordship, possession, and jurisdiction can belong to infidels licitly... for these things were made not only for the faithful but every rational creature... God makes his sun shine on the wicked, and he feeds the birds of the air.

³²Muḥammad al-Ṭāhir ibn 'Āsyūr, *Maqāṣid Al-Syarī'at Al-Islāmiyyah* (Cairo: Dār al-Salām, 2005). 120.

³³M. 'Usman Najati, *Al-Qur'an Dan Ilmu Jiwa* (Bandung: Pustaka, 1985). 10-13.

³⁴'Āsyūr, *Maqāṣid Al-Syarī'at Al-Islāmiyyah*. 121.

³⁵Al-Najjār, *Al-Madkhal Al-Mu'āṣirah Li Fiqh Al-Qānūn*. 5.

³⁶'Abd al-Qādir 'Awdah, *Al-Islām Wa Awdā'unā Al-Qanūniyyah* (Beirut: Mu'assasah al-Risālah, 1981). 30.

³⁷Brian Tierney, *Religion, Law, and The Growth of Constitutional Thought 1150-1650*, 1st ed. (Cambridge: Cambridge University Press, 1982). 34.

According to Tierney, this is the origin of the ideas of constitutionalism that emerged in the 13th century AD, so it is closely related to religion. The constitutionalism ideas in Islam are related to religion as the first constitutions drawn by Prophet Muhammad PBUH.³⁸ However, in the context of the State, the ulama saw the practice of the Prophet Muhammad from the perspective of government activities consisting of giving fatwas (*al-fatwā* and *al-tablīgh*), judiciary (*al-qaḍā'*), and government (*al-imāmah*).³⁹

Since its inception, constitutionalism has struggled to limit political power through three main tools: 1) a written constitution, 2) separation of state powers, and 3) protection of individual rights.⁴⁰ Based on Aceh's historical relics, historians identified three manuscripts as the constitution of the Aceh Darussalam Sultanate. Look at the following tabulation:

Table 1: The Constitution of the Sultanate of Aceh Darussalam

<i>Tazkirāt al-Ṭabaqāt al-Qān-un al-Syar'ī Kerajaan Aceh</i> Written during the time of 'Alī Mughāyat Syāh (1514-1530 AD)
Time interval ± 100 years
<i>Adat Meukuta Alam</i> Written during the time of Sultan Iskandar Muda (1607-1636 AD)
Time interval ± 150 years
<i>Syarḥ Taẓkirah Ṭabaqāt</i> Written during the time of Sultan 'Ala' al-Dīn Maṣṣūr Syāh (1858-1870 AD)

Data Source: *abstracted from various sources*

This tabulation shows the constitutional reform in the Sultanate of Aceh Darussalam. According to Ibrahim Alfian, the first Constitution of the Aceh Darussalam Sultanate is *Tazkirāt al-Ṭabaqāt al-Qanūn al-Syar'ī of Kerajaan Aceh*. This manuscript was compiled by the ulama, namely al-Syaykh Shams al-Baḥr, during the time of Sultan 'Alī Mughāyat Syāh (1514-1530 AD). *Tazkirāt al-Ṭabaqāt* contains 21 articles that the rights and obligations of the government and the people are regulated. These articles describe the vision and policy of state development, social control, economy, and religion. Articles 7, 8, and 13 show the state's readiness for bad conditions might occur.⁴¹

The second constitution of Aceh Darussalam Sultanates, called *Adat Meukuta Alam*, was compiled by ulama during the reign of Sultan Iskandar Muda (1607-1636 AD). It is more complex than the first constitution, so it is the primary legal material for this

³⁸Ahmad Sukarja, *Piagam Madinah Dan Undang-Undang Dasar 1945; Kajian Perbandingan Tentang Dasar Hidup Bersama Dalam Masyarakat Yang Majemuk* (Jakarta: UI Press, 1995).

³⁹Al-Qarāfī, *Kitāb Al-Furūq Anwār Al-Burūq Fī Anwa' Al-Furūq* (Kairo: Dār al-Salām, 2001). I, 346.

⁴⁰Andrea Buratti, *Western Constitutionalism: History, Institutions, Comparative Law*, ed. G. Giappichelli, 2nd ed. (Switzerland: Springer, 2019). 2.

⁴¹Alfian, "Refleksi Tentang Gempa-Tsunami: Kegemilangan Dalam Sejarah Aceh." 99.

research. According to historians, *Adat Meukuta Alam* was a reform of the previous one that was unsuccessful in uniting all the tribes living in Aceh. After Iskandar Muda's death, the *Adat Meukuta Alam* survived for a long time. Later, the Sultans added separate chapters, for example, a chapter on sources of income for the *uleebalang*.⁴²

Another manuscript, *Syarḥ Taẓkirah Ṭabaqāt*, is also the constitution of the Sultanate of Aceh Darussalam. This manuscript was written by Teungku DiMulek, during the reign of Sultan 'Ala' al-Dīn Maṣṣūr Syāh (1858-1870 AD). This work is a commentary (*syarḥ*) on The *Adat Meukuta Alam*.⁴³ Sultan involved ulama in drafting these three constitutions, including in the constitutional reforms carried out during the reign of Sultan Iskandar Muda and the Sultans after him. It could be concluded there are three manuscripts identified as the constitution of the Sultanate of Aceh Darussalam, and all of these emphasize that Islamic Law is the applicative law in Aceh.

D. The Separation of State Powers

This sub-discussion is a study of the constitutional text called *Adat Meukuta Alam*. Iskandar Muda made a constitution to regulate the government of the Sultanate of Aceh Darussalam.⁴⁴ The first article states that the core area of the Sultanate of Aceh Darussalam is a three-sided territory called *Aceh Lhe Sagoe*. Other areas outside the *Aceh Lhe Sagoe* territories are vassals that have autonomous rights to manage their government.⁴⁵

The *Aceh Lhe Sagoe* territories consisted of the area ruled by the Sultans and the area called *Aceh Besar* divided into three other regions, namely *Sagoe XXV Mukim*, *Sagoe XXVI Mukim*, and *Sagoe XXII Mukim*. These three *sagoe* territories control several Mukims, namely areas whose boundaries are determined based on the existence of a mosque as a place to perform Friday Prayers. The *mukim* areas consist of several areas called *gampong*.⁴⁶ In the Aceh Sultanate system, *gampong* is the smallest area of the territorial division.

According to *Adat Meukuta Alam*, *Panglima Sagoe* and *Uleebalang* lead the *Sagoe* area. Tuanku Abdul Jalil quoted the opinion of A. J. Piekar, that the *sagoe* region was similar to the province but had a military character.⁴⁷ Both *Panglima Sagoe* and *Uleebalang* control several *mukims*. The *Imum Mukim* is a leader in the *mukim* area that oversees several *gampongs*. And then, the *gampong* area is led by a *Keuchik*.⁴⁸ It is the distribution of territory in the Aceh Darussalam Sultanate and the officials who led it.

⁴²KFH Van Langen, *Susunan Pemerintahan Aceh Semasa Kesultanan* (Banda Aceh: Pusat Dokumentasi dan Informasi Aceh, 1997). 15.

⁴³Moh.Kalam Daud, *Qanun Meukuta Alama; Dalam Syarah Tadhkirah Tabaqāt Tgk. Di Mulék Dan Komentarnya*, Darni Daud (Banda Aceh: Syiah Kuala University Press, 2010). 112.

⁴⁴Van Langen, *Susunan Pemerintahan Aceh Semasa Kesultanan*. 15.

⁴⁵Tuanku Abdul Jalil, *Adat Meukuta Alam* (Banda Aceh: Pusat Dokumentasi dan Informasi Aceh, 1991). 1.

⁴⁶Van Langen, *Susunan Pemerintahan Aceh Semasa Kesultanan*. 12.

⁴⁷Jalil, *Adat Meukuta Alam*. 13.

⁴⁸Van Langen, *Susunan Pemerintahan Aceh Semasa Kesultanan*. 11.

Regarding the separation of State power, Article 7 states that the *uleebalang* is the deputy of the Sultan who manages his territory autonomously. In carrying out its duties, *uleebalang* has to uphold justice based on the Sharia of the Prophet Muhammad. This article contains a threat of dismissal if an *uleebalang* is proven to have violated this provision.⁴⁹ So, the Aceh Darussalam Sultanate implemented a government system that gave autonomous rights to the regions under it.

In addition, Sultanah Şafiyat al-Dīn (1641-1675 AD) formed a parliament, so the state powers were separate among the executive and the legislature.⁵⁰ Tuanku Abdul Jalil states this is a deliberative assembly of the *ulama* and *umara* who supervise sultans (executive). This institution consists of *Panglima Sagoe*, *Uleebalang*, and *Qāḍī Mālik al-Ādil*. Among the duties of this institution is to elect the Sultans (executive).⁵¹

Sultan carried out the separation of state power in the judiciary by delegating to *Qāḍī Mālik al-Ādil*. According to Amirul Hadi, throughout the 17th century, the role of *Qāḍī Mālik al-Ādil* was quite dominant, both during the reigns of al-Mukammil and Iskandar Muda. *Qāḍī Mālik al-Ādil* occupies the first position in the administration of law and justice.⁵² The authority to appoint *Qāḍī Mālik al-Ādil* was absolutely in the hands of the sultan, so he called *kali raja* (sultan's judge). *Qāḍī Mālik al-Ādil* is the head of the Sultan's Supreme Court (Mahkamah Agung Sultan), so he is not the sole judge.⁵³ According to Snouck Hurgronje,⁵⁴ the *Qāḍī Mālik al-Ādil* position is a kind of *uleebalang posted or hulubalang raja* that is on the same level as the head of a province, but without jurisdiction.

E. Protection of Individual Rights

Discussing the issue of protecting individual rights must be based on mapping the tribes living in Aceh. During the time of Sultans 'Ala' al-Dīn Ri'āyat Syāh (1537-1571 AD), the Acehnese divided into four tribes as follows:⁵⁵

1. The *Lhè Reutoih* tribe (original Mante-Batak people scattered in various areas of Aceh Besar);
2. The *Kawom Imeum Peut* tribe (Hindu people in four castes living in Tanoh Abè, Lam Leuot, Montasik, and Lam Nga);
3. The *Kawom Tôk Batè* tribe (consisting of immigrants);
4. The *Kawom Ja Sandang* tribe (Mante Batak originating from XXII Mukim Lam Panaih).

According to some historians, the first constitution did not succeed in uniting the various tribes living in Aceh, so it is called the *adat plakpleung* (inconsistent customs).⁵⁶

⁴⁹Jalil, *Adat Meukuta Alam*. 11.

⁵⁰Hamka, *Dari Perbendaharaan Lama* (Jakarta: Pustaka Panjimas, 1982). 272.

⁵¹Jalil, *Adat Meukuta Alam*. 6.

⁵²Hadi, *Islam and State in Sumatra*. 161-164.

⁵³Van Langen, *Susunan Pemerintahan Aceh Semasa Kesultanan*. 53.

⁵⁴Hurgronje, *Aceh Di Mata Kolonialis*. I, 114.

⁵⁵Van Langen, *Susunan Pemerintahan Aceh Semasa Kesultanan*. 7.

⁵⁶H.M. Zainuddin, *Tarich Atjeh Dan Nusantara* (Medan: Pustaka Iskandar Muda, 1951). 312.

The inhibiting factor was the strong ism of each tribe and the sultan's weakness in overcoming inter-clan conflicts. Only Iskandar Muda managed to unite during his 30-year rule.⁵⁷ According to Amirul Hadi,⁵⁸ Iskandar Muda told Augustine de Beaulieu that Aceh had become a den of murderers and robbers, and no one felt safe. During the day, people guard themselves against robbers, and at night, they must protect themselves at home. From the statement of Iskandar Muda, one can imagine the challenge of law enforcement faced by the sultans in Aceh.

Facing the conditions described above, Iskandar Muda formed police and judicial institutions. Referring to *Adat Meukuta Alam*, Article 8 stipulates that a police official called *Rama Setia* is a law enforcement supervisor.⁵⁹ At that time, Iskandar Muda had implemented several Islamic criminal laws (*jinaya*), for example, *diyat* punishment (Article 26 and Article 27), *qisas* punishment (Article 28), and theft penalty (Articles 35 and Article 36).⁶⁰

All legal provisions in *Adat Meukuta Alam* are enforced based on the territorial principle. This principle is contained in the statement of Article 35, which read: Those who robbed him have fled from within the three *sagoe* of Aceh, so they cannot return to the three *sagoe* of Aceh, and Article 36, which read: If the one who robs turns to enter the three *sagoe* land of Aceh, then the *hulubalang* must catch and cut off his hand.⁶¹ Based on these two articles, it can be understood that the punishment only applies within the territory of the Sultanate of Aceh Darussalam. These articles show that the punishment applied within the territory of the Sultanate of Aceh Darussalam.

The articles above provide an overview of the application of law in the 17th century, especially during the reign of Sultan Iskandar Muda. According to Van Langen, in the 18th century, these provisions more or less remained a guideline in the judiciary.⁶² Thus, it is concluded that the articles in *Adat Meukuta Alam* show the commitment of the sultans to protecting individual rights in the Sultanate of Aceh Darussalam.

F. The Moderation Fiqh and Siyasa

Explained at the beginning that Fiqh is a collection of practical Sharia Laws, and Siyasa is a government policy poured into *qānūns*. *Fuqaha* defined *qānūn* as a set of rules to regulate social relations, in which the authorities force the people to follow these rules, if necessary.⁶³ The problem is that some scholars extremely separate Fiqh and Siyasa, even though it contradicts the Qur'an that integrates Fiqh and Siyasa. So it is found in verse 59 of Surah al-Nisa', where Allah orders the people to obey the government.

⁵⁷Denys Lombard, *Kerajaan Aceh Jaman Sultan Iskandar Muda* (Jakarta: Balai Pustaka, 1986). 91.

⁵⁸Amirul Hadi, *Aceh; Sejarah, Budaya, Dan Tradisi* (Jakarta: Obor, 2010). 254.

⁵⁹Van Langen, *Susunan Pemerintahan Aceh Semasa Kesultanan*. 15.

⁶⁰Jalil, *Adat Meukuta Alam*. 21.

⁶¹Jalil. 22.

⁶²Van Langen, *Susunan Pemerintahan Aceh Semasa Kesultanan*. 47.

⁶³Al-Najjār, *Al-Madkhal Al-Mu'āṣirah Li Fiqh Al-Qānūn*. 13.

This verse stipulates two types of binding power (*mulzim*) in Islamic law: 1) the obligation to obey Allah and the Prophet; 2) the obligation to obey the government.⁶⁴ Allah gave authority to the government to make regulations to realize benefits.⁶⁵ That is why *fuqaha* defined the Siyasa Sharia as the benefit of the people.⁶⁶ The government's authority revealed in the Qur'an is the reason for leaving the extreme view that dichotomizes Fiqh and Siyasa. Even from the perspective of the Qur'an, Fiqh and Siyasa must be seen as integrated entities within the Islamic legal system.

Based on verse 59 of Surah al-Nisa, it concluded that there are two dimensions of law in Islam: 1) law in the theocentric dimension (Fiqh) and 2) law in the anthropocentric dimension (Siyasa). Dualism adherents saw these two dimensions as complementary, like two sides of one coin, so they integrated. Kuntowijoyo called this theoanthropocentric paradigm. He said: "Religion has never made God's revelation as the only source of knowledge and forgot about human intelligence, or vice versa, considered the human mind as the only source of knowledge and forgot about God."⁶⁷ A moderation concept integrates these two dimensions into a complete and comprehensive view. It cannot be done by those who adhere to a single reality belief (monism adherents).⁶⁸

Unfortunately, most legal scientists do not recognize this paradigm, so they dichotomized these two dimensions of Sharia Law. Those who adhere to the theocentric paradigm identify government regulations as secular law. From an anthropocentric perspective, law is considered independent of religion. As a result, Sharia Law was implemented improperly, especially in aspects that related to public law. In the context of implementing Sharia Law in contemporary Aceh, this is a bad precedent because the Qur'an emphasizes the integration of Fiqh and Siyasa. At this point, it concluded that Fiqh and Siyasa integrated into one legal system called Sharia Law, which consists of provisions from God and regulation from the government. However, this can only be understood by those who adhere to the theoanthropocentrism paradigm, namely adherents of a dualistic thinking pattern.

G. The Integration of Fiqh and Siyasa

As previously explained, the written constitution must contain the separation of state powers and guarantee the protection of individual rights. In the context of an Islamic state, constitutions must also fulfill the following conditions:⁶⁹

1. It is in line with or not contrary to Islamic law;

⁶⁴Muhammad al-Tāhir ibn 'Āsyūr, *Tafsīr Al-Tahrīr Wa Al-Tanwīr*, 2nd ed. (Tunisia: al-Syirkah al-Tūnisiyyah li al-Tawzī', 1985). III, 188.

⁶⁵Khallāf, *Al-Siyāsah Al-Syar'īyah Aw Nizām Al-Dawlah Al-Islāmiyyah Fī Syu'ūn Al-Dustūriyyah Wa Al-Khārijīyyah Wa Al-Māliyyah*. 15.

⁶⁶H.A. Djazuli, *Fiqh Siyāsah* (Jakarta: Kencana, 2003). 26.

⁶⁷Kuntowijoyo, *Islam Sebagai Ilmu: Epistemologi, Metodologi, Dan Etika*, 2nd ed. (Yogyakarta: Tiara Wacana, 2006). 54.

⁶⁸Louis O. Kattsoff, *Elements of Philosophy* (New York: The Ronald Press Company, 1953). 52.

⁶⁹Sukarja, *Piagam Madinah Dan Undang-Undang Dasar 1945; Kajian Perbandingan Tentang Dasar Hidup Bersama Dalam Masyarakat Yang Majemuk*. 115.

2. It is taking places human equality before law and government;
3. It does not burden the community;
4. It aims to uphold justice;
5. It is a concern to realize the benefits of society;
6. The procedure for its formation is through deliberations.

All these points are conditions for the constitution of an Islamic State. According to Ahmad Sukarja, Prophet Muhammad fulfilled all of these elements in the Medina Charter, so the Medina Charter is the constitution category.⁷⁰ How about the constitution of the Sultanate of Aceh Darussalam? Does it fulfill all these points?

The key to the six points above is the formation through deliberations that bring together the ulama and the government. Ulama evaluates the alignment of the draft constitution with the Sharia, equality before the law, upholding justice, and realizing benefits. In addition, the ulama also advised the Sultan in running the government, as was done by Nūr al-Dīn al-Rānirī to Sultan Iskandar Šānī.⁷¹

Apart from that, the ulama also wrote law books, which became the guidelines for the judges. For example, Jalaluddin al-Tarusani is *Qāḍī Mālik al-'Ādil* during the reign of Sultan 'Alauddin Ahmad Syah (1727-1735 AD) and 'Alauddin Johan Syah (1735-1760 AD). Even though the civil war was raging, he compiled a civil law book entitled *The Safīnat al-Ḥukkām*.⁷²

The ulama were also directly involved in the judiciary, from the lowest to the highest level. Village heads (*Keuchik*) and ulama (*Teungku Imum*) hold the first level of courts that deal with light cases, while the *mukim* law office deals with heavier ones. *Uleebalang* and *Panglima Sagoe* held an appellate court, together with the ulama appointed by the Sultans. Furthermore, the Sultans were carried out highest court through the Supreme Court led by *Qāḍī Mālik al-'Ādil*.⁷³

The Supreme Court is the organizer of four kinds of courts as follows:⁷⁴

1. The Civil Court, led by *Orang Kaya*;
2. The Criminal Court presided over by several *Orang Kaya* alternately;
3. The Religious Court, led by a *Qadi*, adjudicates religious violations, including religious character and behavior;
4. The Court of Commercial, led by the *Orang Kaya Laksamana*, handles cases of disputes between traders, both foreign and native.

The involvement of the ulama in the formulation of policies and the implementation of the judiciary made Fiqh and Siyasa integrated into the legal system of the Aceh Darussalam Sultanate. Unfortunately, some observers do not have an integrative

⁷⁰Sukarja. 12.

⁷¹Azyumardi Azra, *Jaringan Ulama Timur Tengah Dan Kepulauan Nusantara Abad XVII Dan XVIII*, (Bandung: Mizan, 1994). 186.

⁷²Hasjmy, *Bunga Rampai Revolusi Dari Tanah Aceh* (Jakarta: Bulan Bintang, 1978). 114.

⁷³Cik Hasan Bisri, *Peradilan Agama Di Indonesia* (Jakarta: RajaGrafindo Persada, 1996). 108.

⁷⁴Denys Lombard, *Kerajaan Aceh Jaman Sultan Iskandar Muda*. 163.

perspective. For example, Snouck Hurgronje considers the *uleebalang* to be a simple ask for the opinion of the ulama, then making decisions according to customary law.⁷⁵ In fact, with the integration of Fiqh and Siyasa, the decision does not go outside the boundaries of Sharia Law. It can be concluded that what applies in the Sultanate of Aceh Darussalam is customary and Sharia Law in an integrated law system. In this case, the Sultan is the supreme ruler of the judiciary delegated to *Qāḍī Mālik al-'Ādil*.⁷⁶

H. Conclusion

Based on the description above, it can be concluded that the Sultanate of Aceh Darussalam already has a written constitution that separates state powers and protects individual rights. The Constitution of the Sultanate of Aceh Darussalam was drawn through a deliberation procedure involving the *ulama* and *umara*. The constitution has been updated from time to time by the sultans from generation to generation. The constitution drafted during Iskandar Muda's reign succeeded in uniting all the tribes living in Aceh.

The constitution, called *Adat Meukuta Alam*, contains provisions that moderate Fiqh and Siyasa. State practices regulated in *Adat Meukuta Alam* are a form of moderation that integrates Fiqh and Siyasa into one legal system. Implementing Sharia Law in the Aceh Darussalam Sultanate places Fiqh and Siyasa in complementary patterns. This pattern produces a model that places Fiqh and Siyasa as two sides of one coin. So, Fiqh cannot be separated from its application aspect, Siyasa.

Reference

- 'Abduh, Muḥammad. *Al-A'māl Al-Kāmilah*. Cairo: Dār al-Syurūq, 1993.
- 'Āsyūr, Muḥammad al-Ṭāhir ibn. *Maqāṣid Al-Syarī'at Al-Islāmiyyah*. Cairo: Dār al-Salām, 2005.
- . *Tafsīr Al-Taḥrīr Wa Al-Tanwīr*. 2nd ed. Tunisia: al-Syirkah al-Tūnisiyyah li al-Tawzī', 1985.
- . *Uṣūl Al-Niẓām Al-Ijtimā'ī Fī Al-Islām*. Tunisia: al-Syirkah al-Tūnisiyyah li al-Tawzī', 1985.
- 'Awdah, 'Abd al-Qādir. *Al-Islām Wa Awdā'unā Al-Qanūniyyah*. Beirut: Mu'assasah al-Risālah, 1981.
- . *Al-Islām Wa Awdā'unā Al-Siyāsiyyah*. Kairo: Dār al-Kitāb al-'Arabī, 1951.
- Aarnio, Aulis. "On Rational Acceptability. Some Remarks on Legal Justification." In *Law, Interpretation and Reality*, edited by Patrick Nerhot, 1st ed., 72–83. Dordrecht: Springer Science, 1990.

⁷⁵ Hurgronje, *Aceh Di Mata Kolonialis*. I, 110.

⁷⁶ Hadi, *Islam and State in Sumatra*. 161-164.

- Abdurrachman, Dudung. *Metode Penelitian Sejarah*. Jakarta: Logos Wacana Ilmu, 1999.
- Al-Fattāh, ‘Abd. *Al-Akhlāq Wa Al-Siyāsah; Dirāsat Fī Falsafat Al-Ḥukm*. Cairo: Majlis al-‘Alā li al-Šaqāfah, 2001.
- Al-Jabiri, Muhammad Abid. *Agama, Negara Dan Penerapan Syariah*. Yogyakarta: Fajar Pustaka, 2001.
- Al-Juwayni. *Ghiyās Al-Umam Fi Tiyās Al-Ẓulm*. Iskandariah: Dār al-‘Aqīdah, 2006.
- Al-Mawardī. *Al-Aḥkām Al-Sulṭāniyyah Wa Al-Wilāyāt Al-Dīniyyah*. Cairo: al-Taufiqiyyah, n.d.
- Al-Najjār, Abd Allāh Mabruk. *Al-Madkhal Al-Mu‘āširah Li Fiqh Al-Qānūn*. Cairo: Dār al-Nahḍah, 2001.
- Al-Qarāfī. *Kitāb Al-Furūq Anwār Al-Burūq Fī Anwa’ Al-Furūq*. Kairo: Dār al-Salām, 2001.
- Al-Qurṭubī. *Al-Jāmi’ Li Aḥkām Al-Qur’ān*. Cairo: Maktabah al-Tawfiqiyyah, n.d.
- Alfian, Ibrahim. “Refleksi Tentang Gempa-Tsunami: Kegemilangan Dalam Sejarah Aceh.” In *Aceh Kembali Ke Masa Depan*, edited by W Kusumo Sardono. Jakarta: IKJ Press, 2005.
- Anwar, Syamsul. *Hukum Perjanjian Syariah*. Jakarta: Rajawali Pers, 2007.
- Azra, Azyumardi. *Jaringan Ulama Timur Tengah Dan Kepulauan Nusantara Abad XVII Dan XVIII*. Bandung: Mizan, 1994.
- Bisri, Cik Hasan. *Peradilan Agama Di Indonesia*. Jakarta: RajaGrafindo Persada, 1996.
- Buratti, Andrea. *Western Constitutionalism: History, Institutions, Comparative Law*. Edited by G. Giappichelli. 2nd ed. Switzerland: Springer, 2019.
- Daud, Moh.Kalam. *Qanun Meukuta Alama; Dalam Syarah Tadhkirah Tabaqāt Tgk. Di Mulék dan Komentarnya*. Darni Daud. Banda Aceh: Syiah Kuala University Press, 2010.
- Denys Lombard. *Kerajaan Aceh Jaman Sultan Iskandar Muda*. Jakarta: Balai Pustaka, 1986.
- Djajadiningrat, Raden Husein. *Kesultanan Aceh*. Banda Aceh: Depdikbud, 1982.
- Djazuli, H.A. *Fiqh Siyasah*. Jakarta: Kencana, 2003.
- Hadi, Amirul. *Aceh; Sejarah, Budaya, Dan Tradisi*. Jakarta: Obor, 2010.
- . *Islam and State in Sumatra*. Leiden: Koninklijke Brill, 2004.
- Hamka. *Dari Perbendaharaan Lama*. Jakarta: Pustaka Panjimas, 1982.
- Hasjmy. *Bunga Rampai Revolusi Dari Tanah Aceh*. Jakarta: Bulan Bintang, 1978.
- Hurgronje, Snouck. *Aceh Di Mata Kolonialis*. Jakarta: Soko Guru, 1985.
- Iskandar, T. *Nūr Al-Dīn Al-Rānirī; Bustān Al-Salātin*. Kuala Lumpur: Dewan Bahasa dan Pustaka, 1966.
- Jalil, Tuanku Abdul. *Adat Meukuta Alam*. Banda Aceh: Pusat Dokumentasi dan Informasi Aceh, 1991.
- Kattsoff, Louis O. *Elements of Philosophy*. New York: The Ronald Press Company, 1953.
- Kayadibi, Saim. “The State as an Essential Value Ḍarūriyyāt of The Maqāšid Al-Sharī‘Ah.”

- Ahkam: Jurnal Ilmu Syariah* 19, no. 1 (2019): 1–18.
- Khaldūn, Ibn. *Muqaddimah*. Beirut: Dār al-Fikr, n.d.
- Khallāf, Abd al-Wahhāb. *‘Ilm Usūl Al-Fiqh*. Kuwait: Dār al-Qalam, 1978.
- . *Al-Siyāsah Al-Syar‘iyyah Aw Nizām Al-Dawlah Al-Islāmiyyah Fī Syu‘Ūn Al-Dustūriyyah Wa Al-Khārijiyyah Wa Al-Māliyyah*. Cairo: Dār al-Ansar, 1977.
- Kuntowijoyo. *Islam Sebagai Ilmu: Epistemologi, Metodologi, Dan Etika*. 2nd ed. Yogyakarta: Tiara Wacana, 2006.
- Langen, KFH Van. *Susunan Pemerintahan Aceh Semasa Kesultanan*. Banda Aceh: Pusat Dokumentasi dan Informasi Aceh, 1997.
- Najati, M. ‘Usman. *Al-Qur’an Dan Ilmu Jiwa*. Bandung: Pustaka, 1985.
- Pulungan, Suyuthi. *Fiqh Siyasah*. Jakarta: Rajawali Pers, 1999.
- Qaradhawi, Yusuf. *Fiqh Perbedaan Pendapat Antar Sesama Muslim*. Jakarta: Robbani Pres, 2007.
- Reid, Anthony. *Perjuangan Rakyat; Revolusi Dan Hancurnya Kerajaan Di Sumatera*. Jakarta: Pustaka Sinar Harapan, 1987.
- Schacht, Joseph. *An Introduction to Islamic Law*. Oxford: Clarendon Press, 1964.
- Shalabī, Muḥammad Muṣṭafā. *Al-Madkhal Fī Fiqh Al-Islāmī*. Beirut: Dār al-Jāmi‘ah, 1985.
- Sidharta, Bernard Arif. *Refleksi Tentang Struktur Ilmu Hukum*. 1st ed. Bandung: Mandar Maju, 1999.
- Siegel, James T. *The Rope of God*. Berkeley: University of California Press, 1969.
- Sudarsono. *Pengantar Ilmu Hukum*. Jakarta: Rineka Cipta, 2001.
- Sukarja, Ahmad. *Piagam Madinah Dan Undang-Undang Dasar 1945; Kajian Perbandingan Tentang Dasar Hidup Bersama Dalam Masyarakat Yang Majemuk*. Jakarta: UI Press, 1995.
- Syafi’ie, Inu Kencana. *Ilmu Pemerintahan Dan Al-Qur’an*. Jakarta: Bumi Aksara, 2004.
- Tierney, Brian. *Religion, Law, and The Growth of Constitutional Thought 1150-1650*. 1st ed. Cambridge: Cambridge University Press, 1982.
- Zainuddin, H.M. *Tarich Atjeh Dan Nusantara*. Medan: Pustaka Iskandar Muda, 1951.