

THE POLICY OF WOMEN'S AND CHILDREN'S EMPOWERMENT IN ACEH

(An Analysis of the Aceh Qanun on Women's Empowerment and
Children's Protection)

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Abstract

Womens struggle through policy advocacy is an emerging strategy among women's movements in post conflict and post-tsunami Aceh. Policy advocacy has been viewed as a strategic entrance to create an equal development for women and men. Before and after the tsunami, women and children in the area have been in a subordinate position in which they have not got their rights of justice and equality. Looking at the existing women's conditions as described above, the women's Empowerment Bureau (Biro PP) viewed the importance of initiating a regulation ensuring women's rights and children's protection. Biro PP (now BP3A) submitted Draft of Women's Empowerment and Protection Qanun or Qanun Pemberdayaan dan Perlindungan Perempuan (QPP) and the draft of Child Protection Qanun or Qanun Perlindungan anak (QPA). After several years, since the Qanun initiated, it has not been implemented as a regulation for empowering and protecting women's rights. It is believed that the efforts to achieve gender equality and equity in Aceh will be accelerated if QPP and QPA are implemented with strong support from all social elements in the area. The successful implementation of QPP and QPA depends on the capacity of BPPPA as governmental leading sector than having a mandate on women's empowerment and children's rights protection.

Keyword: Qanun; Women's Empowerment and Protection; Child Protection

Introduction

The policy of women's empowerments and children's protections in Aceh has experienced a progressive improvement since the giant tsunami hit the area in 26 December 2004 claiming about 250.000 lives.¹ only a few months after the disaster, the violent conflict in the area involving Gerakan Aceh Merdeka (GAM)

¹Serambi Indonesia in 2005

or the Free Aceh Movement and the central Government of Indonesia ended. In 15 August 2005, the two parties signed the peace agreement popularly Memorandum of Understanding (MoU) of Helsinki-- to stop the 30-years vertical conflict. The peace agreement has brought a blessing for Aceh people as it was agreed in the MoU that the process would be followed by the formulation of an act regulating the Special Autonomy (Otonomi Khusus) for Aceh.

Both the tsunami and the conflict have inflicted a serious suffering and backwardness for people in the area in a wide range of dimensions, including losing lives and properties.

Therefore the moment of after the tsunami and the conflict has provided a big opportunity for the Aceh society to create two crucial agendas focusing on the post-tsunami and post-conflict situations. Two leading government based institutions were found to respond to the needs: Badan Rehabilitasi dan Rekonstruksi (BRR) Aceh-Nias or Reconstruction and Rehabilitation Body of Aceh-Nias for dealing with the post-tsunami issues and Badan Reintegrasi Aceh (BRA) the Aceh Reintegration Body for handling the post-conflict situations.

The post-tsunami and post-conflict rehabilitation and reconstruction process has opened an extensive space for democracy and public participation where civil society organizations and women's rights movements in the area could gain wider freedom to express their voices including in the formulation of a law that latter is called Undang-undang Pemerintah Aceh (UUPA) or the Law of the Government of Aceh (LoGA). Women's groups in Aceh with a number of stakeholders were actively involved in the process of the policy formulation. Many women's rights activists have known some members of the Aceh Legislative Body (DPRA) who have been involved in civil society and women's rights movements; their friendship has transformed into a more formal communication through the organization. These legislative members considered women's groups as their key partners in political processes and gave a space to discuss women's agendas. It can be said that the situation proved the existing 'unwritten' acknowledgement of women's rights and important women's role at

that time in Aceh. Women's groups always received an invitation from DPRA to attend a public hearing; DPRA oftentimes entrusted a women's organization, Mitra Sejati Perempuan Indonesia (MISPI), to distribute the invitation letter to other women's organizations.²

Women's struggle through policy advocacy is an emerging strategy among women's movements in post-conflict and post-tsunami Aceh. Policy advocacy has been viewed as a strategic entrance to create an equal development for women and men. Aceh women as other women in Indonesia have not been able to participate maximally in developments. Women's access in education, economy, politics, social, culture and law is still limited. Maternal mortality rate is still one of the highest in Asia; illiteracy rate among women is higher than man; women are the majority of poor Indonesians; even case of violence against women increase every year. The real condition of Indonesian women reflects women's condition in Aceh.³

- a. Maternal mortality rate in Indonesia is the highest in Southeast Asia, which is 307/100.000 live births (Indonesian Health and Demographic Survey or SDKI) 2002/2003).
- b. out of entire illiterate population above 10 years old, 67.9% is women (Republika online, 2006).
- c. 48.8 % Indonesian population is poor where most of them are women (Sinar Hara- pan, 2005)
- d. Domestic violence rate increases every year (Annual Report of National commis- sion on Violence Against Women (Komnas Perempuan), 2005)

In general, women in Aceh obtain formal education from primary education to college level. Even though there is a percentage difference between boys' and girls' participation in education, academic achievement of girls is higher than boys. In economic field, women are only involved in small

²Interview with S R, a woman's rights activist, Banda Aceh, 15 May 2011.

³Paper delivered in Seminar of Raqan Bidang PPP Formulation, Biro PP Setda Prov.NAD, 17 December 2005, Gedung PKK of NAD Province.

entrepreneurs. Women's access to law is weak; when women initiate a divorce application (*gugat cerai*), they are blamed as being intoxicated by gender issues. Similar situation applies in politics; women encounter limited access to political resources because they are less capable to build and provide political arguments and less skilled in public communication. Women do not have sufficient access and control to their asset and property.

Looking at the existing women's conditions as described above, the Women's Empowerment Bureau (Biro PP) now Women's Empowerment and Children's Protection Body or *Badan Pemberdayaan Perempuan dan Perlindungan Anak (BP3A)* of Aceh viewed the importance of initiating a regulation ensuring women's rights and children's protection. As an initial step, BP3A submitted Draft of Women's Empowerment and Protection Qanun or Qanun Pemberdayaan dan Perlindungan Perempuan (QPPP) and Draft of child Protection Qanun or Qanun Perlindungan Anak (QPA).⁴

Women's real conditions in Aceh since the establishment of the bureau to the tsunami disaster in 2004 have inspired the bureau to formulate the qanuns. Both before and after the tsunami, women and children in the area have been in a subordinate position in which they have not got their rights of justice and equality. A policy on gender that has inspired the formulation of QPPP is the President's Instruction (Inpres) No. 9/2000 on Gender Mainstreaming or *Pengarusutamaan Gender (PUG)*.⁵

The recent status of QPPP can be illustrated in the phrase of "berat di ongkos" (too costly). After several years since the qanun was passed, it has not been implemented as a regulation for empowering and protecting women's rights. The making of the qanun has met a participatory legislation process, but until now, it has not been assigned as a legal reference for SKPA to apply their responsibility in women's empowerment. The implementation of the qanun

⁴Biro PP of Aceh Province was set up in 26 January 2000.

⁵Interview with Lailisma, Head of Biro PP leading the QPP draft formulation, Banda Aceh, 18 May 2011

should be carried out under a coordinative mechanism within all government institutions and community organizations related to women's empowerment and women's rights protection.⁶ The similar situation occurs in the QPA; its implementation still faces a lot of challenges and obstacles.

The condition illustrated above is the background of conducting this research and review to the policy on women's empowerment and children's protection in Aceh. It was found that on the one hand, the qanun contains of important materials, but, on the other hand, its implementation is still far from our expectation. This review will elaborate why such a situation occurs.

1. Pre-Women's Empowerment and Protection Qanun

The formulation of QPPP draft initiated by the executive through Biro PP was finished at the end of 2005 and was submitted to the Law Bureau (Biro Hukum) at the Aceh Governor's office. Nevertheless, this draft remained 'untouchable' for a long time in the bureau.⁷ Women's groups 'reawakened' the process of the qanun formulation; MISPI, JPUK and UNIFEM (now UN Women) have worked together for the finalization of the draft. Unfortunately, the qanun discussion in the legislative body has run very slowly as a result of different perspectives of the legislative members toward the qanun. After a membership change of commission in the legislative body, QPPP was brought into the table for discussion again.⁸ The bill of qanun (raqan) was submitted by civil society and women's rights movements in Aceh. UN Women as a UN agency having a mandate on women's engaged in the struggle of women's rights in Aceh, including in the makings of the qanun has suggested including gender experts to assist the formulation of the qanun.⁹ This was among the progressive movements and advanced steps of women's rights movements in the post-tsunami Aceh. Less

⁶Qanun No. 6/2009 on Women's Empowerment and Protection, chapter 4

⁷Interview with Lalisma, Banda Aceh, 18 May 2011.

⁸Interview with I S, a member of a commission tackling QPP in the Aceh Parliament (DPRA), Banda Aceh, 18 June 2011.

⁹Interview with I S, Banda Aceh, 18 June 2011 and interview with S R, a woman's rights activist actively involved in the policy advocacy.

than a year after the initial step, Aceh women have gained an importantly wider opportunity to get more active engagement in the development of the ‘new Aceh.’

The uncertain situation of the post-disaster Aceh that invited global attentions and aids was a golden opportunity for civil society and women’s rights movements in the area to get stronger supports both moral and material assistances to re-mobilize and re-consolidate women’s participations and roles in development. Propulsion to be risen has been strong enough.

Under a strong encouragement from both international and local organizations, stakeholders of women’s empowerment agendas were strongly motivated to ‘straighten up.’ With the active support and available aids, women’s and children’s empowerment programs could gain greater public attention.

Biro PP had also experienced the impacts of the severe disaster; some of its staff became a survivor of the tsunami and some of them even died. In such a critical condition, Biro PP was still demanded to actively lead the coordination in working on overcoming women’s and children’s problems. Some international NGO as well as United Nations (UN) especially having a focus on women’s and children’s issues, such as UN Women, UNDP, UNFPA, and UNICEF, among others have shown their intensive involvement in various women’s empowerment and children’s protection programs in the area; they have played a crucial role in building a good communication and a mutual relation with the government of Aceh to invite its support and political will to women’s and children’s issues.

Eventually, responding to the situation emerging in the post-tsunami, women’s rights activists in Aceh agreed to found Gender Working Group (GWG), a network to facilitate sharing and exchanging any ideas and initiatives in integrating gender issues into post-tsunami reconstruction and rehabilitation programs.¹⁰ This important progress could not be separated from the intensive communication and discussion among all women’s rights elements in the area. A

¹⁰Strengthened by Decree No. 470/009/2005 on 28 February 2005

number of UN agencies, such as UN Women, ILo, UNDP, and UNICEF as well as international, local NGOs, and government institutions including Biro PP, Bureau of Statistics (BPS), and several other institutions joined in GWG.

The establishment of GWG has eased the government, civil society and women's movements, UN and International and local NGOs in conducting women's and children's empowerment programs under a good communication and coordination. A weekly meeting and discussion was carried out in Biro PP office as a mechanism of strengthening the networking and coordination. This intensive periodical discussion in GWG has facilitated the development of an important initiative to draft a gender responsive qanun that was expected to be a legal reference in settling on gender based policies.¹¹

At that moment, Biro PP, with its status as a bureau only, had a mandate to making a regulation, but it did not have authority in the implementation. In fact, having a regulation without implementation did not have a meaning for women's empowerment efforts. In the field, while many women's problems needed a direct intervention of Biro PP, the existing regulation hampered its function to get deeper engaged in facilitating and implementing various real actions to overcome various women's problems within the society. There was an emerging awareness among women's rights elements about the authority and mandate of Biro PP. The groups voiced the upgrading of the structural position of Biro PP within the provincial Aceh governance from a bureau (Biro) to a governmental body (Badan) within greater political and legal authority and mandate so this government machinery could work on both the making and the implementation of a policy on women's empowerment.¹²

When there was a policy of structural downsizing within the provincial Aceh government in 2008 by reducing governmental body (badan) and office (dinas), women's rights activists took a different step by voicing the need for upgrading Biro PP from a bureau level to a government office (dinas) or at least

¹¹Interview with Lalisma, Banda Aceh, 18 May 2011

¹²Interview with Lalisma, Banda Aceh, 18 May 2011 and I S, Banda Aceh, 18 June 2011

to a government body (badan). Advocacy and lobby was actively conducted by women's rights groups to the Aceh Parliament (DPRA).¹³ Finally, after an intensive discussion and debate, the groups successfully convinced the government to upgrade Women's Empowerment Bureau (Biro PP) Women's Empowerment Body (Badan PP).

2. Historical and Sociological Background of the Qanun Formulation

Below are the situational reasons Biro PP referred in proposing the qanun:

The first situation: there was an increase need to the qanun formulation as a manifestation of a joint willingness between the government and women's rights activists to integrate women's empowerment programs into both sectoral programs and in government institutions including at local level pertained to their function and authority. Each government institution and local government could create various initiatives to implement the mandate of the Inpres No. 9/2000 on Gender Mainstreaming (PUG). The policy is empowered by the National Law No. 25/2000 on the National Development Program or Program Pembangunan Nasional (Propernas) that regulates gender responsive development. Empowerment is signified as an effort of strengthening women's position and role for the sake of gender equality and equity. Gender Mainstreaming (PUG) is an important strategy of women's empowerment.¹⁴ Empowerment is meant as an approach to enlarge access and control of women's groups to economic resources, politics (decision making), and culture (formulation of cultural value, symbol and ideology). Women's empowerment can be applied through several ways, such as organizing and mobilizing local

¹³Interview with IS , Banda Aceh,18 June 2011and interview with Lailisma, Banda Aceh, 18 May 2011

¹⁴WEMc Indonesia Team, Women's Empowerment Initiatives in the Middle of Islamic Politization, Patriarchal System and Democratization, (Yogyakarta: Semarak cerlang Nusa, 2008), p. 30-31

resources which encompasses financial resources, energy, knowledge, intellectuality, trust and respect, and solidarity.¹⁵

The second situation inspiring the formulation of the qanun is the fact that in the period of post-tsunami rehabilitation and reconstruction, development aids did not strongly address women's needs; the principle of good governance, gender responsive development, and gender sensitive budgeting were almost left behind at that time. Weak public participation including women in the reconstruction and rehabilitation program was a clear evidence to prove the existing situation. In fact, under such a circumstance, there was even a voice to remove Biro PP from governmental structure. The response of women's groups to the idea has prevented Biro PP from being eliminated; if this happened, the problems faced by women and children in the area would not get serious attention and could not be handled institutionally and systematically. In fact, in the reality, the problem got bigger and more serious.

The third situation is the prevalence of violence against women in Aceh has shown a significant increase every year.¹⁶ This situation has led to the growing public empathy in the society that has inspired the legislative members to show their political will and give their support to this qanun. Women experienced domestic violence, abuse, torture, trafficking, exploitation, and discrimination. A women's organization, LBH Apik in its 2007 Annual Report reported that the number of violence against women cases has risen about 17% per year, particularly domestic violence and sexual violence against children.

In 2007, the Special Rapporteur for Aceh (from Women National commission) reported that 81 cases of violence occurred in the Aceh refugee camp since 2005 to 2006, 75 % of the case was sexual violence. From a monitoring conducted in 2000-2007, various forms of discrimination and

¹⁵Titik Hartini, "creating Women's Social Welfare (toward Empowerment)", in one Day Seminar of Islam, Aceh and Women, Depok, 12 December 2007, p.2.

¹⁶Admitted by Lailisma and I S in their interview

violence against women were found in Aceh contexts of the armed conflict, after the peace agreement, and within the implementation of Islamic sharia law.¹⁷

In addition, women in the refugee camp of the tsunami survivors have confronted several constraints, such as the building of barracks that ignored special women's needs and the limited access to public domain. Some problems faced by women in the refugee camp included:

- a. Insufficient facilities
- b. The absence of legal protection for women and children
- c. Weak involvement of women in decision making
- d. Insensitive gender custom (adat) and culture
- e. The absence of information center of Islamic law and sharia.

The fourth situation was the emerging public empathy to women's experiences after the tsunami as a single parent who served as the head of household and made money to support their family incomes by performing moonlight jobs.¹⁸ After the tsunami, the number of women playing a role as the head of household after their husband's death or other factors significantly increased. Women live in a powerless and marginalized condition in various fields of economy, education, and law, among others. The majority of women in Aceh, as in other parts of Indonesia, do not obtain protections, including in law and economy as a result of some policies marginalizing women.¹⁹ The real women's condition has inspired the decision makers in Aceh to bolster up the establishment of the qanun.

The fifth situation is related to the historical awareness of the Aceh society that has led them to glorifying its historical 'achievements,' including the presence of heroic heroines. Women in the history of Aceh played an important

¹⁷Khairani, et al., *Analytical Research of Public Policies*, (Banda Aceh: Pusham Unsyiah, 2009), p. 36-37

¹⁸Interview with I S, Banda Aceh, 18 June 2011; also interview with Lailisma, Banda Aceh, 18 May 2011 in Banda Aceh

¹⁹Discussion in the meeting of Justice for The Poor in European Union, Ketapang Banda Aceh, 2006

role in all public sectors, such as politics, economy, law, social, culture, and even religion. The historical proofs depicted that Aceh women had the same capacity and opportunity with men in the social struggles within Aceh society.²⁰ Women's participation in public spheres in the history was assigned as a central reason for decision makers to bring women's existence in the entire aspects of life.

The recognition of women's existence in the Aceh history could not be separated from the fact that Aceh was a region applying Islamic sharia placing women in the glorious position as stated in the Qur'an that human's glory lies in their taqwa (piety, God fearing), not in their sex or ethnicity.²¹ The understanding of the Qur'an and the Prophet Muhammad's tradition (hadith) as the highest Islamic law has motivated the Aceh society under the endorsement of ulama as the main pillar of the society to admit women's existence and capacity. Women's participation in the public spheres was a self-actualization that manifests religious and spiritual value equal to men's full works and participations in creating the social benefits.²²

In the Story of the Sabil War of Aceh, it was mentioned that women attained a social recognition. The book told that obligation of jihad fi sabilillah (a struggle in the name of God) was applied equally to women and men. The book was written by ulama, such as Tgk. Chik Pante Kulu and Tgk.Chik Di Tiro.²³ Islam, the history of Aceh and the book of Perang Sabil (the War of Sabil) have been an intertwined symbol in molding the belief and the character of Aceh people.

3. Notes to the Substantive Materials of the Qanun

- a. Islam shows its respect to women and lifts them to the lofty position through its teachings disseminated by the Prophet Muhammad –this was

²⁰Qanun Explanation No.6/2000

²¹The Holy Quran, surah Al-Hujarat verse 13

²²Interview with I S, Banda Aceh, 18 June 2011

²³Look at the manuscript of Hikayat Perang Sabil Tgk.Putroe dan Nasha-i-hul Gazhat

admitted by the policy makers involved in the makings of QPPP. Nevertheless, on the other side, we oftentimes uncover a discourse to weakening women's position in the society through various forms of interpretation of the Qur'an and hadith. As a consequence, in Islamic context, discourse on women is similar to other religious displaying different opinions based on different schools of Islamic jurisprudence (mazhab fiqh); a debate on an issue in fiqh that men's touching a woman's skin can disqualify his wudhu (condition of being 'pure' before praying) can also be applied in women's being a leader or women's participation in public domains. There was an extraordinary occasion in Aceh when Kali Malikul Adil Syiah Kuala who served as a jurist (mufti) of the Kingdom of Aceh Darussalam agreed that the kingdom was ruled by a woman. Hence, almost 60 years the kingdom was governed by queens (sulthanah). After the jurist passed away, a political group thirsty of power built a conspiracy with an ulama from Mecca to restrict female leadership from the kingdom by employing a verse in the Qur'an stating that Islam forbids women's leadership.²⁴ This marked the end of women's leadership in the history of Aceh. Some persisted to embrace the last opinion to reject female leadership in contemporary Aceh through the pretence of the Qur'an and hadith.

- b. The Qanun that voices gender equality and equity, in fact, does not employ gender terminology in its chapters, except once in part II on Principle and objective, article 2 f that mentions "Gender equality and equity." A respondent who was involved in the formulation of the qanun said, "The exclusion of the word 'gender' from the qanun was meant to reduce public resistance against the qanun; the drafters preferred using the word 'woman.' In the draft, there were many words 'gender,' but our friend

²⁴See Rusdi Sufi, et al., *The First Rate Women of Archipelago in Flash of History (Wanita Utama Nusantara Dalam Lintasan Sejarah)*. Jakarta: 1994, Menteri Negara Urusan Peranan Wanita

suggested erasing the word to avoid public allergy.”²⁵ In Aceh society, gender is still considered a foreign terminology; discussion on gender issues oftentimes invites public confrontation. Such a misunderstanding about gender issues within the society are based on several reasons: gender is assumed as containing Western’s mission to destroy Muslim society. This point of view influences to creating insensitivity of both women and men to gender inequalities against themselves or others around them. The weak public understanding and awareness about gender issues hampers women’s ability to voicing gender inequalities they encounter.²⁶

- c. If we look out some chapters regulating women’s rights in education, politics, law, labor force, and social security, and even religion with regard to women’s rights, QPPP clearly refers to legal foundations that administer the fields. However, for health aspect as stated in chapter 7 article 5 saying that “Women are entitled to attain access of qualified and optimal health information and service” has not incorporated explicitly the related legal foundation. Women’s reproductive health is a very essential issue in CEDAW as mentioned in chapter 12.
- d. The policy makers realized the QPPP and QPA as a law accommodating various women’s issues still have a weakness. They admitted that there was tendency among decision makers to issue a legal umbrella as basic policy for women’s empowerment in Aceh. If there was no such a policy, there would no legal foundation legally binding to support women’s empowerments in a variety of fields including strengthening their participation in public spheres. If a weakness is found in the future, the policy could be revised.²⁷

4. QPPP Doesn’t Go Anywhere?

²⁵Interview with IS, Banda Aceh, 21 June 2011

²⁶Umi Sumbulah, M.Ag, et al., *Gender Spectrum: An Analysis of Gender Integration in University*, (Jakarta: UIN-Malang Press, 2008), p.4-5

²⁷Interview with I S, Banda Aceh, on 18 June 2011

If we see from the formulation process, including discussions developed through it, it is no different fundamental debates about its contents. Nevertheless, there was a point of view emerging during the discussion that the qanun has no significance to be implemented in Aceh. This view did not really influence to the qanun legalization, but it affected to the time spent to building public trust to the significance of the qanun. Now, the qanun struggled for long time has to deal with the difficult implementation.

After the legislative body passed QPPPA and QPA, the executive is now responsible for the implementation. A situation that influences to the stagnancy of the qanun is the leadership change in BPPPA that occurred no longer after the qanun was passed by the legislative body. As a result, the qanun has not been disseminated to the public.²⁸ According to IS, a former member of Aceh legislative body who served as a resource person in a QPP discussion, the qanun was socialized several times in Sigli district, but unfortunately it did not touch all related elements in the area; women even did not know the qanun clearly.²⁹

There was an irony in which some heads of Women's Empowerment Body at district level did know the QPPP; they did refer to the qanun in formulating a workplan. If they did so, they just formally mentioned the qanun in the preamble. The qanun has not been discussed for a more strategic planning, for instance to help the district government design its vision of women rights movement. Therefore, it was found that many Women's Empowerment Body at district level has not had a clear vision and mission. It seems that the body developed their vision and workplan without a consideration to the qanun.³⁰

QPPP constitutes a regulation that can lead to strengthening the governmental women's empowerment bodies. It is ideally expected that qanun can be a legal reference for the bodies both at provincial and district levels in

²⁸Interview with RP, a female decision maker, , Banda Aceh

²⁹Interview with IS, Banda Aceh, 18 June 2011

³⁰Interview with S R, a woman's rights activist who actively led the monitoring of qanun by women's groups.

Aceh in designing their women's empowerment agendas and would be derived into the Governor and Regent regulation (Pergub and Perbub). With Pergub and Perbub, women's empowerment programs can be integrated in development plans and gain significant budgets. BPPA must play its key role in advocating the formulation of Pergub.³¹

Based on chapter 3 of CEDAW on the State's obligation and responsibility for empowering women and for submitting public accountability on their duties, it can be concluded that the fact that the qanun has not been implemented is an indicator that the government has not fulfill its responsibility.

Recently, the qanun is not widely used as a legal reference in making a decision about women's empowerments and women's rights protection. It is found that, since the passing of the qanun, women's participation and representation at both the executive and legislative bodies does not show an improvement. There is no significant policy promotion on women's empowerment. BP3A formed to coordinate the implementation of policies on women's empowerment and children's rights protection seems to be to 'exclusive' for making a solid networking with other organizations unlike when it was a Biro. Networking will consolidate lobby and advocacy for the purpose of program enhancement.³²

Public rejection to the leadership of a female leader from Plimbang sub-district in Bi-reun is another clear indication about the weak political will in the qanun implementation qanun. This resistance was based on the interpretation of 'Arrijaalu qawwamuuna 'alannisa.'³³

³¹Interview with I S, , Banda Aceh, 18 June 2011, and interview with SR, Banda Aceh, 18 May 2011

³²Interview with N H, Banda Aceh, 18 May 2011

³³The Qur'an Chapter An-Nisa': 3 "Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth. So righteous women are devoutly obedient, guarding in [the husband's] absence what Allah would have them guard. But those [wives] from whom you fear arrogance [first] advise them; [then if they persist], forsake them in bed; and [finally], strike them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand."

Even though this Quranic verse has no explanation on women's leaderships, the sentence "laki-laki qawwam" is interpreted that women are prohibited to rule or to be a leader (this issue is elaborated more in chapter politics). It is ironic for people in Aceh who adore women's courage and leadership in the history and are proud of female sultanas ruling the Kingdom of Aceh for almost 60 years while in the contemporary era the situation is oppositional. Gender issues are always used, especially in the event of politics like local election (Pilkada) to attract political supporters. In fact, at this moment, the promotion of female leaderships experiences a decline;³⁴ women's and gender issues appear to be a lip service for the government of Aceh.

It is necessary to pay a serious attention on a political situation of the post-2009 election influencing on the unsuccessful implementation of QPP. The 2009 election is the first election in the post-conflict period and after the legalization of the Law on the Government of Aceh (LoGA) No. 11/2006. There have been emerging security and safety issues, changes of governmental systems following the new regulations, and the appearance of the new political force with influential power in the executive and legislative body. Within this situation, it seems that the qanun implementation has not been a priority.

Some changes were clearly identified in this period as mentioned by a women's rights activist; the good synergy that was built among the executive, legislative, civil society and women's movements in the period of the formulation of LoGA and some subsequent qanuns changed. The close relationship between women's organizations and the other civil society elements was broken after the post-2009 election.³⁵ It can be said that it is harder for women's groups to advocate a policy within such a political fragmentation in the new era of Aceh compared to the situation prior to the 2009 election.

Now, the building synergy has to be started from the scratch. The new legislative members needed two years to develop gender perspectives. In

³⁴Interview with N H, Banda Aceh, 18 May 2011

³⁵Interview with S R, Banda Aceh, May 2011

addition, there was an internal problem in the legislative body; they were involved in a 'hot' debate to decide the leadership composition of the parliament. After two years, the legislative members could only build a consensus on three from four chairs required. The debate also appeared on the Qanun Jinayah (Islamic Criminal Law) which involved the Governor and the legislative body. In addition, the fact that the Aceh provincial legislation program (prolega) conducted without public participation has broken the Qanun No. 3/2007 on the Procedures of Qanun Formulation. Unlike in the formulation of LoGA, civil society elements were not involved in the prolega. At present, the problem is getting difficult with the polemics on the Aceh election that would challenge the peace in Aceh. Under such situation, it is not easy for the legislative body to focus on the legislation.

Some people in Aceh have found an 'abnormality' in the regulation formulation, but on behalf of maintaining "post-conflict situation" they decided to keep "silent." Their being "silent" does not mean that they do not see the problem or they agree with the situation. Instead, this is a prudent expression as they are aware about the newly-built peaceful situation that needs to be maintained.

The situation illustrated above has led women's movements to getting rid from policy advocacy and monitoring and shifting their attention to more open domains of development implementation. In an interview, a woman's rights activist, SR who oftentimes led policy advocacies expressed her disappointment to this situation. Nevertheless, in her opinion, this is an undeniable situation that women's rights organizations in Aceh have to solve. Women's groups now have to work on the new strategy which is moving their central target of advocacy from the legislative to the executive to encourage for the implementation of the qanun.³⁶

Nevertheless, women's groups encounter the similar situation in the executive that hampers the advocacy for the qanun implementation. As 'a new

³⁶Interview with S R, Banda Aceh, May 2011

government body,' BPPPA has experienced three times of leadership change. The situation is even worse if we look at the fact that workplan, institutional system and coordination mechanism of the body has not been made. This has affected the institutional consolidation that is required for designing a comprehensive program development.

There is an opportunity in the recent situation related to the body. The newly appointed head is Raihan Putry, the first head of the body; therefore, institutional consolidation should not be an issue and her previous experience of leading the body is an important foundation for her second leadership phase to lead the body accomplishes better achievements.

From the explanation above, it is known that the political situation, security stability and internal condition of BP3A that experienced leadership changes have prominently im- pinged the implementation of women's empowerment qanun; therefore, until now, it can be said that "the qanun does not go anywhere."

5. The Qanun of Children's Protection

In 6 September 2006, Biro PP in collaboration with UNICEF held the first meeting to discuss the establishment of a child Protection Working Group. This meeting also discussed programs to enhance children's rights protection. Furthermore, the meeting was meant to elaborate the idea of drafting a qanun on children's protection. UNICEF provided financial as- sistance for the founding of the Working Group, under Biro PP, to work on advocating policy on children in Aceh. At that time, BRR was also willing to make the qanun on children's protection as it was found in Aceh many children's issues, such as street children, children with different ability (differently-abled or diffable), children guardianship, and violence against children, among others.³⁷

Some efforts to enhance children's rights protection in Aceh have already been per- formed by both government and civil society organizations, such as

³⁷Welcoming remarks by Head of Biro PP, Lailisma in the meeting of the establishment of child Protection Group (cPG) on 6 September 2006 in Serba Guna Building, Governor office

mass and community organization, foundation working on child welfare, international and national NGOs. Among the important endeavors included:

- a. The establishment of a coalition working on children's protection.
- b. Program formulation and strengthening coordination of child protection program between national and local governments as well as NGO.
- c. The foundation of Provincial commission of children's Protection (KPAID).
- d. Providing and disseminating information on domestic violence.
- e. Initiating policy advocacy on domestic violence.
- f. conducting education and training programs of gender issues and domestic violence.

The post-tsunami Aceh deals with various problems faced by children's survivors of the tsunami. Some of them lose their parents and lived in a refugee camp with their safe family and others with all physical and psychological difficulties, including fear and food and clothe shortage. In the emergency situation, every child needed a protection and support. Some children moved to areas outside Aceh brought by people they might not know. In addition, street children, children with different ability (diffable), and violence are among the main problems related to children in the post-tsunami Aceh.

children's survivors of the tsunami did not only lose their parent's affection; they also faced a guardianship problem. With a motivation of gaining the children's inheritance, many guardians or relatives, especially from the father's side, demanded child custody. Many relatives from the mother's side, like grandmother or others taking care of the children did not obtain inheritance for nurturing the children. This is the sociological background of the qanun formulation.

Unlike to the QPPP, the legislative body appeared to show a faster response to the Qanun on children's Protection. The draft was put forward in

2007 and passed in 2008.³⁸ Like QPPP, after its legalization, QPA has the same problem in its implementation.

Part III of the qanun on children's Religion, chapter 4 article 4 mentions that education and application of religious teaching for children, parents/guardians and teachers could introduce and teach the existing values in a religion embraced by the children. The religious education for children by parent/guardian must not have an effect to children's physical and psychological illness.³⁹ This chapter is responded by many teachers who feel confused in applying treatments for 'disobey' students. They view that the Qanun is 'too Western,' as seen in its rigid definition of violence against children. Many teachers of religious education in Aceh give a sanction to their students with a light beating by using rattan as part of their learning methods and it cannot be accused as committing violence against children since it is applied for educating and disciplining the children.⁴⁰

Closing

Women's empowerment and women's rights protection agendas in Aceh get a strategic momentum during the post-tsunami rehabilitation and reconstruction. Various groups involved in rebuilding Aceh have paid a huge attention to women's and children's rights. Many programs were delivered for the purpose of women's empowerment and children's rights protection at that period. The glorious momentum proceeded through the open opportunity for public participation, particularly women's movement, in the formulation of LoGA.

It is believed that the efforts to achieve gender equality and equity in Aceh will be accelerated if QPPP and QPA are implemented with strong support from all social elements in the area. The successful implementation of QPPP and QPA

³⁸Interview with Lalisma, Banda Aceh, on 18 May 2011

³⁹Qanun on child Protection No.11/2008

⁴⁰Interview with R P, Banda Aceh, May 2011

depends on the capacity of BPPPA as the governmental leading sector having a mandate on women's empowerment and children's rights protection.

Gender issues in development programs appear only in the level of government policy and are not viewed as a social and public need. Gender issues in a government policy are oftentimes for political interest only, for instance, to gain political supporters in local election (Pilkada). In addition, project-oriented vision among development implementers is stronger than program-oriented in the implementation of women's empowerment agendas.

Women's movements are still 'stereotyped' as women only agenda; the efforts to enhance gender equality and equity at the legislative and executive body still count on individual awareness of government apparatuses. It means gender sensitivity has not been built at institutional level. Even in many forums attended by a man understanding gender issues, he would only whisper to his female colleagues to incorporate them in a policy.⁴² He is reluctant to get involved in this agenda directly.

An intensive and active advocacy to the legislative and executive body plays an influential role in determining the success of working through policy for empowering women and protecting children's rights. In fact, the networking of multi stake holders within women's movements has gained a significant achievement in making gender responsive policy in Aceh.

QPPP reflects the principles of gender equality and equity and shows the spirit of CEDAW. The next agenda is the policy implementation as an embodiment of the responsibility and accountability of the government in empowering and protecting women's and children's rights. BP3A as the governmental leading sector having a mandate on women's empowerment and children's rights protection has not been proactive in working on the implementation of the qanun.

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