

Analysis of *Fiqh Siyasah* on a Local Government's Policy About the Making of a Religious and Happy Society in Bengkulu

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ABSTRACT

Elite figures of a government, in carrying out their duty and function, must hold an authority for issuing a policy. It is usually a written rule of a formal decision of the government, which has a binding nature, and regulates the behaviours of all citizens, in order to create a new value in society. As a policy is issued to be implemented in public, an analysis of that policy is needed, so as to know the applicability of that policy in society. One way to analyze a government's policy is by examining it through the lens of *fiqh siyasah* (sharia politics). It is a discipline that studies a formation of law, regulations, and policies enacted by elites of the government for the making of a society or the state that is in harmony with the fundamental doctrines and contextual meanings of the sharia law. This paper will do an analysis of *fiqh siyasah* on a public policy enacted by the Mayor of the city of Bengkulu, which was aimed at creating a religious and happy society. It based its analytical methods on literature and reading materials related to theories of *fiqh siyasah*, scattered in various relevant media. This paper concludes that the Mayor's policy is compatible with theories of *fiqh siyasah*, because this policy is consisted of relevant principles of *fiqh siyasah*, such as the principle of legality, general principle of good governance, the principle of equality and deliberation.

Keywords: Policy analysis, religious and happy society, sharia politics

1. INTRODUCTION

In order to carry out their duty and function, heads of a government are entitled to issue a policy. This policy is aimed to create a new value in society's lives, and is binding in nature. This is what happened to the Mayor of the city of Bengkulu, who had just issued a policy about the making of a religious and happy society in Bengkulu. This policy is entitled "Bengkulu for a Happy and Religious Society".

To success this program, the mayor appointed a special special force, called the Religious and Happy Team. Its members are consisted of people affiliated with six religions officially admitted by the Indonesian government: Islam, Christianity, Protestantism, Hinduism, Buddhism and Confucianism. Their main job is to persuade the Bengkulu people to prosper the worship house of their religious affiliation. The Muslim members for the mosque, the Christians for the church, the Hindus, Buddhist, and Confucians for their respected prayer houses. By 2020, a special uniform will be budgeted for all members of the religious and happy team. The policy believes that by prospering the house of worship, one can achieve glory, prosperity and safety both in the world and the hereafter.[1] To evaluate the implementation of this policy, a work of policy assessment needs to be done. In this regards, we will examine it through the theory of *fiqh siyasah*, or

sharia politics. The main purpose of this theory is the creation of the positive common grounds (*masalah*) and the avoidance of the negative factors (*mafasid*).

2. RESEARCH METHOD

A qualitative research is a research that tends to take the form of descriptive and analytical. It usually highlight both the process and the meaning of the subject studied. The theoretical foundation is applied as a guide so that the focus of research is in accordance with the facts in the field. In addition, this theoretical foundation is also useful to provide a general description of the research background and as a material for discussion of research results. There is a fundamental difference between the role of the theoretical foundation in quantitative research. Furthermore, researcher departs from data, utilizing the existing theory as explanatory material and end with a theory.

In contrast to the quantitative research, the research object in qualitative research is generally limited in number. In this study, researchers took participation in the events being studied. For this reason, the results of this study requires a depth of analysis from the researcher. In addition, the result of this study is to a certain extent subjective, so that it cannot be generalized.

3. DISCUSSION

3.1. A Brief about the Policy

The determination of Bengkulu city government in realizing the religious and happy city of Bengkulu is increasingly objectified. Recently, Helmi Hasan, the Bengkulu mayor, takes out a directive letter in the form of a circular of the Bengkulu mayor, Number: 530/150 / D. Kip / 2019 on the appeal to glorify the guest in the Bengkulu city which contains invitations to religious leaders, community leaders, traditional leaders, village leaders, administrators of worship houses and all levels of society, in order to serve or glorify every guest who comes to the Bengkulu city properly. In realizing the program of religious and happy city of Bengkulu, the local government of Bengkulu will soon form a religious and happy special unit, that will later be under the auspice of the civil service police unit (Satpol PP) which will be called the Religious and Happy Special Team (PKRB).[2]

3.2. Understanding the *Fiqh Siyasah*

Etymologically, the term *fiqh siyasah* consists of two words, namely the word *fiqh* and *al-siyasi*. Linguistically, the meaning of *fiqh* is “to understand”. Terminologically, the term *fiqh* means a science about the sharia laws, or *syariat*, that focuses on practical matters (*amali*), legal status of which are concluded from detailed argumentation of the Islamic texts, both the Qur’an and the Hadith. In the meanwhile, the term *al-siyasi* linguistically, means “to control”. Yet, according to Shaykh Fairuzabadi, the meaning of *siyasah* (politics) refers to an organization of human’s welfare (*maslahah*) according to the principle of sharia laws.

When the two words of *fiqh* and *al-siyasi* are combined, we get a new term, namely *fiqh siyasah* or also known as *siyasah syar’iyyah*. Terminologically, the term *fiqh siyasah* has several meanings. They are as follows:

According to Imam al-Bujairimi, *fiqh siyasah* is designed to “improving the society’s affairs, that is, by organizing and governing them with an aim of creating their common welfare (*maslahah*). As such is only realized because of their obedience to government”.[3]

According to Wuzarat al-Awqaf wa al-Syu ‘un, the meaning of *fiqh siyasah* is “the improvement of people’s lives by managing their affairs and by showing the way by which they could be saved from destruction, both in the present and future”.[4]

According to Imam Ibn ‘Abidin, the meaning of *fiqh siyasah* is "realizing people’s common welfare by way of showing them the path of salvation, both in the world and the hereafter. *Fiqh siyasah* comes from the Prophet Muhammad, both specifically and generally, both physically and spiritually. From the physical side, it comes from the sultan (the state’s leaders), while the spiritual one

comes from the ‘ulama, who is the heirs of the Prophet Muhammad.[5]

According to Rachmat Syafe’i the principles of common welfare are as follows:

- Seeing that there is always a common welfare that is contained in the case under.
- Seeing to the characters that are suitable with the purpose of sharia, which requires the existence of legal provision in order to formulate a welfare.
- Seeing the process of legal enforcement of a public welfare, decided by a special argument. That is, the enforcement is validated by one of the objectives of the Islamic law.

Yet, the term welfare, according to Hanafi, is as follows:

- It specially applies to *muamalah* (social relations) matters because the issue of worship is permanent and does not change.
- It does not contradict the intention of sharia, a legal justification (*dalil*) from the texts that are familiar in society.
- It is according to the real interest of, and is needed by, the community.

As explained above, it can be concluded that there are two important elements in *fiqh siyasah* which are mutually related. They are the parties who regulate and the parties who are regulated with the aim of achieving benefit. The welfare referred to by the *siyasah* context is the concrete positive impacts of the government, state, and leadership, on public interests of all members of the communities, even though the intended welfare is not based on texts contained in the Qur’an and the Sunnah, because it is especially related to the problem controlling of the community and the state life, which carries out obligation and safeguards the rights of leaders and their people. The common welfare is an implication of the implementation of the intended rights and obligations. The common welfare in question is the realization of the purposes of Islamic law (*sharia*) as they are contained the Islamic texts. One of the many forms of common welfare that can be possible achieved by the power holders, as in the case of the city’s mayor of Bengkulu, is the policy made by the mayor. The policy initiated by him is to create a religious and happy community.

In general, policy is a written rule that is a formal decision of an organization which has a binding nature of members associated with the organization, which can regulate behavior with the creating aim of new values in society.

According to William Dun, what is meant by policy is a written rule that is a formal organizational decision, which has a binding nature, allocating behavior with the aim to create a new value in community. Policy will be the main reference for members of the organization or also members of the public in behavior. Policy generally has

the nature of problem solving as well as proactive. Unlike the law (law) and regulations (regulation, policy is more adaptive and interpretative in nature even though they also adapt "what is permissible or not". Policy are also expected to be general but without eliminating specific local characteristics. The policy must provide an opportunity to be interpreted in accordance with the specific conditions that exist. In fact, if there is an element of mafsadat in a policy that will be made later, it is necessary to consider the magnitude of the element of mafsadat, if it turns out that there is more mudhorat than the benefit then this policy needs to be canceled. This is in accordance with the fiqh siyasah method.

3.3. Fiqh Siyasah Analysis to the Mayor's Policy

The main purpose of the power and leadership in government and the state is to maintain the system of order, so that people can carry out their lives properly. Government is essentially providing services to the community. The governments are not formed to serve themselves, but to serve the community to create condition that allow every member of the community to develop their ability and creativity for the achievement of the common goals. Therefore, the main task of the government's or state's authority generally is to ensure the implementation of social welfare improvement that benefits to the wider community, as well as other policies. This is also the case with local governments, one of which is that of the mayor of Bengkulu city. In carrying out the duty for power holder over the policies issued must be principles which are held so that they do not conflict with the *fiqh siyasah* principles. They are as follows:

3.3.1. The Legality Principle

The legality principle is a principle which states that there is no violation and penalty before there is a law which regulates it. This principle is based on the words of Allah in the Koran, namely:

- The Qur'an (in al-Isra, number 15) explains that Allah will not give punishment before sending an Apostle.
- The Qur'an (in al-Qasas, number 59) explains that Allah will not destroy cities before He sends in the capital an apostle who reads His verses.
- The Qur'an (in al-Anam, number 19) states, *"Who is the stronger witness? "Say: "Allah ". He is a witness between me and you. And the Qur'an is revealed to me so that with him, I give warnings to you and people one who reaches the Koran (to him). Do you really admit that there are other gods besides Allah? " Say: "I do not recognize". Say: "Verily, He is the Almighty God*

and in fact I am free from what you associate (with Allah)."

The Qur'an (al-Baqarah number 286) explains that "Allah does not burden a person but according to his ability. He gets the reward (from virtue) that he works for and he gets the torture (from evil) that he does. (They prayed): "Oh our Lord, do not rule us if we forget or we are guilty. Oh our Lord, do not impose upon us a heavy burden as you have placed on people before us. Oh our Lord, you must not carry to us what we cannot bear. Forgive us; forgive us; and bless us. You are our Helper, so help us against the disbeliever."

Every act of state administration, in this case, issuing a policy, must have a legal basis (written regulations that underlie it), especially for the rule of law (Indonesia) so that the legality principle is the most important thing in every government action. The legality which is applied will depend on the regime in power, both central and regional such in Bengkulu so that the enactment of the law will depend on the texts or articles contained in various laws and regulations. As it is stated in the *siyasah* conception, the sharia is a guideline in community and state life aimed at the benefit of the people.

3.3.2 General Principle of Good Governance

According to Suyuti Pulungan, general principles of siyasah towards the making and implementation of a leader's policy in realizing the community's welfare, must also be supported by the community itself. This is because, as the Qur'an states, Muslims have to obey Allah and His Messenger, and the Ulil Amri (leaders of the community). And if they have different opinions about something, they have to return it to Allah (the Qur'an) and the Prophet (the Sunnah): as such is the characters of a good Muslim.

This principle is a bridge between legal norm and ethical norm, which are unwritten norms. The general principles are an essential part of the implementation of governance law (siyasah) and are an important part of the realization of government in the administration of state power, which is based on the followings:

- The order and the legal certainty of government
- Development plans
- Government's responsibility
- Community services
- Government's control, which includes activities of supervision, inspection, research, and analysis
- Justice of the state's administration
- Greatest prosperity of the community

These principles should be used by the administration in power, for determining policy formulation, so that the

implementation of the policy can meet the expected results, i.e. the realization of a religious and happy society.

3.3.3. Equality Principle

The equality in the *siyasa* doctrine is the constitutional equality (*qanuniyyah*), not the factual equality (*fa'liyyah*). This means, the equality taught by Islam is that all people must be guaranteed equal by the law even though in reality these people have some difference, both physical and intellectual. The equality principle is an innate character of Islam: it is the implementation of the belief that God is only one, namely Allah, and all creatures are equal before Him. They have the same rights and obligations as a human being, despite the difference of race, color, and others. As the Qur'an (an-Nisa number 1) explains, we as human beings must fear Allah, your God who has created you at your own, and from you Allah created your wife; and from both of you and your wife, God multiplied many men and women. And fear Allah who, by (using) His name, you ask one another, and (maintain) the relationship of friendship. Surely, Allah always takes care and watches over you.

The equality principle means that each individual has the same degree as a citizen without considering their origin, race, religion, language, and social status. All people have the same right in demanding and being sued, such as demanding rights and being required to carry out obligations. Every leader must apply the equality principle in every policy made by him. Every task assigned to him must be accomplished with a full sense of responsibility without differentiating between certain people or groups related to the policy he made. Policies built without the principle of equality will be in vain and will not be able to bring happiness and success no matter how good the policy is.

3.3.4. The Principle of Deliberation

The deliberation principle for leaders and authorities as well as the community is a measure of the implementation of mutual respect for opinions and escape from the attitude of claiming one's own truth. Every problem that arises in every policy must be resolved by way of deliberation, and not decided on its own, despite being a leader who has the authority. In making a policy, it must be carried out jointly with an agreement coming out from a deliberation process, so that it can minimize the occurrence of errors in policy making. The principle of deliberation is contained in the Qur'an (as-Shura number 38) which explains that those who accept (obey) the call of their Lord and establish prayer are their affairs (decided) with deliberation between them, and they spend part of our sustenance give to them. " In this verse, Allah explains to us that all problems which arise in every policy regarding the lives of Muslims must be resolved by deliberation or discussion, to find the best solution. The deliberation principle requires that in implementing a policy, the policy makers should be able to

carry out their duties properly, and exchange ideas with anyone who is considered appropriate in order to achieve the best goals for all.

4. CONCLUSION

The policy of "Bengkulu for a Religious and Happy Family", adopted by the Mayor of the Bengkulu city, is in line with the purposes of *fiqh siyasah*, because it applies the *fiqh siyasah* principles such as the legality principle, general principle of admirable governance, the equality principle, and the deliberation principle. Theoretically, the implementation of this policy in society will give a positive impact on the community in the near future.

REFERENCES

- [1] R. Bengkulu, "Succeeding in the Bengkulu Religious and Happy Program, City Government Forms Special Unity." 2019.
- [2] R. Sopian, "Realize a religious and happy city, the mayor, helmi hasan ,urges people to glorify guests," *pedomanbengkulu.com*, 2019.
- [3] H. A. Djazuli, *Fiqh siyasah implementasi kemaslahatan ummat dalam rambu-rambu syariah*. 2003.
- [4] Mizan, Ali Syariati, *Imamah dan Umamah, Terj. Afif Muhammad*. 1989.
- [5] Mizan, Ali Syariati, *Imamah dan Umamah, Terj. Afif Muhammad*. 1989.