

Conserving Islamic Law and Seloko Adat Melayu Jambi in the Globalization Era

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Abstract: This research aims at exploring the relations between Islamic law and Customary Law on Malay Community of Jambi. This research would like to explore the practices of Islamic law in Jambi Malay society. The process of naturalization is the result of epistemology integration between Islam and Malay Jambi's local custom or adat. Nowadays, globalization is an international integration process that has an impact to diminish local values. The research finds that the application of Islamic law must be integrated with local culture so that religions and local cultures are mutually empowered to deal with globalization.

1 INTRODUCTION

Previous research studies have shown that the relationship between Islamic law and the customary law could be divided into two views. First, there is a tight relationship between those laws as argued by MB Hooker (Hooker, 1974) and Ratno Lukito (Lukito, 1997). Second, Islamic law and customary law are two separated things as stated by Taufik Abdullah (Abdullah, 1996).

The statements above insist that there are some perspectives related to Islamic and customary law. This article would discuss those laws within people in Jambi in context of Islam-Malay.

Several scholars discuss seriously to see the relationship between Islamic law and customary law in Jambi. The work of Rachman and Rahman, entitled "The Dynamic of Malay Islamic Law: The Rise and Practices of Adat Besendi Shara, Shara besendi Kitabullah in Jambi". This article uncovered that the implementations of Islamic law and customary law in Jambi community is always integrated with local traditions, so the concept of custom and sharain Jambi society is not only merely a habit, but also a culture enriched with ethical legitimacy found in Islamic law (Rachman&Rahman, 2017)

Ahmad and Amin paper's, "Integration of Qur'an Verses in Jambi's Seloko: Cultural Dakwa Transformation" also shows that Jambi customary law that appears in the Seloko of Jambi customs is in principle not independent of the universal character

of the Qur'an, which become a value system for various aspects of the life of the Jambi community (Hasbullah and Amin, 2015).

On the other hand, there are also paper that reject the existence of a relationship between Islamic law and customary law, including the work of Abdullah entitled "Adat and Islam: an Examination of Conflict in Minangkabau". This article shows that the discourse between customary law and Islamic law in Minangkabau raises many potential conflicts, for example, the problem of low inheritance division, which in the Minang customary tradition should ideally be given to boys, because if not then the heritage would be owned by Mother's line, but in the rule of Islam such property can be inherited directly to children which of course does not require a grant process, which is not permissible according to shara law (Abdullah, 1966).

The two views aforementioned have their own arguments, when custom is regard as the whole system of local traditions, the basis of ethics and legal provisions that shape people's habits and behavior, then custom will be seen as having the same function with shari'at, until it is open the possibility to complement and enrich each other. So, it can be understood from the thought of de Jong, hooker, and Ibrahim (de Jong, 1951; Hooker, 1974; Ibrahim,1965). On the other hand, when custom is defined as a local custom, then custom will occupy a position that is contrary to the shari'at as a religious law, as demonstrated by Taufik Abdullah (1966).

How is the application of Islamic law and customary law in the life of the people of Jambi, is it understood in terms integration or separation? Then how can this happen? And how is the picture in the context of globalization today? These issues will be answered in this work which will be revealed starting with a discussion on the application of Islamic law in the Jambi Malay community, then discourse will be discussed on the naturalization of Islamic shari'at in Malay Customary, followed by a discussion on Integration of Epistemology in Customary Seloko Melayu Jambi, and crystallized with a discussion of the contemporary existence of Malay Jambi customs.

2 THEORY

Due to the problems of Islamic and customary law, the naturalizing theory would be applied to integrate the epistemology and the Receptive theory as proposed by Snouck Hurgronje.

The term naturalization can be referred to the views of Harvard University historian Abdelhamid I. Sabra, in his work *The Appropriation and Subsequent Naturalization of Greek Science in Medieval Islam*. He argues that classical Muslims have naturalized knowledge from various civilizations around it, especially Greece into the Islamic tradition. (Sabra, 1987)

Classical Muslims have naturalized foreign traditions through adjusting foreign traditions to Islamic cultural, religious and philosophical values. This process also takes place throughout the long history of human culture. Mesopotamians, for example, have naturalized when absorbing the various advancements of civilization in the process of assimilation and acculturation. Likewise, the Ancient Greek philosophers absorbed various cultural advances from the surrounding regions, especially Egypt and Syria, so that they were able to produce a rational Greek mindset. Also, it happened when modern Western civilization naturalized the culture of the Islamic golden age into their civilization systems (Masood, 2009).

Naturalization is a normal process in the history of world civilization. Berger called that as an externalization process, objectivation, and internalization (Berger and Luckmann, 1966; Berger, 1967). In the early period, community carried out an externalization process by adopting the progress of tradition outside itself, as do the exponents of Islamic scholars today when adopting the progress of Western scientific traditions (Rahman, 1988). Then the objectivation process is carried out, by confronting

what is obtained from the outside in accordance with the traditional norms that have been owned, until then the process of cultural Islamization occurs. The two processes are then refined by an internalization process, namely the process of adaptation or adjustment between outside traditions and the original tradition by continuing to prioritize local traditional values. This project is meant to reveal what will happen in the process of naturalization of Islam in the ethnic Jambi Malay tradition.

Naturalization of Islamic law in customary law can only occur through epistemological integration between Islam and custom, because there are differences in epistemology between them. Islam is based on a view of truth centered on revelation whereas custom is based on truth centered on the experience of everyday life, so that epistemological dialectics are needed among them.

Epistemology (*Nazariyyat al-ma'rifah*) itself is a theory of knowledge which is synonymous with the terms gnoseology and neotics. This was supported by Robert Audi who revealed that a consistent epistemology with the problem of justification of trust with certain standards of truth about what we do and we know.

This means that epistemology can be interpreted as a guarantee of justification of trust with certain standards of truth (Arifullah, 2009). Thus the integration of epistemology is an attempt to unify the system different truths.

Once two systems of truth (law) have been united, a dominant will appear. In an effort to find the dominant law, the author then used the Receptive theory proposed by Snouck Hurgronje. According to Hurgronje, once Islamic law and customary law were integrated, then at that time Islamic law was actually defeated by customary law, because in the life of indigenous people customary law actually applies, so that Islamic law can only be applied when Islamic legal norms are accepted as customary law (Praja, 1991). It can be inferred that the integration of legal epistemology will never occur, without eliminating one of the legal entities. There will always be dominant and eliminated legal entities.

This writing was written based on a n inquiry of qualitative research since it emphasized on meaning to investigate the problem and analyze it deeply based on the phenomenon occurred (Arikunto, 2006). In this writing, it focuses on the Malay Islam people in Jambi.

2.1 The Implementation of Islamic Law in Malay People Jambi

The understanding of Malay people about Islamic law and customary could be seen in the Malay's adage *adat besendi shara', shara' besendi Kitabullah* (Meng, 2006). It could be stated that Islam becomes a foundation of customary and customary is a representation of Islamic values thus both of them do not clash each other. Therefore, those laws could work in harmony in form of Jambi laws (Rajo, 1995). It depicts that the implementation of Islamic law in Jambi people occurred through the process of selective interaction in which custom implements the Islamic values within Malay custom (Sibawaihi&Baharun, 2017). That kind of interaction could be seen briefly as *urf shahih* which does not violate the *shari'a* (Hakim, 2007). This process also plays a role as a solution due to the implementation of Islamic law within the indigenous community because it involves naturalizing that could eliminate the clash between custom and *shari'a*.

As an area that has experienced Islamization, the traditions or customs of Jambi are not necessarily abandoned, customs are maintained and even confirmed through the customary seloko with shara. This kind of mindset indicates the internalization of universal Islamic values in Jambi Malay customary law which is influenced by Malay Culture and Islamic teachings. In the process Islamization, customs and laws of Jambi Malay are still recognized, with some note: first, customs or laws that contradict the Islamic shari'ah (Mulghah customs) will be abolished, such as the acts of idolatry which Ahmad Salim (Datuk Paduka Berhala) abolished by destroying idols and acts of idolatry in the early Jambi community. Second, customs and laws that do not clash with shari'at Islam (*mu'tabarah adat*) will still be recognized. Third, customs which are partially contradictory to the shari'at will be removed and elements that do not contradict the shari'at will continue to be preserved, as Jambi customary marriages, some of which are still well-accepted and implemented as in proposing for marriage, being engaged, and delivering *belanjo* (fill the adat menuang lembago), reception, etc., while the terms are eliminated and adapted to the Islamic shari'ah, such as the ceremony of surrender or promising in front of an idol, which is replaced by the declaration of *ijab-qabul* (the vow of marriage) according to Islamic sharia. The source of information was from the Department of Regional Culture affairs (Lembaga Adat Daerah) of Jambi Province, Traditional

Principles Sepucuk Jambi Nine Lurah (LAD Jambi Province, 2001).

Islamic law and Jambi customs can then go hand in hand in the form of the Jambi Law, considering that the entry of Islam into Jambi did not cause many changes to the previous *adat* norms, the existing *adat* norms are still largely recognized, because they do not contradict the Islamic shari'ah. In this process the practice of Islamic law experienced unification with customary law

2.2 The Integration of Epistemology and Islamic Naturalizing in Malay Custom

The interaction between Islamic law and customary law occurs through the epistemology which then produces naturalized Islam or customary law. The integration of epistemology plays an important role in tightening of Islam and Malay custom in monistic epistemology (Arifullah, 2015). The result of this combination is seen on *Seloko* which is categorized as folklore. In another word, it could be defined that *Seloko* is a creative combination of custom truth and religion truth or in Kalam philosophy, it is said as a combination of mind and revelation.

Seloko Jambi *adat bersendi shara', shara' bersendi Kitabullah* is the recognition of the Jambi people to the system of truths of custom and *shara'* which are considered equally true and in line, so that they could complement each other. Tarmizi, as a Jambi community leader and Deputy Chairperson of the MUI Jambi Province, acknowledged that: Seloko Jambi is arranged based on *shara'* and the views of Jambi traditional customs, so that there is a synergy between *shara'* and custom (Interview, Tarmizi, 2017)

The customary law as depicted in Seloko is therefore rational and mythical (normative). No wonder then Seloko concerning various legal norms in acting in various fields of life, ranging from marriage to government. This can be seen in the details of customary law such as *Induk Undang nan Limo, Anak Undang Nan Delapan and Anak Undang nan Duo Belas*. (Ahmad, 2015).

All of them are norms that should be adhered in customary law and in harmony with Islamic law, which is carried out by the Alam Barajo Institute and Adat Institute, also known as *Sepucuk Jambi Sembilan Lurah* (Harun and Sagala, 2013). Although the application sometimes raises problems, one example is the application of a law that is done by integrating Islamic law whose part is usually called *Taliti* with Jambi customary law (UU). As mentioned

in Seloko: “*Undang turun dulu, taliti’ mudik dari tanah pilih, undang tibo dulu taliti tibo kemudian, undang datang bertali gial, taliti tibo bertali tajuk, undang talanjuo kile taliti talanju mudu*”. Based on this principle then it needs to integrate *Undang* and *Taliti* to see one case such as *qisas* law or theft which is laid on Seloko:

“*Apo kato Teliti, apo pulo kato Undang, cukil mato pembunuh kato Taliti, cukil mato kerbau kato Undang, potong tangan pencuri kato Teliti, potong tangan kambing kato Undang*” (Rachman&Rahman, 2017)

Difficulties also occur in the determination of inheritance law in Jambi, which can be done in three ways, namely: First, inheritance is shared by heirs in harmony and peace, usually led by the eldest child through discussions; Second, inheritance is shared by indigenous stakeholders (*Depati, Rio, Nagbi, Mangku, and other Ninik Mamak*), *Tuo Tenganai*, as well as mother and father, by applying the principles of Customary law; Third, the inheritance is divided according to the decision of the Adat court, which includes the *Shara’* employees (Imam, Khatib, Bilal, Judge), the Ulama and religious teachers, by applying Islamic law. (Lembaga Adat Jambi Province, 2001). This means that in inheritance law there are several options could be done by the people to overcome this problem.

The case above creates the difficulty of integrating Islamic law into customary law, in which customary law remains dominant. It indicates that Seloko contains an integration of universal Islamic truth values with indigenous local truth values, whose application does not appear textually but rather the application of Islamic universal values. In this process naturalizing of Islamic law, so that the face of Islamic law does not only perform in its textual form but is more embodied in cultural values that are grounded with local culture, as stated in Seloko:

“*Adat bersendi shara’, shara’ bersendi Kitabullah; Shara’ mengato, adat memakai; Sah kato shara’, sah kato adat; Shara’ berbuhul mati, adat berbuhul sentak*.” (Custom jointed with Islamic law, Islamic law joined with the Qur’an; Islamic law says, custom uses; legal according to Islamic law, legal according to custom; Islamic law is qath’i while customary law relative) (Lembaga Adat Jambi Province, 2001).

The reflection of Islam within Jambi people are represented through their lifestyles such as dress, speech, marriage ceremony, death, a celebration of Islamic holidays and activities related to customs.

Almost all of these activities clearly show the relationship between Islam (al-Qur’an) and Jambi Malay culture (Ahmad, 2015). This stage of integration which is called by an anthropologist Judith A. Nagata as the union of Islamic and Malay (Jambi) identities, to the point that the term to be Malay is to be Moslem (Nagata, 1974).

The integration above occurred in the process of naturalization that occurred in the long history of the entry of Islam into the Jambi area. According to scholars, Islam has existed in Jambi since the 7th century AD and developed into a royal religion after the 13th century AD. Muslim Persians (Iran), Turks and Arabs came on the east coast of Bandar Muara Sabak Jambi around the 1st century AD (7th century M) In I-Tsing's note also mentioned that when he visited Melayu (Mo-lo-yeu), he boarded a Persian ship (Putra, 2018)

Actually before I-Tsing (Yijing), there had been Chinese travelers who had transited on the island of Sumatra or Java for five months, namely Faxian (Fahsien, Fa-hien) in 414 AD. He researched the application of Buddhist law on these two islands, although until now no detailed description of the results of the trip is found (Reichle, Violence&Serenity, 2007). However, according to Coedès Faxian did not reach Sumatra or Java, he only arrived in Kalimantan (Coedès, 1968). Although some claimed that from the beginning of the eighth century to the beginning of the 12th century there was a period of vacuum in Islamic da’wah in Jambi, which resulted in the religion of Islam (sect Shafi’i) only began to develop after Jambi surrendered under the rule of Samudra Pasai (1285-1522). Starting from this time the material and spiritual culture of Jambi Malay was dominated by Islamic elements, since the 15th century, when it was in the power of Orang Kayo Hitam (1500-1515), or even in 1615, when the prince of Kedah Sultan Abdul Kahar, was crowned as the first King of the Sultanate Jambi Malay. The dominance of Islam in Jambi Malay culture to this day is still powerfull, which is also manifested in the Malay ethnic Malay literature (seloko) which is loaded with Islamic religious content, such as:

“*Adat orang berjalan malam, Ada suluh jadi pedoman; Adat orang beragama Islam, Ada petunjuk menerangi iman; Orang berkain menutup aurat, Sesuai dengan petuah hadis; Orang muslimin hidup beradat, Lakunya sopan mukanya manis; Di bulan Ramadhan orang tarawih, Sudah sembahyang membaca Qur’an; Orang beriman hidupnya salih, Dadanya lapang lakunya sopan*”.

The integration above built in a long process of naturalization when Islam came first in Jambi, it was strengthened through the identity's change of the Jambi Malay which was based on the Seloko "*adat bersendi alur, alur bersendi patut, patut bersendi kebenaran*" to be Islam-Malay based on Seloko "*Adat bersendi shara', shara' bersendi Kitabullah*". (Rachman and Rahman 2017).

Seloko shows two significant things about the naturalization of Islam in Jambi Malay tradition: first, the Jambi Malay custom originates from the Qur'an and Sunnah; and secondly, the Qur'an and Sunnah (Islamic tradition) are reflected through the custom of Jambi Malay. Thus the custom of Jambi Malay has accepted Islam as its normative force since the Islamization of Jambi during the Jambi Malay Sultanate, which even when Islam was strengthened, the Sultans have voluntarily used titles based on religious legitimacy (Asyari, 2009). The explanation insists that the naturalization of Islam in Jambi tradition resulted from the customary law which is relied *shara'* on Malay Muslim community.

2.3 The Contemporary of Existence of Seloko Jambi Malay

Recently the existence of *Seloko* is facing a big challenge, it could threaten the distinctive identity of the Jambi Malay Muslim community. One of the biggest and most felt challenges of *Seloko's* existence today is a negative impact of 'modernity'. Admittedly or not, a modernity that brings a modern Western value system can replace the role of custom and religion in traditional community life. The influence is very strong since it is supported by globalization and technology that can shift the patterns of thought, worldviews and cultural life of traditional societies.

Besides, another impact could be seen through the decrease of devotion toward religion and custom. It also directly threatens awareness and moral ethics. In this context, Junaidi T. Noor, Jambi traditional leader stated that the tight relationship between custom and religion in Jambi, making people who are not civilized the same as people who are not religious and customary violations are equal to violations of religious teachings (Interview Junaidi T. Noor, 2017).

Responding to modernity, Muslims are divided into two views that follow the flow of modernism or maintain original tradition. It increases tension between modernism and traditionalism, whereas modernism without traditionalism will surely lose authenticity, while traditionalism without modernism will lose its vital character. Therefore, what is needed is a thought that could accommodate both sides. This

moderate view is shown in the discourse of *al-turats wal al-hadatsah* (Jabiri, 1991) and *al-turats wa al-tajdid* (Hanafi, 1993). Both tried to accommodate modernism and traditionalism together.

Another interesting challenge of the existence of Seloko is conservative Muslims, who raise discourse about *al-ashalah*, authenticity, and originality which can only be obtained by returning to the Al-Qur'an and Hadith. The purification method is then chosen to filter all kinds of thoughts, deeds, and habits that are considered to have no basis in the two original sources, including among others that are considered not based on the Qur'an and Hadith or *bid'ah*. (Haris, 2007). Traditions such as *Nuak/Manuak* tradition, which is a seven-monthly tradition of pregnancy; *Burdah*, which is the recitation of praise to the Prophet led by Tuan Guru; *Shuro*, namely the commemoration of welcoming the first of Hijriyah through certain customs and religious processions. (LAM, 2004). Other religious traditions such as *Tahlilan*, *Maulidan*, *Isra* and *Mi'raj* celebrations, reading *al-Barzanji* are criticized and considered as *bid'ah* (Asyari, 2013).

The impacts of those challenges have been seen namely among the younger generation in which they kept a distance from the Malay custom mainly by the modernity on the one hand and religious conservatism on the other. Creative efforts are needed in developing and rejuvenating *Seloko* idealism to create a cultural movement in the midst of a society in preserving *Seloko* (Interview, Muallimah, 2017).

3 CONCLUSION

Seloko "*adat bersendi shara', shara' bersendi Kitabullah*" describes the implementation of Islamic law and customary law in the life of Jambi people occur in a selective integrative in the packaging of customary law (Jambi Act). This happened through a long process of Islamization which also contained an integration process of an epistemology of Islamic law and Jambi customary law, thus facilitate the process of naturalizing Islamic values into customary law. Creative efforts are needed in developing and rejuvenating Seloko idealism to create a cultural movement in the midst of a society to preserve Seloko.

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