

## The Implementation of Islamic Law in India and Indonesia

(A Comparative Overview of Emperor Akbar-Mughal Dynasty (1560-1605) and Sultan Agung Hanyokrokusumo, Mataram Kingdom (1613-1645))

Dr. H. Noor Achmad, M.A

A Former Rector of Wahid Hasyim University, Semarang

Nanang Nurcholis, S.Th.I., M.A

A Lecturer of Wahid Hasyim University, Semarang

and Ph.D candidate at the State Islamic University of Walisongo Semarang

**Abstract:** Current study discovers a historical account of the implementation of Islamic law in the period of Emperor Akbar from Indian continent and of Sultan Agung Hanyokrokusumo Mataram Kingdom, from Indonesia. It will give more emphasis on the dynamics of the implementation of Islamic law, and most importantly how Emperor Akbar and Sultan Agung interpreted it. This research is a normative legal research and uses a historical approach. As a literary or library research, it uses eclectic, blended, with qualitative method in content analysis. In short, both Akbar and Sultan Agung have the same views in terms of Islam as the main source of legal systems in their era but how they understand and practice it, is quite different. Akbar regarded Islam as moral ideal that should be understood contextually so that in some cases his policies and thoughts are more progressive and contextual even secular for example abolishing *Jizyah* (the tax paid by non-Muslims in return for protection and religious liberty—with some restrictions) in 1564. Otherwise Sultan Agung interpreted Islam textually. As a result his approach tends to be stagnate and rigid in implementing Islamic Law (*Shari'ah*).

**Keywords:** Shari'ah, tax, Hindu, Indonesia, Akbar.

### 1. Introduction

Emperor Akbar (1560-1605) of Mughal Dynasty and Sultan Agung Hanyokrokusumo (1613-1645) of Mataram Kingdom are two phenomenal figures in Islamic history having wonderful contributions to the fields of religion, culture, literature, art, architecture, and politics. Both the personalities, Akbar and Agung carry similar thoughts in matters pertaining to religion, politics and culture including the *Hijri* and *Saka* Calendar [1]. The similarity is based on the era when Muslims were ruling the elite in different continents of the world – especially the Indian regimes.

The Mughal Emperor Akbar's thoughts were influenced by the social condition of Indian sub-continent of his era that was full of heterogeneous caste systems, a wide variety of religious beliefs, and multicultural ethnicities driving the society [2]. There was high social

distance in the caste system of that time when the Mughal emperors were ruling the Indian and related geographical regimes [3]. Furthermore, it was regarded difficult to move up in the caste system especially among the people belonging to Hindu religion. There were (and still exist) various sacred and on the contrary few low caste where both people were not regarded equal and were also considered superior (The Barahmin for instance) and also inferior [4]. It was existing at that time and is still relevant to date [5]. Given the impact of Renaissance and Scholasticism in Europe, Akbar made a lot of changes for his people whether in religious, cultural, architectural, political, art, educational, and social fields [6]. It was his influence at one side as he was impressed by the West, and on the other side, can also be called his foresight and his vision of global political structure of that time. However, whatever it is, rather scarcely known, especially

his contribution to raise and address political, religious, and social issues.

Sultan Agung at that time was facing the same social condition as Akbar had in India [7]. Although the Caste system was not so dense, but there were several political and religious changes on the way as the society was trying to find ways to become part of an acceptable global community. He also (same as Akbar did) tried to develop and instrument a dialogue between religion and culture so that his thought is pretty similar to that of Akbar's way of doing things.

The researchers believe that Sultan Agung's views are mostly influenced by Akbar's thorough transmission of Indian knowledge. How? The answer lies in the excellent research published already where the researchers appreciated and acknowledged Akbar's love to gain knowledge and understanding of national and global issues as this attitude positively influenced many leaders of that era [8] – Sultan Agung is no exception. Furthermore, Akbar used to spend a lot of time in travel, decision making, reading and documenting history, and socializing which made him entirely different and scholastic emperor among the lot of other Kings of the Mughal regime [9]. This led him to write many books such as manuscripts and literatures for example *Akbar Nama*, *Ain-i-Akbari*. The dissemination of Akbar's ideas brought by Indian traders and sufis during the 15<sup>th</sup> and 16<sup>th</sup> centuries to various parts of Subcontinent (currently India, Pakistan, and Bangladesh) and other related territories [10]. It is believed that Sufi saints were an influential source of spread of Islam as a religion in the East – an orientalist approach embedded in the Akbari spirit. In addition, what Mughal emperors achieved in general, and what Akbar did in particular, had a huge impact to other Islamic state and kingdoms as his ideas vastly spread across the Indian Ocean. This also entails that it became a global discourse which gave great contribution on the development and growth of religious thought in surrounding countries [11].

Based on the theoretical evidence, it is clear that both the leaders faced almost identical socio-cultural environments but concerning

implementation of Islamic law (*Shari'ah*), the views of both the leaders are slightly different. For instance, the Islamic law based on the *Shari'ah* principles was the core determinant of decision making under any political and legislative system in the Muslim regime. This ignited a new spirit to the governance practices of state [11]. In India and Indonesia, the Islamic laws have also played crucial role to structure Indian and Indonesian administrative, social, political and cultural systems [12]. Moreover, the study to compare how the Islamic law was practiced in 15<sup>th</sup> and 16<sup>th</sup> centuries has been ignored by the writers and scholars even at present. As per the authors' knowledge, there is no study to date where the research community has benefited from a publication which encapsulates the exemplary life of the two leaders i.e. Babar and Agung. Therefore, the current study on the comparison of implementation of Islamic law during Akbar and Agung period is very important to describe how the familial, religious, social, cultural and political backgrounds have affected the thought and policies developed during the 15<sup>th</sup> and 16<sup>th</sup> centuries. We are positive that by the conduct of this study, scientific community will be informed about the dynamics of application of Islamic law in the Islamic kingdoms of the medieval period by considering Indian and Indonesian regimes – two culturally congruent communities.

### Methodology

The data for this library research was collected from different sources – a combination developed within the qualitative tradition of inquiry as suggested by contemporary researchers in cases where idea is unique such as in this study [13]. In this study, we selected Eclectic means to collect and interpret the data which means that the choice of techniques is dependent on the needs of the researcher and the researched. Although this is true for all types of social research, it is particularly important to establish trust and credibility to the qualitative research – data and methods [13]. The Qualitative research in this study employs a triangulation of methods – a multi-model presentation of the argument. The researcher, in this way, can adopt a wide variety of research

techniques, or a combination of such (blended), as long as they are justified by the needs.

This study describes and then compares the socio-religio-political settings of Akbar's and Agung's eras of kingship to delineate in detail the governance thought and practice of 15<sup>th</sup> and 16<sup>th</sup> centuries. With regards to historical analysis approach which contains philosophical thought, it cannot be obtained by one method only – hence triangulation is imperative as per previously held studies in Islamic history [14]. History and human thoughts are so complicated and having a lot of dimensions which requires to employ multi-method approach albeit triangulation. Hence, this study employs historical approach. The history of Akbar as the third Emperor in Mughal Dynasty and that of Sultan Agung Hanyokrokusumo as the Great King in Mataram Kingdom are quite significant to be researched with historical approach. Akbar has been already been researched however, the work only focused to establish epistemological links between the writing of Akbar to draw in cultural diversity lessons especially for management community [15].

The data gathered in the research was qualitative and consisted of primary and secondary data sources. The primary data are derived from the manuscripts and archives while the secondary data are gathered from books, journals and other publications which are related to the subject.

## Results

The results demonstrate that family, religion, society, culture, and political backgrounds have affected the governance practice of the era between 15<sup>th</sup> and 16<sup>th</sup> century. in the past Akbar's and Agung's thought. Akbar was born and brought up in comparatively liberal surrounding. His father, a Sunni, and his mother Hamida Banu Begum, the daughter of a Persian Shi'a Scholar, Mir Baba Dost / Ali Akbar Jami, sowed in his mind the seeds of tolerance. His teachers guided him to learn about various religions while making him a religiously liberal individual. Mr. Abdul Latif, the noble tutor, was a Shia who was liberal in his religious thoughts. Another teacher of Akbar, Mulla Pir Muhammad was also a liberal minded individual. Further,

Akbar was greatly influenced by the mysticism of the Sufi doctrines, especially when he came into contact with Sheikh Mubarak and his two sons Faizi and Abul FazL. Under their influence Akbar developed into a highly tolerant person – full of spiritualism and tolerant. Bairam Khan, the guardian of Akbar guardian and regent of the State could not but influence Akbar in his attitude towards the people. Unlike Akbar, Sultan Agung came from a family with varied traditions. He faced the propagation of Islamic orthodoxy carried out by his predecessors – a situation different to what Akbar faced during early years of his life. Sultan Agung was often associated as a devout Muslim who firmly upholds *Shari'a* principles to decide among the choices life put into. As a strict adherent to *Shari'a*, he often implemented it textually, particularly related to the punishment for offenders. For instance, the penalty of *rajam* for Pranacitra and Roromendut for committing adultery (*zina*) and the sentence of death for Syaikh Amung Raga for ignoring *shari'a* principles are few examples.

Otherwise, Akbar is contextual as his concept of proportionality of punishment shows his progressive ideas about understanding of Islamic laws. Moreover, the Akbar's secular views of Islamic law (*shari'a*) can be noticed during his policies in relation to the status of the Hindus and other non-Muslims living in? He treated them equal and gave them the same rights with Muslims.

## Discussion

The *Shari'a principles* that lay the foundation to establish Islamic government and a welfare society, is considered as *divine* in nature by Muslim researchers and scholars. Due to this fact, Emperor Akbar of Mughal Dynasty and Sultan Agung Hanyokrokusumo of Mataram Kingdom apparently accepted the supremacy of the *Shari'h* 'at law over the state, at least theoretically. They did not consider themselves above the law, nor did they claim to have the power of legislation unless it is based upon the teachings of Islamic Shariah. It only emphasized the discretionary rights which a Muslim ruler was

entitled to use in controversial matters<sup>1</sup>. Although, in practice, Akbar was not only the head of the state but also the commander in chief of the military forces as well as the head of the judicial authority in the country citation issue!<sup>2</sup>

Islamic law is usually divided into two broad heads- *Tashri'i*, religious and *Ghair-tashri'i*, 'secular'. The purely religious portion of law is applicable to Muslims, whereas the Secular laws apply to Muslims and non-Muslims alike. The political histories of the Mughal Dynasty and Mataram Kingdom and their administrative and quasi-religious institutions that have attracted the attention of a large number of scholars and works of great merit have appeared in the history and religious literature. But comparatively little attention has been paid to the comparative study of the Islamic legal system under the Mughal and Mataram. Generally, in the period of Emperor Akbar and Sultan Agung, the law seems to have been divided in two categories i.e. (1) religious and (2) political. The Mughal and Mataram placed the matters relating to religious obligations, marriage, divorce, inheritance, pious endowment, etc., under the jurisdiction of religious authorities (*qazis*, *muftis* or *sadrs*) and paid due regard to their opinions and decisions pertaining to these matters. In political affairs however, they considered themselves sole interpreter of laws and did not brook interference from the *ulama* and jurists. In this sphere the judgment of the *qazis* and jurists were not only set aside by the Emperors, they were sometimes also relieved of their job assignments if they did not conform to the policies of the rulers, or refused to serve their interests.

To deal with the administrative problems, the Mughal rulers promulgated new regulations paying little regard to the consistency of their edicts with the ideals of Islam. An enunciation of the source material and the set of rules, criteria and administrative manuals make it abundantly clear that there existed four kinds of legal codes and set of regulations to serve as guides in the legal framework of the empire: *first*, Canon

Laws. There were laws that concerned civil matters of the Muslim community. It was applied to the Muslims in such matters as inheritance, succession, marital rights, guardianship, etc.

*Second* was the Law of the land or common Law. It signified the laws that help to govern the system of taxation, commercial transaction and regulated customs, transit duties, barter, exchange, sale and contract. The common law also dealt with the offences involving maintenance of internal peace and order or with the criminal acts recognized by age-old human society, such as adultery, murder, theft, robbery, etc. the Law of the land was common to all subjects of the state.

*Third*, State Law (*Zawabit* or *Qawanin-i Shahi*). This consisted of regulations enacted by the state and executive decrees issued by the Emperors from time to time to manage state affairs and governance of the country. The sphere of the state law widely comprehended all those aspects for which no legal precedent was available or the existing law was not effective to cope with the new administrative problems.

*Fourth*, Customary Law (*qamin-i urf* or *adat*) comprised the local customs, traditions and the prevalent practices. The customs sanctioned by traditions usually recognized as an important source of law. The Mughals as well as their counterparts in other Muslim countries gave due weightage ranging from tacit forbearance to the actual acceptance and sanction to custom and local traditions to add to the dimensions of the legal framework in operation in the empire. The customary law, in fact, served as an expedient instrument for the Muslim rulers to manage the administrative problems. It also provided them with a legal ground for justifying their enactments in temporal matters.

While Sultan Agung (1613-45) was the first Mataram ruler to introduce to the significant elements of *Shari'a* justice, replacing much of Indian-Javanese judiciary with Islamic legal experts<sup>3</sup>. He actively promoted Islam as state policy, and that only occurred in the last decade

<sup>1</sup> Al-Badaoni, *Muntakhab-ut-Tawarikh*, vol. 2 (Calcutta: Bibliotheca India, 1865), p. 270.

<sup>2</sup> S.C. Ray Choudhary, *History of Medieval India* (New Delhi: Surjeet Publication, 1980), p.105.

<sup>3</sup> John Ball & John Preston Ball, *Indonesian Legal history, 1602-1848* (Sydney: Oughtershaw Press, 1982), pp. 37-47.



of his long reign. His law code was developed at that time which was an attempt to integrate local custom and Muslim law.<sup>4</sup> He integrated Islamic law into the court system; the so-called *Jaksa*<sup>5</sup> courts.

The Mataram Sultanate (1613-1645), the most influential Islamic Sultanate in Central Java, for instance, had an Institution named *Peradilan Surambi* that was actually an Islamic version of the *Peradilan Pradata*. Before the Mataram Kingdom converted to Islam, there had been two court systems prevailed in the state such as; the *peradilan Pradata* and the *Peradilan Padu*. The *Peradilan Pradata* dealt with affairs (problems) which fell under the authority of the king, and was based on Hindu law the *Peradilan Padu* dealt with problems that did not pertain to the authority of the king, and was based on unwritten laws or *adat*.<sup>6</sup>

When the Mataram kingdom converted to Islam and became a Mataram Sultanate, precisely when Sultan Agung came to power as ruler of this Sultanate in 1613, the court was reformed by placing Muslims in the *Peradilan Pradata*. However, the Sultan did not abolish the system entirely, but instead adopted the institutional structure and inculcated Islamic values into the existing system. In the process of its development, the *Peradilan Pradata* became the *Peradilan Surambi* which dealt with issues on the basis of Islamic law. Its name was derived from the fact that instead of hearing cases in the palace, the Sultan changed the venue of the court to the front of the mosque or *Surambi* (verandah).<sup>7</sup> The leadership of the courts, even though principally in the hands of the sultan, moved to the *penghulu* (headman), who was

assisted by several Muslim scholars (*ulama*) from various Islamic schools being the members of the board.

Besides his position and responsibility of being a judge of the *Peradilan Surambi* to make *judicial decisions*, the *penghulu* assumed the responsibility of being the spiritual advisor to the ruler. This may have been the theory, but it is reported that the Sultan almost never made decisions which contradicted that of the *penghulu*.

In Mataram under the reign of Sultan Agung, the venue of the courts was changed from the sultan's palace to the veranda of the grand mosque (surambi). Eventually, the chief of the grand mosque (*penghulu*) presided over the Islamic courts in all the regencies of the Mataram Sultanate.<sup>8</sup> Because of the perceived resemblance between *penghulus* and Catholic priests, the Dutch called those Surambi courts 'as priest councils' (*priesterraden*).

The chief *penghulu* was the highest authority in religious affairs in a regency under the indigenous regent to serve as both the chief Islamic judge of the Islamic court and the head of the Islamic bureaucracy. This bureaucracy ran from the chief *penghulu* and other *penghulus* at the regency level, to the *naib* at the sub-district level, and *kaum* (in West Java *amil*) in the villages. All these functionaries could advise the local population in marital and divorce affairs, but only a *penghulu* could act as a judge.<sup>9</sup> In their judicial role, the *penghulus* decided family law and inheritance cases and advised in criminal cases within the *jaksa* court, presided over by the sultan or his representative. According Azra, the practice of Islamic *hudud* punishments, like the cutting off of thieves' hands, and the sanctions of retaliation (*qisas*) and blood money (*diyyat*) were

<sup>4</sup> Howard M. Federspiel, *Sultans, Shamans, and Saints: Islam and Muslims in Southeast Asia* (Honolulu: Hawaii University Press, 2007), p. 55,

<sup>5</sup> *Jaksa* is Sanskrit for prosecutor

<sup>6</sup> Idri, 'Religious Court in Indonesia' in *Journal of Indonesian Islam*, Vol. 03, No. 02, December 2009, p. 301.

<sup>7</sup> Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal* (Amsterdam: Amsterdam University Press, 2010), p. 42.

<sup>8</sup> N.A.F, *Islamic justice in transition: A Socio-Legal Study of the Agama Court Judges in Indonesia* (Los Angeles: University of California, 1994), pp. 58-59.

<sup>9</sup> M. Hisyam, *Caught between three fires: The Javanese Pangulu under the Dutch Colonial Administration, 1882-1942* (Jakarta: INIS, 2001), pp. 35-36.

practiced by the early Islam in Indonesia<sup>10</sup> particularly during the reign of Sultan Agung, but how often we do not know.

It is notable that from the short explanation above, we can underline that both Akbar and Agung actively propagated Islam as state policy and implemented Islamic law (*shari'a*) in conjunction with local customary law (*adat*) comprised the local customs, traditions and the prevalent practices though they were slightly different in its understanding and interpretation.

### Emperor Akbar – Sultan Agung: Secular versus Traditional

It must be admitted, however, that the implementation of Islamic law (*shari'a*) ultimately depends much on the attachment of the Muslim rulers to *shari'a* and their interpretation on Islam itself. Furthermore, Islamic law developed within the region and was practiced in certain socio-cultural-political situations. The fact that Akbar was the most secular of all the Mughal rulers cannot be denied. He believed in proportionality of punishment. In stating the ideal for determining forms of punishment, according to Radhika Singha quoted from *Mirat-ul-Akbar* by Raja Ram Mohan Roy, Akbar said they should vary according to the rank and status of the offender

*In short, punishment is the most important affair of sovereignty and hence it should be made with sedateness and understanding...Further, punishment of everyone should be befitting his condition . . . a severe glance at a man of lofty nature is equivalent to killing him, while a kick is of no avail to a man of low nature.*<sup>11</sup>

Based on the evidence, it can be narrated that punishment should fit the crime and the ruler

must be flexible (within the Shariah), justice oriented, and persistent in making and implementing policies.

Akbar also understood the importance of local support to effectively govern the state. The open-minded innovations of the Mughal emperor Akbar broke with traditional patterns of Islamic political thought in an attempt to build a single political community that granted India's Hindu population and their religious toleration to establish an equal status with their *Sunni* and *Shi'i* Muslim neighbors. He also tried to reconcile Muslim sectarian groups with one another. Akbar's views were expounded in the Regulations of Akbar (*A'in-i-Akbari*), which were compiled by his adviser Abu al-Fadl (1551-1602). Claiming infallible monarchical authority and according himself power as *insan al-kamil*, Akbar combined the role of king with that of spiritual teacher. Proclaiming himself the highest authority in matters of religious law as well as secular law, he set aside key stipulations of the *Shari'a* and embraced religious tolerance and political authority.<sup>12</sup>

During his reign, for example, Akbar introduced revolutionary change in his policy with regard to the status of Hindus in the state. He repealed the discriminatory laws against the non-Muslims so as to create one common-citizenship and establish one uniform system of justice for all. This was done gradually, and it took nearly twenty years or more to complete the process. The first law, repealed in 1562, was with regard to the making of prisoners of war and their conversion and those of their families into slave and Muslims. In 1563 the Hindu pilgrim tax was abolished, and 1564 saw the abolition of the most discriminatory tax, namely, the *jizya*. He followed this by enunciating the principle of *sulh-i-kul*; universal tolerance and an undertaking to respect the rights of all peoples, irrespective of religion or creed.<sup>13</sup>

<sup>10</sup> Arskal Salim & Azyumardi Azra, *Shari'a and Politics in Modern Indonesia* (Pasir Panjang: Institute of Southeast Asian Studies, 2003), p. 4.

<sup>11</sup> Radhika Singha, *A Despotism of Law: A Crime and Justice in Early Colonial India* (New York: Oxford University Press, 1998), p. 11.

<sup>12</sup> Gerhard Böwering, Patricia Crone, *The Princeton Encyclopedia of Islamic Political Thought* (Princeton: Princeton University Press, 2013), p. xiv.

<sup>13</sup> Mark S. Ellis & etc., *Islamic Law and International Human Rights Law* (Oxford: Oxford University Press, 2012), p. 374.

He issued ordinances declaring marriages between Hindus and Muslims lawful without the requirements for Hindus to renounce their faith as a prerequisite for such a union. Having regard to the religious sensibilities of Hindus, the slaughter of cows was prohibited. Many Hindus, in particular Rajputs, were employed and indeed elevated to high offices<sup>14</sup> for example Todar Mal became his finance minister, and among the provincial governors at various times were Man Singh, Bhagwan Das, and Rai Singh. In 1594-1594, Akbar appointed twelve provincial finance ministers; eight of them were Hindus.<sup>15</sup>

Akbar accorded recognition to Hinduism and other religions in the land with the rights of legitimate propaganda and proselytism.<sup>16</sup> He issued an ordinance permitting non-Muslims to build churches, synagogues, idol-temples, and fire-temples without let or hindrance.<sup>17</sup> Furthermore, Akbar established a temple grant in 1565.<sup>18</sup> It was laid down at the same time that there should be no interference with anyone on account of his religion and that all were free to follow any religion they liked.<sup>19</sup> The repeal of other Islamic law followed, and one by one all social, religious and legal disabilities imposed by the Islamic law on the Hindus were repealed.<sup>20</sup>

Akbar gave official encouragement to the spirit of tolerance by the religious discussion which he sponsored in his *Ibadat Khana* (Hall of Worship). Muslim theologians and scholars, as well as Sufi mystics, came and expounded their teachings. But Akbar's spirit of inquisitiveness reached beyond the fold

<sup>14</sup> *Ibid.*

<sup>15</sup> Donald Eugene Smith, *India as Secular State* (Princeton: Princeton University Press, 1963), p. 64.

<sup>16</sup> Ramesh Chandra Majumdar, *The History and Culture of the Indian People*, vol.7 (Mumbai: Bharatiya Vidya Bhavan, 2002), p. 539.

<sup>17</sup> Babur, *Tuzuk-i-Baburi* or *Memoirs of Babur*, translated by Rogers and Beveridge, vol. 1 (New Delhi: Low Price Publication, 2006), p. 419.

<sup>18</sup> 'Abd Allāh Aḥmad Na'im, *Islam and the Secular State* (Negotiating the Future of *Shari'a*) (London: Harvard University Press, 2008), p. 145.

<sup>19</sup> Badaoni, *Muntakhab*. vol. 2, ,p.391.

<sup>20</sup> Ashirbadi Lal Srivastava, *A Short History of Akbar the Great*, vol. 2 (Agra: S.L.Agarwala Publication, 1962), pp. 267-268.

of Islam. Hindu and Jain scholars of all shades of opinion explained their views to the emperor; three Portuguese Jesuits expounded the Christian doctrine; and *Parsis* were also brought to present the Zoroastrian teachings. Akbar and his successor further encouraged freedom of thought by ordering the preparation of Persian translations of such Hindu religious books as the *Atharvaveda*, the *Mahabharata*, the *Ramayana* and others. Out of Akbar's own religious quest came his syncretistic Divine Faith, which incorporated elements of Sufi, Shi'a, Zoroastrian, and Hindu doctrine.<sup>21</sup>

Generally Sultan Abdullah Muhammad Maulana Matarani was often associated as a strict adherent to *shari'a*. In *Babad Pagedhongan*, he was described as regularly attending the mosque on Fridays, and performing Friday prayer at Mecca (*baitullah*)<sup>22</sup> even according to *Babad Tanah Jawi* because he was able to perform the *shalat* prayers each Friday in Mecca he had the title of *Prabu Pandita* (king-priest)<sup>23</sup>. Hendrick de Haan, the Dutch East India Company (VOC) reported the same as found in *Babad Pagedhongan* that in 1622 Agung attended the mosque on Fridays and that his four senior lords were obliged to accompany him.<sup>24</sup> Two years later, Jan Vos wrote that Agung wore a white *kuluk*, a sort of fez which may have been a mark piety in Java, and he was surrounded by men with long beards. He was also as a faithful observer of the Muslim fast.<sup>25</sup>

Sultan Agung tried to pursue his agenda of *Islamising* Java (and *Javanising* Islam) and was known, among others, as the ruler who was responsible for instituting the celebration of the *'Id al-Fitr* and the *Mawlid al-Nabi* (the Prophet

<sup>21</sup> Smith, *India as Secular State*, pp. 64-65.

<sup>22</sup> R. Ng. Wignyawiryan, *Babad Pagedhongan* (Semarang: Dahara Prize, 1991), p.15

<sup>23</sup> *Babad Tanah Jawi*, translated by W.I. Olthof (Dordrecht: Foris for KITLV, 1987), p. 122

<sup>24</sup> M.C. Ricklefs, *Islamising Java: the Long Shadow of Sultan Agung* (Archipel no. 56, 1998), p. 471

<sup>25</sup> Nicholas Tarling, *The Cambridge History of Southeast Asia* (From c. 1500 to c. 1800), vol. 2, (Cambridge: Cambridge University Press, 1992), p. 197

Birthday) as court ceremonies.<sup>26</sup> He took care to strengthen Islam in his territory by ordering Islamic scholars to establish mosques and *pesantrens* in every town under in his Sultanate.<sup>27</sup>

It must be assumed that Sultan Agung wanted to pursue a positively religious policy, and that, unlike his predecessors he adopted a strict Muslim attitude. Sultan Agung persuaded and forced captured Dutch soldiers to convert to Islam,<sup>28</sup> even he offered his Dutch prisoners the choice of circumcision or death. One of them, Antonie Paolo, died a martyr to his Christian faith in 1642.<sup>29</sup> He even went so far to humiliate the ruler of Giri, who refused to bow him.

With regard to his policy of upholding *Shari'a*, for example, Shaykh Among Raga, the main figure in *Serat Centhini*, was sentenced to death by drowning by Sultan Agung of Mataram for violating the *shari'a* and propagating heterodox mystical doctrine.<sup>30</sup> In *Babad Sultan Agung*, it was mentioned that Agung gave a punishment of *qisas* to Pranacitra, a young rich merchant and Roro Mendut, a beautiful slave given to the aged general Wiraguna who successfully conquered the city of Pati as reward, because of doing adultery (*zina*). He ordered to impose *qisas* with a *keris* in the twin buckeye.<sup>31</sup>

The Sultan Agung's strict character of upholding the principles of *shari'a* seemed to be inspired by the Islamic propagation of his predecessors including Demak sultanate and nine

saints (*walisongo*) who assertively established *shari'a*. They were also renowned for the sponsorship of Islamic orthodoxy. The case of Syekh Siti Jenar who was sentenced to death and executed by the other *wali* – because of his heterodoxy and violating *shari'a* is enough to prove it.<sup>32</sup> From this point, it is clear that Sultan Agung, like his predecessors, tried to strengthen Islamic law (*shari'a*) so that he tended to be an orthodox one.

### Conclusion

The Islamic law (*shari'a*) existed in Emperor Akbar and Sultan Agung period. They have the same views for accepting the supremacy of the *shari'a* at law over the state, at least in theory. Akbar and Agung did not regard themselves above the law (*shari'a*), nor did they claim to have the authority and power of legal system. In practice, they have also some features in common that they are not only as the head of state (king/sultan), but also as spiritual leader and judge (*qazi*) who have capable of justifying and making decisions in religious matters. With regard to the application of Islamic law (*shari'a*), Akbar and Agung are quite different. Akbar is progressive, contextual, and even secular. On the contrary, Sultan Agung seems to be stagnant, textual, and traditional.

### Bibliography

Azyumardi Azra, *Islam in the Indonesian World: An Account of Institutional Formation*, Bandung: Mizan, 2006, p. 71

Arskal Salim & Azyumardi Azra, *Shari'a and Politics in Modern Indonesia*, Pasir Panjang: Institute of Southeast Asian Studies, 2003.

'Abd Allāh Ahmad Na'im, *Islam and the Secular State* (Negotiating the Future of *Shari'a*), London: Harvard University Press, 2008.

<sup>26</sup> Azyumardi Azra, *Islam in the Indonesian World: An Account of Institutional Formation* (Bandung: Mizan, 2006), p. 71

<sup>27</sup> Hoessein Djajadiningrat, 'Islam in Indonesia', in *Islam, The Straight Path: Islam Interpreted by Muslims*, Kenneth W. Morgan (New York: The Ronal Press Company, 1958), p. 3

<sup>28</sup> HJ. de Graaf, *Puncak Kekuasaan Mataram: Politik Ekspansi Sultan Agung* (trans. from Dutch) (Jakarta: Grafiti Press, 1986), pp. 102-130.

<sup>29</sup> P. M. Holt & etc (ed.), *The Cambridge History of Islam: The Indian Sub-Continent, Southeast Asia, Africa and the Muslim West*, vol. 2 (London: Cambridge University Press, 1970), pp. 148-149.

<sup>30</sup> S. Soebardi, *The Book of Cebolek*, The Hague Martinus Nijhoff, 1975, pp. 36-40.

<sup>31</sup> Balai Penelitian Bahasa Yogyakarta, *Babad Sultan Agung* (translated by Soenarko H. Puspito) (Jakarta, 1980), p. 54.

<sup>32</sup> Martin Van Bruinessen, 'Saints, Politicians and Sufi Bureaucrats: Mysticism and Politics in Indonesia's New Order' in *Sufism and the Modern Islam*, Martin Van Bruinessen and Julia Day Howell (ed.) (London: I.B. Tauris & Co.Ltd, 2007), p. 107.



- Ashirbadi Lal Srivastava, *A Short History of Akbar the Great*, vol. 2, Agra: S.L.Agarwala Publication, 1962.
- Al-Badaoni, *Muntakhab-ut-Tawarikh*, vol. 2, Calcutta: Bibliotheca India, 1865.
- B.J.O.ScHrieke, *Indonesian Sociological Studies*, part.2, The Hague-Bandung: W. van Hoeve Ltd., 1957.
- Babur, *Tuzuk-i-Baburi or Memoirs of Babur*, translated by Rogers and Beveridge, vol. 1, New Delhi: Low Price Publication, 2006.
- Balai Penelitian Bahasa Yogyakarta, *Babad Sultan Agung* (translated by Soenarko H. Puspito), Jakarta, 1980.
- Babad Tanah Jawi*, translated by W.I. Olthof, Dordrecht: Foris for KITLV, 1987.
- Donald Eugene Smith, *India as Secular State*, Princeton: Princeton University Press, 1963.
- Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal*, Amsterdam: Amsterdam University Press, 2010.
- Gerhard Bowering & Patricia Crone, *The Princeton Encyclopedia of Islamic Political Thought*, Princeton: Princeton University Press, 2013.
- H.J. de Graaf, *Puncak Kekuasaan Mataram: Politik Ekspansi Sultan Agung* (trans. from Dutch), Jakarta: Grafiti Press, 1986.
- Hoessein Djajadiningrat, 'Islam in Indonesia', in *Islam, The Straight Path: Islam Interpreted by Muslims*, Kenneth W. Morgan, New York: The Ronal Press Company, 1958.
- Howard M. Federspiel, *Sultans, Shamans, and Saints: Islam and Muslims in Southeast Asia*, Honolulu: Hawaii University Press, 2007.
- Idri, 'Religious Court in Indonesia' in *Journal of Indonesian Islam*, Vol. 03, No. 02, December 2009.
- John Ball & John Preston Ball, *Indonesian Legal history, 1602-1848*, Sydney: Oughtershaw Press, 1982.
- K.A. Steenbrink, 'Indian Teachers and Their Indonesian Pupils: On Intellectual Relations between India and Indonesia, 1600-1800' in P.J. Marshall, Robert Van Niel et al., *India and Indonesia during the Ancient Regime: Comparative History of India and Indonesia*, vol. 3, Leiden: University of Leiden, 1988.
- M.C. Ricklefs, *Islamising Java: the Long Shadow of Sultan Agung* (Archipel no. 56, 1998, p. 469-482).
- Martin Van Bruinessen, 'Saints, Politicians and Sufi Bureaucrats: Mysticism and Politics in Indonesia's New Order' in *Sufism and the Modern Islam*, Martin Van Bruinessen and Julia Day Howell (ed.), London: I.B. Tauris & Co.Ltd, 2007.
- M. Hisyam, *Caught between Three Fires: The Javanese Pangulu under the Dutch Colonial Administration, 1882-1942*, Jakarta: INIS, 2001.
- Mark S. Ellis & etc., *Islamic Law and International Human Rights Law*, Oxford: Oxford University Press, 2012.
- N.A.F, *Islamic Justice in Transition: A Socio-Legal Study of the Agama Court Judges in Indonesia*, Los Angeles: University of California, 1994.
- Noor Achmad & etc., *Dialectic of Religion and Culture: A Comparison of Emperor Akbar's Spiritualism 'Din-i-Ilahi' in Dabistan-i-Mazahib and Sultan Agung Hanyokrokusumo's 'Manunggaling Kawula Gusti'* in Serat Sastra Gendhing, Semarang: Wahid Hasyim University Press, 2016.
- Nicholas Tarling, *The Cambridge History of Southeast Asia* (From c. 1500 to c. 1800), vol. 2, Cambridge: Cambridge University Press, 1992.
- P. M. Holt & etc (ed.), *The Cambridge History of Islam: The Indian Sub-Continent, Southeast Asia, Africa and the Muslim West*, vol. 2, London: Cambridge University Press, 1970.

Radhika Singha, *A Despotism of Law: A Crime and Justice in Early Colonial India*, New York: Oxford University Press, 1998.

[Ramesh Chandra Majumdar](#), *The History and Culture of the Indian People*, vol.7, Mumbai: [Bharatiya Vidya Bhavan](#), 2002.

R. Ng. Wignyawiryana, *Babad Pagedhongan*, Semarang: Dahara Prize, 1991.

S. Soebardi, *The Book of Cebolek*, The Hague Martinus Nijhoff, 1975.

S.C. Ray Choudhary, *History of Medieval India*, New Delhi: Surjeet Publication, 1980.

## References

1. Ricklefs, M., *Religious elites and the state in Indonesia and elsewhere: Why takeovers are so difficult and usually don't work*. Encountering Islam: The politics of religious identities in Southeast Asia, 2013: p. 17-46.
2. Desai, A.R., *Social Background Of Indian Nationalism (6Th-Edn)*2005: Popular Prakashan.
3. Ali, S. *Collective and elective ethnicity: Caste among urban Muslims in India*. in *Sociological Forum*. 2002. Springer.
4. Weber, M., *The religion of India: The sociology of Hinduism and Buddhism*2000: Munshiram Manoharlal Publishers Pvt. Ltd.
5. Stephens, R.J., *Sites of conflict in the Indian secular state: secularism, caste and religious conversion*. J. Church & St., 2007. 49: p. 251.
6. Hasan, F., *State and Locality in Mughal India: power relations in western India, c. 1572-1730*2004: Cambridge University Press.
7. ISLAM, J.S.D.K., *ISLAMISASI DI BAGELEN PURWOREJO PADA MASA PEMERINTAHAN SULTAN AGUNG TAHUN 1613-1645 M*.
8. Bayly, C.A. and C. Bayly, *Empire and Information: Intelligence gathering and social communication in India, 1780-1870*. Vol. 1. 2000: Cambridge University Press.
9. Schimmel, A. and B.K. Waghmar, *The empire of the great mughals: History, art and culture*2004: Reaktion Books.
10. Alam, M., *The Mughals, the Sufi Shaikhs and the formation of the Akbari Dispensation*. Modern Asian Studies, 2009. **43**(01): p. 135-174.
11. Bose, S. and A. Jalal, *Modern South Asia: history, culture, political economy*2004: Psychology Press.
12. Metcalf, B.D., *Islamic Revival in British India: Deoband, 1860-1900*2014: Princeton University Press.
13. Tufford, L. and P. Newman, *Bracketing in qualitative research*. Qualitative Social Work, 2012. **11**(1): p. 80-96.
14. Mohammed, M.R., *Al rihla and curriculum theory: A qualitative comparative study of contemporary and historical Muslim Travelers in search of knowledge*, 2011, Texas A&M University.
15. Syed, J., *Akbar's multiculturalism: lessons for diversity management in the 21st century*. Canadian Journal of Administrative Sciences/Revue Canadienne des Sciences de l'Administration, 2011. **28**(4): p. 402-412.