



Legal Protection of Minority Rights: Study on the Implementation of Qanun Number 6 of 2014 Concerning the Jinayat Law in Langsa City, Aceh Special Region Province

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Submitted : 07-03-2023

Accepted : 16-10-2023

Revision : 22-09-2023

Published : 31-10-2023

Abstract: The negative stigma against applying Islamic law or sharia has not disappeared. This stigma persists since it is accompanied by propaganda that Islamic sharia is contrary to human rights and is barbaric. Specifically, the Special Region of Aceh Province, with its special label and special autonomy based on Law No. 44 of 1999 concerning the Implementation of the Privileges of Aceh, strengthened by Law No. 18 of 2001 concerning Special Autonomy, Law No. 11 of 2006 concerning the Government of Aceh, and part of the Memorandum of Understanding (MoU) of Helsinki bargaining, is permitted to apply Islamic law, including the issue of jinayat. This research's object was the implementation of Qanun Jinayat in Langsa City to find out how it is implemented and how it protects the rights of minorities. Included in the field research category, this study used qualitative methods with data collection techniques through in-depth interviews and field observations. The result revealed that the enforcement of the Qanun Jinayat in Langsa City is concerned about human rights norms, does not interfere with the rights of minorities, and they even feel happy since the Qanun's norm is also regulated in their holy book.

Keywords: Qanun Jinayat, human rights, protection of minority rights

Abstrak: Stigma negatif terhadap pemberlakuan hukum atau Syari'at Islam masih belum hilang. Stigma tersebut masih terus bertahan sebab dibarengi dengan propaganda bahwa Syari'at Islam bertentangan dengan hak asasi manusia (HAM) dan barbarik. Provinsi Daerah Istimewa Aceh dengan label keistimewaan dan otonomi khusus berdasarkan UU No. 44 Tahun 1999 tentang Penyelenggaraan Keistimewaan Aceh diperkuat dengan UU No. 18 Tahun 2001 tentang Otonomi Khusus dan UU No. 11 Tahun 2006 tentang Pemerintahan Aceh serta bagian dari Bargaining Nota Kesepahaman Helsinki, memberikan izin untuk memberlakukan hukum Islam termasuk masalah jinayat. Riset ini bertujuan untuk menganalisis bagaimana pelaksanaannya dan bagaimana perlindungannya terhadap hak-hak kaum minoritas. Penelitian ini termasuk dalam kategori

penelitian lapangan (*field research*) dengan menggunakan metode kualitatif dengan teknik pengambilan data melalui wawancara mendalam (*in-depth interview*) dan observasi lapangan. Hasilnya adalah bahwa penegakkan Qanun Jinayat di Kota Langsa sangat memperhatikan norma hak asasi manusia, tidak mengganggu hak-hak kaum minoritas, bahkan merasa senang sebab apa yang menjadi norma dalam qanun tersebut diatur pula dalam kitab sucinya.

Kata Kunci: Qanun Jinayat, hak asasi manusia, perlindungan hak-hak kaum minoritas

Introduction

The history of Aceh is the history of the glory of Islam in the archipelago. During the era of Portuguese to Dutch colonialism and the war for independence of the Republic of Indonesia, Aceh made significant contributions in physical resistance, moral struggle, and material. From the beginning of independence until the 1950s, relations between Aceh and Jakarta (Indonesia) were quite harmonious. In 1953, Jakarta's various policies towards Aceh which were considered unfair gave rise to the DI/TII rebellion and Free Aceh Movement (Gerakan Aceh Merdeka - GAM).¹

GAM's conflict and resistance against the Indonesian government was the longest and resulted in the most casualties, both civilian and military. This long conflict only ended after the signing of a Memorandum of Understanding (MOU) on August 15, 2005, in the city of Helsinki, Finland. This MoU is known as the Helsinki MoU, which contains several points, including the administration of the Aceh Government, regulation of participation in the political field, economic rights for Aceh,² the formation of laws and regulations, resolution of human rights violations, granting amnesty and efforts to reintegrate former GAM members into society, security arrangements, establishment of Aceh monitoring mission and a dispute resolution mechanism in the implementation phase of the agreement.³

Langsa City is one of 23 regencies and cities throughout the Aceh Province, which will certainly follow all the policies of the Aceh Provincial Government, including the implementation of the Islamic judicial system and Islamic law in the form of *Qanun*.⁴

On the other hand, the rights of minorities have often been sensitive issues in the history of the life of the nation and state, especially issues related to religious life. Several events that occurred in the country show that there are still many problems in this country regarding protecting the rights of minorities.⁵ Examples of these incidents include the difficulties experienced by the GKJ Yasmin congregation and the HKBP Filadelpia congregation in Bekasi in establishing a house of worship. In addition, citing a report by Human Rights Watch, at least one case was found where the Muslim minority community also had difficulty building a mosque. Since 2002, Muslim families in Batuplat,

¹ Rukaya Rukaya et al., "Aceh Conflict Resolution, Actions of Non-GAM Acehnese in Peace in Veranda of Mecca Post-MoU. Helsinki," *QISTINA: Jurnal Multidisiplin Indonesia* 2, no. 1 (2023): 134–47.

² Khamami Zada, "Sharia and Islamic State in Indonesia Constitutional Democracy: An Aceh Experience," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (2023): 1–17, <https://doi.org/10.18326/ijtihad.v23i1.1-18>.

³ Ali Geno Berutu, "Penerapan Syariat Islam Aceh Dalam Lintas Sejarah," *Jurnal Hukum Istimbath* 13, no. 2 (2016): 164–70.

⁴ Junaidi Junaidi, Muhammad Rusdi Bin Muhammadiyah, and Muhazir Muhazir, "Revitalisasi Penerapan Qanun Nomor 6 Tahun 2014 Tentang Hukum Jinayat Di Kota Langsa Aceh," *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 1 SE-ARTICLES (June 2, 2020): 147–60, <https://doi.org/10.24090/mnh.v14i1.3261>.

⁵ Muzakkir, "The Effectiveness of Aceh's Jinayat Qanun on Crime Rates in the Community in a Review of Legal Socialization," *Al-Manahij: Jurnal Kajian Hukum Islam* 16, no. 2 SE-ARTICLES (November 18, 2022): 255–68, <https://doi.org/10.24090/mnh.v16i2.6643>.

Alak sub-district, Kupang, have faced difficulties establishing mosques,⁶ and there was a prayer room burning in Tolikara, Papua.

Those cases clearly injure the diversity of Indonesia, a country based on God Almighty but have cases of violence in the name of religion against minorities. Incidents of violence with religious nuances still occur a lot, even though Indonesia already has a legal regulation that specifically provides guarantees for protection for minorities, both in the 1945 Constitution in Article 28 and the laws and regulations resulting from the ratification of international conventions on human rights.⁷

Aceh, especially Langsa City, is an area given the authority to apply religious (Islamic) law in the lives of its people, both private and public laws. In the national context, the formalization of Islamic family law and Islamic civil law has long been applied in several issues by giving it a very Islamic label, for example, in the sharia banking sector, hajj, zakat, and waqf.⁸ This fact in its history has never been the driving force behind the escalation of jealousy or friction with adherents of other religions. Meanwhile, there has not been a single formalization of public law that is national in nature. The case of Aceh that occurred after independence is a new history of implementing Islamic law accompanied by its supporting regulations and infrastructure. National laws and their regulations and infrastructure also remain in effect.⁹

Moreover, in Aceh and Langsa City, the implementation of Islamic law is included in the scope of public law, in this case, Islamic criminal law.¹⁰ In fact, the assumption of most non-Muslims is of the same opinion that Islamic criminal law is cruel and contrary to human rights. For this reason, this research tries to raise the issue of the implementation of Qanun No. 6 of 2014 concerning the Jinayat Law in Langsa City and its protection of the rights of minorities and their responses to the enactment of the Qanun.

This field research employed descriptive qualitative analysis, with data collection techniques through in-depth interviews and field observations. The research object was the implementation of Qanun No. 6 of 2014 concerning the Jinayat Law in Langsa City to find out how it relates to human rights and the protection of the rights of minorities and the response of minorities to the Qanun.

The Position of Qanun in the Legal System in Indonesia

Langsa City comes from the division of Aceh Timur Regency. Located approximately 400 km from Banda Aceh City, the Capital of Aceh Province, Langsa City previously had the status of an Administrative City in accordance with Government Regulation Number 64 of 1991 concerning the Establishment of an Administrative City. Langsa was later assigned its status as a City by Law Number 3 of 2001, dated June 21, 2001. At the beginning of its formation, Langsa City only consisted of two sub-districts: Langsa Barat and Langsa Timur sub-districts. In 2002, the administrative area was

⁶ Human Rights Watch, "Atas Nama Agama (Pelanggaran Atas Nama Agama Di Indonesia)" (Jakarta, 2013).

⁷ Firdaus Syam et al., "Narrative and the Politics of Identity: Patterns of the Spread and Acceptance of Radicalism and Terrorism in Indonesia," *Religions* 11, no. 6 (2020): 290.

⁸ Junaidi, Bin Muhammadiyah, and Muhazir, "Revitalisasi Penerapan Qanun Nomor 6 Tahun 2014 Tentang Hukum Jinayat Di Kota Langsa Aceh."

⁹ Syam et al., "Narrative and the Politics of Identity: Patterns of the Spread and Acceptance of Radicalism and Terrorism in Indonesia."

¹⁰ Mizaj Iskandar, Azhari Yahya, and Abdul Jalil Salam, "From the Public Space to the Prison Space: Regulation Polemic and the Implementation of Caning Law in Aceh," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 1 (2022): 216–41.

divided into three sub-districts: East Langsa sub-district, West Langsa sub-district, and Langsa Kota sub-district consisting of three sub-villages and 48 villages.

According to the population census in 2020, the population in Langsa City was 185,971 people, consisting of 93,408 men and 92,536 women. Occupying a land area of 239.8 square kilometers, the population of Langsa City is predominantly Muslim with 99.25%, followed by Christians of 0.41%, Protestants of 0.38%, Catholics of 0.03%, Buddhists of 0.33%, and others of 0.01%. According to the head of the Langsa City Religious Harmony Forum (FKUB), Zulkarnain,¹¹ from a religious perspective, Aceh's population is Muslim; Protestants, Catholics, and Buddhists are very few; there was once a person who was Hindu, but after he died, there was no longer recorded Hindu religion in Langsa City. In addition, there were some followers of the Parmalim religion - the original religion of the Batak people - but they were not recorded in the population census data.

Referring to Law No. 44 of 1999 concerning the Implementation of the Privileges of Aceh, strengthened by Law No. 18 of 2001 concerning Special Autonomy and Law No. 11 of 2006 concerning the Government of Aceh, Aceh is given special privileges that are different from other regions in Indonesia, and it is the hallmark of the specialty of Aceh. The existence of local Acehnese political parties that can contest in regional general elections and the formal implementation of Islamic Sharia in the form of *Qanun* (regional regulation) is a special feature of Aceh¹², including Langsa City.

These features of Aceh, which are different from other parts of Indonesia, are rooted in a long history from pre-independence to periods of tension between GAM (*Free Aceh Movement*) and the Indonesian government (Jakarta). The Helsinki MoU then became a turning point for tensions in Aceh during the implementation of the Military Operational Area.¹³

The existence of local political parties and the implementation of Islamic law are part of the consequences of resolving these tensions. In particular, the formalization of Islamic sharia is an order of Article 125 of Law No. 11 of 2006. The article states, "Islamic sharia implemented in Aceh includes aqedah, sharia, and morality". It is the basis that forms the basis for the Aceh government to apply Islamic provisions according to the Islamic understanding that developed there. Based on that, the formalization of Islamic law in Aceh is not only legal but also a demand for the implementation of the law. This kind of narrative is also one of the philosophical foundations for implementing *Qanun Jinayat* No. 6 of 2014.¹⁴

In addition, according to Ifdhal Kasim¹⁵, Law No. 11 of 2006 shows that there are 36 provisions whose regulations must be embodied in 36 *Qanun*, especially regarding further provisions for implementing Islamic sharia, which include Aqedah, sharia, and morality. Although the degree is the same as regional regulations, the specialty of the Aceh *Qanun* has its place since it is directly based on the law. Furthermore, Ifdhal Kasim¹⁶ stated that:

¹¹ Interview with Zulkarnain, head of the Langsa City Religious Harmony Forum (FKUB) Langsa, Desember 9, 2022.

¹² Sehat Ihsan Shadiqin dan Eka Srimulyani, "The Contested Authorities: Institution and Agency in the Enforcement of Sharia Law in Aceh, Indonesia," *Journal of Contemporary Islam and Muslim Societies* 5, no. 2 (2022): 198–223.

¹³ Danil Akbar Taqwadin and Riadi Husaini, "Aceh: Fading Autonomy," in *The Routledge Handbook of Comparative Territorial Autonomies* (London: Routledge, 2022), 119–31.

¹⁴ Arief Budiono et al., "Policy for Implementation of Islamic Law Under Special Autonomous Province," *International Journal of Multicultural and Multireligious Understanding* 9, no. 3 (2022): 626–36.

¹⁵ Human Rights Watch, "Atas Nama Agama (Pelanggaran Atas Nama Agama Di Indonesia)."

¹⁶ Human Rights Watch.

Article 269 paragraph (2) of Law No. 11 of 2006 even states, “The laws and regulations under the law that are directly related to special autonomy for the Aceh Province and regencies/cities are adapted to this law.” It means that all regulations under the law, such as government regulations, presidential regulations, and ministerial regulations, must first be adjusted to Law 11/2006. If government regulations, presidential regulations, and ministerial regulations conflict with the *Qanun*, they cannot immediately cancel the *Qanun*; rather, it must first be seen the compatibility between the *Qanun* and Law No. 11/2006, which is the parent of the *Qanun*.

Law No. 11 of 2006 also made the position of *Qanun* very strong and special, thus providing a strong juridical and psychosocial impetus for the issuance of other *Qanuns*, including the *Qanun Jinayat*, which is now in effect.¹⁷

In formal juridical, the enactment of *Qanun Jinayat* No. 6 of 2014 has no problems. However, as the discourse that develops outside Aceh, especially those who are a priori to Islamic law, they have the assumption that Islamic law is cruel and contrary to human rights, giving rise to suspicion or prejudice about the fate of minorities (non-Muslims) in Aceh and especially in Langsa City. Likewise, there is a kind of concern that within the framework of the Unitary State of the Republic of Indonesia and national law, there will be conflicts and new problems in the development of national law and the international world’s view of the “threat” of human rights violations¹⁸ including the protection of the rights of minorities against the enactment of *Qanun Jinayat* No. 6 of 2014.¹⁹

Implementation of *Qanun Jinayat* No. 6 of 2014 and Protection of Minority Rights

Law and society are like two sides that are inseparable in the life of the nation and state. In the rule of law concept, these two elements must be intertwined into a single unit that strengthens and protects each other. The law needs its existence for various interests and functions in people’s lives, and society must submit voluntarily to the law so that their lives are comfortable and peaceful within the framework of norms that can protect every right of community members.

Law in society also functions to integrate and coordinate interests that are different from one another. Organizing these interests is done by limiting and protecting these interests. The law protects a person’s interests by allocating power to him to act in the context of his interests. The allocation of this power is carried out measurably, determined by its breadth and depth. This power is called a right. According to Paton²⁰, rights contain not only elements of protection and interest but also will. It indicates that it is not only the interests that get protection but also the will.

For the sake of this, the existence of the law must be strong. It signifies that the initial formation of the law must reflect the values or beliefs in society, has the right philosophical, sociological, and juridical foundations, have a clear, standardized, and unambiguous draft text, let alone multiple interpretations, and be guaranteed by the existence of infrastructure in enforcing its norms.

In Langsa City, the enforcement infrastructure of *Qanun Jinayat* No. 6 of 2014 has been fulfilled since it is a concrete response to the enactment of Law Number 44 of 1999 concerning the

¹⁷ Mijaz Iskandar at al, “From the Public Space to the Prison Space: Regulation Polemic and the Implementation of Caning Law in Aceh,” *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 17, no. 1 (2022): 216–41.

¹⁸ Hudzaifah Ahmad Qatadah and Adang Darmawan Achmad, “*Qanun Jinayat Aceh Antara Implementasi Dan Tangtangan*,” *Adliya: Jurnal Hukum Dan Kemanusiaan* 14, no. 2 (2020).

¹⁹ Jack Donnelly, *Universal Human Rights in Theory and Practice* (London: Cernell University Press, 2003).

²⁰ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: PT. Citra Aditya Bakti, 2000).

Implementation of the Privileges of Aceh and Law Number 18 of 2001 concerning Special Autonomy for Nanggroe Aceh Darussalam. There are four institutions involved in enforcing sharia *Qanun* in Langsa City: Islamic Sharia Council and *Dayah* Education (DSIPD), *Wilayatul Hisbah*, *Keuchik* (village) apparatus, and the Sharia Court.

a. Islamic Sharia Council and *Dayah* Education

The Islamic Sharia Council can be said to be a think tank and the axis of the movement for the enforcement of Islamic sharia and an institution for fostering and supervising the enforcement of Islamic sharia in Langsa City (Aceh). In the regional government governance system, the position of DSIPD Langsa City is based on Aceh Governor Regulation No. 131 of 2016, a regional apparatus as implementing elements of the Aceh Government in the field of the Implementation of Islamic Sharia (Article 4 paragraph 1). The Islamic Sharia Service then has the task of carrying out general and special tasks for the Aceh Government and the development of the field of implementing Islamic sharia (Article 5).

b. *Wilayatul Hisbah*

Wilayatul Hisbah is the spearhead in the enforcement of sharia. This institution acts as sharia police and a sharia prosecutor. Various violations of the sharia *Qanun* must intersect with this institution, both Muslim and non-Muslim.²¹

Wilayatul Hisbah has a broad role in implementing Islamic sharia, not only in its supervisory function but also as an agent of socialization and development of Islamic sharia related to law and moral action to the community. In Law Number 11 of 2006 concerning the Government of Aceh, it is stated that *Wilayatul Hisbah* is not only a supervisor of Islamic sharia, but more than that, it enforces *Qanuns* in the field of Islamic sharia. This provision is contained in Article 244 paragraph (2) of Law Number 11 of 2006, which explicitly states that the ideal function of *Wilayatul Hisbah* is as a special police officer in charge of enforcing Islamic sharia *Qanuns*.

c. *Keuchik* Apparatus

The *Keuchik* (village apparatus) carry out the assistance tasks or are the long arms of the *Wilayatul Hisbah* at the village level. Its nature is only to provide guidance to *Qanun* violators for certain cases, and reporting for more serious cases is carried out to *Wilayul Hisbah*.²²

The existence of this institution is not mentioned in the legislation in Aceh as part of the law enforcement infrastructure, but the involvement of institutions (regional officials) in assisting law enforcement or Islamic sharia in Langsa City is based on the authority of *Wilayatul Hisbah* in collaborating with stakeholders so that the enforcement of Islamic sharia in Langsa City can be more optimal and cover up to the smallest unit.²³

d. Sharia Court

The Sharia Court is a special state religious court in Aceh Province, including Langsa City. The Sharia Court carries out its duties and authorities in the judicial field of the Religious Courts and the Religious High Courts, plus other powers and authorities related to people's lives in the field of worship and Islamic sharia as stipulated in the *Qanun*.

²¹ Ali Geno Berutu, "Mahkamah Syar'iyah Dan Wilayatul Hisbah Sebagai Garda Terdepan Penegakan Qanun Jinayat Di Aceh," *Al Maslahah* 15, no. 1 (2109): 1–16, <https://doi.org/10.24260/al-maslahah.v15i1.1367>.

²² Interview with Heri Setiadi, Wilayatul Hisbah Langsa, December 13, 2022.

²³ Interview with Heri Setiadi, Wilayatul Hisbah Langsa December 13, 2022.

The mandate of Article 25 of Law No. 18 of 2001 and Aceh Province *Qanun* No. 10 of 2002 gave the authority to the Sharia Court to examine, decide, and resolve cases at the first level and appeals in the field of Islamic family law, *muamalah*, and *jinayat*.

Protection of The Rights of Minorities in Langsa City

For non-Muslims and Muslims who do not understand the philosophy of Islamic law well, the formalization and enforcement of Islamic *jinayat* law are seen as a deprivation of individual rights guaranteed by human rights norms, cruel, sadistic, barbaric, and inhumane, as well as other terms that lead to the rejection of the application of Islamic law. For women or gender activists, Islamic law is also considered a lot against the norms in the Convention of All Forms of Discrimination Against Women (CEDAW).

Besides, enforcement of *Qanun Jinayat* No. 6 of 2014 in Aceh, which has a strong juridical footing in the Indonesian legal system, cannot be separated from these prejudices. However, due to the application of Islamic law as a legal norm, even merging into customary norms, becoming part of the history of the Acehnese people and part of the “compensation” of the Helsinki Memorandum of Understanding, the Aceh Government formulated it in terms of *Qanun*.²⁴

According to Zulkarnaen²⁵, the chairman of the Langsa City FKUB (Forum for Religious Harmony) from 2010 to 2021, “since the establishment of this *Qanun*, there have been no problems, no input, and no objection to the formation of *Qanun Jinayat*”. The problem that arises is the assumption that the process of forming sharia *Qanun* is used as a commodity by political elites for the purpose of power. What was said by the chairman of the Langsa City FKUB was not denied by Samsu, a former member of the PSMTI (Indonesian Chinese Clan Social Association) and a member of the Langsa City National Reform Forum (FPK) who is Buddhist and has been a member of FKUB²⁶, also reinforced by Purba, a Christian community leader who has been a member of FKUB since 2010.

Concerning the effect of the implementation of *Qanun Jinayat* No. 6 of 2014 for minorities in Langsa City, Zulkarnain said that as long as he led the Langsa City FKUB for 11 years, the direct effect of this *Qanun* implementation on the deprivation of minority rights related to human rights violations did not have data that could be referenced in writing. This opinion was also not disputed by Pastor Reinhad (Church HKBP Langsa City)²⁷ that although he had served for two years in Langsa City, he had never heard stories from his congregation about reducing the rights of religious minorities.

Pastor Reinhad²⁸, who is of Batak ethnicity, only reported a ban on *Tuak* drinking at Batak traditional ceremonies held in Langsa City. It is because, for the Batak people, *Tuak* is part of traditional ceremonial rituals and a health drink to warm the body. However, according to Reinhad, it is often done excessively to result in drunkenness; it should only be 1 or 2 glasses, but Batak adolescents often finish 1 or 2 teapots.

²⁴ Muzakkir, “The Effectiveness of Aceh’s *Jinayat Qanun* on Crime Rates in the Community in a Review of Legal Socialization.”

²⁵ Interview with Zulkarnain, head of the Langsa City Religious Harmony Forum (FKUB) Langsa, Desember 9, 2022.

²⁶ Interview with Samsu, a former member of the PSMTI (Indonesian Chinese Clan Social Association) and a member of the Langsa City National Reform Forum (FPK) Desember 9, 2022.

²⁷ Interview with Reinhad, Pastor Church HKBP Langsa City, December 10, 2022.

²⁸ Interview with Reinhad, Pastor Church HKBP Langsa City, December 10, 2022.

At first glance, in the interview, Reverend Reinhad²⁹ hoped that there would be a little tolerance for the use of *Tuak* at Batak traditional events, but he still disagreed when it came to drunkenness because it is also prohibited in the teachings of the Bible.

In addition, Heri Setiadi (Platoon Commander Wilayatul Hisbah Langsa City) stated, “In fact, we are the spearhead of enforcement and field supervisors for the implementation of the norms of *Qanun Jinayat* in Langsa City. The violators of the *Qanun Jinayat* in Langsa City who arrived at the judicial process were all Muslims, none from religious or ethnic minorities.” Thus, data on complaints about violations of minority rights had no record at the Langsa City Wilayatul Hisbah Office.

However, small sparks did exist due to misunderstandings and lack of information, as Pastor Reinhad said,

“One night, two youth members of the HKBP Church came home from church activities. Since it was a bit late, one female member was escorted by the male member on a motorbike. On the way, they were stopped by a group of villagers for violating the *Qanun*. However, after being well explained about religion and the activities carried out, finally, these two HKBP Church members were allowed to continue their journey.”

Several cases similar to what was told by Pastor Reinhad were also handled by the Langsa City FKUB, all of which were successfully resolved easily, well, and peacefully at the scene.³⁰

Regarding complaints about the rights of minorities according to Christian, Protestant, and Buddhist religious leaders, they said that during the implementation of the *Qanun Jinayat*, there was no direct deprivation of their rights because of the *Qanun*. The case was on another issue, namely the registration of candidates for the *Keuchik* (village head), as experienced by Samsu.

Samsu is Buddhist and ethnic Chinese. He intended to nominate himself as *Keuchik* because he was born, raised, and had never been exodus outside Aceh, and felt he has a constitutional right as a citizen to be elected and to vote and is not hampered by general regulations in force. However, he was hindered by the local committee that he had to change his religion first and must be able to read the Qur'an first. Because he did not want to argue with the committee, he finally relented to maintain the conduciveness of the village where he lived. However, he still wants to run again as a candidate for *keuchik* if everything is possible.³¹

The case experienced by Samsu later became a case that was resolved by the FKUB and MPU of Langsa City and Karifuddin Ciawi (representative of Buddhists). The verdict is that one of the requirements to become a *Keuchik* is to be able to read the Qur'an and base it on local wisdom so that it is not ready to accept non-Muslims as *Keuchik*. Karifuddin Ciawi also did not approve of Samsu running for *Keuchik*.³²

Regarding the comfort of their stay, while the applicable law is Islamic law, they feel comfortable, supportive, safe. The values of tolerance are well maintained, and they can worship in peace, socialize with the community in all aspects of social life, and do not feel difficult and discriminated against.

²⁹ Interview with Reinhad, Pastor Church HKBP Langsa City, December 10, 2022.

³⁰ Interview with Zulkarnain, head of the Langsa City Religious Harmony Forum (FKUB) Langsa, Desember 9, 2022.

³¹ Interview with Samsu, a former member of the PSMTI (Indonesian Chinese Clan Social Association) and a member of the Langsa City National Reform Forum (FPK) Desember 9, 2022.

³² Amiruddin Yahya at al., *Strategi Pencegahan Konflik Umat Beragama Studi Kasus Pada Forum Kerukunan Antar Umat Beragama Kota Langsa* (Medan: Perdana Publishing, 2019).

Support for the normative content of the *Qanun Jinayat* also emerged in interviews with religious leaders and non-Muslim communities in Langsa City.

Pastor Reinhad said,³³ “What is contained in the *Qanun Jinayat* also has its rules in our holy book, so we are also grateful that our generation does not fall into acts that are forbidden in our teachings.” Purba also strengthened, “With the *Qanun*, the younger generation and women are more modestly dressed, their armpits and thighs are no longer exposed, and our principle is that when in Rome, do as the Romans.”

Furthermore, what emerged in this interview session was the story of the violation of the *Qanun Jinayat* committed by a Buddhist in the case of *jarimah* cockfighting. Cockfighting gambling is regulated in the *Qanun Jinayat* and the Criminal Code (Book of Criminal Law). According to the rules, if the perpetrator is a non-Muslim, the perpetrator is given the freedom to choose. It turned out that the perpetrators voluntarily chose the law of flogging in the *Qanun Jinayat*. According to Samsu³⁴, as a Chinese community leader who followed the case, there were two (reasons) that the perpetrators chose to submit to the *Qanun Jinayat*. First, if the perpetrator chose the Criminal Code, he would have to deal with the police, resulting in “ripping his pocket” and being confined. Second, if the body was confined, the perpetrator could not gather with his family and earn a living. Then, Samsu also added that the choice of the law of lashing was also due to the way the perpetrator whipped it upright, not taking a step forward so that the pain was not too bad and could heal in a few days; however, it was his shame that deterred him. This case was also raised in the book *Strategy for Preventing Religious Conflicts, Case Studies at the Langsa City Religious Harmony Forum* by Amirudin Yahya et al. with different backgrounds and language styles.³⁵

According to Heri Setiadi³⁶, the enforcement of the *Jinayat Qanun* in Langsa City has not encountered any significant obstacles, especially regarding discrimination against minorities as a direct result of the *Qanun*. The implementation is done humanely; there is socialization, and settlement and guidance are sought at the case scene. Non-Muslims are not forced to submit but are asked to conform. For this purpose, understanding religious communities is carried out by religious leaders and minority community leaders. Therefore, until now, at the *Wilayul Hisbah* office in Langsa City, there is no record of violations of the *Qanun Jinayat* by non-Muslims. There was only one recorded case of violation of *Qanun* during the initial period when *Qanun jinayat* was implemented, i.e., the Maisir case with the suspect, Fredy Simon. He was not given *ta’jir* sentence because he chose to submit himself to national law (KUHP). The case was recorded in the Langsa District Court directory with Decision Number 139/Pid.B/2014/Pn Lgs dated October 10, 2014. Meanwhile, there are always cases where the defendant is Muslim. There were 16 cases in 2020, 21 cases in 2021, and 20 cases in 2022. The quantity of cases increases, but the quality decreases. In addition, Wilayatul Hisbah works in accordance with its main duties and functions and has a Standard Operating Procedure (SOP), and its main orientation is not to punish but to provide guidance to perpetrators and humanists for the creation of the best Islamic Langsa City.

³³ Interview with Reinhad, Pastor Church HKBP Langsa City, December 10, 2022.

³⁴ “Interview with Samsu, a Former Member of the PSMTI (Indonesian Chinese Clan Social Association) and a Member of the Langsa City National Reform Forum (FPK) Desember 11, 2022.” (n.d.).

³⁵ Amiruddin Yahya et al., *Strategi Pencegahan Konflik Umat Beragama Studi Kasus Pada Forum Kerukunan Antar Umat Beragama Kota Langsa*.

³⁶ Interview with Heri Setiadi, Wilayatul Hisbah Langsa December 13, 2022.

Analysis of the Implementation of *Qanun Jinayat* No. 6 of 2014 in Langsa City

In several studies, the majority of Muslims expect Islamic law sourced from the *Qur'an* and *al-Hadith* to become part of the legal norms applied to regulate their lives. Likewise, with the Muslim community of Langsa City, the research results of Muhammad Ansor³⁷ revealed that 83.4% supported the application of Islamic sharia in Langsa. From this percentage, 33% of Langsa City people said that applying Islamic law increased their religiosity, while 48% stated it had no impact.

The long history of Islam's triumph in Aceh, in general, has clearly and greatly influenced the attitude of the majority of Acehnese people towards Islamic law, and historical facts state that Islamic law has long been part of the norms that live in Aceh. Islam has become a way of life for the Acehnese people, and customary law has been merged into Islamic law. The very intense and long intersection of Aceh and Islam was said by B.J. Bollan, a Dutch anthropologist, that "Being an Aceh is equivalent to being a Muslim".³⁸

In the context of the Unitary State of the Republic of Indonesia, which is constitutionally not a religious state or stands on one religion but is based on Belief in One God (Article 29 of the 1945 Constitution) and asserts as a state of law (Article 1 paragraph 3 of the 1945 Constitution), the Aceh case, including Langsa City, is an exception due to the issuance of several special laws regarding Aceh. Several laws on Aceh have become the basis for legitimacy for the Aceh Province to enforce Islamic sharia and even protect sharia *Qanuns* from being annulled by the Ministry of Home Affairs.

From a historical point of view, it clearly cannot be doubted in the range of historical records and is recognized by researchers from the West. Philosophically and sociologically, it also has strength, so the implementation of various Islamic *Qanuns* can be applied throughout Aceh, including Langsa City.

Moreover, the enactment of *Qanun Jinayat* No. 6 of 2014 is good progress for Aceh, which is predominantly Muslim. Although Aceh's *Qanun* is different from the regional regulations in other provinces, the formation of the *Qanun* continues through the same procedure as other regional regulations.

The provisions for the formation of *Qanun* are contained in Article 12 and Article 21 of *Qanun* Number 3 of 2007 concerning Procedures for Establishing a *Qanun*. It is stated that "the initiator of the *Qanun* drafting must be able first to compile an academic paper/academic study, which at least contains Islamic, philosophical, juridical, sociological, and scope of material to be regulated. This process can be carried out in collaboration with universities and/or third parties. Academic studies must be included in every discussion of the draft *Qanun*."

This provision is proof that the initial formation of the *Qanun* is no different from the local regulation, only mentioning "Islamic basis" as a differentiator because the *Qanun* adopts the norms and values contained in the sources of Islamic teachings: the *Qur'an* and *al-Hadith*. The Islamic basis is the main spirit of the other foundations.

The *Qanun* also recognizes the term hearing to accommodate responses, suggestions, objections, and input from the community, both Muslims and non-Muslims (minorities). This process is truly

³⁷ Muhammad Ansor at al, *Religiusitas Dan Sikap Terhadap Penerapan Syariat Islam Di Langsa, Aceh* (Langsa: STAI Zawiyah Cot Kala, 2010).

³⁸ Hasnil Basri Siregar, "Lessons Learned From The Implementation Of Islamic Shari'ah Criminal Law In Aceh, Indonesia," *Journal of Law and Religion* 24, no. 1 (n.d.): 143–76.

justified by what was explained by Zulkarnain, as the Chair of FKUB and a member of the Langsa City MPU.³⁹ According to him, there has been no input from non-Muslims in the formation of *Qanun Jinayat*, in particular. It indicates that the right to express opinions is guaranteed by the 1945 Constitution, and universal human rights are not closed to minorities in Aceh, especially Langsa City.

Furthermore, the implementation of *Qanun Jinayat* No. 6 of 2014 in Langsa City, technically, is carried out by four regional institutions/components: the Langsa City Islamic Sharia Service, *Wilayatul Hisbah*, *Keuchik* Apparatus, and the Sharia Court, as judicial institutions to decide special cases related to *Qanun* violations committed by Muslims or non-Muslims who voluntarily submit themselves.

In the researchers' observations, from the data obtained from interviews and other data, the implementation of *Qanun Jinayat* No. 6 of 2014 in terms of the availability of law enforcement infrastructure is sufficient, namely the availability of legal institutions needed for this purpose (DSIPD, MPU, *Wilayatul Hisbah*, and Sharia Court) although it is different from the infrastructure for enforcing regional regulations. The difference is the existence of the Sharia Service in each regency and city and the existence of the *Keuchik* (village) apparatus. When looking at *Qanun* No. 60 of 2016 with a vital role, duties and functions, position, and authority in assisting regional leaders for the implementation of Islamic sharia, the responsibilities from upstream to downstream are in their responsibilities, from policy formulation until the implementation evaluation and reporting in the field of Islamic sharia.⁴⁰ DSIPD (Regional Government Islamic Sharia Service) is filled by local government officials who are competent in their fields. To avoid abuse of power from this institution, there is an Ulama Consultative Council (MPU) institution, which is the partner of the executive agency in determining policies in the field of Islamic sharia, including providing oversight of government administration and regional policies based on Islamic sharia. In addition, MPU has academic and da'wah work to strengthen Islamic life in Aceh.

In terms of the apparatus for enforcing the *Qanun Jinayat*, Langsa City has the *Wilayatul Hisbah* apparatus, the *Keuchik* apparatus, and the Sharia Court. *Wilayatul Hisbah* can also be called the Sharia Police. *Wilayatul Hisbah* is a new institution in the history of enforcing Islamic sharia in Aceh. In the past, the role of *Wilayatul Hisbah* was in the hands of the ulama, *imam gampong* (village priests), and *keuchik*. This institution works with the civil service police and the police, but with limited duties to enforce Islamic sharia.

In terms of protection of minority rights and non-Muslim human rights, the implementation of *Qanun jinayat* is going very well.⁴¹ This conclusion emerged based on the information obtained from all non-Muslim informants as the main figures who are members of the FKUB and most of whom are central figures in their respective religions. The absence of reports of objections to the implementation of *Qanun Jinayat* from individuals or religious communities outside Islam is strengthening evidence that during the implementation of the *Qanun*, non-Muslim communities were protected and there were no human rights violations. This is strengthened by the evidence of only one case of violation of *Qanun* in the form of Jarimah maisir. The case did not have to be submitted to *Qanun Jinayat*, but positive law (KUHP) can be the alternative.

³⁹ Interview with Zulkarnain, head of the Langsa City Religious Harmony Forum (FKUB) Langsa, Desember 9, 2022.

⁴⁰ Syamsul Bahri, "The Role of Women in Implementing Islamic Sharia in the City of Banda Aceh," *Fenomena* 21, no. 1 (2022): 19–38.

⁴¹ Abdul Halim, "Non-Muslims in the *Qanun Jinayat* and the Choice of Law in Sharia Courts in Aceh," *Human Rights Review*, 2022, <https://doi.org/10.1007/s12142-021-00645-x>.

The essence of the main task of *Wilayatul Hisbah* is enjoining good and forbidding wrong (*al-amr bi al-ma'ruf wa al-nahy 'an al-munkar*) in the realm of enforcing Islamic sharia, starting from supervising, coaching, to investigating violators of Islamic sharia.⁴² Its existence is strong and necessary and has a juridical basis on the law on the privileges of Aceh and Regional Regulation No. 5 of 2000 that "Local Governments are obliged to form a body authorized to control/supervise (*Wilayatul Hisbah*) the implementation of the provisions in this regional regulation so that it can run as well as possible".

Due to the wide working area, the personnel of *Wilayatul Hisbah* are temporarily limited, where in accordance with its main duties and functions, *Wilayatul Hisbah* can cooperate with other institutions.⁴³ To reach all regions, *Wilayatul Hisbah* cooperates and involves the *Keuchik* apparatus so that the enforcement of Islamic sharia can be carried out to the smallest community unit. *Wilayatul Hisbah* also becomes the executor of the flogging law after the Sharia Court Decision is declared *inkrach*.

The last bastion of the enforcement of Islamic sharia in Langsa City is the Sharia Court. It is a judicial institution institutionally under the auspices of the Supreme Court of the Republic of Indonesia, specifically for Aceh Province. The position of the Sharia Court is the same as that of the Religious Courts and Religious High Courts in other provinces. His authority has increased to try and decide on *jinayat* cases and has been delegated some of the powers that were previously the absolute authority of district courts, specifically in Aceh Province.

In terms of implementing and supervising the enforcement of Islamic sharia, these institutions carry out all their main functions and authorities based on existing laws and regulations, and for the implementation and supervision, technically, improvements and innovations to be carried out while still considering Islamic sharia as a reference.

Analysis of the Protection of Human Rights and Minority Rights in Langsa City

It is undeniable that the enforcement of Islamic sharia (*Qanun Jinayat*) still gets a slanted stigma from people outside Langsa City, Aceh, a view stating that Islamic sharia violating human rights and barbaric has not disappeared. This discourse is an interesting study, especially for Muslim scholars, who are concerned with the issue of the intersection between human rights and the practice of enforcing Islamic law and looking for the best solution so that this conflict can be eliminated, including through the study of socio-cultural and legal political approaches.⁴⁴

Stigma against human rights will remain and continue to be voiced as long as Samuel Huntington's thesis on class of civilization is still considered relevant in the world of post-modernism. Islam and Islamic law can be used as objects of collision with various theories and propaganda of political interests and power, including clashing with human rights and protection of non-Muslim minorities (religious minorities).

To that end, research on the implementation of *Qanun* No. 6 of 2014 concerning *Qanun Jinayat* in Langsa City, viewed from the perspective of religious minorities, all research respondents pointed to

⁴² R Michael Feener, "Engineering Transformations in the 'Religion-Development Nexus': Islamic Law, Reform, and Reconstruction in Aceh," *Religion* 51, no. 1 (2021): 40-57.

⁴³ Abraham Ethan Martupa Sahat Marune, "The Implementation of The Punishment of Whipping In Aceh From A Legal and Human Rights Perspective," *International Journal of Social Service and Research* 1, no. 1 (2021): 1-7.

⁴⁴ Mashood A. Baderin, "Islam and the Realization of Human Rights in the Moslim World: A Reflection on Two Essential Approaches and Two Divergent Perspectives," *Muslim World Journal of Human Rights* 4 (2007): 1-27.

one statement that the implementation of the *Qanun* does not conflict with human rights at all and still respects and protects the rights of religious minorities in Langsa City.

Referring to the definition of human rights as conveyed by Jan Materson (UN Human Rights Commission), human rights are rights inherent in humans, without which humans cannot live as humans; thus, the forms of punishment imposed in the *Qanun Jinayat* are not at all make the violators lose their human essence and do not make it difficult for the convicts to interact again. Likewise, the definition of human rights, according to Article 1 of Law No. 39 of 1999, is a set of rights inherent in the nature and existence of humans as creatures of God Almighty and are His grace that must be respected, upheld, and protected by the state, law, government, and everyone for the sake of honor and protection of human dignity. In this case, the rules contained in the *Qanun Jinayat* continue to protect human dignity. *Uqubat jinayat* given to violators of *Qanun Jinayat* does not make him lose his dignity as a human being; his daily activities after carrying out the punishment are still going well. What should be noted from this *Qanun Jinayat* is that the principle adopted is a territorial principle, meaning that whoever violates it and whatever their religious identity, if the act they commit in Langsa City and violates the *Qanun Jinayat*, they will still receive punishment, including those who come from outside of Langsa City, but violators with non-Muslim identities are given the freedom to choose between *Qanun Jinayat* or the Criminal Code.

Interestingly, the implementation of this *Qanun Jinayat* is that the provision of *uqubat* for violators is not the main goal of enforcing the *Qanun*, but guidance at the crime scene is rather prioritized, coupled with education or outreach to the public, especially non-Muslims in Langsa City through their religious leaders, as spoken by Danton Wilayatul Hisbah of Langsa City.⁴⁵

Evidence that the implementation of the *Qanun Jinayat* does not violate human rights is the case of the arrest of a Buddhist perpetrator of *jarimah maisir* (cockfighting gambling). Samsu's statement as a Chinese Buddhist figure who followed the development of the case from beginning to end can be used as evidence that the *Qanun Jinayat* did not violate human rights at all. In fact, if looking at his narrative, one conclusion can be drawn that if *Qanun Jinayat* and the Criminal Code are made an option (pen. Case in Aceh), non-Muslim violators are more willing to choose the *uqubat* of *Qanun Jinayat* than the Criminal Code.⁴⁶

Not only that, in several other cases where the violators are non-Muslims, they prefer the law of flogging (according to the *Qanun Jinayat*) rather than having to go to prison (according to the Criminal Code). The reason is very simple, to be free quickly and afraid of being in prison for a long time.⁴⁷

Although these cases did not occur in Langsa City, the residents of Langsa City, especially non-Muslims, observed them. Until the completion of this research, according to the Platoon Commander *Wilayatul Hisbah* of Langsa City, there were no records of non-Muslim violators of the *Qanun Jinayat*, except for the case of Fredy Simon. Even though he was given the freedom to choose, in the end the suspect preferred the positive law that applies in Indonesia. The facts or data presented in this study are evidence that the enforcement of the *Qanun Jinayat* in Langsa City does not violate the norms

⁴⁵ Selvia Junita Praja and Wia Ulfa, "Implementasi Qanun Nomor 6 Tahun 2014 Tentang Hukum Jinayat Di Kota Banda Aceh Provinsi Aceh," *Jurnal Kebijakan Pemerintahan* 3, no. 1 (2020): 11–20, <https://doi.org/10.33701/jkp.v3i1.1071>.

⁴⁶ Halim, "Non-Muslims in the Qanun Jinayat and the Choice of Law in Sharia Courts in Aceh."

⁴⁷ CNN Indonesia, "Https://Www.Cnnindonesia.Com/Nasional20210208183920-12-603823,," n.d.

contained in human rights, both in international declarations and conventions on human rights and Law No. 39 of 1999 concerning Human Rights.⁴⁸

In addition, the freedom of worship for non-Muslims and community activities carried out by minorities (religious) in Langsa City are running as usual, safe, comfortable, and peaceful. Their rights as a minority in Langsa City are protected; the existence of small ripples in a heterogeneous society is a logical and normal consequence. The story told by Pastor Reinhad about the stopping by villagers to the HKBP Church congregation members who were riding with the opposite sex late at night could be resolved at the scene quickly, easily, not reported, and processed at the Wilayatul Hisbah office, and did not result in protests from the HKBP Church. A conducive and tolerant life continues.

Meanwhile, the case of Samsu, who intended to run for *Keuchik*, is a case that did not directly intersect with the *Qanun Jinayat*. Samsu's non-Muslim desire to become a local leader with the majority of the population being Muslim with an Islamic life system that is very thick with Islamic rituals and symbols is a personal political desire that is very forced. On the other hand, the role of the *keuchik* is mandatory to be involved in very Islamic matters and requires the expertise of a *keuchik* in Islamic religious knowledge. Meanwhile, Samsu is a non-Muslim and cannot read the Qur'an. Thus, it is logical that Samsu's desire to be hindered, both sociologically and juridically.

Regarding the comfort of living in Langsa City, all non-Muslim respondents felt comfortable, peaceful, safe, and could get along with anyone as long as they did not violate the rules. Respondents were very aware of the Malay proverb "when in Rome, do as the Romans do". Leaders of religious communities with minority followers in Aceh also participated in socializing and understanding to their people all the *Qanun* that apply in Aceh. In particular, with the *Qanun Jinayat*, they supported its norms because, essentially, what is prohibited in the *Qanun* is also prohibited in their holy books. In fact, they found it helpful because it helps maintain the morale of their young generation, who are often carried away by the currents of "modern society".

Non-Muslim religious leaders and their followers voluntarily follow the applicable regulations (*Qanun*) in Langsa City. They also admitted that their rights as minorities were not disturbed, and they felt safer than before the *Qanun* came into effect. This is proof that the right to freedom to live (the principle of dignity), the right not to be treated in a discriminative manner (the principle of equity and equality), and to be treated as a human being (the principle of humanity) which are the basic principles of universal human rights are not violated at all in the implementation of *Qanun Jinayat* in Langsa City, both to muslims in general and non-muslims in particular.

Conclusion

The stigma that Islamic law is cruel and barbaric has not disappeared, including viewing Aceh's privileges with the implementation of Islamic sharia. In fact, viewed from various sides, historical, sociological, and juridical, the *Qanun* Islamic sharia in Aceh has its legal footing. Specifically, regarding *Qanun Jinayat* No. 6 of 2014 applied to all areas of Aceh Province, including Langsa City, it received an unfavorable view, especially when it was deemed to collide with human rights and the protection of the rights of minorities. However, after the research was held in Langsa City, the results can be concluded that in terms of the availability of Islamic sharia enforcement infrastructure, the

⁴⁸ Muzakkir, "The Effectiveness of Aceh's Jinayat Qanun on Crime Rates in the Community in a Review of Legal Socialization."

enforcement of the *Qanun Jinayat* in Langsa City is complete, consisting of the Department of Islamic Sharia and Dayah Education (DSIPD), *Wilayatul Hisbah* (Sharia Police), the *Keuchik* Apparatus, and the Sharia Court. In addition, the existence of the Ulama Consultative Council (MPU) as an independent institution has the role of providing input to the executive in the enforcement of Islamic Sharia in Langsa City. Thus, the enforcement of the *Qanun Jinayat* does not conflict with human rights norms, and there is guaranteed protection of the rights of minorities in Langsa City. Moreover, the religious minorities in Langsa City also do not feel disturbed in their religious freedom and can worship according to their religion. Their rights are not reduced as a result of the enactment of *Qanun Jinayat*, and they even feel comfortable because the norms of *Qanun Jinayat* are also contained in the teachings of their holy book. This fact showed that in enforcing *Qanun Jinayat* in Langsa City, the three most basic principles in human rights; The principle of dignity, the principle of equity and equality and the principle of humanity are not violated, both for muslims and for non-muslim minorities in particular.

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