

Public Services for Non-Muslims in Aceh Non-Muslim Rights in The Application of Islamic Sharia Law

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Public Services for Non-Muslims in Aceh: Non-Muslim Rights in The Application of Islamic Sharia Law

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Abstract

The legalization of Islamic Sharia in 2001 is often seen as the starting point for intolerance practices in Aceh. The rights of non-Muslims as citizens of minority countries are always ignored. **Purpose:** This study aims to study the rights of the public services of Non-Muslims in Aceh after the enactment of Islamic sharia. The research method used is qualitative. Interviewed in-depth several related parties, such as non-Muslim religious leaders, public service personnel, and Acehnese indigenous leaders. This study shows different results from previous research that only looked at public services to Non-Muslims through technology media sourced on secondary data. Generally, the service to the public rights of non-Muslims does not experience problems, especially when viewed from three aspects: *first*, freedom in converting to religion; *second*, freedom in performing religious rituals; *third*, treatment before the law and access to health care and education. This research provides an insight into the multicultural life of Acehnese people comprehensively influenced by historical perspectives of the past. Acehnese have maintained their multicultural commitment since long ago until now as social capital in maintaining the harmony of diversity. In this way will be described in full the dynamics of multiculturalism in the life of religious people in Aceh.

Keywords: Diversity Practices, Islamic Sharia Law, Non-Muslims, Public Services.

1. Introduction

The assumption that the application of Islamic sharia in Aceh will give birth to discriminatory practices and neglect of the rights of non-Muslim minorities needs to be done in-depth research. Based on observations of social facts in Banda Aceh community shows that non-Muslim minorities can carry out worship in accordance with the teachings embraced and have access rights to public facilities like the majority Muslim population. Ahmad (2016) stated that the issue among religious people that can be considered as a discriminatory action has not occurred since the application of Islamic Sharia. This is in contrast to the findings of Setara Institute (2018) stated that the intolerance index in Banda Aceh is ranked 93rd out of 94 cities in Indonesia (Serambi News, 2018; Setara Institute, 2018).

The paradox of the effect of applying Islamic sharia to the fulfillment of the civil rights of non-Muslims is an important theme to be studied. So far, studies the rights of religious minorities have only looked at a few aspects. First, a study looking at the rights of non-Muslim minorities in Turkey under the rule of the Justice and Development Party, the party has taken a policy to expand the rights of non-Muslim minorities in order to strengthen the party's support

base (Oztig & Aydın, 2017). Second, a study looking at family law issues for non-Muslims in Egypt, this article examines how marriage cases, divorces that occur among non-Muslims are resolved in court (Berger, 2001).

Third, a study that looked at the rights of a minority of zimmi experts in Islam, this study focused only on the theories about the rights of zimmi experts as state officials in Muslim-majority areas, not studies explaining the rights of minorities in certain regions (Umar, 2016). Fourth, a study looking at how Malaysian and Senegalese Muslim migrants travelling to Durban, South Africa show their religious identity as a minority when they want to get a job in someone else's country (Vawda, 2017).

The diversity of religious life can be seen in some Asian Muslim countries that have shown tolerance for minority citizens, the Muslim majority does not make room for discrimination against minorities. Minorities still have the same right to access public services. The state of Malaysia, religious freedom is affirmed in the rules of the country, every religious believer has the right to carry out their respective religious teachings (Khambali & Haled, 2008), even Batu Caves as a house of worship for hindus who minority are used as tourist icons in the country that is majority Muslim (Wijanarko, 2019). In contrast to the intolerant treatment of minority Muslims in Asia, The Malay Muslim tribe in Southern Thailand often gets unfriendly treatment from the Government. Large numbers of military deployments have triggered acts of violence against muslim minorities, (Yuniarto, 2005). Rohingya people in Myanmar state, they are not even recognized as citizens by the Government, even some are expelled from their country and have to evacuate to other countries (Mitzy, 2014). Discriminatory treatment is often faced by minority muslim citizens in non-Muslim majority countries (Firdaus, 2019).

The results of the study above, there appears to be a waiver about the discussion of non-Muslim rights in Banda Aceh as a region that applies Islamic sharia. This study is very important to provide an explanation of the confusion of information about the existence of non-Muslims in the city of Banda Aceh who are portrayed as unsafe and under pressure, so that it can be a comparison with other studies describing the lives of minorities elsewhere. This paper is explored about the civil life practices of non-Muslims in Banda Aceh, emphasizing four main issues; first, the exploration of the guarantee of freedom of religion for non-Muslims is constructed in texts and social practices; second, the legal treatment of non-Muslims; third, freedom in carrying out religious practices; fourth, about how education and health services and various public goods.

This paper is based on three arguments which include; first, minority groups have always been restricted to civil rights, due to limited access to power; second, the practice of worship in various forms for non-Muslim minorities in public spaces is always subjected to obstacles due to low social acceptance of the community; third, legal treatment and access to education and health. These three assumptions are at the heart of the discussion of this paper which will be presented in the following sections.

2. Literature Review

The issue of freedom in the exercise of religion is often associated with tolerance. Tolerance in context is mutual respect among religious people in carrying out their respective worships become an important part of the issue of freedom of religion. Höffe (2015) explained that the principle of tolerance usually appears in three different forms, namely tolerance as a personal attitude, as a political principle of the state, and as a principle of society or culture. The three forms complement each other.

In addition to tolerance, legal treatment and justice are elements that can measure the recognition of the rights of worship for non-Muslims in Aceh. Legal treatment and justice can indicate the involvement of parties in a society. Shorten (2017) stated that legal exemptions for religious institutions often involve a combination of power and immunity over such religious

institutions. Thus it can be seen why religious institutions can become 'immune', while the principle of freedom in religion does not recognize immunity. Of course this case of immunity relates to the powers and parties involved.

The concept of religious freedom is also manifested in the freedom of religious symbols. With regard to the freedom to display religious symbols, all religions are given the right to express their identity and symbols of religious beliefs. Non-Muslim, for example, are allowed to wear crosses, display alcohol signs, ring temple bells, turn up the volume during prayer, and celebrate their religious festivals. They are certainly subject to the obligation to comply with applicable rules, including to respect Muslims (Husin & Ibrahim, 2016). Context in the Unitary State of the Republic of Indonesia (NKRI), religious celebrations are given security guarantees of implementation through the permission of the relevant institutions. That is, tolerance among religious people is mandatory but the implementation must comply with the applicable legal signs.

When it comes to tolerance that is seen as the basis of freedom of consciousness and freedom of religion (Leiter, 2014), tolerance has an important relationship with the right to privacy as many people are willing to secure privacy on the basis of their willingness to tolerate actions that may occur under the protection of privacy (Gavison, 1980). Tolerance is thus a personal or group quality manifested as a willingness to accept others as they are and understand and agree to interact with them in everyday life (Ananina & Danilov, 2015).

Matskovskii (2001) also suggested that tolerance is the quality of interaction between the subject and the object of tolerance, which has the characteristics of the subject's willingness to accept sociocultural differences from objects, including external signs, as well as certain behaviors. In addition, tolerance can be defined as ways of social interaction between subjects and objects characterized by a certain distance in their relationships (Ananina & Danilov, 2015). This distance can be determined through the expectations of other forms of behavior, assessing the behavior of others as deviant, paying attention to the differences between the behavior of others and the behavior of ourselves, the importance of behavioral peculiarities, the ability to influence the behavior of others and influence the behavior of others for our own benefit (Loginov, 2013).

Historically, tolerance at first appeared not to refer to tolerating 'a person' but 'something'. Only then, under the conditions of pluralism, the meaning of the concept of tolerance changed and now applies to the tolerance of foreigners, especially foreigners who adhere to different religions. In this way, the attitude of how to live is transformed into a moral attitude, how to treat the other. The concept of genuine tolerance as one of the ethical individuals is transformed into the goodness of social ethics, an individual virtue (personal tolerance), society (the politics of tolerance), or culture and society (social tolerance) (Höffe, 2015).

Since the concept of tolerance has turned into another meaning of resilience, it must also be related to pluralism and relativism. If all human beings had the same religion, religious tolerance was not necessary, and if everyone lived the same way, there would be no compulsory social tolerance (Höffe, 2015). In the next process, tolerance also concerns religious relations and local values that develop in certain religious communities so that there is interaction between the two. Pistrick (2013) illustrates the intimacy of culture and religion performed and fostered as a common practice in reciprocal dialogue.

In Indonesia, it is clear that freedom of religion is guaranteed by state law as a description of the godhead that is implemented as a form of appreciation for the concept of religious freedom. Husin and Ibrahim (2016) explained that there are two views in the Hanafi sect regarding the establishment of houses of worship; first, allow non-Muslim minorities to build places of worship with the permission of the ruling government; second, that if a place is inhabited by a majority muslim, the establishment of any non-Muslim place of worship is prohibited on the grounds of protecting Islamic spirituality and maintaining muslim sensitivity. Meanwhile, Shafi'i sect according to Ibn Shayhab in Husin and Ibrahim (2016) allowed the establishment of non-Muslim minority places of worship as long as they obtained permission

from the government concerned. The view related to the construction of places of worship is realized as a rule for non-Muslims who form the concept of religious freedom in institutional symbols, namely places of worship of churches, temples and so on.

Another aspect that can then be a tool to see the recognition of the right to worship for religious people is the reach of access for religious people related to the relationship with fellow human beings or people with other resources. In a community structure, the relationships within it form certain patterns. These groups of relationship patterns have a particular impact that affects the individual level.

The concept of access has broad implications for human life. Aspects of human daily life such as participation in education to politics are influenced by the availability of access. Even a person's chances in his life depend heavily on the access they get. For example, children from families integrated into a network can benefit from their family network when acquiring human resources. Instead, children who lack such networks will be harmed (Coleman, 1988). Acolin and Wachter (2017) stated that good access to education has important consequences for inter-generational mobility.

Coleman (1988) further explained that followers of religious minorities may get a lower education because their access to opportunities is more limited. The disadvantages based on the access problem affect the quality of the subject of a society. In an effort to improve human quality, many people make quality improvements through educational pathways. Despite the legal guarantees, education for members of religious minorities should be considered as proof of open access for all members of the community. Concerns over access appear in expressions Méon and Tojerow (2019) that prove that religious minorities in a country have a positive effect on the educational level of their followers in a country. Therefore, followers of religious minorities should invest in education as compensation for their minority status. The concept of access needs to be considered because it relates not only to the status of a group but also to form a picture of minority status.

Religious groups in a community can be a resource for organizations. Todd, Houston, and Suffrin (2015) shows that religious diversity is capable of forming social relationship affiliations that provide people with a network of resources for community change. Ultimately, communities characterized by religious diversity have an impact on social cooperation. All religions urge their followers to do good to others, including others (Neusner & Chilton, 2005). In addition, most religious traditions instill a certain identity which creates a distinction between followers and non-followers (Gupta et al., 2018) that become the identity of each religious group.

3. Methods

This study aims to analyze the influence of the application of Islamic sharia in Banda Aceh on the fulfillment of the civil rights of non-Muslims. The data source used in this study is by in-depth interviews conducted by community leaders, government officials, and non-Muslim religious leaders. In addition to in-depth interviews, the study also used local government policies on the application of Islamic sharia and community responses from Muslims and non-Muslims gathered from various sources, including from other supporting sources including online media and mass media news. Critical descriptive qualitative approach, data collection techniques in the form of observation, interview, and documentation. Observations and interviews are used to look at social facts that occur in the community, so that the level of tolerance in Banda Aceh society is illustrated, and to support data on religious freedom and non-Muslim rights in Banda Aceh. Documentation is used to collect data related to government regulations or policies on the application of Islamic sharia. Online media news is also used to support the completeness of the necessary data related to some legal cases that occur in Banda Aceh society.

The collected data is then processed through the stages of sorting and categorization in

thematic form in accordance with the desired theme. After that, the data is then interpreted with the theory and study of relevant libraries, either in strengthening or giving different views. Historical, sociological and critical aspects are an important concern in the process of interpretation of research data that is the basis of this paper.

4. Results And Conclusion

In this section, data will be presented as a result of research on religious freedom for non-Muslims in Banda Aceh, the data is classified into 4 parts, namely:

4.1.1. Results

4.1.2. Freedom in Embracing Religion

Aceh is a region recorded in history as a place to settle various races and ethnic groups, multicultural life between ethnic and religious diversity has been established firmly in the life of the people of Aceh. The existence of various houses of worship for all religions is a historical proof of the existence of multi-religious life since long time ago, and no social facts have been found that give rise to friction between them. In addition, there are several special villages for migrants that until now can be seen in the geographical records of Aceh, such as Chinese villages, Java Village, Kedah Village, all this historical evidence of the growth of tolerant heterogeneous life and open attitude to migrants.

The Constitution of 1945 as the state constitution of Article 29 paragraph (2) expressly regulates the freedom of religion "the state guarantees the freedom of each resident to embrace his own religion and to worship according to his religion and his beliefs." At the provincial level, the first regulation issued since the declaration of Islamic sharia in Aceh is Regional Regulation No. 5 of 2000 on the Implementation of Islamic Sharia. In Article 2 paragraph (2) it is stated that the existence of other religions outside of Islam is still recognized in this area, its members can carry out their respective religious teachings.

Law No. 11 of 2006 on the Government of Aceh Article 126 paragraph (2) reads that everyone who resides or resides in Aceh must respect the implementation of Islamic law. However, the Act does not explain further on how such a form of respect is. For non-Muslims, the limits of respect for the implementation of Islamic sharia in Banda Aceh are not affirmed in writing, but they understand that non-Muslims must conform to the Muslim community, especially in the dress code. The result of an interview with Baron F. Pandiangan on April 8, 2019 as a Catholic figure in Banda Aceh. He stated:

"We always appeal to Catholics, do not be too vulgar as elsewhere, for example how to dress we must be polite, follow the habits of the Muslim community in Banda Aceh, although not necessarily wearing a hijab. Another example, in the month of Ramadan, if you want to eat please, but please be wise, do not eat in public.

The above statement shows the acceptance of non-Muslims towards the application of Islamic sharia in Aceh, as explained by Abubakar (2015) that a harmony contains elements of willingness to accept differences of faith with others, willingness to allow others to follow their religious teachings, and the ability to feel comfort when others carry out their religious teachings.

Regulations issued by the Central and Local Governments, shows the government's attention to the issue of life among religious groups, so that the life of religious people runs well. The relationship between Muslims and Non-Muslims in Banda Aceh city after the implementation of Islamic sharia took place harmoniously, there is no disturbance and any pressure felt by people of religions other than Islam. The result of an interview with Wiswadas on April 9, 2019 as a Buddhist community supervisor at the Ministry of Religious Affairs of Aceh Province. He stated:

"The relationship between Muslims and non-Muslims in Banda Aceh goes well, they

visit each other, help each other, even like religious ceremonial activities that are not religious rituals, such as art performances, culture, we visit each other. One of the factors that make the relationship between Muslims and Buddhists run harmoniously is the customs and habits that become binders. In some activities we also help clean the mushalla yard as a sign of togetherness.

The result of an interview with Sahnun Ginting on April 9, 2019 as a Hindu community supervisor at the Regional Office of the Ministry of Religious Affairs of Aceh Province stated that he, his family and Hindus of different faiths, with Acehnese feel comfortable, safe and peaceful living in Aceh. He stated:

“I have lived in Aceh for 12 years, I come from Karo North Sumatra. The first time I entered Aceh I often heard the negative, even my family was surprised I moved to Aceh, but when I was ordered to go to Aceh and see the situation firsthand, there was nothing problematic, I felt very well living in Aceh. If I don't get along, of course I've moved on for a long time. For us Hindus have a historical background with Aceh, where Hindus in Aceh have been a long time ago. Since 1925, temples have been established for Hindus in Kampung Kedah, and from the past until now there has never been a question about religion, and many Hindu influences are now used as the customs of the people in Aceh.

This explanation is in accordance with what Funay (2020) explained where certain religious cultures are not only used as symbols of narrow teachings, but more than that if the culture has a high value, then others with different backgrounds can also accept and negotiate it into a shared culture. This is what acehnese have done, some minority cultures outside Islam are considered to be communal teachings for all.

Some recognition of non-Muslims who have long lived in Aceh as described above is one indication of tolerance among religious people in Aceh. This is part of a very objective social fact, should be used as a primary source in exploring the level of tolerance of religious people in Banda Aceh.

4.1.3. Treatment before the Law

Of course, the issue of the treatment of non-Muslims in front of the law after the enactment of Islamic law is very important to be examined which will determine the extent to which the State meets the civil rights of non-Muslims. Law of the Republic of Indonesia Number 11 Year 2006 concerning the Government of Aceh Article 129 paragraph 1 reads that in the event of unlawful acts (*jinayat*) committed by two or more people together, among them non-Muslims, non-Muslim actors can choose or subjugate themselves voluntarily to the *jinayah* law.

⁵ Qanun Aceh Number 6 Year 2014 concerning *Jinayat Law*, Article 5 Qanun applies to the following categories: (1) Every Muslim who performs *jarimah* in Aceh. (2) Every non-Muslim person who performs *jarimah* in Aceh together with Muslims and chooses and subjugates himself voluntarily to the *Jinayat law*. (3) Any non-Muslim person who commits *jarimah* acts in Aceh that is not regulated in the Penal Code or criminal provisions outside the criminal code. But is regulated in this Qanun. (4) Business Entities conducting business activities in Aceh.

Qanun asserted that Islamic law in Aceh only applies to Muslims. But if non-Muslims wish to submit voluntarily to Islamic law, then the law enforcement may grant it. In relation to the point that non-Muslims may choose punishment according to Islamic law, there are pros and cons among non-Muslims, but most non-Islamic religious leaders agree if the condemned choose the punishment that he values more easily and quickly. As explained by the Buddhist Community Supervisor in Banda Aceh:

“I agree that if any of our people (Buddhists) are caught for breaking the rules, then he chooses the punishment set out in Islamic law, provided that they choose it on the basis of

willingness, not coercion. Because humanely one would choose a lighter and faster punishment, so I agree with that rule.”

On the other hand, there are opinions that do not agree if the punishment of flogging is allowed for people other than Muslims, even if they choose it voluntarily, the reason is that it can undermine the beliefs of non-Muslims. This was conveyed by Baron F. Pandiangan on April 8, 2019 as a Catholic community leader:

“There was one of our (Catholic) people in Banda Aceh who was arrested by the police for carrying alcoholic beverages, then he reported to me about the provision of non-Muslim ability to submit to Islamic sharia rules, he planned to choose the punishment of flogging, because it is lighter and practical, but after I explained, if you follow the rules of Islamic law, then you have risked your beliefs, eventually he chose the prison sentence.

Since *Qanun Jinayat law* was passed, there have been several cases of non-Muslims choosing to subjugate themselves to Islamic sharia law in Aceh. A non-Muslim man with the initials JS was flogged 36 times for tripping over a case of wine. He was executed after requesting that he be sentenced in accordance with *Qanun Jinayat* in Aceh. The whip procession was held at Baitussalihin Mosque, Ulee Kareng, Banda Aceh, on Friday 19 January 2018 starting at around 15.00 WIB. JS (pseudonym) was taken out of the mosque and dressed in prepared white clothing. The execution of him was halted for a while. He gave up because he couldn't stand it. But after being given mineral water and health checks, the whip against it continued. Executioner swings rattan according to prosecutor's count until the last whip.

On February 27, 2018 two non-Muslim convicts were flogged for violating Islamic law in Aceh. The two people who were flogged were a married couple who were arrested by the Pamong Praja Police Unit and sharia police while gambling in Banda Aceh. When questioned by reporters about the process of implementing the whip, the convict made it clear that the person in question voluntarily chose to be flogged. Ds (pseudonym) stated "we choose the punishment of the whip to follow the existing *Qanun*. So, yes we choose to be whipped." Head of Public Relations of Aceh Police, Misbahul Munawar, explained that the punishment of flogging is a *Qanun* or local regulations imposed on Muslims. While Non-Muslims can indeed vote, and so far they have chosen to be flogged.

The main factor non-Muslims choose the punishment of flogging is because it is judged to be faster finished, effective and lighter. They had rather be whipped than have to be locked up for a few days in jail. The result of an interview with Samarel Telaumbanua on April 9, 2019 as a Protestant community supervisor at the regional office of the Ministry of Religious Affairs of Aceh Province. He stated:

"The main factor of non-Muslims prefers flogging rather than positive law is because the whip punishment process is faster, and lighter. If flogged only a few times and finished in a short time, while if he chooses a positive punishment, he must go to prison for a considerable time.

4.1.4. Freedom to Practice Religious Teachings.

Freedom to implement religious teachings for non-Muslims can be reviewed from 2 aspects, namely the aspect of freedom in carrying out worship on religious holidays and aspects of the right to build houses of worship:

(1) Freedom of worship and religious holidays.

As explained in the introduction that when the issue of the application of Islamic sharia in Aceh arises the concerns of various parties⁵ related to the existence of non-Muslims, especially in terms of freedom of worship. But the Law of the Republic of Indonesia Number 11 Year 2006 concerning the Government of Aceh Article 127 paragraph (2) stated that the Government of Aceh and the Regency/City Government guarantee freedom, foster harmony, respect religious values embraced by religious people and protect fellow religious people to carry out worship in accordance with their religion.

The commemoration of religious holidays in Aceh also follows the calendar set by the Central Government. Muslims, Christians, Protestants, Hindus, Buddhists can celebrate their respective religious holidays according to the schedule. No intimidation occurred during the celebration of religious holidays. The result of an interview with Baron F. Pandiangan on April 8, 2019 as a Catholic figure. He stated:

“In the implementation of worship and also religious holidays, everything went smoothly, no one was disturbed. In December, I was surprised because there was news from outside Aceh as if there was a ban on non-Muslims from worshipping. I affirm that Catholics do not forbid worship, at Christmas time. The issue of the government's call not to blow the trumpet on new year celebrations, it is not a matter of worship in Catholicism. I can assure the Catholic at 00:00 that night, he must worship at home with his family.

In commemoration of religious holidays, there is something interesting explained here, where Muslim children also participate in the ceremonial celebration of Buddhist religion, and ethnic Chinese who have long lived in Banda Aceh, especially in Peunayong City, they are actively involved in the implementation of Islamic holidays. The result of an interview with Wiswadas on April 9, 2019 as a Buddhist supervisor at the regional office of the Ministry of Religious Affairs of Aceh Province. He stated:

“In the barongsai dance performance, I saw muslims who participated in the fun, even the dance was performed by Acehese Muslim girls in hijabs. On the contrary, in some activities, helping each other clean the mushalla yard as a sign of togetherness.

There is no disturbance in carrying out worship. In commemoration of the religious holidays was also expressed by Sahnun Ginting on April 9, 2019 as a hindu community guidance figure in the regional office of the Ministry of Religious Affairs of Aceh Province. He stated:

"As far as I understand, worship activities and also religious celebrations, everything takes place safely and comfortably. We never do negative things, we only do worship, practice, let alone we do not do that outside of places of worship, because of our small number so that it can be accommodated in one house of worship.

The result of the interview with Juniazi on December 11, 2018 as Secretary of the Religious Harmony Forum (FKUB). He stated:

⁵ Since the implementation of Islamic sharia in Aceh, there has never been a single case in Banda Aceh society that can be said to be intolerance. This fact shows that the people of Banda Aceh live in harmony and peace in the diversity of religions embraced by their respective religions.

The result of an interview with Sahnun Ginting on April 9, 2019 as a Hindu community supervisor in the Regional Office of the Ministry of Religious Affairs of Aceh Province. He criticized the results of a survey conducted by SETARA Institute which stated that the level of intolerance of religious people in the city of Banda Aceh is very high, where SETARA institute reported the Banda Aceh Religious Dredge Index ranked 93rd out of 94 cities that were the research locations. In response to this, Sahnun emphasized:

“The views from outside that describe as if there is intolerance in Aceh are often conveyed by those who have not seen firsthand the living conditions of religious people in Aceh, they only hear and do not see. Preferably when the information is conveyed, should be asked for an explanation first, because we are the one who feels. When there is a meeting at the national level and I represent Aceh, I often say that Aceh lives peacefully, lives in harmony.

The results of an interview with Juniazi on December 11, 2018 as Secretary of the Aceh Religious Harmony Forum (FKUB) in response to the survey results from SETARA Institute stated:

“I think SETARA only distributes polls to respondents using general indicators from outside without regard to social facts in society. So, we strongly doubt the results of the research conducted by SETARA, moreover they did not confirm to the relevant parties in Aceh. I as secretary of the Religious Harmony Forum (*FKUB*) of Aceh province doubt the validity of the survey. Is social research done that way? They should pay attention to how social research methods are conducted. It should not be only quantitative with the source of the respondent, regardless of the social facts that exist in the community.

The above statement is a sharp criticism of the methods used by SETARA institutions in conducting research on religious tolerance in Banda Aceh. In addition to not exploring the social facts born in the community, SETARA also did not confirm with the relevant parties in Banda Aceh. The results showed that the high level of intolerance in Banda Aceh directly makes people outside Aceh will give a negative stigma to the people of Aceh in general and the people of Banda Aceh in particular.

4.1.5. The right to establish houses of worship.

The Law of the Republic of Indonesia Number 11 of 2006 concerning the Government of Aceh Article 127 paragraph (4) contains the establishment of places of worship in Aceh that must be licensed by the Aceh Government and/or the Regency/City Government. Then the Governor of Aceh issued The Governor Regulation of Nanggroe Aceh Darussalam Number 25 Year 2007 concerning Guidelines for the Establishment of Houses of Worship Article 2 paragraph (1) The establishment of houses of worship is based on real and earnest needs based on the composition of the population for the service of religious people concerned in the village area. Paragraph (2) The establishment of houses of worship is carried out while maintaining religious harmony, not disturbing the peace and public order and complying with the laws and regulations.

Some regulations have been issued by the Government, making it possible for non-Muslims to build houses of worship. If a religious community has reached a certain number, in accordance with existing rules, then they are allowed to build houses of worship. However, until now, houses of worship for Catholics, Protestants, Buddhists and Hindus are still adequate and able to accommodate their respective people in doing worship, so there is no desire from non-Muslim leaders to add buildings of worship. The result of an interview with Baron F. Pandiangan on April 8, 2019 as a Catholic community leader. He stated:

“The number of Catholics in Banda Aceh is now around 800 people, including children. We have one church in Banda Aceh that also hosts people in Aceh Besar Regency can still accommodate all worshippers, because worship is divided into 2 times, Saturday afternoon and Sunday morning. The church itself can accommodate 600 worshippers, our experience in the last year the number of pilgrims who perform worship on Christmas day amounts to 500 worshippers, so in Banda Aceh there are no difficulties related to houses of worship.

Buddhists who are the largest non-Muslims in Banda Aceh have several Viharas that can accommodate all worshippers in worship, so there is no need for a newhouses of worship. The result of an interview with Wiswadadas on April 9, 2019 as a Buddhist supervisor at the regional office of the Ministry of Religious Affairs of Aceh Province. He stated:

“The number of Buddhists in Banda Aceh is now 3000 people, the majority of Buddhists in Banda Aceh are Chinese, partly from Java and a small part of Tamil. In Banda Aceh there are 4 large Monasteries and there are 3 small ones. The house of worship can still accommodate all Buddhists, there are no obstacles. If we look to this day there is no wanting us in Banda Aceh to add vihara, because the existing one has fulfilled.

4.1.6. Right to Public Facilities.

The right to access public services in this section is intended to be the right to education, health services, services in government offices such as the creation of birth certificates, marriage certificates and other administrative purposes. All of these things are not included in various regulations related to the application of Islamic sharia in Aceh. Therefore, the service

to these public facilities still refers to the rules issued by the Central Government, so that all citizens of the country both Muslim and non-Muslim in Banda Aceh city are entitled to equal access, there is no distinction in treatment.

In the issue of education, the Government of Aceh must follow the national curriculum, Aceh is only authorized to design additional locally charged curriculum. In addition, it can also arrange holidays on certain days, especially during Ramadan. This refers to the Law of the Republic of Indonesia Number 44 of 1999 concerning the Implementation of Special Province of Aceh Province.

In Article 8 of Law Number 44 year, 1999 it is stated:

- 1) Education in the Region is organized in accordance with the National Education System.
- 2) The region develops and regulates various types, pathways, and levels of education and adds local content material in accordance with Islamic sharia.
- 3) The region develops and regulates Islamic Religious Education Institutions for its people in various types, pathways, and levels of education.

So, on the issue of education, all citizens have equal rights, nothing is distinguished. Even religious organizations outside Islam can also establish educational institutions in Aceh. The result of an interview with Baron F. Pandiangan on April 8, 2019 as a Catholic community leader. He stated:

“In Banda Aceh we have several schools under the Catholic College Foundation, in Blang Padang and Kodam, some students come from Muslim families, most uniquely, our schools are in Takengon (Central Aceh), 90% of the students are Muslim, another 10% are from Protestantism, Catholicism, Buddhism. Even islamic lessons are in the curriculum, Teachers 90% Muslim, the school was under the Catholic College Foundation. In relation to health care, Catholic friends also have the same rights, when the Aceh Government created the Aceh Health Insurance program, Catholics also have Aceh Health Insurance (JKA) cards, so that they can seek treatment for free at hospitals in Banda Aceh, even if we compare them with health services outside Aceh, here they are better served.

Non-Muslim leaders also stated the same thing, where related to public facilities, non-Muslims are also entitled to the same rights. The result of an interview with Wiswadas on April 8, 2019 as a Buddhist community supervisor. He stated:

“I think when it comes to public services, we are all the same as other communities, Buddhists also get equal access, there is no difference. All services provided to Acehnese also apply to Buddhists. Until now I have never heard of Buddhists getting into trouble, both when treated in the hospital, as well as in the mayor's office to take care of various letters, such as civil records, marriage certificate, death certificate. We are very facilitated.

In an interview with Sahnun Ginting on April 9, 2019 he explained that during this time the Hindu community received good treatment from the majority Muslim population, there is no discrimination whatsoever in obtaining public rights:

“In hospital services, Hindus are well served, there are no obstacles whatsoever felt by our people, including services in the lurah office environment and others, provided we communicate well.

4.1.7. Discussion

The issue of freedom to implement religious teachings for non-Muslims as a minority in Banda Aceh will be explained in depth in this section. In addition to existing real data, enrichment will be done by the exposure of experts' opinions on the phenomenon of religious life, both agreed and disagreed.

4.1.8. Freedom to Embrace Religion

The regulations issued by the government above show seriousness in regulating religious life in Aceh, especially in relation to religious relations. The regulation encourages people to have a tolerant attitude in diversity, because tolerance is seen as the basis of freedom of consciousness and freedom of religion (Leiter, 2014).

In addition to issuing rules to strengthen the understanding of religious freedom, the Government of Banda Aceh through relevant agencies also often hold meetings between religious leaders, and also visit houses of worship. On June 15, 2011, the Ministry of Religious Affairs of Aceh Province initiated the gathering of interfaith figures and representatives of religious people in Banda Aceh, such as from the Indonesian Ulama Council (MUI), the Association of Indonesian Churches (PGI), the Indonesian Buddhist Representative (Walubi), Nahdlatul Ulama (NU), Muhammadiyah, and the Islamic Defenders Front (FPI). The event was also filled with visits to Al-Mahgfirah Mosque and Batak Protestant Huria Church Banda Aceh, Sacred Heart Catholic Church, Dharma Bakti Temple, and Hindu Temple in Gampong Keudah.

The freedom of non-Muslims in their religion must be maintained by Muslims in Banda Aceh, because Islam as described by al-Qaradawi, does not allow the coercion of others who are non-Muslims to convert to Islam by force (Yusuf al-Qaradawi, 1996). This can be seen from the way the Prophet Muhammad preached to Islam without forcing someone to follow his teachings (Sachedina, 2015).

Meetings between religious people are urgent, given the false assumptions and negative stigma to Islam in Banda Aceh. Islam is described as a violent, exclusive, intolerant religion. With the meetings between religious people will dismiss the notion of the distance between Muslims and non-Muslims, especially interfaith dialogue in Islam has a strong basis of the Quran and hadith of the Prophet (Jawwad, Al-Haj, & Yusof, 2017).

The result of the interview with Juniazi (2018), with the government's policies and actions, tolerance among religious people is growing and inherent in Acehnese society, one of the indicators can be seen from not a single case in banda aceh society that can be said to be intolerance since the application of Islamic sharia until now. This fact shows that the people of Banda Aceh live in harmony and peace in the diversity of religious people.

4.1.9. Fair Legal Treatment

One of the rights of non-Muslims domiciled in the Islamic sharia area is the right to fair legal treatment, so as not to feel pressured by the rules of Islamic sharia. Islam is a religion that contains the teachings of virtue for the universe, one of its teachings is the protection of the law for non-Muslims. All religions urge their followers to do good to others, including others (Neusner & Chilton, 2005).

In terms of legal protection for minorities, the Government of Aceh issued rules protecting non-Muslims, *Qanun* Hukum Jinayat is only applied to people who are Muslims, while non-Muslims who commit criminal acts apply the law stipulated in the Penal Code, unless they voluntarily subject themselves to *Qanun* Jinayat, then the law enforcement can grant it. The existence of legal pluralism in Aceh has its own uniqueness, in one region can be applied various laws in accordance with the context. This has been done by acehnese for a long time, they can coexist with the diversity of existing laws and remain harmonious in religious pluralism (Salim, 2010).

Related to the permissible non-Muslims subject to Islamic sharia law, there is a religious response from non-Muslim figures, some argue it is not a problem and accept the presence of this rule, because the content of *Qanun Jinayat Law* teaches the good taught in all religions. On the other hand, there are some non-Muslim figures who argue that *Qanun* should be enforced only for Muslims. However, because this enforcement is based on the mandate of the Law, the requirement for voluntary resignation is still handed over to the people (Bahiej, Munajat, & Amilia, 2017). This is in contrast to Shorten (2017) stated that legal exemptions

5r certain religious institutions often give rise to immunity to such religious institutions, as non-Muslims in Banda Aceh are given the freedom to choose between two applicable laws.

Since *Qanun of Jinayat law* was passed, there have been 4 cases of non-Muslims violating criminal law and chose to be sentenced to flogging as a punishment against the implementation of Islamic law. 2 cases occurred in Banda Aceh, 2 other cases occurred in Aceh Besar and Central Aceh districts. This phenomenon shows that some non-Muslims are willing to bow to the law of jinayah. The reason for their submission to the jinayah law varies, when asked for information on the reason for their submission to sharia law, some answer "we choose the punishment of flogging to follow the existing *Qanun*". (<https://www.bbc.com/indonesia/indonesia-43210405>. Retrieved December 11, 2018).

The result of an interview with Zahwan on December 12, 2018 as the Head of Investigation and Investigation of The Civil Servants Police And Sharia Police (*Satpol PP And Wilayatul Hisbah*) of Banda Aceh, he explained that there was another case on January 19, 2018 at the Baitussalihin Mosque in Ulee Kareng Subdistrict, when asked by the Sharia Police (*Wilayatul Hisbah*) before the execution, what is the reason they chose to be flogged, the legal process in question flogged easier and faster, if following the law in the criminal code many processes must be lived. In addition, he will also be imprisoned for several months as recognized by the Secretary of Management at Vihara Dharma Bakti Peunayong Banda Aceh (Bahiej et al., 2017). This attitude of submission occurs because Islamic law is considered more practical, not as some people assume that the adherence of a group to the rules of another group is considered as not critical of the applicable laws and social norms (Pozzi et al., 2014).

The phenomenon of legal pluralism in Aceh is interesting, because of the compliance provided by non-Muslims. This is in contrast to the condition of the Muslim minority living in a non-Muslim majority country, when there is a desire of some Muslims for Islamic law to be adopted in national law, the state will expressly reject, on the grounds that the social values that exist in a secular country are not in accordance with islamic sharia values (El Ayoubi Gebara, 2017).

4.1.10. Freedom to Practice Religion

Freedom to practice religion can be seen in 2 aspects, aspects of freedom to carry out worship and religious holidays and aspects of the right to build houses of worship.

(1) Freedom to perform worship and religious holidays.

The concept of religious freedom is not only freedom in determining the religion that is believed, but also manifested 4 the freedom to use religious symbols. In relation to this, non-Muslims are also given the right to express their religious identity and symbols, such as wearing crosses, ringing temple or church bells, hardening the volume during prayer, and celebrating their religious festivals. However, they are expected to honor Muslims (Husin & Ibrahim, 2016). This has been fulfilled by the Aceh Special Region Association No. 5 of 2000, Article 15 paragraph (4) mentioned that every religion other than Islam is expected to respect and adjust its clothing so as not to violate manners and politeness in society.

Strengthening the 5 attitude of tolerance, the Government asked all people, including non-Muslims, to respect the implementation of Islamic sharia in Aceh, this is contained in the Aceh Government Law (UUPA) No. 11 of 2006. Article 126 paragraph (2) Everyone who resides or resides in Aceh shall respect the implementation of Islamic law. According to Marzuki, this rule is not aimed at limiting non-Muslims, but it is set for the creation of a more orderly and tidy society and full of decency, in accordance with manners (Masrizal, 2015). Non-Muslims are still given the freedom to dress unlike Muslims, but are required to follow the manners in society (Abubakar, 2017).

Related to the commemoration of religious holidays in Banda Aceh, just like other regions, following the calendar set by the Central Government, both Muslims, Christians, Protestants, Hindus, Buddhists can celebrate their respective religious holidays according to the schedule. From the observations made in Banda Aceh, no intimidation occurred during the celebration of non-Muslim religious holidays. In commemoration of religious holidays, there is something interesting to explain

here, where ethnic Chinese who have long lived in Banda Aceh, especially in Peunayong City, are actively involved in the implementation of Islamic holidays.

In commemoration of Celebration *Maulid* Prophet, ethnic Chinese along with other Muslims together held the event. Similarly, when the Chinese New Year commemorations are held, one of the events held is the display of Barongsai dance, more interestingly this dance is played by Muslim girls wearing a hijab. This view can be seen every year, where Muslim children also love this dance and their parents also allow their children to be involved in the event (Abubakar, 2015).

The picture above can be stated as a manifestation of religious harmony in Banda Aceh. They coexist, communicate and share. There is no such frightening picture that some outsiders assume. For people who understand Islam well, will judge Islam as a religion of peace, not teach violence (McCarthy, 2016). Ironically, in some places when there is a case of violence associated with religious motives, there is often a negative stigma from certain groups towards Muslims (Jones et al., 2019).

(2) *The right to build a house of worship.*

A place of worship is a necessary means for religious people to carry out religious rituals that are believed, even a symbol of a belief. Al Hanafi and Abidin in Husin and Ibrahim (2016) explain that there are two views of the Hanafi sect regarding the establishment of houses of worship, the first group allowing non-Muslim minorities to build places of worship with the permission of the ruling government. Permission should be granted to avoid interfaith disputes that have different ways of worship and prayer. The second view makes it clear that if a place is inhabited by a majority muslim, the establishment of any non-Muslim place of worship is prohibited on the grounds of supporting Islamic spirituality and maintaining Muslim sensitivity. While in Shafi'i sect, according to Ibn Syihab (Husin & Ibrahim, 2016) allows the establishment of non-Muslim minority places of worship as long as they get permission from the government concerned. The view of the construction of places of worship for non-Muslims is a form of religious freedom in institutional symbols such as churches, temples, monasteries and so on.

Some of the different views above, the government of Aceh follows the opinion that allows the establishment of houses of worship for non-Muslims, this can be seen in several regulations that have been passed, namely the Law of the Republic of Indonesia Number 11 Year 2006 on the Government of Aceh. In Article 127 paragraph (4) it is explained that the establishment of places of worship in Aceh must be licensed by the Aceh Government and/or regency/city government. Then in the Regulation of the Governor Nanggroe Aceh Darussalam Number 25 Year 2007 Article 2 paragraph (1) described that the establishment of houses of worship is based on real and earnest needs based on the composition of the population for the service of religious people concerned in the village. Paragraph (2) The establishment of houses of worship is carried out while maintaining religious harmony, not disturbing the peace and public order and complying with the laws and regulations.

4.1.11. *Right to Public Facilities.*

One indicator of religious freedom is the right to access public services regardless of a person's religious background. It should be emphasized here that the application of Islamic sharia in Aceh does not give birth to regulations that imply the aspect of lack of access to public services for religious people. The issue of access to public services such as education and health refers to central government rules, all have the same right to obtain these facilities.

In the field of education, the central government has granted privileges to Aceh as intended in the Law of the Republic of Indonesia Number 44 of 1999, but the privileges in question are limited to developing and regulating various types, pathways, and levels of education and adding local content material in accordance with Islamic law, there are no restrictions on access to education for non-Muslims. Freedom of access to education is a form of religious freedom, and it shows acehnese respect for religious pluralism, let alone provide space for non-Muslims to get religious teaching in line with them (Shah & Cardozo, 2014). This is not as feared by Coleman (1988) stated that in some cases, followers of religious

minorities only get a lower education than the majority, because their access to opportunities is very limited.

Likewise, in the health sector, non-Muslims are entitled to health services like other Muslims. Since the existence of Aceh Health Insurance (JKA) service in 2010 that provides free health services for the people of Aceh, all citizens who have a National Identity Card (KTP) of Aceh regardless of ethnicity and religion, it is well served by the Government of Aceh for free treatment in hospitals that have been determined by the Government (Muji, 2018).

The existence of freedom of non-Muslim access to public facilities due to the policies of the Government that make room for them and the strong attitude of tolerance that grows in society, because the principle of tolerance usually appears in the form of personal attitudes, as the principle of state politics, and as a principle of society or culture, the three forms will complement each other (Höffe, 2015). It can be emphasized that the birth of tolerance in Banda Aceh, is an accumulation of support from the Government and society as a whole. This is in contrast to the views of some who consider the birth of policies to grant access rights to certain minorities as a strategy to expand its support base (Oztig & Aydın, 2017).

In the accessibility of public services, contact between citizens must occur with ethnic and religious diversity, often in certain communities there is an attitude of racism because there are those who feel harmed. Usually this treatment of racism is felt by minorities in certain regions (Cleland, Anderson, & Aldridge-Deacon, 2018). While in the context of religious life in Banda Aceh, the attitude of racism that distinguishes between the Muslim majority and non-Muslim minorities does not arise. This is very different from minority muslims elsewhere who often get racist treatment and discrimination from the non-Muslim majority, either because of their reluctance to accept Islamic culture or because of certain acts of terror that are often directed at Muslim groups (Van der Noll et al., 2018). It is even worse if the discrimination committed by individuals is supported by institutions affiliated to certain religious groups (Beck & Plant, 2018).

5. Conclusion and implications

Aceh as an area dubbed *Serambi Mecca* and has enforced Islamic law since 2001, does not mean closing space for non-Muslims as a minority. The prevailing laws and norms in Acehnese society have governed and given a wide place to the existence of non-Muslims, especially in terms of freedom of religious teachings, legal treatment, and access to other public facilities. The regulation on the positioning of non-Muslims in Aceh is also a statement of Aceh's cultural attitude towards difference. Acehnese acceptance of migrants is a historical and sociological factor. Since the time of aceh kingdom until now it can be said that Aceh is a social and political space that is open to any nation. Sociologically, the interaction between Acehnese and migrants from various places is harmoniously intertwined.

Some researcher and writings so far, especially those from outside Aceh, tend to ignore social facts in depicting the application of Islamic sharia in Aceh and showing pressure for non-Muslims. This study has shown a different picture, both in text construction and social construction, where non-Muslims can also feel at home when they are in and living in Acehnese society. The Aceh government, as seen from a series of regulations and policy actions, has a high commitment to guaranteeing the existence of people from various backgrounds, including religion.

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