



# Sharia Law and Minority Civil Rights: The Access of Non-Muslims to Bureaucracy and Public Services in the Aceh Province

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## Abstract

The objective of this article is to examine the extent to which the implementation of Islamic law in Aceh has affected the civil rights of non-Muslim groups. Its focus is on their access to bureaucracy and public services after the implementation of Islamic sharia. The article seeks to answer these questions: (1) What is the opinion of the non-Muslim communities in Aceh on the implementation of Sharia law and its impacts on their lives in Aceh? (2) Do they experience discrimination when it comes to bureaucracy, government, and access to public services after the special autonomy status granted in Aceh? (3) What is the strategy for strengthening access to bureaucracy and public services for non-Muslim community in Aceh? To answer this question, the author conducted research using a qualitative approach with a purposive sampling technique involving seven informants ranging from local bureaucrats, interfaith leaders and non-moslem NGO to utilizes in-depth explanation to assess the accessibility of public services and



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bureaucratic systems under the implementation of Sharia law. The article indicates that there has been a shifting opinion among non-Muslims in Aceh before and after the implementation of Islamic Sharia in Aceh. Before the implementation of Islamic law, they had a slanted view of Islamic law. But after the implementation of Islamic Sharia, their views have changed positively. When dealing with bureaucracy and public services, non-Muslims generally do not feel any discrimination. However, there have been instances where non-Muslims faced difficulties in obtaining permits for activities.

**KEYWORDS:** *Sharia law, Aceh, bureaucracy, governance, non-Muslim.*

## Introduction

Indonesia is a multicultural nation. This diversity is guaranteed by the Constitution and reflected in the national motto, "*Bhinneka Tunggal Ika*" (Unity in Diversity). One form of recognition of this diversity is the granting of special autonomy to certain regions, allowing them to implement their unique characteristics<sup>1</sup>. The province of Aceh is among the regions granted special autonomy to implement its distinctive characteristics. The government facilitated the application of Islamic law (sharia) in the province through Law No. 44 of 1999 on the Administration of the Special Status of the Special Region of Aceh, which was later reinforced by Law No. 11 of 2006 on the Governance of Aceh.

The implementation of sharia law in Aceh extends beyond moral and civil matters to include criminal law, particularly following the enactment of Qanun No. 6 of 2014 on Jinayat Law. This Qanun applies not only to Muslim residents but also to non-Muslims. Article 5 of the Qanun stipulates that *jinayat* law may apply to non-Muslims if they commit a *jarimah* (criminal act) in Aceh together with a Muslim and voluntarily submit themselves to the *jinayat* legal process. Moreover, *jinayat* law also applies to non-Muslims if they commit a *jarimah* in Aceh

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<sup>1</sup> Eddy Asnawi, Birman Simamora, and Andrizal, "Otonomi Khusus Terhadap Eksistensi Negara Kesatuan Republik Indonesia," *Jurnal Analisis Hukum* 04, no. 02 (2021): 242–63.

and the offense is not regulated under the Indonesian Penal Code (KUHP) or any other penal provisions outside of the KUHP<sup>2</sup>.

Although nearly 99% of Aceh's population adheres to Islam (see Table 1), the presence of followers of other religions cannot be overlooked. They possess equal rights and legal standing as those of the majority religion.

**TABLE 1. Population by Religion in the Aceh Province**

Islam	Protestant	Catholicism	Hinduism	Buddhism
5.015.236	37.620	9.181	236	7.529
98.923%	0.742%	0.181%	0.004%	0.148%

Source: (BPS Province Aceh 2021).

Several previous studies have shown that non-Muslim residents report having a positive view of the implementation of Sharia law in Aceh. However, there has yet to be a precise explanation of the extent to which the implementation of Sharia in Aceh affects the civil rights of non-Muslim groups and their access to public services. In fact, some studies suggest that the implementation of Sharia law can render non-Muslims second-class<sup>3</sup>.

This article aims to examine the extent to which the application of Sharia law in Aceh influences the civil rights of non-Muslim groups and their access to public service bureaucracy. In other words, this article seeks to investigate whether the existence of non-Muslim communities as a minority group affects their civil rights and access to public services.

In analyzing the implementation of sharia regulations in Aceh and its impact on non-Muslims, this article uses several theories that can explain the complex relationship between the implementation of sharia regulations and the fulfillment of civil rights through bureaucracy. First, this article uses identity theory. Identity theory explains that as creatures who learn a lot from their environment, humans can adopt identities and can have two identities, namely mandatory identities and voluntary identities. Mandatory identities are characterized by strong

<sup>2</sup> Hasnul Arifin Melayu, Mohammad Zawawi Abubakar, and Norruzeyati Che Mohammad Nasir, "Minoritas Di Wilayah Syariat: Kedudukan Non Muslim Dalam Qanun Hukum Jinayat Aceh," *Legitimasi Jurnal Hukum Pidana Dan Politik Hukum* 10, no. 1 (2021): 1219–149, <https://doi.org/10.22373/legitimasi.v10i1.10521>.

<sup>3</sup> Taufik Adnan Amal and Samsu Rizal Pangabean, *Politik Syariat Islam: Dari Indonesia Hingga Nigeria* (Jakarta: Pustaka Alvabeta, 2004).

and systemic ties that make it difficult for someone to get out because of the strong attachment to responsibility, while voluntary identities are related to flexible traits and encourage people to be more creative and are not equipped with heavy responsibilities to be carried out because at any time someone can remove the identity. Identity theory is useful for explaining the relationship between Acehese bureaucrats in formal positions with Islam, the majority religion in Aceh, which causes tensions of interest when carrying out formal duties because of overlapping identities and confusion.

The second theoretical framework used to analyze the impact of enforcing sharia regulations on non-Muslims in Aceh is the rule of law and human dignity. The concept of the rule of law and human dignity is a combined concept of the rule of law and human rights. The concept of the rule of law is a unique concept because a state of law requires the implementation of institutional arrangements that can create good governance, the existence of a regulatory system, supervision of regulatory enforcement, and mitigation or prevention of political divisions while human rights have an antagonistic nature to the law. Human rights are often distorted by the culture and identity of society so that their definition will be relative, and no standard is different from the law that demands certainty. Therefore, a good concept of the rule of law and human dignity is one that can find a middle ground between law and human rights that can guarantee certainty, justice, and benefits for all levels of society. In the context of implementing Aceh's sharia regulations for non-Muslims, the policies taken by the government must not only present minimum standards in the form of legal certainty, especially for the majority of Muslims, but must also be able to accommodate certainty and justice and benefits for non-Muslims, thereby ensuring a balance of rights and a sense of justice for all.

The third theory used to analyze the impact of enforcing Aceh's Sharia bylaws on non-Muslims is the proportionality theory. Proportionality is a condition where normative evaluation and empirical facts run together. The proportionality test is carried out on a reduction in fundamental rights to see whether the state should derogate or not and to track the impact caused by the state to intervention in minority groups or the most affected groups so that there is no excessive burden imposed on both groups. The Muslim and non-Muslim groups reflect a behavior towards egalitarian humanity. The proportionality test has three main objectives: 1). Presenting a measure that acts as a minimum parameter for the effectiveness to be

achieved, 2). Not only effective but in terms of method, it is also the lightest to do (efficient) in achieving goals, assuming that effectiveness is not reduced or remains the same, and 3). Creating a balance between interests in achieving the desired goals and the good that must be protected or limited. The use of proportionality theory serves to test the enforcement of sharia regulations in Banda Aceh, especially against policies that have the potential to hinder the fulfillment of human rights for non-Muslim groups in Banda Aceh. One of the policies that will be tested using this proportionality theory is prohibiting the sale of food and drinks during the fasting month, which applies to all Banda Aceh residents, including non-Muslims who are not subject to the obligation to fast like Muslims.

This article addresses three research questions. First, how do non-Muslim communities in Aceh perceive the implementation of Sharia law and its impact on their daily lives in Aceh? Second, do non-Muslims in Aceh experience discrimination in dealing with bureaucracy, governance, and access to public services following the enactment of special autonomy in the region? Third, what strategies can be developed to strengthen bureaucratic access and public services for non-Muslim citizens in the Province of Aceh?

This study employs a qualitative approach<sup>45</sup>. This approach is used to explore the personal and collective experiences of non-Muslim communities regarding their access to public services and civil rights following the implementation of Sharia law, as part of the special autonomy arrangements in the Province of Aceh.

The primary informants in this study consist of non-Muslim religious leaders and their congregants, selected through purposive sampling—specifically, individuals who have interacted with bureaucratic institutions and public services after the implementation of special autonomy. Banda Aceh was chosen as a case of study due to its significant non-Muslim population, which is relatively evenly distributed across all non-Islamic religions.

The informants include religious leaders and their followers, selected purposively using a snowball sampling technique, in order to

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<sup>4</sup> Scott Reeves et al., "Ethnography in Qualitative Educational Research: AMEE Guide No. 80," *Medical Teacher* 35, no. 8 (2013).

<sup>5</sup> N.O. Ejimabo, "The Effective Research Process: Unlocking the Advantages of Ethnographic Strategies in the Qualitative Research Methods," *European Scientific Journal* 11, no. 23 (2015): 1857–7881.

identify individuals whose views on Sharia law in Aceh are considered representative of their communities. Key informants include religious leaders and congregants representing Protestant, Catholic, and Buddhist communities.

## Non-Muslim Views on The Implementation of Islamic Sharia in Aceh

Aceh is the only province in Indonesia that officially implements Islamic sharia regulations<sup>6</sup>. This constitutional legitimacy is a form of special autonomy granted under Law No. 44 of 1999 on the Administration of the Special Status of the Special Region of Aceh and Law No. 11 of 2006 on the Governance of Aceh. These two laws serve as the legal foundation for the Aceh Government to reform its legal system in areas such as family law, *muamalat* (transactions), and *jinayat* (criminal law)<sup>7</sup>. All Islamic legal products enacted by the Aceh Government are referred to as Qanun. A Qanun may contain provisions that accommodate the implementation of Islamic sharia, as well as general regulatory matters such as law, education, economy, judiciary, and social and cultural<sup>8</sup>.

One of the most widely discussed legal products of the Aceh Government is Qanun Aceh No. 6 of 2014 on Jinayat Law. This Qanun regulates prohibitions on acts such as *khalwat* (being in seclusion with a non-mahram of the opposite sex), *maisir* (gambling), *khamar* (alcohol consumption), *zina* (adultery or fornication), sexual harassment, rape, *ikhtilat* (intimate behavior between non-mahrams), *qadzaf* (accusing someone of adultery without providing four witnesses), and same-sex immoral acts. Qanun Aceh No. 6 of 2014 on Jinayat Law, along with other Qanun, applies to both Muslim and non-Muslim residents of Aceh, as these legal products are recognized under the national legal system.

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<sup>6</sup> Ali Geno Berutu, "Penerapan Syariat Islam Aceh Dalam Lintas Sejarah," *Istinbath Jurnal Hukum* Vol. 13, no. 2 (2016): 164-187.

<sup>7</sup> Syaiful Mubarak, "Penegakan Hukum Qanun Jinayat di Aceh Kaitannya dengan Pluralisme Hukum," *Rewang Rencang: Jurnal Hukum Lex Generalis* 6, no. 2 (2024): 1-12.

<sup>8</sup> Hudzaifah Achmad Qotadah and Adang Darmawan Achmad, "Qanun Jinayat Aceh Antara Implementasi, Isu Dan Tantangan," *Adliya: Jurnal Hukum Dan Kemanusiaan* 14, no. 2 (2020): 171-90.

Our field research data shows that non-Muslim communities in Aceh hold two main perspectives regarding the implementation of sharia law. The first comes from non-Muslims who are not originally from Aceh but have moved there after the enforcement of Islamic law. The second comes from non-Muslim Acehnese who have lived in Aceh long before and after the implementation of sharia, offering insights into their experiences across both periods.

In the first group—non-Muslims originally from outside Aceh who later settled in the province after the implementation of sharia law—they initially perceived sharia as something frightening. They believed that any violation of sharia law would be immediately punished by caning. This perception was shared by a Catholic figure who serves as an official at the local Ministry of Religious Affairs and is also a board member of the Banda Aceh Parish Pastoral Council. Before his assignment in Banda Aceh, Mr. BFP, who comes from North Sumatra, believed that the implementation of sharia in Aceh would be a nightmare for non-Muslims (Interview with Mr. BFP on April 27<sup>th</sup>, 2024).

A similar perception was also found among the second group—non-Muslims who have long lived in Aceh. In an interview with Mr. Yswr, a religious leader and Buddhist figure in Banda Aceh, he recounted that when the initial plans to implement sharia law in Banda Aceh were announced, many non-Muslims were extremely anxious. At the time, there was very little public education or socialization about sharia law. As the head of the Communication Board for National Unity Appreciation in Aceh, he stated that much of the concern came from his community, namely ethnic Chinese citizens and Indonesian citizens of Chinese descent, regarding the implementation of sharia law in the province (Interview with Mr. Yswr on April 27<sup>th</sup>, 2024).

However, the perceptions of both groups changed after experiencing the actual implementation of sharia law. For the first group, this shift occurred after they had moved to and lived in Aceh. For the second group, it changed after sharia law came into effect in the region. They did not encounter the negative impacts they had feared in relation to how sharia law would affect their daily lives.

In general, the views of non-Muslims in Banda Aceh regarding the implementation of sharia law are highly positive. There are three favorable perspectives commonly held within the non-Muslim community in Banda Aceh concerning sharia implementation:

1. Sharia law is perceived as protecting not only Muslim residents but also non-Muslim citizens in Aceh;
2. The enforcement of sharia in Aceh is seen as aligning with the core values of their own religious teachings; and
3. The implementation of sharia law provides an alternative form of legal enforcement that is more efficient for the non-Muslim population in Aceh.

First, the implementation of sharia law in Banda Aceh is perceived as safeguarding not only Muslim citizens but also non-Muslim residents. This was expressed by Mr. Yswr, a Buddhist religious leader, and Mr. BFP, a Catholic religious figure (Interview conducted on April 27<sup>th</sup>, 2025). They both believe that sharia law in Aceh has contributed to the protection of both Muslim and non-Muslim communities. For example, the Qanun (regional bylaw) prohibits the consumption of alcoholic beverages. Although the Qanun technically applies only to Muslim individuals, the prohibition of alcohol is also in harmony with the teachings of several minority religions in Aceh. Thus, the enforcement of the Qanun Jinayat (Islamic criminal law) does not solely protect Muslims but also contributes to shielding non-Muslim communities from the harmful effects of alcohol consumption.

Another relevant context is the regulation concerning dress codes. In sharia, a Muslim who has reached puberty is obligated to dress modestly, covering the parts of the body as prescribed by Islamic teachings. This rule is enforced in Banda Aceh to ensure that Muslims dress modestly and in accordance with Islamic principles. For non-Muslims, this rule is not imposed. For instance, non-Muslim women are not required to wear the hijab. However, they are still expected to dress decently in public. This regulation promotes public decency and benefits the broader society—not only Muslims but also those from non-Muslim backgrounds.

Second, the view that the implementation of Sharia law in Aceh aligns with the values of minority religions. In fact, its implementation indirectly reinforces religious practice among non-Muslims. This was expressed by Mr. BFP, a Catholic religious leader in Banda Aceh. He believes that there are similarities between Islamic teachings and Catholicism. The clearest example, according to him, is the prohibition of consuming alcoholic beverages. As someone who moved from another region, he noted that before relocating to Aceh, he often witnessed Catholics in his hometown disregarding the prohibition

against alcohol consumption. However, after moving and working in Aceh, he no longer observed such behavior. The prohibition stipulated in Aceh's Qanun concerning alcohol reinforced his commitment to Catholic teachings. He described that the implementation of Islamic law in Aceh aligns with Catholic teachings and has strengthened his religious observance. He phrased this experience with the expression: "Enter through the Aceh door, exit through the Catholic door" (*Masuk lewat pintu Aceh, keluar lewat pintu Katolik*). He also noted that the implementation of Sharia has enhanced public security and did not pose a burden for non-Muslims, as it aligns with Catholic principles.

Third, the implementation of Sharia law in Aceh offers a more efficient legal enforcement alternative for non-Muslim communities. As is well known, criminal sanctions under the Qanun Jinayat apply only to Muslims. However, non-Muslim offenders are given the option to submit themselves to either national law or the Qanun Jinayat. In several cases, non-Muslims who violated the jinayat law opted to submit to the Qanun because it was perceived as more efficient or its legal consequences were less severe (Interviews with Mr. BFP and Mr. Yswr, April 27<sup>th</sup>, 2024).

As Mr. BFP explained, there was a non-Muslim individual who violated the Qanun provision regarding alcoholic beverages. He was arrested and prosecuted under national law. After undergoing investigation, prosecution, and trial, he was sentenced to one year and two months in prison. When he had served four months of his sentence, he was informed that he could choose to submit to jinayat law, under which the penalty would be caning. He could convert the remaining eight months of imprisonment into a caning sentence if he chose to submit to Sharia (*Jinayat*) law.

After receiving this information, he was initially hesitant to submit to the *jinayat* punishment. He feared that by doing so, he would automatically be considered as having converted to Islam. However, after learning that submitting to jinayat law did not automatically make him a Muslim, he eventually chose caning as his punishment, as it allowed him to complete his sentence more quickly and reunite with his family and return to work.

Nevertheless, the implementation of Sharia law in Aceh does not come without risks. There are several concerns regarding its impact that have been felt and expressed by the non-Muslim community. According to Mrs. Sha, a principal of a Christian school and an activist at a

Methodist church, before the implementation of Sharia law, both Muslims and non-Muslims were free to celebrate New Year's Eve by putting up banners, blowing trumpets, gathering in crowds, and lighting fireworks, allowing for festive celebrations. However, after the implementation of Sharia law, these New Year celebrations were banned as they were considered inconsistent with Islamic principles (Interview with Mrs. Sha on April 29<sup>th</sup>, 2024).

She also added that society as a whole still seems unprepared for the implementation of Sharia law. For example, before Sharia was implemented, it was rare to hear news about legal action being taken against perpetrators of sexual harassment or immoral acts. But after the introduction of Sharia, numerous reports emerged in print media about the enforcement of *jinayat* law against perpetrators of immoral behavior. In addition, she noted that some people have abused Sharia-compliant clothing to commit indecent acts in public (Interview with Mrs. Sha on April 29<sup>th</sup>, 2024). This, she believes, indicates that the community is still not fully ready to implement Sharia law in Aceh.

## **Non-Muslim, Public Service and Bureaucracy in Aceh**

Regarding public services and government bureaucracy, generally the informants did not observe any discrimination against non-Muslim communities in Aceh. For example, Mr. Grd, a Catholic pastor in Banda Aceh, said that when he was assigned to Banda Aceh and had to handle the transfer of population documents, he did not encounter any difference in attitude or treatment from the officials responsible for civil documentation services. In fact, his document processing was quite fast and straightforward. However, a village head (*Keucik*) who helped him with the documents at that time reminded him not to attempt to convert the local population to Catholicism. To Mr. Grd, he said, "Please shepherd your flock, but don't disturb ours" (Interview with Mr. Grd on April 27<sup>th</sup>, 2025).

Mr. BFP, a Catholic figure, also shared a positive experience with public services and bureaucracy. As a newcomer, he also handled population administration. According to him, unlike his place of origin where administrative processes were usually slow and often required bribes, the process of handling population administration in Aceh was quick. Additionally, he only paid a very low administrative fee. He had a

similar experience when transferring his vehicle's license plate to Aceh. The process was very fast and efficient, even though he was a newcomer and non-Muslim. For him, this personal experience demonstrated equality and the absence of discrimination in public services in Aceh Province (Interview with Mr. BFP on April 27<sup>th</sup>, 2024).

Mr. BFP also felt that the implementation of Sharia law in Aceh made the region safer from crime. According to him, in his place of origin, if someone parked their car or motorcycle outside the house at night, there was a high chance that parts of the vehicle would be stolen. But during his stay in Aceh, he never experienced this. He once left his vehicle outside the house for a whole month, and it remained safe—no parts were stolen (Interview with Mr. BFP on April 27<sup>th</sup>, 2024).

Mr. Yswr, a Buddhist leader in Banda Aceh, also expressed the same view regarding public services in Aceh. As a non-Muslim born and raised in Aceh, he had never heard news of non-Muslims, especially Buddhists, experiencing discrimination when dealing with bureaucracy in Aceh. If there were reports about difficulties in handling bureaucratic administration at government offices experienced by non-Muslims, he suspected that the cause might be missing or unfulfilled requirements rather than the person's religion (Interview with Mr. Yswr on April 27<sup>th</sup>, 2024).

However, we found a note from the non-Muslim community who happened to deal with bureaucracy when managing permits for activities unrelated to religious matters. One informant, Mrs. Hn, who is non-Muslim and the head of a social foundation, stated that when she was handling the permit letter for her foundation's activities, she experienced some difficulties. First, when applying for the activity permit at a government office, her application letter was rejected on the grounds that the foundation's activities were too few. However, after adding more activities and returning to the office to process the permit again, the letter was still not processed, this time with the reason that there were too many activities (Interview with Mrs. Hn on April 26<sup>th</sup>, 2024).

This was not the first challenge Mrs. Hn faced. When she first applied to establish the foundation, she said that one of the requirements was that the building to be used as the office and activity place must be visible from the outside and not closed off. According to her, this was so that the activities inside the building could be seen from outside. In the early days of the foundation, she recounted that a group

of people from a government office once came to question the foundation she established. She said she was grilled with several questions that implied accusations of covert Christianization through her foundation's activities (Interview with Mrs. Hn on April 26<sup>th</sup>, 2024).

Despite difficulties with bureaucracy at the start of establishing the foundation, Mrs. Hn admitted that the land used for the foundation's activities belonged to a local community leader (*Tuha Peut*). This meant she did not experience obstacles or resistance when dealing with the local community. She also said that people, especially children, often came to the foundation because it provided public facilities for play and sports, such as bicycles, basketball and futsal courts, as well as a terrace for studying and gathering.

Mrs. Hn added that personal branding is necessary to manage activity permits. She said that after several years of the foundation being established and recognized by the community and government officials, obtaining permits for activities became much easier because they personally knew Mrs. Hn and were aware of the social activities carried out by the foundation (Interview with Mrs. Hn on April 26<sup>th</sup>, 2024).

Furthermore, Mrs. Hn recounted that when a non-Muslim has a local-looking face, or does not look of Chinese or Western descent, if they handle something at a government office, the government employees will ask about their religion and check their identity card to ensure that they are indeed non-Muslim. Because of this, some non-Muslims sometimes prefer to wear a hijab when dealing with government offices to avoid being questioned about their religious identity (Interview with Mrs. Hn on April 26<sup>th</sup>, 2024).

A similar statement was made by Mrs. Sha, a Christian school principal, who said that in public schools, many non-Muslim female students wear hijab after the implementation of Sharia rules. Not because they are required to wear hijab, but more for social comfort reasons (Interview with Mrs. Sha on April 29<sup>th</sup>, 2024).

Although there are some cases mentioned by several informants as discomforts resulting from the implementation of Sharia in Aceh, generally the experiences felt and expressed by the informants about bureaucracy and public services for non-Muslims in Aceh are positive. These positive experiences were not only found when dealing with public services in government but also when interacting with other members of the community who are Muslim.

As expressed by Mr. Yswr, a Buddhist leader of Chinese descent who was born and raised in Aceh, he shared his experiences in various social organizations in Aceh. In fact, he was once the chairman of one community organization for 10 years, elected by acclamation. The majority of the organization's members were Muslims. He also ran as a candidate for regional legislative member from one political party. In that election, he won the majority of votes in Penayung, a neighborhood where he lived. Although he ultimately failed to secure the legislative seat, he felt broad community support. Not only from the Buddhist community but also from the Muslim community. He felt no obstacles, barriers, or discriminatory behavior when he decided to run for legislative office. He was very saddened when outsiders or media outside Aceh claimed that Aceh is an intolerant region towards non-Muslims. According to him, such news does not reflect the facts and experiences he faces daily on the ground (Interview with Mr. Yswr on April 27<sup>th</sup>, 2024).

Furthermore, according to Yswr, the government is quite open to receiving input regarding the implementation of Sharia law. One example was the policy prohibiting the sale of food and drinks during the daytime in the month of Ramadan. As a member of the Aceh Religious Harmony Forum and a Buddhist religious leader, he suggested that non-Muslims be given dispensation to buy and sell food and drinks in the markets. As a result, the Banda Aceh government allowed non-Muslims to conduct food and drink transactions in the markets until 10 a.m., provided that the transactions were only carried out by non-Muslims who showed their ID cards when entering the market (Interview with Mr. Yswr on April 27<sup>th</sup>, 2024).

Aceh is known to have a long history of tolerance. This was stated by Mr. Nrd, a member of the Aceh Province Religious Harmony Forum. Historically, tolerance in Aceh is seen in the actions of the Aceh Sultan when protecting and honoring non-Muslim guests. The Sultan even fulfilled needs considered *haram* (forbidden) by Sharia law. It was reported that the Aceh Sultan once provided fermented palm sap drinks for non-Muslim guests from outside Aceh who wanted to drink whiskey or alcoholic beverages. These actions have been carried out since the Aceh Sultanate era and have become a tradition until now. Therefore, the people of Aceh have a proverb that says "*Peumulia jamee adat geutanyoe*," which means "honoring guests is our custom" (Interview with Mr. Nrd on April 26<sup>th</sup>, 2024).

The above proverb is reflected in various actions of native Acehese people as well as government employees working within the bureaucracy in Aceh, as explained above. It cannot be denied that there was a bad experience faced by a non-Muslim informant who is the head of a social foundation in Aceh. However, after bureaucrats and government officials got to know the informant personally, the process of obtaining permits became easier. This is very common because personal relationships and branding are very necessary to gain trust from organizations or individuals.

If we look at the implementation of Sharia law in Banda Aceh city and Aceh in general, as well as the experiences of non-Muslims with bureaucracy and public services, we can deduce that the implementation of Sharia law in Aceh is defensive, not aggressive or expansive. Based on the explanations from the informants, the Sharia law contained in the Qanun, especially the jinayat section, only applies to the Muslim community. For non-Muslims, the national law applies first. However, they may choose to submit themselves to the provisions of the jinayat law if they wish.

At the bureaucratic level, there are no obstacles or barriers created by officials or government employees. In obtaining their rights, the people of Banda Aceh, both Muslim and non-Muslim, receive equal services. There are no hindrances for non-Muslims in Aceh to access public services. Even in the political sphere, as experienced by an informant of Chinese descent and Buddhist faith, Muslim communities provided political support. This informant acknowledged that within Islamic teachings, there is a rule that Muslims should choose leaders who are also Muslim. For him, this is not an act of discrimination. He believes that if this is done, Muslims are simply following their beliefs. Nevertheless, he also stated that this is not regulated in any regional legal products in Aceh, so formally, the political rights of non-Muslim citizens are not obstructed.

## **Strengthening Bureaucratic Access and Public Services for Non-Muslims in Aceh**

As the only province in Indonesia that officially implements Islamic law, Aceh has a very large Muslim population percentage. With the mandate of the law to implement Islamic law, Aceh certainly accommodates the majority of its people who are Muslim. However, as a state governed by law (*rechstaat*), positivism must be supported by other qualities such as impartiality, equality, and order<sup>9</sup>. More precisely, a state governed by law requires institutional arrangements that create good governance, a system of regulations, supervision over the enforcement of regulations, and mitigation or prevention of political fragmentation.

A good bureaucracy is one that fulfills the above qualities, manifested within the framework of the rule of law and human dignity<sup>10</sup>. The rule of law and human dignity have a complex relationship, not as simple as explaining its purpose as a guarantee of the implementation of human rights and fundamental freedoms that are respected, promoted, and fulfilled, thus enabling humans to live with dignity<sup>11</sup>. This is because applying norms to humans is a complicated task, as the law must consider various perspectives and be able to respect the entity it faces. In other words, respect for human worth and dignity is reflected when the law views humans as individuals responsible for their actions, to what extent they can subject themselves to legal provisions, how well they can meet the law's demands, and how well we understand those regulations<sup>12</sup>.

The law must have internal values that must be met such as generality, publicity, non-retroactivity, clarity, non-contradiction, firmness, and harmony<sup>1314</sup>. If these values are not met, then humans fail

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<sup>9</sup> Stephen Riley, "Human Dignity and the Rule of Law," *Utrecht Law Review* 11, no. 2 (2015): 91–105, <https://doi.org/10.18352/ulr.320>.

<sup>10</sup> Anna Chorążewska, "Human Dignity as a Source, Foundation, and Principle of the Constitutional Order in the State of Law," *Sustainability (Switzerland)* 11, no. 1 (2019): 1–14.

<sup>11</sup> Riley, "Human Dignity and the Rule of Law."

<sup>12</sup> David Luban, "The Rule of Law and Human Dignity: Re-Examining Fuller's Canons," *Hague Journal on the Rule of Law* 2, no. 01 (2010): 29–47, <https://doi.org/10.1017/S1876404510100025>.

<sup>13</sup> Kristen Rundle, "Fuller's Internal Morality of Law," *Philosophy Compass* 11, no. 9 (2016): 499–506, <https://doi.org/10.1111/phc3.12338>.

<sup>14</sup> Colleen Murphy, "Lon Fuller and the Moral Value of the Rule of Law," *Law and Philosophy* 24, no. 3 (2005): 239–62, <https://doi.org/10.1007/s10982-004-7990-3>.

to govern through law and also fail to respect other humans as rational agents who can explain their actions.

In simple terms, the rule of law also means recognizing the existence of law and being willing to be governed by it. The law, with all its devices, strives to uphold human worth and dignity by subduing human desires and behaviors. Thus arises the commitment to obey the law, which makes humans accountable. They must be responsible for all their actions and mistakes. Any act that deviates from the law must be understood as an act that degrades human worth and dignity. This is what makes humans responsible before the law, as the law views them as beings capable of explaining their own actions. Through the rule of law, the law shows that humans have the capacity to govern themselves but also show dependence on the use of rational rules<sup>15</sup>.

In the context of bureaucratic implementation in Aceh, as previously discussed, the application of Islamic law is defensive in nature with the aim of preserving Islamic law and not to increase the number of Muslims or hinder followers of other religions from obtaining their rights. However, there have been some unique behaviors from government officials tasked with providing public services to all residents of Aceh, which include a minority of non-Muslim citizens. For example, in the case of an informant who is a pastor, he received a message from a village leader (*keucik*) who said, "Please shepherd your flock, but do not disturb ours." Or in the case of a chairperson of a social foundation in Aceh who encountered various obstacles when establishing her foundation and conducting social activities because she was considered an agent of Christian missionary work.

From the perspective of identity theory, this is indeed unique. Religious identities are voluntary identities, meaning a person can choose to commit to being part of a religious identity and practice its teachings or at any time choose not to act according to religious teachings or leave the religion. This is different from obligatory identities, such as professional occupation, marital partner, or parenthood, which are identities that require a set of specific duties and guidelines<sup>16</sup>.

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<sup>15</sup> Michał Rupniewski, "Human Dignity and the Law," *Human Dignity and the Law* 26, no. 4 (2022), <https://doi.org/10.4324/9781003252733>.

<sup>16</sup> Mary Gallagher, "Distinguishing Obligatory and Voluntary Identities," in *New Directions in Identity Theory and Research* (Oxford: Oxford University Press, 2016), 309–42.

Obligatory identities are characterized by strong and systematic bonds, making it difficult for someone to leave due to the strong attachment to responsibilities. Furthermore, failure in a position related to obligatory identity will result in strong rejection from role partners.

Voluntary identities have characteristics that contrast with obligatory identities. They are more flexible and encourage people to be more creative, and they do not come with heavy responsibilities to be carried out because a person can at any time shed that identity. This is different from obligatory identities, which are related to people or a system and come with responsibilities and are long-term in nature, making it difficult for someone to structurally or emotionally let go of obligatory identities. Examples of voluntary identities include friendships, community service, and religion/belief<sup>17</sup>.

Research by Thoits and Hewitt found that people who enact their voluntary identities tend to be associated with happiness, life satisfaction, and good physical and mental well-being. This is because voluntary identities emphasize freedom and the desire to do something that results in self-appreciation or gives personal meaning, whereas obligatory identities, which are identified by strong regulation and responsibility, tend to be maintained regardless of whether the conditions experienced by the person are good or bad<sup>18</sup>.

In the context of bureaucrats and public servants in Aceh, who formally implement Islamic law, there are two types of identities held by bureaucrats: the professional identity as bureaucrats, which is an obligatory identity, and the religious identity, which is a voluntary identity. In terms of public service, the formal identity that should be displayed by Acehnese bureaucrats is the professional identity. However, religious identity is often also displayed, as experienced by an informant who is a pastor and another informant who is the chairperson of a Christian social foundation. Such situations have the potential to cause differential treatment of non-Muslims in public services.

This can be analyzed using the concepts of identity prominence and identity salience, which are propositions from identity

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<sup>17</sup> Gallagher.

<sup>18</sup> Gallagher.

theory<sup>192021</sup>. An important concept in identity theory is that a person can adopt various identities from their social environment that arise from the roles they play or their personal characteristics. Identity theory argues that a person organizes their identities according to a hierarchy based on the identity that holds the greatest meaning. These identities are activated by certain situations that correspond to the hierarchy of identities within the individual. These identities are also related to the ideal conditions within a person.

Both the concepts of identity prominence and identity salience influence the behavior related to a given identity. The higher or more important an identity is to a person, the more time they spend engaging with that identity. The difference between identity prominence and identity salience is that identity prominence is hierarchical within a person and tends to be relative. This concept relates to the overall ideal self-concept a person holds and is verified through the evaluations of many others toward that person, so that the individual tends to maintain behavior consistent with the views or assessments of others. This verification can come from various sources, primarily from friends or family, especially with identities imbued with religious nuances where the person is in a homogeneous religious environment sharing the same teachings. When the evaluation of a person's identity aligns with their own self-view, they feel good and maintain that identity.

On the other hand, identity salience is contextual in nature, meaning that when a person faces a particular situation, they activate the identities they have according to the conditions encountered. Here, identity prominence is more dominant than identity salience, acting as the factor that influences identity salience.

In the context of Acehese bureaucrats emphasizing their religious identity when carrying out public service duties, viewed from

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<sup>19</sup> Peter J. Burke and Jan E. Stets, "Prominence and Salience Effects on Identity Nonverification," *Social Psychology Quarterly*, no. February (2023), <https://doi.org/10.1177/01902725231202255>.

<sup>20</sup> Richard T Serpe and Kelly L Markowski, *Identity Theory Paradigm Integration: Assessing the Role of Prominence and Salience in the Verification and Self-Esteem Relationship*, *Advances in Group Processes* (Leeds: Emerald Publishing Limited, 2018), <https://doi.org/10.1108/S0882-614520180000035004>.

<sup>21</sup> Philip S. Brenner, Richard T. Serpe, and Sheldon Stryker, "The Causal Ordering of Prominence and Salience in Identity Theory: An Empirical Examination," *Social Psychology Quarterly* 77, no. 3 (2014): 231–52, <https://doi.org/10.1177/0190272513518337>.

identity theory, the majority Muslim population of Aceh, which formally implements Islamic law, tends to receive emotional support from family, friends, and structural/formal institutions, thereby verifying their identity as Muslims who practice Sharia law. Therefore, when a person with a strong Muslim identity becomes a public official with specific norms and rules, they tend to prioritize their prominence identity, namely as a Muslim.

The prominence identity as a strong Muslim influences the salience identity, which is more contextual. In the case of an Acehnese bureaucrat dealing with an informant who is a pastor, the salience identity as a public official acted and said to the pastor, "Please tend to your congregation, but do not disturb ours." Similarly, the different treatment experienced by a non-Muslim informant who is the head of a social foundation occurred due to the influence of the bureaucrats' identities (strong Muslim identity).

Another bureaucratic action perceived as less attentive to non-Muslims, according to an informant, is the policy banning sales during Ramadan. Unlike the case experienced by the pastor, which is not included in formal public service policies or procedures, the sales ban during fasting is related to policy-making that can affect bureaucratic access and public services for both Muslim and non-Muslim residents of Aceh.

One way to strengthen bureaucratic access and public services for non-Muslims is to formulate proportional policies that are fair for both Muslims and non-Muslims in Aceh. Proportionality is a condition where normative evaluation and empirical facts proceed simultaneously. The proportionality test has three main objectives: 1) To provide a measure that acts as a minimum parameter for the effectiveness to be achieved; 2) To be not only effective but also efficient in achieving goals assuming effectiveness does not decrease or remains the same; and 3) To create a balance among interests in achieving the desired goals, while also protecting or limiting certain goods<sup>22,23</sup>.

The example of this, in the context of Aceh, is the policy prohibiting sales in markets during the fasting month of Ramadan. If we

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<sup>22</sup> Aharon Barak, *Proportionality: Constitutional Rights and Their Limitation* (Cambridge: Cambridge University Press, 2012).

<sup>23</sup> Kai Möller, "Proportionality: Challenging the Critics," *International Journal of Constitutional Law* 10, no. 3 (2012): 709–31, <https://doi.org/10.1093/icon/mos024>.

evaluate it using the main elements of proportionality, the actual goal intended to be achieved is to ensure that the fasting worship of Muslims is not disturbed by the activity of buying and selling food and drinks during the daytime in Ramadan. From the perspective of effectiveness, the policy banning the sale of food and drinks guarantees the achievement of the goal of safeguarding the fasting worship for Muslims. However, the prohibition of buying and selling food and drinks during fasting is not the most appropriate way for all parties, especially for non-Muslim residents. Therefore, it can be said that this is inefficient, given that not all residents in Aceh fast during Ramadan, particularly non-Muslims.

From the perspective of balancing interests, the ban on selling food and drinks during fasting for non-Muslims is imbalanced. Although there is a good that is protected, namely the fasting worship of Muslims, the presence of a restriction affects Muslims positively, but non-Muslims only face restrictions without any protected benefits.

The proportionality test here can be applied with the aim that all Acehese citizens receive equal treatment before the bureaucracy and public services. From the effectiveness side, the ban on selling during Ramadan is intended to achieve the goal of preserving the worship of Muslims and ensuring that all Muslim residents in Aceh observe their fasting according to Islamic law. However, the elements of efficiency and balance of interests are absent here, making the policy prohibiting sales during Ramadan disproportionate. In other words, normative evaluation does not align with empirical facts.

To achieve proportionality, elements of efficiency and balance of interests need to be incorporated into every policy to guarantee the implementation of rule of law and human dignity. Looking at the case of the ban on buying and selling during daytime in Ramadan, after negotiations with the government, non-Muslim residents were eventually allowed to buy and sell food and drinks in the market until 10 a.m., provided they show their ID cards when entering the market.

The efficiency element here is fulfilled. On one hand, this alleviates the burden for non-Muslims. On the other hand, the ban for Muslims to sell and buy food or drinks in the market remains. In other words, the effectiveness of the original goal is maintained. From the perspective of balancing interests, allowing limited sales benefits non-Muslims despite restrictions. Allowing limited sales also guarantees the economic rights

of non-Muslim communities, both in terms of earning income during Ramadan and accessing food and drinks.

## Conclusion

The implementation of Sharia law in Aceh is an issue that affects all levels of society, including non-Muslim communities. After the enactment of the Special Autonomy Law in 2001, the application of Sharia law has generated various perspectives from non-Muslim communities. These perspectives can be categorized into two groups. First, the preconceptions held by non-Muslims who had never lived in Aceh and only moved there after the implementation of Sharia law. Second, the views of native non-Muslim Acehnese on the implementation of Sharia law and their perceptions after its enforcement upon non-Muslims in Aceh.

In both categories, non-Muslim communities initially perceived the implementation of Sharia law in Aceh as something frightening. However, these views changed once the law was put into practice. Several informants stated that the implementation of Sharia law in Aceh brought benefits not only to Muslims but also to non-Muslims. According to them, the enforcement of Sharia in Aceh protects not only Muslim residents but also non-Muslims, as the values it upholds are consistent with the teachings of their own religions. Furthermore, they view Sharia law as an alternative legal system that is more efficient for the non-Muslim community in Aceh. As a result, it is not surprising that in several cases, non-Muslim citizens have submitted to Sharia law when they violated provisions of the *Qanun Jinayat*.

When dealing with bureaucracy and public services, non-Muslims generally do not feel any discrimination. Some informants even emphasized that public administrative processes in Aceh are efficient, straightforward, and not overly bureaucratic. However, there have been instances where non-Muslims faced difficulties in obtaining permits for activities. One example is a key informant, the head of a social foundation, who faced obstacles due to suspicions of carrying a missionary agenda. Nevertheless, these issues were resolved once the suspicions were cleared.

Discriminatory treatment of non-Muslims in public services is partly caused by identity-related issues. The Acehnese population, which is predominantly Muslim and formally applies Sharia law, tends

to receive emotional support from family, friends, and formal institutions, thus reinforcing their identity as devout Muslims practicing Sharia. When such individuals hold public service positions governed by specific norms and regulations, they tend to prioritize their prominent identity as Muslims.

One way to prevent unequal treatment of non-Muslims in Aceh that might affect their access to bureaucracy and public services is to apply the principle of proportionality in every policy made by regional officials in Aceh. Proportionality provides three main benefits. First, it offers a benchmark that acts as a minimum parameter for the effectiveness to be achieved. Second, it is not only effective but also the least burdensome way (efficient) to reach the goal under the assumption that the level of effectiveness remains the same. Third, it creates a balance of interests in achieving the desired goal while also considering goods that should be protected or limited.

One important example of the need for proportionality to strengthen non-Muslim access to bureaucracy in Aceh is the policy banning the sale of food and beverages during the month of Ramadan. While effective, the elements of efficiency and balance of interests were not achieved in that policy. Therefore, efficiency and interest-balancing must be integrated into every policy to ensure the enforcement of the rule of law and human dignity—such as by allowing limited sales by non-Muslims who do not observe the fasting requirements of Sharia.

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