Examining Qanun in Aceh from human rights perspective: status, substance, and impact on vulnerable and minorities

**Abstract**

The Helsinki Agreement between the Aceh Freedom Movement (GAM) and the Indonesian Government aimed to end the long-standing conflict and inequality in Aceh. It also legally empowered the Acehnese to govern their own province and protect their citizens from human rights abuses. Regrettably, the implementation of laws and policies in Aceh since the agreement, such as Qanun, have had adverse effects on human rights, particularly for vulnerable groups and minorities. This paper analyses the need for aligning the substance of Qanun with international human rights norms and assesses the feasibility of implementing Qanun without violating human rights. The paper advocates for a harmonious balance between Qanun and human rights, which can be achieved through a more constructive dialogue between the two.

Keywords: *Qanun, Islam, human rights, vulnerable, minorities*

*Abstrak*

*Kesepakatan Helsinki antara Gerakan Aceh Merdeka (GAM) dan Pemerintah Indonesia bertujuan untuk mengakhiri konflik dan ketimpangan yang berkepanjangan di Aceh. Ia juga secara hukum memberdayakan rakyat Aceh untuk memerintah provinsi mereka sendiri dan melindungi warganya dari pelanggaran hak asasi manusia. Sayangnya, implementasi hukum dan kebijakan di Aceh sejak kesepakatan, seperti Qanun, berdampak buruk terhadap hak asasi manusia, terutama bagi kelompok rentan dan minoritas. Tulisan ini menganalisis perlunya menyelaraskan substansi Qanun dengan norma-norma hak asasi manusia internasional dan menilai kelayakan penerapan Qanun tanpa melanggar hak asasi manusia. Makalah ini merekomendasikan adanya keseimbangan yang harmonis antara Qanun dan hak asasi manusia, yang dapat dicapai melalui dialog yang lebih konstruktif antara keduanya.*

**Introduction**

The purpose of this article is to evaluate the substantive norms in Aceh's Qanuns, especially on criminal law and public morality, from a human rights viewpoint and to assess the diversity of perspectives among Muslim experts or scholars in Aceh regarding human rights. Additionally, it is important to know some internal perspectives from members of Aceh parliament, Judges of the Sharia Court, members of minorities, Muslim scholars, and Muslim human rights activists from Aceh. One of the main reasons of this study is that the impact of the Qanun against non-Muslims, women, and other minorities has been a subject of significant concern and debate.

Qanuns are part of Aceh’s autonomy agreement with the Indonesian government, and it is meant to reflect the conservative Islamic values of the Aceh’s majority population. The Qanuns cover a wide range of areas, including criminal law, family law, and public morality, and it is enforced by the Aceh government and judiciary. One of the main concerns is that the Qanuns impose strict Islamic law on the people of Aceh and frequently discriminate against non-Muslim and other minorities such as Christian, Hindus, and Buddhists. This research is significant as, following the 2006 Helsinki Agreement, a growing number of Qanuns were enacted and regulate various aspects of government and public life, which have had an impact on fundamental rights of the Acehnese people. Based on that, it is significant to assess the substance of the Qanuns through a human rights lens, given their comprehensive impact on the daily lives of the Acehnese.

The Aceh government, after the Helsinki Agreement, has shown a persistent desire to broaden the scope of Islamic law through the issuance of Qanuns. This desire is in line with the government's understanding of the Helsinki Agreement, which grants Aceh the autonomy to govern its own affairs and protect the well-being of its people, including the enactment of Qanuns that are tailored to meet the specific needs of the province.[[1]](#footnote-1) A Qanun can be considered as an endorsement by the central government of the special rights accorded to Aceh, granting it the power to implement the Qanun within its legal framework (Kingsbury, 2007).

The Aceh government's drive to implement the Qanuns can be interpreted as reflecting its aim to bring about social change and govern the lifestyle of the Acehnese community (Feener, 2013). The Qanun was introduced in Aceh as part of a broader effort to promote Islamic values and traditions for the Acehnese. Some supporters of the Qanun such as members of the Aceh Parliament argued that it is necessary to promote a more conservative, religiously oriented society in Aceh, which they see as being more in line with Islamic teachings and values. They argued that Qanuns are seen as reflecting the will of the Acehnese who have historically been supportive of greater autonomy and the promotion of Islamic values in the province.

The Qanun came into existence because of the Aceh government's interpretation of the Helsinki Agreement, which was signed between the Indonesian government and the Free Aceh Movement to peacefully resolve the conflict in Aceh. The agreement has since provided the people of Aceh with numerous autonomies, such as the authority to maintain and develop their own lifestyle and improve it across various dimensions, including basic and fundamental rights, gender justice, democracy, and the understanding of Islam (Feener, 2013). It can be noted that Qanuns are the reflection of legitimate expression of the will of Acehnese and as a means of promoting their rights to self-determination and Islamic expression.

The Helsinki Agreement marked the end of the conflict in Aceh and aimed to bring dignity to all members of Acehnese society. Yet, the Qanun has been a source of significant controversy and debate not only in Aceh but also in Indonesia because it reflects broader tensions between conservative and progressive forces in Indonesian society. To maintain this spirit of dignity, it is important for policymakers in both the Central and Aceh Governments carefully consider the human rights implications of the Qanun and to ensure that it is implemented in a way that respects the rights and freedoms of all individuals in Aceh. These include protecting basic rights, promoting gender equality and justice, advancing democracy, and preserving the cultural understanding of Islam.

The legacy of orientalism and the strong influence of Islam in Aceh have indeed complicated the interpretation and application of human rights and Islam in the province. Orientalism is a term used to describe the Western representation of non-Western culture which generally led to misunderstandings of Islam and human rights especially if the two terms are interpreted from political perspective (Hussain, 2009). In the context of Aceh, some Acehnese view human rights as a product of Western orientalism and hence they resist human rights application in the province because of their long resistance against the Dutch colonial. The negative perception of the international and national communities regarding the enforcement of Qanuns in Aceh can also contribute to the perception of a conflict between Islam and human rights. This can make it more difficult to find common ground and to promote dialogue and understanding between different groups.

Given these realities, evaluating the Qanuns from a human rights perspective does not aim to challenge the legitimacy of all Qanuns in Aceh. Rather, it seeks to assess their normative content, as some may be found to conflict with human rights standards. Some Qanuns, such as Qanun Number 6 of 2014, which has been in effect since October 2015 and relates to the Islamic criminal law (*Jinayat* Law), have been identified as deserving of further review due to concerns about their compatibility with human rights principles (Fadlia, 2018). The 2014 Qanun supplements the previously enacted Qanuns in the Aceh region, including Qanun No. 11 of 2002 on *Aqidah*, Worship, and Islamic Symbols, Qanun No. 12 of 2003 on Alcoholic Beverages, Qanun No. 13 of 2003 on Gambling, and Qanun No. 14 of 2003 on Indecent Conduct.

This article seeks to address two main questions regarding the Aceh Qanun and its impact on human dignity and minority and vulnerable groups. Firstly, it explores what norms should be regulated by the Aceh Qanun to reflect the dignity of the Acehnese people and comply with international human rights norms. This includes a comparison of the substance of the Qanun regulations after the Helsinki Agreement and those in the pre-colonial era, to better understand the Aceh government's stance on dignifying all elements of society in the wake of the agreement.

Secondly, the article also analyses the substance of the Qanun that affects minority and vulnerable groups. To examine the challenges faced by these groups in Aceh, the study considers the historical dynamics of minority recognition in other countries and uses a comparative approach to evaluate how Muslim countries and majority Muslim communities apply Islamic law in accordance with democratic principles and human rights. This approach highlights the pluralistic nature of Islamic legal jurisprudence and underscores the importance of respecting human rights, especially for minority and vulnerable groups.

**Method**

The key challenge in adapting Islamic law to international legal standards is the widespread belief among many Muslims that Islamic law and the Muslim community that implements it possess complete sovereignty (Cammack, 1999). Muslims consider Islamic law to possess a divine nature and a comprehensive solution to human issues (Shawamreh, 2011). The perception among some Muslims is that Islamic law, embodied in sources like the Qanun, holds a higher position than human-made laws such as international human rights instruments. However, this perception does not necessitate a dichotomy between the two. Numerous Muslim-majority countries, such as Tunisia and Turkey, have demonstrated that Islamic law and human rights norms can complement each other. Tunisia, for example, has a majority Muslim population yet has banned polygamy since 1956, reformed discriminatory inheritance laws in favour of women, and legalized interfaith marriages since 2017. This shows that Islamic law can be adapted to align with international human rights standards (Khanif, 2019).

The examination of policies in predominantly Muslim countries is crucial in addressing the problems faced in Aceh regarding the protection of basic and fundamental human rights. It is essential for the people of Aceh to understand that the Qanun is part of a plural legal system, interconnected with legal systems in other countries and international law. This comparative approach is aimed at ensuring the substance of the Aceh Qanun aligns with international legal instruments on human dignity.

It is significant for all elements of the Acehnese society to understand that the implementation of punishments such as amputation and pouring hot tin, which were prevalent before colonial rule, were a result of the absence of a universal legal order system that prohibits not only colonialism but also acts that degrade human dignity.

To collect comprehensive data, this study used interviews with various stakeholders, including members of the Aceh Parliament, involved in the formulation of the Qanun, community leaders, and representatives from academic, practical, and civil society organizations focused on issues of minority and vulnerable groups.

**Legality and the Substance of Qanun**

The implementation of human rights norms in Aceh is a complex issue that involves balancing the protection of individual rights and freedoms with the cultural and religious values of the local community. This conflictual trajectory has been used by the Aceh government to prioritize religious (Islamic) values when formulating criteria for rights and freedoms. Some believe that Islam in Aceh is an integral part of society and should be used as a legal basis for determining rights and freedoms. They argue that Acehnese should have the freedom to determine their own legal developments through the enactment of the Qanuns, as part of the central government's commitment to resolving conflicts in the region. Both the two arguments assert that the reality of Islam in Aceh highlights a long tension between the implementation of human rights and the prioritization of Islam. The Aceh Government must understand that using religious values (Islamic criteria) as the sole basis for determining rights and freedoms can lead to discrimination and violations of human rights.

It is important to note that the implementation of human rights should not be seen as a threat to Islamic Sharia. While it is true that Islam is an integral part of Acehnese, it is important to recognize that human rights are universal and apply to all individuals, regardless of their religion or cultural background. Some Islamic countries have adopted laws and policies that uphold human rights while also respecting religious tradition. For example, Tunisia after Arab Spring has revoked Islamic inheritance and interfaith marriage ban because the two laws discriminate against women’s rights (Khanif, 2019). Afghanistan since 2004 also succeeded to amend their constitution containing recognitions of women’s rights which previously faced a bleak period under the Taliban regime from 1996 to 2001. Based on these examples, the Aceh government should ensure that the enactment of Qanuns should also consider the protection of human rights, especially for vulnerable and minority groups. The substantive norms in Qanuns should lie in a balanced approach that respects the diverse cultural and Islamic Sharia in the province and protect individual rights of the Acehnese.

The signing of the Helsinki Agreement was an important milestone, not only to resolve the long-standing conflict in Aceh but also to reconcile Islam and human rights that have been in tension in the province. The Indonesian Government must realize that ending the conflict will also lead to accommodate some parties involved in the conflict to advance their interests. While there were some ideological differences about the application of Islam within the Free Aceh Movement (GAM), most of its members were the strident supporters of the implementation of Sharia to assert their identity and resist what they perceive as foreign influence (Kingsbury, 2007). They believe that the advance and the decline of Islam in Aceh is a form of foreign occupation has created a hostile attitude towards human rights, which is seen as a part of western imperialism. It can be said that some Acehnese have used Islam as an ideology, placing political power of Islam at the forefront of Acehnese politics, putting Sharia to filter a certain right and freedom for the Acehnese.

Aceh's status as a special autonomy region allows it to regulate and manage its own affairs and created its own laws through Qanuns. As a subject to democratic process, the drafting of Qanuns and other local laws must be created through a democratic and transparent process and must not be used to discriminate against certain groups or violate human rights. Aceh as part of local democracy, including the enactment of legal policies. The presence of local Aceh parties, sharia courts, and Qanuns as regional laws highlights the difference between Aceh and other Indonesian regions or provinces. Despite its special authority granted by laws such as Law no. 44 of 1999 and Law no. 11 of 2006, Aceh remains a part of Indonesia, and qanuns should be considered as part of the national legal system.

Even though Aceh has a unique legal system different from other regions in Indonesia, Qanuns should be considered as part of the national legal system. This means that Qanuns still must be consistent with the Indonesian Constitution and other national laws. It is not uncommon for judges in Aceh to apply Indonesian national laws, including Supreme Court circulars, in cases where they believe that the national law provides greater protection for victims or stricter penalties for perpetrators. In cases where national laws offer greater protection or stricter penalties, judges in Aceh have the discretion to apply those laws rather than the Qanuns. The decision of Rosmawardani, the chief judge of the Aceh Sharia Court (2020-2021) to apply the Indonesian supreme court circular in the case of sexual violence against children has been based on her belief that the circular letter has tougher penalties for perpetrators compared to Qanuns (personal interview, 2021).

The legal discretion in legal system is very common. Yet, the context of Aceh Sharia is unique because most judges believe that Qanun is derived from the interpretation of Islamic jurists regarding Sharia. The term Sharia, in Arabic, refers to "the way" and encompasses broad moral and ethical principles gleaned from the Qur'an and the teachings and sayings of the Prophet Muhammad. It is not necessarily a legal term (Afsaruddin, 2021). The definitions and explanations of Sharia indicate that it encompasses more than just the legal dimension, including ethics, morality, and way of life. As a result, the legal interpretations of Sharia by legal experts, which result in jurisprudence (*fiqh*), only regulate a small part of the Sharia.

It is important to distinguish between Sharia and *fiqh*, as *fiqh* is a discipline derived from the Qur'an, *Sunnah* (prophetic traditions), and other sources of evidence by jurists (Siregar, 2008). The results of Islamic juristic thought, also known as *fiqh,* can be flawed and subject to change based on human progress and evolution. Muslim intellectuals hold that laws derived from Sharia must always uphold human dignity, which is considered the cornerstone of pre-modern Islamic human rights (Afsaruddin, 2021). Many Islamic jurists agree on the distinction between Sharia and *fiqh*. Asifa Quraishi-Landes states:

*Sharia is not a code of law or court decisions enforced by the government, and it is not a set of rules that are decided in court. In contrast, sharia is a Quran-based guideline that directs Muslims to lead an Islamic life. Sharia did not originate in the state and did not even originate in a single book or set of rules. Sharia is divine and philosophical (Quraishi-Landes, 2021).*

The Qanun is a component of Islamic jurisprudence (*fiqh*) that incorporates Sharia principles. Some see it as having a divine aspect capable of addressing human issues. However, the substance of the Qanun can change, influenced by the social conditions in Aceh. The Qanun must prioritize the protection and respect of human dignity, being a product of Muslim thought. As an interpretation of Sharia, the Qanun is open to revision and must adapt to changing circumstances. To align with Indonesia's national legal system, the substance of the Qanun should be consistent with the 1945 Constitution of the Republic of Indonesia and ratified human rights instruments.

The review of Aceh Qanuns is important because it has stronger binding power than regional regulations outside of Aceh. This is specified in Article 269, paragraph 2 of Law No. 11 of 2006 on the Government of Aceh, which mandates that all national regulations for Aceh must conform to the law (Sudirman, 2011). The provisions of the article suggest that various Qanuns may emerge in terms of substance, regulating not only public policies but also private spaces. As a region with special authority, the Qanuns may reflect the majority vote and be heavily influenced by religious values to regulate community morality.

The emergence of Qanuns that protect the basic rights of the Acehnese people is not uncommon in Muslim-majority countries. National laws in many Islamic and majority Muslim countries are shaped by the interpretation of Islamic teachings. Over fifty countries, including members of the Organization of Islamic Cooperation, still apply Sharia or incorporate regulations influenced by Islamic values (Esmaeili, 2010). This emphasizes the integral relationship between Sharia and the advancement of law in Muslim and predominantly Muslim countries, including Indonesia. Disregarding or abolishing Islamic law from the progression of human rights would negate the factual legal development, making it challenging to enforce human rights in these nations.

**The implication of Qanun in the context of human rights**

Since the 17th century, the implementation of Islamic law has been a common practice among the government in Muslim-majority countries, including Aceh, where Sharia is blended with local legal customs, leading to various forms of Islamic legal pluralism. However, during the colonial era, the influence of Sharia and the authority of Islamic judges (*qadhi*) declined as the Dutch imposed their version of colonial law (International Crisis Group, 2006). The decline in the authority and influence of Sharia in Aceh was still ongoing at the beginning of Indonesia's independence so that later it became the basis used by some Acehnese people to demand special treatment, especially to re-enforce Islamic law. In early 1948, Daud Beureueh, an influential community figure during the structuring of Aceh in early Indonesian independence, asked President Sukarno to ensure the implementation of Islamic law in Aceh and make post-colonial Indonesia an Islamic state (International Crisis Group, 2006).[[2]](#footnote-2) The push for implementing Islamic law in Aceh has been intertwined with political interests both in the region and at the national level.

The Aceh government has interpreted their authority to regulate the interests and needs of the Acehnese people as stated in Law No. 11 of 2006 concerning the Aceh Government. The Qanuns, which have content related to morality, are in line with Islamic legal standards and reflect this interpretation. Article 125 of the Law specifically outlines this:

1. Islamic Sharia implemented in Aceh includes *aqidah, sharia*, and morals.
2. Islamic Sharia as referred to in paragraph (1) includes worship, *ahwal al-syakhshiyah* (family law), *muamalah* (civil law), *jinayat* (criminal law), *qadha*' (judicial), *tarbiyah* (education), *da'wah*, *syiar,* and the defense of Islam.
3. Further provisions regarding the implementation of Islamic Sharia as referred to in paragraph (1) shall be regulated by Aceh Qanun.

The article provides a general overview of the areas that are covered by the implementation of Sharia in Aceh, which includes not only criminal law but also other aspects of life. While it is true that Qanuns contain legal instruments that regulate the implementation of Sharia in Aceh, it is worth noting that Qanuns have been controversial because of its negative impact on human rights.

The implementation of Aceh Qanuns must align with human rights standards, as stated in the Helsinki Agreement. The agreement demands that both the Aceh and central government base their Qanuns on human rights principles, as outlined in point 1.4.2. It is important to ensure that the implementation of Aceh's Qanuns aligns with human rights norms for the protection and promotion of the rights of the people of Aceh.

*The Aceh Legislature will reformulate the legal provisions for Aceh based on the universal principles of human rights as enshrined in the United Nations International Covenants on civil and political rights and on economic, social, and cultural rights (MoU between Indonesian Gov and GAM).*

The provisions for using human rights principles in setting regulations in Aceh are aimed at ensuring the Helsinki Agreement brings positive changes and improves the fulfilment of the rights of marginalized communities affected by the conflict in the region. However, over a decade since the Helsinki Agreement was implemented, there has been a growing number of Qanuns that are inconsistent with human rights universalism and the provisions of the Helsinki Agreement. Furthermore, there have been discriminatory government policies, such as the Bireuen Regency Ministry of Religion's refusal to grant recommendations for the establishment of a Muhammadiyah mosque in July 2016,[[3]](#footnote-3) which are often based on considerations for avoiding conflicts within society.

The 2014 Qanun *Jinayat* is one of the discriminatory norms in Aceh. Despite its history, it has become a prominent part of the emergence of regulations with Islamic legal nuances in Indonesia in recent years, reflecting the ideal perspective of the Muslim community on justice and social order as expected by policy makers (Feener, 2013). These regulations, including Aceh's Qanun, are based on religious values or Islamic law, covering a wide range of moral and governmental issues.

**Impact of Qanun on vulnerable and minorities**

The implementation of qanuns in Aceh must be in line with the purpose of dignifying the Acehnese people, as stated in the Helsinki Agreement. Before the peace agreement between GAM and the Indonesian government, the people of Aceh faced atrocities during the prolonged conflict. It is crucial for the Aceh government to view the Helsinki Agreement as a crucial document, like the Universal Declaration of Human Rights, that aims to restore the human dignity that was lost during the war. The Qanun, because of the Helsinki Agreement, should strive to improve the social conditions of the Acehnese people, as envisioned by the parties when they signed the agreement.

Aceh has a long history of enacting qanuns, even before the colonial era. The Indonesian government's recognition of the Qanun is a sign of respect for the Acehnese people. For example, John Braithwaite notes that punishments for theft and drunkenness, such as cutting hands and pouring hot lead down the throat, were imposed in Aceh in the pre-colonial era to enforce Islamic law (Uddin, 2009), which was more severe than in other Muslim countries, including Saudi Arabia (Uddin, 2009). Hence, the qanun enacted in Aceh after the Helsinki Agreement is not a new concept for the people of Aceh.

The implementation of Qanun *Jinayat* in Aceh, which is based on the interpretation of Islamic law, highlights the privileged status of the majority religion in both political and legal realms. This law complements the benefits the majority religion receives, including ease of building places of worship, while minority religions face resistance in establishing their places of worship (Khanif, 2015). This creates a complex relationship between human rights protection standards and the state, as the existence of regulations based on religious interpretations can perpetuate discriminatory policies towards minorities and vulnerable groups.

The position of religious minorities is often at risk due to the dynamic relationship between religion and the state, especially in situations where the government prioritizes maintaining social harmony or religious unity over individual rights and freedoms. In some cases, the governments often discriminate against religious minorities as a means of appeasing the majority or resolving conflicts between different religious groups. This can take many forms, such as limiting access to employment, political participation, or restricting the practice or expression of minority religion. It can be said that the enactment of the Qanuns may lead to human rights violation and can create a climate of intolerance and discrimination that can have long-lasting impacts on religious minorities as well as undermine the equality and fairness principle of the Aceh democratic governance.

It is true that opinions of Qanun *jinayat* (Islamic criminal law) in Aceh vary among different groups, including religious minorities. While some Acehnese people may prefer caning as a punishment for certain crimes, others may be opposed to this form of punishment or to the entire system of the Sharia-based criminal law. The proponents of caning argue that this type of punishment will still allow the accused to return quickly to work or to be reunited with his/her family. For example, an anonymous Chinese agrees with the application of Qanun *Jinayat* which ban on gambling and drinking alcohol because most Chinese in Aceh gambled before the enactment of the Qanun. Even though there is a voluntary submission and compliance from some minority groups, canning punishment has created torture and cruel, inhuman, and degrading treatment, not be in line with international human rights standards and the Indonesian constitution.

The unequal treatment of women's rights is deeply rooted in traditions, history, culture, and religious attitudes, making it crucial for states to ensure that no religious teachings, cultural, or social values harm women (General Comment, 2006). It is important for Indonesia as a state party to the International Covenant on Civil and Political Rights and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) to take proactive steps to address any discriminatory laws or practices that harm women. This requires a sustained commitment from the government, civil society, and religious leaders to challenge discriminatory laws and practices to provide a greater participation for women in all aspects of society.

The implementation of Islamic law has shaped the character and culture of Aceh, affecting not just the social aspect but also the legal norms in the form of Aceh Qanuns. Islamic values are formalized in legislation, with Islamic principles being a governing principle in Aceh. [[4]](#footnote-4) The enforcement of Islamic Sharia in Aceh is carried out by the Sharia Court as part of the national judicial system. This enforcement is carried out with an Islamic personality approach, without discrimination based on nationality, position, or status, within the territory of the Aceh Province.[[5]](#footnote-5) The Aceh government and district/city governments are responsible for implementing Islamic law in Aceh through Qanuns.

Qanun *Jinayat* outlines prohibited acts in Islam (*jarimah*) and their corresponding penalties (*uqubat*). These acts include intoxication (alcohol with a level of 2% or more), gambling, seclusion, *ikhtilat*, adultery, sexual harassment, rape, false accusation of adultery, *liwath,* and *musaqah.* The perpetrators of these acts face hudud and/or *ta'zir* punishment, with hudud being a pre-specified form of punishment and *ta'zir* being an optional punishment with a range of possible severity.

Principally, non-Muslim minorities in Aceh are free to practice their religion, as guaranteed by the Law on Governing Aceh. The Aceh government and district/city governments are responsible for fostering harmony, respecting religious values, and protecting religious communities' freedom to worship according to their religion (article 127 of the Law No 11 of 2006). This law principally recognizes the diversity of religious beliefs in Aceh, including the presence of non-Muslim minorities, and provides legal protections for their religious freedoms. However, some incidents on the persecution of and violence against non-Muslim minorities demonstrates that the situation of minorities in Aceh has been in peril. For example, the attack on a church in Singkil and Banda Aceh in 2015 and 2016 respectively asserted that the enactment of discriminatory law may lead to the deficiency of religious pluralism (Khanif, 2015). When the relation between majority and minority remains tense, the government generally will follow the interpretation of the majority that their religion as the primary source for validating the rights of religious minorities.

It is the nature of religion which usually set a boundary of rules for its followers which also means that religion provides a common ground and solidarity among adherents of a particular religion (Khanif, 2015). This means that while religion can be a source of solidarity and mutual understanding, it can also be a source of tension and conflict when different religious groups have competing interests or beliefs. For example, followers of a minority religion in Aceh reported that they have been able to worship regularly and without interruption, even during holidays such as Vesak, Kathina, Asadha, Maghda Puja. Children from minority religious families receive religious instruction from their respective teachers.

Sharia regulation in Aceh does not only cover how to express religion. In 2014 the Aceh Ulama Consultative Council (MPU) issued MPU Fatwa number 09 of 2014 concerning Understanding, Thought, Practice and Broadcasting of Islam in Aceh. This fatwa contains the regulation of aqidah and worship. In the field of aqidah this fatwa regulates as follows:

1. To believe that Allah's substance is only above the heavens is misguided and misleading.
2. Believing that Allah's substance is bound by time, place, and direction (jihad) is misguided and misleading.
3. Believing that kalamullah is written and spoken is misguided and misleading.
4. To believe that Prophet Adam AS and Prophet Idris AS is not the Messenger of Allah is misguided and misleading.

The next part of the MPU fatwa Number 9 of 2014 regulates the procedures for worship. This section regulates the following:

1. Understanding that allows the intention to pray outside the *takbiratul ihram* is wrong.
2. The understanding that forbids *qunut* in the Fajr prayer is wrong.
3. The understanding that states that it is forbidden to commemorate the birthday of the Prophet Muhammad is wrong.
4. The understanding that states that it is forbidden to make remembrance and pray in congregation is wrong.
5. The understanding that states that it is obligatory to follow only the Al-Quran and Hadith in the field of Aqidah, Sharia and Morals is wrong.

The MPU fatwa regulates the differences in worship practices in Islam, affecting religious groups with distinct beliefs about worship in comparison to the mainstream in Aceh. On June 13, 2019, a group of individuals rejected a lecture by speaker Firanda Andirja at the Al Fitrah Mosque in Banda Aceh, as Firanda is associated with the Wahhabi sect. However, according to Muslim Ibrahim, the Chairman of the Aceh Ulama Consultative Council (MPU), most of the people in Aceh follow the *Ahlus Sunnah Wal Jamaah* teachings.[[6]](#footnote-6)

The differences in religious understanding have led to tensions among community groups. In response, thousands of students and members of mass organization organized a demonstration called the *Aswaja* Parade on September 10, 2015, claiming to represent the *Ahlussunnah Wal Jamaah* (*Aswaja*) group. The demonstrators gathered at the Aceh Governor’s Office in Lampineung, then marched to several locations in Banda Aceh to express their demands. They called for the Aceh government to regulate worship practices based on the Syafii school of thought and requested the revocation of permits for Islamic schools and institutions that deviated from the Syafii school and *Ahlussunnah* (*Asyariah* and *Maturidiyah*) belief. They also demanded that those appointed to the Aceh Government Work Unit (SKPA) or other public agency positions in Aceh align with the Ahlussunnah teachings.[[7]](#footnote-7)

The Aswaja Parade, held on September 10, 2015, by thousands of students and mass organizations, highlights the lack of tolerance for minority views in Aceh. The group, claiming to be the *Aswaja*, demanded that the Aceh government regulate worship procedures according to the Syafii school of thought and revoke permits for Islamic schools and institutions that contradict it. This requirement for public officials to align with the majority's religious views creates pressure on minority groups in Aceh.

Reports of incidents, including Molotov cocktails being thrown, and hostile shouting of *"wahabi*" towards minority groups have led to a policy change by the government. The government now prefers to ask minority groups to stop their activities to avoid clashes, but this is discriminatory and goes against the principles of democracy and human rights.

Minority groups have the right to hold different views and practices, and the government must protect their rights and create an equal footing with the majority. While the state can encourage tolerance, it cannot arbitrarily limit minority groups. The existence of minority groups brings diversity to society and must be respected, not suppressed.

The demands voiced in the *Aswaja* Parade demonstrate a severe level of discrimination and restrictions on the expression of religion and belief, including worship and teaching activities. This goes against the principles of freedom of religion and belief and has direct and indirect impacts on everyone's internal forum aspect. The government must take affirmative protection policies to ensure the rights of minority groups are respected, not suppressed by the majority's aspirations

**Conclusion**

The study suggests that the Aceh Qanun reflects the rights held by the Acehnese people with the goal of dignifying them, as per the Helsinki Peace Agreement. However, its implementation has had negative consequences on human rights protection, especially for vulnerable groups and minorities. The Qanuns and policies in Aceh are inconsistent with the principles of universal human rights and the Helsinki Agreement, which require compliance with international human rights covenants. The sharia regulation in Aceh encompasses not only religious expression, but also religious freedom.

The implementation of the qanun affects vulnerable groups and minorities who have been "forced to conform" since the qanun's enforcement. To align the qanun with human rights standards, it is crucial to offer recommendations for improvement. The objective is to implement the qanun without compromising human rights, which can be achieved through a productive dialogue between qanuns and human rights principles.

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1. Point 1.1.6 of the Agreement Note states that "The Aceh Kanun will be re-drafted for Aceh while respecting the historical traditions and customs of the Acehnese people and reflecting the current legal needs of Aceh." See the full Agreement Note between the Government of the Republic of Indonesia and the Aceh Freedom Movement 2005. [↑](#footnote-ref-1)
2. Ibid 2. [↑](#footnote-ref-2)
3. Letter of recommendation from Malyusri Malyusri, ‘Permohonan Rekomendasi Pembangunan Masjid Taqwa Muhammadiyah Juli’ (17 February 2016). [↑](#footnote-ref-3)
4. According to Article 20 of Law No. 11 of 2006, the administration of Aceh and district/city governments are guided by the following general principles of governance: a) Islamic principles, b) legal certainty, c) public interest, d) orderly administration, e) openness, f) proportionality, g) professionalism, h) accountability, i) efficiency, j) effectiveness, and k) equality. [↑](#footnote-ref-4)
5. Explanation of Aceh Government Law No. 11 of 2006. [↑](#footnote-ref-5)
6. “Ustaz Firanda ditolak di Aceh karena 'lebih cenderung ke Wahabi' dan untuk mencegah 'kekacauan masyarakat'”, <https://www.bbc.com/indonesia/indonesia-48617536>, accesed by 3rd September, 2021. [↑](#footnote-ref-6)
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