

Local-Sharia Regulations and Religious Expression in Aceh: Criticism of the *Qanun* about Establishing Places of Worship

Faiq Tobroni

State Islamic University (UIN) Sunan Kalijaga Yogyakarta, Indonesia

E-mail: faiq.tobroni@uin-suka.ac.id

Abstract: Religious identity-based laws can cause restrictions on the expression of religious freedom in the public sphere. It occurred in the implementation of *Qanun Aceh* 4/2016 about the provisions for establishing places of worship in Aceh (*the Qanun*). The enactment of the *Qanun* often triggers the majority hegemony over minority groups. Having focused on criticizing the *Qanun*, this article analyses two aspects. Firstly, the *Qanun* was reviewed from human rights. Secondly, the impact of the *Qanun* on the map on distribution and condition of places of worship for religious minorities in each regency/city in Aceh Province. This article uses qualitative research methods by utilizing, mapping, and reviewing data from the 2020 Central Statistics Agency of Aceh Province. This study found that: firstly, the *Qanun* does not meet the provisions of limitations on human rights in the 1945 Indonesian Constitution, International Covenant on Civil and Political Rights (ICCPR), and the Principle of Siracusa; secondly, the access for minority groups for establishing places of worship in Aceh can be mapped in three conditions, namely positive, normal and negative.

Keywords: *Qanun; places of worship; human rights; religious freedoms.*

Abstract: Hukum yang didasarkan pada identitas keagamaan bisa menyebabkan pembatasan ekspresi kebebasan beragama di muka umum. Ini terjadi dalam pelaksanaan *Qanun Aceh* 4/2016 tentang persyaratan pendirian tempat ibadah di Aceh (*Qanun*). Pemberlakuan *Qanun* sering memicu hegemoni mayoritas terhadap kelompok minoritas. Dengan fokus untuk mengkritisi *Qanun*, artikel ini mengulas dua aspek. Pertama, keberadaan *Qanun* ditinjau dengan Hak Asasi Manusia (HAM). Kedua, pengaruh *Qanun* terhadap peta distribusi dan konsisi tempat ibadah bagi kelompok keagamaan minoritas di setiap kabupaten/kota di Provinsi Aceh. Artikel ini menggunakan metode penelitian kualitatif dengan memanfaatkan, memetakan dan mereview data tahun 2020 dari Badan Pusat Statistik Provinsi Aceh. Penelitian ini menemukan: pertama, *Qanun* tidak memenuhi persyaratan pembatasan HAM yang diatur dalam UUD 1945, Kovenan Internasional Hak Sipil-Politik, dan Prinsip Siracusa; kedua, akses kelompok minoritas atas pendirian rumah ibadah di

Aceh dapat dipetakan dalam tiga kondisi, yakni positif, normal dan negatif.

Keywords: *Qanun; tempat ibadah; HAM; kebebasan beragama.*

Introduction

Local regulations with religious nuances can threaten the stability of social life, especially those related to freedom of religion.¹ There are three forms of attitude about how local regulations produced from religious identity have influenced the shrinking expression of religious freedom. First, an exclusive group used local regulations to suppress the religious freedom of other groups.² Second, the repressive actions of the majority group in the name of the law to the minority group.³ Third, the state's negligence in supervising and overcoming the negative impacts of these local regulations.⁴ Similar cases can also occur in the rules and requirements for establishing places of worship in public spaces. The presence of local regulations that are biased in identity and favor of the majority group will result in restrictions on the religious expression of minority groups in social life. This issue is currently developing in Aceh Province due to the Syari'ah *Qanun* 4/2016 about provisions for establishing places of worship (the *Qanun*).

¹ Robin Bush, "Regional Sharia Regulations in Indonesia: Anomaly or Symptom?," in *Expressing Islam: Religious Life and Politics in Indonesia*, ed. G Fealy and S White (Singapore: ISEAS–Yusof Ishak Institut, 2008), 174–191, <https://www.cambridge.org/core/books/expressing-islam/regional-sharia-regulations-in-indonesia-anomaly-or-symptom/17ADC0EC43F5EDDE245669AED05BD9>. Accessed 28 May 2021.

² Kikue Hamayotsu, "The Limits of Civil Society in Democratic Indonesia: Media Freedom and Religious Intolerance," *Journal of Contemporary Asia* 43, no. 4 (2013), in <https://www.tandfonline.com/doi/abs/10.1080/00472336.2013.780471>. Accessed 28 May 2021.

³ Nicola Colbran, "Realities and Challenges in Realising Freedom of Religion or Belief in Indonesia," *The International Journal of Human Rights* 14, no. 5 (2013), in <https://www.tandfonline.com/doi/full/10.1080/13642980903155166>. Accessed 28 May 2021.

⁴ Imparsial, *Demokrasi Selektif terhadap Penegakan HAM: Laporan Kondisi HAM Indonesia 2005* (Jakarta: Imparsial, 2006).

Muslims are the majority population in Aceh. This province has special authority to implement Islamic law. Population data in Aceh in 2020 shows 5.015.236 Muslims, 37.620 Protestants, 9.181 Catholics, 236 Hindus, and 7.529 Buddhists.⁵ With its status as a special province, Aceh has privileges in formulating and enforcing sharia local regulations. This enforcement often faces issues of religious intolerance. One of Aceh's legal products that have received criticism from various parties is *Qanun* 4/2016, about provisions for establishing places of worship (the *Qanun*). The *Qanun* was intended to maintain religious harmony. However, the *Qanun* also has other negative impacts, namely the restriction on religious freedom related to the availability of places of worship. The *Qanun* could shrink the space for religious freedom and foster the destruction of places of worship just because their existence violates the rules and agreements. This condition is undoubtedly contrary to the general concepts of human rights.

The problematic side of the *Qanun* is related to the spirit of limiting the space for religious freedom and the political policies of the Aceh Provincial Government, which aggravate the requirements for establishing places of worship. One form of aggravation is the number of supporters as users of places of worship. The *Qanun* requires establishing a place of worship to be supported by a minimum of 140 residents as users and 110 people who are not users.⁶ The requirements in the *Qanun* are more severe than those imposed in national-level regulations. National regulations regarding establishing places of worship are regulated in the Joint Regulation of the Minister of Religion and the Minister of Home Affairs number 9 of 2006 and number 8 of 2006. The number of supporters for establishing a place of worship in the Joint Ministerial Regulation is a minimum of 90 people as users and 60 people as residents.⁷

⁵ Badan Pusat Statistik, *Provinsi Aceh Dalam Angka Tahun 2021*, 1st ed. (Banda Aceh: Badan Pusat Statistik Aceh, 2021), pp. 236-237, in <https://aceh.bps.go.id/publication/2021/02/26/632c7b89c74d88e9db9a9944/provinsi-aceh-dalam-angka-2021.html>. Accessed 28 May 2021.

⁶ Article 14 of *Qanun Aceh* 4/2016 about the provisions for establishing places of worship in Aceh.

⁷ Article 14 Paragraph 2 of the Joint Regulation of the Minister of Religion and the Minister of Home Affairs number 9 of 2006 and number 8 of 2006.

This study aims to examine the religious phenomenon in Aceh by using a prescriptive-normative analysis on the *Qanun* by using the perspective of human rights restrictions. This study seeks to map the condition of religious space in the availability of places of worship for religious minorities in Aceh. This study uses a qualitative method. The research data was obtained from the documentation of several reference sources. They are in the form of laws and regulations, *Qanun*, and related works in journal articles, books, and media reports. Data on the condition of space of religious freedoms is obtained from Aceh Province in Figures published by the Central Statistics Agency of Aceh Province. Covering the entire Province of Aceh, this study attempts to provide a general description of the relationship between the *Qanun* and the provisions on human rights restrictions and freedom of religious expression in Aceh Province.

Portraits of Space for Religious Freedom in Aceh

One of the issues on the shrinking space for religious freedom in Aceh that is often in the spotlight is the polemic on provisions for establishing places of worship, particularly churches. One finding stated that conflicts over the existence of churches were not only exacerbated by the enactment of the 2007 Aceh Governor Regulation (regulation for establishing places of worship in Aceh before the passage of *Qanun* 4/2016). The conflicts were also caused by choice of the Christian community to build churches without a permit. Among the reasons is the difficulty of complying with the requirements stipulated by the existing regulation. Nur Rochmi's work depicts the chronology of the church burning in Aceh Singkil in 2015 because the masses were disappointed with the construction of a church that did not comply with regulations.⁸

Mallia Hartani and Soni Akhmad Nulhaqim also found a chronology of the conflict in Aceh Singkil from 1979-2015. The dispute arose because the community felt disturbed by establishing

⁸ Rochmi M. Nur, "Kronologi Pembakaran Gereja di Aceh Singkil," *Berita Tagar*, last modified 2015, in <https://beritagar.id/artikel/berita/kronologi-pembakaran-gereja-di-singkilaceh>. Accessed 28 May 2021.

churches that were not following the existing regulations.⁹ Meanwhile, research by Ali Akbar and Zainal Abidin provides additional information. Conflicts occur because establishing places of worship violates state regulations and agreements between communities regarding the number of churches and *undung-undung* built-in Singkil. The number of churches that are not following the agreement has been the cause of the conflict.¹⁰ At this point, conflicts between religious communities, especially in Aceh Singkil, are caused by the public's perception of the regulations for establishing places of worship itself.¹¹

Meanwhile, several studies have confirmed the signal for a new form of religious harmony, with evidence of harmonious relations between religious communities in Aceh. Several studies reveal that this relationship has occurred in Aceh Singkil and several other areas in Aceh. Haidlor's research in 2016 has informed the format of religious harmony in Aceh with a dominant cultural approach. According to him, the conflict occurred because certain groups of Christians did not obey the agreement. Some Christian communities still maintain harmonious relations with Islamic groups. Therefore, Haidlor recommends adopting the concept of religious harmony developed in Bali; namely, the minority party obeys the agreements and regulations that have been built with the majority group.¹²

Research by Muhamamd Ansor and Muhajir Al Fairusy also portrays this harmonious relationship. According to Ansor, the Acehnese have significant capital to build harmony because of the

⁹ Mallia Hartani dan Soni Akhmad Nulhaqim, "Analisis Konflik Antar Umat Beragama di Aceh Singkil," *Jurnal Kolaborasi Resolusi Konflik* 2, no. 2 (2020): 93–99, <http://jurnal.unpad.ac.id/jkrk/article/view/28154>.

¹⁰ Ali Akbar dan Zainal Abidin, "Kontradiktif Kebijakan Pemerintah Kabupaten Aceh Singkil Tentang Izin Pendirian Gereja," *Jurnal Ilmiah Mahasiswa FISIP Unsyiah* 3, no. 3 (n.d.): 720–733, <http://www.jim.unsyiah.ac.id/FISIP/article/download/8306/3846>.

¹¹ Bisril Hadi, *Problematika Pendirian Rumah Ibadah di Aceh* (Jakarta: UIN Syarif Hidayatullah Jakarta, 2017).

¹² Haidlor Ali Ahmad, "Resolusi Konflik Keagamaan di Aceh Singkil dalam Perspektif Budaya Dominan," *Jurnal Harmoni* 15, no. 3 (2016): 45–59, <https://jurnalharmoni.kemenag.go.id/index.php/harmoni/article/view/43/29>.

availability of supporting factors. Among these factors are clan similarities, clan relations, and grassroots currents that are not touched by conflict. He stated that amidst the suspicions of the majority of Singkil Aceh's Muslim community and the local government regarding the aggressiveness of Christians, the interfaith gathering at the grassroots level is trying to build harmony and live side by side. Awareness of similar ethnic origins has effectively contributed to minimizing conflicts between ethnic two religions in Aceh Singkil.¹³ Al Fairusy sees the potential for inter-religious reconciliation because of the influence of clan and ethnic awareness and the existence of Islamic law in Aceh, which accommodates the discourse of tolerance and prioritizes human aspects in dealing with several cases of intolerance.¹⁴

Another study that confirmed harmonious relations in Aceh was carried out by Binsal, who studied inter-religious harmony in Aceh Singkil.¹⁵ It's just that, according to him, behind harmonious relations between Muslims and Christians, it turns out that there is a new, abnormal face of harmony. This face is evidenced by several statements still circulating in the mass media. One of them is an expression that states that Christians in Aceh feel that they live in the husk. They feel swayed and cannot enjoy their right to freedom of religion.¹⁶

The latest research in 2019 conducted by Rosnida Sari also revealed signs of this abnormal harmony model. Rosnida said that Tapak Tuan Aceh's Christian community does not have a permanent church. So far, they have borrowed the house of a military member to carry out worship. Therefore, the Christians only asked for a multi-

¹³ Muhammad Ansor, "We Are From the Same Ancestors: Christian-Muslim Relations in Contemporay Aceh Singkil," *Al-Albab* 3, no. 1 (2014).

¹⁴ Muhajir Al Fairusy, "Model Konsensus dan Rekonsiliasi Konflik Antar-Umat Beragama di Aceh Singkil," *Alljima'i* 1, no. 1 (2015), <https://journal.ar-raniry.ac.id/index.php/jai/article/download/431/207/>.

¹⁵ Binsal, *Kerukunan Antar Umat Beragama di Aceh Singkil* (Banda Aceh: UIN ArRaniry, 2017).

¹⁶ Amindoni Ayumi, "Api Dalam Sekam' Konflik Aceh Singkil: 'Kita Umat Kristen di Sini Merasa Terombang-Ambing,'" *BBC NEWS*, last modified 2019, <https://www.bbc.com/indonesia/indonesia-50471436>. Accessed 28 May 2021.

purpose building (not a church) as a place of worship together.¹⁷ This condition confirms the abnormal pattern of harmony that causes them not to have the courage to permanently build their place of worship. Meanwhile, Sahlan highlighted the performance of the Religious Harmony Forum (FKUB) at Aceh Singkil, which did not work because it was under the shadow of conflict memories.¹⁸

Mallia Hartini and Akhmad Nulhaqim saw that the religious conflict in Singkil was caused more by the Christian's violation of the regulations regarding the requirements for establishing places of worship.¹⁹ Ali Akbar and Zainal Abidin assessed that the conflict was due to breaches in the joint agreement regarding the church's construction.²⁰ The strict requirements for establishing places of worship are why some Christian groups choose the path without a permit in building churches. Such a path, in the end, ignited the fire of conflict because it sparked suspicions of a Christianization mission.²¹

The existence of regulations regarding establishing places of worship is like two different sides of a coin. On the one hand, a rule is often a tool for legitimizing certain groups to carry out repressive actions to destroy places of worship whose establishment is not following regulations. While on the other hand, its existence is considered to have a mission to maintain religious harmony. The reason is that the presence of a place of worship that has received

¹⁷ Rosnida Sari, "Pemenuhan Spiritual Komunitas Kristen di Tapak Tuan, Aceh Selatan," *Journal of Humanity & Social Justice* 2, no. 2 (2020): 68–86, <https://ojs.isjn.or.id/index.php/journalhsj/article/view/36>, 68-86.

¹⁸ M Sahlan, "FKUB dalam Bayang-Bayang Konflik Singkil" (UIN Ar-Raniry, Banda Aceh, 2016).

¹⁹ Mallia Hartani dan Soni Akhmad Nulhaqim, "Analisis Konflik Antar Umat Beragama di Aceh Singkil."

²⁰ According to the agreement, Christians in Aceh Singkil are only allowed to build one church unit and four units of *undung-undung*. Because there was denial, there was a conflict over the demolition of churches. Ali Akbar dan Zainal Abidin, "Kontradiktif Kebijakan Pemerintah Kabupaten Aceh Singkil tentang Izin Pendirian Gereja."

²¹ Aulia Kamal, "Negara dalam Pusaran Konflik Rumah Ibadah: Problem Persepsi dalam Pembentukan dan Eskalasi Konflik Rumah Ibadah Kristen di Aceh Singkil" (Yogyakarta: Universitas Gadjah Mada, 2016), <http://etd.repository.ugm.ac.id/penelitian/detail/107039>. Accessed 28 May 2021.

approval from residents indicates there is a commitment from the local community to maintain religious harmony with the presence of the house of worship. This kind of narrative is used to rebuttal that the expression of zero tolerance in Aceh is not valid.²²

Regarding the relations of Muslims and Christian in Aceh, the Head of the Center for Religious Harmony (PKUB) of the Ministry of Religion of the Republic of Indonesia, Nifasri, assessed that religion-based discrimination in Aceh is not chronic as reported by the media. The conflict occurred because several built places of worship did not meet the provisions of the *Qanun*.²³ Nifasri's conclusion aligns with Haidlor Ali Ahmad's statement that religious people in Aceh should respond obediently to the regulations governing the establishment of places of worship. As long as the majority and minority groups are committed to implementing the agreements and rules, conflicts in the name of religion can be avoided.²⁴

However, some opinions still view that the *Qanun* will strengthen the pattern of abnormal harmony. By aggravating the requirements for establishing places of worship, the *Qanun* emphasizes the implications of religious restrictions even with the mission of religious peace. Several studies have proven that regulations with religious nuances limiting religious freedom will lead to conflicts in religious harmony. Since 2011, the Wahid Institute has underlined that the flood of repressive regulations on religious life that only targets minority groups is a red light for religious freedom itself.²⁵ The study of the National Human Rights Commission of the

²² Erdianto Kritian, "Tidak Ada Intoleransi di Aceh Singkil," *Kompas*, last modified 2016, <https://nasional.kompas.com/read/2016/04/23/04330051/Tidak.Ada.Intoleransi.di.Aceh.Singkil>.

²³ Salihin Barus, "Isu Konflik Beragama Tidak Ada di Aceh Singkil," *RRI*, last modified 2020, <https://rri.co.id/daerah/907178/isu-konflik-beragama-tidak-ada-di-aceh-singkil>.

²⁴ Haidlor Ali Ahmad, "Resolusi Konflik Keagamaan di Aceh Singkil dalam Perspektif Budaya Dominan."

²⁵ WAHID INSTITUTE, *Lampu Merah Kebebasan Beragama* (JAKARTA: Wahid Institute, 2011), http://wahidinstitute.org/wi-eng/images/upload/dokumen/laporan_kebebasan_beragama_wahid_institute_2011.pdf. Accessed 28 Mei 2021.

Republic of Indonesia strengthens the finding that the state, through restrictive legal regulations, tends to worsen religious freedom.²⁶ Suppose the state increases the number of regulations with religious nuances that ultimately limit religious freedom; this indicates that the state has neglected its obligation to protect religious freedoms for every citizen.²⁷

The *Qanun* has brought a burden on the requirements for establishing places of worship. As a consequence, this norm will strengthen restrictions on religious freedom. Hurriyah's research in 2019 concluded that the more severe and many regulations that have implications for restricting religious life, the narrower the space for religious freedom in people's lives.²⁸

Requirements for Establishing Places of Worship and Restrictions on Human Rights

The *Qanun*, in human rights discourse, can be interpreted as a restriction on human rights. Human rights legal instruments give the state the authority to make restrictions. It can be found in Article 28J paragraph 2 of the 1945 Constitution, Law of the Republic of Indonesia Number 39 of 1999 concerning Basic Human Rights, International Covenant on Civil and Political Rights (ratified in Law of the Republic of Indonesia Number 12 of 2005), and the Siracusa Principle. The concept of restrictions in the *Qanun* has a duality of values. On the one hand, Qanun was created to maintain religious

²⁶ Tim Komnas HAM, *Laporan Tahunan Kebebasan Beragama dan Berkeyakinan 2016*, (Jakarta: Komnas HAM, 2017).

²⁷ Aulia Kamal, "Negara dalam Pusaran Konflik Rumah Ibadah..."

²⁸ Hurriyah, "Negara dan Penyusutan Ruang Kebebasan Beragama atau Berkeyakinan di Indonesia Pasca Reformasi 1998," in *Kebebasan Beragama Atau Berkeyakinan di Indonesia; Perspektif Filosofis, Hukum Dan Politik*, ed. Al Khanif and Dina Tsalits Wildana, 1st ed. (Malang: Intrans Publishing, 2020), pp. 136–166. Hurriyah's conclusion was inspired by the Pew Research Center's research on the practice of restricting religious life in several countries. Their research reveals that the practice of restricting religious life in several countries has entered a emergency period because it actually causes the shrinking space for religious freedom itself. See Pew Research Center, *A Closer Look at How Religious Restrictions Have Risen Around the World*, 2019, <https://www.pewforum.org/2019/07/15/a-closer-look-at-how-religious-restrictions-have-risen-around-the-world/>. Accessed 28 May 2021.

harmony, and on the other hand, its existence can open up spaces for conflict in socio-religious life.

The problem of dualism above is why minority groups find it challenging to establish places of worship. The latest study by the National Human Rights Commission of the Republic of Indonesia recommends revisions to the requirements for establishing places of worship, especially regarding the number of people as supporters and several other conditions.²⁹ The research results stated that the requirement for "approval of support from the surrounding residents" has the potential to cause discrimination.³⁰ These requirements have made it difficult for minority groups to prove the real need for establishing places of worship.

There are two important actors in the human rights discourse to realize human rights: the state as the holder of obligations³¹ and individuals as rights holders.³² As the holder of obligations, the state has to respect, protect, and fulfil every individual's rights.³³ One of the state's obligations is to guarantee every individual has the right to freedom of religion or belief. This right cannot be derogated under any circumstances. The guarantee is stated explicitly in Article 28I of

²⁹ Komnas HAM, *Kajian Atas Peraturan Bersama Menteri (PBM) Antara Menteri Agama dan Menteri dalam Negeri Nomor 8 dan Nomor 9 Tahun 2006 tentang Pedoman Pelaksanaan Tugas Kepala Daerah/Wakil Kepala Daerah dalam Pemeliharaan Kerukunan Umat Beragama, Pemberdayaan Forum Ker*, 1st ed. (Jakarta: Bagian Dukungan Pengkajian dan Penelitian Komnas HAM RI, 2020).

³⁰ Utari, "Komnas HAM RI Luncurkan Kajian Atas Peraturan Bersama Menteri Agama dan Menteri dalam Negeri Nomor 9 dan Nomor 8 Tahun 2006 Terkait Pendirian Rumah Ibadah," *Komnas HAM*, last modified 2020, <https://www.komnasham.go.id/index.php/news/2020/11/19/1620/komnas-ham-ri-luncurkan-kajian-atas-peraturan-bersama-menteri-agama-dan-menteri-dalam-negeri-nomor-9-dan-nomor-8-tahun-2006-terkait-pendirian-rumah-ibadah.html>. Accessed 28 May 2021.

³¹ Suparman Marzuki dan Eko Riyadi Asplun, Knut D, *Hukum HAM* (Yogyakarta: PUSHAM UII, 2009).

³² Eko Riyadi, *Hukum Hak Asasi Manusia: Perspektif Internasional, Regional dan Nasional* (Jakarta: Rajawali Press, 2018).

³³ Muhammad Ashri, *Hak Asasi Manusia; Filosofi, Teori dan Instrumen Dasar* (Makassar: Social Politic Genius, 2018).

the 1945 Constitution.³⁴ However, under certain conditions, the state has the authority to impose restrictions on exercising the right to freedom of religion. The state has the power to make restrictions or limitations, no derogations.

The basic difference between the concept of derogations and restrictions of human rights lies in the time it takes effect. The derogation has implications for the emergence of a ban on rights holders from exercising their rights. Regarding the timing, the derogation occurs when the country is in an emergency, such as war.³⁵ Meanwhile, the restrictions have implications for the rights holder's inability to fulfil their rights optimally. Regarding the time, the restrictions occur when the country is in normal conditions.³⁶ The state's authority to restrict human rights must be accompanied by some requirements. In general, the requirements for restricting human rights in the 1945 Constitution and Law 39/1999 are different from those in the International Covenant on Civil and Political Rights (ICCPR) and the Siracusa Principles. The 1945 Constitution and Law 39/1999 use the interests of religious protection in restricting religious freedom. The practice of using religious values in restricting religious freedom can be found in Law No. 1 of the 1965 PNPS concerning the Prohibition of Blasphemy of Religion.³⁷ The state can criminalize people who insult religion through the concept of restrictions.³⁸ Meanwhile, the ICCPR and the Siracusa Principles do not use religious values to consider human rights restrictions.

³⁴ Faiq Tobroni, *Hukum dan Hak Asasi Manusia*, ed. Malik Fatoni, 1st ed. (Banten: Desantara Mulia Visitama, 2020).

³⁵ Agus Adhari, "Ambiguitas Pengaturan Keadaan Bahaya dalam Sistem Ketatanegaraan Indonesia," *Jurnal Dialogia Iuridica* 11, no. 1 (2019), pp. 43 – 61.

³⁶ Faiq Tobroni, "Pembatasan Kegiatan Keagamaan dalam Penanganan Covid-19," *Jurnal Komunikasi Hukum (JKH) Universitas Pendidikan Ganesha* 6, no. 2 (2020), pp. 369–395.

³⁷ Faiq Tobroni, "Keterlibatan Negara dalam Mengawal Kebebasan Beragama/ Berkeyakinan (Komentar Akademik Atas Judicial Review UU No.1/PNPS/1965)," *Jurnal Konstitusi* 7, no. 6 (2010), pp. 97-118.

³⁸ Faiq Tobroni, "Pembedaan Kebebasan Beragama Dan Penodaan Agama (Studi Putusan No. 69/Pid.B/2012/PN.Spg)," *Jurnal Al-Jinayah* 5, no. 2 (2019), pp. 489–510.

The state's authority to restrict religious freedom must consider two categories of freedom. First, freedom in the internal forum; included in this category is the freedom to choose religion or not. In the interim forum, the state is prohibited from intervening or restricting. Second, freedom in external forums; included in this category is the freedom to express religious teachings. The dimension of expression of religious teachings has a wide scope. One of them is the establishment of places of worship. Against this dimension, the state is allowed to intervene or restrict.³⁹

The practice of implementing external forum restrictions often leaves a problem. One of the reasons is the use of religious values in limiting external forums to limit freedom of association. Religious values are often only used to protect the majority religious group. This discrimination causes the state to fail in managing religious diversity and community plurality.⁴⁰ The use of religious values to limit religious freedom is even considered unusual.⁴¹ Human Rights Watch also considers the provisions of restrictions in the 1945 Constitution and its derivative provisions to be inconsistent with those in the ICCPR and the Siracusa Principles.⁴²

Although these regulations for establishing places of worship are intended to create religious harmony, they can only benefit the majority group and harm the minority group. The Pew Research Center mentions the emergence of regulations that limit the establishment of houses of worship as a symptom of policies that are

³⁹ Zainal Abidin Bagir, et al., *Membatasi Tanpa Melanggar: Hak Kebebasan Beragama & Berkeyakinan* (Yogyakarta: Magister Agama dan Lintas Budaya, 2019).

⁴⁰ Noorhaidi Hasan, "Religious Diversity and Blasphemy Law: Understanding Growing Religious Conflict and Intolerance in Post-Suharto Indonesia," *Al-Jāmi'ah: Journal of Islamic Studies* 55, no. 1 (2017), pp. 105–126.

⁴¹ Ihsan Ali Fauzi, "Pluralisme Keagamaan: Mematok Acuan Normatif Untuk Advokasi," in *Mengelola Keragaman & Kebebasan Beragama di Indonesia: Sejarah-Teori & Advokasi*, ed. Z.A. Bagir, Buku Pertama, (Yogyakarta: Magister Agama dan Lintas Budaya, 2014), 82.

⁴² Human Rights Watch, *In a Religions's Name: Abuses Against Religious Minorities in Indonesia*, 2013, <https://www.hrw.org/report/2013/02/28/religions-name/abuses-against-religious-minorities-indonesia>. Accessed 28 May 2021.

only favourable for the majority group.⁴³ The *Qanun* belongs to the category of regulations criticized by the Pew Research Centre. The *Qanun* is only pleasing to the majority group so that the content of norms in it is still doubtful of being able to meet the requirements and principles of human rights restrictions. The *Qanun* is not enough to be assessed from the fulfilment of restriction requirements but also needs to be evaluated from the satisfaction of principles of restrictions on human rights.

The 1945 Constitution and Law 39/1999 only provide some requirements for restrictions on human rights. Meanwhile, the ICCPR and the Siracusa Principles regulate both the requirements and principles of restrictions on human rights. Among the principles of restrictions are proportionality, strict interpretation, and non-discrimination (fairness).⁴⁴ These principles are needed to explain the abstract requirements for restrictions on human rights in some human rights legal instruments.⁴⁵

The analysis results show that the *Qanun* does not fulfil several principles of restrictions on human rights. It can be found in two aspects, namely formal legality, and norm content. In formal legality, the regulations governing the provisions for establishing places of worship in Aceh are in the form of a *Qanun*. In the study of the hierarchy of regulations, a *Qanun* is a regulation that occupies a lower level than the Law. At the national level, the legal product that regulates the provisions for establishing places of worship is the Joint

⁴³ Pew Research Center, *A Closer Look at How Religious Restrictions Have Risen Around the World*.

⁴⁴ Nicola Colbran, "Kebebasan Beragama atau Berkeyakinan di Indonesia: Jaminan Secara Normatif & Pelaksanaannya dalam Kehidupan Berbangsa & Bernegara," in *Kebebasan Beragama Atau Berkeyakinan: Seberapa Jauh?*, ed. Tore Lindholm, et al, Edisi Terjemah (Yogyakarta: Kanisius, 2010), p. 725; KOMNASHAM, *Komentar Umum Kovenan Internasional Hak Sipil & Politik-Kovenan Internasional Hak Ekonomi Sosial & Budaya*, ed. KOMNASHAM (Jakarta: KOMNASHAM, 2009); Faiq Tobroni, "Pelarangan Aktivitas Kelompok Keagamaan Tanpa Komentar Umum KIHSP (Kajian Putusan Nomor 23 P/HUM/2011)," *Jurnal Yudisial* 13, no. 2 (2020): 125–144; Faiq Tobroni, "Asas Proporsionalitas sebagai Moderasi Pandangan Hukum Diametral," *Jurnal Yudisial* 11, (2018). p. 307–325.

⁴⁵ Ihsan Ali Fauzi, *Mengelola Keragaman: Pemolisian Kebebasan Beragama di Indonesia* (Jakarta: Yayasan Paramadina, 2012).

Ministerial Regulation. This legal product occupies a lower level than the Law. Article 28J paragraph (2) of the 1945 Constitution states that restrictions on human rights are only by the Law. Regulations on establishing places of worship are the legal products that limit human rights. If viewed from the 1945 Constitution, these legal products that regulate the provisions for establishing places of worship should be in the form of the Law. The *Qanun* and Joint Ministerial Regulations should not be used as legal products to regulate the provisions for establishing houses of worship. The use of *Qanun* and Joint Ministerial Regulations does not follow the requirements for human rights restrictions as regulated in the 1945 Constitution.

In the content of norms, the provisions for establishing places of worship in the *Qonun* are not in line with the principles of restrictions on human rights in two aspects, namely the existence of discriminative norms and the deviation from the higher legal product. The discriminative norms can be seen from the norms that provide subjective requirements in establishing houses of worship. Subjective conditions can be found in the provisions for establishing places of worship that require residents' approval, not as users.

The involvement of residents not as users will be susceptible to subjectivity. They may not approve if they dislike establishing places of worship from other religious groups. The approval from non-user groups has many drawbacks. The agreement from non-user groups cannot be an indicator to measure the real needs of user groups to build houses of worship. Legal regulations must provide clear procedures to prevent the subjectivity of non-user groups in approving to establish a house of worship. Suppose legal regulations cannot guarantee a free process from subjective elements; in that case, the requirement to establish a house of worship involving non-user groups should be abolished.

The deviation from the higher legal matter could be found in the number of people as provisions to establish places of worship. The required amount in the *Qanun* does not follow the Joint Ministerial Regulation. This difference can be seen in three ways. The first is the comparison of the number of users with residents. The second is the category of a religion embraced by the residents. The third is the regional level in fulfilling the number of supporters. The Joint Ministerial Regulation only regulates the provisions for

establishing places of worship with scheme 90: 60. The scheme means that a minimum of 90 people as users and 60 people as surrounding residents must support the establishment of a place of worship.⁴⁶ Compared to the Joint Ministerial Regulation, the *Qanun* has added 50 people to the number of users and residents. The *Qanun* requires a composition ratio of 140: 110. The composition means that a minimum of 140 people as users and 110 surrounding residents as non-users must support the establishment of a place of worship.⁴⁷

The Joint Ministerial Regulation does not state that surrounding residents must come from non-user groups.⁴⁸ Meanwhile, the *Qanun* narrows it down by limiting the only category of surrounding residents is as non-users.⁴⁹ The Joint Ministerial Regulation loosens the regional level in fulfilling the number of supporters to establish places of worship. This national-level regulation provides a clause that the fulfillment of this amount of support does not have to be limited to the village level. If this amount cannot be met at the village level, it can be relaxed at district, regency/city, or even up to the province.

Meanwhile, the *Qanun* limits the flexibility only to fulfil the number of supporters at the district level.⁵⁰ Thus, it can be said that the *Qanun* has increased the amount of support, narrowed the regional level in fulfilling the number of supporters, and limited the category of surrounding residents as supporters for establishing places of worship. This weakness shows that the *Qanun* does not strictly interpret the requirements for establishing houses of worship from higher regulations. The requirements for establishing places of worship in the *Qanun* are contrary to the Joint Ministerial Regulation.

⁴⁶ Article 14 of the Joint Regulation of the Minister of Religion and the Minister of Home Affairs number 9 of 2006 and number 8 of 2006.

⁴⁷ Article 14 of *Qanun Aceh* 4/2016 about the provisions for establishing places of worship in Aceh.

⁴⁸ Article 14 Paragraph 2 of the Joint Regulation of the Minister of Religion and the Minister of Home Affairs number 9 of 2006 and number 8 of 2006.

⁴⁹ Article 14 Paragraph 2 of *Qanun Aceh* 4/2016 about the provisions for establishing places of worship in Aceh.

⁵⁰ Article 13 Paragraph 3 of *Qanun Aceh* 4/2016 about the provisions for establishing places of worship in Aceh.

This pattern does not follow the principles of limitations on human rights as regulated in the ICCPR and the Siracusa Principle.

The *Qanun* and Shrinking Space for Religious Freedom

The discourse of shrinking space for religious freedom is inspired by implementing democratic values in the public sphere. Emelie Aho and Jonatan Grinde stated that shrinking space for democratic expressions occurs when civil liberties in society are narrowed or even closed due to repressive actions by the state.⁵¹ A similar practice also applies to shrinking space for religious freedom. This indication has been seen since the increase in some regional regulations, both provincial and regency/city, based on certain religious teachings. Inappropriate ways of dealing with religious relations in the community have also influenced the proliferation of policies to shrink the space for religious freedom. Non-democratic methods are still the main preference in promoting the handling of social relations between religious groups.⁵²

Theoretically, there are two factors that can explain the causes of the shrinking expression of religious freedom in the public space. Firstly, the role of conservative groups who tend to be intolerant and anti-difference. Second, the state's role is passive in overcoming the shrinking expression of religious freedom in the public space. The minimal role of the state can be seen from the inability to enforce and guarantee the practice of religious freedom. The state apparatus is still minimal in responding to violations of the right to freedom of religion. The absence of the state's role to take action against violators of religious freedom occurs by the commission and omission.

⁵¹ Emelie dan Jonatan Grinde Aho, *Shrinking Space For Civil Society: Challenges In Implementing the 2030 Agenda*, (Forum SYD, 2017). <https://www.forumciv.org/sites/default/files/2018-03/Shrinking-Space%20-%20Challenges%20in%20implementing%20the%202030%20agenda.pdf>. Accessed 28 May 2021.

⁵² Olle Tornquist, "Popular development and democracy : case studies with rural dimensions in the Philippines, Indonesia, and Kerala : essay commissioned under UNRISD Research Programme on Civil Society and Social Movements," *Research Report*, (Oslo: UiO Universitetet i Oslo, 2000), <https://www.duo.uio.no/handle/10852/32673>. Accessed 28 May 2021.

This study finds that state actors cause the shrinking space for religious freedom in Aceh. The country in question is the Government of Aceh Province, which issued regulations requiring the establishment of places of worship different from the regulations at the national level. The *Qanun* has a double implication on the shrinking space for religious freedom, namely restricting and aggravating the requirements for establishing places of worship. Several studies have revealed that this regulation is not born from an empty space. Several factors accompany the approval of regulations like this. From various studies regarding the existence of religion-based local regulations, it can be explained two factors are influencing the approval of regional regulations, such as the *Qanun*, which restrict religious freedoms. First, there is a configuration of political interests. Second, there is an interpretation of the concept of restrictions on human rights beyond the standards of international instruments.

With the first pattern, the local government regime uses a regional legal product with a religious nuance to mobilize support from certain religious leaders at the local level and their followers in maintaining political legitimacy. This support is needed to cover the performance of local governments that fail to address social and economic problems.⁵³ The active role of local governments in dealing with religious affairs is to make political profits rather than achieve spiritual goals.⁵⁴ Bielefeld, a special rapporteur on religious freedom issues at the United Nations, reveals this trend in his research. Bielefeld stated that government intervention in religious affairs was motivated by using religion to strengthen political control. This strategy is needed to restore public trust in state institutions.⁵⁵

The second pattern is the state's interpretation, which often goes beyond what international norms have agreed upon. This arbitrary interpretation can be seen in the state of Indonesian

⁵³ Syahrul Hidayat and Hurriyah, "Indonesian Local Politics: Sharia Factors and Elite Formation in Post-Conflict Aceh," in *The Challenges of Social Sciences in a Changing World* (Yogyakarta: Jusuf Kalla School of Government, 2016).

⁵⁴ Asma T Uddin, "Religious Freedom Implications of Sharia Implementation in Aceh, Indonesia," *University of Saint Thomas Law Journal* 7, no. 3 (2017), <https://ir.stthomas.edu/ustlj/vol7/iss3/8/>.

⁵⁵ Heiner Bielefeldt, *Politik Kesetaraan; Dimensi-Dimensi Kebebasan Beragama Atau Berkeyakinan*, Edisi Terjemah (Yogyakarta: Kanisius, 2019).

preference for using the concept of "public security" rather than "public safety." Deviations from international human rights norms are also seen in the use of public morals, religious values, and national interests as considerations to limit the practice of religious freedom. Practically in Indonesia, the use of religious values and public morals as considerations to limit religious freedom often has a counterproductive impact on religious harmony. The plurality of ethnicity, culture, religion, and beliefs that live in Indonesian society is the main factor that makes it difficult to reach a common consensus on what is considered public morals, religious values, and public safety. The existence of multiple interpretations or even misinterpretations is very likely to occur in using public morals, religious values, and public security as considerations for limiting religious freedom. As a result, the approval of religious-nuanced regulations is likely to produce legal products only for formality.

Liquid Relations of the Right to Establish Places of Worship in Aceh

Although the *Qanun* has caused the shrinking space for religious freedom, another interesting fact to observe is the liquid relations between the majority and minority religious groups. The implications of the shrinking space for establishing places of worship due to the implementation of the *Qanun* are undeniable. However, the dynamics of religious space in Aceh show positive expectations. This hope began to grow with the increase in new places of worship for non-Muslims. In several regencies and cities, the number of places of worship has increased significantly. Some religious groups obtained additional numbers of official places of worship. However, some did not match the ideal comparison in the number of places of worship and religious adherents, as mandated by the *Qanun*.

In some regencies/cities, the number of official places of worship for non-Muslims even exceeds the minimum standard for establishing a place of worship. The increase in places of worship for non-Muslims opens new hope for the birth of tolerance between religious believers. This implies that the *Qanun* still leaves a unique opportunity for establishing places of worship. The duality of this phenomenon occurs as an implication of the *Qanun*. This double reality proves that there is still a fluid relationship between the

majority and the minority in religious relations. The table below provides unique information regarding the comparison in the number of minority religious adherents and their places of worship.

Table 1: Number of Minority Religions and Their Places of Worship by Regency/City in Aceh Province, 2020

No	Regency/City	Protestant			Catholic			Hindu			Buddha		
		People	Existing Church	Ideal Church	People	Existing Church	Ideal Church	People	Existing Temple	Ideal Temple	People	Existing Vuhara	Ideal Vihara
1	Simelue	192	2	1.4	5	-	0.04	4	-	0.0	-	-	-
2	Aceh Singkil	7,782	20	55.6	1,400	4	10.00	9	-	0.1	2	-	0.0
3	Aceh Selatan	-	-	-	11	-	0.08	3	-	0.0	15	-	0.1
4	Aceh Tenggara	25,200	140	180.0	6,170	8	44.07	-	-	-	-	-	-
5	Aceh Timur	327	2	2.3	2	-	0.01	15	-	0.1	43	1	0.3
6	Aceh Tengah	-	-	-	112	1	0.80	11	-	0.1	262	1	1.9
7	Aceh Barat	20	2	0.1	61	1	0.44	9	-	0.1	64	1	0.5
8	Aceh Besar	-	-	-	193	-	1.38	37	-	0.3	-	-	-
9	Pidie	-	-	-	2	-	0.01	5	-	0.0	-	-	-
10	Bieruen	100	1	0.7	7	1	0.05	35	-	0.3	415	1	3.0
11	Aceh Utara	55	1	0.4	-	-	-	14	-	0.1	-	-	-
12	Aceh Barat Daya	17	1	0.1	-	-	-	15	-	0.1	184	-	1.3
13	Gayo Lues	130	1	0.9	-	-	-	-	-	-	-	-	-
14	Aceh Tamiang	-	-	-	197	-	1.41	2	-	0.0	1,543	6	11.0
15	Nagan Raya	-	-	-	5	-	0.04	8	-	0.1	-	-	-
16	Aceh Jaya	-	-	-	-	-	-	-	-	-	-	-	-
17	Bener Meriah	-	-	-	6	-	0.04	-	-	-	-	-	-
18	Pidie Jaya	-	-	-	5	-	0.04	3	-	0.0	-	-	-
19	Banda Aceh	1,510	10	10.8	259	1	1.85	22	1.0	0.2	3,652	7	26.1
20	Sabang	167	2	1.2	41	1	0.29	4	-	0.0	252	1	1.8
21	Langsa	397	1	2.8	13	-	0.09	13	-	0.1	455	1	3.3
22	Lokhsuawe	431	2	3.1	112	1	0.80	27	-	0.2	642	2	4.6
23	Subulussalam	1,292	4	9.2	580	1	4.14	-	-	-	-	-	-

Data from the Central Statistics Agency of Aceh Province 2021⁵⁶

Based on the table above, the comparison of the availability of places of worship and the number of religious adherents can be mapped into three categories, namely positive, negative and normal. This categorization is based on dividing the number of religious adherents by the standard number of adherents in a regency/city, which can fulfil the requirements for establishing a house of worship. Suppose the division results produce the same number as the data on the availability of places of worship for certain religions; in that case, the data indicates that the number of places of worship for certain religions is normal. Suppose the division results produce a smaller number than the data; in that case, this condition indicates that the number of places of worship is in a positive category. Meanwhile, suppose the division results produce a higher number than the data;

⁵⁶ Badan Pusat Statistik, *Provinsi Aceh Dalam Angka Tahun 2021...* hlm. 236-237.

in that case, this finding informs that the number of places of worship is in a negative condition.

In Simeulue Regency for 2020, the Protestant enjoys a positive condition. The Protestants numbered 192 people and had two churches.⁵⁷ If calculated with the condition that establishing a place of worship needs 140 users, 192 Protestants can only propose one church. Two protestant churches in Simeulue showed positive conditions in the availability of places of worship. The number 192 divided by 140 only gets 1.37. This data shows that one protestant church in Simeulue represents 96 people. The existence of two Protestant churches in Simeulue increased in 2020. In 2019, data from the Central Statistics Agency did not mention the existence of a Protestant Church in Simeulue.⁵⁸ Meanwhile, the availability of places of worship for Catholics, Hindus, and Buddhists is in normal condition.

Data on the number of places of worship in Aceh Singkil Regency for 2020 shows that the availability of the Protestant Church is in a negative condition. The Protestants numbered 7.782 people and had 20 churches.⁵⁹ The number 7.782 divided by 140 gets the number 55,59. If places of worship require 140 users in the establishment, 7.782 people could establish 50 churches. The number of churches in Aceh Singkil in 2020 is better than four churches in 2019. Data from the Catholic Church in Aceh Singkil Regency also shows negative conditions for 2020. The Catholic numbered 1.400 people and had four churches.⁶⁰ The number of 1.400 Catholics could build ten places of worship. The number of churches in 2020 is better than a church in 2019. Data on the availability of Vihara and Temple for Buddha and Hindu show a normal condition.

Data on places of worship in Aceh Tenggara Regency in 2020 shows the availability of the Protestant Church is in a negative state.

⁵⁷ *Ibid.*

⁵⁸ Badan Pusat Statistik, *Provinsi Aceh Dalam Angka Tahun 2020*, 1st ed. (Banda Aceh: Badan Pusat Statistik Aceh, 2020), pp.156-157. <https://aceh.bps.go.id/publication/2020/04/27/eb7244dd105c046d07c4c8f5/provinsi-aceh-dalam-angka-2020.html>. Accessed 28 May 2021.

⁵⁹ Badan Pusat Statistik, *Provinsi Aceh dalam Angka Tahun 2021*, pp. 236-237.

⁶⁰ *Ibid.*

The Protestants numbered 25.200 people and had 140 churches. The number of 25.200 Protestants could fulfil the requirements for establishing 180 churches. The number of Protestant Churches in 2020 is better than the number in 2019, which records only 32 churches. A negative condition occurred in Catholic Church. In 2020, the Catholics numbered 6.170 people and had eight churches.⁶¹ The number 6.170 divided by 140 gets 44. The number of 6.170 Catholics could propose 44 churches. Meanwhile, the availability of Buddha's Vihara and Hindus' Temple is normal.

Data on places of worship in Aceh Timur Regency in 2020 shows a normal condition for Protestants, Catholics, and Hindu. For Protestants, data in 2019 showed a negative condition because there is no recorded Protestant Church.⁶² In 2020, 327 Protestants had two churches. The availability of Catholic Church and Temple Hindu is normal. The adherents for those two religions did not reach 140 people. So, the condition is normal if they do not have any place of worship. Buddha's availability of place of worship is in a positive condition. There are only 43 Buddhists, and they have one Vihara.⁶³ Administratively, the number of Buddhists in Aceh Timur Regency does not meet the administrative requirements for establishing a place of worship.

Data on places of worship in Subulussalam City in 2020 shows that Protestants have the availability of places of worship in a negative condition. Protestants numbered 1.292 people and had four churches.⁶⁴ If referring to the requirements for establishing places of worship that require 140 users, 1.292 people can apply for nine churches. The number of Protestant churches in 2020 in Subulussalam City is better than the number in 2019, where Protestants are not registered as having any church.⁶⁵ Catholics experienced a negative condition of church availability in 2020. Catholics numbered 580 people, and they had only one church.⁶⁶

⁶¹ *Ibid.*

⁶² Badan Pusat Statistik, *Provinsi Aceh dalam Angka Tahun 2020*, pp. 156-157.

⁶³ Badan Pusat Statistik, *Provinsi Aceh dalam Angka Tahun 2021*, pp. 236-237.

⁶⁴ *Ibid.*

⁶⁵ Badan Pusat Statistik, *Provinsi Aceh dalam Angka Tahun 2020*, pp. 156-157.

⁶⁶ Badan Pusat Statistik, *Provinsi Aceh dalam Angka Tahun 2021*, pp. 236-237.

Some 580 people could apply for four churches. The availability of places of worship for Hindus and Buddhists is in normal condition.

Data on places of worship in Banda Aceh City in 2020 shows that Protestants have the availability of places of worship under normal conditions. Protestants numbered 1.510 people, and they had ten churches.⁶⁷ The number 1,510 only gets 10.79 when divided by the number 140. The number of Protestant churches in 2020 in Banda Aceh is better than the number in 2019, which only recorded three churches.⁶⁸ The availability of a Catholic Church in Banda Aceh in 2020 is also in normal conditions. Catholics numbered 259 people, and they had one church.⁶⁹ The number 259 only gets 1.85 when divided by 140. Another minority, like Hindu, experienced a positive condition for the availability of a temple. Hindus numbered 22 people, and they had one temple.⁷⁰ In contrast to Hindus, Buddha experienced a negative condition for the availability of Viharas. Buddhists numbered 3.652 people, and they had seven Viharas.⁷¹ Related to the requirement for the number of users to register for places of worship, 3.652 Buddhists can apply for 26 Viharas. The number of Viharas in 2020 in Banda Aceh is better than the previous year. In 2019, Buddha only had four Viharas.⁷²

In general, large numbers of Protestants and Catholics live around the border area of Aceh and Sumatra Utara. Three regencies/cities contribute many Protestant and Catholic populations, namely Regency of Aceh Singkil and Aceh Timur and the City of Subulussalam. The city that is not close to the North Sumatra but has a large population of Protestants and Catholics is the City of Banda Aceh. This city is an exception. This phenomenon is understandable because Banda Aceh is the provincial capital, a meeting place for religious and cultural pluralities. Buddhists are concentrated in Banda Aceh City and Aceh Tamiang Regency. The map of distribution and

⁶⁷ *Ibid.*

⁶⁸ Badan Pusat Statistik, *Provinsi Aceh dalam Angka Tahun 2020*, pp. 156-157.

⁶⁹ Badan Pusat Statistik, *Provinsi Aceh dalam Angka Tahun 2021*, pp. 236-237.

⁷⁰ Badan Pusat Statistik, *Provinsi Aceh dalam Angka Tahun 2021*, pp. 236-237.

⁷¹ *Ibid.*

⁷² Badan Pusat Statistik, *Provinsi Aceh dalam Angka Tahun 2020*, pp. 156-157.

condition of places of worship for religious minorities in each regency/city in Aceh Province is as in the following table:

Table 2: Map of Distribution and Availability of Places of Worship by Regency/City in Aceh Province, 2020

No	Regency/City	Protestant	Catholic	Hindu	Buddha
1	Simeulue	Positive	Normal	Normal	Normal
2	Aceh Singkil	Negative	Negative	Normal	Normal
3	Aceh Selatan	Normal	Normal	Normal	Normal
4	Aceh Tenggara	Negative	Negative	Normal	Normal
5	Aceh Timur	Normal	Normal	Normal	Positive
6	Aceh Tengah	Normal	Positive	Normal	Normal
7	Aceh Barat	Positive	Positive	Normal	Positive
8	Aceh Besar	Normal	Negative	Normal	Normal
9	Pidie	Normal	Normal	Normal	Normal
10	Bieruen	Positive	Positive	Normal	Negative
11	Aceh Utara	Positive	Normal	Normal	Normal
12	Aceh Barat Daya	Positive	Normal	Normal	Negative
13	Gayo Luwes	Positive	Normal	Normal	Normal
14	Aceh Tamiang	Normal	Negative	Normal	Negative
15	Nagan Raya	Normal	Normal	Normal	Normal
16	Aceh Jaya	Normal	Normal	Normal	Normal
17	Bener Meriah	Normal	Normal	Normal	Normal
18	Pidie Jaya	Normal	Normal	Normal	Normal
19	Banda Aceh	Normal	Normal	Positive	Negative
20	Sabang	Positive	Positive	Normal	Normal
21	Langsa	Negative	Normal	Normal	Negative
22	Loksumawe	Negative	Positive	Normal	Negative
23	Subulussalam	Negative	Negative	Normal	Normal

Data processed from The Central Statistics Agency of Aceh Province 2021⁷³

The findings on social relations between religious communities in Aceh can be an entry point for conducting a more in-depth study. Future studies can continue research on the social relations of religious communities based on their focus on one regency/city or deepen research on other relationships based on

⁷³ Badan Pusat Statistik, *Provinsi Aceh dalam Angka Tahun 2021*, pp. 236-237.

economic, cultural, and occupational bases. This research led to mapping religious community relations in Aceh with macro data at the provincial level. It was sufficient as an early reminder to review the existence of the *Qanun*, which regulates the requirements for establishing places of worship with the principle of restrictions on human rights.

The preceding data on the availability of places of worship in Aceh can be used as a basis for reviewing policies that aggravate the requirements for establishing places of worship. The aggravation of the regional level in fulfilling the number of supporters for establishing places of worship has caused some religions in several regencies/cities in Aceh to have the number of places of worship that are not proportional to the number of adherents as residents in those regencies/cities. This measure of proportionality is based on the number of religious adherents as users for prospective places of worship. The *Qanun* stipulates the number of users is 140 people. If a religious group wants to build a place of worship, the applicant must include 140 users who live in the same area as the location for constructing the place of worship. The *Qanun* requires that 140 users are residents of one village. If 140 users cannot be fulfilled in one village, the *Qanun* only provides tolerance for the fulfillment in one district.⁷⁴ The aggravation causes many religious adherents within the scope of one regency/city to not be used to propose the establishment of places of worship proportional to the number of religious adherents as residents in that regency/city. Thus, even though the number of religious adherents in one regency/city has complied with the requirements for establishing places of worship in the *Qanun*, if the adherents are not in one district, this number cannot be used as a condition for applying to the establishment of a place of worship.

Conclusion

Normatively, the *Qanun* does not meet several provisions on human rights restrictions. The weakness of the *Qanun* in human rights review lies in two things, namely, the hierarchy of regulations and

⁷⁴ Article 13 Paragraph 3 of *Qanun* 4/2016 about provisions for establishing places of worship.

material contents. In the hierarchy of Indonesian regulations, the *Qanun* is a legal product under the Law. Meanwhile, Article 28J Paragraph 2 of the 1945 Constitution explicitly stipulates that restrictions on human rights must use the Law. The *Qanun* regulates objects related to restrictions on the religious rights for establishing places of worship. It means that the *Qanun* has set restrictions on human rights. Thus, the *Qanun* can be said to regulate legal objects that the Law should only regulate. The *Qanun* has several articles containing the norms contrary to the principle of restrictions on human rights in terms of the content. Some controversial norms in the application for establishing places of worship are subjective and contrary requirements to higher regulations. These two weaknesses contradict the principle of restrictions on human rights in the ICCPR and the Siracusa Principle, namely the prohibition of discriminatory regulations and in compliance with strict legal interpretations in limiting human rights.

This study also proves that the *Qanun* has contributed to the polarization of the expression of religious freedom, especially concerning the number of places of worship for minority groups in several regencies/cities in Aceh. Some religions already have the proportional number of places of worship to the number of adherents, some have more than the standard of adherents, and some have no proportional number of places of worship to the number of adherents required by the *Qanun*. This gap is challenging to create an ideal, just, and stable social-religious life. This finding becomes an important capital for reviewing the *Qanun*. The important materials of the *Qanun* that need to be considered for change are the number of supporters, the regional level in fulfilling the number of supporters, and the category of residents as supporters.

This research has provided a combination of sociological descriptive and normative prescriptive characteristics. From a normative perspective, this research can examine the position of the *Qanun* according to the provisions on human rights restrictions. From a descriptive sociological perspective, this research provides macro information about the space for religious freedom in Aceh Province. However, this study has not provided detailed conditions of religious life at the regency/city level. Therefore, further research can improve the limitations of macro coverage in this study to inform the

condition of religious space in more detail and comprehensively in every regency/city in Aceh Province.

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