



## **"The Increasing Number of Waria in Banda Aceh: Between Social Challenges and Law Enforcement"**

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### **Abstract**

One of the things that is currently rife is the case of liwath or male to male intercourse with the willingness of both parties carried out by waria (female-male) or with a normal male appearance. In general, waria have no space in the religious and social spheres of society, because it goes back to the definition of waria itself which is in the middle between women and men. The region known as "serambi mekkah" has a special legal authority that is binding, namely Islamic law or called qanun. Qanun itself is still used today, one of which is Aceh Qanun Number. 6 of 2014 which regulates the jinayat law, jinayat is enforced to punish the perpetrators of khalwat, ikhtilath, and other adultery things that violate Islamic law. The purpose of this study is to examine whether there are legal facilities given to Aceh to implement legal actions and how the enforcement to date by the assigned parties. This research is a field research with qualitative method with empirical juridical approach. The result of this research is that the applicable legal position has been implemented as it should be and the winner of the transvestite contest who carries the name of Aceh is not domiciled in Aceh, while Qanun law applies where a person is located, so the Aceh government cannot give a warning or counselling as long as the transvestite is not in the Aceh area. Although there is a regulation of uqubat cambuk that may be applied to transvestites, the punishment can only be carried out if there is something that is violated, but if the transvestite is just living like an ordinary citizen, he cannot be subjected to this punishment because transvestites are a social disorder/disease, not something that violates positive legal rules, even though it is against Islamic law and occupies an area that applies Islamic law, but the right to live as an Indonesian citizen is still protected by Human Rights.

**Keywords: Waria, Aceh, Law Enforcement, Social, Islamic Law**

### **Introduction**

In this century of openness, LGBT is no longer a taboo topic in society, its existence and influence is quite large in life, the biggest trigger of this deviation is the influence of the environment, trauma, and social media. This sexual deviation is unacceptable to the culture and customs in Indonesia, which has a Muslim

population of 87.2%, especially in Aceh Province, which is a Sharia-compliant region, which in Islamic law itself strongly opposes sexual deviation or LGBT.<sup>1</sup>

Banda Aceh as the capital city of Aceh Province is a reflection or barometer of the implementation of Islamic law in Aceh. Banda Aceh is identical to the city that is most committed to implementing Islamic law and sharia as well as the city that gets the nickname Serambi Mekkah, not to mention the privileges given by the state as a city with special autonomy to be able to implement Islamic sharia as a source of law in Aceh. This can be proven from the positive contribution in the Islamic Sharia Development Index (IPS) data Banda Aceh in 2022 touched the highest percentage in 23 city districts throughout Aceh Province with a significantly increased value of 79.76%, compared to 2021 at 76.77%, this data was mentioned directly by the pj Governor of Aceh, Bakri Siddiq in his speech.<sup>2</sup>

Behind the high index of sharia development, there is an increase in the popularity of waria in the city of Banda Aceh, this is seen from the increasing number of waria who have begun to openly and openly roam in Banda Aceh as well as the popularity of waria, especially from Aceh itself, which has been glimpsed by national eyes.<sup>3</sup>

Considering that Aceh is closely related to its Islamic law, in the Quran itself Allah has explained that humans are created in pairs with their respective nature and gender equality is upheld simultaneously. However, it is unfortunate that the city with the Islamic label known to many people is actually the city that holds the championship of the transvestite beauty contest that carries the name of Aceh.<sup>4</sup> But why is it that the city with the highest sharia development index in Aceh actually has a significant trend of increasing the number and popularity of transvestites as well, where this can be seen from the news that not long ago, Aceh was shocked by news that actually contradicted the great development of Islam in Aceh, namely the winner of the "Miss Beauty Star Indonesia 2024 transgender beauty contest" held at the Grand Ballroom Orchardz Industri Hotel Central Jakarta on 4 August 2024" held in Jakarta was actually won by representatives of Aceh, known as the City of the Mecca Porch.<sup>5</sup>

The enforcement of Islamic sharia law is now a questionable topic as it seems as if Islamic law has been weakened and marginalised by the rampant western influence in Aceh. People who are aware of social media realise that this is contrary to what was previously applied to life in Aceh. This research takes a study of the news circulating and the dilemma of the community towards the current case in Aceh. In this case, the researcher took this research study in the Satuan Polisi *Pamong Praja* (Satpol PP) and Wilayatiul Hisbah (WH) Aceh on the basis of waria

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<sup>1</sup> Moch Nur Ichwan, "Forbidden Visibility: Queer Activism, Shari'a Sphere and Politics of Sexuality in Aceh," *Studia Islamika* 28, no. 2 (2021): 283-317.

<sup>2</sup> M Idris and Dinda Rizky Amalia, "Syariat Islam Dan Tradisi Di Aceh Darussalam," *Formosa Journal of Social Sciences (FJSS)* 1, no. 1 (2022): 11-24.

<sup>3</sup> Barmawi Barmawi and Miftahus Silmi, "Identifikasi Penyebab Transgender Pada Waria Di Banda Aceh," *Psikoislamedia: Jurnal Psikologi* 1, no. 2 (2017).

<sup>4</sup> Sara Ruhghea, Mirza Mirza, and Risana Rachmatan, "Studi Kualitatif Kepuasan Hidup Pria Transgender (Waria) Di Banda Aceh," *Jurnal Psikologi Undip* 13, no. 1 (2014): 11-20.

<sup>5</sup> "Heboh Wakil Aceh Menang Kontes Waria Se-Indonesia," accessed January 26, 2025, <https://www.beritasatu.com/nusantara/2833658/heboh-wakil-aceh-menang-kontes-waria-se-indonesia>.

counselling conducted by the Satpol PP, security and patrol of waria in Aceh is also the authority of Satpol PP, handling civil issues that deviate from Islamic Sharia such as *liwath* or same-sex relationships, besides that the role of waria directly is also included in this research.<sup>6</sup>

This article aims to examine the life of waria in Aceh together with the law that binds them, especially in terms of legal privileges which are only given by the state to Aceh and the social morals that develop within it, and tries to answer two questions, namely how is the position of waria in Islamic law? And the increasing trend of waria in the city of Banda Aceh?

### Research Methods

This research is a field research using qualitative methods with an empirical juridical approach.<sup>7</sup> Empirical juridical research is legal research on the enactment or implementation of normative legal provisions in action on each specific legal event that occurs in society.<sup>8</sup> The data collection technique in this research also uses *field research* or field data collection through interviews with sources who then examine the results of the interviews more deeply. The location of this research is at the Banda Aceh Pamong Praja and Wilayatul Hisbah Police Unit and the Provincial Pamong Praja and Wilayatul Hisbah Police Unit.

### Waria in the Study of Islamic Law

The word waria was first coined in Indonesia by Alamsyah Ratu Pewiranegara, who was the minister of religion from 1978-1983. The Kamus Besar Bahasa Indonesia defines waria as a male woman; a man who has the behaviour and/or feelings of a woman. Waria is one of the different sexual deviations, waria is a position where men look and think of themselves as women.<sup>9</sup>

Sex from a biological perspective means the sex characteristics that God bestows on each individual, such as reproductive organs, physique, hormones, and those related to those brought from birth. While gender is more interpreted from social judgement, such as the different roles carried by men and women, as in general we know the most common male roles are such as proposing, earning a living, playing a firm role as a father figure and a more dominating partner, playing football, not dressing like a woman, required not to cry and many other things, on the contrary, what women play is feminine, crying easily, spoiled, coquettish, like cooking, and other characters that are indirectly built by social, custom, culture, and religion so far according to their nature.<sup>10</sup>

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<sup>6</sup> M Hamdan and Eva Syahfitri Nasution, "Criminalization toward LGBT Community and Its Implementation through the Aceh Qanun in Indonesia," *Indian Journal of Forensic Medicine & Toxicology* 14, no. 3 (2020): 2006-8.

<sup>7</sup> Suharsimi Arikunto, *Prosedur Penelitian Suatu Pendekatan Praktek*, (Jakarta: Rineka Cipta, 2012) P. 126.

<sup>8</sup> Abdulkadir Muhammad, *Hukum Dan Penelitian Hukum*, (Bandung: Citra Aditya Bakti, 2014) P. 134

<sup>9</sup> Yayat Dimiyati, "Hukum Waria Ganti Kelamin Perspektif Hukum Islam Dan Hukum Perdata," *Usratuna: Jurnal Hukum Keluarga Islam* 4, no. 2 (2021): 21-39.

<sup>10</sup> Toomistu, T. (2022). Thinking Through The S(K)In: Indonesian Waria And Bodily Negotiations of Belonging Across Religious Sensitivities. hlm.7, *Indonesia And the Malay World*, 50(146), 73-95. <https://doi.org/10.1080/13639811.2022.2015187>

However, some of the environments that are created are *toxic*, such as the fact that there is no fault of men's emotional fulfilment through crying or women earning a living/career, or even creating a patriarchal culture in the household, which is not always positive for couples and families. Literally, waria is just a social behaviour, in Islam itself there is no such thing as waria as it is a trait not a physical provision given by Allah. In Islam, there is only *Khuntsā* or multiple sexes, where this disability or disease is not due to human will but a gift from Allah SWT.

*Khuntsā* is outlined in the Lisan Al-Arab dictionary which reads: "*Khuntsā* is one who possesses at the same time what both men and women possess". Also Ibn Manzhar said: "*Khuntsā* is a person who is not pure (perfect) as a man or a woman. *Khuntsā* is also defined in Fiqh as-Sunnah, where As-Sayyid Sabiq said: "*Khuntsā* is a person who cannot be known with certainty whether he is a man or a woman, because he has both male and female genitals".<sup>11</sup>

*Khuntsā* is further divided into two parts: *Khuntsā musykil* and *ghāiru musykil*. *Khuntsā musykil* means In fiqh, *Khuntsā* is divided into two, namely *Khuntsā musykil* and *Khuntsā ghāiru musykil*. *Khuntsā musykil* is someone who has both male and female genitals at the same time or not at all.

*Khuntsā ghāiru musykil*, on the other hand, is a person whose genitalia are ambiguous as to whether they are male or female, but whose characteristics or signs of either sex are more prominent. In the case of *Khuntsā musykil* whose gender cannot be determined, fiqh scholars emphasise the need for re-determination even after reaching the age of puberty, although most of the classical fiqh literature itself "gives up" by stating *mauquf*.<sup>12</sup>

*Khuntsā musykil* has ambiguous genitalia. In some cases, *Khuntsā musykil* can change its genital function every 6 months to become female or male alternately. However, there are some cases where *Khuntsā musykil* stops changing at a certain age, and there are also indications of tendencies towards one-sex characteristics or behaviour. After medical confirmation, repair or improvement of one of the genitals for *Khuntsā musykil* is highly recommended to clarify its legal status.<sup>13</sup>

In Islam itself, gender reassignment is not allowed without certain urgent goals and objectives, but Islam allows gender reassignment with certain conditions and objectives and the nature of *mashlahah* is more dominant. Such as obtaining legal clarity, obtaining clear protection of residency, implementing Islamic law according to the division of women and men, and obtaining justice and the absence of discrimination by society that causes social pressure.

As has been explained in terms that distinguish gender from sex/sex is that gender can be said briefly as a label while sex is a gift from God that is obtained from birth. So transsexual in waria is someone who changes sex through the process of surgery by a plastic and cosmetic surgeon from male to female, while transgender is a waria who does not necessarily perform sex surgery or sex change

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<sup>11</sup> Dimyati, "Hukum Waria Ganti Kelamin Perspektif Hukum Islam Dan Hukum Perdata."

<sup>12</sup> Muhammad Sayyuti, *Perlindungan Hukum Bagi Waria Perspektif Islam*, P. 24, 2011.

<sup>13</sup> Idrus Assayuti, "Perlindungan Hukum Bagi Waria Perspektif Hukum Islam," *Iqtisodina* 2, No. 1 (2020).

through surgery by a doctor.

In Indonesia, there are now many transsexuals who change their identity legally from male to female and are legally legalised. However, in Aceh itself, based on the data so far, there have been no sex operations or gender changes in Aceh. However, if there are transsexuals from Aceh who live outside Aceh and change their identity, it is not known at this time.<sup>14</sup>

The law that regulates or protects waria itself is in Law No. 12 of 2005, although it is not explicitly written in the law, but in the explanation according to human rights, it is written to respect minorities where the minority is included in LGBT organisations. Article 3 paragraph 2 of Law No. 39 of 1999 also explains the recognition and guarantee of life and no discrimination between fellow human beings whether minority or majority.

According to the narrative of the Satpol PP, the duties and authority given to the Satpol PP and WH of the city of Banda Aceh are to maintain and maintain peace in accordance with Islamic law. There are times when Acehnese transvestites make the community uncomfortable, then the Islamic Sharia Office will give a direct warning to the transvestite as written in article 1 paragraph 10 and 11 of law number 11 of 2002 which reads "Investigators are police officers of the Province of Nanggroe Aceh Darussalam or Civil Servant Investigators (PPNS) who are appointed and authorised to conduct investigations related to the implementation of Islamic Shariat. And WH is the body in charge of supervising the implementation of Islamic Sharia."<sup>15</sup>

In relation to paragraphs 10 and 11 of the article, curbing waria is not only a task for Satpol PP, but this curbing can be implemented if all components of society take part in their role, the community can report their complaints to the regional or provincial Satpol PP and WH, so that the Satpol PP and WH can secure or curb the waria, the Social Service and the Islamic Sharia Office also take a role here as a life guarantor for waria and give direct warnings to waria who violate or disturb the people of Aceh.

The Satpol PP also said that routine patrols are still carried out in places that are vulnerable or many transvestites at certain hours also assisted by members of the WH of Aceh province, especially at night so that nothing happens that violates Islamic law. According to information from the Satpol PP patrol section, vulnerable areas that are often the location of patrols such as Blower to Ulee Lheu at certain hours, this is because transgender people are more active socialising at certain hours, especially at night. During patrols, it is not uncommon for waria encountered to be reminded and briefed so that they continue to fulfil the rights and obligations of waria as they should. Discussing the rights and obligations of both Indonesian citizens and waria living in Aceh, the only difference between Acehnese and non-Acehnese waria is that they face unique challenges due to the social, cultural and legal context of the region. The following is an explanation of their rights and obligations based on legal and social perspectives:

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<sup>14</sup> Dimiyati, "Hukum Waria Ganti Kelamin Perspektif Hukum Islam Dan Hukum Perdata."

<sup>15</sup> Qanun Provinsi Nanggroe Aceh Darussalam Nomor 11 Tahun 2002 Tentang Pelaksanaan Syariat Islam Bidang Aqidah, Ibadah Dan Syi'ar Islam. p. 4.

### The Position of Waria in Aceh and Their Rights in Aceh

Lesbian, gay, bisexual and transgender (LGBT) people in Aceh still face legal issues that other non-LGBT people do not. Aceh province is authorised to implement sharia law. Under Aceh's Qanun No. 6/2014, sodomy is classed as "liwath", while female same-sex relations are called "musahaqah". Although not considered illegal at the national level, same-sex activity is criminalised in Aceh with a penalty of 100 lashes or up to 8 years' imprisonment. Although Qanun No. 6/2014 does not criminalise waria at all, they have been targeted by the police on several occasions. One such case was against 12 transgender salon workers in North Aceh in 2018 on the orders of the North Aceh Police Chief, Untung Sangaji. The transgender women were shaved and forced to be "trained to be men", while the salon where they worked was also closed. This action drew condemnation from the National Human Rights Commission for being dehumanising and contrary to existing regulations.<sup>16</sup>

The rights received by a transgender person living in Aceh are as follows:

1. Human Rights: Waria have the right to life, freedom from violence, humiliation, and discrimination, as stipulated in the 1945 Constitution Article 28I and Law No. 39/1999 on Human Rights. The right to employment, education, and access to health without discrimination.
2. Rights as an Indonesian citizen: The right to obtain legal identity (KTP and other population documents). The right to vote and be elected in elections.
3. Right to Protection from Violence and Discrimination: Indonesia has an international commitment to the respect of human rights through treaties such as the International Convention on Civil and Political Rights (ICCPR). Right to Freedom of Expression and Assembly: Recognised in the 1945 Constitution Article 28E, including to voice their rights as part of the LGBT+ community.<sup>17</sup>

### Obligations of Waria in Aceh

In Aceh, the obligations of waria, like other citizens, are certainly affected by the strict application of Islamic sharia law. This creates its own challenges for waria or transgender people in their daily lives. Here are some of the obligations that waria in Aceh must fulfil:

1. Obligation to Dress according to Gender: Under prevailing social and legal norms in Aceh, waria may be required to dress according to their biological sex, particularly in public spaces or in social activities involving law enforcement or the wider community. Violations of this dress code may risk sanctions or reprimands from the authorities.<sup>18</sup>

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<sup>16</sup> "Hak LGBT Di Aceh - Wikipedia Bahasa Indonesia, Ensiklopedia Bebas," accessed January 26, 2025, [https://id.wikipedia.org/wiki/Hak\\_LGBT\\_di\\_Aceh](https://id.wikipedia.org/wiki/Hak_LGBT_di_Aceh).

<sup>17</sup> Sakinah, T. E. (2020). *Hukuman Bagi Pelaku Homoseksual (Liwath) Dalam Prespektif Hukum Pidana Islam Dan KUHP Pasal 292*. Hal.34 [Http://Repository.Uinsu.Ac.Id/Id/Eprint/11549](http://Repository.Uinsu.Ac.Id/Id/Eprint/11549)

<sup>18</sup> Wan Laila Hazirah Binti Arif Fadzillah, "Sosialisasi Pakaian Islami Bagi Mahasiswi Fakultas Dakwah Dan Komunikasi Universitas Islam Negeri Ar-Raniry Darussalam Banda Aceh" (UIN Ar-Raniry Banda Aceh, 2019).

2. **Obligation to Respect Sharia Law:** Aceh implements Islamic sharia law which includes rules on moral behaviour, such as prohibitions against adultery, drinking, gambling, and so on. Transgender women in Aceh are expected to follow these rules, and if there are any violations, they may be subject to punishment in accordance with the provisions of the applicable sharia law.<sup>19</sup>
3. **Comply with Applicable Law:** Aceh implements sharia law under Law No. 11/2006 on the Governing of Aceh, which regulates public morality, including conservative gender norms. Waria are required to follow local rules regarding dress and behaviour in public spaces.<sup>20</sup>
4. **Maintain Public Order:** Waria, like other citizens, are obliged to maintain order, security, and social norms in society.<sup>21</sup>
5. **Participate in Development:** Actively contribute to social activities and community development.<sup>22</sup>

Overall, the obligations of waria in Aceh are heavily influenced by the strict application of sharia law and religious norms, which often make it challenging for them to live their lives freely and equally with other individuals.

### Challenges of Waria in Aceh

LGBT organising activities face major challenges due to Aceh Province's special right to enact sharia-based laws, making it difficult to raise LGBT issues in general and the possibility of anti-LGBT local ordinances.<sup>23</sup> Some argue that transgender individuals are influenced by several social and cultural environmental factors. Even to a large extent, young children exhibit cross-gender behaviour now and later due to family factors. In some families such behaviour is caused by too much attention and reinforcement from parents and relatives.<sup>24</sup> There are several challenges which are as follows:

1. **Social Stigma and Discrimination:** Waria in Aceh are often perceived as a group that does not conform to existing social norms. Aceh's predominantly conservative society tends to see waria as a "marginalised group". This social discrimination can impact their relationships with family, friends and the wider community, and hinder them from leading a normal life<sup>25</sup>
2. **Uncertainty of Security and Surveillance:** In some cases, waria may face raids or close surveillance by authorities, such as Satpol PP, who enforce against behaviours deemed not in line with Sharia norms. This creates a

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<sup>19</sup> Aceh Qanun No. 8/2014 on the Principles of Islamic Sharia, Article 7 Paragraph 2.

<sup>20</sup> Dwi Runjani Juwita, "Pemberlakuan Hukum Syariat Bagi Warga Non Muslim Di Daerah Nangroe Aceh Darussalam (Perspektif Islam Dan Ham)," *El-Wasathiya: Jurnal Studi Agama* 4, no. 1 (2016): 23-38.

<sup>21</sup> Amsori Amsori and Jailani Jailani, "Legislasi Qanun Jinayat Aceh Dalam Sistem Hukum Nasional," *Ar-Raniry: International Journal of Islamic Studies* 4, no. 2 (2020): 221-56.

<sup>22</sup> Delfi Suganda, "Pancasila Dan Syari'at Islam Sebagai Asas Pembentukan Qanun Di Aceh," *Jurnal Ilmiah Peuradeun* 2, no. 1 (2014): 149-64.

<sup>23</sup> Oetomo, D dkk. 2013. *Hidup Sebagai LGBT di Asia: Laporan Nasional Indonesia (Tinjauan dan Analisa Partisipatif tentang Lingkungan Hukum dan Sosial bagi Orang dan Masyarakat Madani Lesbian, Gay, Biseksual dan Transgender LGBT)*. Being LGBT in Asia oleh UNDP & USAID. Bali : Juni, 13-14

<sup>24</sup> Gerald C Davidson, John M Neale, and Ann M Kring, "Psikologi Abnormal Edisi Ke-9," *Jakarta: Rajawali Pers*, 2006.

<sup>25</sup> Mutia Tisa, "Waria Dan Resiliensi Terhadap Penolakan Masyarakat," *AT-TANZIR: Jurnal Ilmiah Prodi Komunikasi Penyiaran Islam*, 2018, 9-24.

sense of insecurity and uncertainty for waria, who often feel threatened by the possibility of being charged or socially sanctioned.<sup>26</sup>

3. **Difficulty in Access to Employment:** Waria often find it difficult to find decent work that suits their skills in Aceh. Many are forced to work in the informal sector or in jobs that are not officially recognised, such as sex work or other jobs that are not valued by society. This creates economic challenges and keeps them often trapped in poverty.<sup>27</sup>
4. **Limited Legal Protection:** In Aceh, although there are several laws governing human rights, the protection of waria rights is still very limited. There are no specific laws governing discrimination or unfair treatment of waria, so they often lack effective legal channels to report offences or violence they experience.<sup>28</sup>
5. **Health and Wellbeing Challenges:** Waria in Aceh also face challenges in accessing health services, especially services that are friendly to their specific needs, such as hormone treatment or support related to gender identity. Fear of discrimination by medical personnel is also a major barrier. The mental health of waria is also a major issue, with high levels of stress and depression due to inequality and marginalisation.<sup>29</sup>
6. **Limited Social Support:** The waria community in Aceh often lacks access to adequate social support, whether from family, friends, or organisations that can fight for their rights. Without a strong social network, many waria feel isolated and struggle to find support in dealing with social or legal issues.<sup>30</sup>

Overall, the challenges to the existence of waria in Aceh relate to community hostility, strict application of sharia law, and lack of adequate legal protection. To improve the presence and well-being of waria in Aceh, changes in social and legal understanding and more support for individual rights without discrimination are needed.

### Solutions and Support

In Aceh, solutions and support for waria face major challenges given the conservative application of Islamic sharia law as well as social views that tend not to accept gender and sexuality diversity. Nevertheless, some forms of support and solutions can be considered to provide protection and space for waria, albeit in a limited and challenging context. Here are some possible solutions and forms of support:

1. **Public Counselling and Education**

Community education is essential to change wrong views and raise awareness of the rights of transgender people. This can be done by advocacy groups or

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<sup>26</sup> Wendy Ardinata, "Pelaksanaan Amar Ma'ruf Nahi Munkar Oleh Satpol PP Dan WH Kota Banda Aceh Pada Kasus Maksiat Di Gampong Keudah" (UIN Ar-Raniry Fakultas Syariah dan Hukum, 2022).

<sup>27</sup> Tisa, "Waria Dan Resiliensi Terhadap Penolakan Masyarakat."

<sup>28</sup> Bernadus Febriyanyo, Ernesta Uba Wohon, and Finsensius Samara, "Problematisasi Perlindungan Hukum Terhadap Hak Atas Pekerjaan Bagi Kelompok Lesbian, Gay, Biseksual Dan Transgender (LGBT) Di Indonesia," *Jurnal Studi Hukum Modern* 6, no. 3 (2024).

<sup>29</sup> Nurmi Sasmita, "Ruang Ekspresi Waria Dan Interaksi Sosial Di Aceh Tengah" (UIN Ar-Raniry, 2022).

<sup>30</sup> Ruhghea, Mirza, and Rachmatan, "Studi Kualitatif Kepuasan Hidup Pria Transgender (Waria) Di Banda Aceh."



NGOs that champion the rights of transgender people. Although this is difficult in Aceh, some NGOs that focus on gender and human rights issues can play an important role in providing knowledge about gender diversity. Training and seminars on transgender rights and mental health issues can help increase understanding. Social campaigns can also help reduce the stigma against waria, although this requires support from the wider community.<sup>31</sup>

2. Community and Social Support

Waria in Aceh can seek support within the waria community or larger LGBT groups in other cities. While it can be difficult to find safe places to gather in Aceh, some social groups outside Aceh may provide support networks. These networks can offer various forms of support, including: Social protection such as a safe place to gather or mentorship, Emotional support in the face of discrimination or violence. Many waria communities also form family ties to support each other in facing life's challenges.<sup>32</sup>

3. Legal Advocacy and Human Rights Protection

In Aceh, enforcement of waria rights can be very limited, especially given the strict application of Islamic sharia law. Therefore, advocacy from NGOs that focus on human rights, especially involving vulnerable groups such as waria, is crucial. This can be done by: Lawyers or legal consultants who assist waria in cases of violation of their rights, Advocacy through social media to raise issues of injustice and discrimination experienced by waria. This legal and social advocacy aims to create awareness at a higher level, although progress is very slow and depends on the existing social conditions.<sup>33</sup>

4. Sex Education for LGBT

Sex education for the LGBT (lesbian, gay, bisexual and transgender) community aims to provide information that is inclusive, supportive and appropriate to their needs, especially in terms of sexual health, gender identity and sexual orientation. This education is important as many LGBT individuals often lack access to appropriate and identity-focussed information. In this education, individuals are taught about sexual rights, the importance of healthy and consensual relationships, and how to protect themselves from sexually transmitted diseases (STDs) such as HIV/AIDS. In addition, sex education also includes an understanding of the differences between biological, social, and gender identities, as well as different sexual orientations, to reduce stigma and discrimination. This education not only teaches about safe sex practices, but also provides an understanding of mental health, as many LGBT individuals experience emotional challenges due to social stigma. With an inclusive and human rights-based approach, sex education for LGBT people aims to create a more open society, support their emotional and physical well-being, and help them to live more confidently and safely.<sup>34</sup>

The rights and obligations of waria in Aceh must still be respected as part of

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<sup>31</sup> Sutarto Sutarto, Syafriyadin Syafriyadin, and Jumira Warlizasusi, "Konseling Eklektik Islami Untuk Mengubah Konsep Diri Waria," *KONSELI: Jurnal Bimbingan Dan Konseling (E-Journal)* 6, no. 1 (2019): 65-74.

<sup>32</sup> M Faizin, "Konseling Islam Sebagai Solusi Fenomena Transgender Mu'adil Faizin Universitas Islam Negeri Sunan Kalijaga," *Nizham Journal of Islamic Studies* 5, no. 1 (n.d.): 88-96.

<sup>33</sup> Rahmat Rahmat, "Kelompok Minoritas LGBT Di Aceh Dalam Perspektif Keagamaan Dan Kebangsaan," *IN RIGHT: Jurnal Agama Dan Hak Azazi Manusia* 11, no. 2 (2022): 211-30.

<sup>34</sup> Safrudin Aziz and M Pd, *Pendidikan Seks Perspektif Terapi Sufistik Bagi LGBT* (Penerbit Ernest, 2017).

human values and the Indonesian constitution, although it is recognised that there are challenges in implementing them at the local level. The Head of the Investigation Section, Mr Marzuki S.Ag, M.H. said that

"So far, the only obstacle for Satpol PP on the issue of waria in Aceh is the absence of laws that specifically regulate waria, "Aceh has no special rules written either qanun or other rules that regulate directly about this waria, even though there are legal privileges given by the state, this is the obstacle so far for us in curbing or regulating waria in Aceh<sup>35</sup>

From this statement, we can take the meaning that the Satpol PP has so far made optimal efforts in curbing Islamic law in Aceh as it should be, but with these obstacles, the only thing that can be done so far is how to prevent unwanted events from happening, and there is no public unrest about it.

So far, the efforts that can be made to minimise actions that harm or disturb the community are only with routine patrols and counselling conducted by the Satpol PP and WH of Aceh province. And if there are one or two things that involve waria in violating the rules of law, they will be punished with punishment as ordinary people, not as waria, because it goes back to what Mr Marzuki said at the beginning of the interview, that waria is a social disease not a physical disorder that cannot be changed. However, it would be better if there is a special law to regulate order in society, because it cannot be denied that the presence of waria is sometimes a concern for parents in Aceh as a bad influence on the future of their children. Therefore, the efforts that can be made by the government are to provide sufficient moral and social guidance for the younger generation as well as parent education seminars so that parents can be more aware in educating their children. In addition to the duty of the social service to give warnings and orders to Satpol PP and WH to curb this social disease, the role of teachers in schools is also very important in shaping the character of children, therefore counselling is not only to transvestites but to all elements of society ranging from teachers, students, friendship circles, and parents / guardians of students.

### **The Rise of Waria in Banda Aceh**

Aceh is a special autonomous region that has a special law with Islamic sharia in it. Qanun is a law that regulates order and provides sanctions based on Islamic provisions, high social values towards fellow Acehnese people are quite high, we can see from activities related to togetherness, gotong royong, and other positive social things are still many who participate. Moral and social are two things that walk side by side in the social life of the community, moral itself according to the language is a habit, where this habit will be different in every place, therefore a form of respect for a region is to obey the customs or culture in the region, this can be attributed to the customs and culture of Aceh which is very bound by Islamic law which can be seen from the era of Islamic kingdoms such as the kingdom of

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<sup>35</sup> Interview with the Head of the Investigation and Investigation Section, Mr Marzuki S.Ag, M.H. 24 October 2024.

kutaraja, pidie, samudera pasai, perlak, and many others.<sup>36</sup>

Before discussing further, it is necessary to know first whether it is true that there has been an increase in waria in Banda Aceh over the past 5 years? In this case, the researcher has conducted interviews and asked several questions related to the topic under study to the Satpol PP directly to the investigation section that directly faces the problem of waria. In fact, the percentage of waria in Banda Aceh is still the same, and even if there is an increase in the number of waria, it is not in a significant number, which was confirmed in an interview conducted by the author with the Satpol PP last September with the Head of the Investigation and Investigation Section, Mr Marzuki S.Ag, M.H..

"Actually, there is no increase in transvestites in Banda Aceh, because we have been patrolling and counselling transvestites regularly, there is no increase in the number of members or data in the social service".<sup>37</sup>

The response from the Aceh Satpol PP and WH itself, especially the man who is responsible for the city of Banda Aceh, he said:

"The news is a sad thing for Aceh and damages the good name of Aceh itself, it is known so far that the transvestite in the news is not domiciled in Aceh but only carries the name Aceh but he lives and lives all this time in Jakarta. Regarding Aceh's own laws that specifically regulate transvestites so far do not exist, but what can be followed up so far to curb transvestites in the city of Banda Aceh is only counselling and patrols carried out regularly every Friday by Satpol PP from WH. Because transvestites in Indonesian positive law are protected on behalf of ordinary people in human rights, have the freedom to choose and determine their respective lives ".<sup>38</sup>

So far, if there is an offence committed by transgender people, the only thing that can be done is to punish them for the actions they have committed, not punishment as transgender people but as people who break the law, for example, if people who do *Liwath* or homosexual offenders will be punished with whipping, then if transgender people do *Liwath*, they will also be punished with the same punishment, there is no difference in the punishment carried out by transgender and nontransgender people in Aceh.<sup>39</sup>

However, as stated by Mr Marzuki, while working in the Satpol PP and assigned to Central Aceh, the Satpol PP has encountered a family that turned out to be a male and transgender couple, the marriage was conducted outside Aceh and the application for identity change was conducted outside Aceh. When interviewed, they had lived in Riau and possibly applied for identity change in that area.<sup>40</sup>

Like the confession of KB from one of the waria we interviewed at the PS salon located in Lamnyong, Banda Aceh, they said that

"The desire to become a woman is not influenced by the environment or lack

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<sup>36</sup> Nur Hafni, "Factors for Implementation of Qanun in Aceh Education," *Jurnal Pendidikan Islam Indonesia* 6, no. 1 (2021): 48-62.

<sup>37</sup> Interview with the Head of the Investigation and Investigation Section, Mr Marzuki S.Ag, M.H. 24 October 2024.

<sup>38</sup> Interview with Mr Marzuki, Banda Aceh 30 September 2024.

<sup>39</sup> Sakinah, T. E. (2020). *Hukuman Bagi Pelaku Homoseksual (Liwath) Dalam Prespektif Hukum Pidana Islam Dan KUHP Pasal 292*. Hal 64, [Http://Repository.Uinsu.Ac.Id/Id/Eprint/11549](http://Repository.Uinsu.Ac.Id/Id/Eprint/11549)

<sup>40</sup> Interview with Mr Marzuki, Banda Aceh 30 September 2024.

of attention from parents, but since childhood there has been a pleasure in looking like a woman, if when watching television has a sense of attraction to become a female actor and wants to be treated well by men<sup>41</sup>

In Banda Aceh, there are many waria in public places such as salons, traditional and modern markets, or recreational areas which are also public places. From the observation and narration of one of the waria we have talked with, all the people relate quite well, there is no riot so far in daily life as customers and sellers or as ordinary social beings. However, the facts we found contradict the research in Oetomo et al in 2013, where there are differences in LGBT development in Indonesia, specifically in Aceh Province, LGBT organising activities face great challenges due to Aceh Province's special right to enact sharia-based laws, creating general difficulties in raising LGBT issues and the possibility of enacting local regulations that are anti-LGBT.<sup>42</sup>

The interviews we conducted with Satpol PP revealed that there has been no significant increase in the number of waria, but there has also been no excessive rioting, waria and the community have become more intermingled, as well as waria and the government that is responsible for them, there are more open facilities for waria to live like ordinary people but they are still required to obey the applicable Acehese laws.

In this case, the balance between the lives of the community, waria, and the government becomes more balanced, because in the context of Aceh with the connotation of a sharia region, there is no increase and disputes between waria and the community, this is also evidence of the implementation of the applicable law even though there is no specific law written for waria. Basically, as stated by one of the Governors of Aceh, Irwandi Yusuf in one of his interviews who said

"We don't hate LGBT, we just hate their behaviour"<sup>43</sup>

In this case, it can be understood that the factor of hatred is not their existence, but if there are disturbing behaviours committed by them, especially those that violate Islamic law. One of the waria we interviewed also said

"We just want to be respected, our lives are also not open, we don't show ourselves, we also routinely get counselling, there was also a counselling call from the Satpol, as long as we are not disturbed, we also don't make trouble" he said in our conversation on 6 September 2024.<sup>44</sup>

From the transvestites we interviewed, none of the group in one salon has been bound by the case so far, because they live and mingle with all elements of society and are law-abiding. In this case, as a country that respects all human rights, it is impossible to completely eliminate this kind of thing, so in some cases of transvestites that are not based on social influences and other things, what can be done is only mutual respect, both the people who do not disturb them and respect them as fellow human beings, and also those who keep their existence from disturbing the community.

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<sup>41</sup> Interview with KB (A Waria, in Lamnyong, Banda Aceh) 12 September 2024.

<sup>42</sup> Dédé Oetomo et al., "Hidup Sebagai LGBT Di Asia," *Laporan LGBT Nasional Indonesia*, 2013.

<sup>43</sup> Interview with Governor of Aceh, Irwandi Yusuf, 10 September 2024.

<sup>44</sup> Interview with KB (A Waria, in Lamnyong, Banda Aceh) 12 September 2024.

## Conclusion

The result of this study is that in responding to the phenomenon of the increasing number of waria by asserting that the Islamic law applied in Aceh has been implemented in an orderly manner, including patrols by Satpol PP. However, an incident that occurred in mid-2024 led to the perception that law enforcement was not strict enough, even though the perpetrator was not domiciled in Aceh and the incident occurred outside the region. The Aceh government explained that Qanun law applies only in the region, so it cannot reprimand individuals who are not in Aceh. Although there is no specific Qanun for waria, the Qanun Aqidah and syiar Islam regulates the implementation of sharia to all citizens, including waria. While there is the potential for flogging, this only applies if there is a breach of the law. Waria are considered a social phenomenon, not a violation of positive law. In this context, although times are changing and the influence of western culture through social media is getting stronger, Aceh still maintains its cultural wisdom and Islamic sharia by strengthening law enforcement and strengthening faith. The role of parents and communities in supporting counselling and law enforcement is needed to maintain social and legal values in Aceh.

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