



**Implementation of Langsa City Qanun No. 1 of 2015
Concerning Smoke-Free Areas Reviewed from
Constitutional Law (Case Study of Langsa City Health
Center)**

Tasya Mirza

Langsa State Islamic Institute, Indonesia

Tasyamirza2@gmail.com

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ABSTRACT

There is a gap between practice and theory where people still smoke in the health center area which is one of the health facilities in the smoke-free area in accordance with Qanun No. 1 of 2015. The purpose of this study is to see (1) How is the implementation of Qanun Langsa City No. 1 of 2015 concerning the Smoke-Free Area in the Langsa City Health Center. (2) How is the implementation of Qanun Langsa City No. 1 of 2015 concerning the Smoke-Free Area in the Langsa City Health Center Reviewed from Constitutional Law. This study uses qualitative research with data collection methods through observation, interviews, and documentation. The results of the study indicate that (1) The implementation of the Smoke-Free Area Policy in the Langsa City Health Center has been running quite well but not yet optimal even though things such as socialization and installation of stickers and banners have been carried out properly in an effort to organize the Smoke-Free Area, but there have been no strict sanctions given to violators, so that the Smoking Area policy has not been fully implemented properly. (2) If viewed in terms of fiqh siyasah, the implementation of the No-Smoking Area Policy at the Langsa City Community Health Center is in accordance with the concept of fiqh siyasah which aims for the benefit of the people, but the implementation and supervision process has not yet gone completely well.

Keywords: Implementation, Qanun, Constitutional Law.

ABSTRAK

Terjadi kesenjangan antara praktik dan teori dimana masyarakat masih merokok dikawasan puskesmas yang merupakan salah satu fasilitas kesehatan kawasan tanpa rokok yang sesuai dengan Qanun No. 1 Tahun 2015. Tujuan dari penelitian

ingin melihat (1) Bagaimana implementasi Qanun Kota Langsa No 1 Tahun 2015 tentang Kawasan Tanpa Rokok di Puskesmas Langsa Kota. (2) Bagaimana implementasi Qanun Kota Langsa No 1 Tahun 2015 tentang Kawasan Tanpa Rokok di Puskesmas Langsa Kota Ditinjau dari Hukum Tata Negara. Penelitian ini menggunakan penelitian kualitatif dengan metode pengumpulan data melalui observasi, wawancara, dan dokumentasi. Hasil penelitian menunjukkan bahwa (1) Implementasi Kebijakan Kawasan Tanpa Rokok di Puskesmas Langsa Kota sudah berjalan cukup baik namun belum terlalu optimal meskipun hal-hal seperti sosialisasi dan pemasangan stiker dan spanduk sudah dilakukan dengan baik dalam upaya penyelenggaraan Kawasan Tanpa Rokok tersebut, Namun belum adanya sanksi tegas yang diberikan kepada para pelanggar, sehingga kebijakan Kawasan Rokok belum sepenuhnya berjalan dengan baik. (2) Jika ditinjau dalam *fiqh siyasah*, Implementasi Kebijakan Kawasan Tanpa Rokok di Puskesmas Langsa Kota sudah sesuai dengan konsep *fiqh siyasah* yang bertujuan untuk kemaslahatan rakyat, namun dalam proses pelaksanaan dan pengawasan belum sepenuhnya berjalan dengan baik.

Kata Kunci: Implementasi, Qanun, Hukum Tata Negara.

A. INTRODUCTION

Langsa is one of the cities in the province of Aceh, Indonesia. Initially, Langsa was the capital city of East Aceh district and had the status of an Administrative City in accordance with Government Regulation Number 64 of 1991 concerning the Establishment of the Administrative City of Langsa. After the expansion of East Aceh district, the status of Langsa Administrative City was raised to Langsa City based on Law Number 3 dated June 21, 2001. The anniversary of Langsa City was set on October 17, 2001. Langsa City is famous as a city of education, a city of trade, a culinary city, and a tourist city.

In Aceh, each city/district has the authority to create qanun. The legal basis is Law Number 32 of 2004 concerning Regional Government. The authority to create regional regulations (Perda) is a concrete manifestation of the implementation of the right to autonomy owned by a region and vice versa, regional regulations are one of the means in implementing regional autonomy. Qanun in Aceh is another name for Regional Regulations (PERDA) in every province and city/district throughout Indonesia. Therefore, the process of creating Qanun in Aceh is formally no different from creating Perda, and it is the authority of the Executive and Legislative (Syahrudin 2021).

Meanwhile, for district/city regional regulations, they are laws and regulations formed by the District/City Regional People's Representative Council with the joint approval of the Regional Head (Governor or Regent/Mayor). As a form of concern from the Langsa City Government for the health of its people, the government has created a qanun that regulates the prohibition of smoking in public places, namely Langsa City Qanun No. 1 of 2015 concerning Smoke-Free Areas. The qanun has been in effect since January 2015.

This Qanun was deliberately created by the government with several objectives as regulated in Article 3:

1. Create a clean and healthy space and environment;
2. Protecting the health of individuals, families, communities and the environment from the dangers of materials containing carcinogens and addictive substances in tobacco products which can cause disease, death and reduce the quality of life;
3. Protecting the productive age population, children, adolescents and pregnant women from environmental pressures and the influence of advertising and promotion to initiate the use of and dependence on materials containing addictive substances in the form of tobacco products;
4. Increasing public awareness and vigilance regarding the dangers of smoking and the benefits of living without smoking; and
5. protect public health from other people's cigarette smoke.

Article 10 explains that the City Government has determined that Smoke-Free Areas include:(Langsa 2015)

1. Health service facilities;
2. Places for teaching and learning processes;
3. Places for children to play;
4. Places of worship;
5. Public transportation;
6. Workplaces; and
7. Public places

The Qanun also explains that anyone who violates it will be subject to criminal sanctions according to the type of action. The author observed that the phenomena that occurred in the field at the Langsa City Health

Center were generally very different from the rules that had been determined in the Langsa City Qanun No. 1 of 2015 and the legal sanctions that had been regulated for those who violated were never enforced.

The perpetrators who violated the Qanun of Langsa City have not been given any sanctions by the government, the proof is that we still see many people smoking in public places. The sanctions have not been applied, resulting in no deterrent effect for violators. So that violations of the qanun will continue to occur. Law enforcers who are authorized to handle the problem have not been seen in the field to take firm action against those who violate.

A legal expert, Soedarto, he stated that the problem of (legal) enforcement does not discuss the legal problem, but rather what is done by law enforcement officers in dealing with problems in law enforcement. Thus it can be stated that law enforcement discusses what (must) be done by law enforcement officers in dealing with social problems (Sepdwiko 2021)

Article 10 paragraph 1 explains that one of the Smoke-Free Areas is the location of Health Service Facilities, which include Community Health Centers. Given the function of Community Health Centers as a place for treatment and health care, the presence of cigarette smoke in this environment is very contrary to its main purpose, which is to provide clean and safe health services for patients. Cigarette smoke can endanger the health of patients being treated, medical personnel, and visitors, as well as reduce the air quality around the facility. Therefore, it is only right that the Community Health Center area is completely free from cigarette smoke to support a healthy and safe environment for all parties there. Then in Article 10 paragraph 4 it states that: "The Leader or Person in Charge of the place as referred to in paragraph (1) is obliged to implement a Smoke-Free Area."

Meanwhile, Article 17 paragraph 1 reads: "The Mayor supervises the implementation of the Smoke-Free Area in accordance with his duties and functions." Article 22 paragraph 1:

“Any person who violates the provisions as referred to in Article 10 paragraph (1) shall be subject to administrative sanctions in the

form of: a. a warning to comply with the prohibition; and b. if the warning as referred to in letter a is ignored, the violator shall be ordered to leave the Smoke-Free Area.”

Article 23: "City Work Units as referred to in Article 18 paragraph (1) that violate Article 19 shall be subject to sanctions in accordance with statutory regulations.”

Article 24 paragraphs 1 and 2 reads:

"(1) The leader or person in charge of a Smoke-Free Area who violates the provisions as referred to in Article 10 paragraph (4), Article 11, Article 12, and Article 18 paragraph (2) shall be subject to administrative sanctions in the form of a written warning from the Mayor to fulfill his/her obligations within a certain period of time. (2) In the event that the violation as referred to in paragraph (1) is committed by the leader or person in charge of a Smoke-Free Area within the City Government, then the leader or person in charge of the Smoke-Free Area in question shall be subject to sanctions in accordance with statutory regulations."

Article 25 paragraphs 1 and 2 read:

“(1) Supervisory officers of the Smoke-Free Area as referred to in Article 20 paragraph (2) who violate Article 20 paragraph (3) shall be subject to sanctions by the leader or person in charge of the Smoke-Free Area in accordance with applicable regulations. (2) In the event that the violation is committed by a supervisory officer of the Smoke-Free Area who is a Civil Servant within the City Government, sanctions shall be imposed by the Mayor in accordance with statutory regulations.”

From several articles above, it can be seen that one of the smoke-free areas is a health facility, in this case the author took a sample at the Langsa City Health Center, the reason for Qanun No. 1 of 2015 concerning smoke-free areas in health facility areas is that it can endanger the health of sick patients. Furthermore, this qanun also states that the person responsible for this regulation is the leader (mayor), and anyone who violates it will be subject to sanctions, the first time a warning, the second time being ordered to leave the smoking area.

Based on the results of initial observations, researchers found that some people smoked in the Langsa City Health Center area, even though many pamphlets announcing the smoking ban had been installed in the area. It showed that even though there were visual warnings in the form of pamphlets installed in the Health Center area, the effectiveness of information delivery and implementation of regulations was not optimal. The community seemed to pay little attention to or ignore the ban, which could be caused by a lack of supervision, weak enforcement of regulations, or a lack of understanding of the dangers of smoking in health service environments. In addition, permissive attitudes and ingrained smoking habits may make it difficult to change behavior even though the ban has been published (Vivi, 2024). This poses a risk to the health of patients, medical staff and visitors, as well as reducing the comfort and cleanliness of an environment that should be smoke-free.

By seeing that there are still violations, this is related to the opinion of Soerjono Soekanto who stated that "the main problem of law enforcement actually lies in the factors that may influence it. The factors that influence law enforcement are: (a) law, (b) law enforcers, (c) means or facilities, (d) public legal awareness, (e) legal culture (Irwansyah 2021)

Based on the explanation above, the researcher is interested in conducting a study entitled "Implementation of Langsa City Qanun No. 1 of 2015 concerning Smoke-Free Areas Reviewed from Constitutional Law (Case Study of Langsa City Health Center)".

The research method used is normative-empirical law with a sociological legal approach and a statutory approach. The data sources used include primary data and secondary data. Primary data is data that comes from field data obtained from respondents and informants. Primary data sources are data obtained from primary sources. The primary data sources in question can be obtained from: respondents and informants and sources. Therefore, according to the author, the data sources in normative-empirical legal research are primary data in the form of: Interviews, and Observations with the head of the Langsa City Health Center, the Community, and Supervision. while secondary legal materials include; Islamic Constitutional Law Book Reflection of Thoughts on Islamic Teachings and Constitutional Law by Usman Jafar, and Qanun No. 1 of 2015 Concerning Smoke-Free Areas. The data collection method is in the

form of interviews and documentation, while the data management technique is a structured interview called a structured interview, which is a set of questions that have been provided to be asked to respondents.

B. RESULT AND DISCUSSION

a. Implementation of Langsa City Qanun No. 1 of 2015 Concerning Smoke-Free Areas in Langsa City Health Centers

Policy implementation is an effort to achieve certain goals with certain means and in a certain time sequence. Thus, what is needed in policy implementation are actions, such as legitimate actions or the implementation of a plan of allocation. Legislation is a means for the implementation of public policy. M. Afif Dalma, "Implementasi: Pengertian, Tujuan Dan Contoh," Dosen Pintar, 2021, h. 23

Legislation is a means for implementing public policy. A regulation will be effective if its actions and implementation are supported by adequate means. Which elements must be met so that the law (in this case legislation) can be used effectively as an instrument (public policy) and the limits of the possibility of such use is an important step both theoretically and practically, because the development of policy studies in legislation concerns legal issues and social behavior. (Pramana Putra and Setyowati 2022)

A Smoke-Free Area is a room or area with boundaries that are declared prohibited for smoking, producing, selling, advertising, and/or promoting tobacco products. The establishment of a Smoke-Free Area is a protection for the community against the risk of health problems due to an environment polluted by cigarette smoke. (Rochka, M. M., Anwar, A. A., & Rahmadani 2019)

The mechanism for implementing the Regional Regulation on Smoke-Free Areas is to encourage workplaces and public places to be able to build smoking areas that must technically comply with the regulations. In order to realize healthy behavior for the community, the community is expected to be able to implement and obey the regulations and programs made by the government, and it is also expected that the community implements programs that have been made by the government into their lives so that people's lives are always healthy, such as not smoking in

places marked as Smoke-Free Areas, by smoking in places specifically for smokers.(Marchel 2019)

In the implementation of Smoke-Free Areas, there must also be community participation, which should be carried out by the community as follows:(Sutrisno and Djannah 2020)

1. The community can play a role in realizing a smoke-free world.
2. Community participation can be carried out in the following ways:
 - Contribute thoughts and considerations regarding the implementation of No-Smoking Areas.
 - Participate in providing guidance and counseling as well as disseminating information to the community.
 - Remind everyone not to smoke in non-smoking areas.
 - Report anyone who is proven to be smoking in a Smoke-Free Area (KTR) to the person in charge of the Smoke-Free Area (KTR).

The legal basis for the Smoke-Free Area in Aceh is Qanun No. 1 of 2015 concerning the Smoke-Free Area, one of which mandates efforts to create a healthy environment in health facilities such as hospitals, health centers, and so on. Therefore, everyone is obliged to respect the rights of others to obtain a healthy environment, both physically, biologically, and socially, and everyone is obliged to behave in a healthy way and realize, maintain, and advance health.

Qanun is a legal product of the regional government itself in the context of implementing regional autonomy and further elaboration of higher legislation that is made and applies in the relevant autonomous region. Regional regulations have jurisdictional rights after being promulgated in the regional gazette, and the formation of regional regulations is based on the principles of the formation of statutory regulations, which in general regulate:(Syahrums 2021)

1. Clarity of objectives;
2. Appropriate institutional or forming organs;
3. Conformity between the type and content of the material;
4. Implementable;
5. Usefulness and effectiveness;
6. Clarity of formulation; Transparency.

In addition, Qanun or Regional Regulations also function as further elaboration of higher Legislation (delegate legislation), namely (1) Laws, (2) Government Regulations, (3) Presidential Regulations. In the practical guide to understanding the design of regional regulations prepared by the Directorate General of Legislation, it is stated that regional regulations have the following functions: (Bakillani Bakillani, dkk., 2022)

- a. As a policy instrument to implement regional autonomy and assistance tasks as mandated in the 1945 NRI Law and the Law on Regional Regulations.
- b. Is an implementing regulation of higher laws and regulations. In this function, regional regulations are subject to the provisions of the hierarchy of laws and regulations. Thus, regional regulations must not conflict with higher laws and regulations.
- c. As a container for regional specificity and diversity and a channel for community aspirations in the region, but in its regulations it remains within the corridor of the Unitary State of the Republic of Indonesia in 1945.
- d. As a development tool to improve regional welfare.

According to Qanun No. 1 of 2015 concerning Smoke-Free Areas in Chapter III concerning Organizers, Supervision, and Administrative Sanctions, namely: The implementation of Smoke-Free Areas is intended to provide a guarantee of obtaining clean and healthy space and air environment for the community. The City Government determines that Smoke-Free Areas include: health service facilities; places for teaching and learning processes; places for children to play; places of worship; public transportation; workplaces; and public places. The prohibition on selling, advertising, and promoting tobacco products does not apply to places used for tobacco product sales activities in the Smoke-Free Area environment.

Furthermore, the prohibition on tobacco product production activities does not apply to places used for tobacco product production activities in the Smoke-Free Area environment. The Leader or Person in Charge of the place is required to implement a Smoke-Free Area.

Furthermore, Article 17 states that the Mayor supervises the implementation of the Smoke-Free Area in accordance with his duties and functions. The Mayor may take administrative action against violations of

the provisions in this Qanun. In Article 23, the City Work Unit as referred to in Article 18 paragraph (1) that violates Article 19 shall be subject to sanctions in accordance with statutory regulations. Article 24 The Head or person in charge of the Smoke-Free Area who violates the provisions as referred to in Article 10 paragraph (4), Article 11, Article 12, and Article 18 paragraph (2) shall be subject to administrative sanctions in the form of a written warning from the Mayor to fulfill his obligations within a certain period of time.

In the case of violations, the person responsible is the leader or person in charge. Then, Article 25 also states that supervisors of smoke-free areas who violate will also be subject to sanctions in accordance with applicable regulations which in this case are imposed by the Mayor.

The rules regarding the implementation of Qanun No. 1 of 2015 at the Langsa City Health Center based on the results of the author's interview with Mrs. Vivi Handayani, SKM., M. Kes, as the head of the Langsa City Health Center are as follows: (Vivi, 2024)

"The health center has implemented a smoke-free area by installing stickers and banners in the health center yard. With the installation of these stickers and banners, it is hoped that the public will know and comply with the appeal regarding the smoke-free area rules."

Based on the interview above, it is strengthened by the statement from Mrs. Novita Alya Myrdal Malid, SKM as part of the public health efforts as follows: (Novita, 2024)

"Qanun regarding Smoke-Free Areas has been implemented, with this regulation we can appeal to the public not to smoke in the health center area. This regulation aims to prevent and overcome the negative impacts of cigarette smoke."

In accordance with the interview results above, it is reinforced by the statement from Mrs. Hasnawati, Amd.Keb as the head of the PTM polyclinic as follows: (Hasnawati, 2024)

"The health center has posted about the regulation. The regulation is used as a warning that in certain areas, such as in the health center area, there should be no smoking activities."

From the results of the interview above, it can be seen that, in order to realize a healthy lifestyle, the community is expected to be able to implement and obey the regulations and programs made by the government, and it is also expected that the community will implement the programs that have been made by the government into their lives so that the community's life is always healthy, such as not smoking in places marked as Smoke-Free Areas, by becoming a smoker in places that are specifically for smokers.

What kind of activities are carried out to approach the community regarding the Smoke-Free Area policy at the Langsa City Health Center, as conveyed by Mrs. Novita Alya Myrdal Malid, SKM as part of the public health efforts as follows: (Nivita, 2024)

" We as the health center also appeal to patients and their families not to smoke in the health center area, because there are also patients being treated in the health center. All of this is done to create fresh air and a healthy environment."

The existence of staging procedures and work affairs in order to achieve goals efficiently and effectively in implementing a healthy environment. Based on the results of an interview with Mrs. Vivi Handayani, SKM., M. Kes, as the head of the Langsa City Health Center as follows: (Vivi, 2024)

" By socializing about the Smoke-Free Area to the community at the Langsa City Health Center, such as the presence of a smoking ban sign, a Smoke-Free Area and appealing to the community to obey the ban. The appeal is not only directed at the community but also to the health center employees. And if they do not follow it, we will reprimand them verbally, both visitors and employees. However, employees who do not obey the rules will be given sanctions in the form of cutting medical services."

Based on the interview above, it is strengthened by the statement from Mrs. Novita Alya Myrdal Malid, SKM as part of the public health efforts as follows: (Novita, 2024)

" The procedures carried out in implementing the policy are to provide supervision and give warnings to visitors to the health center who are found smoking in the Smoke-Free Area."

In accordance with the interview results above, it is reinforced by the statement from Mrs. Hasnawati, Amd.Keb, as the head of the PTM polyclinic as follows: (Hasnawati, 2024)

" There are procedures carried out in implementing the policy, namely by putting up a no-smoking sign in the health center environment and reprimanding anyone who violates the rule. However, the lack of community involvement in helping to implement the contents of the Qanun is still an obstacle in determining the policy."

From the interview above, it can be concluded that, in order to implement the policy, the health center has provided a sign prohibiting smoking in the Smoke-Free Area, provided supervision and gave warnings to visitors to the health center who were caught smoking in the Smoke-Free Area.

Several studies on Smoke-Free Areas (KTR) provide evidence that KTR is one of the quite effective ways in controlling smoking habits or influencing the impact of cigarettes on health. As can be seen from the results of the interview with Mrs. Vivi Handayani, SKM., M. Kes, as the head of the Langsa City health center as follows: (Vivi, 2024)

" For now it is not effective, because some visitors still violate the rules. But we as the health center will continue to try to give warnings to people who are seen smoking in the health center area."

Based on the interview above, it is strengthened by the statement from Mrs. Novita Alya Myrdal Malid, SKM as part of the public health efforts as follows: (Novita,2024)

"It is less effective, because if we reprimand that person, he will give us advice in return, and secondly, there are still some health center employees who should be role models for non-smoking behavior who still smoke."

In accordance with the interview results above, it is reinforced by the statement from Mrs. Hasnawati, Amd.Keb as the head of the PTM polyclinic as follows: (Hasnawati, 2024)

" In my opinion, it should be effective, but currently, it is only the implementation that has not been implemented. Because if smoking is only prohibited in certain areas but smoking is allowed in other areas, it seems that violations can still occur, because for addicts, it is difficult to control themselves wherever they are, whether the place is a smoke-free area or not."

Based on the interview results above, it is clarified by the statement from the health center visitor, namely Mrs. Rohaya, as follows: (Rohaya, 2024)

"In my opinion, it is effective, but we do need to be reminded often because we as people know that smoking is not allowed in this health center, so if we see someone smoking, we are also required to reprimand them, because cigarette smoke itself disturbs visitors who come when they want to seek treatment or accompany patients who are seeking treatment/are sick. "

Then an interview with Mr. Sanusi as a visitor to the health center said that: (Sanusi, 2024)

" In my opinion, it has not been effective until now, because there are still many violations occurring until now. "

Furthermore, an interview with a visitor to the health center named Nur Laila who was taking her brother for treatment said that: (Nur Laila, 2024)

"I think if Qanun is effective, how effective it is, it depends on the awareness of the community itself. If I look at the difference between the past and present, there have been many changes. In the past, there were still many people who smoked inside the health center or in the health center area. But as time goes by, now it is rare to find visitors who smoke in the health center area."

From the interview results above, it can be seen that the implementation of this smoke-free area has not been effective because it

can be seen from the many violations in the form of smoking activities in the health center area. Referring to the regulation, it is very clear that everyone has the right and obligation to get clean and fresh air. But there are still many people who are negligent and smoke in random places, including in the Langsa City Health Center area. However, there are no sanctions imposed on violators of this rule. This was conveyed by Mrs. Vivi Handayani, SKM., M. Kes, as the head of the Langsa City Health Center as follows: (Vivi, 2024)

“Actually, the sanctions in Qanun Number 1 of 2015 are clearly there. However, the one who follows up on these sanctions is the Satpol PP which is a monitoring team in the field of smoke-free areas, perhaps regarding these sanctions you can ask them directly”

Based on the interview results above, it is clarified by the statement from the health center visitor, namely Sister Rohaya, as follows: (Rohaya, 2024)

" So far, what I know is that the only sanctions given are warnings given by health center employees and the smoke-free area supervision team."

Then an interview with Mr. Sanusi as a visitor to the health center said that: (Sanusi, 2024)

" If they see people smoking in the health center area, the health center will only give them a verbal warning. "

Next, an interview with a visitor to the health center named Nur Laila, who said that: (Nur Laila, 2024)

" As far as I know, the health center only gives warnings if people are caught smoking in the health center area. "

Next, the researcher interviewed the supervisor, namely Mr. Santoso as one of the supervisory team in the field of the Smoke-Free Area of the Langsa City Health Center: (Santoso, 2024)

“Regarding supervision of visitors who smoke, we only reprimand them verbally. If they do not respond to the reprimand, we will remove them from the non-smoking area to smoke in the outside

area, not in rooms where there is a notice stating that the area is non-smoking.”

Then the results of the interview with the Langsa City Government, namely the Mayor of Langsa, Mr. Syaridin, S.Pd., M.Pd said that: (Syaridin, 2024)

“We have also socialized this Smoke-Free Area Policy to several areas that are included in the Smoke-Free Area such as schools, and of course health service facilities such as hospitals, health centers and so on. The installation of stickers and banners has also been carried out at several points of the Smoke-Free Area in Langsa City, which is also an effort to implement the Smoke-Free Area as written in Article 12 paragraph 1 of Qanun No. 1 of 2015. Signs related to the Smoke-Free Area are also certainly at the Langsa City Health Center, we can see it when entering the gate, related to the sanctions given, this is one of our obstacles in informing or appealing to the public because the reality in the field is that there are people who obey the rules and there are also those who do not..”

Based on Qanun No. 1 of 2013 concerning Smoke-Free Areas in Chapter VIII concerning Criminal Provisions, it is stated in articles 27, 28, and 29 as follows: Article 27 states that anyone who violates the provisions as referred to in Article 5, shall be subject to a maximum imprisonment of 1 (one) month or a maximum fine of Rp. 2,000,000.00 (two million). Article 28 states that anyone who violates the provisions as referred to in Article 9, shall be subject to a maximum imprisonment of 2 (two) months or a maximum fine of Rp. 4,000,000.00 (four million rupiah). And Article 29 states that the Head or Person in Charge of a Smoke-Free Area who does not implement the administrative sanctions as referred to in Article 24 paragraph (1) shall be subject to a maximum imprisonment of 2 (two) months or a maximum fine of Rp. 4,000,000.00 (four million rupiah).

From these statements, the role of government is very important. This is the reality that all elements of society, even the government, whether they like it or not, must play an active role in overcoming problems related to smoke-free areas. In addition, the responsibility for implementing Qanun No. 1 of 2015 concerning Smoke-Free Areas must be carried out together.

b. Implementation of Qanun of Langsa City No. 1 of 2015 Concerning Smoke-Free Areas in Langsa City Health Centers Reviewed from Constitutional Law

The study of Constitutional Law or what is known as *fiqh siyasah* is a study that is very urgent and hotly discussed, because it is related to politics which regulate the lives of many people. (Kadri and Tumadi 2022) Oleh karena itu, perlu diketahui secara mendetail apa sebenarnya *fiqh siyasah* agar tidak terjebak dan salah dalam membuat kebijakan politik yang berbasis masalah.

The word *fiqh* in language is the understanding and comprehension of human speech and behavior. In terms according to Islamic scholars, *fiqh* is a science related to laws that are in accordance with Islamic law regarding deeds obtained from its *tafsil* evidence (detailed, special laws taken from its basics, the Qur'an and Sunnah). (Fathulloh and Mufidah 2021)

The word *siyasah* is a form of *masdar* (سياسة - يسوس - ساس) from (*sasa*, *yasusu*, *siyasatan*) which means to organize, manage, drive, lead and govern. The word *sasa* has synonyms with the word *dabbara* which means to organize, lead, govern and government policy. Terminologically, *siyasa* is all behavior that brings humans closer to goodness and away from badness or evil. (Wildan and Furziah 2022) According to the rules of *Fiqh*: (Muhammad Amim, 1986).

الضَّرُّ يُزَالُ

Meaning: "Harm/difficulty must be eliminated".

From the understanding and rules explained above, *Siyasah* is related to organizing and managing people in life in society and the state by guiding them to benefit and avoiding harm. This is in line with Qanun no. 1 of 2015 concerning non-smoking areas at the Langsa City Health Center which prohibits everyone from smoking on public transportation, because the smoke is dangerous both for themselves and others.

The purpose of Constitutional Law is to regulate and make policies regarding something political in nature to achieve something. This is similar to the opinion of Abdullah Wahab Khallaf who defines *Siyasah* as

a law made to regulate order and the benefit of the ummah as well as various matters. From the explanation above from Islamic legal experts, fiqh siyasah is a science studied by the government to create, form or determine regulations and policies for the interests of the state and to realize the benefit of the people. (Saputra 2020) similar rules regarding a leader's policies state: (Abdurrahman Al-Suyuti, 1983)

تَصَرَّفُ الْإِمَامُ عَلَى الرَّاعِيَةِ مَنْوُطٌ بِالْمَصْلَحَةِ

Meaning: "The actions of a leader towards his people must be linked to their welfare."

In other words, the actions and policies taken by a ruler must be in accordance with and in line with the public interest, not the interests of a particular group, in order to realize the welfare of the people.

Fiqh Siyasah is the science of Islamic statecraft which specifically discusses the ins and outs of regulating the interests of humanity in general and the state in particular, in the form of establishing laws, regulations and policies by power holders that are in line with Islamic teachings to realize the benefit of the people. The main sources of siyasah fiqh are the Al-Qur'an and As-Sunnah. These two sources become a reference for power holders to create laws and regulations of power.

The government needs siyasah syar'iyah, because siyasah syar'iyah can be interpreted as administering the state and government based on sharia. Thus, the object of study on siyasah syar'iyah is all matters relating to the administration of the state and government based on Islamic law. Fiqh studies siyasah (Siyasah syar'iyah) guarantees Muslims from things that could harm them. The principles of Islamic government are the truth used as the basis for government administration from an Islamic perspective. The principles of Islamic government as formulated by Muhammad Tahrir Azhary are nine and nine principles, these principles are as follows:

1. The principle of power as trust
2. The principle of deliberation
3. Principle of protection of Human Rights

4. Principle of equality
5. Principles of Public Order
6. Principle of justice
7. The principle of independent justice
8. The principle of peace
9. Welfare principle

In efforts to implement Islamic smoking laws, fiqh siyasah can be used specifically to refer to state and government issues such as regional regulations regarding non-smoking areas, because in the organization of the state and government, there are several implied meanings contained in the word siyasah such as controlling, organizing the government, managing, administering, implementing administration, and making policies. Fiqh Siyasah also has an important position, namely having a strategic position in Islamic society. To think, formulate and establish practical political policies that are useful for the welfare of the Muslim community in particular, and other citizens in general.

In this study, the researcher concluded that Qanun No. 1 of 2015 concerning Smoke-Free Areas is in accordance with the principles of fiqh siyasah, namely policies aimed at the welfare of the people, but in the process of implementation and supervision it has not been fully realized.

Qanun No. 1 of 2015 concerning Smoke-Free Areas has been made in such a way as not to damage the air for people who do not smoke, likewise in Islamic law it is stated that anything that causes harm to oneself and others is prohibited, in the hadith it is stated as follows:

لا ضَرَرَ وَلَا ضَرَارَ

Meaning: "It must not (cause) harm and it must not harm (other people)."

The hadith does not allow any harm and may not cause harm without a justified reason in the Shari'a. Such as contemporary problems that did not exist in the time of the Prophet, for example, drugs and cigarettes. Both are considered haram because they are included in the hadith, namely dangerous and endangering others. The Prophet SAW rejected dharar (harm/harm) and dhirar (causing harm) without a valid reason. So, causing dharar (harm) is a bad action, because it is dangerous

to the body, mind, or property. As with cigarettes or smoking can cause many diseases in the body.

A political policy issued by the holder of power must be in accordance with the spirit of the Shari'a. Political policies issued by the authorities are called *Siyasah Wadiyah* (sources of Islamic law that do not come from revelation). However, *Siyasah Wadiyah* must still be selected and measured within the framework of revelation, if it turns out to be contradictory or not in line with the spirit of revelation. So the political policy made cannot be said to be *Siyasah Syar'iyah* and must not be imitated, as in the words of Rasulullah SAW. *La tha'ata li makhluqin fi ma'siyatillah* (there is no obedience of creatures in committing disobedience to Allah). Choose if it is in accordance with the spirit of benefit and the spirit of the Shari'a, then the policies and regulations set by the authorities must be obeyed and followed. A political policy issued by a power holder must meet the following criteria:

- a. In accordance with and not contrary to Islamic Sharia.
- b. Putting equality (*al-musyawah*) in the position of humans before the law and government.
- c. It does not burden the people who will carry it out.
- d. Creating a sense of justice in society.
- e. Creating benefits and preventing harm.

C. CONCLUSIONS

Based on the results of research conducted by the author regarding the Implementation of Langsa City Qanun No. 1 of 2015 concerning Smoke-Free Areas Reviewed from Constitutional Law (Case Study of Langsa City Health Center), the following conclusions can be drawn:

1. The implementation of the Smoke-Free Area Policy at the Langsa City Health Center has not been fully realized, some of which have been implemented are Article 10 paragraph 1 and 2, Article 12 paragraph 1, 2 and 3, Article 17 paragraph 1 such as socialization and installation of stickers and banners which have been carried out well in efforts to organize the Smoke-Free Area. If viewed from Articles 22, 23, 24 and 25, the Langsa City Health Center only gives verbal warnings, not in writing, so that the community takes the warning lightly, while the qanun states that if a verbal warning

is ignored, administrative sanctions will be imposed in the form of a written warning.

2. Review of Siyasah Fiqh on the Implementation of the No-Smoking Zone Policy in Langsa City is in accordance with the concept of siyasah fiqh which aims for the benefit of the people, however the implementation and supervision process is not yet fully in accordance with the principles of siyasah fiqh. Lack of compliance by employees, staff and the public who come to regulations causes these regulations to not work as expected. Meanwhile, in Islam it is said that every Muslim is obliged to obey the government or regulations if they comply with Sharia.

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