Negotiating Sharia in The Secular State: A Case Study in France and Germany

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Abstract: The European Muslims, the majority of them come from Muslim countries, are facing the identity dilemma. On the one hand, they are the Muslims who are obliged to carry out their religious teaching, but on the other hand, they are the Muslims who have acquired European citizenship who cannot enforce religious laws and instead submit to secular state laws. The study analyzes French and Germany Muslim aspirations and their negotiations on carrying out sharia in the secular state. This is field study by qualitative approach. Primary data was collected by interviews with Muslims of Moroccan, Tunisian, Algerian, and Turkish descent living in France and Germany. The study found that French and German Muslims want to apply sharia, but France and Germany do not allow religious law to be made a state law. These have left French and German Muslims to negotiate without opposition, resistance, and conflict. As European citizens, they accept secular law without losing their religious and social identity, though couldn't fully implement Sharia.
Keywords: Muslim Identity, Sharia, European Law

Abstrak: Muslim Eropa yang mayoritas berasal dari negeri-negeri Muslim menghadapi dilema. Di satu sisi, mereka adalah muslim yang berkewajiban untuk melaksanakan ajaran agamanya, akan tetapi di sisi lain, mereka adalah warga negara Eropa yang tidak dapat memberlakukan hukum agama dan sebaliknya tunduk pada hukum negara yang sekuler. Studi ini menganalis aspirasi Muslim Prancis dan Jerman dan negosiasi mereka dalam melaksanakan syariat Islam dalam sistem hukum sekuler. Penelitian ini menggunakan penelitian lapangan dengan pendekatan kualitatif. Sumber primer studi ini adalah hasil wawancara kepada Muslim berkewarganegaraan Prancis dan Jerman yang berasal dari keturunan

Maroko, Tunisia, Aljazair dan Turki. Studi ini menemukan bahwa Muslim Prancis dan Jerman menginginkan pelaksanaan syariat Islam di dalam hukum negaranya masing-masing, akan tetapi Prancis dan Jerman tidak membolehkan hukum agama dijadikan sebagai hukum negara. Kondisi ini menjadikan Muslim Prancis dan Jerman bernegosiasi tanpa melakukan pertentangan, resistensi, dan konflik. Sebagai warga negara Eropa, mereka menerima hukum negara yang sekuler tanpa kehilangan identitas keagamaan dan sosialnya, meski harus merelakan untuk tidak melaksanakan syariat Islam secara penuh.
Kata Kunci: *Identitas Muslim, Syariat, Hukum Eropa*

Introduction

The European Muslims are built on a pluralistic social structure of ethnic, religious affiliation, philosophical beliefs, political convictions, secular trends, language, and cultural traditions. This diversity of European Muslims is integrated into the cultural and political structures of different ethnic, national, and religious indigenous peoples. They are integrated into single European citizenship living in a European social, political and cultural situation. This presents the paradoxical and complicated identity.[1] On the one hand, Muslims living in Europe have two identities, as Muslims who have obligations to carry out their religious teachings and on the other hand as secular European citizens. It is two identities that change their thought, social behavior, culture, and politics. They are facing a problem, whether as Muslims or as secular Europeans.

As Muslim citizens, they are committed to religious doctrine to carry out religious teaching in Europe. Europe, however, is a region where Muslims are minorities.[2] Muslims have no significant political power in affecting the legal policies of the state. In addition, European cultural and political

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[1]Jennifer Fredette, *Constructing Muslims in France-Discourse, Public Identity, and the Politics of Citizenship*, (Philadelphia, Temple University Press , 2014) Nancy T. Ammerman, "Religious Identities and Religious Institutions", in Michele Dillon (ed.), *Handbook of the Sociologyof Religion*, (Cambridge: Cambridge University Press, 2003), p. 207-208. Allen W. Palmer and Abdullahi A. Gallab, Islam and Western Culture, Kennedy Center, Brigham Young University in Daniel Stout and Judith Buddenbaum (ed.), *Religion and Popular Culture; Studies on the Interaction of Worldviews,* (Iowa State University Press, 2000).

[2]Ceri Peach & Günther Glebe, "Muslim minorities in Western Europe", *Ethnic and Racial Studies*, 18:1 (1995) , p. 26-45. Roberta Aluffi Beck-Peccoz and G. Zincone (eds.,), "The Legal Treatment of Islamic Minorities in Europe", (Peeters, 2004), p.1-10.

structures are secular[3], which do not integrate religion and state. In the case of sharia implementation, the European Muslims, as a minority, cannot claim to implement sharia in public space, as they are bound to the secular systems of European law and culture. It is the struggle and battles of these two identities that affect the European Muslims in aspirating sharia[4] as state law. They then negotiated the identity of Islam by adjusting to European life.

Muslims in Europe are subject to secular law systems that do not accommodate the values of sharia. Political modernization in Europe has chosen political secularization.[5] Thus Muslim aspirations of implementing sharia are carried out within the framework of conserving European countries from the penetration of Sharia which is seen as damaging European identity. Iner and Yucel (2015) found Muslim's attachment to religious identity will be a problem in Europe. Religion became crucial to the identification of Muslims in Europe, while European identity was ignored. That is why the religious identity of Muslims in Europe is always taken into account in the discourse of negotiation, integration, and reaction.[6]

Identity construction in many cases cannot be separated from religion, including in Europe. Oppong (2013) indicates that religion is a positive correlation to the formation of identity. This implies that identity is closely related to the internalization of religious commitment. The relationship between religion and identity can depend on numbers of factors as such the intensity of the religious commitment, the influence of communities on individual behavior, time (momentum), and demographic.[7] Identity contains relevant content and purpose (such as what to do, what to value, and how to value).[8] Thus, the person with a religious identity has an attitude about what to do, what to appreciate, and how to behave. Religious identification offers

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[3]Silvio Ferrari, "The Secular State in a Declining Europe", *Journal of Law, Religion and State*, 2019, p. 13–30. José Casanova, "Religion, European Secular Identities, and European integration", Transit 27 (2004), p. 1-16.

[4] M Arskal Salim GP, "Competing Political Ideologies on the Implementation of Islamic Law in Indonesia: Historical and Legal Pluralist Perspectives" in *Ahkam* Volume 17, No 2 (2017), p. 259. Khamami Zada, "Politik Pemberlakuan Syari`At Islam di Aceh dan Kelantan (1993-2014)", *Al-Ihkam*, Volume 10 No. 1 Juni 2015, p. 49-50.

[5]Masykuri Abdillah, "Hubungan Agama dan Negara dalam Konteks Modernisasi Politik di Era Reformasi" *Ahkam* Volume 13, No 2 (2013), p. 247-258.

[6]Derya Iner and Salih Yucel (ed.), *Muslim Identity Formation in Religiously Diverse Societies*, (UK: Cambridge Scholars Publishingh, 2015), p. viii-ix

[7]Steward Harrison Oppong in "Religion and Identity", *American International Journal of Contemporary Research* Vol. 3, No. 6, June 2013.

[8] Daphna Oyserman Kristen Elmore George Smith, "Self, Self-Concept, and Identity" in Mark R. Leary June Price Tangney, *Handbool of Self and Identity*, (New York: The Guilford Press, 2012), p. 73.

a strong social support system and a convincing worldview. This can risk extremes of attitudes and actions to protect their worldview, which in turn supporting conflict.[9] Therefore, the construction of religious identity is largely influenced by individual religious commitment, the social interaction community in society, the periodic momentum that leads to grouping, and the demography that determines the composition of the majority minorities.

Ysseldyk, Matheson, and Anisman were exploring the relationship between religion and identity. Religion correlates positively with the formation of identity. The power of links between religion and identity is stronger for younger individuals than it is for adults. Likewise, religion as an important determinant of identity development tends to be stronger and more binding in the past compared to the modern era. Overall, religion tends to be the primary determinant of identity formation depending on the circumstances, the covered groups, and the period covered in the analysis.[10] In the case of youth in the United States, Hasan Kaplan found that religiosity is an important factor affecting the development of the identity of second-generation Muslim youth and their integration into American society. This study succeeded in revealing two emerging identity patterns: Islamists who exclusively identify themselves with Islam and reject integration into American society; and American Muslims who loosely identify themselves with Islam and try to be part of American society without abandoning traditional values.[11]

Self, social and religious identities attached to European Muslims have been significant contributing to their understanding, thinking, social and political struggles. None other than they in turn had the desire and aspirations to practice religious teachings at the public level. The religion they believe is not in a private space, but also in a public space, where a broader domain is accommodating in political and even European decisions. At this level, a European Muslim will always identify himself as a Muslim or citizen.

The study analyzes European Muslim aspirations for the implementation of Sharia in European legal system and their efforts to negotiate sharia as

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[9] Renate Ysseldyk, Kimberly Matheson, and Hymie Anisman, "Religiosity as Identity: Toward an Understanding of Religion From a Social Identity Perspective", *Personality and Social Psychology Review* Volume 14 (1), 2010, p. 67.

[10] Renate Ysseldyk, Kimberly Matheson, and Hymie Anisman, "Religiosity as Identity: Toward an Understanding of Religion From a Social Identity Perspective", *Personality and Social Psychology Review* Volume 14 (1), 2010, p. 67.

[11] Hasan Kaplan "Relationship Between Religion and Identity Development: A Study of Second Generation American Muslim Adolescents, *Dissertation*, 2005.

state law. This study limits European Muslims who are French and German citizen who came from Arab countries and Turkey. The method used in this study is field research with a qualitative approach. Primary data are drawn from interviews and field observations. Data collecting techniques involve deep interviews conducted by Muslims of Moroccan, Tunisian, Algerian, and Turkish descent living in France and Germany. Data collected is then analyzed by mapping French and German Muslims aspiration and their negotiation for the implementation of Sharia in secular legal system.

Identity and Social Structure

Identity is a condition or reality about the same thing, a state that is similar to one another; or the fact of something being the same between two people or two things, conditions that describe something that is the same between two people (individuality) or two groups or things.[12] Identity indicates ways in which individuals and collectivities are distinguished from other individuals and collectivities.[13]

In the social sciences literature, identity is often equated with self and self-concept. The self-concept and identity are used in perceptions of the self or refer to membership in socio-demographic categories such as gender or social class.[14] Peter J. Burke and Jan E. Stets argue that identity is a set of meanings that determine a person as the owner of a certain role in society, a member of a particular group, or claims certain characteristics that identify him as a unique person.[15]

Theoretically, identities are divided into personal identity and social identity. The social identity describes a person as a member of a group, one's feelings about group membership, and a knowledge of group status compared with other groups. The personal identity reflects a trait or characteristic that feels separate from one's social identity and role or is associated with some or all identity. In many ways, people have as many interaction partners as they have, so one can have multiple identities based

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[12] Alo Liliweri, *Makna Budaya dalam Komunikasi Antar Budaya* (Yogyakarta: PT LKiS Pelangi Angkasa, 2007), p. 69.

[13] Richard Jenkins, *Social Identity* (United Kingdom: Routledge, 2008), p. 15.

[14] Daphna Oyserman Kristen Elmore George Smith, "Self, Self-Concept, and Identity" in Mark R. Leary June Price Tangney, *Handbook of Self and Identity*, (New York: The Guilford Press, 2012), p. 74

[15] Peter J. Burke and Jan E. Stets, *Identity Theory*, (New York: Oxford University Press, 2009), p. 3.

on several situations. In every interaction, people take a different identity.[16] Identity is a key element of subjective reality and, like all subjective reality, relates dialectically to society, so identity is formed by social processes.[17]

In Jenkins's view, individual and collective identities develop systematically and evolve over one another's involvement. Individual and collective identity is an interaction external profusion identified by others as internal identification. The process of identity is produced both in the discourse (narrative, rhetoric, and representation) and in the matter, is often very practical, the consequence of identity setting.[18] Identity always involves two criteria of comparison between people and things related to similarities and differences. Within the realm of social identity, two subjects serve as centers of attention: individual and collective social identity. On the other hand, the identification of a collective identity is to evoke a strong image of people who in some ways (subject) seem to resemble each other. By involving social and psychological aspects, the theory of social identity provides tools for problems associated with the phenomena of collective life, along with the effects they produce.[19] In social identity a person is based on identification with an ethnic group, gender, or other social affiliation. Social identity is vital because it provides a sense of belonging and position in the world.[20]

Basically, every individual is always competing to have a positive identity in the eyes of other groups to get recognition and. In a situation where the individual or group feels that their identity as a member of a group is less valuable, the phenomenon of misidentification will appear an attempt to identify other identities/groups that are considered better.[21] People struggle to acquire or maintain a positive social identity and when social identity is viewed as unsatisfactory, they will join groups where they feel more comfortable or create groups where they are associated as more pleasant places.[22] This means that the function of a person's social identity or

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[16] Daphna Oyserman Kristen Elmore George Smith, "Self, Self-Concept, and Identity" in Mark R. Leary June Price Tangney, *Handbook of Self and Identity*, (New York: The Guilford Press, 2012), p. 72-75

[17] Peter L. Berger, *Tafsir Sosial atas Kenyataan, Risalah Tentang Sosiologi Pengetahuan* (Jakarta: LP3ES, 1990), p. 235.

[18] Richard Jenkins, *Social Identity*, p. 17, 45, 200-201.

[19] Richard Jenkins, *Social Identity*, p. 16-17, 102.

[20] Carole Wade dan Carol Tavris, *Psikologi*, (Jakarta: Erlangga, 2009), p. 310.

[21] Budi Susetyo, *Krisis Identitas Etnis Cina di Indonesia* (Kupang: Unika, 2007), p. 5

[22] Lynn H. Turner and Richard West, *Pengantar Teori Komunikasi Analisis dan Aplikasi*, (Jakarta: Salemba Humanika, 2008), p. 218.

group of people is intended to help him establish higher, efficient, effective, dialectical identity and self-confidence.

The European Muslim Identity

Islam is the fastest developing significant religion in Europe, primarily because of immigration and higher fertility rates among Muslims. Immigrants from Muslim countries came to Europe, particularly in Germany and France. The top region of origin of them are Turkey, the Maghreb (including Morocco, Tunisia and Algeria), and South Asia (including Pakistan and Afghanistan).

Colonialism has been the main link of Muslim migration from Maghreb to Europe. French colonialism into Algeria, Tunisia and Morocco for centuries has formed the perception that France is a welfare state.[23] Colonialism had changed the language and culture of Maghreb countries. The second language of these countries is French. Their cultures also centered on France. European colonialism into Muslim areas has transformed cultures in the form of acculturation and assimilation. The situation was so strengthened by the European countries glory so that Muslim countries tried to identify to western culture.

The identity of Muslims in Europe refers to Stuart Hall's theory of identity". In Hall's sense, identity is a creation of the battling and accommodating process where the subject battles with the discourse power.[24] In this perspective, Aisyah and Kamasyi are part of French Muslims who have identified themselves as French citizens. However, both are also revealing their identity to the social life: Muslims and French. Their religious identity remains in secular French culture. Both received a secular French identity. The practice of cheek-to-cheek kissing when meeting friends as a secular French culture is practiced, but a Muslim identity remains held by rejecting French culture that is unduly prohibited by religious teaching.

French Muslims are fanatical about their religious duties. Some have radical views, especially when faced with state policies that they view as unprofitable when it comes to carrying out religious obligations.[25] Yet, often they do not dare to fight it head-on, one side for political and economic reasons. However, not all who claim to be Muslim are devoted Muslims, one

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[23]Milton Viorst,. "The Muslims of France." *Foreign Affairs* 75, no. 5 (1996), p. 78-96.

[24] Stuart Hall, Introduction: Who Needs 'Identity'? Hall, Stuart (1992), "The Question of Cultural Identity," Stuart Hall, David Held and Tony McGrew (eds.), Modernity and its Futures, Cambridge: Polity Press, p. 2-17. Kathryn Woodward, *Identity and Difference*, London: SAGE Publication, 199, p. 51-59.

[25] Interview with Ayub Mursalin, 3 Nopember 2020

factor being the lack of religious institutions that give maximum religious knowledge to children or teenagers, in addition to being influenced by the secularism that separates anyone from religion.[26]

So did Germany, make its people migrate to Germany. Europe's broad and great perception after the fall of Turkey's Ottoman empire has attracted Turks to come into Germany. Germany serves as an axis for the Turks.[27] Turkey has tried to escape the shadow of the Ottoman Turks and prefers to identify with Europe. European secularism was once applied by Turkey to boost Turkish civilization. This is part of the Muslim heritage of progressive and prosperous Europe.

The modern factor that makes Muslims into Europe is economics. Migration to Europe is part of getting out of economic poverty in its country. The poverty that afflicting Muslim countries and the wealth and prosperity that Europe has now gained has become a great attraction to Muslims. They want to improve their life and well-being. No wonder they migrated to Europe to try their luck to prosper, no longer being on the poverty line.

Thus, Muslim identities in European countries are religion, nation, and citizenship. Muslim identities in European countries are created by the trigger of colonialism and the pinnacle of their civilization, so Muslims in Europe are never independent of religion and nation. Muslims in Europe as immigrants are Muslims from the Muslim countries. The identity of Islam-Arab is never released by them, although as European citizens. They remain Muslim. They just want to be prosperous. The identity of Islam-Arab is inherent in European Muslims. It means their faith and their religious practices are based on Islamic religion and Arab.

However, European Muslim identities also face factual realities as citizens. They are European citizens, no longer those of Algeria, Tunisia, Morocco, and Mauritania, and Turkey. Although they came from Muslim countries, they are now French or German citizens. Nor can these formal identities be released from European Muslims. They do not want to be immigrants or descendants of immigrants from Algeria, Tunisia, Morocco, and Mauritania, and Turkey. They are either French or German citizens. They won't release this identity.

Plurality of identities Muslims in France and Germany are then reflected in the surrounding social situation. If they take their positions as European citizens, their Islamic identity will be exposed to the social, political, and legal realities practiced in Europe, because France and Germany are not the

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[26] Interview with Ayub Mursalin, November 3, 2020
[27] Interview with Kevin, July 2020

countries that give much space to religion. France in particular asserted that it was a secular state that prohibited religious identity in public space. Secularism is the European identity. Although religion is not banned, religion has little effect on the state.

As Muslim European citizens, there is a bipolarity of identity between Islamic identity and secular Europe. On the one hand, they want Sharia implementation as it does for Kevin, a Muslim in Germany,[28] on the other hand, European countries are secular, separating religion from state. The radical Muslim in Europe will always reject secularism. Instead, the moderate Muslim will accommodate Islamic identity in secular state. Most Muslims in France and Germany, such as Kevin, Mahmoud el-Hawari, Qadir Jelani, Talji, and Said, identify as French and German Muslims who have conservative views, but not radical fanaticism. They accepted French and German secularism.[29]

In practice, they can integrate Islamic identity into French and German cultures. In multicultural communities, French and German Muslims are willing to follow the public discourse, respect the rules, and tolerate others.[30] However, there are some French and German Muslims who are unprepared for a European multicultural society that has frightened French and German natives to lose their native identities.[31] However, the French and German governments accept their culture and guarantee its authenticity.[32]

Muslim Aspirations for Implementation of Sharia

Sharia is a set of Islamic religious law which Muslims are obliged to carry out, but the secularism that is the ideology of European countries makes sharia unequal to state law. Secular countries reject Islamic determinations.[33] The state and religion are two distinct forms, with each other in their field, so that the existence must be separated and must not be allowed for interventions. Based on these insights, the prevailing state laws were the laws of the citizen agreement and had nothing to do with religious

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[28] Interview with Kevin, July 2020

[29] Interviews with Kevin, Mahmoud el Hawari, Qadir Jelani, Talji, and Said, July 2020.

[30] Will Kymlicka, Politics in the Vernacular: Nationalism, Multiculturalism, Citizenship, (Oxford University Press: New York), 2001 p. 296.

[31] Moddie Alviano Wicaksono, "Dinamika Imigran Muslim di Perancis melalui Ruang Publik pada Pemerintahan Nicholas Sarkozy", *Transformasi Global* Volume 4 Nomor 2, 2020, p. 189.

[32] Will Kymlicka, *Politics in the Vernacular : Nationalism, Multiculturalism, Citizenship*, (Oxford University Press : New York, 2001), p. 152.

[33] Ernest Gellner*, Sosiologi Sekularisasi; Suatu Kritik Konsep*, (Yogyakarta: Tiara Wacana, 1992).

law.[34] In these conditions, Muslims in Europe are divided. Amel Boubakeur views Muslims in Europe, not inhomogeneous blocks with immigrant backgrounds.[35]

First, people who aspire for sharia to be fully implemented in the state. They are Muslims who still have strong religious notions that each Muslim is obliged to implement Islam perfectly. Kevin, a German Muslim of Turkish descent, believes that sharia has been fully implemented in his country.[36] The sharia refers to worship, marriage, divorce, heirs, parenting, economics, crime, and systems of government. Kevin's conviction is enacting the secularism of Europe that prohibits sharia as the state law. Just as Kevin, Zarkasyi al-Yazidi, a German Muslim aspire sharia to be applied in Germany.[37] Kevin and Zarkasyi's view is supported by Muhammad Imad, a French Muslim who thought that the law of God is the best law to be applied.[38] The French and German Muslim aspiration to propose sharia as state law is based on Muslim obligation to live under sharia. Modern legal systems require that the whole norms of society be enacted as state law. The implementation of sharia also requires the state to do so. No wonder many French and German Muslims want to impose sharia as state law.

Secondly, people who don't aspire sharia to be fully implemented in the state. They only want to implement sharia in family and economic law. They are Muslims who have embraced the secular European culture. They could be called European Muslims who would submit to the secular law. There is no desire to implement sharia in the fields of public law. As Muslims, they have made their lives comfortable in Europe by accepting European cultures, laws, and politics. Nurdin, Karim, Muhammad, Said, Aisyah, and Kamasyi are comfortable with French law without the need to implement sharia in state law. They want sharia to be resilient and subject to secular law because they have not enough power to change all at once.[39]

Third, people who reject the implementation of sharia. They are secular Muslims living in European countries. Religious affinity is simply a matter of faith, but in their daily lives, they are Europeans who practice secular

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[34]Agus Thohir, Thohir, Agus, ''Relasi Agama dan Negara'', Unpublished paper, presented at the Spiritual Study Discussion organized by the HMI Commissariat of FPBS IKIP PGRI, Semarang, November 4, 2009, p. 4.

[35] https://www.france24.com/en/france/20201030-islam-is-being-hyper-politicised-in-france-but-muslims-are-not-in-the-debate

[36] Interview with Kevin, July 2020.

[37] Interview with Zarkasyi al-Yazidy, 2020.

[38] Interview with Muhammad Imad, 2020

[39] Interview with Kevin, Mahmoud el Hawari, Qadir Jelani, Talji, and Said, July 2020.

culture. These types of Muslim groups are those who have been assimilated into European culture.

Most Muslims in France and Germany are those who want to partially implement Sharia and do not want to go against the secular laws of Europe. Thus, as long as they can carry out worship, marriage and divorce, they take it. This is The French and German Muslims negotiation in the face of secular states that reject to implement Sharia as state law. The French and German Muslims negotiate their cultural identities as Muslims from Arab-Muslim countries and as French and German citizens who employ secularism. Muhammad Imad and Zarkasyi al-Yazidi stated that the Sharia is applied in his family because Islam does not become the state law.[40]

They adapt to secularism while carrying out Islamic teachings to a limited level, so long as it does not collide with state law. In criminal law field, Muslims in France and Germany do not impose their will to implement Sharia altogether. They look at areas of Islam that the state allows to do, namely, worship, marriage, divorce, inheritance, and parenting. Governments have given Muslims the opportunity to buy halal meals in several supermarkets. High-end food corners are available in the supermarket. Traditional Arab Muslim markets are also available. This is what Muslims visit to shop for the bare necessities next to the convenience stores in the neighborhood. Muslims living in secular countries, such as France and Germany, are not forbidden to aspire to implement sharia as the state law[41] but they are facing serious difficulties in carrying out sharia because only certain areas were allowed to carry out.

The implementation of sharia requires the state as an institution that enforces it. A Muslim who wants to pray will need a place of worship that is regulated by the state. A Muslim who wants to do marriage or divorce needs the state as an institution that keeps records. A Muslim who will carry out criminal law really needs the state as an institution in charge of enforcing criminal rules. In other words, sharia needs to be formalized as state law. However, for Muslims who live in secular countries such as France and Germany will face difficulties in implementing sharia. France and Germany do not allow sharia to become state law because it is contrary to the values of secularism. This difficulties are experienced by all Muslims in secular countries.

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[40] Interview with Muhammad Imad and Zarkasyi al-Yazidi, July 2020.

[41] Interview with Yann Bernitzky, Attache of the French Embassy in Indonesia, 10 June 2021 at Jakarta

Religious movements in fighting for sharia are carried out based on mosques as centers of Muslim worship in Europe. They pray, teach religion, and discuss the spread of Islam in mosque. Worship and mosque-based education became the sole focus of the Islamic struggle in Europe. Muslims in France and Germany use mosques as a means of worship and center for demand for implementation of sharia.

Arab settlements also can be the basis of movements to fight for sharia, but the strong control of the rulers over the residents makes Muslims settlements unable to become a strong cultural base. Islamic preaching in the community is only carried out in mosques, while communities in Muslim settlements cannot be used as a basis for movement because public spaces have been regulated so tightly. Practically only radical terrorist groups use residential bases (apartments) to build the sharia movement. ISIS groups in Europe, for example, build awareness of sharia implementation through family in apartments. They do not dare to appear in public spaces such as mosques. They launched their movement through small family communities from generation to generation.

The family planning movement is also carried out by increasing the number of children to increase the Muslim population. Thus, Muslims in Europe can outperform the number of non-Muslims. The population deficit is being reduced more and more by the large number of births among Muslims. The increase in the Muslim population is also carried out by increasing migration from Arab countries to Europe due to war or poverty.

The demand for the implementation of Islamic teachings in France faces difficulties after the restriction of religious symbols in France, especially during the reign of Nicholas Sarkozy (2004). France bans religious symbols, such as the headscarf. Muslims in France are prohibited from wearing headscarves for students and employees while they are in schools and offices. The call to prayer is prohibited if the sound is heard outside the mosque. The minaret of the mosque should not be higher than 30 meters. In the previous government, Jacques René Chirac, the headscarf became a polemic for the government which prompted the Chirac government to form a team which then issued a recommendation that the use of all religious symbols be prohibited, including the headscarf. [42]

The main argument for the prohibition of the headscarf is the secularism practiced by France in the concept of "laicite". The concept of laicite implies freedom or neutrality towards religion or other belief systems,

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[42]Imam Marzuki, "Peran Politik Umat Islam di Perancis Pada Masa Presiden Nicolas Sarkozy (2007-2012)", *In Right* Volume 1, No. 2, 2012, p. 419, 437.

including atheism. As a result of the solid foundations for secularism in France, the debate over traditional Muslim clothing (burqah and niqab) in France is very different from that of other European countries. So it is not surprising that in France the headscarf tends to be seen as an attack on equality against women. [43] For Muslims in France, such as Qodir Jaelani, the headscarf is a religious obligation. [44] This view is in line with the results of the FLOP research which confirms that 75 percent of Muslims strongly support the use of religious symbols, whether it concerns parents accompanying school trips, students, private sector employees, or public service employees. [45] The headscarf does not emphasize Muslim radicalism which is contrary to French secularism. The reciprocal attitude between Muslims and France can be brought together in a framework of thought: France can accommodate Islam and Muslims can adapt to French secularism.[46]

Unlike France, in Germany, there is no prohibition against wearing the headscarf in public places or in schools, but not so in the office. Some employers prohibit their workers from wearing religious symbols, especially in public-related work positions. Thus, a Muslim who wears a headscarf and works in a hospital is forced to only wear a head covering or a hat which ends up keeping his neck exposed. Muslims who wear the headscarf in Freiburg, Germany can only work as cleaners, or jobs that tend to be unrelated to many people. Indeed, not many (almost none) Muslim women are seen working in public spaces in Freiburg, Germany. [47]

In other cases, the French government has enacted a policy that prohibits Muslims from worshiping in the streets. This ban was later met with resistance from hundreds of Muslims by taking over the streets and sidewalks in Paris and other French cities to offer prayers. The ban is the government's response to the growing public anger in France over the phenomenon of Muslims praying in the street. Every Friday, thousands of Muslims from Paris to Marseille close streets and sidewalks to accommodate people who perform Friday prayers. Some mosques also started preaching to

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[43] Imam Marzuki, "Peran Politik Umat Islam di Perancis Pada Masa Presiden Nicolas Sarkozy (2007-2012), *In Right* Vol. 1, No. 2, Mei 2012, p. 427-428

[44] Interview with Qadir Jelani Juli 2020.

[45] https://rmx.news/article/article/57-of-young-muslims-in-france-believe-that-sharia-law-is-superior-to-french-law

[46] Adam Lebor, *Pergulatan Muslim di Barat antara Identitas dan Integrasi*, (Jakarta; Mizan Pustaka, 2009) p. 210.

[47] Tuti Elfrida, "Menjadi Muslim di Freiburg: Studi Kasus Praktik Keagamaan Komunitas Muslim di Freiburg, Jerman", *Kajian Wilayah*, Vol. 4, No. 1, 2013, p. 82-83.

call and invite with the call of "Allahu Akbar" (azan) through loudspeakers in the streets. [48]

As for Germany, it turns out that Friday prayers are not only performed in mosques. There is also a Muslim community formed by native Germans who perform Friday prayers in the middle of a city park. They formed their own community apart from the two large communities because of the language barrier. Arab mosques use Arabic when delivering sermons, while Turkish mosques use Turkish. Due to incomprehensible language, German Muslims formed their own communities and performed Friday prayers in the open. This activity has been going on for twenty years.

Conclusion

The European Muslims, especially in France and Germany, have many identities. The majority of them are ethnically Arab, Muslim, and French or German citizens. There are at least two distinct identities: Muslim identity and European citizenship. Muslim identity is willing to apply sharia as state law, instead European identity is willing to separate religion from public life. These identity upheavals have been bridged by European Muslims to confirm their European identity. As Muslims, they aspire to implement sharia, and as French and German citizens, they submit to the secular law of the state. This condition makes European Muslims negotiate themselves that have identity plurality as a rallying point. The European Muslims do not choose to do resistance and conflict. They negotiate to implement sharia in the private law such as marriage, divorce, and heritage. They also negotiate to practice rituals such as pray and fasting. They take the symbiotic path as part of a mutually beneficial process of not excluding total religious obligations while becoming obedient European citizens. As European citizens, they accept the secular law of the state as part of the acceptance of the elements of European culture and are processed into their own culture without causing the loss of their cultural personalities. In other words, they become Europeans who have not lost their religious and social identity, though having to give up completely sharia. They negotiated Islamic identity with secular European culture by not demanding that all sharia values be implemented. Only the main Islamic teachings that they strive for ease of access, such as freedom to worship, while the provision of halal food and drinks in supermarkets, headscarves in schools and workplaces, construction of mosque minarets, are not forced to be implemented. German and French

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[48] Imam Marzuki, Peran Politik Umat Islam di Perancis Pada Masa Presiden Nicolas Sarkozy (2007-2012), *Right* Volume 1, No. 2, Mei2012, p. 438-439.

Muslims will fight for ease of access and tend to tolerate some non-urgent teachings of sharia.

References

Abdillah, Masykuri, "Hubungan Agama dan Negara dalam Konteks Modernisasi Politik di Era Reformasi" *Ahkam*/Volume 13, No 2 2013.

Beck-Peccoz, Roberta Aluffi and G. Zincone (eds.,), *The Legal Treatment of Islamic Minorities in Europe*, Peeters, 2004.

Berger, Peter L., *Tafsir Sosial atas Kenyataan, Risalah Tentang Sosiologi Pengetahuan*, Jakarta: LP3ES, 1990.

Burke. Peter J. and Jan E. Stets, *Identity Theory*, New York: Oxford University Press, 2009.

Casanova, José, *Religion, European Secular Identities, and European integration, Transit* 27 2004.

Dillon, Michele (ed.), *Handbook of the Sociologyof Religion*, Cambridge: Cambridge University Press, 2003

Elfrida, Tuti, "Menjadi Muslim di Freiburg: Studi Kasus Praktik Keagamaan Komunitas Muslim di Freiburg, Jerman", *Kajian Wilayah*, Vol. 4, No. 1, 2013

Ferrari, Silvio, "The Secular State in a Declining Europe", *Journal of Law, Religion and State*, 2019.

Fredette, Jennifer, Constructing Muslims in France-Discourse, *Public Identity, and the Politics of Citizenship*, Philadelphia, Temple University Press, 2014.

Gellner, Ernest, *Sosiologi Sekularisasi; Suatu Kritik Konsep*, Yogyakarta: Tiara Wacana, 1992.

Hall, Stuart Stuart Hall and Paul Du Gay (eds.), *Questions of Cultural Identity*, London: SAGE, 1996

Hall, Stuart, David Held, and Tony McGrew (eds.), *Modernity and its Futures*, Cambridge: Polity Press, 1992

Iner, Derya and Salih Yucel (ed.), *Muslim Identity Formation in Religiously Diverse Societies*, UK: Cambridge Scholars Publishing, 2015.

Jenkins, Richard, *Social Identity*, United Kingdom: Routledge, 2008.

Kaplan, Hasan, "Relationship Between Religion and Identity Development: A Study of Second Generation American Muslim Adolescents, *Dissertation*, 2005.

Kymlicka, Will, *Politics in the Vernacular: Nationalism, Multiculturalism, Citizenship*, Oxford University Press: New York, 2001.

Lebor, Adam, *Pergulatan Muslim di Barat antara Identitas dan Integras*, Jakarta; Mizan Pustaka, 2009.

Liliweri, Alo, *Makna Budaya dalam Komunikasi Antar Budaya*, Yogyakarta: PT LKiS Pelangi Angkasa, 2007.

Milton Viorst,. "The Muslims of France", *Foreign Affairs* Volume 75, No. 5 (1996)

Oppong, Steward Harrison "Religion and Identity," *American International Journal of Contemporary Research* Volume 3 No. 6 (2013).

Peach, Ceri & Günther Glebe, "Muslim minorities in Western Europe", *Ethnic and Racial Studies*, 1995.

Salim GP, M Arskal, "Competing Political Ideologies on the Implementation of Islamic Law in Indonesia: Historical and Legal Pluralist Perspectives" *Jurnal Ahkam* Volume 17, No 2. 2017.

Stout, Daniel and Judith Buddenbaum (ed.), *Religion and Popular Culture; Studies on the Interaction of Worldviews,* Iowa State University Press, 2000.

Susetyo, Budi, *Krisis Identitas Etnis Cina di Indonesia*, Kupang: Unika, 2007.

Tangney, Mark R. Leary June Price, *Handbook of Self and Identity*, New York: The Guilford Press, 2012.

Thohir, Agus, "Relasi Agama dan Negara", Unpublished paper, presented at the Spiritual Study Discussion organized by the HMI Commissariat of FPBS IKIP PGRI, Semarang, November 4, 2009.

Turner, Lynn H. dan Richard West, *Pengantar Teori Komunikasi Analisis dan Aplikasi*, Jakarta: Salemba Humanika, 2008.

Wade, Carole dan Carol Tavris, *Psikologi*, Jakarta: Erlangga, 2009.

Wicaksono, Moddie Alvianto, "Dinamika Imigran Muslim di Perancis melalui Ruang Publik pada Pemerintahan Nicholas Sarkozy", *Jurnal Transformasi Global* Volume 4 Nomor 2, 2020.

Woodward, Kathryn, *Identity and Difference*, London: SAGE Publication, 1996.

Ysseldyk, Renate, Kimberly Matheson, and Hymie Anisman, "Religiosity as Identity: Toward an Understanding of Religion From a Social Identity Perspective Personality and Social" *Psychology Review* Volume 14 (1), 2010.

Zada, Khamami, "Politik Pemberlakuan Syari`At Islam di Aceh dan Kelantan (1993-2014)" *Al-Ihkam*, Volume 10 No. 1 Juni 2015.

Internet

http://jurnal.arraniry.ac.id/index.php/samarah

https://rmx.news/article/article/57-of-young-muslims-in-france-believe-that-sharia-law-is-superior-to-french-law

https://ihram.co.id/berita/qk2wu6385/prancis-emkalahem-bertempur-dengan-muslim-islamdan-barat-part1

https://www.france24.com/en/france/20201030-islam-is-being-hyper-politicised-in-france-but-muslims-are-not-in-the-debate

Interviews
Interview with Aisyah, Novembre, 2016.
Interview with Ayub Mursalin, Novembre 2020
Interview with Kamasyi, Novembre 2016.
Interview with Qodir Jelani, July 2020.
Interview with Mahmoud el Hawari, July 2020.
Interview with Talji, July 2020.
Interview with Said, July 2020.
Interview with Kevin, July 2020.
Interview with Muhammad Imad, July 2019
Interview with Nurdin and Karim, July 2019.
Interview with Muhammad, July 2020.
Interview with Zarkasyi al-Yazidy, July 2020.
Interview with Yann Bernitzky, June 2021