



The Effectiveness of Aceh's Jinayat Qanun on Crime Rates in the Community in a Review of Legal Socialization

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Abstract: Qanun Jinayat Aceh reflects Aceh's condition after being recognized as an area that is allowed to implement Islamic law. Even though it is legal, the next problem is how to actualize it so that it is not only a juridical struggle. The challenge in implementing the qanun jinayat by the Aceh government is how to be objective, not sharp down and blunt up. The next challenge is how the community is aware of the law with various legal socializations carried out by the Aceh Islamic Shari'a Service. This research is classified as field research with a qualitative approach. The methodology used is a juridical-empirical study. This means how the law's legality is associated with events and phenomena in the field. The primary sources in this study were informants at the Syariat Islam service in Aceh Tamiang and Langsa City, lecturers in the field of Islamic Criminal Law (HPI) at IAIN Langsa, MPU Aceh Tamiang and MPU Langsa City, and communities around Aceh Tamiang and Langsa cities. The results of the study conclude that the Qanun Jinayat has not been effective in suppressing the crime rate in Aceh. The causes are, first, because legal socialization is not right on target and only touches some levels of society. Second, many people still choose to settle jinayat cases through customary law with light sanctions, which does not have a deterrent effect.

Keywords : Mention Effectiveness, Qanun Jinayat, Legal Socialization, Aceh

Abstrak: Qanun Jinayat Aceh adalah refleksi dari kondisi Aceh setelah diakui sebagai daerah yang boleh melaksanakan syariat Islam. Meskipun sudah legal, permasalahan selanjutnya adalah bagaimana mengaktualisasikannya sehingga tidak sebatas perjuangan yuridis semata. Tantangan pelaksanaan qanun jinayat oleh pemerintah Aceh adalah bagaimana bersikap objektif, tidak tajam ke bawah dan tumpul ke atas. Tantangan selanjutnya adalah bagaimana masyarakat sadar hukum dengan berbagai sosialisasi hukum yang dilakukan dinas syariat Islam Aceh. Penelitian ini tergolong dalam penelitian lapangan dengan pendekatan kualitatif. Metodologi yang digunakan adalah studi yuridis-empiris. Artinya bagaimana legalitas hukum dikaitkan dengan kejadian dan fenomena di lapangan. Sumber primer dalam penelitian ini adalah informan pada dinas Syariat Islam Aceh Tamiang dan Kota Langsa, Dosen-dosen yang membidangi ilmu Hukum Pidana Islam (HPI) di IAIN Langsa, MPU Aceh Tamiang dan MPU Kota Langsa, dan masyarakat sekitar wilayah Aceh Tamiang dan Kota Langsa. Hasil penelitian menyimpulkan bahwa Qanun Jinayat belum efektif dalam menekan angka kriminal di Aceh. Adapun penyebabnya adalah; *pertama*, karena sosialisasi hukum yang tidak tepat sasaran dan tidak menyentuh seluruh lapisan masyarakat. *Kedua*, masih banyak masyarakat yang memilih penyelesaian kasus jinayat melalui hukum adat dengan sanksi ringan dan tidak menimbulkan efek jera.

Kata Kunci : dinas syariat, qanun jinayat, sosialisasi hukum, Aceh

Introduction

The teachings of Islam in Aceh are included in a long and continuous historical record. Aceh's seniority as a region that embraced Islam earlier than Indonesia's independence, which fell in 1945, is reflected in So it is not surprising that Aceh is dubbed as the Veranda of Mecca because of its identity as the entrance of Islam to the archipelago.¹ Aceh, as part of the Unitary State of the Republic of Indonesia, is the area where the most intense proclamation of Islamic law is enforced kaffah. The struggle was not easy. Indonesia not only faced serious challenges during the colonial period but also experienced complications when Indonesia succeeded in achieving independence.

After experiencing a tortuous and bloody struggle, Aceh finally obtained the authority to carry out Islamic law in 1999. Aceh at that time received special autonomy rights so that it could enforce a sharia-based region. The legal basis that allows it is Law Number 11 of 2006 concerning the Government of Aceh, which previously was Law Number 18 of 2001 concerning Special Autonomy for Aceh as a province of NAD (Nanggroe Aceh Darussalam).²

The law is the initial step for Aceh so that it is more flexible in implementing the values of Islamic law as coveted by its predecessors. Likewise, in the implementation of the jinayat aspect, which previously often clashed between the legal basis outlined by the government and the habits of the Acehnese people, which were thick with the nuances of local wisdom.³ As is well known, Aceh as a region that upholds the application of Islamic values certainly differs in views from the standards set by positive law. The gap arises from the fact that Indonesia is a country based on law, not a state with an Islamic theocracy.

The impact of the passing of the Aceh Islamic Sharia Law gave birth to various qanuns, which were pioneered by Acehnese ulama and umara. Regarding the issue of jinayat, three qanuns have been issued, including those concerning alcohol and the like, about maisir and the like, and about seclusion and the like. In response to the shortcomings of the previous qanun, a revision was made so that Qanun Number 6 of 2014 concerning Jinayat Law was born.⁴ Even though this Qanun is considered new, its substance still has its roots in the struggle of Aceh's predecessors from the time of the entry of Islam to the time of the unification of Aceh in the sovereignty of the Republic of Indonesia.

Departing from the distinction between regional law and national law related to jinayat, the struggle to enforce Islamic law has not been total even though Aceh is a region with special autonomy. The efforts made by the Acehnese elite who are responsive to Islamic law are an extension of the Acehnese people's desire to live in an Islamic-based treasure.⁵ Aceh wants to obtain a living law, which is a regional regulation recognized by the central government regarding the qanun jinayat. The big mission then showed its light, especially when Aceh recently had people's representatives (DPR) and regional heads, which were dominated by local parties.

¹ Moh. Nailul Muna, "Moderate Islam In Local Culture Acculturation: The Strategy Of Walisongo's Islamization," *Islamuna: Jurnal Studi Islam* 7, no. 2 (December 21, 2020): 166–84, <https://doi.org/10.19105/islamuna.v7i2.3661>.

² Hudzaifah Achmad Qotadah and Adang Darmawan Achmad, "Qanun Jinayat Aceh Antara Implementasi, Isu Dan Tantangan," *ADLIYA: Jurnal Hukum dan Kemanusiaan* 14, no. 2 (2020): 20, <https://doi.org/10.15575/adliya.v14i2.9246>.

³ Ridwan Nurdin, "Kedudukan Qanun Jinayat Aceh Dalam Sistem Hukum Pidana Nasional Indonesia," *MIQOT: Jurnal Ilmu-ilmu Keislaman* 42, no. 2 (2018): 23, <http://dx.doi.org/10.30821/miqot.v42i2.542>.

⁴ Muhammad Yusuf, "Efektivitas Pelaksanaan Hukum Jinayat di Aceh," *SAMARAH: Jurnal Hukum Keluarga dan Hukum Islam* 3, no. 1 (August 9, 2019): 117, <https://doi.org/10.22373/sjhk.v3i1.3668>.

⁵ Sufrizal and M Anzaikhan, "Pernikahan Sedarah dalam Perspektif Hukum Pidana Islam," *Legalite: Jurnal Perundang-undangan dan Hukum Pidana Islam* 5, no. 2 (2020): 130–49, <https://doi.org/10.32505/legalite.v5i2.2782>.

The next problem was that when Aceh was led by its own people, the qanun jinayat that was being fought for did not go well.⁶ This is evident from the widespread violations of the qanun jinayat by the community, even though there are still very intense parties who reject the implementation of the qanun jinayat with various statements and arguments.

This article belongs to field research with a qualitative approach.⁷ The research methodology used is a juridical-empirical study. The juridical-empirical mechanism aims to determine the effectiveness of Aceh's qanun jinayat in the aftermath of legal socialization. In addition, this format also seeks for researchers to be able to depart from the legal reality that exists at the research location. The data sources used consist of primary and secondary data. Primary data sources are informants who can interact directly with writers, such as figures and thinkers at the Syariat Islam services in Aceh Tamiang and Langsa City, lecturers in charge of qanun jinayat at IAIN Langsa, MPU Aceh Tamiang and MPU Langsa City, and communities around the Aceh Tamiang area and Langsa City. Secondary sources are library support data such as journals, books, books, regulations, Aceh qanuns, and other supporting media.

Regarding the data collection method, the author uses observation and interview techniques. The observation technique is the process of exporting data through direct empirical sense capture. That is, the author sees, hears, and captures phenomena in the community related to violations of the jinayat qanun and the practice of legal socialization that occurs in the field. In this interview technique, the author conducts a closed interview. This means that the informant did not know that he was being interviewed. This mechanism is carried out so that the authors obtain real data in the field without aspects of interest and imaging.

The Reality of Aceh's Jinayat Qanun

Qanun is a rule of law that is present in the midst of the Acehnese community for various textual and contextual approaches. Textually, Aceh's qanun cannot be separated from the interpretation of the sources of Islamic law, namely the Qur'an and hadith.⁸ The contextual dimension is a form of legal exploration that is adapted based on the needs of the times, which outwardly did not exist at the time of the Messenger of Allah. This method is usually known by various terms such as ijmak ulama, qiyas, and ijtihad in new cases. So do not be surprised if the Aceh qanun also contains the values of Acehnese local wisdom in it as an inseparable unit in a series of history.

Although culture is part of the creation of human feelings and intentions, Aceh's culture is believed to be a transformation of Islamic law itself, which has existed for a long time.⁹ When referring to the Big Indonesian Dictionary, Aceh is one of the regional models that is recognized as having the term in various regulations in it. Therefore, the regulations issued by the representatives of the people and the regional government of Aceh are also called qanuns. This is in accordance with the General Provisions of Law No. 11 of 2006, Article 1 Paragraph 21 Concerning the Government of Aceh.

⁶ Muhammad Anzaikhan, "Pemahaman Pluralistas Ulama Dayah dan Dampaknya Terhadap Pemikiran Islam di Aceh," *Abrahamic Religions: Jurnal Studi Agama-Agama* 1, no. 2 (September 30, 2021): 2021, <https://doi.org/10.22373/arj.v1i2.11214>.

⁷ Prasetya Rawan, *Logika dan Prosedur Penelitian: Pengantar Teori dan Panduan Praktik Penelitian Sosial bagi Mahasiswa dan Peneliti Pemula* (Jakarta: STIA LAN Press, 2000).

⁸ Suryani Suryani, "Konsep Hadis dan Sunnah dalam Perspektif Fazlur Rahman," *Nuansa* 12, no. 2 (January 17, 2020): 245-55, <https://doi.org/10.29300/nuansa.v12i2.2762>.

⁹ Mursyidin Mursyidin et al., "Understanding Acehnese Proverbs and Their Relation to the Community Work Ethics," n.d., 6.

Regarding the naming of jinayah, it is a familiar name used by fiqh experts called fuqaha. Jinayah has the root word jana, which means sin. As for jinayah, etymologically, it is a term that is a criminal act, while terminologically it is an act or behavior that violates sharia and is condemned by Allah SWT with witnesses in the form of ta'zir or hadd.¹⁰ After obtaining the right to legally implement Islamic law in 1999, followed by special autonomy rights in 2001, in 2014 Aceh Qanun Number 6 of 2014 concerning Jinayat Law was born. This Qanun describes the various dimensions of Jarimah and 'uqubat (ta'zir or hudud) behavior towards the perpetrators of Jarimah.

When departing from the behavior of jarimah and 'uqubat that occurs in the field, the author considers that the implementation of Aceh's Islamic law is limited to the Acehnese Muslim community.¹¹ That means the Muslim community is not attached to itself by the consequences of similar qanun legal sanctions. So, it is not surprising that the implementers of Islamic law in Aceh (WH, MPU, MAA) often see the ID cards of those who violate the qanun jinayat when carrying out raids and the like. In addition, if Acehnese Muslims carry out fingering together with non-Muslims, then the person concerned will also be subject to sanctions under the provisions of the qanun jinayat.

The National Legal System and the Position of Aceh Qanun

Examples Speaking of the Aceh Jinayat Qanun, it cannot be separated from the national legal system in Indonesia.¹² Although Aceh has the right to special autonomy in carrying out the format of the rules within its territory, the fact that Aceh is an area that is subject to the Unitary State of the Republic of Indonesia cannot be ignored.¹³ Discussing the Aceh Jinayat Qanun is certainly very important so that it can be understood what the position of the jinayat law is in the positive legal system. Etymologically, the system is understood as various components that are repeatedly connected to each other to form a unity. In addition, the system can also be interpreted as a coherent set of orders in the areas of theory, schemes, principles, and so on.

If it is based on law, the combination of the words "system" and "law" can be defined as a special unit consisting of various sets of legal sub-themes where the components are interconnected and interrelated. All these components should ideally support each other and work together according to their respective positions and roles.¹⁴ So it is no exaggeration if the law itself is also interpreted as a system. Furthermore, in addition to the legal entity, which is called the system, the law is part of the system. So, everything has its own system, such as the criminal law system, family law, fiqh law, inheritance law, and so on. In short, these laws (including criminal law) are a small part (sub-theme) of the system above, which is called the legal system.

This reality shows that the Indonesian national legal system adheres to an open format because it is still loose and accepts a different format from its descendants. This is, of course, with clear agreements and contracts to suit the needs of each region. In addition, this is also an extension

¹⁰ Praja and Ulfa, "Implementasi Qanun Nomor 6 Tahun 2014 Tentang Hukum Jinayat Di Kota Banda Aceh Provinsi Aceh."

¹¹ Abdul Rahman, "Sistem Pemerintahan Berbasis Syariat Islam Di Indonesia (Studi Kasus Penerapan Qanun Jinayat Di Pemerintah Provinsi Aceh)," *KAIS; Kajian Ilmu Sosial* 1, no. 2 (2020): 17, <https://jurnal.umj.ac.id/index.php/kais/article/view/7826>.

¹² M. Ikhwan and Anton Jamal, "Diskursus Hukum Islam dalam Konteks Keindonesiaan: Memahami Kembali Nilai-Nilai Substantif Agama," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 1 (June 11, 2021): 173–86, <https://doi.org/10.24090/mnh.v15i1.4689>.

¹³ Ahyar Ahyar, "Aspek Hukum Pelaksanaan Qanun Jinayat Di Provinsi Aceh," *Jurnal Penelitian Hukum De Jure* 17, no. 2 (June 15, 2017): 131, <https://doi.org/10.30641/dejure.2017.V17.131-154>.

¹⁴ Sri Ulfa Rahayu and Ernawati Bru Ginting, "Kerjasama Rasulullah Dengan Non-Muslim Membangun Kesejahteraan Umat," *Jurnal Ushuluddin UINSU* 18, no. 1 (2019): 1–16.

of the mechanism for judicial review of regional regulations/Qanuns where the legal system in Indonesia is not absolute and accepts changes according to the path outlined by the system itself.¹⁵ In its development, the legal system in Indonesia has had a mixed format between the civil law legal system and the customary law system, or Islamic law.

This is evident from several legal regulations in Indonesia which, under certain conditions, emphasize positive law, but in other systems it refers to the Islamic legal system. In the legal dimension of marriage, for example, it is closely related to the nuances of Islamic-based law. Of course, this reality cannot be separated from the fact that Indonesia is a country with the largest Muslim population in the world.¹⁶ Likewise with the presidential instructions regarding the compilation of Islamic law. It is an example of support where Islamic law becomes law in Indonesia, which must be obeyed wholeheartedly.

The term legal system in Indonesia also deserves to be called mixed law (accepting change), more clearly seen in the qanun system in Aceh. In contrast to the Qanun in Malaysia, the majority of countries adhere to this format.¹⁷ So Aceh is unique, being able to run an Islamic legal system under a national legal system that is not based on a religious legal system. Of course, obtaining legal legality in Aceh as it is today cannot be separated from a long struggle and journey.

Referring to Law Number 12 in 2011 concerning the Establishment of Legislation, Qanun jinayat is essentially equivalent to Regional Regulations at the provincial or district/city level. The Aceh Qanun is the embodiment of the implementation of Islamic law, which has long been aspired to by the Acehnese people. This is in line with the understanding of the majority of the people of Aceh that the embodiment of the provisions of Allah SWT and what the Prophet Muhammad recommended must be carried out in various aspects of life so that an area gets the blessing and mercy of Allah SWT.¹⁸ In order to achieve that, it is necessary to have rules that regulate the relationship between humans and the khaliq and between humans and themselves, as outlined in the Aceh jinayat qanun. Based on the analogy above, it can be said that the Aceh Qanun at any level (provincial or district/city) is recognized as having the same legal force as existing regional regulations in other regions under the Unitary State of the Republic of Indonesia.

The Perceptions and Challenges the Enforcement of Qanun Jinayat

After obtaining legal recognition under national law, the implementation of the qanun jinayat in Aceh has various frictions and multiple perceptions. Be it by the community, law enforcement, or even the central government. According to the government, the granting of rights to implement the qanun jinayat in Aceh is an effort made by stakeholders to create a condition where the Acehnese feel that they have obtained their rights.¹⁹ From this point of view, the government makes a statement that what it is doing is the people's desire and is good for the people.

¹⁵ Sulaiman Sulaiman et al., "Pembangunan Hukum Qanun Gampong Di Kabupaten Aceh Besar," *Jurnal Geuthèè: Penelitian Multidisiplin* 4, no. 2 (August 31, 2021): 116, <https://doi.org/10.52626/jg.v4i2.124>.

¹⁶ Hani Adhani, "Menakar Konstitusionalitas Syari'at Islam dan Mahkamah Syar'iyah di Provinsi Aceh," *Jurnal Konstitusi* 16, no. 3 (October 8, 2019): 606, <https://doi.org/10.31078/jk1638>.

¹⁷ Yogi Febriandi, Muhammad Ansor, and Nursiti Nursiti, "Seeking Justice Through Qanun Jinayat: The Narratives of Female Victims of Sexual Violence in Aceh, Indonesia," *QIJS (Qudus International Journal of Islamic Studies)* 9, no. 1 (July 29, 2021): 103, <https://doi.org/10.21043/qjjs.v9i1.8029>.

¹⁸ Muhammad Razi and Khairil Azmin Mokhtar, "The Challenges of Shariah Penal Code and Legal Pluralism in Aceh," *Jurnal Media Hukum* 27, no. 2 (2020), <https://doi.org/10.18196/jmh.20200151>.

¹⁹ Ismika Putri Qamariah, "Kebijakan Qanun Aceh Tentang Penyelenggaraan Pendidikan Dayah," *PRODU: Prokurasi Edukasi Jurnal Manajemen Pendidikan Islam* 1, no. 2 (June 10, 2020), <https://doi.org/10.15548/p-prokurasi.v1i2.3331>.

In contrast to the views of the community, all elements consider that the implementation of Aceh's qanun jinayat is still half-hearted and full of political needs. That means, these circles consider that in order to get a democratic vote, the Aceh qanun is a way to ignite the support of the Acehnese people. As a result, according to these circles, Islamic law in Aceh will not work in a kaffah manner and will only be an image.²⁰ This group is usually dominated by hard-line Islamic communities such as HTI or HPI, which previously existed in Aceh. Even though these two groups have been disbanded in Indonesia, their concepts and ideas are still playing underground with different names and approaches. Basically, these circles believe that the ideal Islam in Aceh is one that carries out a legal format like the time of the Prophet without accepting leniency (moderation) from what was initiated by the concept of Indonesian law.

This is different from the perception of Aceh's religious institutions such as the Sharia Court, MPU Aceh, and HUDA. These circles are still very careful in formulating various demands for the style of the Islamic legal system in Aceh. The reason is, of course, because Aceh is an area that wants the implementation of Islamic law in total but still lies in the fact that Aceh is a derivative of the legal system in Indonesia.²¹ For example, online games, although it is clear that the Aceh MPU categorizes them into *maisir* (gambling) actions and the like, the central government categorizes them into sports that are contested nationally and even internationally. Therefore, even though online games are prohibited by Qanun in Aceh, further implementation cannot be done, such as disconnecting online games from the center to the Aceh server.

These differences are serious challenges to making the qanun jinayat in Aceh more effective and implementable. Therefore, it is not surprising that the Qanun Jinayat is sometimes just a formality and is not taken seriously by the public. When referring to previous online games, although Aceh's qanun expressly prohibits gambling-based online games, online game enthusiasts are still busy and increasing in Aceh.²² Moreover, Aceh is an area with a center of coffee shops that are mushrooming everywhere. Drinking five thousand coffees can sit for more than five hours. Making online games, connoisseurs increasingly enliven Aceh's coffee shops with gadgets in hand.

It is the same with actions that smell like seclusion. Even though Aceh has the status of a sharia country, people still like to be alone together who are not friends in public places. In fact, at some points in Aceh, there are dimly lit cafes that provide facilities for immigrants to engage in acts of seclusion.²³ This fact is a serious challenge that makes the community increasingly unsure whether the qanun on jinayat law in Aceh has been effective or not.

1. The Role of Law Enforcement and the Weakness of Legal Certainty

The success of the implementation of the qanun jinayat is not only caused by a lack of understanding and public response. The challenge that is no less severe is the role of law enforcement in the field. The purpose of the field here is to show how law enforcers are able to integrate existing

²⁰ Nurbaiti Nurbaiti et al., "Pandangan Masyarakat Terhadap Pelaksanaan Hukuman Cambuk Di Aceh," *Indigenous: Jurnal Ilmiah Psikologi* 4, no. 2 (January 9, 2020): 96–104, <https://doi.org/10.23917/indigenous.v4i2.6482>.

²¹ Muzakir Zabir, "Kebijakan Pimpinan Dalam Memotivasi Kerja Pegawai Baitul Mal Aceh," *Al-Idarah: Jurnal Manajemen dan Administrasi Islam* 2, no. 1 (June 28, 2018): 93–118, <https://doi.org/10.22373/al-idarrah.v2i1.3396>.

²² Faizatul Husna, Hanifuddin Jamin, and Rizki Juliandi, "The Effects of Mobile Games on Elementary School Students' Achievement in Aceh," *Jurnal Basicedu* 6, no. 1 (December 21, 2021): 308–14, <https://doi.org/10.31004/basicedu.v6i1.1879>.

²³ Abdul Manan, "Acceptance of the Implementation of Islamic Sharia Laws in West Aceh, Indonesia," *KnE Social Sciences*, November 11, 2020, <https://knepublishing.com/index.php/KnE-Social/article/view/7919>.

rules with the morality that is carried out.²⁴ The rape case by 3 WH elements in Langsa, for example, as well as the qanun jinayat violation case by the WH in Banda Aceh, is a form of the gap between morality and reality. Even though the WH are not law enforcement officers on a par with the TNI-Polri, they are still part of law enforcement in their area.

What they have done has tarnished the dignity of the qanun jinayat, which has been fought for in such a way. Likewise, with some problems that occurred in the Bireuen area, local officials were not subject to caning like ordinary people. This fact raises the perception in the community that the government has accepted bribes so that individuals who have money are immune to the caning law.²⁵ The next impact, residents are not appreciative and consider that the qanun jinayat is sharp downwards and blunt upwards. Likewise, in reality, the person who secludes in the bushes and in the fields will be whipped, while those who do seclusion in the hotel tend to be safe and protected. This reality is like a flame that strengthens the people's belief that they will no longer support the existence of the qanun jinayat.

Not only is the role of law enforcement a challenge in the implementation of jinayat law in Aceh, but the legal certainty of the sanctions that should be implemented also seems minimal. The existence of a determination of customary law is one of the things that makes the qanun jinayat further away from its implementation. This does not mean that the author does not support the solution taken through local wisdom, but so far between customary law and qanun jinayat, they are not connected and irrelevant.²⁶ Sanctions for various violations of the jinayat law. For example, when young people commit seclusion, they should be subject to sanctions in the form of lashes and the like, according to the qanun. However, since each family agreed to take the path of peace and marry the two of them as a middle way,

This is a solution in adat but has a tremendous impact for the benefit of the people. The family may not have the heart if each of their children is whipped in public, but if the pattern continues like that, khalwat and the like will not be reduced from the land of the porch of Mecca. If marriage alone is enough as a solution as well as a sanction for adultery, then it is no longer scary and is avoided by society. As a result, the existence of seclusion is mushrooming everywhere, regardless of age and marital status.²⁷

The lack of legal certainty and awareness regarding the qanun jinayat does not stop at the plains. What is more troubling is the emergence of anarchy and vigilantism in society. Law enforcement is no longer the solution to cases of jinayat. Residents prefer to use violence by hitting or bathing the perpetrators of seclusion with waste water.²⁸ After the locals judged the perpetrators who were battered or injured, only then did they take them to the WH. This is a domino effect of the non-systematic implementation of the qanun jinayat. Logically, what is the point of the qanun jinayat if people take the law into their own hands, as in an era where there were no rules at all.

²⁴ Rahmat Hidayat et al., "Peran Hukum Adat Dalam Pelaksanaan Syariat Islam Di Aceh," *Al-Ilmu; Jurnal Keagamaan dan Ilmu Sosial* 5, no. 2 (2020): 23, <https://jurnal.kopertais5aceh.or.id/index.php/AIJKIS/article/view/107>.

²⁵ Nurbaiti et al., "Pandangan Masyarakat Terhadap Pelaksanaan Hukuman Cambuk Di Aceh."

²⁶ Yusuf, "Efektivitas Pelaksanaan Hukum Jinayat di Aceh."

²⁷ Qotadah and Achmad, "Qanun Jinayat Aceh Antara Implementasi, Isu Dan Tantangan."

²⁸ Anggraini and Safira, "Penegakan Syariat Islam Di Kota Banda Aceh – Kinerja Wilayahul Hisbah."

2. Debate on Enforcement of Qanun Jinayah

Although on another hand, various NGOs and communities in Aceh are still questioning the importance of enforcing the qanun jinayat in Aceh. Several NGOs and survey institutions conducted polls with various approaches. As a result, they tend to conclude that the qanun jinayat in Aceh is still not ideal and only focuses on caning.²⁹ As a result, what has been done by NGO elements in collaboration with the newspapers in Aceh (Serambi and Acehnese People) has received a response that the implementation of the qanun jinayat is a form of human rights violation and is not worth defending.

The survey certainly received a strong rejection from the MPU of Aceh Province. According to him, what the survey institute did could not be used as an indicator of the Acehnese people's rejection of the qanun jinayat. The reason is that the poll conducted by NGO elements does not separate Muslims and non-Muslims as poll participants. The survey is free and open as long as the public can access it through newspapers. Not only that, the MPU Aceh representative also emphasized that the survey conducted was more appropriate for non-Muslims, even though non-Muslims were not charged with the qanun jinayat specifically, unless they were involved with Muslims in committing jinayat violations.

Regarding human rights violations, the MPU considers that whipping sanctions cannot be mentioned as a violation. Even though human rights activists themselves criticize that whipping is a violation, the MPU claims that it has been thoroughly communicated and discussed with the Aceh Regional Government and DPR.³⁰ That means the public must be prepared for various consequences, especially the caning for violators of the qanun jinayat.

Another debate that is no less interesting is related to the authority of the WH in carrying out its duties. Some people think that the WH must understand the limitations in implementing the jinayat law. should not exceed the limits that should be There is an opinion that the WH seems to be doing tajassus (spying) on the community so that it seems to go beyond the residents' privacy area. In fact, in Islam, it is forbidden to spy on fellow Muslims because it can lead to disharmony in society.³¹ The same applies to the limits of authority between the WH and the positive legal apparatus (police). Sometimes the WH does not understand which boundaries are part of it and which areas are part of the police. This also needs to be done so that final conclusions can be actual and appropriate to be implemented.

3. The Impact of Legal Dissemination on Violations of the Qanun Jinayat in Aceh

Talking about legal effectiveness is a term that targets the condition of whether the law in an area is obeyed or violated. Of course, in obtaining this conclusion, data related to crime rates must be increasing or decreasing.³² Although the rise and fall of a violation of the law is not all influenced by the provisions of the law, it is still an important indicator as long as a more precise and accurate indicator has not been found.

Likewise, regarding the qanun jinayat in Aceh, community obedience is influenced by the existence of the anun itself (internally) or external aspects such as foreign culture, the high

²⁹ Nurdin, "Kedudukan Qanun Jinayat Aceh Dalam Sistem Hukum Pidana Nasional Indonesia."

³⁰ Praja and Ulfa, "Implementasi Qanun Nomor 6 Tahun 2014 Tentang Hukum Jinayat Di Kota Banda Aceh Provinsi Aceh."

³¹ Siddiq, Zuhilmi, and Makinara, "Posisi Kedudukan Wilayatul Hisbah Dalam Birokrasi."

³² "Realisme Hukum."

unemployment rate, urgent economic needs, or other momentum. Furthermore, the effectiveness of the law also depends on indicators of whether people obey the law because of threatening sanctions or even awareness (conscience) that understands that certain actions are considered bad.³³ This dimension is simple, but the impact is very big. If someone obeys the qanun jinayat for fear of threatening sanctions, then when that person has power, he can politicize the law. Simply put, this group violates the qanun jinayat because they are able to avoid threats due to their power and authority.

In contrast, if the awareness comes from conscience, the situation and conditions do not make him forget himself because he is aware that wrongdoing must be avoided even though he can be released from the shackles of the law.³⁴ The reality today is that the majority of people tend to obey the qanun jinayat because of the threatening sanctions. So do not be surprised if there are still unscrupulous officials who have escaped jinayat sanctions by playing with power and strength.

Therefore, the effectiveness of a law departs from the dimension of awareness of each element of the substance of the law itself. It is on this plain that legal socialization is needed, which is expected to open one's inner eyes that humans are essentially created to do good and obey the law.³⁵ In order to plant the seeds of legal awareness from the conscience, the socialization of law that is spiritual in nature is the ideal method. Introducing the concept of an eternal afterlife and a temporary worldly life is one of the important motivations so that people do not neglect and exceed limits.

This is in line with what was mandated by the Prophet before his death, that the Prophet left this world (died) with two wills. If they disagree, then the Prophet's people are asked to return to the Qur'an and Hadith, and if the human heart is hard, then remember death more and more. This means that if humans are aware that life in the world is only temporary, then the potential for ignorance within themselves will be suppressed so that it will have an impact on their obedience in carrying out various jinayat qanuns.

The effectiveness of the law so far can be measured by the number of crimes that occur in society. Although various legal socializations are often carried out by the government through various strategic policies, the crime rate in Aceh has not decreased. On the other hand, news about murder, rape, sexual abuse, gambling, khamr, and drugs is getting more and more intense everywhere, as well as other practices of violating the law of jinayat.³⁶ These are various analyses that the author found on the basis of the records in the Aceh Sharia court.

Not to mention, if you look at the cases of violations of the qanun jinayat that were resolved at the gampong level. When compared, the case settlement rate at the village level is higher than at the sharia court level. This is because the cases of jinayat violations handled by the gampong are people with middle to lower economic levels.³⁷ Qualitatively, the people of Aceh are dominated by economically weak groups, so that the number of criminal cases recorded at the Shari'a Court level tends to be smaller. This fact is a serious problem with the effectiveness of the qanun jinayat.

³³ Rahman, "Sistem Pemerintahan Berbasis Syariah Islam Di Indonesia (Studi Kasus Penerapan Qanun Jinayat Di Pemerintah Provinsi Aceh)."

³⁴ Putri Wulansari Nurul Khotimah, "Membumikan Ilmu Sosial Profetik: Reaktualisasi Gagasan Profetik Kuntowijoyo dalam Tradisi Keilmuan di Indonesia," *Jurnal PROGRESS: Wahana Kreativitas dan Intelektualitas* 7, no. 2 (December 30, 2019): 219–38, <https://doi.org/10.31942/pgrs.v7i2.3116>.

³⁵ Ferry Adhi Dharma, "Konstruksi Realitas Sosial: Pemikiran Peter L. Berger Tentang Kenyataan Sosial," *Kanal: Jurnal Ilmu Komunikasi* 7, no. 1 (September 1, 2018): 1–9, <https://doi.org/10.21070/kanal.v6i2.101>.

³⁶ Praja and Ulfa, "Implementasi Qanun Nomor 6 Tahun 2014 Tentang Hukum Jinayat Di Kota Banda Aceh Provinsi Aceh."

³⁷ Jalil, Yani, and Kurniawan, "The Role of the Ulema Consultative Assembly in Government Policy Making in Aceh."

If the community settles more disputes at the village level, the sanctions that threaten it tend to be purely customary and social norms. There are no legal norms such as caning and the like. This will have an impact on the minimal deterrent effect received by the community. If only “shame” will be imposed when the community violates the qanun jinayat, then that is how weak the effectiveness of Aceh's qanun jinayat is. Supposedly, Aceh's jinayat qanun can target the deepest social order in order to give birth to a more ideal legal observance.

The ineffectiveness of legal socialization to Aceh's qanun jinayat is also evident from the large number of people who take the law into their own hands in deciding cases. When there are perpetrators of khalwat, then the male person will be beaten by the masses while the female person will be bathed in the sewer. Not to mention that there are people who expose the perpetrators and even take the opportunity to touch things that are forbidden. All of this is a form of punishment that actually violates the law. Likewise, in the case when an unscrupulous priest performs seclusion with a married woman, several cases in Aceh expelled these individuals and their families from the village. This is one of the phenomena that occurs as a customary agreement, but in fact it is not in accordance with the sanctions of the qanun jinayat that have been outlined.

Conclusion

The effectiveness of Aceh's Jinayat Qanun on crime rates in the community still tends to be low. This is evident from the increasing number of violations of the law of good jinayat such as khamr, maisir, and khalwat in Aceh. This is closely related to legal socialization that is not appropriate and does not target massively. So far, the socialization of the qanun jinayat law still seems to be manual and conventional, so it does not touch the minimum and digital application user groups. Public awareness of the importance of insight into qanun jinayat is still very concerning. The results of the study show that the majority of people will care about the points of qanun jinayat when they have stumbled on a case.

The reason why the qanun jinayat does not run optimally is because it is still in conflict with the tendency of the community to prefer settlement at the village level (customary law).³⁸ In fact, settlements at the gampong level are often unanimous and do not create a deterrent effect for the perpetrators. The repercussions of the lack of sanctions that ensnare criminals at the gambang level make people increasingly disobedient to the law and have an impact on the number of criminal cases collectively. In addition, there are still people who take the law into their own hands when they find violators of the qanun jinayat. This behavior further distances the community from the expected law-abiding attitude.

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³⁸ Happy Saputra, Mahdalena Nasrun, and Muhammad Anzaikhan, “Revitalizing Local Wisdom in Committing Radicalism in Aceh,” *INNOVATIO: Journal for Religious Innovation Studies* 21, no. 2 (December 13, 2021): 112–21, <https://doi.org/10.30631/innovatio.v21i2.140>.

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