



Analyzing the Implementation of Islamic Criminal Law in the Nanggroe Aceh Darussalam and Within its Sharia Court

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Abstract

Within the democratic Pancasila system regulated by the Indonesian government, every citizen's right is guaranteed by the government and religious organization to express their beliefs. Aceh, which has enacted regional regulations based on Islamic law and received government support for their implementation, has the freedom to establish its own policies. This study analyzes Aceh's implementation of the Criminal Code (*Qanun Jinayah*) as well as in its *Sharia* Court. The case study methodology utilized in this study is intended to provide qualitative data through description-analysis and descriptive qualitative research. According to this study, the execution of *Qanun Jinayah* in Aceh frequently generates controversy because certain parties believe that the implementation of the law violates human rights, which are normally maintained in democratic countries such as Indonesia. The law applies to both the Muslim and the non-Muslim Achenese. Despite this, numerous parties continue to support the execution of *Qanun Jinayah*, as they have complied with the exact law recognized by the Indonesian government.

Keywords: Human Rights; *Sharia* Court; *Qanun Jinayah*

A. Introduction

Human rights remain a contentious issue in Indonesian society, owing to the fact that many parties continue to face discrimination in the areas of freedom of religion and expression, prompting them to seek redress from the state.¹ People believe the government protects their rights. However, some parties still hold scepticism, particularly if there are prejudice and

¹ Luisa Bravo, "We the Public Space. Strategies to Deal with Inequalities in Order to Achieve Inclusive and Sustainable Urban Environments," *The Journal of Public Space* 3, no. 1 (April 2018): 163-164, <https://doi.org/10.5204/jps.v3i1.326>

injustice in other communities, making it difficult to fulfil these human rights values.² Since human rights values were implemented, scepticism has spread throughout Indonesia. Due to disagreements among dominant groups, these values may not be properly enforced, like in Aceh, where regional Islamic law is enforced.

From the era of the Iskandar Muda sultanate, they have been noted as an example of Aceh's accomplishment in enforcing Islamic law. The Aceh dynasty of the seventeenth century had accepted Islam as a religion and assimilated Islamic ideas.³ This present integration is regarded as "politico-religious unity," with Islam as an ideology and politics as the Islamic community's enforcement.⁴ Aceh's structure has made Islam not simply the majority religion, but also a pattern that controls life.⁵ Law Number 11 of 2006 on Aceh's Government grants Aceh the authority to implement Islamic law in all spheres of life, as outlined in the *Quran*. In accordance with Article 3 of Law Number 44 of 1999, the province of the Special Region of Aceh has the right to religious life, customs, education, and ulama determination of regional policies.⁶ However, this was not well received by all Acehnese, and the result was rejection. In addition to causing controversy in the community, *Qanun Jinayah* has resulted in human rights crimes against Acehnese people in recent years. Violation of these rights results in a reduction in the expression of public confidence.

There are various regulations connected to activities that are not governed by the Criminal Code under the regional legal regulation for the criminal acts (or we can known as *Qanun Jinayah*).⁷ *Khalwat*, *Ikhtilath*, *Liwath*, *Musahaqah*, *Qadzaf*, and *Khamar* are among them. Various advantages and disadvantages are associated with the provisions of the criminal

² Ben Stanford, "Power to The People? Public Spaces Protection Orders, Hybrid Law and Human Rights," *Public Spaces Protection Orders, Hybrid Law and Human Rights* (August 2019): 234, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3442435

³ 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 (December 2020): 91-106, https://www.researchgate.net/publication/393137752_SISTEM_PEMERINTAHAN_BERBASIS_SYARIAT_I_SLAM_DI_INDONESIA_STUDI_KASUS_PENERAPAN_QANUN_JINAYAT_DI_PEMERINTAH_PROVINSI_ACEH

⁴ Amin Mudzakkir, "Islam dan Politik di Era Kontemporer," *Episteme: Jurnal Pengembangan Ilmu Keislaman* 11, no. 1 (2016): 31-48, <http://portalgaruda.fti.unissula.ac.id/index.php?ref=browse&mod=viewarticle&article=470938>

⁵ Yulia Susantri and Roni Hidayat, "Perda, Qanun, dan Perdasi dalam Sistem Hukum Nasional," *Syiah Kuala Law Journal* 4, no. 1 (April 2020): 41, https://www.researchgate.net/publication/342005377_Perda_Qanun_dan_Perdasi_Dalam_Sistem_Hukum_Nasional

⁶ Ridwan Nurdin and Muhammad Ridwansyah, "Aceh, Qanun and National Law: Study on Legal Development Orientation," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, no. 1 (2020): 107-131, <https://jurnal-ar-raniry.ac.id/index.php/samarah/article/view/6416>

⁷ Mohammad Hashim Kamali, *Crime and Punishment in Islamic Law: A Fresh Interpretation* (Oxford: Oxford University Press, 2019).

law. According to Hidayatullah, who was cited by the BBC, the first non-Muslim offenders in Aceh were sentenced to flogging in April 2016, and on January 19, 2018, at the Baitussalihin Mosque, ten individuals were found to have violated the criminal *Khamar*, with one receiving 36 lashes. Several stakeholders, including the commissioner of National Human Rights Commission (*Komisi Nasional Hak Asasi Manusia* or Komnas HAM), viewed the imposition of Islamic law on non-Muslim communities as a precedent-setting development.

As a result, the *khalwat* article lacks a solid base,⁸ because a sexual connection that is consensual or agreed-upon relationship between two adults is not a crime, and no one is harmed. If this is deemed a crime, it will violate the right to privacy, and the legislation may also be discriminatory towards women,⁹ because, according to *Qanun Jinayah*, if the charge is not substantiated, the person who reports will be sentenced, and the evidence includes four direct witnesses.¹⁰

Qanun Jinayah studies focuses on its interpretation and application in national law. In terms of comprehension and social status of *Qanun Jinayah*,¹¹ noted that because many Acehnese responded negatively, they didn't observe the legal regulation.¹² In accordance with it, there is also opposition,¹³ stated that there are pros and cons who believe that the legislation is not optimum and appears selective, resulting in the law not being fully executed.¹⁴ This intensifies legal differences between criminal-prone regions in Indonesia. Nurdin emphasized that the uniqueness of *Qanun Jinayah* may be exploited as a stimulant for universal law, and that the privileges should not be seen as a differentiator but as a unified sub-system.¹⁵

⁸ Ahmad Nurozi and Dadan Muttaqien, "The Effectiveness of Crime Prevention with Corporal Punishment in Nanggroe Aceh Darussalam," *Millah: Journal of Religious Studies* 20, no. 2 (February 2021): 228, <https://doi.org/10.20885/millah.vol20.iss2.art2>

⁹ Faradilla Fadlia and Ismar Ramadani, "The Qanun Jinayat Discriminates against Women (Victims of Rape) in Aceh, Indonesia," *JSEHR* 2, no. 2 (December 2018): 448. <https://doi.org/10.19184/jseahr.v2i2.8358>

¹⁰ Yogi Febriandi, Muhammad Ansor, and Nursiti, "Seeking Justice through Qanun Jinayat: The Narratives of Female Victims of Sexual Violence in Aceh, Indonesia," *QIJIS (Qudus International Journal of Islamic Studies)* 9, no. 1 (2021): 103-140, <https://doi.org/10.21043/QIJIS.V9I1.8029>

¹¹ Edi Yuhermansyah and Meri Andani, "Tanggapan Masyarakat Kecamatan Pulau Banyak terhadap Pemberlakuan Qanun Nomor 6 Tahun 2014 tentang Hukum Jinayat," *Legitimasi: Jurnal Hukum Pidana dan Politik Hukum* 7, no. 1 (January 2018): 43-66, <https://core.ac.uk/download/pdf/228448962.pdf>

¹² Andi Muhammad Asrun, Abdu Rosyadi, and Yennie Milono, "Mempertanyakan Legalitas Qanun Aceh: Sesuikah dengan Sistem Peraturan Perundang-Undangan," *Kanun Jurnal Ilmu Hukum* 21, no. 2 (August 2019): 273-294, <https://doi.org/10.24815/kanun.v21i2.12632>

¹³ Junaidi, "Revitalisasi Penerapan Qanun Nomor 6 Tahun 2014 tentang Hukum Jinayat di Kota Langsa Aceh," *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 1 (June 2020): 147-160, <https://doi.org/10.24090/mnh.v14i1.3261>

¹⁴ Ahyar Ari Gayo, "Aspek Hukum Pelaksanaan Qanun Jinayat di Provinsi Aceh," *Jurnal Penelitian Hukum De Jure* 12, no. 2 (June 2017): 131-154, https://www.researchgate.net/publication/338362060_Aspek_Hukum_Pelaksanaan_Qanun_Jinayat_Di_Provinsi_Aceh

¹⁵ Ridwan Nurdin, "Kedudukan Qanun Jinayat Aceh dalam Sistem Hukum Pidana Nasional Indonesia," *Jurnal Miqat* 42, no. 2 (2018): 358, <https://jurnalmiqotojs.uinsu.ac.id/index.php/jurnalmiqot/article/view/542>

Experts have examined Aceh's Islamic law implementation. Hasnil Basri Siregar said Muslim Acehnese law is inseparable from their struggle. Because of these Islamic values, several Acehnese elders have petitioned the Indonesian government to use the Islamic religious system in their region.¹⁶ Hasnil also observed that religious principles in Aceh spawned a variety of democratic-Islamic hybrids that regularly clashed. Because religious principles govern both public and private behavior.¹⁷

The findings of Feener's study on the clash between religious values with the Western value globalization system the contestation of religious values and the globalization system of Western values assist the author in understanding how Acehnese society evolved from hegemonic struggle to the execution of teachings' principles.¹⁸ According to David Kloss, *Sharia* law within a democratic Indonesian state corresponds to democratic norms stated by state institutions. Some groups are displeased with the Aceh government's participation during the hegemonic conflict since the community continues to push *Sharia* ideals.

This is a descriptive qualitative study. This study begins with a literature review of Aceh society dynamics. This research also analyzes the information from government and non-government publications.

B. Discussion

B. 1. The Implementation of Islamic Criminal Law to *Sharia* Court within Aceh Nanggroe Darussalam

Practitioners and academics criticise Aceh's contradictory Islamic law. Community values justice and human rights. *Qanun* implementation always states "the regulation is intended only for small or minority groups." Law, like water, flows downward, according to Donald Black's 1659 legal stratification theory. Diverse interests influence legislation.¹⁹ The state is responsible for imposing acceptable values on all citizens, whereas Islam imposes normative values on its adherents.

¹⁶ Hasnil Basri Siregar, "Islamic Law in a National Legal System: A Study on the Implementation of Shari'ah in Aceh, Indonesia," *Asian Journal of Comparative Law* 3 (2008): 1–26, <https://doi.org/10.1017/S219460780000156>

¹⁷ Hasnil Basri Siregar, "Lessons Learned from the Implementation of Islamic Shari'ah Criminal Law in Aceh, Indonesia," *Journal of Law and Religion* 24, no. 1 (2008): 145, <https://doi.org/10.1017/S074808140000196X>

¹⁸ R. Michael Feener, "Social Engineering through Shari'a: Islamic Law and State-Directed Da'wa in Contemporary Aceh," *Islamic Law and Society* 19, no. 3 (January 2012): 275–311. <https://doi.org/10.1163/156851911X612581>

¹⁹ Prawitra Thalib, "Pemahaman Terhadap Pemberlakuan Hukum Islam di Indonesia," *Jurnal Halu Oleo Law Review* 2, no. 1 (2018): 371–386, <http://dx.doi.org/10.33561/holrev.v2i1.4196>

As a result of these two examples of Islamic law in Aceh, the Aceh People's Representative Council's (*Dewan Perwakilan Rakyat Aceh* or DPRA) legal process declared *Qanun* as Aceh's official law.²⁰ The enactment was considered by the Aceh government and the People's Representative Council. As a result, when the *Qanun* contradicts democratic human rights norms, Islamic law in Aceh may be unable to accommodate all diverse societal values.

Aceh *Qanun* Number 1 of 2014 is about public road levies, Aceh *Qanun* Number 3 is about specific licensing fees, Aceh *Qanun* Number 4 is about accountability for the 2013 fiscal year revenue and spending budget in Aceh, Aceh *Qanun* Number 6 is about *Jinayah*, and Aceh *Qanun* Number 7 is about *Jinayah*. Aceh *Qanun* Number 8 of 2014 is about Islamic Law. Aceh *Qanun* Number 9 is about the Aceh Sharia Bank. Aceh *Qanun* Number 10 is about financial management modifications. Aceh *Qanun* Number 11 is on education.

Regional control of *Jinayah Qanun* is being contested. The *Jinayah Qanun* serves two functions under national law. As a type of special autonomy, as a mechanism for governing Islamic law and as a consistent regional regulation amongst provinces.²¹ The Acehnese government has approved *Qanun* to enforce Islamic law in their daily life.

The regional regulation formulated in *Qanun Jinayah*²² Article 3 of Number 6 of 2014 regulates the scope of conduct regarded as criminal or *Jarimah*. An act conducted in a closed or secluded area by two persons of opposite sexes without marriage connections and with the goal to commit adultery, similar to *Khalwat*,²³ *Ikhtilah* is an act of making out, caressing, embracing, and kissing between two people who are not willingly husband and wife in public or private settings.²⁴ *Liwath* is a gay sexual act performed by two guys. *Mushahaqah*, commonly known as lesbianism, refers to women's consensual sexual practices.²⁵ *Qadzaf*, or accusing someone of adultery without relaying the sentences of at least four persons. Last but

²⁰ Putri Maulina, "Relasi Kekuasaan dalam Wacana Penerapan Qanun Jinayat di Aceh," *Source Jurnal Ilmu Komunikasi* 3, no. 2 (2017): 248, <https://doi.org/10.35308/source.v3i2.658>

²¹ Endri Ismail, "Analisis Yuridis Terhadap Legalitas Qanun Aceh No. 6/2014 Tentang Hukum Jinayat," *Kanun Jurnal Ilmu Hukum* 20, no. 1 (April 2018): 123–147, <https://jurnal.hukumonline.com/download/5cb48f4701fb73000e1c6aad>

²² Madiasa Ablisar, "Relevansi Hukuman Cambuk sebagai Salah Satu Bentuk Pemidanaan dalam Pembaharuan Hukum Pidana," *Jurnal Dinamika Hukum* 14, no. 2 (May 2014): 278–289, <https://pdfs.semanticscholar.org/3f27/57ed4425c6864fe368c2d1fe2fcad8db6757.pdf>

²³ *Qanun Aceh Nomor 6 Tahun 2014 tentang Hukum Jinayat*

²⁴ Selvia Junita Praja and Wia Ulfa, "Implementasi Qanun Nomor 6 Tahun 2014 tentang Hukum Jinayat di Kota Banda Aceh Provinsi Aceh," *Jurnal Kebijakan Pemerintahan* 3, no. 1 (November 2020): 12, <https://ejournal.ipdn.ac.id/index.php/JKP/article/view/1071>

²⁵ Misran, "Sosialisasi Qanun Jinayat Aceh No. 6 Tahun 2014 pada Madrasah Aliyah Blangkejeren Kabupaten Gayo Lues," *Dusturiyah: Jurnal Hukum Islam, Perundang-Undangan dan Pranata Sosial* 9, no. 1 (2019): 12, <https://doi.org/10.22373/dusturiyah.v9i1.4365>

not least is *Khamar*, or alcohol, which is manufactured, stored, distributed, and even consumed.²⁶

Qanun Aceh Number 6 of 2014 fills gaps in the Criminal Code without contradicting it. The *Qanun* rearranged Criminal Code violations. Indonesia's *Qanun Jinayah* criminal law may be dualism where a region must balance diversity and citizen rights, where everyone can follow the law without compromising other legal interests. In pluralistic Indonesia, law and community development form a sociocultural and political perspective.²⁷

Qanun Jinayah pointed out, however, that the patriarchal culture of Indonesia results in a great deal of violence against women. Consequently, the rule may have impeded women's access to justice. Religious conservatism produced the *Qanun Jinayah*.²⁸ This perspective is prevalent in patriarchal cultures hostile to women.²⁹

In accordance with this, Sharia courts typically have greater authority than other courts.³⁰ This authority investigates, determines, and adjudicates initial and appealed cases. Sharia courts have authority to adjudicate all legal matters. According to *Qanun Jinayah*, *Wilayatul hisbah* informs the public of the laws and enforces them.³¹ And follows up on community complaints before reporting them to the police.

This is a legal requirement that requires every citizen of Aceh to comply with it, regardless of their heritage.³² Not all Acehnese are Muslims, however. In Aceh, minority Christian institutions for women are in a dire situation. They feel independent and should not be easily subjugated in a public space dominated by minority religious values and identities. When Islamic law is applied in Aceh, both Muslims and non-Muslims are subject to the

²⁶ Siti Sahara and Meta Suriyani, "Efektifitas Penghukuman bagi Pelaku Maisir (Perjudian) di Kota Langsa," *Jurnal Hukum Samudra Keadilan* 13, no. 1 (2018): 118–138, <https://doi.org/10.33059/jhsk.v13i1.697>

²⁷ Zainuddin and Sahban, "Problematics of Jinayat Qanun Implementation in Nanggroe Aceh Darussalam Community," *Tadulako Law Review* 3, no. 1 (December 2018): 227, <https://scispace.com/pdf/problematics-of-jinayat-qanun-implementation-in-nanggroe-4poyy2x6y4.pdf>

²⁸ L. A. Krisna et al., "The Urgency of Harmonization of Offense Types in the Qanun Jinayat as an Effort to Avoid Dualism in Application of Law," *Russian Journal of Agricultural and Socio-Economic Sciences* 112, no. 4 (April 2021): 15–21, <https://doi.org/10.18551/rjoas.2021-04.02>

²⁹ Simon Butt, "Religious Conservatism, Islamic Criminal Law and the Judiciary in Indonesia: A Tale of Three Courts," *The Journal of Legal Pluralism and Unofficial Law* 50, no. 3 (September 2018): 402–434, <https://doi.org/10.1080/07329113.2018.1532025>

³⁰ Fatima Seedat, "Sexual Economies of War and Sexual Technologies of the Body: Militarised Muslim Masculinity and the Islamist Production of Concubines for the Caliphate," *Agenda* 30, no. 3 (December 2016): 25–38, <https://doi.org/10.1080/10130950.2016.1275558>

³¹ Efa Laela Fakhriah, "Kewenangan Mahkamah Syar'iyah di Aceh Dihubungkan dengan Sistem Peradilan di Indonesia," *Jurnal Ilmu Hukum* 4, no. 2 (2013): 112–133, <http://repository.unimal.ac.id/id/eprint/5640>

³² Wike Anggraini and Nella Safira, "Penegakan Syariat Islam di Kota Banda Aceh–Kinerja Wilayatul Hisbah," *Jurnal Tatapamong* 1, no. 2 (September 2019): 75–94, <https://ejournal.ipdn.ac.id/index.php/jurnaltatapamong/article/view/1153>

criminal code.³³ The public expression of the minority group is constrained by space and mobility. According to the results of the interviewer, "as a member of a religious minority, it is difficult to develop or actualize oneself in Aceh."³⁴

Legal enforcement relies on the *Qanun Jinayah* community. The community helps Jinayah. This makes society a "vigilante or social sanction." The discovered cases were resolved immediately. Aceh's indigenous legal system resolves cases. Several laws support the customary judiciary in this case.³⁵ The perpetrator's customs don't match *Qanun Jinayah*'s. *Khalwat*, offender marriage, two animals, and financial penalties. Laws are mentioned here.

Aceh's rules apply to all Acehnese. *Qanun Jinayah* is *Sharia* because the state applies Islamic criminal law. Instead of helping, the *Qanun* violated human rights.

B. 2. The Human Rights Perspective

The present punishment is whipping, which is governed by the appropriate *Jinayah Qanun*. Regarding a number of Islamic groups in Indonesia's answer that they do not actively encourage or seek the use of caning punishment.³⁶ This is governed by the appropriate regional regulation,³⁷ *Khalwat* providers and propagators get 15 lashes. *Ikhtilah* and supporters will receive 45 lashings. *Liwath* threatened 100 lashings instead of 200 for minors. *Mushahaqah* is punished by one hundred lashes, two hundred if committed with a child, *Qadzaf* by eighty, and *Khamar* by forty for consumers, sixty for retainers, sellers, and acquirers, and twenty for givers. Intentional 80-lashing of minors.

Legal Aid Institute (*Lembaga Bantuan Hukum* or LBH) believes caning violates Indonesian human rights. LBH monitored caning coverage in 2016. Malaysia canes the convict in prison and Aceh publicly. Komnas HAM regrets caning. *Qanun Jinayah* improves laws. Religious freedom and expression are considered despite caning. *Qanun Jinayah* indirectly

³³ Sudirman Suparmin, "Hukuman Cambuk terhadap Non-Muslim Pelaku Jarimah di Nanggroe Aceh Darussalam (Studi Putusan No. 01/JN/2016/MS. TKN)," *Journal Analytica Islamica* 6, no. 2 (December 2017): 147–154, <https://jurnal.uinsu.ac.id/index.php/analytica/article/view/1279/1042>

³⁴ Husni Mubarrak and Intan Dewi Kumala, "Diskriminasi terhadap Agama Minoritas: Studi Kasus di Banda Aceh," *Seurune: Jurnal Psikologi Unsyiah* 3, no. 2 (August 2020): 42–60, https://www.researchgate.net/publication/348670026_DISKRIMINASI_TERHADAP_AGAMA_MINORITAS_STUDI_KASUS_DI_BANDA_ACEH

³⁵ Nur Rochaeti and Rahmi Dwi Sutanti, "Kontribusi Peradilan Adat dan Keadilan Restoratif dalam Pembaruan Hukum Pidana di Indonesia," *Masalah-Masalah Hukum* 47, no. 3 (July 2018): 198–214, <https://doi.org/10.14710/mmh.47.3.2018.198-214>

³⁶ *Qanun Aceh Nomor 6 Tahun 2014 tentang Hukum Jinayat*

³⁷ M. Syafi'ie, "Pemikiran Organisasi Islam tentang Penerapan Hukum Pidana Islam: Tinjauan Hukum Hak Asasi Manusia," *Undang: Jurnal Hukum* 2, no. 2 (2019): 225–264, <https://doi.org/10.22437/ujh.2.2.225-264>

makes non-Muslims follow other religions' *Sharia*. Indonesia's constitution guarantees religious freedom.

Caning has been controversial since *Qanun Jinayah*. The National Alliance for Freedom of Religion or Belief (*Aksi Aliansi Kebangsaan untuk Kebebasan Beragama dan Berkeyakinan* or AKKBB) says community punishment violates religion, belief expression, and rights. Freedom from cruel punishments. Human Rights Watch says this regional regulation restricts Aceh's free expression, privacy, and religion. Flogging should have ended in the Middle Ages, and same-sex discrimination was a major setback. The state must respect, protect, and fulfil individual and community rights.³⁸

Indonesian diversity pits ideals/texts against historical reality/contexts. Thus, Islam or religion should meet human needs. Islam must be reformed in multiple ways to benefit humanity. *Qanun Jinayah* defines public and private spaces unjustly. T. Jeremy Gunn discusses this in "Limitations on the Freedom of Religion or Belief." Universal Declaration of Human Rights (UDHR) limitation clause³⁹ a law that safeguards the rights of the elderly and specifies when a state or government can legally restrict rights.

Religion can be defended in the forum internum. However, these beliefs may not be visible. Human rights must include internal and external forums because freedom is more than a choice. The right to freedom includes freedom from religion. Bielefeldt also emphasises the international law term "forum internum," which refers to unrestricted "internal" belief, as opposed to "external forums," which may be regulated by the state.⁴⁰

Qanun Jinayah considers *Khamr* harmful in Aceh, according to forum domains. *Khamr* defends Islam's beliefs, life, property, and lineage. North Sumatran non-Muslims received forty lashes in 2021. 80 lashes for *liwath* (homosexuality). The Islamic law service chief saw Aceh *Tamiang*'s eleven floggings. Amnesty International considers caning inhumane, degrading, and torturous. Limiting faith is cruel. International and Indonesian human rights laws govern the sentence.

Acehnese believe officials cane the poor. Personal actions—including *liwath* and Aceh-prohibited ones—are punished. The *Quran* only lashes infidelity because every action has a consequence. Both must agree. Punishments include fines, imprisonment, and caning.

³⁸ Marzuki Suparman, *Politik Hukum dan Hak Asasi Manusia* (Jakarta: Penerbit Erlangga, 2014), 100

³⁹ T. G. Assembly, "Universal Declaration of Human Rights (Chuukese)," *Asia-Pacific Journal on Human Rights and the Law* 8 (January 2007): 101–106, <https://doi.org/10.1163/157181507782200222>

⁴⁰ Heiner Bielefeldt, "Misperceptions of Freedom of Religion or Belief," *Human Rights Quarterly* 35, no. 1 (February 2013): 33–68, <https://doi.org/10.1353/hrq.2013.0009>

Due to present-day dynamics, society is compelled to modify its value system and laws. According to Max Weber and Emile Durkheim, "the law is a reflection of existing social solidarity."⁴¹ Internal forces such as population growth and decrease, discoveries, and local disputes drive these changes, as do external ones such as the environment, other civilizations, and wars.⁴² Every religious criterion must be universal in a region with changing values and laws. Thus, it is formal enough to include various beliefs and their ethical or realistic application. Religious liberty is included. Free speech, privacy, and religious rights overlap.

Islam and human rights are complex. Religion is essential to human life, so restricting its expression violates human freedom.⁴³ Traditional or fundamentalist interpretations of Islamic *Sharia* make it a comprehensive, politically enforceable system of normative regulations. Contrary to Article 1 of the UDHR, a dogmatic reference to a supernatural basis for human dignity promotes inequality rather than universal dignity and freedom.

The government doesn't always know what's allowed under religion law. Religion is invading private lives under pluralism. Article 2 of the International Covenant on Civil and Political Rights requires each state party to respect and ensure the rights recognised in this treaty for all individuals within its territory and jurisdiction, regardless of race, colour, gender, language, religion, national or social-political origin, birth, or status.

Article 18 of the International Covenant on Civil and Political Rights guarantees "members of the human family" religious freedom. Importantly, as a right to freedom, it empowers individuals to realise their potential for responsible agency and independently discover their religious or belief path, both individually and collectively. Since human dignity implies equality in fundamental rights, religion or religious freedom must be respected and implemented without prejudice.⁴⁴

C. Conclusion

Religion in Regional Regulations (*Qanun*) promotes discrimination and rights abuses such as caning offenders, the Aceh government is unable to map domain rights. In democratic

⁴¹ Hasnul Arifin Melayu et al., "Syariat Islam dan Budaya Hukum Masyarakat di Aceh," *Media Syari'ah: Wahana Kajian Hukum Islam dan Pranata Sosial* 23, no. 1 (2021): 55–71, <https://doi.org/10.22373/jms.v23i1.9073>

⁴² Ismawardi, "Syari'at Islam dalam Lingkup Keberagaman Masyarakat Aceh," *Bidayah: Studi Ilmu-Ilmu Keislaman* 9, no. 2 (December 2018): 165–182. <https://ejournal.staindirundeng.ac.id/index.php/bidayah/article/view/181/126>

⁴³ Heru Permana Putra and Desi Syafriani, "Otonomi Daerah dan Pengaruhnya terhadap Kebijakan Daerah Bernuasa Syariah di Kota Padang," *Islam Transformatif: Journal of Islamic Studies* 3, no. 2 (2019): 136, <https://doi.org/10.30983/it.v3i2.2417>

⁴⁴ Heiner Bielefeldt, "Freedom of Religion or Belief—A Human Right under Pressure," *Oxford Journal of Law and Religion* 1 (April 2012): 15–35. <https://doi.org/10.1093/ojlr/rwr018>

countries like Indonesia, the law can account for societal diversity without restricting non-Muslim rights. The dynamics of Aceh's Qanun rules show that Indonesia's democratic values of individual liberty can conflict with the consensus of the majority, resulting in minority groups being treated differently based on other religions. The central government should consider the fundamental rights of minority citizens in religious law areas to avoid human rights violations.

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