

ISLAMIC EDUCATION MODEL ORIENTED ON THE VIEWS OF ACEH ULAMA ON CUSTOM SANCTIONS FOR COMMUNITIES FOR VIOLATION OF QANUN JINAYAT IN THE DISTRICT ACEH TAMIANG

Musthafa, Asmuni, Zainul Fuad

Universitas Islam Negeri Sumatera Utara Medan

*Email : mustafaabdussalam35@gmail.com

ABSTRACT

This research looks at what Acehese scholars think about the customary punishments for people who break the *khalwat qanun* in Aceh Tamiang District, based on Aceh Province *Qanun* Number 6 of 2004 about Jinayat Law in the progressive Islamic education model. This research method is normative and empirical. It looks at legal principles and norms in laws and regulations, legal doctrine, and how legal norms are used in society. It then looks at the problem from the point of view of Acehese scholars regarding violations of the *khalwat qanun*. The results of the study show that when putting customary life into practice, regions can set up different policies to help adat and traditional institutions in their areas that are based on Islamic law and work in line with it. *Gampong* or village residents who break the *khalwat* or make the Sharia look bad can first go to a *Gampong* Traditional Meeting (RAG). One reason why *khalwat* offenders aren't caned in Aceh Tamiang is because the case was settled in a way that was unfair to both local elites and the general public. A number of *Khalwat* cases were resolved through customary mechanisms. Sanctions such as the "*banquet of bad luck*," handing over tens of sacks of cement for village infrastructure development, and washing and humiliating in public places are forms of settlement for indigenous peoples. Many indigenous peoples outside Aceh also carry out sanctions like this. considerations of efficiency, expediency, and trustworthiness. Through customary mechanisms, *khalwat* cases are handled more quickly and efficiently than in the Sharia Court. In addition, the implementation of *Qonun Jinayah* can be carried out using a progressive education model approach that aims to raise awareness in every individual community about the enforcement and implementation of *Qonun Jinayah* in the Aceh Tamiang region.

Keywords: Ulama's view, Sanctions, Qanun, Aceh, Islamic Education Model

1. INTRODUCTION

Aceh is a region or province that is part of the Indonesian state. Where Aceh has a Muslim majority population, it is thick with Islamic customs and culture. Aceh is one of the provincial areas that is given specialization by the central government based on Law Number 11 of 2006 concerning the governance of Aceh. One form of this specificity can be seen in the implementation of Islamic Shari'ah, in which every community is obliged to obey all regulations based on Islamic values with the integration of national legal provisions (Darma Nagara & Hendiyani, 2022).

The Islamic religion plays an active role in all walks of life for the people in Aceh, so in all their actions they always rely on Islamic religious shari'a, customs and adhere to Islamic shari'ah by following the fatwas of the ulama, in this case the ulema who belong to the Asy-Shafi' school of thought. iy. Acehese culture was born from the practice of Islamic religious teachings, which are so thick in the lives of its people (Pamulutan, 2012)

The views and understandings of the ulama and the community are as stated in a couplet of Aceh poetry, namely: *Adat Ngoen Hukom Lagee Zat Ngoen Siphaut*, while the meaning of this verse is that adat and law unite as substances and characteristics that are meaningful in Aceh are customary, and Islamic law that is applicable in people's lives is very unified and cannot be separated from one another.

This is also the case in the social order and government of Aceh, which always harmonize various ways of life with Islamic teachings. This has been going on for a long time, dating back to the reign of Sultan Iskandar Muda (Majid, 2007). Even today, the people of Aceh are still strong in the joints of their lives, always based on the teachings of Islam.

An indication that the existence of Islamic law is the main foundation is the public's awareness to always practice all Islamic teachings and abandon all forms of Islamic prohibition, including criminal acts. In this case, the community's adherence to the rules of the Islamic religion that have been set forth in the *qanun* is applied to the pattern of life and behavior of the people in Aceh. There is a solid relationship between Islamic religious teachings and customs that have developed (Berutu, 2020).

Today the Aceh government has drawn up various regional regulations which are set forth in the form of regional regulations called "*Qanuns*", where the contents of these *Qanuns* regulate the implementation of Islamic Shari'ah, namely: *Qanun* Aceh Province No. 5 of 2000 concerning the implementation of Islamic Sharia; Aceh Provincial *Qanun* No. 10 of 2002 regarding Islamic Sharia Courts; Aceh Provincial *Qanun* No. 11 of 2002 regarding the implementation of Islamic Sharia in the fields of Aqidah, Worship, and Syi'ar Islam, Aceh Province Qanun No. 12 of 2003 regarding intoxicating drinks (*Khamar*); Aceh Province Qanun No. 13 of 2003 regarding gambling (*Maisir*); and Aceh Province Qanun No. 14 of 2003 regarding nasty acts (*Khalwat*); and Aceh Province *Qanun* No. The *Qanuns* that have been stipulated and enforced include three *Qanuns* whose material specifically regulates the *jinayat* law regarding the prohibition of drinking intoxicating drinks (*khamar*) of any brand, *maisir* (gambling), and *khalwat* (obscene) whose material relates to the rules as outlined in the teachings of Islam (Pamulutan, 2012). One of the forms of applying Islamic law is by applying criminal sanctions (*'uqubat*) to violators of the *Qanun* in the form of caning. This caning law is Islamic law for those who commit obscenity; it was once enforced by Sultan Iskandar Muda against the crown prince named *Meurah Pupok* for committing obscenity at that time (Berutu, 2020).

Basically, the Acehnese people agree that the application of the caning punishment aims to provide a lesson and a deterrent effect to violators of Islamic law and to give others a sense of fear that they will not commit the same crime. So that the caning punishment that has been passed can combat the psychological factors that encourage the desire to do pleasure that is contrary to Islamic law. With the caning punishment, it is hoped that the offender can forget his actions (Zainal, 2010). This is of course the same as the opinion put forward by Soerjono Soekanto, that law must study the reciprocal relationship between law and other social phenomena. That is, the extent to which the law influences social behavior and the influence of social behavior on the formation of law (Tebba, 2003).

2. LITERATURE REVIEW

2.1. Progressive Islamic Education Model Related to Qanun Jinayat in Aceh Tamiang District

The progressive Islamic education model has a goal of establishing the quality of human resources by instilling aspects of self-awareness in the interpretation of Islamic education in daily life to determine identity (Idris & Mokodenseho, 2021). The people of Aceh are known as a Muslim-majority area that implements Islamic sharia law in their territory. This is very important to every individual Acehnese; even non-Muslims must comply with the rules and regulations that apply in the region. A progressive Islamic education model can be used to raise public awareness about the implementation of Sharia rules. The application of the progressive education model will be focused on through the role of the Aceh Traditional Council by applying the values of reason, moral values, aesthetic values, and societal values (Hamdi, 2018). This is directly related to the enforcement and implementation of Qanun Jinayat in the Aceh Tamiang region.

2.2. Implementation of Qanun Jinayah in the Aceh Region

Even though the *Qanun* is implemented in Aceh, there are still districts and cities that have not fully implemented the Aceh *Qanun* due to various reasons that have been used to date. There are 6 (six) regencies or cities that have implemented the Aceh qanun, namely: Banda Aceh, which is the provincial capital; Langsa, which is the government center for Langsa City; Aceh Temiang Regency; East Aceh Regency; Bireuen Regency; and Pidie Regency.

Even now, the implementation of Islamic law in the province of Aceh is still a source of debate and different reactions from Indonesians and people around the world.

There are conflicts of opinion regarding the application of Islamic law in Aceh, often in the name of human rights, and accusations against the Aceh *Qanun* that they are cruel, inhumane, and primitive. The main issues that are very crucial after the implementation of the Aceh *Qanun* include issues related to the rights of women and minority groups, especially non-Muslims (Manan, 2020).

Responses and criticisms emerged from the national and international levels. From a national perspective, the Institute for Criminal Justice Reform (ICJR) is one of the parties expressing objections. The Indonesian penal system strictly prohibits the use of caning for ICJR, corporal or corporal punishment through caning. Objections from international circles were conveyed by Amnesty International, which stated that "this sickening spectacle, carried out in front of more than a thousand jeering spectators, is an act of utmost cruelty" (Amnesty International, 2017)

Those who do not support Islamic law state that the *Qanun* is not in line with the national legal system because its substance contradicts higher laws and regulations. However, the makers of Islamic Sharia *Qanuns* in Aceh adhere to the principle of *lex specialist derogat lex generalist*, whose opportunities are opened up by law (Abu & Bakar, 2008).

This policy had an effect, namely the emergence of three new institutions in Aceh: 1) MAA (Aceh Traditional Council) in charge of customary issues; 2) MPU (Ulama Consultative Council) in charge of Islam; and 3) MPD (Regional Education Council) in charge of education. These three institutions existed in society during the time of Prof. Ali Hasjmy (1957–1964), who became Governor of Aceh. Even so, customary law still continues in accordance with the customs and traditions that have developed in Acehnese society. Even though traditional leaders have been given training on procedures regarding customary justice, which is applied to the community as is the case with state justice, its implementation is still going on as usual, which has grown and developed in Acehnese society.

Customary law, one of which is used in Acehnese society, is a type of law that is often used in rural areas to solve problems that happen in the community. As stated in the book of the Acehnese customary council, *adat* unites with religion and becomes a general guideline in everyday life (Majelis Adat Aceh, 2012)

Regarding this, Umar said that traditional legal institutions, which are legal institutions that develop in the culture of society, do not serve criminal acts but rather reconcile or seek to reconcile people in disputes who are wrapped in religion and kinship. Settlement of disputes or disputes that are carried out through customary law peacefully is done to build harmony between the disputing parties and also impose applicable customary sanctions (Umar, 2008).

Umar added that, if observed from a philosophical point of view, customary law provides a plus in people's lives because it can guarantee the maintenance of a system of social harmony and peace that is prioritized. Therefore, customary law decisions are termed "*peace decisions*" with the aim of resolving disputes that exist in the *gampong* or in settlements (Umar, 2008).

Badruzzaman also reiterated that customary law decisions are the ones expected by the people of Aceh because this institution is economic in nature and, psychologically, its decisions can reassure those who are in dispute. Traditional legal institutions seek to resolve conflicts as best they can, not search for justifications.

This is confirmed by a saying carved in an Acehnese verse: *Hukom Lillah Sumpah Bek, Traditional Law Ikat Bek, Hukom Ade Pake Bek, and Hukom Meujroh Pake Bek*. The purpose of the Aceh poetry verse, which is termed "*hadih maja*", is to establish a law based on God's law, not only prioritizing oaths alone, but also establishing a law based on community habits in a non-binding manner, the decision must be fair, namely using the traditional way that developed in the community (Majelis Adat Aceh Kabupaten Aceh Utara, 2005)

The way in which traditional legal institutions live and develop in society without any formal and standard elements in general. This condition exists because there are no legal materials that can force the perpetrators of customary violations, and there are no material rules in literacy to serve as material for traditional legal institutions. In the implementation of trials, it was found that village secretaries, whose position was to act as clerks, were still unable to read and write in several remote areas of the village.

In the current context of Aceh, traditional laws have been re-enforced, which can bring results to the commander-in-chief's area, while other traditional institutions cannot bring the expected results. While the actual implementation of traditional legal institutions has not been able to bring the expected results permanently.

Based on observations at several research sites, the authors conclude that *gampong* officials or village heads are usually involved in resolving a dispute; *keujruen blang* handles agricultural problems; and the harbormaster is in charge of maritime affairs and fisheries. Meanwhile, other traditional institutions have not functioned properly.

Customary criminal law in the field is in line with Islamic law, which is how the Aceh Qanun handles *khalwat* and *ikhtilat* crimes in Aceh. There is a slight difference between Islamic *Jinayat* law and the provisions of the *Qanun Jinayat* Aceh that have been ratified, namely regarding the punishment for marrying people who commit nastyty or seclusion in contrast to Islamic law, as stated in the Fatwa of the Aceh Ulama Consultative Assembly, which explained *Fatwa* No. 3 of 2009 concerning marriage law against adulterers. So in this case, it is necessary to pay close attention to whether the customary law system applied by the Aceh government to its people is able to reduce the crimes committed, especially acts of adultery and *khalawat*.

3. RESEARCH METHOD

1. Types and Approaches

This research is a qualitative research. While the approach used is normative-juridical empirical, namely research that will explore the values contained in the law and view them from a sociological angle, In this case, the law is placed as a social phenomenon (law in action) and not as written law (law in a book). In sociological legal research, what has always been the main issue is the issue of the effectiveness of legal regulations, compliance with legal rules, the role of legal institutions or institutions in law enforcement, and the influence of law on social phenomena (Soekanto & Mamudji, 1995). Related to the views of Acehnese scholars and the implementation of customary sanctions for people who violate the *qanun jinayat* in the *Khalwat* case. In addition, the role of the approach taken by the Aceh Customary Council is to socialize the urgency of enforcing the *Qanun Jinayat* law with a progressive Islamic education model for each individual member of society.

2. Data Source

- a. Interviews with clerics in Aceh Tamiang District and law enforcers or people who have been found guilty of *khalwat* crimes in Aceh Tamiang District will be used as the main source of information. Aside from that, *Qanun* Aceh Province No. 14 of 2003 about obscene acts (*khalwat*) is the main source of information for this study.
- b. Secondary data will come from a number of books and research results that talk about the rights and position of women in relation to the main theme, which is *khalwat* sanctions (Marzuki, 2008).

3. Determination of Research Subjects

In this study, the sample was chosen with the help of the purposeful sampling method. Then, the snowball method was used to find respondents and key informants. On the basis of these key informants, new informants will be found based on what the research needs. This study was about two things: *Qanun* Aceh Province No. 14 of 2003 about lewd acts (*khalwat*) and the opinions of clergy in Aceh Tamiang District.

4. Data Collection Techniques

In addition to tracing the articles contained in the Aceh Provincial Qanun No. 14 of 2003 regarding lewd acts (*khalwat*) as a written source, field data collection will be carried out by interviewing scholars and the people of Aceh, namely through in-depth interviews by way of question and answer while face-to-face between the interviewer and the informant or the person being interviewed with or without using an interview guide, where the interviewer and informant are involved in a relatively long life (Bugin, 2007).

4. RESEARCH AND DISCUSSION

4.1. The view of the Aceh Ulama on customary law for people who violate the *Khalwat* Qanun

Gampong or village residents who break the *khalwat* or do something bad called Syari'at can first go to a *Gampong* Traditional Meeting (RAG). This provision should be known by investigators, Wilayatul Hisbah officers, and the general public, so that whoever from these three groups makes an arrest will turn the perpetrators over to *gampong* officials. If the perpetrators of *khalwat* or nastyty are

not residents of the *gampong*, they will be given directly to the investigator (Siddiq & Fahmi, 2009). But in Aceh Tamiang, customary institutions have played a big role in solving *khalwat* and nasty cases. In fact, most *khalwat* cases are only solved by customary institutions and not by the Syari'ah Court. In the Aceh Tamiang community, this did happen because there were no formal institutions with more power to handle *khalwat* cases. Some of the most important problems were described by the interviewees, as shown in Table 1.

Table 1. The Main Problems with Handling The *Khalwat* Case In Aceh Tamiang, Based On The Results of Informant

NO	Informant	Statement Contents
1	Head of the Wilayatul Hisbah of the Islamic Sharia Office of Kuala Simpang	That many cases of <i>khalwat</i> were only resolved by the Kampong Customary Institution without involving them, so that they were overwhelmed trying to obtain data on <i>khalwat</i> perpetrators in Kuala Simpang
2	Asma'i (Head of Wilayatul Hisbah Aceh Tamiang District)	The existence of this <i>qanun jinayah</i> must be pursued in the form of implementation for the community, with the following signs: <ol style="list-style-type: none"> 1. In implementing Qanun No. 6 of 2014, the government must make a prevention strategy so that Qanun No. 6 of 2014 functions optimally. The current phenomenon of Qanun already exists, but violations of Islamic sharia values in Aceh Tamiang are also increasing. 2. Prevention efforts are carried out by the Satpol PP/WH by conducting sweeps at places suspected of violating Islamic sharia values, but there are also places that are difficult to touch because they are supported by certain elements, this has become a secret general.

Based on the interview above, it is clear that prevention efforts can be made because there is a Regent's regulation to strengthen the *qanun jinayah*. Prevention efforts are made by Satpol PP/WH by conducting patrols (sweeping) in places suspected of violating the values of Islamic law, but there are also places that are hard to touch because they are guarded by certain people. This is not a secret.

Several traditional leaders in Aceh Tamiang said that the *Kampong* adat institution played a big role in how *khalwat* cases were handled in their kampong and that many *khalwat* offenders were punished directly by the Kampong adat institution, either by giving them advice or forcing them to get married, without telling *Wilayatul Hisbah* or anyone else. Other authorities, from their roles and functions in accordance with what is stated in *Qanun* Aceh Number 13 of 2003, explained that there are no customary law rules governing the permissibility of customary institutions to decide or sentence punishment for *khalwat* perpetrators, whether punishment is in the form of lashes or marriage. But here it appears that customary institutions have started to play a role up to the stage of imposing or penalizing *khalwat* perpetrators, while in the legal regulations (*Qanun*), there is not a single article that regulates the permissibility of customary institutions to give or sentence *khalwat* or nasty perpetrators.

Based on what has been said so far, customary institutions are a very important part of how *khalwat* cases in society are solved. In *Qanun* Aceh Number 9 of 2008, Concerning the Development of Customary and Customary Life, it says that customary institutions can help solve this problem. In a different part of the law, it says exactly what kinds of customary disputes can be settled by customary institutions. Article 13 paragraph 1 of the *qanun* says that there are at least 18 kinds of customary disputes that can be settled through customary institutions. One of these is the *khalwat*, or nasty. Domestic disputes, disputes between families related to faraidh, disputes between residents, *khalwat* or nasty, disputes over property rights, theft within the family (minor theft), disputes over shared assets, petty theft, pet livestock theft, customary violations regarding livestock, agriculture, and forests, disputes at sea, disputes in the market, light maltreatment, forest fires (on a statewide basis).

Based on the above information, it is clear that after the Qanun Aceh Number 9 of 2008 about the development of customary law and customary life was passed, indigenous peoples can deal with and punish people who commit *khalwat* through customary institutions and mechanisms. If you pay close attention, Aceh *Qanun* Number 9 of 2008, concerning fostering traditional life and customs, also regulates the issue of *khalwat* (nasty).

Even though *khalwat* was originally regulated in Qanun Number 14 of 2003, namely, the case was resolved through the Syari'ah Court. In the emergence of Qanun Aceh Number 9 of 2008 concerning the development of customary life and customs, in one case of *khalwat* there are two kinds of resolution mechanisms, namely the sharia mechanism through the Sharia Court and the customary mechanism through customary institutions.

It seems that formal sanctions and laws in Qanun Number 14 of 2003 can be resolved outside the formal Sharia courts. This assumption may be true from the perspective of A. Qodri Azizy, who said that formal laws do not always have to be applied or taken to court. Formal law can be settled out of court on the basis of mutual consent (Azizy et al., 2002)

Apart from that, Aceh Qanun Number 9 of 2008 concerning Fostering Customary Life and Customs raises the question of why only *khalwat* cases are regulated outside the Sharia Court, while *maisir* (gambling) and *khamar* (alcohol) cases are not, even though *khalwat* (nasty), *maisir* (gambling), and *khamar* (alcohol) are part of a package of policies for enforcing Islamic law in Aceh. The Aceh *Qanun* Number 9 of 2008 concerning Fostering Traditional Life and Customs should also regulate the issue of *maisir* (gambling) and *khamar* (alcohol); moreover, the statement from Alyasa' Abu Bakar indicates that *Qanun* Aceh Number 9 of 2008 concerning Fostering Traditional and Indigenous Life The custom is to strengthen the enforcement of Islamic law. For this reason, the Aceh Provincial Islamic Sharia Office forms and trains village muhtasib, and the muhtasib is also given an honorarium for this task (Feener, 2013).

4.2. Imposition of customary punishments for people who commit violations of the Qanun Jinayat Khalwat

Indigenous peoples have different ideas about how to use Article 22 of *Qanun* No. 14 of 2003, which says that people who commit *khalwat* could be punished. This happened because customary institutions were also given the power to settle *khalwat* cases according to custom. Not infrequently, the demands for sanctions in the form of fines are far greater than those stipulated in *Qanun* No. 14 of 2003, Article 22, because the perpetrator had to provide money to buy a goat and other necessities for the "throw away bad luck" ceremony because they were considered to have polluted the village or *gampong*.

Also, some customary institutions require people to give tens of sacks of cement to help build up the village's infrastructure. This demand for customary sanctions seems burdensome for *khalwat* perpetrators among ordinary people, but it is light enough for elites who violate *Qanun* No. 14 of 2003.

Provisions for *khalwat* sanctions stipulated in *Qanun* No. 14 of 2003, Article 22, are as follows (Abu & Bakar, 2006) :

1. Anyone who violates the provisions referred to in Article 4 is threatened with "*Uqubat ta'zir*" in the form of being whipped for a maximum of nine (9) times, a minimum of three (3) times, and/or a maximum fine of Rp.10.000.000.- (ten million rupiah), and a minimum of Rp.2.500.000.- (two million five hundred thousand rupiah);
2. The fines mentioned in Article 22 paragraphs 1 and 2 are a source of revenue for the region and are paid directly to the *Baitul Mal* Treasury.

Experience in resolving *khalwat* cases that discriminated between local elites and the general public was one of the reasons for the absence of caning of *khalwat* perpetrators in Aceh Tamiang; this is based on the results of the interviews illustrated in Table 2.

Table 2: The results of interviews with people who knew something about the caning of khalwat offenders in Aceh Tamiang.

NO	Informant	Statement Contents
1	Ust. Shahrizal, M.A. (Chairman of MPU Aceh Tamiang) Interview Results, April 19, 2022	One time it happened in Aceh Tamiang that the former Deputy Chairperson of the Aceh Tamiang DPRD violated the Aceh <i>Qanun</i> on <i>Khalwat</i> or nasty and was proven guilty, but the uqubat law was not implemented. Aceh Tamiang. It's just that the authority granted by the qanun provides an opportunity for customary institutions to resolve khalwat cases, which are cases of violations of Islamic law at the <i>gampong</i> (village) level.
2	Alfin Yusdian, (Head of Aceh Tamiang Regency MPU Secretariat) Interview Results, May 8, 2022	The deputy chairman of the DPRD who was not whipped caused the implementation of the caning law to stop for several years in Aceh Tamiang because the community considered there was a discriminatory attitude towards the implementation of the caning law in this area.
3	Sulaiman, (Chairman of Commission A, MPU Aceh Tamiang Regency) Interview Results, 12 June 2022	After the khalwat case of the deputy chairperson of the Aceh Tamiang DPRK, all <i>khalwat</i> cases were settled using customary methods or the policies of law enforcement agencies like the Aceh Tamiang Police. A number of <i>Khalwat</i> cases were resolved through customary mechanisms. Sanctions such as "throw of bad luck rituals," handing over tens of sacks of cement for village infrastructure development, and washing and humiliating in public places are forms of settlement for indigenous peoples. Many indigenous peoples outside Aceh also carry out sanctions like this. So there is nothing to do with these customary sanctions and sharia sanctions.

According to Daniel S. Lev, the demand that local law or customary law be applied is not a new reality in Aceh. There is a tendency for society to ignore formal laws. There is also a tendency to change Islamic law to suit local values because Islam also seems to provide room for the application of customary law.

Islam cannot overcome important differences among people; instead, it is gradually trapped in these differences. In the literal sense of the word, Islam is experiencing a dilemma. On the one hand, Islam tolerates laws that develop in society, but on the other hand, Islam also wants Muslim communities to affirm Islamic law, which originates from the Koran and the Prophet's traditions.

Daniel S. Lev's statement that Islamic law has never been unanimously accepted anywhere strengthens the thesis in this study. Islamic law is often modified to suit local values that are accepted and considered Islamic law, which derives its validity from religion and the authority of the clergy. This research also reinforces Gresham's institutional theory, which states that formal processes tend to be avoided in order to resolve disputes through a process that is more familial and more accommodating (Lev, 1985).

When handling cases of *Khalwat* acts, they get the support of indigenous peoples. More often than not, the avoidance of settlement through sharia courts is caused by considerations of efficiency, expediency, and trust. Through customary mechanisms, *khalwat* cases are handled more quickly and efficiently than in the Sharia Court. In addition, the sharia authorities in Aceh Tamiang did not order their citizens to submit cases of *khalwat* to the Sharia Court. In this case, conciliation among indigenous peoples is an alternative means of resolving cases because sharia authorities are unable to do anything to resolve them.

For generations, people who commit *khalwat* in Bedulang Village, Bandar Pusaka District, and Aceh Tamiang Regency have been forced to get married. In addition, a man who proposes must give the woman a dowry of two gold *mayams* and two million rupiahs in cash. The money is used for

celebrations and festivals to gather the two families (male and female) so that they get to know each other.

Anyone who commits *khalwat* will be forced to get married and will have to pay *diat* in the form of a fine for one male goat and ingredients for other foods, such as rice, coconut, and spices. Mr. Muhammad Shiddiq said that the *diat* was given to the customary police, consisting of local youths, to eat together on the beach as a result of their work in patrolling. In the forced marriage process for perpetrators of *khalwat*, apart from the customary police, who are supervisors and guardians of traditions, customary leaders are other figures who have an important role in this process of imposing sanctions. The perpetrators of *khalwat* will be confronted by the customary leaders, and it is the customary leaders who decide on or penalize the perpetrators of *khalwat*; even forced marriages are carried out in front of the traditional leaders by presenting the families of the perpetrators of *khalwat*. Traditional stakeholders will hold a hearing by presenting their respective families.

There are three reasons for traditional leaders to make marriage a sanction for *khalwat*: traditional and religious reasons, sociological reasons, and moral reasons. The reason for tradition and religion can be seen in the people's belief about customary law demands whose implementation process has been implemented from generation to generation and is believed to be the shield of Islamic law.

The *Badu Bedulang* community is classified as religious. This is evident in their daily lives, which are always associated with spiritual values. It is almost difficult to find their actions that are free from religious dimensions. Whatever actions they take, they always start with the tradition of asking God Almighty for strength and safety. The values and customs of their ancestors are firmly adhered to and actualized in everyday life.

Even though the community is classified as religious, the mindset of the Batu Bedulang community that they built cannot be separated from the practice that has become a tradition. This is evident when the traditional stakeholders make marriage a sanction of *khalwat*, which is implemented from generation to generation.

Society no longer considers the purpose of marriage. This is understandable because the social culture is far from developing a cultural civilization. The religious factor was seen more clearly when several respondents stated that the sanction for forced marriage for perpetrators of *khalwat* was aimed at preventing adultery. The results of the interview regarding the prevention of *khalwat* perpetrators can be described as follows:

According to Johan Alamsyah, acts of *khalwat* committed by a person can lead to adultery, so that the perpetrator is questioned as to whether his actions have committed adultery or not. So to avoid pregnancy out of wedlock, both partners must be married off. However, in its development, this custom has been questioned because it is not only forced marriage that is applied to perpetrators of *khalwat* but also death sentences or fines. Sartika stated that the giving of *diat* by *khalwat* perpetrators was not productively used by the community. The fine was given to local youths to enjoy together as a result of their work on patrols. Mr. H.M. Yahya Husein, S. Sos, said the exact same thing. I believe that the *diat* will only be used by young people who carry out their duties as "*traditional police*," because without young people, customary law cannot be carried out optimally.

For people who do *khalwat*, forced marriages are also a big part of their lives for social and moral reasons. The community sees *khalwat* as a deviant behavior, and they feel ashamed if a girl is taken to a secluded place by a man who is not a *muhrim*.

They are of the view that when a girl is brought up by a man who is not a *muhrim*, then the girl is not right or not a good girl. Consequently, no man wanted to marry her, so the woman's family was forced to marry off her child to the man.

It was the community that asked the indigenous stakeholders to marry off their children, which later became customary law until now. Second, there are two arguments why traditional leaders make marriage a sanction of *khalwat*. First, Q.S. Al-Isra' (17):32 "*And do not approach adultery, for in fact adultery is an abomination and the worst way*".

Dr. H. Marhaban, MA, said that the verse shows that getting close to adultery, or *khalwat*, is directly forbidden. Because *khalwat* is the root of adultery. The prohibition of *khalwat* is "*early prevention*" for adultery.

Then Shahrizal, MA, Chairman of MPU Aceh Tamiang, added that: "For the enforcement of Qanun No. 6 of 2014 concerning *Jinayah* law, it is to strengthen religious knowledge and revitalize study halls. This is done so that the younger generation strengthens their religious knowledge in addition

to receiving attention and supervision from parents." This is highly expected because parents must fully control their children's activities outside the home; this is done so that children play in a healthy and correct environment". In tackling khalwat perpetrators in Aceh Tamiang Regency, there must be a will from the environment, community, and family, where the environmental commitment is not to allow its citizens to roam around at night and to provide strict sanctions for every community member who violates the rules in that environment, such as no male guests are allowed after 10 p.m. If all neighborhoods implement it like this, then the perpetrators of khalwat will not occur.

Another thing was said by Said Anwar, the Head of Legal Development at the Aceh Tamiang Regency Islamic Sharia Service, who explained that: "External commitments are very influential for the community in their respective regions. Now, the community's commitment if there are people who violate the rules of Islamic Shari'a, such as someone who immediately reports to the Islamic Shari'a Service, but there are also people who try themselves in a familial way, which makes the perpetrators of violations not feel deterred by the actions they have committed, so it can be seen that the commitment of the community to reduce khalwat perpetrators is still very lacking.

The interview above explains that the prevention of khalwat perpetrators in Aceh Tamiang Regency requires cooperation between the government and the community so that acts of khalwat do not increase in Aceh Tamiang Regency. There are people who, if they get problems violating Islamic Sharia such as khalwat, report them to the authorities, but there are still many communities or families that protect the violations committed by their children, so that there is no deterrent effect for other khalwat perpetrators, especially among teenagers, because of the lack of rules applied to violations of Islamic Sharia such as khalwat. Because of the lack of rules applied to violations of Islamic Shari'a such as *khalwat*.

In the opinion of Drs. Abdul Muin, Chairperson of the Aceh Traditional Council of Aceh Tamiang Regency, who explained that: "Nowadays people really don't care about their environment, like in Aceh Tamiang Regency, where on Saturday nights the people let their children go out late with partners of the opposite sex; they don't even ask their children to leave. "Where, then, the promiscuity that is happening right now is very dangerous; junior high school students already know the world of the night now and are afraid of falling into *khalwat* by looking at the various media nowadays."

The interview above explains that in Aceh Tamiang District, the commitment of the community and families is still very lacking in looking after their children, so we see that so far the association of teenagers today is very free, especially on Saturday nights when parents let their children go out with the opposite sex until late at night. This can invite a negative position and can lead to free sex because there is no attention from parents and the local community, which rebukes the behavior of its residents.

This also describes that synergy between stakeholders is needed to carry out a policy, in addition to efforts to overcome community ailments such as khalwat by strengthening religious knowledge and revitalizing study centers. This is done so that the younger generation strengthens their religious knowledge.

Customary institutions have legal legitimacy from the Aceh government through Qanun Number 10 of 2008 concerning customary institutions. Syahrizal Abbas said that the customary Qanun was given to extend the hands of the government. Aceh is so vast, the Islamic Sharia Service is only located in the City District area, and there is a lack of *wilayatul hisbah* (Islamic law police) personnel. So it is not possible to maximize the implementation of Islamic law in a kaffah manner in various remote villages. Therefore, Qanun jinayat can be applied not only in a juridical and sociological sense but also philosophically. So the Aceh government gave customary law legitimacy through Qanun Number 10 of 2008 concerning Customary Institutions.

Through the Qanun, the Aceh government gave authority to the people of Aceh to solve their own problems. Both in the form of disputes and disputes that exist in their respective villages before being handled by the government. Customary institutions have the power and authority to resolve violations of Islamic law. But Ust. H. Sulaiman said that although customary institutions have full authority, It does not necessarily decide that it deviates from the "spirit of Islamic law".

If examined from the perspective of principles, theories, norms, practices, and procedures, in customary law the imposition of customary sanctions is essentially for the restoration of magical natural balance, the restoration of the natural cosmos, in order to restore disturbed balance so that it becomes religio-magical again. The existence of this criminal sanction is important. On the one hand, the

imposition of criminal sanctions is preventive and repressive in nature, and on the other hand, the restoration of the disturbed magical balance is necessary for the indigenous peoples to return to normal.

4.3. Implementation of the Progressive Islamic Education Model

In order to shape the character of quality human resources, the progressive Islamic education model can be carried out in the form of outreach seminars, FGDs, training, and articles that contain aspects of self-awareness and identity in magazines or bulletins related to adat, as carried out by the Adat Council in Aceh (Hamdi, 2018). This is directly related to each individual's awareness of their own weaknesses and is then motivated to increase the potential within them (Idris & Mokodenseho, 2021). As well as establishing harmonious and humane relationships to encourage and strengthen others in enforcing the *Qonun jinayah* in the Aceh Tamiang region.

5. CONCLUSION

Based on the descriptions of several previous chapters, it can be concluded as follows:

- a. When putting customary life into practice, regions can set up different policies to support, preserve, and grow adat and traditional institutions in their areas that are in line with Islamic Shari'ah. *Gampong* or village residents who break the *khalwat* or make the Syari'at look bad can first go to a *Gampong* Traditional Meeting (RAG). This rule should be known by investigators, *Wilayatul Hisbah* officers, and the general public, so that whoever from these three groups makes an arrest will turn the criminals over to *gampong* officials, unless the *khalwat* or nasty criminals are not from the *gampong*, in which case they will be given directly to the investigator.
- b. The fact that the *khalwat* case was settled in a way that was unfair to local elites and the general public is one reason why *khalwat* offenders are not caned in Aceh Tamiang. A number of *Khalwat* cases were resolved through Adat mechanisms. Sanctions such as "throwing bad luck ritual" handing over tens of sacks of cement for village infrastructure development, and washing and humiliating in public places are forms of settlement for indigenous peoples. Many indigenous peoples outside Aceh also carry out sanctions like this. Considerations of efficiency, expediency, and trustworthiness through customary mechanisms, *khalwat* cases are handled more quickly and efficiently than in the Sharia Court.
- c. From the point of view of the qanun of the *jinayah* procedural law, the caning punishment for *jinayah* offenders in Aceh Tamiang Regency has not been carried out in the best way. This is because, after the sharia court ruled against the *jinayah* offenders, the caning did not happen right away, so the offenders had to go to jail first. So, many people who break *khalwat* are dealt with by traditional institutions that live and grow in Aceh Tamiang District according to customary law.

6. RECOMMENDATION

Based on the conclusions above, there are several recommendations related to this problem, namely:

- a. It is suggested to the government of Aceh Tamiang Regency to provide budgetary support and allocation of funds in enforcing Islamic law, as well as to the prosecutor to evaluate decisions that have been inkracht so that they can be carried out immediately and can be expired for carrying out caning execution if for 3 months after the verdict was handed down not to whip the perpetrator.
- b. In the future, law enforcers handling *jinayat* cases in Aceh Tamiang Regency should have a collective responsibility because, without good will and intention, it is impossible to enforce *jinayat* law.
- c. Traditional institutions and the government should work together to handle *khalwat* cases so that they can work together to keep society in order.
- d. The implementation of the progressive Islamic education model can be carried out through outreach, seminars, FGDs, training, and articles containing appeals to every individual in society to be able to increase self-awareness in enforcing the Qanun Jinayah in the Aceh Tamiang region.

REFERENCES

- Abu, A.-Y., & Bakar, M. H. (2006). *Hukum Pidana Islam di Provinsi Nanggroe Aceh Darussalam*. Dinas Syariat Islam, Provinsi Nanggroe Aceh Darussalam.
- Abu, A.-Y., & Bakar, M. H. (2008). *Hukum Pidana Islam di Nanggroe Aceh Darussalam*. Dinas Syari'at Islam.
- Amnesty International. (2017). *Pernyataan Amnesty International : Mencambuk Pria Gay Suatu Kekejaman yang Keterlaluan*. AMNESTY INTERNATIONAL. <https://www.voaindonesia.com/a/pernyataan-amnesty-international-mencambuk-pria-gay-suatu-kekejaman-yang-keterlaluan/3867862.html>
- Azizy, A. Q. A., Azizy, Q., & Arifin, B. (2002). *Eklektisisme Hukum Nasional: Kompetisi Antara Hukum Islam dan Hukum Umum*. Gama Media.
- Berutu, A. G. (2020). *Formalisasi Syariat Islam Aceh Dalam Tatanan Politik Nasional*. Pena Persada.
- Bugin, B. (2007). *Penelitian Kualitatif: Komunikasi, Ekonomi, Kebijakan Publik dan Ilmu Sosial lainnya*. Kencana.
- Darma Nagara, M. R. N., & Hendiyani, M. F. (2022). The Analysis of Aceh Law and Its Relevancy on National Law from Human Right Perspective. *Jurnal Terapan Pemerintahan Minangkabau*, 2(2), 163–173. <https://doi.org/10.33701/jtpm.v2i2.2508>
- Feener, R. M. (2013). *Shari'a and Social Engineering: The Implementation of Islamic Law in Contemporary Aceh, Indonesia*. University Press.
- Hamdi, S. (2018). Eksistensi Peran Majelis Adat Aceh dalam Mensosialisasikan Nilai-Nilai Pendidikan Islam di Wilayah Barat-Selatan Aceh. *Ar-Raniry, International Journal of Islamic Studies*, 5(1), 115–137. <https://jurnal.ar-raniry.ac.id/index.php/jar/article/view/7578%0Ahttp://journalarraniry.com/ojs/index.php/jar/article/view/196/97>
- Idris, M., & Mokodenseho, S. (2021). Model Pendidikan Islam Progresif. *J-PAI: Jurnal Pendidikan Agama Islam*, 7(2), 72–86. <https://doi.org/10.18860/jpai.v7i2.11682>
- Lev, D. S. (1985). *Colonial Policy and the Genesis of the Indonesian State*. Comell Southenast Asia Program.
- Majelis Adat Aceh. (2012). *Pedoman Peradilan Adat di Aceh Untuk Peradilan Adat Yang Adildan Akuntabel*. Majelis Adat Aceh.
- Majelis Adat Aceh Kabupaten Aceh Utara. (2005). Peran Adat Aceh sebagai alat Pemersatu dalam Masyarakat (Ditinjau dari Sudut Pandangan Cendikiawan). In *Majelis Adat Aceh Kabupaten Aceh Utara Lhokseumawe*.
- Majid, A. (2007). *Syariat Islam Dalam Realitas Sosial, Jawaban Islam Terhadap Masyarakat Di Wilayah Syari'at*. Yayasan Pena Banda Aceh.
- Manan, H. T. A. (2020). *Mahkamah Syari'iyah Aceh Dalam Politik Hukum Nasional*. Kencana.
- Marzuki, P. M. (2008). *Penelitian Hukum*. Kencana.
- Pamulutan, M. A. (2012). *Eksekusi Rajam Bagi Pelaku Zina Muhsan, Memenuhi Hak Allah Dan Membela Hak Insan*. Badan Arsip Dan Perpustakaan Aceh.
- Siddiq, M., & Fahmi, C. (2009). Problematika Qanun Khalwat Analisis Terhadap Perspektif Mahasiswa Aceh. *Aceh Justice Resorce Center (Ajrc), Banda Aceh*.
- Soekanto, S., & Mamudji, S. (1995). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Rajawali Pers.
- Tebba, S. (2003). *Sosiologi Hukum Islam*. UII Press.
- Umar, M. (2008). *Peradaban Aceh (Tamadun) II*. Baboen Jaya.
- Zainal, E. H. (2010). *Perbandingan Mazhab Tentang Hukum Pidana Islam, AlMuqarranah Al-Mazahib Fi Al-Jinayah*. Fakultas Syariah IAIN-SU.