



Legal Pluralism and the Enforcement of Zina Offenses: Customary and *Jinayat* Law in the Alas Community, Aceh

Nur Mala Sari,^{1*} Febiawan Suparman Mustar,² Abdul Manan,³ Jailani,⁴
Cut Maya Aprita Sari⁵

¹ Postgraduate Program UIN Ar-Raniry Banda Aceh, Indonesia

² Postgraduate Program Al-Azhar University, Egypt

^{3,4} UIN Ar-Raniry Banda Aceh, Indonesia

⁵ Researcher of Bielefeld University, Germany

*Corresponding Author: nurmalasari0218@gmail.com

DOI: <https://doi.org/10.21154/justicia.v23i2.12655>

Received: Dec 10, 2025

Revised: April 1, 2026

Accepted: June 2, 2026

Abstract: This study analyzes the enforcement of adultery in the Alas Tribe community in Southeast Aceh Regency, highlighting the dominance of customary law mechanisms over formal law enforcement, as provided in *Qanun* Aceh Number 6 of 2014 concerning *Jinayat* Law. Although the qanun normatively regulates criminal sanctions for adultery, its implementation at the local level has not been effective. This study uses a normative-empirical approach, combining analyses of legislation, case studies, and in-depth interviews with traditional leaders, *Wilayatul Hisbah* officials, and Sharia Court judges. The results show a dualism in the mechanisms for resolving adultery cases, characterized by a strong community preference for customary law. Customary-based resolution is seen as better at maintaining family honor and restoring social harmony, but it also undermines legal certainty and the effectiveness of criminal punishment. This article argues that the dominance of customary mechanisms reflects the failure of normative integration between *jinayat* law and customary law, resulting in the inability to achieve the objectives of Islamic criminal punishment (*maqāsid al-'uqūbāt*), particularly the deterrent effect, justice, and equality before the law. This research contributes to the development of Islamic legal pluralism studies by emphasizing the importance of functional integration between customary law and Islamic criminal law within indigenous Muslim communities.

Keywords: custom; Qanun; adultery; Southeast Aceh.

Abstrak: Penelitian ini menganalisis problem penegakan jarimah zina pada masyarakat Suku Alas di Kabupaten Aceh Tenggara dengan menyoroti dominasi penyelesaian melalui mekanisme adat dibandingkan dengan penegakan hukum formal berdasarkan Qanun Aceh Nomor 6 Tahun 2014 tentang Hukum Jinayat. Meskipun qanun tersebut secara normatif telah mengatur sanksi pidana terhadap

zina, implementasinya di tingkat lokal belum berjalan efektif. Penelitian ini menggunakan pendekatan normatif-empiris dengan menggabungkan analisis peraturan perundang-undangan, studi kasus, serta wawancara mendalam dengan tokoh adat, aparat Wilayatul Hisbah, dan hakim Mahkamah Syar'iyah. Hasil penelitian menunjukkan adanya dualisme mekanisme penyelesaian perkara zina yang ditandai dengan kuatnya preferensi masyarakat terhadap hukum adat. Penyelesaian berbasis adat dipandang lebih mampu menjaga kehormatan keluarga dan memulihkan harmoni sosial, namun pada saat yang sama melemahkan kepastian hukum dan efektivitas pemidanaan. Artikel ini berargumen bahwa dominasi mekanisme adat tersebut mencerminkan kegagalan integrasi normatif antara hukum jinayat dan hukum adat, yang berdampak pada tidak tercapainya tujuan pemidanaan Islam (*maqāṣid al-'uqūbāt*), khususnya efek jera, keadilan, dan kesetaraan di hadapan hukum. Penelitian ini berkontribusi pada pengembangan kajian pluralisme hukum Islam dengan menegaskan pentingnya integrasi fungsional antara hukum adat dan hukum pidana Islam dalam konteks masyarakat Muslim adat.

Kata Kunci: Adat; Qanun; zina; Aceh Tenggara.



Copyright: © 2026 by author (s). This work is licensed under a [Creative Commons Attribution-ShareAlike 4.0 International License](https://creativecommons.org/licenses/by-sa/4.0/).

Introduction

Aceh is a province granted special autonomy by the central government, as stipulated in Law Number 11 of 2006 concerning the Government of Aceh. This legal framework continues the peace agreement between the Government of the Republic of Indonesia and the Free Aceh Movement (GAM), signed in Helsinki on August 15, 2005. Under this arrangement, Aceh is endowed with constitutional authority to implement Islamic law across various aspects of social, cultural, and legal life, including criminal law, through the enactment of qanun.¹

The 1945 Constitution of the Republic of Indonesia recognizes customary law communities and their traditional rights, provided that they remain in existence and are consistent with the principles of the Unitary State. In Aceh, this recognition is further reinforced through Qanun Aceh Number 10 of 2008 concerning Acehnese Customary Institutions, which affirms the role of customary institutions in resolving disputes, maintaining social order, and

¹ Ikrar Nusa Bakti, *Beranda Perdamaian Tiga Tahun Pasca MoU Helsinki*, 1st ed. (Yogyakarta: Pustaka Pelajar, 2018), 30; Arskal Salim, *Challenging the Secular State: The Islamization of Law in Modern Indonesia* (Honolulu: University of Hawaii Press, 2008).

upholding local norms. Consequently, the resolution of criminal and moral cases through customary mechanisms possesses not only sociological legitimacy but also formal legal recognition.²

Historically and sociologically, Islamic law in Aceh is deeply rooted in the development of its predominantly Muslim society. The prominence of Islamic law can be traced back to the reign of Sultan Iskandar Muda, during which its influence expanded across the Malay world. This historical legacy is reflected in the well-known Acehnese proverb, “*adat bak po teumeureuhom, hukom bak syiah kualah, qanun bak putroe phang, reusam bak laksamana,*” which symbolizes the harmonious relationship between political authority, religious scholars, and customary governance in shaping social order.³

Within Acehnese legal philosophy, the relationship between Islamic law and customary law is understood as complementary rather than contradictory. This is reflected in the expression “*syari’at ngon adat lagee zat ngon sifeut,*” which conceptualizes sharia and custom as inseparable elements of social life. In this framework, customary law is not merely a cultural artifact but a living normative system that operates alongside Islamic legal principles to regulate social behavior.⁴

The formal implementation of Islamic law in Aceh began in 2002 and has since been institutionalized through a series of qanuns regulating moral and criminal behavior, including prohibitions on gambling (*maisir*), alcohol consumption, seclusion (*khalwat*), and adultery (*zina*). These provisions were later consolidated in Qanun Aceh Number 6 of 2014 concerning Jinayat Law, which serves as the primary legal framework for Islamic criminal law in the region. Normatively, this qanun classifies adultery as a serious offense subject

² Erna Wati and Tiara Rettina, “Inheritance Rights of Stepchildren in the Perspective of Compilation of Islamic Law,” *MILRev: Metro Islamic Law Review* 1, no. 2 (December 2022): 188–202, <https://doi.org/10.32332/milrev.v1i2.6208>; Adlian Aldita Alif Aisyah Ainur Khoyum, Bertha Amilia, and Candra Hafidz Ardana, “Granting Inheritance to Extramarital Children in the Perspective of Islamic Law,” *Contemporary Issues on Interfaith Law and Society* 2, no. 1 (January 2023): 89–100, <https://doi.org/10.15294/ciils.v2i1.66343>.

³ R. Michael Feener, “Engineering Transformations in the ‘Religion-Development Nexus’: Islamic Law, Reform, and Reconstruction in Aceh,” *Religion* 51, no. 1 (January 2021): 40–57, <https://doi.org/10.1080/0048721X.2020.1792051>.

⁴ M. Isa Sulaiman, *Historis Tentang Peradilan Adat Di Aceh, Dalam Pedoman Adat Aceh, Peradilan dan Hukum Adat* (Banda Aceh: Lembaga Adat dan Kebudayaan Aceh (LAKA), 2002).

to *hudūd* or *ta'zīr* sanctions, enforced through formal institutions such as the Wilayatul Hisbah and the Sharia Court.⁵

Despite this comprehensive legal framework, its implementation has not been fully effective. Empirical evidence indicates that, particularly in Southeast Aceh, adultery cases are more frequently resolved through customary mechanisms than through formal judicial processes. This condition reflects a dualism of authority in the settlement of *jinayat* cases, a phenomenon identified in previous studies as a source of legal uncertainty in Aceh.⁶

Recent scholarship on Islamic criminal law and legal pluralism highlights that the interaction between state law and living customary norms often shapes the implementation of formal legal systems. Legal pluralism theory suggests that multiple legal systems may coexist within a single social space, each competing for legitimacy and authority. In many contexts, particularly in postcolonial societies, customary law continues to play a significant, if not dominant, role in regulating social behavior despite the presence of formal legal institutions.⁷

In the Indonesian context, several studies have examined the implementation of Islamic law in Aceh following the enactment of the Qanun Jinayat. These studies generally focus on institutional challenges, legal substance, and human rights concerns, emphasizing procedural limitations and enforcement constraints within formal legal systems.⁸ Other studies highlight the role of customary law as a complementary mechanism that supports local-level dispute resolution.⁹

⁵ Syamsul Bahri, "Pelaksanaan Syari'at Islam Di Aceh Sebagai Bagian Wilayah Negara Kesatuan Republik Indonesia (NKRI)," *Jurnal Dinamika Hukum* 12, no. 2 (May 2012): 358–67, <https://doi.org/10.20884/1.jdh.2012.12.2.62>; Bastiar Bastiar, Asmuni Asmuni, and Bukhari Bukhari, "Public Perception and Effectiveness of Punishment for Khalwat Perpetrators in Aceh," *Justicia Islamica* 19, no. 1 (June 2022): 94–112, <https://doi.org/10.21154/justicia.v19i1.3304>.

⁶ Salim, *Challenging the Secular State: The Islamization of Law in Modern Indonesia*, 156–58.

⁷ M. B. Hooker, *Indonesian Syariah: Defining a National School of Islamic Law* (Singapore: Institute of Southeast Asian Studies, 2008).

⁸ R. Michael Feener, *Shari'a and Social Engineering: The Implementation of Islamic Law in Contemporary Aceh, Indonesia* (OUP Oxford, 2013), 210–13.

⁹ John R. Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge: Cambridge University Press, 2003), <https://doi.org/10.1017/CBO9780511615122>; Euis Nurlaelawati and Stijn Cornelis van Huis, "The Status of Children Born Out of Wedlock and Adopted Children In Indonesia: Interactions Between Islamic, Adat, and Human Rights Norms," *Journal of Law and Religion* 34, no. 3 (December 2019): 356–82, <https://doi.org/10.1017/jlr.2019.41>.

The initial regulations included Qanun Aceh No. 11 of 2002 on faith and worship, Qanun No. 12 of 2003 on the prohibition of alcohol, Qanun No. 13 of 2003 on gambling, and Qanun No. 14 of 2003 on khalwat.¹⁰ All of these regulations were subsequently consolidated into Qanun Aceh Number 6 of 2014 concerning Jinayat Law, serving as a more comprehensive legal framework for enforcing sharia in Aceh. Aceh Qanun No. 6 of 2014 concerning Jinayat Law serves as a guideline for the implementation of Islamic Sharia, including the punishment of flogging for adultery. However, its effectiveness has been suboptimal after more than a decade, as evidenced by the high number of adultery cases in Southeast Aceh.

In the Alas Tribe, complexity increases because customary resolution is more often chosen than formal channels, leading to partial implementation of the jinayat law.¹¹ The Qanun Jinayat is enforced through a formal process with the Public Order Agency (Satpol PP-WH) as investigators, the Sharia Prosecutor's Office as prosecutors, and the Sharia Court as adjudicator. Although authorities conduct investigations, arrests, and evidence collection in accordance with regulations, their implementation is often hampered by customary settlement traditions. Research shows that the implementation of the qanun often adapts to social conditions, including allowing perpetrators to resolve cases through customary law if the family wishes to avoid dishonor.

Furthermore, the Sharia Court, as a Sharia judicial institution, also faces structural obstacles in processing adultery cases. High standards of proof, such as four male witnesses directly witnessing the crime or four confessions from the perpetrator, prevent most cases from proceeding to trial.¹² This makes the role of custom increasingly dominant in addressing adultery issues, because it does not require formal standards of proof and is more flexible in adapting to social needs.

¹⁰ Fauzah Nur Aksa, T. Saifullah, and Al Farabi, "The Implementation of Qanun Jinayat in Aceh," *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum* 8, no. 1 (October 2023): 16-33, <https://doi.org/10.22515/alahkam.v8i1.5896>.

¹¹ A Amsori, "Legislasi Qanun Jinayat Aceh Dalam Sistem Hukum Nasional," *Ar-Raniry, International Journal of Islamic Studies* 4, no. 2 (2020): 221-56.

¹² Mustafa et al., "Penerapan Hukuman Adat Terhadap Pelaku Jarimah Khalwat Di Aceh Tamiang," *Cendekia: Jurnal Hukum, Sosial Dan Humaniora* 1, no. 1 (January 2023): 52-64, <https://doi.org/10.70193/cendekia.v1i1.10>; Mutiara Fahmi et al., "Punishment for Zina Muḥṣān Offenders in Aceh Qanun No. 6 of 2014 in the Perspective of Fiqh al-Siyāsah," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (June 2022): 346-68, <https://doi.org/10.22373/sjhk.v6i1.13363>.

This hypothesis is consistent with several previous studies that have highlighted problems in the enforcement of the Qanun Jinayat in Aceh. Several studies highlight that the effectiveness of this regulation in reducing crime rates remains limited, primarily due to inadequate public awareness of the law and the community's preference for customary-based resolutions, which are perceived as more lenient and contextually appropriate.¹³ Nevertheless, Khairul Hasni's research indicates that this qanun has a *deterrent* effect on certain types of moral crimes and helps strengthen the Islamic identity of the Acehnese community.¹⁴

On the other hand, the study by Nasrullah et al underscores structural and normative challenges in its implementation. Key criticisms include human rights violations, gender discrimination, and low public acceptance.¹⁵ Meanwhile, Zainul Fuad et al. highlight potential biases in uneven law enforcement and coordination issues between formal law and customary law.¹⁶ Within the national legal system, the application of this qanun often sparks controversy, as it is perceived to contradict democratic principles and human rights protections, despite retaining formal state legitimacy.

Furthermore, a study by Yusrizal Hasbi et al., employing a socio-legal approach, demonstrates that the *Qanun Jinayat* is part of a hybrid legal system that integrates Islamic sharia and local customs. While this system holds humanistic potential in maintaining social harmony and upholding women's dignity, it still requires harmonization with international human rights standards. Consequently, recent literature emphasizes the importance of a rights-based approach to ensure that the implementation of Islamic law in

¹³ Muzakkir, "The Effectiveness of Aceh's Jinayat Qanun on Crime Rates in the Community in a Review of Legal Socialization," *Al-Manahij: Jurnal Kajian Hukum Islam*, November 18, 2022, 255, <https://doi.org/10.24090/mnh.v16i2.6643>.

¹⁴ Khairul Hasni, "Qanun Jinayat And Sharia Police: A New Violence In The Context Of Gender In Aceh Indonesia," *Musāwa Jurnal Studi Gender Dan Islam* 19, no. 2 (2020): 192, 2, <https://doi.org/10.14421/musawa.2020.192-187-203>.

¹⁵ Nasrullah, Muhammad Alwan Zain Nusantara, and Bagaskara Yonar Farhansyah, "Analyzing the Implementation of Islamic Criminal Law in the Nanggroe Aceh Darussalam and Within Its Sharia Court," *Law Review*, October 7, 2025, 59–71, Indonesia, <https://doi.org/10.19166/lr.v25i1.7225>.

¹⁶ Zainul Fuad, Surya Darma, and Muhibbuthabry Muhibbuthabry, "Wither Qanun Jinayat? The Legal and Social Developments of Islamic Criminal Law in Indonesia," *Cogent Social Sciences* 8, no. 1 (December 2022): 2053269, <https://doi.org/10.1080/23311886.2022.2053269>.

Aceh is not merely symbolic or repressive, but also inclusive, fair, and sustainable.¹⁷

This situation demonstrates the real workings of legal pluralism, where state law, Islamic law, and customary law coexist and interact within the same social space. Previous studies on the implementation of the *Qanun Jinayat* in Aceh have generally focused on normative aspects, institutional constraints, or its relationship with the national legal system. However, these studies tend to position customary mechanisms as complementary or secondary alternatives, rather than as dominant legal practices with strong social authority and legitimacy.¹⁸

Based on these conditions, this article argues that the dominance of customary law in adultery cases among the Alas people is not merely a pragmatic response to the procedural limitations of criminal law, but rather reflects the failure of normative integration between criminal law and customary law. The absence of a clear and functional integration framework has led to a dualism of authority, weakening legal certainty and failing to achieve the objectives of Islamic criminal law (*maqāṣid al-'uqūbāt*), especially deterrence, justice, and equality before the law.

Thus, this article contributes to the development of Islamic legal pluralism studies by demonstrating that the effectiveness of *jinayat* law enforcement in indigenous Muslim communities cannot be measured solely by normative compliance with formal regulations. Such effectiveness must be understood through the relationship between Islamic law positivized by the state and living customary law, which has greater social legitimacy. Through a case study of the Alas Tribe in Southeast Aceh, this article provides empirical and theoretical contributions to understanding how the failure of normative integration affects the implementation of Islamic criminal law in the context of legal plurality.

This research has several methodological limitations that need to be openly addressed. First, the empirical data were primarily obtained through

¹⁷ Yusrizal Hasbi et al., "Criminalising Women, Silencing Victims: Human Rights and Sharia Enforcement in Aceh," *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 1 (June 2025): 59, <https://doi.org/10.18860/j-fsh.v17i1.29635>.

¹⁸ Jan Michiel Otto, *Sharia Incorporated. A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present* (Leiden: Leiden University Press, 2010), 324–26.324–326.

interviews with traditional leaders and relevant officials, so the recorded perspectives largely reflect the views of actors with social and institutional authority.¹⁹ This condition has the potential to limit the representation of the experiences of other parties, especially women or individuals who have been directly involved in adultery cases, who, in many cases, are in a more vulnerable social position.²⁰ *Second*, the sensitivity of the issue of adultery as a moral and criminal offense limits access to broader and more in-depth empirical data. Strong social norms regarding family honor and the reputation of indigenous communities make some informants selective in providing information, so the data obtained does not fully represent the full range of practices.

However, existing studies tend to position customary law as a secondary or supporting system rather than a dominant legal framework capable of overriding formal legal processes. Consequently, there remains limited empirical research that critically examines situations in which customary law effectively substitutes state-based Islamic criminal law, thereby creating a dualism of authority in legal enforcement.

This study addresses this gap by examining the case of the Alas Tribe in Southeast Aceh, where customary mechanisms play a dominant role in resolving adultery cases. It argues that this dominance is not merely a pragmatic response to procedural limitations but reflects a failure of normative integration between Islamic criminal law and customary law. This condition undermines legal certainty and weakens the objectives of Islamic criminal law (*maqāṣid al-‘uqūbāt*), particularly in terms of deterrence, justice, and equality before the law.

By situating this analysis within the framework of legal pluralism, this article contributes to the broader discourse on Islamic law in plural legal systems. It offers a novel perspective by demonstrating that customary law, in certain contexts, functions not merely as a complementary mechanism but as a dominant and competing legal order that shapes the practice of criminal law enforcement.

¹⁹ Burhan Bungin, *Qualitative Research: Communication, Economics, Public Policy, and Other Social Sciences* (Jakarta: Kencana Prenada Media, 2017), 108–10; John W. Creswell and J. David Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (SAGE Publications, 2017).

²⁰ Lexy J. Moleong, *Qualitative Research Methodology*, revised (Bandung: Remaja Rosdakarya, 2019), 168–70; Johnny Saldana, *Fundamentals of Qualitative Research, Understanding Qualitative Research* (Oxford, New York: Oxford University Press, 2011).

Adultery (*Zina*) in *Fiqh Jinayat* and the Limits of Customary Settlement

Etymologically, *zina* is defined as *faḥisha*, namely, a despicable act that goes beyond the limits. In Islamic jurisprudence terminology, *zina* is sexual intercourse between a man and a woman who are not legally married, so that the woman who is having intercourse is not a wife, not a concubine (*sarīyah*), and not a slave (*amah*).²¹ An act cannot be categorized as adultery if there is an element of doubt, for example, when a husband is unable to distinguish his wife from her identical twin, resulting in sexual intercourse occurring under conditions of doubt about the couple's identity. Similarly, in cases of rape, the coerced party is not considered a perpetrator of adultery because there is no element of consent. Therefore, the elements of intent and certainty of the object of sexual intercourse are crucial components in determining the crime of adultery under Islamic law.²²

In Islamic law, *zina* is sexual intercourse between a man and a woman without a valid marriage, committed consciously and free from doubt. Ibn Rushd emphasized that *zina* includes intercourse without a valid marriage contract, not due to a mistake considered marital, and not related to ownership of the enslaved person. The Syafi'iyah school defines *zina* as the act of inserting the penis into the *farji*, which is unlawful in nature, carried out without any element of *syubhat*. Naturally, this act gives rise to lust.²³

From the perspective of Islamic jurisprudence (*fiqh jinayat*), *zina* is categorized as a serious *jarimah* (crime) that not only has a private dimension but also has a strong public dimension. The majority of jurists consider *zina* as a violation of *ḥaqq Allah* because it involves violations of moral and legal provisions established by sharia, as well as *ḥaqq al-mujtama'* because of its broad impact on social order, lineage, and the collective honor of society.²⁴ Therefore, handling adultery crimes cannot be viewed solely as an individual

²¹ Abu al-Husayn Ahmad ibn Faris, *Mʿjam Maqāyīs al-Lughah* (Beirut: Dar al-Fikr, 1979), 4:234.

²² Wahbah al-Zuhaili, *Al-Fiqh al-Islāmī Wa Adillatuhu* (Damascus: Dār al-Fikr, 1985), 7:24–25.

²³ Ibn Rushd, *Bidāyat Al-Mujtahid Wa Nihāyat al-Muqtaṣid* (Beirut: Dār al-Fikr, n.d.), 2:348.

²⁴ Ibn Qudāmah, *Al-Mughnī*, Juz 9 (Beirut: Dār al-Fikr, 1990), 38–41; Zainal Arifin et al., “Analysis of Maqasidiyyah on The Compilation of Islamic Law and The Egyptian Al-Wasiyah Law Regarding Wajibah Bequest From Ibn Ashur’s Perspective,” *Muslim Heritage* 10, no. 1 (June 2025): 15–30, <https://doi.org/10.21154/muslimheritage.v10i1.10733>.

or family matter, but rather as a public matter that requires formal and binding legal intervention.²⁵

The purpose of punishment in jinayat fiqh, either through *hudūd* and *ta'zīr*, is not only directed at imposing sanctions, but also at achieving the goals of deterrence, protecting public morals, and maintaining *maqāshid al-shari'ah*. In the context of adultery, this goal is closely related to the protection of offspring (*hifz al-nasl*) and the protection of honor guard (*hifz al-'ird*).²⁶ The application of criminal sanctions in criminal law is intended to emphasize clear moral boundaries and prevent the normalization of behavior that damages the social order.²⁷

In this framework, adultery cases are resolved through mechanisms of *ṣulḥ* or customs that completely replace the criminal law process, raising serious normative issues. Although *ṣulḥ* is recognized in Islamic law as a dispute-resolution mechanism, the fuqaha limit its application to cases of a legal dimension, *ḥaqq al-'abd*. In cases of pregnancy *ḥaqq Allah* and has an impact on public interests, such as adultery, a peaceful resolution that eliminates the criminal aspect is seen as inadequate because it has the potential to eliminate the preventive and symbolic function of Islamic criminal law.²⁸

According to Al-Jurjani, an act can be categorized as adultery if it fulfills two main elements, namely the occurrence of sexual intercourse between a man and a woman and the absence of any element of error or skepticism in the relationship.²⁹ In the context of positive law in Aceh, the crime of adultery is explicitly regulated in Aceh Qanun Number 6 of 2014 concerning Criminal Law. Article 33 states that adultery is sexual intercourse between a man and a woman without a valid marriage bond. This Qanun does not differentiate the concept of adultery into *muhsan* and *ghairu muhsan*, as in classical fiqh, but

²⁵ Mulizar Mulizar, Asmuni Asmuni, and Dhiauddin Tanjung, "Maqashid Sharia Perspective of Legal Sanction for Khalwat Actors in Aceh," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 May (May 2022): 161–82, <https://doi.org/10.29240/jhi.v7i1.3587>.

²⁶ Abu Ishaq al-Shaṭībī, *Al-Muwāfaqāt Fī Uṣūl al-Sharī'ah*, Juz 2 (Beirut: Dār al-Kutub al-'Ilmiyyah, 2004), 21–48; Ibrahim Ibn Al-Shatibi, *The Reconciliation of the Fundamentals of Islamic Law: Al-Muwafaqat Fi Usul al-Shari'a*, trans. Imran Ahsan Khan Nyazee (Reading, UK: Garnet Publishing, 2012).

²⁷ Wahbah al-Zuhaylī, *Al-Fiqh al-Islāmī Wa Adillatuh*, Juz 6 (Damascus: Dār al-Fikr, 1989), 50–52.

²⁸ 'Abd al-Qādir 'Awdah, *Al-Tashrī' al-Jinā'ī al-Islāmī*, Juz 1 (Beirut: Dār al-Kitāb al-'Arabī, 1994), 127–30.

²⁹ Al-Jurjānī, *At-Ta'rīfāt* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1985), 120.

rather establishes a single classification of adultery within the Acehese criminal law system.³⁰

Furthermore, Article 34 states that anyone who intentionally commits adultery is threatened with hudud punishment in the form of a maximum of 100 lashes or ta'zir punishment in the form of a maximum fine of 1,000 grams of pure gold or a maximum of 100 months in prison.³¹ This provision demonstrates that the qanun not only adopts the concept of zina in classical Islamic law but also adapts it to the modern criminal justice system through alternative sanctions. Thus, the understanding of zina among the jurists, as described, is directly relevant to the Acehese legal system through the normative provisions in the Qanun on Jinayat Law, which serves as a form of positivization of Islamic law within the Indonesian rule of law.³²

A conceptual description of the crime of zina from the perspective of jurists shows that the jinayat law positions zina as a serious act with strict legal consequences, both in terms of the standard of proof and the sanctions imposed. This normative construction is essentially intended to maintain moral order, individual honor, and social stability. However, in the context of the Alas Tribe, this *jinayat* legal construction confronts the customary legal system, which has a different logic of proof, criminal purposes, and resolution orientation. The encounter between these two legal systems demonstrates, from the outset, the problem of normative integration between jinayat law and customary law, which serves as the primary background for the problem of enforcing zina crimes at the local level.

This section of the discussion aims to demonstrate that the primary problem in enforcing adultery in the Alas community is not due solely to technical constraints in law enforcement or limited apparatus, but rather to

³⁰ Abdul Manan and Cut Intan Salasih, "Evaluating the Implementation of Sharia in Aceh, Indonesia," *Jurnal Ilmiah Peuradeun* 9, no. 3 (September 2021): 549, <https://doi.org/10.26811/peuradeun.v9i3.593>.

³¹ Qanun Aceh Number 6 of 2014 concerning Jinayat Law.

³² Fachrizal Afandi and Ladito Risang Bagaskoro, "Islam and state's legal pluralism," *Epistemé: Jurnal Pengembangan Ilmu Keislaman* 19, no. 01 (June 2024): 1-26, <https://doi.org/10.21274/epis.2024.19.01.1-26>; Nadirsyah Hosen, "Sharia, State and Legal Pluralism in Indonesia: How Law Can You Go?," in *Pluralism, Transnationalism and Culture in Asian Law: A Book in Honour of M.B. Hooker*, ed. Gary F. Bell, Books and Monographs (ISEAS-Yusof Ishak Institute, 2017), 208-30, <https://www.cambridge.org/core/books/pluralism-transnationalism-and-culture-in-asian-law/sharia-state-and-legal-pluralism-in-indonesia-how-law-can-you-go/04030918C055FBDD87790E907BE6F615>.

the lack of functional normative integration between criminal law and customary law. The interaction of these two legal systems demonstrates a vibrant and dynamic practice of legal pluralism. Still, it has not yet been managed within a framework capable of ensuring legal certainty and achieving the full objectives of Islamic criminal law.

Law Enforcement of Adultery among the Alas Tribe: Between Customary Practices and Qanun Jinayat

Law enforcement against adultery among the Alas Tribe in Southeast Aceh Regency occurs through the interaction between formal legal structures and local legal culture. Lawrence M. Friedman states that the legal system consists of three main elements: legal substance, legal structure, and legal culture. In the context of Southeast Aceh, the legal structure is reflected in the roles of the Civil Service Police Unit and the Wilayatul Hisbah (Satpol PP-WH) as qanun enforcement officers, the Shar'iyah Court as a judicial institution, and correctional institutions as implementers of decisions. However, the effectiveness of this legal structure cannot be separated from the strong customary values of the Alas Tribe, which continue to influence the resolution of moral issues, including adultery.

Structurally, qanun enforcement officers in Southeast Aceh still face several obstacles. The number of civil servant investigators (PPNS) within the Public Order Agency (Satpol PP-WH) handling criminal cases is relatively limited, so adultery investigations often require police support. This situation results in slow case handling and an increased workload for officers. Nevertheless, the Satpol PP-WH continues to strive to enforce sharia law by balancing the demands of formal legal procedures with the socio-cultural realities of the Alas Tribe.

Article 127 of Law Number 11 of 2006 concerning the Governance of Aceh stipulates that the Aceh government and district/city governments are responsible for implementing Islamic Sharia. This provision demonstrates that the effectiveness of Sharia law enforcement depends heavily on local governments' commitment and political will. In Southeast Aceh, local political will determines the extent to which the Public Order Agency (Satpol PP-WH)

and the Sharia Court can enforce qanun amidst the dominance of customary values.³³

The *Wilayatul Hisbah*, as stipulated in Aceh Governor's Decree Number 1 of 2004, has the authority to supervise, provide guidance, and advocate for the implementation of Islamic Sharia. The *Wilayatul Hisbah* is tasked with conducting direct field supervision, providing guidance to the community, and supporting enforcement against various Sharia violations. In the Alas community, this provision positions the *Wilayatul Hisbah* as a key actor in handling adultery (*zina*) cases. However, the limited number of PPNS investigators has resulted in suboptimal effectiveness in supervision and enforcement, particularly in cases requiring strict evidence under the *Qanun Jinayat*.³⁴ The statement of the Southeast Aceh Sharia Court Judge shows that adultery cases are very difficult to process if they do not fulfill the elements of proof required by sharia, namely a confession from the perpetrator or testimony from four witnesses who directly witnessed the act.³⁵ As a result, even though the *Wilayatul Hisbah* conducts routine patrols and surveillance and receives public reports, many cases ultimately cannot proceed to the prosecution stage.

Data from the Southeast Aceh Sharia Court shows that in 2024, only two adultery cases were processed.³⁶ This figure is disproportionate to empirical findings in the field, which show that the majority of adultery cases are resolved through customary mechanisms. The Alas Tribe prefers customary procedures because they are considered faster, more effective in restoring family dignity, and less likely to trigger broader social conflict. In many cases, the couples are married through customary procedures under specific terms and conditions agreed upon by the families and customary leaders.³⁷

³³ Article 127 Law Number 11 2006 Concerning Aceh Governance.

³⁴ Chapter II: Evidence, Sections 37–44 Qanun Aceh Number 6 of 2014 concerning Jinayat Law; Jummaidi Saputra et al., “The Role Enforcement of Qanun Jinayat for Non-Muslim Who Commit Crimes (Islamic Sharia) Together with Muslims in Aceh-Indonesia,” *Multidisciplinary Science Journal* 8 (2026): 2026111–2026111, <https://doi.org/10.31893/multiscience.2026111>.

³⁵ MS, Judge of the Southeast Aceh Sharia Court, Southeast Aceh, *Interview*, Tuesday, November 18, 2025.”

³⁶ “Southeast Aceh Syar’iyah Court Case Data for 2023, Jinayat Sector.” 2023.

³⁷ Village Customary Leader, Kumbang Jaya Village, Badar Sub-District, *Interview*, Wednesday, November 12, 2025.

The dominance of customary law resolutions leaves the *Wilayatul Hisbah* (Islamic Religious Court) relatively weak in the formal legal process. Although this institution has clear authority, communities often first bring cases to traditional leaders or the Village Customary Council (MAK). Data shows that in 2024, two adultery cases were resolved through customary mechanisms in Badar District, while in 2025, that number increased to five.³⁸

This phenomenon reflects the tension between formal legal structures and societal legal culture. According to Lawrence M. Friedman's legal systems theory, legal structures cannot function optimally without the support of societal legal culture.³⁹ This condition is also evident in Aceh, where the coexistence of state law, Islamic law, and customary law creates overlapping jurisdictions and competing claims to legitimacy.⁴⁰

Aceh Qanun Number 10 of 2008 provides legitimacy to the Aceh Customary Council (MAA) to resolve customary disputes and maintain social order.⁴¹ In Southeast Aceh, the MAA plays a role in fostering customary law at the district level. At the same time, dispute resolution is handled at the village and sub-district levels through the Village Customary Council. The MAA serves to provide guidelines for dispute resolution, coordinate customary institutions, mediate social conflicts, and provide customary advice to the local government.⁴²

In the practice of resolving adultery, MAA facilitates customary deliberation (*pakat*) and determines sanctions, including an obligation to marry, payment of a customary fine of IDR 3,200,000, and the provision of livestock for customary purposes.⁴³ MAA data from Badar District shows that in 2024, two cases of adultery were resolved according to customary law. Meanwhile, in 2025, five cases were recorded, none of which were reported to the Sharia Court.⁴⁴ This data confirms the dominance of customary mechanisms in the Alas community. This situation demonstrates strong legal pluralism, where customary and sharia law coexist but do

³⁸ Village Customary Council (MAK) of Badar District, Recapitulation of Customary Case Resolution for 2024–2025.

³⁹ Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 1975), 15–16.

⁴⁰ Adriaan Bedner and Stijn van Huis, “Plurality of Marriage Law and Marriage Registration for Muslims in Indonesia: A Plea for Pragmatism,” *Utrecht Law Review* 6, no. 2 (June 2010), <https://doi.org/10.18352/ulr.130>.

⁴¹ Articles 3–7 Qanun Aceh Number 10 of 2008 Concerning Aceh Traditional Institutions.

⁴² MAA Aceh Tenggara, “Pedoman Penyelesaian Sengketa Adat Di Kabupaten Aceh Tenggara,” Kutacane: MAA Aceh Tenggara, 2023.

⁴³ Chairman of the Aceh Traditional Council (MAA) of Southeast Aceh, *Interview*, Wednesday, November 12, 2025.

⁴⁴ Southeast Aceh Syar'iyah Court Case Data 2024–2025, Jinayat Sector.

not always harmonize. The community's legal culture, which prioritizes customary law, results in the formal legal structure not functioning optimally, even though legal substance is in place.⁴⁵

The Southeast Aceh Sharia Court, as an Islamic sharia judicial institution, has the authority to adjudicate criminal cases under Law Number 11 of 2006 concerning the Government of Aceh.⁴⁶ This court upholds Aceh Qanun No. 6 of 2014 as the substantive and procedural basis. According to Azhari Akmal Tarigan, the existence of the Sharia Court reflects the institutionalization of Islamic law within the national judicial system, which must uphold the principles of legality, legal certainty, and justice.⁴⁷

Operationally, the Southeast Aceh Sharia Court examines criminal cases filed by investigators after the prosecutor has declared the case complete. Judges assess the sufficiency of the evidence in accordance with criminal procedural law and have the authority to impose hudud and ta'zir penalties, including flogging, fines, and imprisonment.⁴⁸ However, in practice, the quality of case files is often an obstacle because witness statements and evidence are incomplete, so the files must be returned for completion.⁴⁹ This condition aligns with the findings of M. Atho Mudzhar, who highlighted the continued existence of technical obstacles to enforcing sharia law in Aceh at the investigation and prosecution stages.⁵⁰

In addition to administrative constraints, low public participation in formally reporting adultery cases also poses a barrier. The majority of people choose to resolve the matter through customary law to maintain family honor. However, once the case has been referred to the Sharia Court, the legal process continues under the qanun, even if the family wishes to pursue reconciliation.⁵¹

⁴⁵ Lawrence M. Friedman, *The Legal System: A Social Science Perspective*; Hasbi et al., "Criminalising Women, Silencing Victims."

⁴⁶ Law Number 11 of 2006 Concerning the Government of Aceh, Articles 128–130.

⁴⁷ Azhari Akmal Tarigan, *Azhari Akmal Tarigan, Islamic Law and Justice in Indonesia* (Jakarta: Kencana, 2020).

⁴⁸ Qanun Aceh Number 6 of 2014 Concerning Jinayat Law, Articles 22–33.

⁴⁹ MS, Judge of the Southeast Aceh Sharia Court, Southeast Aceh, *Interview*, Tuesday, November 18, 2025.

⁵⁰ Dewi Fransiska Mamonto et al., "The Evolution of Islamic Civil Law in Indonesia: Developments, Contemporary Challenges, and Future Directions," *Nusantara: Journal of Law Studies* 3, no. 02 (December 2024): 147–58, <https://doi.org/10.5281/zenodo.17385985>; M. Atho Mudzhar, *Islam and Islamic Law In Indonesia A Socio-Historical Approach* (Jakarta: Office of Religious Research and Development, 2003).

⁵¹ MS, Judge of the Southeast Aceh Sharia Court, Southeast Aceh, *Interview*, Tuesday, November 18, 2025.

Table 1. Number of Adultery Cases Settled in 2024-2025

| Year | Sharia Court | Customary Settlement | Number of Cases |
|--------------|-----------------|----------------------|-----------------|
| 2024 | 2 things | 2 things | 4 things |
| 2025 | 0 cases | 5 things | 5 things |
| Total | 2 things | 7 things | 9 things |

Source: Authors, 2025

Based on 2024–2025 data, the resolution of adultery cases in Southeast Aceh has shifted from formal to customary channels. In 2024, the Southeast Aceh Sharia Court handled two cases, Number 1/JN/2024/MS.KC and Number 2/JN/2024/MS.KC, and two cases were resolved through customary mechanisms. Meanwhile, in 2025, no cases were processed by the Sharia Court, while all detected cases (five) were resolved through customary means. This condition indicates a tendency among the Alas Tribe to prefer customary resolution because it is considered better at protecting family honor and social harmony than formal legal processes.

Data shows a shift in case resolution from formal to customary channels. Normatively, this situation demonstrates the gap between the ideal goals of the *Qanun Jinayat*, namely legal certainty and a deterrent effect, and the reality of its implementation at the local level. When the majority of cases are resolved through customary mechanisms, *jinayat* law tends to function as a normative symbol, rather than an effective enforcement instrument. This phenomenon underscores that law enforcement's success depends heavily on the level of social acceptance and the alignment of legal norms with local values within the community.⁵²

In the Alas community, custom serves as the primary legal system with strong social legitimacy. Adultery cases generally begin with family deliberation and end with compensatory customary sanctions.⁵³ Customary sanctions not only impact the individual perpetrator but can also have implications across generations, especially regarding the maintenance of family honor and lineage.⁵⁴ The prohibition on marrying within the same clan is a fundamental principle of Alas tradition, which aims to

⁵² Siti Sahara et al., “Legal Protection Against Victims of Domestic Violence: A Critical Study of Cultural Legitimacy In Aceh,” *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* 9, no. 2 (August 2024), <https://doi.org/10.22373/petita.v9i2.263>.

⁵³ Chairman of the Aceh Traditional Council (MAA) of Southeast Aceh, *Interview*, Wednesday, November 12, 2025.

⁵⁴ Chairman of the Aceh Traditional Council (MAA) of Southeast Aceh, *Interview*, Wednesday, November 12, 2025.

maintain the clarity of lineage.⁵⁵ In addition, symbolic economic sanctions, such as monetary fines and livestock, serve to restore family dignity and end social disgrace.⁵⁶

As Taufik Abdullah points out, custom works as an instrument of social stability, not merely a means of punishment.⁵⁷ From the perspective of legal pluralism, conditions in Southeast Aceh reflect the coexistence between state law and customary law as explained by John Griffiths.⁵⁸ The relationship between custom and Islamic law is negotiative and contextual, where each system seeks to maintain its social legitimacy.⁵⁹ Thus, Alas custom is not only an alternative, but also the primary reference for the community in responding to sexual violations. The existence of the Qanun Jinayat does not automatically replace customary law; it must negotiate with local laws to be accepted and implemented effectively within the community.⁶⁰

Conflict between Custom and Qanun: An Analysis of Legal Pluralism in the Alas Tribe Society

The conflict between custom and *qanun* in adultery cases in the Alas community of Southeast Aceh reflects the intersection of two legal systems, both living and legitimate, competing as the primary reference point in moral issues. In the context of legal pluralism, this is normal, but the question is how the two systems interact: complementing, affirming, or negating each other.⁶¹ In the Alas community, custom served as the primary legal institution before the *Qanun Jinayat*, regulating social relations and family honor. Moral cases, including adultery, were typically resolved through custom because they were considered fairer and more humane, and because they maintained inter-family relations. According to the Southeast Aceh Customary Council, customary resolution also aims to protect descendants and prevent

⁵⁵ Chairman of the Aceh Traditional Council (MAA) of Southeast Aceh, *Interview*, Wednesday, November 12, 2025.

⁵⁶ Chairman of the Aceh Traditional Council (MAA) of Southeast Aceh, *Interview*, Wednesday, November 12, 2025.

⁵⁷ Taufik Abdullah, *Islam dan masyarakat: pantulan sejarah Indonesia* (Lembaga Penelitian, Pendidikan dan Penerangan Ekonomi dan Sosial, 1987), 42.

⁵⁸ John Griffiths, "What Is Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (January 1986): 1-55, <https://doi.org/10.1080/07329113.1986.10756387>; Muzakkir, "The Effectiveness of Aceh's Jinayat Qanun on Crime Rates in the Community in a Review of Legal Socialization."

⁵⁹ Mursyid Djawas et al., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism," *Hasanuddin Law Review*, May 1, 2024, 64-82, <https://doi.org/10.20956/halrev.v10i1.4824>.

⁶⁰ R. Michael Feener, David Kloos, and Annemarie Samuels, eds., *Islam and the Limits of the State: Reconfigurations of Practice, Community and Authority in Contemporary Aceh*, Leiden Studies in Islam and Society, volume 3 (Leiden ; Boston: Brill, 2016).

⁶¹ Otje Salman and Anthon F Susanto, *Teori Hukum: Mengingat, Mengumpulkan, dan Membuka Kembali* (Bandung: Refika Aditama, 2013). 112-118.

hostilities, while major cases not resolved through custom were brought to formal institutions.⁶²

Meanwhile, the *qanun* (Islamic law) exists as a form of sharia legislation with political and religious legitimacy. It stipulates that adultery is a serious crime that must be prosecuted through formal mechanisms, with sanctions of flogging, fines, or imprisonment.⁶³ However, *qanun* enforcement cannot be separated from the social structure. The Public Order Agency (Satpol PP-WH), as a *qanun* enforcer, acknowledges that, in many cases, it tolerates and returns to customary law if both parties agree.⁶⁴ This practice demonstrates that even formal regulations cannot stand alone without accommodating local values. Instead, state officials must adapt to customary mechanisms, not the other way around.

This phenomenon demonstrates what John Griffiths calls strong legal pluralism, namely a situation in which many legal systems coexist and none absolutely dominates.⁶⁵ In this context, *qanun* has not succeeded in becoming an exclusive legal order, but rather has become merely one of several available legal systems. Custom, while lacking the coercive power of the state, possesses far more dominant cultural power. The dominance of custom does not mean eliminating *qanun*, but rather regulating the extent to which *qanun* can be implemented in practice. In other words, in Alas society, custom acts as a filter, determining whether a case is worthy of being brought to court or sufficiently resolved through local mechanisms.

The findings of this study align with previous studies that demonstrated a dialogical and complementary relationship between Islamic law and customary law in the practice of resolving moral issues at the local level. The study emphasized that although customary law serves as a form of social sanction, its processes and normative legitimacy still rest on Islamic legal principles, thereby establishing a complementary relationship between the two legal systems.⁶⁶ However, in contrast to this context, this study found a stronger normative tension between customary law and the *Qanun Jinayat* in Southeast Aceh, particularly regarding the standards of proof and the mechanisms for handling adultery. This difference suggests that the

⁶² Chairman of the Aceh Traditional Council (MAA) of Southeast Aceh, *Interview*, Wednesday, November 12, 2025.

⁶³ Azhari Akmal Tarigan, "Ta'zir Dan Kewenangan Pemerintah Dalam Penerapannya," *AHKAM: Jurnal Ilmu Syariah* 17, no. 1 (January 2017), <https://doi.org/10.15408/ajis.v17i1.6223>.

⁶⁴ Satpol PP Officers–Wilayah Hisbah Southeast Aceh, *Interview*, Tuesday, November 11, 2025.

⁶⁵ Griffiths, "What Is Legal Pluralism?," 5–6; Ratno Lukito, *Legal Pluralism in Indonesia: Bridging the Unbridgeable* (Routledge, 2012).

⁶⁶ Dinda Difia Madina, Zezen Zainul Ali, and Mega Puspita, "Aligning Islamic Law and Customary Law: Legal Dialectics in the Tradition of Forced Marriage in Jambi," *Justicia Islamica* 20, no. 1 (June 2023): 1–16, <https://doi.org/10.21154/justicia.v20i1.4720>.

formal legal configuration and law enforcement policies in each region largely determine the relationship between customary law and Islamic law.

The mechanism for proving adultery in the qanun is very strict, so many cases cannot be processed formally. Customary law, on the other hand, relies solely on oral confessions, family testimony, or social facts, making resolutions quicker and more realistic. According to Eugen Ehrlich's theory of living law, the laws that truly govern societal behavior are those that live within the community; in Southeast Aceh, Alas custom plays a more active role in maintaining social order than qanun. The conflict between custom and qanun also concerns legitimacy.⁶⁷ Alas, customs have historical, cultural, and social legitimacy as ancestral heritage, while qanuns have formal and religious legitimacy as state-instituted Islamic law. In conflict, communities assess the extent to which qanuns align with customary values rather than prioritizing them as the primary option.

Tensions arise in the sanction mechanisms: customary law uses expulsion, forced marriage, or shame compensation to restore social relations, while the qanun provides retributive sanctions such as flogging or fines. According to the Southeast Aceh Customary Council, customary mechanisms are prioritized for resolving adultery cases because they are considered more effective than formal punishment in restoring social harmony and maintaining family honor.⁶⁸

In certain situations, custom even acts as a social safeguard to avoid formal sanctions deemed too severe or embarrassing to the family. Indigenous informants confirmed that the families of victims or perpetrators usually hesitate to bring cases to the Sharia Court for fear of causing lasting shame.⁶⁹ This attitude demonstrates that society prioritizes *izzah* (honor) over formal legal demands. Similar findings from other research in Aceh indicate that society often avoids formal channels to maintain family honor and social relationships.⁷⁰

The resolution of adultery cases through the qanun and Alas customary law each has advantages and limitations. The qanun provides legal certainty, uniform sanctions, and procedural guarantees through formal justice. Still, it is often seen as insensitive to the social conditions of the perpetrator and his family, thus generating resistance

⁶⁷ Marc Galanter, "Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law," *Journal of Legal Pluralism*, 1981, 1–14.

⁶⁸ M. Isa Sulaiman, *History of Customary Justice in Aceh*, in *Guidelines on Aceh Customs, Courts and Customary Law* (Banda Aceh: LAKA NAD, 2002), 67–72.

⁶⁹ Chairman of the Aceh Traditional Council (MAA) of Southeast Aceh, *Interview*, Wednesday, November 12, 2025.

⁷⁰ Manan and Salasiyah, "Evaluating the Implementation of Sharia in Aceh, Indonesia"; Sulaiman Tripa, *Wajah Hukum Lokal Baru: Studi Interaksi Hukum Negara Dan Hukum Adat Laut Dalam Pengelolaan Pesisir Berbasis Kearifan Lokal Di Aceh* (Aceh: Bandar Publishing, 2019).

at the community level. Conversely, customary resolution is more acceptable to the community because it emphasizes deliberation, restores social relations, and protects family honor. Still, it has weaknesses, including inconsistent sanctions and limited guarantees of procedural justice and protection of individual rights. Therefore, the effectiveness of handling adultery cases in Southeast Aceh depends heavily on the state's ability to integrate legal certainty, as defined by the qanun, with local wisdom within the Alas customary system.

From the perspective of legal pluralism theory, this condition reflects a practice of legal pluralism that has not been effectively managed, with various legal systems coexisting without a clear mechanism for integration. *Jinayat* law, positivized by the state, and customary law, operating within society, operate within their own normative logics, thus giving rise to a dualism of authority in resolving adultery cases. This finding confirms that the effectiveness of Islamic criminal law enforcement depends not only on the normative strength of the regulations but also on the state's ability to build contextual normative integration with customary law, which enjoys strong social legitimacy.

Table 2. Model of Normative Integration between Customary Law and Qanun Jinayat

| | Customary Law (Adat) | Qanun Jinayat | Proposed Integration Model |
|--------------------------|---|--|---|
| Legal Authority | Based on social legitimacy and tradition | Based on formal state and religious authority | Qanun remains the primary legal authority; adat functions as a complementary mechanism. |
| Case Handling | Informal, flexible, community-based | Formal, procedural, evidence-based | Dual-track mechanism: initial mediation by adat, followed by mandatory reporting to formal institutions |
| Evidence Standard | Oral confession, social facts | Strict proof (4 witnesses/confession) | Recognition of preliminary adat findings as supporting evidence |
| Sanctions | Social restoration (marriage, fines, expulsion) | Punitive sanctions (flogging, fines, imprisonment) | Combination model: formal sanction + social restoration mechanism |
| Objective | Social harmony, family honor | Legal certainty, deterrence, justice | Balanced approach: harmonizing social |

| | | | |
|---------------------------|---------------------------|---|---|
| Institutional Role | Village/customary leaders | Satpol PP-WH, prosecutors, Sharia Court | recovery and legal enforcement Institutional coordination and procedural integration |
|---------------------------|---------------------------|---|---|

Source: Authors, 2025

To address the tension between customary law and the Qanun Jinayat, this study proposes a model of normative integration that emphasizes a functional and hierarchical relationship between the two legal systems. In this model, the qanun remains the primary legal framework for criminal enforcement. At the same time, customary law serves as a complementary mechanism operating in the domains of social mediation and community-based resolution.

This integration model does not aim to equate customary law with formal criminal law, but rather to establish a structured interaction between them. Customary institutions may play a role in the early stages of dispute resolution, particularly in facilitating mediation and restoring social harmony. However, such processes must be followed by coordination with formal law enforcement institutions to ensure legal accountability and the fulfillment of criminal law objectives.

By institutionalizing this coordination, the dualism of authority can be minimized, and both legal certainty and social legitimacy can be achieved simultaneously. This model offers a practical framework for policymakers and law enforcement agencies in Aceh to harmonize the implementation of Islamic criminal law with the realities of living customary law within indigenous communities.

Conclusion

This research shows that law enforcement against adultery in the Alas Tribe of Southeast Aceh occurs within a context of strong legal pluralism, where customary law and the Qanun Jinayat operate in parallel, though not always harmoniously. Empirical findings show that customary mechanisms are predominantly used in resolving adultery cases, while the formal route through the Sharia Court only handles a small proportion of cases. This situation confirms that the *Qanun Jinayat* has not fully served as a primary legal reference in the enforcement of jinayat law at the local level.

Normatively, this research confirms that, from an Islamic criminal law perspective, customary law must be strictly limited in handling adultery.

Custom can be recognized as a social instrument for restoring community relations and protecting family honor. Still, it cannot replace or eliminate the application of criminal law institutionalized through the Aceh Qanun. Within the framework of *maqāṣid al-sharīa*, the dominance of customary settlements that eliminate formal legal processes can sacrifice the goals of legal certainty, justice, and deterrence. However, to a certain extent, it can maintain social harmony and lineage clarity.

Therefore, the *Qanun Jinayat* must be emphasized as the primary legal reference in handling adultery crimes, while customary law is positioned as a limited and functional supporting mechanism. The integration of customary law and qanun should not be understood as a normative compromise that equates the two, but rather as an administrative and procedural integration that ensures inter-institutional coordination without blurring the hierarchy of legal norms. In this context, the role of customary institutions should be limited to the initial mediation and social recovery stages, with reporting and coordination obligations to qanun enforcement officials to ensure legal accountability.

This research is limited to Southeast Aceh, so the findings cannot be generalized to the entire province of Aceh. Furthermore, the empirical data are largely sourced from interviews with customary institutions, so the potential for subjectivity cannot be completely avoided. This research also does not fully examine the experiences of victims and perpetrators, particularly regarding the psychological and social impacts of the application of customary sanctions and qanuns. Time constraints also prevented longitudinal observations of changes in case resolution patterns.

Given these limitations, further research is recommended to expand the study area to enable a comparison of the application of *Qanun Jinayat* in other indigenous communities in Aceh. This study recommends formulating a normative integration model between criminal law and customary law in Aceh, particularly for handling moral cases such as adultery. This integration is crucial to achieving the objectives of Islamic criminal law without neglecting the social values inherent in indigenous communities. Therefore, the enforcement of criminal law in Aceh is expected not only to ensure legal certainty but also to achieve substantive justice in the context of legal plurality.

Acknowledgement

The authors would like to express their sincere gratitude to all individuals and institutions who have contributed, directly or indirectly, to the completion of this study, particularly colleagues and academic peers for their valuable insights, constructive feedback, and continuous intellectual support. The authors also acknowledge the institutional assistance that facilitated the research and writing process. Furthermore, the authors confirm that generative artificial intelligence tools, including ChatGPT, were used solely for limited purposes such as language refinement, grammar correction, and minor technical improvements. These tools did not contribute to the conceptual development, data analysis, or substantive interpretation of the study. All ideas, arguments, and conclusions presented in this article are entirely the responsibility of the authors.

Disclosure Statement

The authors declare that this article is an original scholarly work conducted without any financial or commercial relationships that could be construed as a potential conflict of interest. Nur Mala Sari, Febiawan Suparman Mustar, Abdul Manan, Jailani, and Cut Maya Aprita Sari jointly contributed to the conceptualization, analysis, and writing of this manuscript. All authors have approved the final version of the article and agree to be accountable for all aspects of the work, ensuring its accuracy and integrity. No external funding was received for this study, and the authors affirm that there are no competing interests influencing the research process or its outcomes.

References

- A Amsori. "Legislasi Qanun Jinayat Aceh Dalam Sistem Hukum Nasional." *Ar-Raniry, International Journal of Islamic Studies* 4, no. 2 (2020): 221–56.
- Abdullah, Taufik. *Islam dan masyarakat: pantulan sejarah Indonesia*. Lembaga Penelitian, Pendidikan dan Penerangan Ekonomi dan Sosial, Jakarta: 1987.
- Afandi, Fachrizal, and Ladito Risang Bagaskoro. "Islam and State's Legal Pluralism." *Epistemé: Jurnal Pengembangan Ilmu Keislaman* 19, no. 01 (June 2024): 1–26. <https://doi.org/10.21274/epis.2024.19.01.1-26>.
- Al-Jurjānī. *At-Ta'rifāt*. Beirut: Dār al-Kutub al-'Ilmiyyah, 1985.
- Al-Shaṭībī, Abu Ishaq. *Al-Muwāfaqāt Fī Uṣūl al-Sharī'ah*, Juz 2. Beirut: Dār al-Kutub al-'Ilmiyyah, 2004.

- Al-Shatibi, Ibrahim Ibn. *The Reconciliation of the Fundamentals of Islamic Law: Al-Muwafaqat Fi Usul al-Shari'a*. Translated by Imran Ahsan Khan Nyazee. Reading, UK: Garnet Publishing, 2012.
- Al-Zuhaili, Wahbah. *Al-Fiqh al-Islāmī Wa Adillatuh*. Damascus: Dār al-Fikr, 1989.
- Arifin, Zainal, Tutik Hamidah, Zaenul Mahmudi, and Abd Rouf. "Analysis of Maqasidiyyah on The Compilation of Islamic Law and The Egyptian Al-Wasiyah Law Regarding Wajibah Bequest From Ibn Ashur's Perspective." *Muslim Heritage* 10, no. 1 (June 2025): 15–30. <https://doi.org/10.21154/muslimheritage.v10i1.10733>.
- 'Awdah, 'Abd al-Qādir. *Al-Tashrī' al-Jinā'ī al-Islāmī*, Juz 1. Beirut: Dār al-Kitāb al-'Arabī, 1994.
- Bahri, Syamsul. "Pelaksanaan Syari'at Islam di Aceh Sebagai Bagian Wilayah Negara Kesatuan Republik Indonesia (NKRI)." *Jurnal Dinamika Hukum* 12, no. 2 (May 2012): 358–67. <https://doi.org/10.20884/1.jdh.2012.12.2.62>.
- Bakti, Ikrar Nusa. *Beranda Perdamaian Tiga Tahun Pasca MoU Helsinki*. 1st ed. Yogyakarta: Pustaka Pelajar, 2018.
- Bastiar, Bastiar, Asmuni Asmuni, and Bukhari Bukhari. "Public Perception and Effectiveness of Punishment for Khalwat Perpetrators in Aceh." *Justicia Islamica* 19, no. 1 (June 2022): 94–112. <https://doi.org/10.21154/justicia.v19i1.3304>.
- Bedner, Adriaan, and Stijn van Huis. "Plurality of Marriage Law and Marriage Registration for Muslims in Indonesia: A Plea for Pragmatism." *Utrecht Law Review* 6, no. 2 (June 2010). <https://doi.org/10.18352/ulr.130>.
- Bowen, John R. *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning*. Cambridge: Cambridge University Press, 2003. <https://doi.org/10.1017/CBO9780511615122>.
- Bungin, Burhan. *Qualitative Research: Communication, Economics, Public Policy, and Other Social Sciences*. Jakarta: Kencana Prenada Media, 2017.
- Creswell, John W., and J. David Creswell. *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*. SAGE Publications, 2017.
- Djawas, Mursyid, Abidin Nurdin, Muslim Zainuddin, Idham Idham, and Zahratul Idami. "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism." *Hasanuddin Law Review*, May 1, 2024, 64–82. <https://doi.org/10.20956/halrev.v10i1.4824>.
- Fahmi, Mutiara, Nurhayati Ali Hasan, Iskandar Usman, Amiruddin Abdullah, and Muhibuddin Hanafiyah. "Punishment for Zina Muḥṣān Offenders in Aceh Qanun No. 6 of 2014 in the Perspective of Fiqh al-Siyāsah." *Samarah*:

- Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (June 2022): 346–68. <https://doi.org/10.22373/sjhk.v6i1.13363>.
- Fauzah Nur Aksa, T. Saifullah, and Al Farabi. “The Implementation of Qanun Jinayat in Aceh.” *Al-Ahkam: Jurnal Ilmu Syariah Dan Hukum* 8, no. 1 (October 2023). <https://doi.org/10.22515/alakhkam.v8i1.5896>.
- Feener, R. Michael. “Engineering Transformations in the ‘Religion-Development Nexus’: Islamic Law, Reform, and Reconstruction in Aceh.” *Religion* 51, no. 1 (January 2021): 40–57. <https://doi.org/10.1080/0048721X.2020.1792051>.
- . *Shari’a and Social Engineering: The Implementation of Islamic Law in Contemporary Aceh, Indonesia*. OUP Oxford, 2013.
- Feener, R. Michael, David Kloos, and Annemarie Samuels, eds. *Islam and the Limits of the State: Reconfigurations of Practice, Community and Authority in Contemporary Aceh*. Leiden Studies in Islam and Society, volume 3. Leiden ; Boston: Brill, 2016.
- Friedman, Lawrence M. *The Legal System: A Social Science Perspective*. New York: Russell Sage Foundation, 1975.
- Fuad, Zainul, Surya Darma, and Muhibbuthabry Muhibbuthabry. “Wither Qanun Jinayat? The Legal and Social Developments of Islamic Criminal Law in Indonesia.” *Cogent Social Sciences* 8, no. 1 (December 2022): 2053269. <https://doi.org/10.1080/23311886.2022.2053269>.
- Galanter, Marc. “Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law.” *Journal of Legal Pluralism*, 1981, 1–14.
- Griffiths, John. “What Is Legal Pluralism?” *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (January 1986): 1–55. <https://doi.org/10.1080/07329113.1986.10756387>.
- Hasbi, Yusrizal, Ferdy Saputra, Hadi Iskandar, Laila Muhammad Rasyid, and Harun Harun. “Criminalizing Women, Silencing Victims: Human Rights and Sharia Enforcement in Aceh.” *De Jure: Jurnal Hukum Dan Syariah* 17, no. 1 (June 2025): 175–203. <https://doi.org/10.18860/j-fsh.v17i1.29635>.
- Hasni, Khairul. “Qanun Jinayat And Sharia Police: A New Violence In The Context Of Gender In Aceh, Indonesia.” *Musāwa Jurnal Studi Gender Dan Islam* 19, no. 2 (2020): 2. <https://doi.org/10.14421/musawa.2020.192-187-203>.
- Hooker, M. B. *Indonesian Syariah: Defining a National School of Islamic Law*. Singapore: Institute of Southeast Asian Studies, 2008.
- Hosen, Nadirsyah. “Sharia, State and Legal Pluralism in Indonesia: How Law Can You Go?” In *Pluralism, Transnationalism and Culture in Asian Law: A*

- Book in Honor of M.B. Hooker, edited by Gary F. Bell, 208–30. Books and Monographs. ISEAS–Yusof Ishak Institute, 2017.
- Ibn Faris, Abu al-Husayn Ahmad. *Mu'jam Maqāyīs al-Lughah*. Vol. 4. Beirut: Dar al-Fikr, 1979.
- Ibn Qudāmah. *Al-Mughnī*, Juz 9. Beirut: Dār al-Fikr, n.d.
- Ibn Rushd. *Bidāyat Al-Mujtahid Wa Nihāyat al-Muqtaṣid*. Vol. 2. Beirut: Dār al-Fikr, n.d.
- Khoyum, Adlian Aldita Alif Aisyah Ainur, Bertha Amilia, and Candra Hafidz Ardana. “Granting Inheritance to Extramarital Children in the Perspective of Islamic Law.” *Contemporary Issues on Interfaith Law and Society* 2, no. 1 (January 2023): 89–100. <https://doi.org/10.15294/ciils.v2i1.66343>.
- Lukito, Ratno. *Legal Pluralism in Indonesia: Bridging the Unbridgeable*. Routledge, 2012.
- MAA Aceh Tenggara. “Pedoman Penyelesaian Sengketa Adat Di Kabupaten Aceh Tenggara.” Kutacane: MAA Aceh Tenggara, 2023.
- Madina, Dinda Difia, Zezen Zainul Ali, and Mega Puspita. “Aligning Islamic Law and Customary Law: Legal Dialectics in the Tradition of Forced Marriage in Jambi.” *Justicia Islamica* 20, no. 1 (June 2023): 1–16. <https://doi.org/10.21154/justicia.v20i1.4720>.
- Mamonto, Dewi Fransiska, Selfrinda Rezkita Mahmud, Risnawati Utina, Geya Sukmawati, and Fahira Nadra Male. “The Evolution of Islamic Civil Law in Indonesia: Developments, Contemporary Challenges, and Future Directions.” *Nusantara: Journal of Law Studies* 3, no. 02 (December 2024): 147–58. <https://doi.org/10.5281/zenodo.17385985>.
- Manan, Abdul, and Cut Intan Salasiyah. “Evaluating the Implementation of Sharia in Aceh, Indonesia.” *Jurnal Ilmiah Peuradeun* 9, no. 3 (September 2021): 549. <https://doi.org/10.26811/peuradeun.v9i3.593>.
- Moleong, Lexy J. *Qualitative Research Methodology*. Revised. Bandung: Remaja Rosdakarya, 2019.
- Mudzhar, M. Atho. *Islam and Islamic Law In Indonesia: A Socio-Historical Approach*. Jakarta: Office of Religious Research and Development, 2003. Jakarta. [//opac.dpr.go.id%2Findex.php%3Fp%3Dshow_detail%26id%3D21542%26keywords%3D](https://opac.dpr.go.id%2Findex.php%3Fp%3Dshow_detail%26id%3D21542%26keywords%3D).
- Mulizar, Mulizar, Asmuni Asmuni, and Dhiauddin Tanjung. “Maqashid Sharia Perspective of Legal Sanction for Khalwat Actors in Aceh.” *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 May (May 2022): 161–82. <https://doi.org/10.29240/jhi.v7i1.3587>.

- Mustafa, Bukhari, Bastiar, Sumiadi, and Husni. "Penerapan Hukuman Adat Terhadap Pelaku Jarimah Khalwat Di Aceh Tamiang." *Cendekia: Jurnal Hukum, Sosial Dan Humaniora* 1, no. 1 (January 2023): 52–64. <https://doi.org/10.70193/cendekia.v1i1.10>.
- Muzakkir. "The Effectiveness of Aceh's Jinayat Qanun on Crime Rates in the Community in a Review of Legal Socialization." *Al-Manahij: Jurnal Kajian Hukum Islam*, November 18, 2022, 255–68. <https://doi.org/10.24090/mnh.v16i2.6643>.
- Nasrullah, Muhammad Alwan Zain Nusantara, and Bagaskara Yonar Farhansyah. "Analyzing the Implementation of Islamic Criminal Law in the Nanggroe Aceh Darussalam and Within Its Sharia Court." *Law Review*, October 7, 2025, 59–71. Indonesia. <https://doi.org/10.19166/lr.v25i1.7225>.
- Nurlaelawati, Euis, and Stijn Cornelis van Huis. "The Status of Children Born Out of Wedlock and Adopted Children In Indonesia: Interactions Between Islamic, Adat, and Human Rights Norms." *Journal of Law and Religion* 34, no. 3 (December 2019): 356–82. <https://doi.org/10.1017/jlr.2019.41>.
- Otto, Jan Michiel. *Sharia Incorporated. A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*. Leiden: Leiden University Press, 2010.
- Saldana, Johnny. *Fundamentals of Qualitative Research. Understanding Qualitative Research*. Oxford, New York: Oxford University Press, 2011.
- Salim, Arskal. *Challenging the Secular State: The Islamization of Law in Modern Indonesia*. Honolulu: University of Hawaii Press, 2008.
- Salman, Otje, and Anthon F. Susanto. *Teori Hukum: Remembering, Collecting, and Reopening*. Bandung: Refika Aditama, 2013.
- Saputra, Jummaid, Syahrizal Abbas, Mohd Din, and Syarifuddin Hasyim. "The Role Enforcement of Qanun Jinayat for Non-Muslims Who Commit Crimes (Islamic Sharia) Together with Muslims in Aceh, Indonesia." *Multidisciplinary Science Journal* 8 (2026): 2026111–2026111. <https://doi.org/10.31893/multiscience.2026111>.
- Sahara, Siti, Syarifuddin Hasyim, Mohd. Din, and Iman Jauhari. "Legal Protection Against Victims of Domestic Violence: A Critical Study of Cultural Legitimacy In Aceh." *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* 9, no. 2 (August 2024). <https://doi.org/10.22373/petita.v9i2.263>.
- Southeast Aceh Syar'iyah Court Case Data 2024–2025, Jinayat Sector.
- Southeast Aceh Syar'iyah Court Case Data for 2023, Jinayat Sector.
- Sulaiman, M. Isa. *Historis Tentang Peradilan Adat Di Aceh, Dalam Pedoman Adat Aceh, Peradilan Dan Hukum Adat*. Banda Aceh: Lembaga Adat dan Kebudayaan Aceh (LAKA), 2002.

- Tarigan, Azhari Akmal. "Ta'zir Dan Kewenangan Pemerintah Dalam Penerapannya." *AHKAM: Jurnal Ilmu Syariah* 17, no. 1 (January 2017). <https://doi.org/10.15408/ajis.v17i1.6223>.
- Tripa, Sulaiman. *Wajah Hukum Lokal Baru: Studi Interaksi Hukum Negara Dan Hukum Adat Laut Dalam Pengelolaan Pesisir Berbasis Kearifan Lokal Di Aceh*. Aceh: Bandar Publishing, 2019.
- Village Customary Council (MAK) of Badar District, Recapitulation of Customary Case Resolution for 2024–2025.
- Wati, Erna, and Tiara Rettina. "Inheritance Rights of Stepchildren in the Perspective of Compilation of Islamic Law." *MILRev: Metro Islamic Law Review* 1, no. 2 (December 2022): 188–202. <https://doi.org/10.32332/milrev.v1i2.6208>.
- Law No. 11 of 2006 concerning Aceh Governance
Qanun Aceh No. 6 of 2014 concerning Jinayat Law
Qanun Aceh No. 11 of 2002 concerning faith and worship
Qanun Aceh No. 12 of 2003 concerning the prohibition of alcohol
Qanun Aceh No. 13 of 2003 concerning gambling
Qanun Aceh No. 14 of 2003 concerning khalwat