

## **THE RELEVANCE OF ISLAMIC PRINCIPLES IN ENVIRONMENTAL MANAGEMENT IN ACEH**

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**Abstract:** Aceh has the power to modify its laws in line with Islamic law in compliance with the appropriate laws and regulations. The purpose of this essay is to study the environmental law concepts that apply to Environmental Managers under Qanun No. 2 of 2011. One of the principles is "Islamic," however the Qanun's content disregards this ideal, which is a concern. The goal of this study is to recreate the Qanun on environmental management in Aceh and establish a method of dispute resolution based on Islamic principles for those who commit environmental offenses. The methodology adopted is a normative juridical one based on rules and laws. In order to rebuild Qanun, Islamic law's requirements must be taken into consideration. This includes concretizing Islamic values in Aceh's environmental laws as a policy by using the lex specialist principle within the framework of the Unitary State of the Republic of Indonesia. Due to the fact that Indonesian criminal law does not recognize peaceful conflict settlement, this study is obviously innovative.

**Keywords:** Relevance, Islamic Principles, Environmental Management, Aceh

**Abstrak:** Berdasarkan peraturan perundang-undangan yang berlaku, Aceh memiliki wewenang untuk mengatur hukumnya sesuai dengan syariat Islam. Artikel ini hendak

menelaah asas hukum lingkungan yang berlaku dalam Qanun No. 2 Tahun 2011 tentang Pengelola Lingkungan Hidup. Adapun salah satu asas adalah “keislaman”, namun permasalahan yang ditemukan yaitu substansi Qanun mengabaikan asas tersebut. Tujuan penelitian ini adalah untuk mencari bentuk penyelesaian sengketa sesuai asas keislaman dalam pengaturan hukum bagi pelaku tindak pidana lingkungan hidup sebagai rekonstruksi Qanun pengelolaan lingkungan hidup di Aceh. Metode yang digunakan adalah yuridi normatif dengan pendekatan peraturan perundang-undangan. Hasil temuan penelitian asas keislaman belum secara konkret diuraikan sebagai satu substansi utama Qanun tersebut. Qanun membutuhkan rekonstruksi dengan memperhatikan ketentuan syariat Islam diantaranya konkretisasi asas keislaman dalam regulasi lingkungan hidup di Aceh sebagai suatu kebijakan dengan menerapkan asas *lex spesialis* dalam bingkai Negara Kesatuan Republik Indonesia. Penelitian ini memiliki kebaruan secara jelas karena penyelesaian sengketa dengan perdamaian tidak dikenal dalam sistem hukum pidana Indonesia.

**Kata Kunci:** Relevansi, Asas Keislaman, Pengelolaan Lingkungan Hidup, Aceh

## INTRODUCTION

Islam, local wisdom, responsibility, sustainability, fairness, openness, integration, harmony, balance, and togetherness are the principles of environmental management as stated in Article 2 of Qanun Aceh Number 2 of 2011 concerning Environmental Management. However, it turns out that Aceh Qanun Number 2 of 2011 concerning Environmental Management is not following the soul and spirit of Law Number 11 Year 2006 concerning the the Aceh Government and the lack of coherence. Due to this issue, it's important to conduct this research to investigate Islamic-compliant regulations for the reconstruction of Aceh Qanun Number 2 of 2011 environmental management.<sup>1</sup> The questions addressed in this study include how Aceh's environmental law regulatory system operates and how Islamic values are applied to the country's environmental management regulations. The goal of this study is to learn more about Aceh's environmental regulatory framework and how Islamic principles have been applied there. This study will assist local governments in developing environmental rules and regulations, which is a benefit.

The Aceh area, a unique autonomous zone with the power to execute Islamic law as a whole (*kaffah*), has environmental law provisions that are in line with Islamic principles. Law No. 44 of 1999 Concerning the Privileges of the Province of the Special Region of Aceh and Law No. 11 of 2006 Concerning the Government of Aceh both contain references to this authority. Islamic shari'ah is implemented in Aceh and covers *aqidah*, shari'ah and morals, worship, *al-ahwalu al-syakhshiyah*, *mu'amalah*, *jinayah*, *qadha'*, *tarbiyah*, *da'wah*, syiar and defense of Islam, including environmental regulations, according to Article 125 of Law No. 11 of 2006. The laws and rules regulating the Aceh government's ability to manage the environment are outlined in Qanun Number 2 of 2011 about Environmental Management. Islam is one of the requirements for Qanuns, along with environmental management, thus the rules of Islamic law as they currently stand, whether they be *ijtihadiah* rules or non-*ijtihadiah* rules, serve as the primary guide when establishing Qanuns.<sup>2</sup>

1 Muhammad Natsir and Andi Rachmad, 'Penetapan Asas Kearifan Lokal Sebagai Kebijakan Pidana Dalam Pengelolaan Lingkungan Hidup Di Aceh' (2018) 7 Jurnal Magister Hukum Udayana (Udayana Master Law Journal) 468.

2 Ridwan Nurdin and Muhammad Ridwansyah, 'Aceh, Qanun and National Law: Study on Legal Development Orientation' (2020) 4 Samarah 107.

The Law No. 11 of 2006 Concerning the Government of Aceh is the implementation of autonomy in the Unitary State of the Republic of Indonesia's system of government in accordance with the 1945 Constitution of the Republic of Indonesia.<sup>3</sup> The soul and spirit contained in the points of general description and description take into account this, where a recognition and granting of the rights of regional government entities are formed and governed by laws.<sup>4</sup> The reason Aceh is known as the capital of struggle in capturing and defending the independence of the Unitary State of the Republic of Indonesia is because of one of the distinctive characteristics of the Acehnese people, who have high resilience and fighting power and is based on apprehension towards Islamic law, giving birth to a strong Islamic culture.<sup>5</sup>

The official application of Islamic law enforcement is necessary for the fulfillment of this way of thinking. To do this, at least three variables must be taken into consideration: the legal component—in this case, sharia—the competence of the implementers, and the social context. According to the geographical limits of the Aceh province, the Islamic Shari'a that is in force in Aceh is founded on the idea that everyone in Aceh, regardless of ethnicity, position, or rank, has an Islamic personality.<sup>6</sup> The dynamics of the Acehnese people's lives not only include adopting Aceh's privileges in their customary, cultural, social, and political life, but they also offer assurances of legal certainty in every situation because their religious foundation has shaped their attitudes and high fighting spirit.<sup>7</sup> It is important to define in additional regulations known as Qanun in order to make this happen. According to Article 13 of Law No. 11 of 2006 relating the Government of Aceh, the Aceh Qanun, which is supported by the government, regulates the division of governmental matters relating Islamic law between the Aceh Government and district/city administrations.<sup>8</sup>

There hasn't been any study on environmental management practices in Aceh that adhere to Islamic teachings, according to a search of the electronic library. The "Views of Islamic Law on Criminal Acts of Pollution and Environmental Destruction" by Nurdin, Faculty of Syari'ah UIN Syarif Hidayatullah, published in 2006, is one example of the work done by people who study the creation of Islamic-oriented environmental legislation. His investigation revealed that Islamic law considers environmental damage to be a crime. Pollution and environmental degradation that endangers human life and the ability to survive can be classified as illegal. Poniman, *Reconstructing the Police's Role in Environmental Conflict Resolution Outside of Court*. According to the study's findings, the public trusts the police to mediate environmental disputes outside of court. sensitive, environmentally aware, and knowledgeable about good governance.

3 Muhamad Siddiq Armia, 'Autonomy in Aceh-Indonesia, from Armed Conflict to Regulation Conflict', *The Annual International Conference (AIC)*, Syiah Kuala University (Syiah Kuala University 2017).

4 Zaki 'Ulya, 'Refleksi Memorandum of Understanding (MoU) Helsinki Dalam Kaitan Makna Otonomi Khusus Di Aceh' (2014) 11 Jurnal Konstitusi 371.

5 Zaki Ulya, 'Dinamika Penerapan Hukum Jinayat Sebagai Wujud Rekonstruksi Syari'at Islam Di Aceh' (2016) 5 Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional 135.

6 Alfitra Alfitra, 'Pemiskinan Terhadap Pelaku Tindak Pidana Korupsi Dalam Perspektif Hukum Pidana Positif Dan Hukum Pidana Islam' (2015) 39 MIQOT: Jurnal Ilmu-ilmu Keislaman 94.

7 Chairul Fahmi and Muhammad Siddiq Armia, 'Protecting Indigenous Collective Land Property in Indonesia under International Human Rights Norms' (2022) 6 Journal of Southeast Asian Human Rights 1 <<https://jurnal.unej.ac.id/index.php/JSEAHR/article/view/30242>>.

8 Bustami Bustami, Zaky Ulya and Rini Fitriani, 'Synchronization of Disaster Financial Policies in COVID-19 Management' (2021) 23 Media Syari'ah: Wahana Kajian Hukum Islam dan Pranata Sosial 171.

In this study, legal scholarship that treats the rule of law as a framework for establishing norms is used.<sup>9</sup> The standards in question have to deal with legal concepts, judicial rulings, principles, conventions, and regulations.<sup>10</sup> According to Parise, who was cited by Muhammad Hatta, doctrinal research is documentation, library research, or pure theoretical study in which the necessary material is sourced from libraries or other scholarly resources.<sup>11</sup> The goal of this study is to pinpoint the ideas and tenets that Law No. 11 of 2006's letter and spirit, as well as sharia principles, employ to govern the environment in Aceh. Although the idea of environmental regulation is prescriptive in this research, there is always a descriptive inside a prescriptive framework, and this is to characterize Aceh's environmental control as a regulation.<sup>12</sup>

## Methods

The method used is juridical because the objective is law or rules, which include legal principles in the restricted sense of specific legal rules, and doctrinal research that systematically explains with regard to regulations, specific laws, analyzes the relationship between legal rules, explains various challenges in law enforcement, and anticipates future legal developments.<sup>13</sup> Legal systems, statutory methods, conceptual approaches, vertical and horizontal synchronization levels, and legal principles are the normative study subjects.<sup>14</sup>

## Results and Discussion

### *Environmental Law Arrangements in Aceh*

Every law and regulation must be formulated with consideration for specific concepts that may be utilized as the foundation or technique for the creation of laws and regulations at the regional level, including Qanuns, which are based on judicial, sociological, and philosophical ideas.<sup>15</sup> Every legal product must have a legal foundation (*juridische gelding*), which may include local laws or Qanuns. If there are differences between the legal product's form or type and the material that is regulated, this can be canceled. For instance, the Qanun on Environmental Management was created pursuant to an order from Law No. 11 of 2006 Concerning the Government of Aceh. Every Qanun must be published in the regional gazette, and regional head regulations must be published in the regional gazette for them to be effective and binding.<sup>16</sup>

9 Bachtiar, *Metode Penelitian Hukum* (Oksidelfa Yanto ed, UNPAM PRESS 2018).

10 Patricia Leavy, *Research Design: Quantitative, Qualitative, Mixed Methods, Arts-Based, and Community-Based Participatory Research Approaches* (The Guilford Press 2017).

11 Muhammad Hatta, 'Tindakan Perundungan (Bullying) Dalam Dunia Pendidikan Ditinjau Berdasarkan Hukum Pidana Islam' (2018) 41 MIQOT: Jurnal Ilmu-ilmu Keislaman 280.

12 Islamiyati and Islamiyati, 'Kritik Filsafat Hukum Positivisme Sebagai Upaya Mewujudkan Hukum Yang Berkeadilan' (2018) 1 Law & Justice Journal 87; Abi Adams-Prassl and Jeremias Adams-Prassl, 'Systemic Unfairness, Access to Justice and Futility: A Framework' (2020) 40 Oxford Journal of Legal Studies 561.

13 Nitaria Angkasa and others, *Metode Penelitian Hukum* (M Akib, Maroni and Hamzah eds, I, CV Laduny Alifatama 2019).

14 Chunuram Soren, 'Legal Research Methodology: An Overview' (2021) 8 Journal of Emerging Technologies and Innovative Research (JETIR) 1.

15 Jimly Asshiddiqie, 'Building A Constitutional Awareness Culture To Create A Democratic Law State' (2023) 8 Petita: Jurnal Kajian Ilmu Hukum dan Syariah 1; Muhammad Siddiq et al Armia, 'Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?' (2022) 7 JILS 525; Muhammad Siddiq Armia, 'Ultra Petita and the Threat to Constitutional Justice: The Indonesian Experience' [2018] Intellectual Discourse.

16 Direktorat Jenderal Peraturan Perundang-Undangan, *Panduan Praktis Memahami Perancangan Peraturan Daerah* (Kelima, Kementerian Hukum dan HAM RI 2011).

On July 14, 2011, the Qanun on Environmental Management became legally effective. This Qanun must adhere to the requirements of Article 28H paragraph (1) of the 1945 Constitution as well as the letter and spirit of Articles 148, 149, and 150 of Law No. 11 of 2006 concerning the Government of Aceh. It is vertically related to the community's right to obtain a good and healthy living environment in accordance with Islamic law.

The government must control the environment, which encompasses the unity of space with all objects, forces, conditions, and living things, including people and their behavior, in order to uphold the provisions of Law No. 11 of 2006 concerning the Government of Aceh,<sup>17</sup> based on Islam, local wisdom, responsibility, sustainability, sustainability, fairness, integration, harmony, balance, togetherness, and benefits for the welfare of society, and their rights are protected from environmental engineering that is good and healthy for citizens.<sup>18</sup>

According to the requirements of Law No. 11 of 2006 concerning the Government of Aceh, every regional regulation in Aceh must be in accordance with the heart and spirit of U No. 11 of 2006 concerning the Government of Aceh, namely the application of Islamic law, or kaffah, in every aspect of life, including environmental regulations. However, so far, the application of Islamic law has only concentrated on mahdhah worship, while ghairu mahdhah is still disregarded, such as the need.<sup>19</sup>

An Environmental Management Qanun was established as a legal framework for Islamic environmental management in order to implement Law Number 32 of 2009 concerning Environmental Management. This can offer protection and legal certainty for the community, particularly those who are impacted by environmental engineering. The Law Number 24 of 1956 concerning the Establishment of the Autonomous Region of the Province of Atjeh, the Law Number 41 of 1999 Concerning Forestry, the Law Number 11 of 2006 Concerning the Government of Aceh, and the Law Number 32 of 2009 Concerning Environmental Management are all horizontally related to this Qanun on Environmental Management and serve as the formal constitutional basis.

According to the official constitutional foundation, there is currently no substantial legal protection for the Qanun on Environmental Management. The "Islamic" principle of environmental management is stated in Article 2 Letter A, but in practice, neither the Pancasila philosophy of Article 29 of the 1945 Constitution, which governs religion, nor the Islamic principle have become the main pillars in establishing the Qanun for Environmental Management. Article 1 Law No. 24 of 1956 grants Aceh the authority to manage and manage its own household in accordance with its own initiative based on the aspirations of the people or in accordance with statutory regulations (article 1 letter (h) of Law No. 22 of 1999 in conjunction with article 1 point (7) of Law No. 44 of 1999).

Reflecting social reality and the social circumstances of the local community is what is meant by the sociological foundation.<sup>20</sup> The sociological foundation entails reflecting

17 Lelya Hilda, 'Revitalisasi Kearifan Lokal Dalihan Na Tolu Masyarakat Muslim Mandailing Dalam Menjaga Harmonisasi Lingkungan Hidup' (2016) 40 MIQOT: Jurnal Ilmu-ilmu Keislaman.

18 Yusi Amdani, 'Proses Pelaksanaan Penyelesaian Perselisihan Di Lembaga Peradilan Adat Aceh Tingkat Gampong (Desa)' (2014) 48 Asy-Syiráh: Jurnal Ilmu Syari'ah dan Hukum.

19 Siti Zulaikha, 'Pelestarian Lingkungan Hidup Perspektif Hukum Islam Dan Undang-Undang' (2014) 19 Akademika 241.

20 Natsir and Rachmad (n 1). See also, Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Form Over Substance, Achieving Objectives While Preserving Values' (2023) 8

the social reality and taking into account societal norms. In accordance with the social circumstances of the local community, the sociological basis means reflecting the theory of legislation, the formation of laws and regulations from the planning stage to enactment, with a philosophical basis, namely reasons that describe considerations, views of life, and legal ideals that include a mystic atmosphere and the Indonesian philosophy of Pancasila.<sup>21</sup> The goal of the legal framework is to provide legal solutions that will ensure communal fairness and legal certainty. According to empirical evidence of the community's need for law, the formation of regulations is based on sociological theory, and the application of laws that are in line with societal needs and norms will not be met with opposition from the community. The law must reflect the facts that exist in an agricultural and religious community in which they are practiced. The Qanun on Environmental Management has not yet implemented Islamic concepts that are seen to be acceptable for the socioeconomic circumstances of Acehese citizens.<sup>22</sup>

Since Aceh is primarily an agricultural civilization, the woods have always played a significant role in the history of the development of the Aceh monarchy. The author of the Acehese story and literature, Tgk Affan Jamuda, states in his book that:

*"Asai Nanggroe Aceh phon cit nibak rimba Tuhan, rimba raya nyang gohlom rame ureung Nanggroe, nyangna cit aulia-aulia Allah. Teuma ji wangsa Parsi-nyan neucah rimba neupeujeuet keutanoh blang bak neumeugoe, neupeupuga gampong bak neumeunanggroe ngon neumeu-aneuk cuco. Neumeususah payah dalam rimba Tuhan..... Neuilah daya neucah rimba ngon huteuen beuraleuen sampoe jeut keunanggroe."*<sup>23</sup>

The idea is that when Aceh first emerged from the jungle, there were no people present; instead, there was just aulia-aulia Allah. It was the Persians who cleared the forest, planted the rice fields, and established the towns, causing them to breed very slowly until they eventually formed a nation. Because of this, each area in Aceh has its own customary regulations governing the clearance of forests to make way for new companies and their sustainable management.<sup>24</sup>

Islamic values, which include everything pertaining to Islam, provide the foundation for Aceh's environmental management. The government and regional governments are responsible for managing the environment in order to realize the community's right to a good and healthy environment, to live in physical and spiritual prosperity, and to have a place to live, in accordance with Article 28H paragraph (1) of the 1945 Constitution.<sup>25</sup> The term "*yang rayeuk tapeubit, yang ubit tapeugadoh*" refers to the Acehese culture,

Petita : Jurnal Kajian Ilmu Hukum dan Syariah i; Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Maintaining the Constitutional Rights to Create a Better Society' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah 69.

21 Natsir and Rachmad (n 1).

22 Muhammad Nur, 'Kondisi Dan Problematika Lingkungan Hidup Di Aceh' (2019) 7 Prosiding Seminar Nasional Biotik 14.

23 Masnidar Masnidar and Mahyuzar Mahyuzar, 'Strategi Komunikasi Dinas Lingkungan Hidup, Kebersihan Dan Keindahan Kota Banda Aceh Dalam Menyebarkan Informasi Penanggulangan Sampah Pada Masyarakat Kota Banda' (2018) 3 Jurnal Ilmiah Mahasiswa FISIP Unsyiah 1.

24 ibid.

25 Ucu Martanto, 'Lingkungan Dan Pembangunan Perdamaian' (2009) 13 Jurnal Ilmu Sosial dan Ilmu Politik 31.

which is associated with Islam and prioritizes peaceful conflict settlement.<sup>26</sup> with the goal of minimizing the severe issues while eradicating the minor ones. The phrase "*menyo tatem tamogot-got, harta bansot syedara pihna*" also means "if you want to be nice, the wealth doesn't run out, the brotherhood is maintained."<sup>27</sup>

The philosophical underpinning is based on "legal ideals," specifically the belief that the rule of law will ensure justice, order, prosperity, and protection. More specifically, the ideals of criminal law include preventing people from becoming victims, resolving criminal cases, and attempting to ensure that those who have committed crimes do not do so in the future. Law's ideals are derived from a value system that determines what is right or wrong in regards to how people interact with one another, with their possessions, and other things. This value system is anticipated to be reflected in the legislation both to defend these values and to make them visible in how people behave. There are still these ideals present in society, and any new set of rules or statutory regulations must be able to include them into their creation.<sup>28</sup> The Qanun on Environmental Management has taken into consideration sociological, philosophical, and culturalistic foundations; however, it is necessary to specifically harmonize, synchronize, and focus between socio-philosophical and sociocultural aspirations in society, as well as taking into account the values that apply nationally, namely the values contained in Pancasila. The Qanun on Environmental Management has generally achieved these three pillars, although the legal and social principles have not been fully fulfilled.

To determine philosophically the legal culture that has been accepted and documented in regional sheets, specifically the Qanun PLH, at the point "weighing" point b) that the environment is a gift from God Almighty and has a significant position and role for life, so it must be managed in a just, wise, and sustainable manner and its function must be preserved, d) That environmental management must adhere to the letter and spirit of Law No. 11 of 2006; c) that environmental management must be done intelligently by taking into consideration the demands of both current and future generations so that they may still support sustainable and ecologically sound growth; and d) that environmental management must be done responsibly. The government, the government of Aceh, and district and municipal administrations are required to respect, defend, and uphold the community's right to environmental management by giving particular attention to vulnerable populations. (2) The community has a right to actively participate in environmental management, which is carried out in accordance with Islam.

It is necessary to reconstruct the Qanun for Environmental Management, which is based on Islamic values and the clarity of Islamic values, respect, protection, fulfillment, and enforcement of people's rights, all of which are still in the form of principles that have not yet been concretized as the substance of the Qanun on Environmental Management, in connection with the description of the considerations and principles of environmental management. The Qanun for Environmental Management has specific weaknesses in the substantive field with regard to the provisions of punishment or

26 Muhammad Natsir, Zaki Ulya and Rini Fitriani, 'Mangrove Forest Utilization Policies Reconceptualized with a View to Improving the Regional Economy in Aceh Tamiang District , Indonesia' (2022) 23 Biodiversitas 6570.

27 Mohammad Said, *Aceh Sepanjang Abad* (Jilid Kedu, PT Harian Waspada 1985).

28 Yusi Amdani, 'Konsep Restorative Justice Dalam Penyelesaian Perkara Tindak Pidana Pencurian Oleh Anak Berbasis Hukum Islam Dan Adat Aceh' (2016) 13 Al-'Adalah 61.

criminal provisions set forth in Articles 46, Article 47, Article 48, and Article 49, the penalties for imprisonment and/or fines, according to the description above both substantively, structurally, and culturally.<sup>29</sup> It is also necessary to carry out reconstruction by making diyat or compensation both real (actual harm) and threatening potential damage or other Islamic criminal provisions because the Qanun on Environmental Management, passed in the post-complicated period, contains more political elements than legal policies, say criminal law. As a general rule for sentencing, justice is defined as the achievement of social welfare in order to accomplish responsive justice in line with the letter of the law.<sup>30</sup>

When creating rules, in this instance the Qanun for Environmental Management, at least three characteristics must be taken into account, namely:

1. laws are environmental rules; more precisely, laws designed to manage the environment in this case according to Islamic principles.
2. Regulations must adhere to the integrity of the many patterns of environmental policies that have been established since they are intrinsic in nature.
3. Legal rules in all areas, so long as they are still able to be active, are a supporting policy or beyond policy, encouraging more engagement in environmental development, of course in line with Islamic law.

In addition to the three factors mentioned above, facilities or facilities must also be taken into consideration because law enforcement cannot function effectively without any means or facilities.<sup>31</sup> These facilities or facilities include educated and skilled human resources, effective organizational structures, adequate equipment, and sufficient financial resources. Although it has been specified in Article 5 paragraph (1) of the Qanun on Environmental Management, the facilities or facilities are available in Aceh but have not yet been deemed appropriate. An example of this is the uncertain budget for law enforcement.

#### *The Concept Of Environmental Management According To Islamic Principles*

Although Indonesia already has a number of tools at its disposal to address environmental issues, such as the Minister of the Environment and the Environmental Agency, all of these tools lose their effectiveness when the scale of environmental harm is considered. On the other side, Islam has really provided a number of remedies to environmental issues. Allah SWT and the Prophet Muhammad SAW frequently admonished their people to protect the environment in order to prevent disasters. Islam, a hanif religion, frequently addresses its readers in a unique way when delivering moral lessons through the holy words of the Koran, emphasizing moral principles over legal ones when it comes to protecting the environment.<sup>32</sup>

Islamic law is based on the idea that nature is a part of the cosmos and that it is interconnected with humanity and other aspects of the Unseen, who created it. The

29 muhammad Natsir, *Korporasi Antara Sanksi Dan Tindak Pidana Lingkungan Di Aceh* (Meta Suriyani ed, Cet 1, Deepublish 2019).

30 Rachmad Safa'at And Dwi Yono, 'Pengabaian Hak Nelayan Tradisional Masyarakat Hukum Adat Dalam Politik Perundang-Undangan Pengelolaan Sumber Daya Pesisir' (2017) 10 *Arena Hukum* 40.

31 Rusdiyanto Rusdiyanto, 'Masalah Lingkungan Hidup Indonesia Menghadapi Era Globalisasi Rusdiyanto' (2015) 6 *Jurnal Cakrawala Hukum* 215.

32 Rabiah Z Harahap, 'Etika Islam Dalam Mengelola Lingkungan Hidup' (2015) 1 *EduTech: Jurnal Ilmu Pendidikan dan Ilmu Sosial* 1; Muhammad Ridwansyah, 'Tindak Pidana Kerusakan Lingkungan Dalam Undang-Undang Nomor 32 Tahun 2009 Dan Tinjauan Fiqh Al-Bi'ah' [2016] *Petita*.



Most Creator and the Most Righteous, who is the Source of nature's existence, are both represented by nature in the same way.<sup>33</sup> According to the aspirations of the international community, the Qanun on Environmental Management is anticipated to be focused on human values, cultural identity, and religious moral principles, in conformity with Law No. 11 of 2006's spirit and intent as well.<sup>34</sup> According to the Acehese proverb *hadih maja*, which reads, "*hukom meunyo hana adat tabeue, adat menyo hana hukom bateue*" or "A law without custom is meaningless, if there is no custom the law has no power," the Qanun on Environmental Management, as previously mentioned, does not fully refer to these expectations.<sup>35</sup>

The Aceh Regional Regulation No. 5 of 2000 concerning the Implementation of Islamic Sharia, which governs all facets of life, including those related to 'aqidah, worship, economic transactions, morals, education and religious propagation, baitu al-mal, society, including how to dress for Muslims/Muslim women, celebrations, marked the beginning of the application of Islamic law in Aceh on a regional level. The Wilayatul al-Hisbah (WH), which was recently ratified as the supervisory and enforcement body of the Shari'a, was established by Raya Muslim, the defense of Islam, judiciary, criminal justice, and civil justice. Law No. 11 of 2006 concerning the Government of Aceh states that the Islamic sharia implemented in Aceh includes aqidah, sharia, and morals.<sup>36</sup>

Three kinds of punishment exist in Islamic law. Adultery, false charges of adultery, theft, robbery, alcohol, apostasy, and rebellion are all considered *jarimah hudd*, transgressions for which Allah has the authority to exact the punishments specified in the Koran. *Qishash diyat* refers to the matter of murder and persecution, a transgression for which there is a predetermined penalty but which is the right of the servant. Other than *hudud/qishash*, *takzir* breaches are offenses for which the Koran does not specify the punishment since it is up to the judge's discretion and the government has the power to do so. *Takzir* can also be defined as instruction that falls short of *had syar'i*'s requirements.<sup>37</sup>

All parties involved in the Aceh situation, notably policymakers, must be aware of the environmental laws based on Islamic law. It is necessary to rebuild the Qanun on Environmental Management that has been passed by fostering amity and creating a *diyat* in order to settle environmental conflicts in Aceh.<sup>38</sup> Although it differs from how the present positive law views the split between public law and private law, the settlement mechanism formed is based on peace. Islamic law, namely the concept of *ishlah*, or the cessation of hostilities, is where peace originates. Only civil disputes are resolved by arbitration or mediation under positive law; however, Islam also recognizes

33 Nita Triana, 'Membangun Prinsip Perlindungan Dan Pengelolaan Lingkungan Hidup Dalam Pemerintahan Daerah (Perspektif Hukum Islam)' (2014) 8 Al-'Adalah 75.

34 Hanafi Amrani, *Politik Pembaruan Hukum Pidana* (UII Press 2019).

35 Maria Matildis Banda, 'Upaya Kearifan Lokal Dalam Menghadapi Tantangan Perubahan Kebudayaan' (2013).

36 Muhammad Natsir, Cakra Arbas and Meta Suriyani, 'Law on Khamr Under Qanun Jinayat in Aceh and Brunei Darussalam: A Comparative Study' (2019) 26 Jurnal Media Hukum 71.

37 Natsir (n 29).

38 Muhammad Siddiq Armia, 'Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)' [2019] Qudus International Journal of Islamic Studies; Muhammad Siddiq Armia and others, 'Criticizing the Verdict of 18/JN/2016/MS.MBO of Mahkamah Syar'iyah Meulaboh Aceh on Sexual Abuse against Children from the Perspective of Restorative Justice' (2022) 17 AL-IHKAM: Jurnal Hukum & Pranata Sosial 113.

peace as a means of resolution in criminal disputes.<sup>39</sup> Only civil disputes are resolved by arbitration or mediation under positive law; however, Islam also recognizes peace as a means of resolution in criminal disputes. Customary law in Aceh has followed the principle of using peace to resolve disputes for generations. Whether it be a civil dispute, a criminal case, or another type of dispute, using peace to resolve conflicts by applying the principles of forgiveness and compensation leads to a settlement that strengthens human dignity by including the victim in settlements as an appreciation of their rights. also in line with Islamic law.<sup>40</sup>

The results of the peace system will undoubtedly be influenced by the type of loss, which will have an impact on the type of peace that will be used and in line with Islamic law, including the type of 1) In cases of broken or non-functioning limbs, diyat is a type of compensation in the form of property handed to victims or victims' heirs by criminal actors as recompense, 2) Financial remuneration given directly, 3) Restoring the values' damaged equilibrium 4) Victim empowerment, The Criminal Justice System has not given victims of crimes the best legal care possible, but respect for human rights has. In order to empower victims to overcome the challenges brought on by criminal acts, in this case environmental crimes, Sapiro Raharjo stated that "justice seekers are not only interested in having the law upheld, what is more important is that they want to be helped out of their predicament".<sup>41</sup>

The goal of enforcing a penalty in the case of an environmental crime is to prevent qishash and replace it with diyat through a negotiation process. The nature of diyat will vary depending on the needs of the victim himself or the person who becomes the victim as a result of the victim's occurrence. The success of discussions leading to forgiveness in environmental crimes is eagerly anticipated, especially because there are several victims. As a result of forgiveness, people who have committed environmental crimes now have a new duty to pay diyat. The rebuilding of the Qanun on Environmental Management takes into account each of these.

In accordance with the diyat implementation order, which is well-understood by the general public, and while the size of the diyat is in accordance with the agreement or conditions that have been agreed upon, this punishment can be used as a form of punishment for those who commit environmental crimes as defined in the Qanun on Environmental Management. It is more suitable to divide the category of deaths that arise from environmental crimes into accidental killings and killings without a killing component so that the punishment is a *diyat* sentence. If a settlement cannot be achieved, either from the contesting parties or through *tahkim*, the judge will decide on a *takzir* sentence.

39 Faizal Adi Surya, 'Tinjaun Mediasi Penal Dalam Perspektif Hukum Adat Dan Hukum Islam' (2015) 5 *Jurisprudence* 118.

40 Ja'far HAK, *Kontekstualisasi Hukum Islam: Upaya Membumikan Syari'at Di Indonesia* (UIN Raden Intan 2021).

41 Muhammad Natsir, 'Perlindungan Hukum Terhadap Korban Penganiayaan Melalui Diyat Dan Sayam Pada Peradilan Adat Aceh' (2019) 12 *Arena Hukum* 91; A Hamid Sarong, 'The Child Rights in Islamic Law with a Special Focus on Aceh' (2019) 4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah* 31 <<http://petita.ar-raniry.ac.id/index.php/petita/article/view/10>>; Saifuddin Duhri, 'Social Engineering Through Education Law A Comparative Analysis of Cultural Policies between the Dutch and Indonesian Central Government' (2019) 4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah* 86 <<http://petita.ar-raniry.ac.id/index.php/petita/article/view/12>>; Tajul Arifin, 'The Guarantee of the Application of Capital Punishment on a Peacefull and Harmonious Life: Proof From Around the World' (2019) 4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah* 56.

## Conclusion

The Law No. 11 of 2006 respecting the Government of Aceh, which has the prerogative of enforcing Islamic law in a kaffah manner, requires that qanun preparations for environmental management in Aceh be in accordance with both the letter and the spirit of the law. The central government granted this legitimacy in order to meet the aspirations of the Acehnese people, who desired that the law apply in this area. However, legally, the Qanun on environmental management in lawmaking is not entirely founded on Islamic law. or the use of diyat and takzir as a type of policy to settle environmental conflicts in Aceh.

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