

## **THE DYNAMICS OF SHARIA LAW TAQIN IN ACEH 2013-2017: ANALYSIS OF REGULATIVE POLICY AND SOCIAL REALITY**

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**Abstract:** This study aimed to investigate the dynamics of Sharia law taqin in Aceh between 2013 and 2017. There has been a significant shift in public discourse towards establishing Sharia-based written laws and regulations during this period, notably the Aceh Qanun. Aceh Governor Regulations, Circulars, and Instructions are the foundation for implementing Sharia. Derived from the Quran, Sunnah, and fiqh doctrine, Sharia law was formalized through legislation by the Aceh People's Representative Council (DPRA) into Aceh Qanun. The research employed the normative juridical method, utilizing conceptual and statutory approaches. Data sources included primary and secondary legal data and tertiary legal materials. The data analysis was juridical, and the results indicated that Sharia law taqin in 2013-2017 led to the creation of seven Aceh Qanuns directly related to sharia implementation. These Qanuns, along with other laws and regulations formulated during that period, addressed sensitive issues such as the law of jinayat, jinayat procedure, and the establishment of laws regarding houses of worship. The formulation of these sensitive legal regulations sparked intense public discourse and debate, resulting in two opposing viewpoints. One perspective advocated for all Sharia teachings to be derived from the Quran, Sunnah, and fiqh doctrine and codified in written laws and regulations, arguing that the government should implement Sharia within the framework of the national legal system. The other perspective argued against the complete formalization of legal norms from the quran, sunnah, and fiqh norms in written rules, citing concerns about the potential violation of human rights by the state apparatus through the imposition of religious law. This research suggests

that sharia law taqnin, as per Article 125 of the LoGA, is a response to the social reality of the Acehese people's desire for comprehensive Sharia implementation. State involvement is necessary to realize the comprehensive implementation of Sharia in Aceh.

**Key Words:** Taqnin, Sharia Law, Regulative Policy, Social Reality

**Abstrak:** Penelitian ini bertujuan mengungkapkan dinamika taqnin hukum syariah di Aceh dalam rentang waktu 2013-2017. Dalam rentang waktu tersebut telah terbentuk narasi publik yang cukup tajam terhadap pembentukan peraturan perundang-undangan tertulis berbasis syariah yaitu Qanun Aceh, Peraturan Gubernur Aceh, Edaran Gubernur dan Instruksi Gubernur Aceh sebagai landasan pelaksanaan syariat Islam. Hukum syariah yang bersumber dari al-Qur'an, al-Sunnah, dan doktrin fiqh diformalkan melalui proses taqnin (legislasi) pada lembaga Dewan Perwakilan Rakyat Aceh (DPRA) yang melahirkan Qanun Aceh. Metode yang digunakan dalam penelitian ini adalah metode yuridis normatif, dengan pendekatan konseptual dan perundang-undangan. Sumber data terdiri atas data berbahan hukum primer, bahan hukum sekunder dan bahan hukum tersier. Analisis data yang digunakan adalah analisis yuridis. Hasil penelitian menemukan bahwa taqnin hukum syariah dalam rentang waktu 2013-2017 telah melahirkan 7 (tujuh) Qanun Aceh yang terkait langsung tentang pelaksanaan syariat Islam. Qanun Aceh dan peraturan perundang-undangan lain yang dibentuk dalam rentang waktu tersebut dominan mengatur aspek sensitif seperti hukum jinayat, hukum acara jinayat, hukum pendirian rumah ibadah dan lain-lain. Perumusan aturan hukum yang bersifat sensitif ini telah melahirkan narasi dan diskusi publik yang tajam, sehingga melahirkan dua kutub pemikiran. Kutub pemikiran pertama, menghendaki agar seluruh ajaran syariah yang bersumber dari al-Qur'an, Sunnah dan doktrin fiqh dituangkan dalam peraturan perundang-undangan tertulis. Alasannya, syariat Islam dilaksanakan oleh pemerintah dalam kerangka sistem hukum nasional. Kutub pemikiran kedua, norma hukum dalam al-Qur'an, al-Sunnah dan doktrin fiqh tidak perlu seluruhnya diformalkan dalam aturan tertulis karena muncul kekhawatiran adanya pemaksaan hukum agama oleh aparaturnegara, sehingga dapat berpotensi pelanggaran Hak Asasi Manusia (HAM). Penelitian ini juga menemukan bahwa taqnin hukum syariah merupakan amanah dari Pasal 125 UUPA, dan sekaligus sebagai wujud respon dari realitas sosial masyarakat Aceh yang menghendaki pelaksanaan syariat Islam secara kaffah. Keterlibatan negara merupakan keniscayaan untuk terwujudnya pelaksanaan Syariat Islam secara menyeluruh di Aceh.

**Kata Kunci:** Taqnin, Hukum Syariah, Kebijakan Regulatif Dan Realitas Sosial

## INTRODUCTION

Aceh is one of Indonesia's provinces with special privileges and autonomy.<sup>1</sup> The specialty is based on Law Number 44 of 1999 on implementing the Specialty of Aceh.

1 Pasal 1 UUD 1945 Article 1 of the 1945 Constitution stipulates that the State of Indonesia is a Unitary State in the form of a Republic. Article 18 B of the 1945 Constitution acknowledges that the state recognizes and respects units of local government that are special or have unique characteristics as regulated by law. In a unitary state, there exist two systems for implementing government affairs: centralization and decentralization. Under the centralization system, all matters within the country are regulated and administered by the central government, while local governments execute directives issued by the central authority. Conversely, in the decentralization system, regions are endowed with the authority to govern and manage their own domestic affairs, referred to as regional autonomy. Decentralization entails the delegation of authority from the central government to local governments, empowering them to regulate and

Aceh's special autonomy is based on Law Number 11 of 2006 on the Aceh Government. These two laws provide a juridical basis for Aceh to carry out the privileges and specialties in Aceh. One of them is the authority to implement sharia in all aspects of life. Sharia is guides of Islamic teachings in the Quran and Sunnah, including creed, sharia, and morals.<sup>2</sup>

The implementation of Aceh's privileges is regulated in Article 3 of Law Number 44 of 1999, including the implementation of religious and customary life, education, and the role of *ulama* (the men of knowledge) in determining regional policies. The concrete implementation of religious life in Aceh is through sharia in all aspects of life. This is based on Article 4 of Law Number 44 of 1999, describing the implementation of religious life by implementing sharia for its adherents in society.<sup>3</sup> Aceh can develop and regulate religious life implementation while maintaining inter-religious harmony.

The Aceh Government implements customary life by establishing various policies to empower, preserve, and develop customary institutions in the region following sharia. Regions can establish the institutions and recognize existing ones with their respective positions in the province, district, sub-district, city, settlement, and village. The regulation of customary life implementation in Law Number 44 of 1999 is based on the awareness of Aceh people upholding customary following sharia. They have been interpreted as rules or actions based on sharia that are commonly obeyed, respected, and honored for a long time and a basis for thinking and behavior in everyday life.<sup>4</sup>

Aceh's specialty in education is clearly stated in Article 8 of the Law Number 44 of 1999, which states that education in Aceh is organized within the national education system. This provision does not describe Aceh's privileges in education because the system is like all regions in Indonesia, and it is part of the national system. The Law Number 44 of 1999, Article 8(2) and (3) explains Aceh's privileges in education; it has the authority to develop and regulate various types, channels, and levels of education and to add local subjects following sharia. Aceh also has the authority to develop and regulate Islamic education institutions for its adherents in various types, channels, and education levels. The types are Islamic boarding schools and *diniyah* education.

Another specialty of Aceh is the role of the *ulama* in establishing policies, such as regional or gubernatorial regulations for implementing the specialty. They consider regional policies are gathered in an independent *ulama* institutional forum.<sup>5</sup> The institution is the Ulema Consultative Assembly (MPU), located in the province, district, and city. Their authority institutionally considers regional policies, including the fields of government, development, and society, as well as an Islamic economic order.

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manage specific affairs independently. Fahmi Amrusyi, 'Otonomi Dalam Negara Kesatuan' in Abdurrahman (ed), *Beberapa Pemikiran tentang Otonomi Daerah* (Media Sarana Press 1987); Joeniarto, *Perkembangan Pemerintahan Lokal* (Bina Aksara 1992).

2 Mahmud Syaltout, *Al-Islam: 'Aqidah Wa Shari'ah* (Dar al- Qalam 1966). See also, Wahbah Az-Zuhaili, *Fiqh Islam Wa Adillatuhu* (Gema Insani 2011).

3 UU No. 44 Tahun 1999 tentang Penyelenggaraan Keistimewaan Propinsi Daerah Istimewa Aceh (Lembaran Negara Republik Indonesia Tahun 1999 Nomor 172, Tambahan Lembaran Negara Republik Indonesia Nomor 3893).

4 Amirul Hadi, *Sejarah, Budaya Dan Tradisi* (Yayasan Pustaka Obor Indonesia 2010); Christian Snouck Hurgronje, *The Achehnese* (Brill 1906).

5 Independent means that the institution of ulama or MPU is not a part or sub ordinate of the executive and legislature in Aceh. MPU is a partner of the local government.

The role of the ulama in determining regional policy is a new privilege from the Law Number 44 of 1999 and is different from the previous ones. Aceh has had privileges since 1959 in religion, worship, and education—the first level of **Swatantra** Region of Aceh was called the "Special Region of Aceh." The legal basis for Aceh's specialty in 1959 was the Decree of the Deputy Prime Minister of the Republic of Indonesia (Waperdam), Hardi Number 1 /Missi/1959. Aceh has been known as the Special Region of Aceh (DI Aceh) since 1959, with religious, worship, and education privileges.<sup>6</sup> The question arises is why the emerge of Law No. 44/1999 which regulates the privileges of Aceh. (Pertanyaan yang muncul mengapa lahirnya UU No. 44 Tahun 1999 yang juga mengatur tentang hal yang sama mengenai keistimewaan Aceh).

Three arguments can be built to answer the questions. First, the Decree of the Deputy Prime Minister of the Republic of Indonesia Number 1/Missi/1959 has no legal standing and force in the hierarchy of laws and regulations in Indonesia based on Law Number 12 of 2011 on the Formation of Laws and Regulations.<sup>7</sup> This indicates that Aceh's privileges have a fragile juridical basis; Aceh Government cannot implement them in public life. Secondly, other laws and regulations do not follow the content of the Decree of the Deputy Prime Minister. Therefore, the substance of the privileges in religion, worship, and education can only partially be achieved in Aceh. Third, the privileges mentioned in the decree are unclear and no longer relevant to the development of Acehnese society after the conflict and tsunami. They must be developed while considering Acehnese society's social realities and developments in the current era.

Law Number 44 of 1999 has provided solid legal protection for Aceh in carrying out its privileges. However, this law could not be fully implemented in the social reality of Acehnese society because it was amid a high-tension conflict between the Indonesian government and the Free Aceh Movement (GAM) in 1999. The conflict had seriously impacted and damaged Aceh's infrastructure, education, health, economy, social, and religious life. GAM and the Indonesian Government realized the impact of the conflict. Therefore, both parties tried to find the perfect pattern for resolving the conflict.<sup>8</sup> The Indonesian government tried to resolve the conflict by granting special autonomy for Aceh through Law Number 18 of 2001 as Nanggroe Aceh Darussalam.<sup>9</sup>

The Special Autonomy Law provides Aceh with broad and explicit authority to reorganize the development and life of the people of Aceh within the framework of the Unitary State of the Republic of Indonesia. Law Number 18 of 2001 gives Aceh the authority to manage and regulate government affairs in all public sectors, except for the national authority of the Central Government in the form of foreign policy, defense,

6 Hardi, *Daerah Istimewa Aceh, Latar Belakang Politik Dan Masa Depan* (Cinta Panca Serangka 1993); Ahmad Farhan Hamid, *Jalan Damai Nanggroe Endatu* (Suara Bebas 2006); Alyasa Abu Bakar, *Syariat Islam Di Provinsi Nanggroe Aceh Darussalam (Paradigma, Kebijakan Dan Kegiatan)* (Dinas Syariat Islam Aceh 2008).

7 The types and hierarchy of laws and regulations in Indonesia are regulated in Article 7 of Law No. 12 of 2011, which consists of: Constitution of the Republic of Indonesia Year 1945; Decree of the People's Consultative Assembly; Laws / Government Regulations in Lieu of Laws, Government Regulations, Presidential Regulations; Provincial Regional Regulations; and Regency / City Regional Regulations. President; Provincial Regional Regulations; and Regency / City Regional Regulations.

8 Ahmad Farhan Hamid (n 6).

9 This law was revoked and replaced by Law No. 11/2006 on the Governing of Aceh.

security, judiciary, national monetary and fiscal affairs, and specific religious affairs. Aceh's special autonomy contained in this law also could not be implemented realistically and comprehensively because Aceh was still in conflict. This indicates that Law Number 18 of 2001 did not solve the conflict.

The Aceh conflict ended after the peace between the Government of Indonesia and the Free Aceh Movement (GAM) by signing the Helsinki MoU in Finland on August 15, 2005. The MoU was a new chapter for Aceh to have peace, prosperity, and dignified development. An essential mandate of the Helsinki MoU, paragraph 1.1, is the implementation of governance in Aceh by promulgating a new law by March 31, 2006. The Law Number 11 of 2006 on the Governance of Aceh, which revoked and declared invalid Law Number 18 of 2001 on the Special Autonomy of Aceh as Nanggroe Aceh Darussalam.

Law Number 11 of 2006 on the Aceh government is the new juridical basis for Aceh to exercise broad authority in the form of Aceh's specificity within the NKRI. The Law on the Governing of Aceh (UUPA) is a specificity built on the spirit and foundation of peace, as stated in the Helsinki MoU. Aceh's specificity is not the same as regional autonomy or privileges in other provinces in Indonesia.

A fundamental feature of Aceh regulated in the LoGA is the implementation of sharia. Law Number 11 of 2006 on Aceh Government regulates it in Chapter XVII Articles 125, 126, and 127. Sharia implemented in Aceh includes creed, sharia, and morals. Sharia regulated in the Aceh Qanun is about worship, *ahwal al-syakhsyah* (family law), *mu'malah* (civil law), *jinayah* (criminal law), *qadha'* (justice), *tarbiyah* (education), *da'wah*, (preaching) and Islamic defense. Article 126 states that Islam followers are obliged to obey and practice sharia, and everyone in Aceh must respect its implementation. The provisions become an imperative obligation from the state or government to every Muslim to carry out all the teachings of his religion in daily life. Therefore, Muslims in Aceh have two essential obligations in implementing sharia, based on the normative doctrine of Islamic teachings (*diyaniy*) and orders from the state (*siyasiy wa sturdy*).<sup>10</sup>

The regulation of the sharia implementation in Law Number 11 of 2006 has obliged the Government, Aceh, the District, and City Government to be directly responsible for implementing sharia. It is not only the obligation and responsibility of Muslims in Aceh. However, the regulation and implementation of sharia are the country's and government's responsibility. Aceh, District, and City Governments can intervene in forming legislation and establishing institutions that become leaders in implementing sharia in Aceh.

Legislation that supports the sharia implementation can be in the form of regulations at the central and regional levels. Regulatory support at the central level in implementing sharia can be in the form of Laws (UU), Government Regulations (PP), Presidential Regulations (Perpres), and Regulations of State Institutions such as

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10 Rifyal Ka'bah, *Islamic Law in Indonesia* (Yarsi University 1999); Rifyal Ka'bah, *Penegakan Syariat Islam Di Indonesia* (Khairul Bayan 2004). See also, Yasrul Huda, 'Islamic Sharia in Aceh And Its Implication in Other Other Regions in Indonesia; Case Study During Implementation Aceh As Nanggroe Aceh Darussalam' (2020) 5 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*; Ratno Lukito, 'Shariah and the Politics of Pluralism in Indonesia: Understanding State's Rational Approach to Adat and Islamic Law' (2019) 4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah* 14.

Supreme Court Regulations (Perma) and Attorney General Regulation. Legislation at the regional level is through Aceh, Regency and City Qanuns, Governor, Regent or Mayor Regulations, and other laws and regulations. Likewise, the institutions supporting the implementation of sharia are the Islamic Sharia Office, Sharia Court in Aceh, the Police, the Attorney General's Office, the Public Order Agency (Satpol PP), Sharia Police (WH), Ulema Council (MPU), and other institutions for the implementation of Islamic Sharia as a whole in the lives of Aceh people.

This research explores the dynamics of Sharia law formation in Aceh between 2013 and 2017. Sharia law constitutes a legal framework derived from the Qur'an, al-Sunnah, and fiqh (Islamic jurisprudence) norms in various fiqh literature. These normative principles have been translated into positive legal norms through legislative processes conducted by the Aceh People's Representative Council (DPRA) in collaboration with the Aceh Government. The legislative embodiment of Sharia legal norms is articulated in the form of Qanun Aceh, a type of provincial regulation governing the affairs and livelihoods of Acehnese citizens.<sup>11</sup>

The choice of the 2013-2017 timeframe for this research is motivated by the significant proliferation of Aceh Government policies during this period, particularly Qanun Aceh. Throughout 2013-2017, the Aceh Government and DPRA successfully enacted nine Qanuns and one Aceh Governor Regulation about the implementation of Sharia. These include Qanun Aceh Number 7 of 2013 on Jinayat Procedure Law, Qanun Aceh Number 8 of 2013 on Tourism, Qanun Aceh Number 6 of 2014 on Jinayat Law, Qanun Aceh Number 8 of 2014 on Principles of Sharia, Qanun Aceh Number 9 of 2014 on the Establishment of Bank Aceh Syariah, Aceh Qanun No. 7/2015 on the Division of Government Affairs Relating to Sharia between the Government of Aceh and Regency/City Governments, Aceh Qanun No. 8/2015 on the Guidance and Protection of Akidah, Aceh Qanun No. 4/2016 on Guidelines for the Maintenance of Religious Harmony and the Establishment of Places of Worship, Aceh Qanun No. 8/2016 on the Halal Product Guarantee System, and Aceh Governor Regulation No. 25/2017 on the Implementation of One-Day Integrated Services for Marriage Validation (Istbat Nikah). The transformation of Sharia legal norms into Qanun Aceh during 2013-2017 has engendered significant academic, social, and political dynamics. This transformation is characterized by the emergence of robust criticism from various segments of society, resulting in both support and opposition to the formal implementation of Islamic Sharia in Aceh.<sup>12</sup> The academic, social, and political dynamics surrounding the formation of Qanun Aceh about the implementation of Sharia are inherently complex, ensuring that Sharia implemented in Aceh through state intervention maintains *its rahmatan lil-'alamin* (blessing for all creation) ethos.

11 Article 1 point 21 of Law No. 11/2006 on the Governing of Aceh (State Gazette of the Republic of Indonesia Year 2006 Number 62, supplement to the State Gazette of the Republic of Indonesia Number 4633). See also, 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; Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Form Over Substance, Achieving Objectives While Preserving Values' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah i.

12 The various groups consist of academics, legal practitioners, NGOs, and several countries that pay attention to the implementation of Islamic Sharia in Aceh such as the European Union, the United States, Australia, Saudi Arabia, and the United States.

This research seeks to address the question of how the dynamics of Sharia law formation in Aceh since 2013-2017 have influenced the Aceh Government's regulatory policymaking, particularly in the formulation of Qanun Aceh and Aceh Governor Regulations, aimed at supporting the comprehensive implementation of Sharia (*kaffah*). These dynamics are situated within the social reality of the Acehnese people, who have been recovering from nearly three decades of conflict and the devastation caused by the tsunami. The social reality is defined by the communal circumstances and narratives surrounding the government's formal enforcement of Sharia, including the formulation of regulations, establishment and fortification of institutions, and public education initiatives concerning Sharia implementation in Aceh.

### **Method**

This study employed the normative juridical method, an approach to reveal the norms of Sharia law debated by various groups, including academics, legal practitioners, politicians, and the media when the norms of Sharia law are raised and outlined in Qanun (law) of Aceh through the legislative process in the DPRA (Aceh House of Representatives). This study applied a conceptual and legislative approach to clarify and emphasize the concepts of Sharia, fiqh (Islamic jurisprudence), and a set of legal norms that were initially normative, becoming positive legal norms in Aceh Qanun and Governor Regulations. The legislative approach ensures the position of Sharia law in the legal system and sub-system of legislation in Indonesia. The transformation of Sharia law norms into Qanun Aceh has a solid juridical foundation within the Indonesian legal system. The data in this study consisted of primary legal materials, such as the 1945 Constitution, UU (laws), PP (Government Regulations), Aceh Qanuns, Pergub Aceh (Governor Regulations), and other regulations related to the taqin (legislation of Islamic aspects) of Sharia law in Aceh. Secondary legal materials included journal articles, books, proceedings, and research results related to Sharia law's dynamics and legislative process in Aceh. Tertiary legal materials consist of legal dictionaries and encyclopedias. The data analysis used was juridical-qualitative due to the nature of qualitative. The analysis results was described in the research report.

### **Results and Discussions**

#### ***Social Realities and the Dynamics of Sharia law Taqin***

Sociologically, the people of Aceh are known as a society that upholds the teachings of Islam. Islam, based on the Quran and Sunnah, has been applied as a guide to life and behavior in the daily life of the Acehnese. This reality is understandable because Islam first entered the Nusantara (Indonesia archipelago) through Aceh.<sup>13</sup> The Acehnese people have practiced sharia since Arab, Indian, and Persian traders introduced Islam through trade transactions in the waters of Nusantara. However, historians still debate when exactly Islam entered Aceh. Some historians argue that Islam entered Aceh in the first or second century of Hijri, but others mention around the 9th century AD. This debate and difference are due to the different historical sources used. The spread of Islam in Aceh can be viewed from two dimensions: Islam as a cultural ideological force and Islam as a political force.

As a cultural ideological force, Islam entered Aceh through Arab, Indian, and Persian traders who conducted trade transactions and resided in the Nusantara. In this dimension, Islam has been adopted by the Nusantara people in the aspects of creed,

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13 Raden Hoesin Djajadiningrat, *Kesultanan Aceh* (Departemen Pendidikan dan Kebudayaan Daerah Istimewa Aceh 1982); William Marsden, *History of Sumatra* (Oxford University Press 1966).

family laws (marriage), inheritance, and *mu'amalah* (human relations) laws. So, it is possible that Islam entered Aceh around the first or second century Hijri. Meanwhile, Islam as a political force was realized when the Islamic kingdoms in Aceh were formed. Then, sharia was implemented through state power and formally institutionalized in the state. Historians who take the formation of the Islamic Kingdom as a sign of the entry of Islam into Aceh conclude that Islam first came to Aceh around the 9th century AD.<sup>14</sup>

This study does not examine the history of the entry of Islam into Aceh. Instead, it describes the social reality of Acehnese people's closeness to Islamic Sharia. It is essential considering that sharia has been part of the value system of Acehnese for years, both as a guide to life and the spirit of the struggle for independence and upholding justice. In the historical record, Aceh never surrendered its sovereignty and continued to resist the Dutch colonial occupation. Likewise, Aceh became the independent capital of the Republic of Indonesia. It was inseparable from the spirit of *jihād fi sabilillah* (fight for the sake of Allah) of the Aceh people to realize Sharia in the Unitary State of the Republic of Indonesia.<sup>15</sup>

The social reality described in this study is the narrative and spirit of the Aceh people to realize Islamic Sharia in a *kaffah* (totality) manner after the enactment of Law No. 44/1999 on the implementation of specialty Province of Aceh and Law No. 18/2001 on Special Autonomy for the Province of Aceh Special Region as the Province of Nanggroe Aceh Darussalam. These two laws formalized sharia in several state regulations implemented by the government in Aceh. Law No. 18/2001 gave Aceh province the authority to form Qanun Aceh regulates Islamic Sharia in *akidah* (faith), Sharia, and *akhlak* (morals). The Sharia aspect regulated by Qanun Aceh includes worship, family law, civil law, criminal law, Sharia courts, education, preaching, and the propagation and defense of Islam. In the legal aspect, for example, the Religious Courts in Aceh were transformed into the Sharia Court, which was given broad authority to adjudicate criminal cases (*jinayah*). This special authority is clearly different from the Religious Courts throughout Indonesia. On the other hand, the police in Aceh are authorized to conduct investigations and inquiries into sharia violations as stipulated in the Aceh Qanun. Likewise, the Attorney General's Office in Aceh is given the authority to prosecute violations of the Qanun *Jinayat* to the Sharia Court and execute the Sharia Court's verdict in criminal cases (*jinayah*).<sup>16</sup>

The declaration and formalization of sharia through the establishment of Qanun Aceh and government institutions that implement sharia were warmly welcomed by the people of Aceh. They feel that Aceh's special autonomy is the way to restore the Aceh people's aspirations to realize sharia comprehensively in their daily lives. Sharia is not only realized in the aspects of worship, *ahwal al-syakhsyah* (family law), and

14 Amirul Hadi (n 4). See also, Saifuddin Duhuri, '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.

15 Abidin Hasyim, *Aceh Daerah Modal* (Dinas Kebudayaan dan Pariwisata Aceh 2009).

16 This authority is in Articles 128, 204 and 208 of Law No. 11/2006 on the Governing of Aceh. See Ali Abubakar and Zulkarnain Lubis, *Hukum Jinayat Di Aceh; Sebuah Pengantar* (Prenada Media Group 2019), pp. 17-34. See also, Ali Abubakar, 'The Chance on Islamic Family Law Study in Indonesia' (2019) Vol 4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*; Al Khanif, 'Women, Islam, and Modern Family Construction in the Perspectives of Legal Pluralism in Indonesia' (2019) Vol.4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*.



limited *muamalah* but also includes *jinayah*. The struggle of the Aceh people to embody comprehensive (*kaffah*) sharia has been ongoing for an extended period, from the beginning of independence to the reform era marked by the fall of the New Order regime. However, sharia was only realized in the context of clear and firm authority from the state after the enactment of Law No. 18 of 2001, later revoked and replaced by Law No. 11 of 2006 concerning the Government of Aceh.<sup>17</sup>

The expectation of Aceh people to realize Islamic Sharia comprehensively (*kaffah*) is relatively high. It is indicated by the spirit of change and efforts to adjust behavior to the value of Sharia in the public sector. The awareness of reviving religious activities has begun to move, and the enforcement of *amar makruf* (promoting good) and *nahi mungkar* (preventing vice) has become lively in the villages. On the other hand, law enforcement, including jinayat law, has shown its concrete form, where law enforcement agencies such as the police, *wilayatul hisbah* (sharia police), prosecutors, and the court have carried out the jinayah judicial process based on Qanun Jinayat and Jinayat Procedural Law.<sup>18</sup> The enforcement of jinayat law in Aceh is a great momentum in the development of criminal law in Indonesia. Jinayat law, derived from Qur'an, Sunnah, and the doctrine of fiqh jinayah, has been made a positive law only applicable in Aceh and is enforced by law enforcement agencies of the Republic of Indonesia. Applying flogging punishment against violations of Qanun Jinayat is one of the signs of sharia law establishment in Aceh because it is one form of punishment introduced by Jinayat law, not recognized in the Indonesian Criminal Code (KUHP).<sup>19</sup>

The high expectations of the Acehnese people towards the implementation of sharia have led to excessive euphoria, often resulting in vigilante actions against perpetrators suspected of violating sharia norms. This attitude is due to the limited knowledge and understanding of sharia law in Aceh.<sup>20</sup> There are often debates about its implementation in Aceh. Two narratives are developing in the community regarding the implementation of sharia law in Aceh through the formalization of sharia rules in Qanun Aceh and the enforcement of Sharia law through law enforcement agencies.<sup>21</sup> The first narrative wants the government to commit highly to realizing Aceh's *kaffah* sharia law. This party understands that the role of the state or government is crucial and determines the implementation of sharia. Public law, for example, requires state power in its enforcement. Thus, criminal law (jinayat) cannot be enforced if state instruments such as the police, prosecutors, and courts are not involved. The second narrative is that people understand that it is challenging to realize the *kaffah* sharia if it is still under the Indonesian legal system. It has led to concerns that the

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- 17 Nyak Fadhlullah, 'Metode Perumusan Qanun Jinayah Aceh : Kajian Terhadap Pasal 33 Tentang Zina' (2017) 7 in Right (Jurnal Agama dan Hak Azazi Manusia ) 16 <<http://ejournal.uin-suka.ac.id/syariah/inright/article/view/1456/1262>>; Khairil Akbar, Nyak Fadhlullah and Zahlul Pasha Karim, 'Challenging The Principle of Equality Before the Law in Qanun Jinayat Aceh' (2022) 24 Media Syari'ah : Wahana Kajian Hukum Islam dan Pranata Sosial 156; Helmi Helmi and Nyak Fadhlullah, 'Positivisation of Islamic Sharia as Local Government Regulations for Minority Citizens as Liyan in Aceh' (2020) 1 Journal of Governance and Social Policy.
  - 18 Qanun Aceh Number 7 of 2013 on Jinayat Procedure and Qanun Aceh Number 6 of 2014 on Jinayat Law.
  - 19 Syahrizal Abbas, *Paradigma Baru Hukum Syariah Di Aceh* (Naskah Aceh-Pascasarjana UIN Ar-Raniry 2018); Lili Rasjidi and IB Wyasa Putra, *Hukum Sebagai Suatu Sistem* (Remaja Rosdakarya 1993).
  - 20 Syahrizal Abbas, *Filosofi Pelaksanaan Syariat Islam Di Aceh* (Pascasarjana UIN Ar-Raniry Banda Aceh 2018).
  - 21 *ibid.*, hlm. 13-21

implementation of sharia is just lip service and even considered a political commodity or offer to resolve the Aceh conflict.<sup>22</sup>

In addition to those two narratives, the reality is that sharia in Aceh has been implemented in the Republic of Indonesia. Sharia law, sourced from the Qur'an and Sunnah, has been adopted in laws and regulations in the form of Qanun Aceh and Aceh Governor Regulations, which become the formal basis for implementing Sharia at the level of regional legal products. The transformation of *fiqh* norms through the legislative process in written laws and regulations is known as Sharia Law *Taqnin*. It is an *ijtihad jama'i* (collective Ijtihad) conducted by the Aceh Government and DPRA to compile and develop *fiqh* norms into positive law through written legislation (Qanun Aceh). Meanwhile, the formulation of *fiqh* norms by the Aceh Governor to implement the mandate of Qanun Aceh without involving the DPRA is outlined in the the Aceh Governor Regulations.

*Taqnin* Sharia law also aims to strengthen the authority of government institutions directly or indirectly involved in implementing sharia in Aceh. The establishment and strengthening of the Sharia Office, the *Dayah* (Islamic school) Education Office, the Ulema Consultative Assembly (MPU), the Aceh Customary Assembly (MAA), the Aceh Education Assembly (MPA), *Wilayatul Hisbah* Police, and other religious institutions are concrete manifestations of the implementation of sharia by involving state power. Implementing sharia law that involves the government's responsibility requires time, process, appropriate strategy, measurability, and sustainability. However, the government has a great commitment to implement sharia; it can be seen from the stipulation of several regulations that encourage and accelerate the implementation of sharia law. However, Acehnese tend to expect instant results. High public expectations without considering the time and process can lead to unfavorable narratives, apathy, and even scorn for the implementation of sharia in Aceh. This situation is exacerbated when implementing sharia does not bring significant changes in governance and the lives of the Aceh people. This social reality deserves the attention of the Aceh Government in formulating and producing regulative policies to realize the implementation of sharia comprehensively (*kaffah*).

### ***Regulative Policy as a Form of the Sharia Law Taqnin (2013-2017).***

The regulative policy is the policy of the Aceh government to form legislation to implement sharia in Aceh.<sup>23</sup> Regulative policies consist of two categories: regulative policies jointly formed between the Government of Aceh (Governor) and the DPRA, and regulative policies formed by the Governor of Aceh. The first type of regulative policy takes the form of Qanun Aceh, while the second type is Aceh Governor

22 Khairil Miswar, 'Syariat Islam Dalam "Ayunan" Penguasa' *Serambi Indonesia* (Banda Aceh, 2023). See also, Nyak Fadhlullah, 'Positivisasi Hukum Islam Dan Persinggungannya Dengan Kelompok Etnonasionalis Di Aceh' (2020) 54 *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* <<http://asy-syirah.uin-suka.com/index.php/AS/article/view/734>>; Faradilla Fadlia and Ismar Ramadani, 'The Qanun Jinayat Discriminates Against Women (Victims of Rape) in Aceh, Indonesia' (2018) 2 *Journal of Southeast Asian Human Rights* 448.

23 Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Minister of Home Affairs Regulation Number 80 of 2015 on the Formation of Regional Legal Products. In the context of the uniqueness and special status of Aceh, Regional Policies are Regional Regulations or Governor Decrees that are regulating and binding in the implementation of the specialty. and binding in the implementation of privileges. This provision is regulated in Article 1 of Law No. 44/1999 on the Implementation of the Special Region of Aceh.

Regulations, Aceh Governor Instructions, or Aceh Governor Circular Letters that support the implementation of Islamic Sharia. Regulative policies in the form of written laws and regulations that become the object of this study are laws and regulations related to the implementation of sharia initiated by the Aceh Islamic Sharia Office and the regulations jointly initiated between the Aceh Islamic Sharia Office and other Aceh Working Units (SKPA) from 2013 to 2017. The determination of the period is based on two main reasons: First, from 2013 to 2017, the Aceh Government was productive in producing regulative policies in the form of Qanun Aceh, Regulations of the Governor of Aceh, Circulars of the Governor of Aceh, Instructions of the Governor of Aceh, and various other policies in the context of implementing sharia. Second, between 2013 and 2017, the Government of Aceh formed Qanuns Aceh, which is quite sensitive and crucial, such as Qanun Jinayat Procedure Law, Qanun Jinayat Law, Qanun Guidelines for the Maintenance of Religious Harmony and Houses of Worship Establishment and others.

Regulative policies analyzed in this study consist of qanuns on Jinayat Procedure Law, Jinayat Law, the Principles of Islamic Sharia, Division of Government Affairs Relating to Sharia between the Government of Aceh and District/City Governments, the Establishment of Bank Aceh Syariah, Guidelines for the Maintenance of Religious Harmony and the Establishment of Houses of Worship, the Development of People's Belief, Halal Product Guarantee System and Qanun on Sharia Financial Institutions (LKS). Regulative policies comprise Governor Regulation (Pergub) on *Ba'da* (after) Magrib Quran Recitation and in the Aceh Governor Instruction related to the Termination of Activities at Prayer Time in the Environment of Agencies / Institutions / Business Entities and Offices throughout Aceh. In addition, the Aceh Islamic Sharia Office also launched several strategic programs, namely forming Islamic Sharia Grand Design, *Isbat Nikah* (marriage legalization), scholars for the borders, and several others.

*a. The Qanun on Jinayat Procedural Law*

Aceh Qanun Number 7 of 2013 concerning Jinayat Procedural Law is a Qanun initiated by the Aceh Sharia Office. It is the first Qanun enacted and approved in February 2013. This Qanun was enacted to provide a legal basis for law enforcement officials such as the police, prosecutors, and courts to carry out their duties and functions in enforcing the jinayat material law. The Qanun on Jinayat Procedural Law is a critical instrument in Aceh's criminal justice process (jinayat). The Qanun supports the special autonomy and authority to implement Sharia by upholding legal certainty, justice, and equality before the law.

Jinayat Procedural Law is a formal law utilized by law enforcement officials to enforce jinayat material law, as the Criminal Procedure Code (KUHP) has not fully met the requirements for enforcing jinayat law in Aceh. Before the enactment of the Qanun on Jinayat Procedural Law, there were several material Qanuns regulating jinayat in Aceh, namely the Nanggroe Aceh Darussalam Province Qanun Number 12 of 2003 concerning Khamar and the like, Nanggroe Aceh Darussalam Province Qanun Number 13 of 2003 concerning Maisir (Gambling), and Nanggroe Aceh Darussalam Province Qanun Number 14 of 2003 concerning Khalwat (Indecency). The enforcement of these three Qanuns was not based on the Jinayat Procedural Law because a separate procedural law had yet to be formed. Consequently, the KUHP and several procedural legal materials contained in the three Qanuns were used.

When the Jinayat Procedural Law Qanun was passed by the Aceh House of Representatives (DPRA) and signed by the Governor of Aceh, it caused extraordinary reactions in Aceh, as well as nationally and internationally. The debate that developed in society can be classified into two narrative groups. The first narrative stated that the jinayat procedural law is essential for Aceh because the jinayat material law originates from the Quran and Sunnah, which cannot be enforced by the procedural law inherited from the Colonial Dutch.<sup>24</sup> The other narrative stated that the presence of the Qanun on Jinayat Procedural Law could disrupt the national criminal justice system. The Governor of Aceh at that time, Dr. Zaini Abdullah, and the Head of the Aceh Sharia Office were even summoned by the Swedish Ambassador in Jakarta, Iva Polana, to obtain information regarding Sharia in Aceh. The request for an explanation regarding the Jinayat Procedural Law Qanun by the Swedish Ambassador was based on the negative information on Aceh circulating in the international media at that time. An article published in the Jakarta Post stated that the implementation of Sharia in Aceh was a form of human rights violation and that non-Muslims were not allowed to live in Aceh, giving rise to discrimination and intolerance in Aceh.<sup>25</sup>

The Governor of Aceh explained to the Swedish Ambassador that the Jinayat Procedural Law Qanun is not a material Qanun but a formal Qanun or procedural law that must be used by law enforcement officials such as the police, prosecutors, and courts to obtain material truth in the criminal justice process. The Qanun on Jinayat Procedural Law is critical in law enforcement because it is challenging for law enforcement officers to enforce the material jinayat law when there is no procedural law. Therefore, this Qanun actually guarantees protection to criminal perpetrators and victims of criminal acts against human rights violations in the criminal justice process. This Qanun does not allow human rights violations to occur; instead, it guarantees human rights protection in Aceh.

#### *b. Qanun on Jinayat Law*

Aceh Qanun Number 7 of 2014 concerning Jinayat Law is a Qanun on Jinayat material law. This Qanun regulates three main issues: criminal acts (jarimah), criminal perpetrators, and criminal threats ('uqubat). There are ten criminal acts (jarimah) regulated in the Qanun on Jinayat Law: adultery, qadhaf (accusing adultery), khamar, maisir (gambling), khalwat, ikhtilath, rape, sexual harassment, liwath, and musahaqah. This Qanun is a refinement of three previous Qanuns that regulate khamar, maisir, and khalwat, adding seven new jarimahs. Aceh Qanun Number 7 of 2014 revoked and declared invalid the Nanggroe Aceh Darussalam Province Qanun Number 12 of 2003 concerning Khamar and the like, the Nanggroe Aceh Darussalam Province Qanun Number 13 of 2003 concerning Maisir (Gambling), and the Nanggroe Aceh Darussalam Province Qanun Number 14 of 2003 concerning Khalwat (Indecency).

24 Mansari, 'Qanun Acara Jinayat, Mengapa Tidak?' *Opini Koran Harian Serambi Indonesia* (Banda Aceh, 2012).

25 The Jakarta Post, 'Q&A: What You Need to Know about Sharia in Aceh' *The Jakarta Post* (Jakarta, 2018). See also, 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.

The ratification of Aceh Qanun Number 6 of 2014 concerning the Jinayat Law had 'stunned' many parties regionally, nationally, and internationally. This situation triggered many views, discussions, and studies regarding implementing the Qanun on Jinayat Law in Aceh from regional, national, and international researchers. Ambassadors from friendly countries also monitored developments in implementing the jinayat law in Aceh. Moreover, human rights activists from NGOs constantly visited Aceh. The local, national, and international attention on Jinayat Qanun implementation in Aceh was entirely typical due to its distinct nature in the criminal law system in Indonesia.

Various parties were eager to obtain complete and correct information on the implementation of Sharia in Aceh, especially jinayat law. Some groups argued that the application of jinayat law in Aceh could undermine the authority of the national legal system,<sup>26</sup> violates human rights, and can trigger intolerance among religious communities. Moreover, there was a prediction that Aceh would become an area controlled by terrorism and fundamentalists such as ISIS and Boko Haram in Africa.<sup>27</sup> In contrast, many parties were optimistic that implementing the Jinayat Law Qanun is concrete evidence of the Indonesian Government's commitment to granting special autonomy authority to Aceh to implement Sharia. The Jinayat Law Qanun guarantees the protection of human rights, maintains human dignity, creates peace, economic justice, and benevolence, and benefits humanity.<sup>28</sup> Sharia, including jinayah law, aims to benefit humanity (*rahmatan lil 'alamin*). There is no intention to bring harm and evil in the Sharia implementation.<sup>29</sup> Therefore, this second group consistently rejected the view that the implementation of the Jinayah Law Qanun is a form of human rights violation, intolerance, and discrimination among the religious communities in Aceh.

The presence of the Qanun on Aceh Jinayat Law in 2014 has received an extraordinary response from various countries worldwide, especially members of the European Union (EU), the United States, and Australia. At the end of October 2014, the Governor of Aceh, dr. Zaini Abdullah, and the Head of the Sharia Office fulfilled the invitation from the European Union, namely England, Italy, France, Belgium, the Netherlands, Germany, and several other countries, to hold a meeting in Jakarta. The countries demanded an explanation regarding the existence of the Qanun on Jinayat Law and its impact on the people of Aceh.

The Governor of Aceh and the Head of the Aceh Sharia Office delivered a presentation covering the objectives, content of the Jinayah Law Qanun, and various interests in realizing benevolence and benefit for the people of Aceh and the world. After a lengthy discussion, the European Union ambassadors understood Aceh's special autonomy

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- 26 Muhammad Rizki Nugraha Darma Negara and Mesy Faridah Hendiyani, 'The Analysis of Aceh Law and Its Relevancy on National Law from Human Right Perpsective' (2022) 2 Jurnal Terapan Pemerintahan Minangkabau. See also, Muhammad Siddiq et all 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.
  - 27 Dian Andi Nur Aziz and others, 'Examining Qanun in Aceh from a Human Right Perspective ; Status, Substance, and Impact on Vulnerable Groups and Minorities' (2023) 23 Al-Ijtihad ; Jurnal Wacana Hukum Islam dan Kemanusiaan 37.
  - 28 Rusjdi Ali Muhammad, *Hak Asasi Manusia Dalam Perspektif Syariat Islam* (Ar-Raniry Press 2004)., pp. 93
  - 29 Fariz Ulul Abshar and others, 'Islam and Human Right ; Friends and Foe' (2021) 15 ADDIN ; Media Dialektika Ilmu Islam 229.

and expressed appreciation to the Aceh Government. Moreover, the ambassadors visited Aceh to prove the validity of the Aceh Governor's explanation and observe the lives of the Acehnese people after the implementation of the Jinayat Law Qanun.

The American and Australian ambassadors held a special meeting with the Governor of Aceh, the Wali Nanggroe Aceh, Malik Mahmud Al-Haytar, and the Head of the Aceh Sharia Office. The ambassadors demanded an official explanation regarding the implementation of Sharia in Aceh, especially the enforcement of jinayat law, including the whipping punishment. The Aceh delegation led by the Governor provided a detailed explanation of Aceh's privileges and specialties, including the authority to implement Sharia in all aspects of life. Sharia law only applies to Muslims in Aceh and does not apply to non-Muslims in Aceh.<sup>30</sup> The Aceh government is responsible for implementing Sharia law, which respects religious freedom and upholds tolerance among religious communities. The essence of Sharia law is to realize benefit, justice, and prosperity for humanity (*rahmatan lil 'alamin*).

*c. Qanun on the Principles of Sharia*

Aceh Qanun Number 8 of 2014 concerning the Principles of Sharia regulates the principles of Sharia implemented in Aceh. This Qanun only regulates the principles of Sharia, which require further regulation through Aceh Qanuns or Aceh Governor Regulations. This Qanun provides a regulatory framework that serves as a guideline for the Aceh Government in fulfilling its obligations regarding the implementation of Sharia in all aspects of the lives of the Acehnese people. The Qanun on the Principles of Sharia establishes the framework for the implementation of Sharia and delineates the responsibilities for its enforcement. It also contains the primary materials of Sharia such as *aqidah*, Sharia in the form of worship, *ahwal syakhsyah* (family law in the form of marriage and inheritance), *mu'amalah* (civil law), Sharia Financial Institutions, Baitul Mal, Halal Certification System, Jinayat (criminal law), *qadha* (justice), *tarbiyah* (education), Islamic defense, *akhlaq*, Islamic *syiar* (propagation), press and broadcasting, tourism, culture, arts, and Islamic *da'wah*. From the Qanun on the Principles of Sharia, several other Qanuns have been formed, such as Qanun on the Halal Product Certification System and Qanun on the Sharia Financial Institutions (LKS).

*d. Qanun on the Establishment of Aceh Sharia Bank*

Aceh Qanun Number 9 of 2014 concerning the Establishment of the Aceh Sharia Bank was prepared to spin off the Sharia Business Unit (UUS), a business unit in the conventional Aceh Bank. In implementing Sharia, the Aceh Government wished to convert Aceh Bank, which applied a conventional system, to Aceh Bank, which adheres to Sharia principles. As a Controlling Shareholder (PSP), the Governor of Aceh considered views and input from the public regarding this conversion plan, including the Aceh House of Representatives' (DPRA) views. Finally, it was agreed that the Aceh

30 Danial, 'Qanun Aceh No. 6 Tahun 2016 Tentang Hukum Jinayat Menurut Perspektif Moderasi Beragama' (2023) 12 SYARAH ; Jurnal Hukum Islam dan Ekonomi 3. See also, Bertrand Chopard and Marie Obidzinski, 'Public Law Enforcement under Ambiguity' (2021) 66 International Review of Law and Economics 105977 <<https://linkinghub.elsevier.com/retrieve/pii/S0144818821000016>>; Cristóbal Caviedes, 'Is Majority Rule Justified in Constitutional Adjudication?' (2021) 41 Oxford Journal of Legal Studies 376 <<https://academic.oup.com/ojls/article/41/2/376/6031984>>; Kelly Chong Yan Chan and Edward Lui, 'Citizenship, Charges And Common Law Constitutional Rights' (2022) 81 The Cambridge Law Journal 225.

Government, along with the Regency and City Governments as shareholders, would convert the spin-off of the Sharia Business Unit (UUS) attached to the conventional Aceh Bank to establish the Aceh Sharia Bank. It means that the Aceh Government formed a new bank, and thus it had two banks, namely the conventional Aceh Bank and Aceh Sharia Bank. Juridically, when the Aceh Government forms a new bank as a Regional-Owned Enterprise (BUMD), the government must form a legal basis, namely the Aceh Qanun. In order to meet these needs, the Aceh Qanun concerning the Establishment of the Aceh Sharia Bank was formed. Upon establishing the Aceh Sharia Bank, the Aceh Government had to deposit a minimum capital for Sharia Commercial Banks (BUS) of IDR 500,000,000,000 (five hundred billion rupiahs).

After Aceh Qanun Number 9 of 2014 was ratified, the Aceh Government immediately allocated IDR 500,000,000,000 from the Aceh Government Budget (APBA) as a minimum deposit capital for Sharia Commercial Banks (BUS). Creating a new bank eroded the aspiration funds of DPRA members. As a result, they rejected the idea of allocating the funds to the bank's minimum capital. The Aceh Government and DPRA eventually agreed not to allocate the funds, but the conventional Aceh Bank had to be converted to the Aceh Sharia Bank. The conversion entails a complete transition of business activities from conventional practices to those based on Sharia principles. Thus, the conversion pattern did not require a capital deposit because it did not form a new bank. Consequently, the Aceh Qanun Number 9 of 2014 was no longer relevant; thus, it was revoked and no longer valid.

*e. Qanun on the Division of Sharia-Related Government Affairs Between the Aceh Government and the City and Regency Governments*

Aceh Qanun Number 7 of 2015 was initiated by the Sharia Office to carry out the Aceh Government Law (UUPA) mandate. This Qanun is vital because it provides clear authority boundaries between the Provincial Government and the Regency as well as the City Governments regarding sharia-related government affairs. In 2013 and 2014, there were differences in views between the Provincial Government and the Regency as well as the City Governments in Aceh in interpreting the authority to implement Sharia, including the authority to prepare Qanuns, which regulate Sharia materials. Aceh Qanun Number 7 of 2015 confirms that Aceh's special autonomy lies with the Provincial Government, including implementing Sharia. With the formation of this Qanun, differences in views regarding Sharia-related government affairs between the Provincial Government and the Regency as well as the City Governments, can be eliminated; thus, there are no longer any obstacles to the implementation of Sharia.

*f. Qanun on the Guideline for Maintaining Harmony Among Religious Communities and the Establishment of Places of Worship*

Aceh Qanun Number 4 of 2016 concerning the Guideline for Maintaining Harmony Among Religious Communities and Establishing Places of Worship was initiated by the Aceh Sharia Office and the Aceh National Unity and Political Affairs Agency (Kesbangpol). This Qanun provides a legal umbrella for society to create a harmonious life among religious communities in Aceh.<sup>31</sup> The implementation of Sharia in Aceh is

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31 Article 127 paragraph (1) of Law No. 11/2006 stipulates that the Government of Aceh and District/City Governments guarantee freedom, foster harmony, respect religious values embraced by religious people and protect fellow religious people to perform worship per their religion. In Article 127 paragraph (4) states that the establishment of a place of worship in Aceh must obtain a permit from the Government of Aceh and/or the Regency/City Government. Aceh

open. Moreover, people of different religions can live in Aceh while maintaining and respecting each other, as well as appreciating religious differences between residents in Aceh. This Qanun also regulates the establishment of places of worship in Aceh. Therefore, this Qanun becomes the basis for resolving conflicts over the establishment of places of worship, such as those that occurred in Singkil, Subulussalam, and several places of worship at the border of Tamiang and Southeast Aceh.

*g. Qanun on the Halal Product Certification System*

Aceh Qanun Number 8 of 2016 concerning the Halal Product Certification System was initiated by the Aceh Sharia Office and the Aceh Ulama Consultative Council (MPU). This Qanun was formed to be a guideline for the Aceh LPPOM MPU and business players who provide products for the halal product certification process. This Qanun also aims to provide public protection, peace, and legal certainty in consuming and using halal and hygienic products for physical and spiritual health. The Aceh government is responsible for ensuring that the people of Aceh consume food and drinks and use halalan thayyiban products as guided by Sharia.

*h. Qanun on Sharia Financial Institutions (LKS)*

Aceh Qanun Number 11 of 2018 concerning Sharia Financial Institutions was initiated by the Aceh Sharia Office. The review of the academic manuscript of this Qanun began in 2017 and was only ratified by the DPRA in 2018. The main principle of the LKS Qanun regulates that financial institutions, both banks and non-banks operating in Aceh, adhere to Sharia principles. A Sharia contract should be used by the Aceh Government, as well as the regency and city Governments, in their financial transactions. Institutions or business entities operating in Aceh implement Sharia principles in all their business activities. The provisions of the LKS Qanun significantly impact the existence of financial institutions in Aceh. For example, banks as financial institutions that can operate in Aceh are limited to those adhering to Sharia principles. Conventional banks that adhere to Ribawi principles cannot operate in Aceh. The LKS Qanun has affirmed the application of a single banking system in Aceh, which differs from the dual banking system applied nationally. The single banking system only applies in Aceh because Aceh is a province with privileges and specificities in implementing Sharia, including economic and financial aspects.

*i. The Marriage Confirmation (Isbat) Program*

The Aceh Sharia Office developed this new program during the 2013-2017 period. This program was prepared based on studies conducted by the Aceh DSI and NGOs, as well as FGDs with the Aceh Regional Police, regarding legal documents of conflict and tsunami victims. The legal documents are in the form of a marriage isbat from the Sharia Court, marriage certificate, birth certificate, and family card. The facts show that many children who were victims of the Aceh conflict and tsunami victims do not have access to education, scholarships, or job opportunities and are unable to take part in the selection for members of the police, army, and public servant because they do not have legal documents such as their parents' birth certificates and marriage certificates. Therefore, the Aceh DSI took the initiative to launch the marriage isbat program to fulfill the community's legal needs in the form of documents that were lost or damaged due to conflict or the tsunami. The Aceh DSI collaborates with the Aceh

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Government and/or Regency/City Government. The issuance of the license as intended is regulated by qanun with due observance of the laws and regulations.



Population Registration Office, the Aceh Ministry of Religious Affairs, and the Aceh Sharia Court to carry out the marriage isbat process with the slogan ONE DAY SERVICE. This slogan means that in one day, the parties will receive approval from the Sharia Court regarding their marital status during the Aceh conflict, excerpts from marriage certificates, birth certificates, and other legal documents. The Aceh government, together with the city and regency governments, organize marriage isbat to meet the community's legal needs.

*j. Program for Strengthening Dai (Preachers) at the Borders*

The program for strengthening preachers at the borders is the Aceh DSI's strategic program, which aims to provide religious services by strengthening aqidah, worship practices, and mu'amalah activities for communities in border areas and the outermost areas of Aceh. This program also targets the mu'amalah activities of gampong communities to improve their economy. Between 2013-2017, the Aceh Sharia Office carried out a comprehensive evaluation of border preachers, strengthened the capacity of preachers, and increased the number of preachers from 150 to 200 people distributed in several cities and regencies, especially in border areas and the outermost areas of Aceh, such as Aceh Singkil Regency, Subulussalam City, Southeast Aceh Regency, and Aceh Tamiang Regency. This program is essential to ensure that people's religious life in border areas adheres to the Sharia.

*k. The Quran Recital After Maghrib Program*

The program for Quran recital after maghrib is an effort to strengthen community capacity initiated by the Aceh DSI. This program was developed based on a study that revealed children's poor ability to recite the Quran in gampongs. On the other hand, the meunasah, as a center for religious education in gampongs, no longer functions as it did in the past. Therefore, to prevent a moral crisis in reciting the Quran and practicing worship in gampongs, the Aceh Government launched the "Quran recital after maghrib" program. The program received a warm welcome from various community groups in Aceh.

*l. The Aceh Governor's Instruction Number 07/INSTR/2013 concerning the Cessation of Activities During Prayer Times in Agencies/Institutions/Business Entities and Offices in Aceh*

The Aceh Governor's Instruction Number 07/INSTR/2013 is intended to raise awareness of all Aceh state officials and private employees to pray consistently when the time arrives. The prayer times referred to are Dhuhur and Asr times during office hours. The instruction only applies to Muslim ASNs and private employees. When prayer time arrives, all office activities must be stopped to perform the prayer. This instruction was issued to respond to the situation that many ASNs and employees of Aceh's private agencies neglect prayer times because they continue to carry out office activities even though prayer time has arrived. The existence of this Governor's Instruction is a form of the Aceh Government's commitment to implement Sharia, especially within government and private institutions.

*m. The Aceh Governor's Instruction Number 02/INSTR/2014 concerning the Control of Cafe and Internet Service in Aceh*

The Aceh Governor's Instruction Number 02/INSTR/2014 is a response to the behavior of adolescents, students, and young people who use unlimited internet and spend time in cafes. This behavior results in the disruption of students' learning activities. This instruction limits the opening and service times at cafes, including the

provision of internet services, to protect the community from acts that damage the morals and future of the younger generation.

*n. The Preparation of the Aceh Sharia Grand Design Program*

The preparation of the Aceh Sharia Grand Design Program is the Aceh DSI's monumental program between 2013 and 2017. The Sharia Grand Design document contains Aceh's direction, goals, targets, and conditions with Sharia law for five to 25 or 30 years. This document contains strategic steps, policies, and activities designed by the Aceh Government to implement Sharia thoroughly in Aceh. The Aceh Government, as well as the regency and city Governments, have significant responsibilities in implementing Sharia in all aspects of life, including religion, governance, politics, economics, law, security, education, health, social welfare, energy, environment, culture, and other aspects. This document is a reference for each Aceh Working Unit (SKPA) in preparing its programs and activities in accordance with their respective tasks and functions. All government and community activities in Aceh must adhere to Sharia. Consequently, no activities of the government and people of Aceh are inconsistent with Sharia.

### **Conclusion**

This study discovered that sharia implementation in Aceh is the responsibility of Aceh's provincial, city, and regency governments. This responsibility is realized through regulatory policies as written laws and regulations in the form of Aceh Qanuns, Aceh Governor Regulations, Aceh Governor Circulars, and Aceh Governor Instructions. The content of the regulations originates from the Quran, al-Sunnah, and fiqh doctrines. The legal norms contained in these three sources undergo a transformation process through legislation or sharia law taqin.

Sharia law taqin is interpreted as a form of formalization of Islamic law through state regulations in Aceh. The taqin of sharia law through written statutory regulations has led to the development of two distinct perspectives within Acehnese society, particularly between 2013-2017. The first perspective advocates for the inclusion of all fiqh rules, encompassing both private and public legal norms, within written regulations. This approach is motivated by the understanding that the implementation of Sharia law in Aceh operates within the framework of the Indonesian national legal system. The second perspective argues against the complete formalization of fiqh norms within state legal regulations. The stance is based on the belief that rigidly codifying Sharia law could hinder its development alongside *ijtihad*. Additionally, there is concern that such formalization may lead to state coercion against citizens. It appears that the drive for the establishment of Sharia law through the taqin (legislative) mechanism is quite dominant, not only because of the mandate outlined in Article 125 of the UUPA but also due to public pressure to ensure that legal norms derived from the Quran, al-Sunnah, and fiqh are genuinely implemented in Acehnese society.

### **References**

Abidin Hasyim, *Aceh Daerah Modal* (Dinas Kebudayaan dan Pariwisata Aceh 2009)

Abubakar A, 'The Chance on Islamic Family Law Study in Indonesia' (2019) Vol 4  
Petita : Jurnal Kajian Ilmu Hukum dan Syariah

Ahmad Farhan Hamid, *Jalan Damai Nanggroe Endatu* (Suara Bebas 2006)

- Akbar K, Fadhlullah N and Karim ZP, 'Challenging The Principle of Equality Before the Law in Qanun Jinayat Aceh' (2022) 24 Media Syari'ah : Wahana Kajian Hukum Islam dan Pranata Sosial 156
- Al Khanif, 'Women, Islam, and Modern Family Construction in the Perspectives of Legal Pluralism in Indonesia' (2019) Vol.4 Petita : Jurnal Kajian Ilmu Hukum dan Syariah
- Ali Abubakar and Lubis Z, *Hukum Jinayat Di Aceh; Sebuah Pengantar* (Prenada Media Group 2019)
- Alyasa Abu Bakar, *Syariat Islam Di Provinsi Nanggroe Aceh Darussalam (Paradigma, Kebijakan Dan Kegiatan)* (Dinas Syariat Islam Aceh 2008)
- Amirul Hadi, *Sejarah, Budaya Dan Tradisi* (Yayasan Pustaka Obor Indonesia 2010)
- Armia MS, 'Ultra Petita and the Threat to Constitutional Justice: The Indonesian Experience' [2018] Intellectual Discourse
- , 'Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)' [2019] Qudus International Journal of Islamic Studies
- , '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
- Armia MS et all, 'Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?' (2022) 7 JILS 525
- Az-Zuhaili W, *Fiqh Islam Wa Adillatuhu* (Gema Insani 2011)
- Caviedes C, 'Is Majority Rule Justified in Constitutional Adjudication?' (2021) 41 Oxford Journal of Legal Studies 376  
<<https://academic.oup.com/ojls/article/41/2/376/6031984>>
- Chopard B and Obidzinski M, 'Public Law Enforcement under Ambiguity' (2021) 66 International Review of Law and Economics 105977  
<<https://linkinghub.elsevier.com/retrieve/pii/S0144818821000016>>
- Christian Snouck Hurgronje, *The Achehnese* (Brill 1906)
- Danial, 'Qanun Aceh No. 6 Tahun 2016 Tentang Hukum Jinayat Menurut Perspektif Moderasi Beragama' (2023) 12 SYARAH ; Jurnal Hukum Islam dan Ekonomi 3
- Dhuhri S, '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
- Dian Andi Nur Aziz and others, 'Examining Qanun in Aceh from a Human Right Perspective ; Status, Substance, and Impact on Vulnerable Groups and Minorities' (2023) 23 Al-Ijtihad ; Jurnal Wacana Hukum Islam dan Kemanusiaan 37

- Fadhlullah N, 'Metode Perumusan Qanun Jinayah Aceh : Kajian Terhadap Pasal 33 Tentang Zina' (2017) 7 in Right (Jurnal Agama dan Hak Azazi Manusia ) 16 <<http://ejournal.uin-suka.ac.id/syariah/inright/article/view/1456/1262>>
- , 'Positivisasi Hukum Islam Dan Persinggungannya Dengan Kelompok Etnonasionalis Di Aceh' (2020) 54 Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum <<http://asy-syirah.uin-suka.com/index.php/AS/article/view/734>>
- Fadlia F and Ramadani I, 'The Qanun Jinayat Discriminates Against Women (Victims of Rape) in Aceh, Indonesia' (2018) 2 Journal of Southeast Asian Human Rights 448
- Fahmi Amrusyi, 'Otonomi Dalam Negara Kesatuan' in Abdurrahman (ed), *Beberapa Pemikiran tentang Otonomi Daerah* (Media Sarana Press 1987)
- Fariz Ulul Abshar and others, 'Islam and Human Right ; Friends and Foe' (2021) 15 ADDIN ; Media Dialektika Ilmu Islam 229
- Hardi, *Daerah Istimewa Aceh, Latar Belakang Politik Dan Masa Depannya* (Cinta Panca Serangka 1993)
- Helmi H and Fadhlullah N, 'Positivation of Islamic Sharia as Local Government Regulations for Minority Citizens as Liyan in Aceh' (2020) 1 Journal of Governance and Social Policy
- Huda Y, 'Islamic Sharia in Aceh And Its Implication in Other Other Regions in Indonesia; Case Study During Implementation Aceh As Nanggroe Aceh Darussalam' (2020) 5 Petita : Jurnal Kajian Ilmu Hukum dan Syariah
- Joeniarto, *Perkembangan Pemerintahan Lokal* (Bina Aksara 1992)
- Khairil Miswar, 'Syariat Islam Dalam "Ayunan" Penguasa' *Serambi Indonesia* (Banda Aceh, 2023)
- Lili Rasjidi and Putra IW, *Hukum Sebagai Suatu Sistem* (Remaja Rosdakarya 1993)
- Lukito R, 'Shariah and the Politics of Pluralism in Indonesia: Understanding State's Rational Approach to Adat and Islamic Law' (2019) 4 Petita : Jurnal Kajian Ilmu Hukum dan Syariah 14
- Mansari, 'Qanun Acara Jinayat, Mengapa Tidak ?' *Opini Koran Harian Serambi Indonesia* (Banda Aceh, 2012)
- Muhammad Rizki Nugraha Darma Negara and Hendiyani MF, 'The Analysis of Aceh Law and Its Relevancy on National Law from Human Right Perpsective' (2022) 2 Jurnal Terapan Pemerintahan Minangkabau
- Muhammad Siddiq Armia and Bin-Armia MS, 'Introduction: Form Over Substance, Achieving Objectives While Preserving Values' (2023) 8 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

Raden Hoesin Djajadiningrat, *Kesultanan Aceh* (Departemen Pendidikan dan Kebudayaan Daerah Istimewa Aceh 1982)

Rifyal Ka'bah, *Islamic Law in Indonesia* (Yarsi University 1999)

——, *Penegakan Syariat Islam Di Indonesia* (Khairul Bayan 2004)

Rusjdi Ali Muhammad, *Hak Asasi Manusia Dalam Perspektif Syariat Islam* (Ar-Raniry Press 2004)

Syahrizal Abbas, *Filosofi Pelaksanaan Syariat Islam Di Aceh* (Pascasarjana UIN Ar-Raniry Banda Aceh 2018)

——, *Paradigma Baru Hukum Syariah Di Aceh* (Naskah Aceh-Pascasarjana UIN Ar-Raniry 2018)

Syaltout M, *Al-Islam: 'Aqidah Wa Shari'ah* (Dar al- Qalam 1966)

The Jakarta Post, 'Q&A : What You Need to Know about Sharia in Aceh' *The Jakarta Post* (Jakarta, 2018)

William Marsden, *History of Sumatra* (Oxford University Press 1966)

Yan Chan KC and Lui E, 'Citizenship, Charges And Common Law Constitutional Rights' (2022) 81 *The Cambridge Law Journal* 225

Article 1 of Law No. 44/1999 on the Implementation of the Special Region of Aceh.

Article 1 point 21 of Law No. 11/2006 on the Governing of Aceh (State Gazette of the Republic of Indonesia Year 2006 Number 62, supplement to the State Gazette of the Republic of Indonesia Number 4633)

Qanun Aceh Number 7 of 2013 on Jinayat Procedure and Qanun Aceh Number 6 of 2014 on Jinayat Law.

Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Minister of Home Affairs Regulation Number 80 of 2015 on the Formation of Regional Legal Products

UU No. 44 Tahun 1999 tentang Penyelenggaraan Keistimewaan Propinsi Daerah Istimewa Aceh (Lembaran Negara Republik Indonesia Tahun 1999 Nomor 172, Tambahan Lembaran Negara Republik Indonesia Nomor 3893).