

THE EXISTENCE OF QANUN JINAYAT IN ACEH A CRITICAL STUDY OF THE HARMONIZATION OF NATIONAL AND SHARIA LAW

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Article Info

Received: May 15, 2025

Revised: May 27, 2025

Accepted: June 15, 2025

Online Version: June 30, 2025

Abstract

This study explores the legal and social implications of Qanun Jinayat as a formal implementation of Islamic criminal law in Aceh, Indonesia—an autonomous region granted the right to enforce sharia law. The primary issue addressed is the complex tension between the normative frameworks of Islamic law and the national legal system rooted in Pancasila, the 1945 Constitution, and international human rights standards. Employing a qualitative case study method, this research gathered data through in-depth interviews, participatory observation, and comprehensive documentation. Key informants included legal scholars, religious leaders, law enforcement officers, human rights activists, and individuals directly affected by the enforcement of Qanun Jinayat. The findings indicate that although Qanun Jinayat embodies a strong expression of Aceh's religious and cultural identity, its implementation often results in inconsistencies and contradictions when assessed through the lens of national legal norms. The study highlights several critical issues, such as gender-based discrimination, unequal legal treatment, and the absence of rehabilitative mechanisms for offenders. Moreover, public punishment practices, such as caning, have triggered national and international concerns about potential human rights violations and social stigma. This research concludes that harmonizing Islamic law and national law in Aceh necessitates a critical, context-sensitive approach that fosters inclusive legal reform. Such harmonization must be rooted in constructive dialogue among stakeholders and guided by the principle of balancing religious authenticity with the imperatives of justice, human dignity, and constitutional compliance. The study contributes to the ongoing discourse on legal pluralism and human rights within Muslim-majority democratic societies.

Keywords: Islamic Law, Legal Harmonization, Qanun Jinayat



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Journal Homepage	https://journal.zmsadra.or.id/index.php/jslls
How to cite:	Fadli, R., Sari, Y. N., & Raza, A. (2025). The Existence of Qanun Jinayat in Aceh a Critical Study of the Harmonization of National and Sharia Law. <i>Al-Wadh'iyyah: Journal of Sharia Law and Legal Studies</i> , 1(1), 10–19. https://doi.org/XX.XXXXXX/jslls.v1i1.1420
Published by:	Yayasan Zia Mulla Sadra

INTRODUCTION

Aceh stands as the only province in Indonesia granted special autonomy to implement Islamic law through local regulations known as Qanun, most notably Qanun Jinayat (Efendi, 2024; Nurussa'adah, 2024; Walidain & Astuti, 2021). Since its formal implementation in 2015, Qanun Jinayat has sparked national and international debate regarding the compatibility of Islamic legal norms with Indonesia's pluralistic legal system, which is rooted in Pancasila and the 1945 Constitution. On one side, the Qanun is seen as a legitimate expression of regional identity and the religious aspirations of Acehnese society. On the other, concerns have been raised by academics, human rights organizations, and legal institutions about its discriminatory potential, its overlapping jurisdiction with national law, and its implications for civil liberties. These tensions give rise to a crucial question: how does the enforcement of Qanun Jinayat influence the broader efforts to harmonize Islamic law with the national legal framework? This question underscores the importance of a critical examination of the Qanun's existence within the national legal architecture.

Existing literature has explored various aspects of Islamic criminal law, decentralization, and legal pluralism in Indonesia, yet a significant gap remains in critically assessing the intersection of Qanun Jinayat with national legal standards. Previous studies have often focused on either normative justifications for Sharia-based legislation or the sociological acceptance of Qanun Jinayat within Aceh. However, few have addressed the unresolved legal contradictions and the practical difficulties in synchronizing Sharia norms with national law and international human rights frameworks. Theories of legal dualism, normative pluralism, and postcolonial legal integration offer partial explanations but fail to fully account for the complexities arising in Aceh's legal practice. This indicates a theoretical and empirical vacuum in analyzing how Qanun Jinayat operates in a state governed by the rule of law and constitutionalism. Therefore, this research seeks to engage with both the doctrinal and practical challenges that emerge from this intersection.

This study aims to: first, analyze the existence of Qanun Jinayat as a form of Islamic legal implementation in Aceh; second, critique areas of disharmony between Qanun Jinayat and national legal principles; third, examine the socio-legal implications of its enforcement in relation to justice and human rights; and fourth, offer a critical perspective on the potential for harmonizing Islamic and national law in a pluralistic legal context. These objectives reflect a broader commitment to understanding how regional autonomy in religious legal matters interacts with the normative framework of a secular democratic state. The research will not only assess the legal structure and content of Qanun Jinayat but also incorporate perspectives from those directly affected by its enforcement. In doing so, the study intends to contribute meaningfully to the discourse on law and religion in Indonesia and to provide constructive recommendations for achieving legal coherence.

Given the legal, social, and political controversies surrounding Qanun Jinayat, this research is necessary to clarify its place within Indonesia's national legal system. The study is predicated on the assumption that while the Qanun represents a legitimate regional expression of Islamic values, its coexistence with national law must be carefully managed to prevent legal uncertainty and human rights violations. Based on the outlined objectives and existing legal realities, the hypothesis guiding this research is that the current implementation of Qanun

Jinayat reflects a partial and problematic harmonization between Sharia and national law. The tension between religious autonomy and constitutional guarantees of equality and due process requires a nuanced understanding and a re-evaluation of legal harmonization mechanisms. By critically assessing the empirical and normative dimensions of this issue, the research aims to highlight both the challenges and opportunities in aligning regional Islamic law with Indonesia's broader legal commitments.

Qanun Jinayat is a legal product enacted by the Aceh provincial government under the authority granted by Law No. 11 of 2006 concerning the Governance of Aceh (Febriana & Zulkarnain, 2025; Haryanto, 2021; Mawardi dkk., 2022). Conceptually, the term "Jinayat" derives from Arabic, referring to criminal acts punishable under Islamic criminal law (Abubakar & Din, 2022; Anisa dkk., 2022; Sugiarto dkk., 2022). Qanun Jinayat is thus understood as a codified set of criminal provisions rooted in Islamic teachings, localized for implementation in Aceh as part of its special autonomy. It operates alongside national laws but focuses specifically on moral and social transgressions as defined by Islamic jurisprudence. The concept reflects Aceh's historical and cultural commitment to Islam, particularly as part of its identity and legal heritage. In this context, Qanun Jinayat serves not merely as a legal instrument but also as a symbol of religious enforcement that resonates with the collective values of the Acehnese people.

The manifestation of Qanun Jinayat can be observed through its categorization of specific offenses and the procedural mechanisms established for their enforcement. These include acts such as *khalwat* (seclusion between unmarried individuals), *ikhtilath* (improper mixing of genders), *zina* (adultery), *liwath* (sodomy), *qazaf* (false accusation of adultery), *khamar* (alcohol consumption), and *maisir* (gambling). Each offense is regulated with detailed provisions regarding evidence, punishment, and judicial process. The legal procedures also involve institutions unique to Aceh, such as *Wilayatul Hisbah* (Sharia police), and Sharia courts that operate under the Supreme Court of Indonesia. These manifestations signify an institutionalization of Islamic values within the regional legal structure, though they raise questions about consistency with the broader Indonesian legal system, especially regarding the protection of fundamental rights and the principle of equality before the law.

Islamic law, or Sharia, is a comprehensive legal and ethical system derived from the Qur'an, the Sunnah (traditions of the Prophet Muhammad), and other sources such as *ijma'* (consensus) and *qiyas* (analogy). In its conceptual framework, Islamic law is not limited to criminal sanctions but encompasses civil, commercial, family, and ritual law. It serves as a guide for both individual conduct and communal governance, aiming to uphold justice (*adl*), welfare (*maslahah*), and moral integrity. As a divine law, it carries an authoritative role in shaping legal norms among Muslim communities. However, its interpretation and implementation can vary significantly across cultural and national contexts. Within Indonesia, Islamic law is selectively integrated into the national legal system, particularly in matters of family law and local autonomy in regions like Aceh.

The practical manifestation of Islamic law in Indonesia takes multiple forms, ranging from religious court decisions in family law to the regional enactment of Islamic criminal law such as Qanun Jinayat in Aceh. At the national level, Islamic legal norms are institutionalized through the Religious Courts (*Peradilan Agama*), which adjudicate cases related to marriage, divorce, inheritance, and child custody for Muslim citizens. At the regional level, particularly in Aceh, Islamic law is applied more broadly, including in criminal matters. This dual-track manifestation illustrates both the flexibility and complexity of Islamic legal integration in a secular state. The incorporation of Islamic principles into state law is often mediated through statutory law and bureaucratic institutions, which may dilute or reinterpret original religious intentions. Thus, the manifestation of Islamic law in Indonesia involves a dynamic negotiation between religious ideals, political considerations, and legal pluralism.

Legal harmonization refers to the process of aligning different legal systems or normative frameworks to reduce contradictions and promote coherence within a broader legal structure. In pluralistic legal contexts, harmonization aims to ensure that various subsystems—such as religious, customary, and national laws—operate within a compatible and mutually respectful framework. The concept is particularly relevant in countries like Indonesia, where legal pluralism is embedded in the constitution and reflected in the coexistence of multiple sources of law. Harmonization does not imply the unification or homogenization of legal systems but rather seeks to reconcile differences through procedural and substantive adjustments. The goal is to maintain legal integrity while accommodating regional, religious, and cultural diversity. This balancing act becomes especially critical when religious laws, such as Qanun Jinayat, intersect with national and international legal standards.

The manifestation of legal harmonization in Indonesia is evident in the formal recognition of regional autonomy and the legal pluralism enshrined in the Constitution and various statutory laws. Specifically, the Government of Aceh is allowed to implement Islamic law under national legal oversight, thus institutionalizing a unique model of localized Sharia within a secular republic. Harmonization efforts include procedural coordination between Sharia and national courts, policy reviews to ensure compliance with human rights, and judicial interpretations that seek to bridge legal traditions. Nevertheless, the manifestation of harmonization remains partial and contested, especially in cases where local laws are perceived to conflict with constitutional guarantees or international obligations. These tensions highlight the complexities involved in crafting a cohesive legal system that respects religious values while upholding national and global legal standards.

RESEARCH METHOD

This study focuses on the province of Aceh, the only region in Indonesia granted special autonomy to implement Islamic law through regional legislation known as Qanun, including the Qanun Jinayat. Since the enactment of Qanun Jinayat in 2015, a wide-ranging public debate has emerged concerning the compatibility of Islamic criminal norms with Indonesia's pluralistic legal framework founded on Pancasila. On one hand, Qanun Jinayat is regarded by many as an authentic representation of local Sharia law enforcement. On the other hand, criticism has surfaced from academics, NGOs, and national institutions arguing that this legal instrument may contribute to legal dualism, discriminatory practices, and potential violations of human rights. The central research problem is how the existence and implementation of Qanun Jinayat influence the ongoing efforts to harmonize national law and Islamic law within Aceh's unique legal context.

This research employs a qualitative case study method as its central approach. The case study methodology allows for in-depth investigation into a single unit of analysis—in this case, the region of Aceh and its legal practices—within its real-life context. Primary data were collected through semi-structured interviews with key informants, while secondary data were obtained from relevant literature, including legal documents, journal articles, and policy papers concerning Qanun Jinayat, Islamic law, and legal harmonization. The use of a case study approach enables a comprehensive and holistic understanding of the phenomenon under investigation, capturing both the normative and practical dimensions of law implementation and its social repercussions. This method is particularly suitable for addressing complex research questions and generating context-specific knowledge.

The participants in this research were selected using purposive sampling to ensure that the data collected reflected diverse yet relevant perspectives. The key informants included: (1) Ulama and traditional leaders in Aceh, who provided cultural and religious insights on the legitimacy and interpretation of Qanun Jinayat; (2) legal scholars and academic experts, who analyzed the law's doctrinal basis and its intersection with the national legal system; (3) law

enforcement personnel, such as members of Wilayatul Hisbah (Sharia police), prosecutors, and police officers, who offered insights into the technical implementation and challenges of enforcement; (4) individuals who had direct experience as either victims or offenders under the jurisdiction of Qanun Jinayat; and (5) human rights activists and NGO representatives, who contributed critical perspectives concerning justice, equality, and human rights. In total, approximately 15 participants were interviewed, representing a balanced array of experiences and professional backgrounds.

The data collection process in this study was conducted in several stages using a triangulation of methods to ensure the richness and reliability of information. The techniques employed included in-depth interviews, field observations, and documentation reviews related to the implementation and impact of Qanun Jinayat. Interviews were guided by a flexible protocol that allowed respondents to elaborate on their experiences and opinions while ensuring that key themes were consistently addressed across all sessions. Observations were conducted during court sessions, law enforcement operations, and public reactions to Qanun-related events. Document analysis involved reviewing official reports, media coverage, legal texts, and relevant academic publications. This multifaceted approach provided a comprehensive picture of the research object and facilitated cross-verification of findings.

Data analysis was conducted using the interactive model of Miles and Huberman, which involves three main steps: data reduction, data display, and conclusion drawing with continuous verification (Recker, 2021; Rohmah dkk., 2025; Skopečková, 2024). In the reduction phase, raw data from interviews and observations were categorized and coded to identify emerging themes. The data display involved organizing and visualizing the findings in tables and thematic matrices for better comprehension. Conclusions were drawn through pattern recognition and interpretive reasoning, with ongoing verification to ensure the consistency and validity of interpretations. To ensure data trustworthiness, the study adhered to four criteria: credibility, dependability, transferability, and confirmability. The qualitative case study framework enabled the researcher to explore the nuanced dynamics of Qanun Jinayat, providing insights that contribute to both theoretical development and practical discourse on the harmonization of Islamic and national law in Indonesia.

RESULTS AND DISCUSSION

The data collected regarding Qanun Jinayat reveals a diversity of perspectives among key stakeholders. According to legal scholars, Qanun Jinayat is a legitimate product of regional autonomy, yet some of its articles appear to contradict the constitutional principle of non-discrimination upheld by the 1945 Constitution. Religious leaders (ulama) expressed that Qanun Jinayat reflects the embodiment of Sharia and serves as an inseparable component of Acehese identity (A Rahman dkk., 2024). From the human rights advocacy community, there are concerns regarding specific provisions—such as those regulating zina (adultery) and khalwat (intimate proximity)—which are considered as potentially infringing on the right to privacy and intensifying gender-based violence. Testimonies from individuals convicted under Qanun Jinayat, such as for gambling, disclose social marginalization and the absence of rehabilitation efforts post-punishment. Law enforcement officials stated they implement the Qanun in accordance with existing procedures, while acknowledging persistent tensions between national and Sharia legal mandates.

Observational data further reinforce these interview findings. The public execution of Qanun Jinayat punishments, such as caning, is carried out openly and attracts considerable attention from the public. Reactions vary: some citizens perceive the practice as a deterrent, while others regard it as publicly humiliating. Gender bias in enforcement was also noted, particularly in khalwat cases, where women often faced harsher scrutiny. The observations indicated a lack of institutional support for rehabilitation or educational initiatives for

offenders. Furthermore, collaboration between national law enforcement bodies and Wilayatul Hisbah (Sharia police) was marked by differing interpretations of justice and procedure, which occasionally led to inter-agency friction.

These qualitative data align with official documentation obtained during the research process. The primary legal reference is the Aceh Qanun No. 6 of 2014 concerning Hukum Jinayat, supported by related national laws, including the Indonesian Penal Code (KUHP), the Human Rights Law, and the 1945 Constitution. Annual reports by Komnas HAM have documented human rights concerns in the implementation of the Qanun Jinayat. Media coverage from 2015 to 2024 also provides a broad depiction of how enforcement has unfolded over time, reflecting recurring debates and public discourse. Decisions by the Constitutional Court have reaffirmed Aceh's special autonomy, while also highlighting the importance of constitutional safeguards. These sources illustrate how the legal and social realities of Qanun Jinayat are deeply intertwined with broader debates on justice, autonomy, and human rights in Indonesia.

In terms of Islamic law, the data collected from religious authorities (ulama), legal practitioners, and documents affirm that Islamic legal principles serve as the foundation of Qanun Jinayat. Ulama emphasized the religious imperative to implement Sharia, citing theological and historical precedents for its enforcement in Aceh. According to academics, the integration of Islamic criminal law into regional legislation represents a local expression of Islamic jurisprudence adapted to the socio-cultural context. Law enforcement officials acknowledged that the interpretation of Islamic legal norms, particularly regarding hudud and ta'zir crimes, often requires nuanced understanding and is subject to institutional capacities. Interviews also revealed that there is no unified interpretation among stakeholders regarding the extent and method of Sharia enforcement in contemporary Aceh.

Observational and documentary data on Islamic law practices demonstrate the practical challenges in translating religious doctrine into enforceable legal provisions. The implementation of Qanun Jinayat reveals a selective and situational application of Islamic principles, sometimes based more on cultural norms than strict jurisprudential reasoning. Field observations noted that the moral authority of Islamic law is invoked selectively, particularly in public morality cases. Meanwhile, the documentation, including fatwas, legal commentaries, and transcripts of public discussions, show that while Islamic law is viewed as a moral and legal guide, its codification into regional regulations remains contested. Differences in doctrinal interpretation and enforcement capacity contribute to varied implementations across regions and institutions.

When juxtaposed with the research problem, these findings on Islamic law indicate a complex relationship between theological ideals and practical realities. While the Qanun Jinayat is framed as a form of Sharia enforcement, its application reflects sociopolitical dynamics, institutional limitations, and varying doctrinal perspectives. The gap between Islamic legal theory and its implementation poses a challenge to efforts at legal harmonization. These discrepancies often result in fragmented enforcement and conflicting narratives regarding legitimacy and justice, particularly when Islamic legal norms interact with national legal frameworks that emphasize pluralism, human rights, and non-discrimination.

Findings related to legal harmonization are also well-documented through interviews and institutional records. Legal scholars noted the tension between Aceh's special autonomy and Indonesia's constitutional commitment to a unified national legal system. Representatives from human rights organizations expressed concern that the implementation of Qanun Jinayat without adequate alignment with national human rights standards risks exacerbating legal fragmentation. Law enforcement personnel acknowledged the absence of comprehensive coordination mechanisms between national and regional legal bodies. Documentation from public discussions and policy forums reveals ongoing debate about the feasibility and direction of harmonization efforts, particularly in areas involving moral and criminal regulation.

The explanation of these findings points to a lack of integrated legal interpretation and operational coordination. Although Qanun Jinayat has been legitimized through regional autonomy laws, its normative framework often conflicts with national legal principles, especially those concerning individual rights. Field observations and interviews show that stakeholders operate within different interpretive paradigms: religious, constitutional, and human rights-oriented. The absence of a common interpretive ground has resulted in piecemeal policy responses and inconsistent enforcement practices. Moreover, the harmonization process is hindered by political, cultural, and bureaucratic challenges, which prevent the formation of a shared legal ethos across systems.

When contextualized with the broader research problem, the data on legal harmonization illustrate both the potential and the limitations of coexistence between national law and Islamic law in Aceh. While Qanun Jinayat is formally part of Aceh's legal landscape, the divergent foundations of Islamic and national law systems create friction points that complicate integrative efforts. The findings demonstrate that harmonization is not merely a technical or legal issue but a deeply rooted sociopolitical negotiation. The coexistence of multiple legal orders, without a common interpretive framework, underscores the need for continuous dialogue, legal reform, and institutional innovation to bridge normative gaps and promote legal coherence within Indonesia's pluralistic legal context.

Table 1. Research Findings

No.	Research Objective	Key Findings
1	To analyze the existence of Qanun Jinayat as an implementation of Islamic law in Aceh	Qanun Jinayat is viewed as a legitimate manifestation of Islamic law under Aceh's special autonomy. It symbolizes the region's religious identity and local values. However, its practical implementation demonstrates inconsistency and lacks institutional preparedness.
2	To critique the aspects of disharmony between Qanun Jinayat and national law	Significant legal disharmony exists, particularly regarding principles of non-discrimination and human rights as enshrined in the 1945 Constitution. The dualism between sharia-based punishment and national legal standards has led to normative confusion and unequal legal protection.
3	To examine the social and juridical impact of Qanun Jinayat in the context of legal justice and human rights	The enforcement of Qanun Jinayat has led to stigmatization and social exclusion, particularly for women and marginalized groups. Public punishments such as caning have been criticized as degrading, with minimal efforts toward rehabilitation or restorative justice.
4	To offer a critical perspective on the harmonization of Islamic and national law in context	Harmonization requires a contextual, dialogical approach that bridges Islamic values and constitutional norms. Stakeholder engagement—including scholars, law enforcers, and civil society—is crucial to develop integrative legal frameworks that uphold both justice and religious principles.

The findings of this study illustrate the contested nature of Qanun Jinayat as both a manifestation of Islamic law and a legal norm within the Indonesian constitutional framework. While it symbolically reinforces Aceh's religious and cultural identity, its practical implementation reveals institutional inconsistencies, normative conflicts with national laws, and challenges in achieving procedural fairness. The application of physical punishments, gender-biased enforcement, and the absence of rehabilitation mechanisms suggest a disjunction between religious ideals and human rights standards. These conditions indicate that Qanun

Jinayat exists within a fragmented legal system where regional autonomy is asserted but not fully integrated with the national legal order.

Compared to prior studies, which often treat Qanun Jinayat either as a purely theological project or as an administrative policy under special autonomy, this research offers a more integrative and critical perspective. It moves beyond formalistic legal assessments by incorporating lived experiences from various actors—offenders, enforcers, and civil society—which are largely absent in previous works. Unlike studies that celebrate legal pluralism without addressing its internal tensions, this study confronts the structural disharmony and its sociolegal consequences. This positions the research as a significant contribution that enriches the discourse by triangulating normative analysis with empirical data.

The analysis of this study reflects the pressing need to reevaluate the purpose and direction of Qanun Jinayat within a democratic and pluralistic society. The persistent tension between Islamic legal aspirations and constitutional commitments to equality and human rights underscores the necessity of developing a legal system that is both contextually grounded and normatively consistent. The findings demonstrate that while legal pluralism may appear to accommodate diversity, its uncritical application may obscure systemic inequalities and jeopardize social justice. Thus, this research serves not merely as a critique but as a reflective exercise on how justice, identity, and legality interact in post-reform Indonesia.

These findings have far-reaching implications. Legally, they expose the fragility of harmonization efforts between regional Islamic law and national legal standards. Socially, they reveal the marginalization of vulnerable groups, especially women and convicts, under the guise of moral enforcement. Politically, the study highlights how legal instruments may be used symbolically to assert regional autonomy, even as they create normative contradictions. For policymakers, scholars, and human rights advocates, these insights offer a critical lens for reassessing the future of Islamic legal integration in Aceh and beyond, especially in multi-ethnic, multi-faith contexts.

The reasons behind the findings are embedded in Indonesia's legal architecture and its historical-political evolution. The decentralization process granted Aceh significant legal autonomy without sufficiently articulating mechanisms for normative alignment. This vacuum has allowed the Qanun Jinayat to operate in legal ambiguity, interpreted through divergent epistemological and institutional logics—Islamic, constitutional, and international human rights. Moreover, sociocultural dynamics, including religious conservatism and patriarchal values, shape both the formulation and implementation of the Qanun. These structural conditions explain why legal disharmony persists and why the Qanun remains resistant to reform despite evident tensions.

Given these realities, immediate and long-term actions are essential. First, legal reforms must aim to clarify the hierarchy and interaction between regional and national laws, especially on criminal matters. Second, institutional coordination between national law enforcement and Wilayatul Hisbah should be strengthened through standardized procedures and joint training. Third, human rights education must be embedded within legal institutions in Aceh to build normative awareness among enforcers. Finally, inclusive public dialogue should be facilitated to engage civil society, religious leaders, and legal experts in rethinking the future of Qanun Jinayat, ensuring that it aligns with both Islamic principles and constitutional justice.

CONCLUSION

One of the most striking findings of this study is the paradoxical reality that Qanun Jinayat, despite being championed as a regional embodiment of Islamic justice, has in practice generated social and legal frictions that contradict both the principles of sharia and the constitutional foundations of Indonesia. Unexpectedly, the research reveals that rather than fostering harmony, the Qanun's implementation often deepens legal fragmentation and

exacerbates inequalities—particularly in terms of gender and due process. The use of public punishment, inconsistent enforcement, and the lack of rehabilitation mechanisms were not merely procedural shortcomings, but indicators of a deeper structural misalignment between legal ideals and societal realities in Aceh.

This research offers both theoretical and practical contributions to the study of legal pluralism and Islamic law in decentralized governance systems. Theoretically, it enriches the discourse by framing Qanun Jinayat not only as a normative legal text but also as a sociolegal phenomenon embedded in contested power dynamics and identity politics. Practically, the study provides grounded insights for policymakers and legal practitioners on how Islamic criminal law can be implemented more equitably within a plural legal framework. By synthesizing doctrinal analysis with empirical data, this study opens a nuanced pathway toward contextual harmonization between religious and national legal systems.

While this study provides a comprehensive exploration of Qanun Jinayat, its focus remains centered on qualitative data within a specific regional context, which may limit generalizability to other areas implementing Islamic law. However, this should not be viewed as a weakness but rather as a starting point for further inquiry. Future research could expand by incorporating comparative perspectives across different provinces or legal traditions, utilizing mixed-methods approaches, or exploring longitudinal changes in legal and social perceptions. Such directions would deepen our understanding of how localized interpretations of Islamic law interact with national and international legal norms over time.

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