

REGULATION AND COUNTERMEASURES FOR CRIMINAL ACTS OF VIOLENCE AGAINST CHILDREN IN ACEH PROVINCE

Muksana Pasaribu¹
Zulkarnain Hasibuan²
Syahril³

^{1,2,3}University of Muhammadiyah Tapanuli Selatan

muksana.pasaribu@um-tapsel.ac.id

zulkarnain.hasibuan@um-tapsel.ac.id

syahril@um-tapsel.ac.id

Abstract: *This study analyzes the regulatory framework for combating criminal acts of violence against children in Aceh Province. Through its special autonomy, Aceh implements the Qanun Jinayat as an instrument of Islamic criminal law to address this issue. However, the existing regulatory complexity has not automatically reduced the incidence of child violence. Using a normative legal research method with legislative and case approaches, this study finds that despite a comprehensive legal framework ranging from the Aceh Governance Law, the Child Protection Qanun, to the Jinayat Qanun cases of physical, psychological, sexual violence, and neglect against children actually showed an increasing trend during the 2012-2018 period. A crucial finding reveals that the sanctions in the Jinayat Qanun tend to be lighter than the provisions in the national Child Protection Law, potentially reducing their deterrent effect. The main obstacles lie in weak implementation, ineffective inter-institutional coordination, and a lack of synchronization between local and national criminal law. Therefore, this study recommends the need to strengthen regulatory harmonization, enhance the capacity of law enforcement officials, and improve child protection mechanisms to ensure the effectiveness of combating violence against children in Aceh.*

Keywords: *Qanun Jinayat, Child Protection, Law Enforcement*

Introduction

Aceh is the only province in Indonesia that has obtained special authority to formally implement Islamic Sharia through a legal apparatus known as *Qanun*. This privilege is regulated in Law Number 11 of 2006 concerning the Government of Aceh, which provides space for the region to establish its own regulations in the social, cultural, and legal fields, including Islamic criminal law (*Jinayat*). As part of the implementation of Sharia, the Government of Aceh has ratified a number of *qanun* that regulate institutional, substantive, and procedural legal aspects, including the Qanun of Jinayat Law, which serves as an important instrument in law enforcement in Aceh (Amrina Habibi, 2019).

Although the regulatory framework has been comprehensively established, the problem of violence against children in Aceh still shows alarming numbers. Data from various government agencies and community service institutions indicate an increase in cases of physical, psychological, and sexual violence, as well as neglect and exploitation, in recent years. Child victims often experience multiple impacts, not only physical injuries but also psychological trauma, social stigma, and the neglect of their basic rights. This phenomenon demonstrates a gap between the regulations already in place and their implementation at the practical level (Hasbianto, 1996).

The existence of the Qanun Jinayat as Islamic criminal law is actually expected to serve as an effective instrument in providing legal protection for children. However, various studies show that the sanctions in the Qanun Jinayat for several types of criminal acts are in fact lighter than the provisions in the Child Protection Law. This condition has the potential to weaken the deterrent effect for perpetrators and reduce the effectiveness of prevention efforts. In addition, weak inter-agency coordination mechanisms, the limited capacity of law enforcement officials, and the shortage of child protection services have also worsened the situation (Nasrullah Yahya, 2015).

Therefore, a study on the enforcement of jinayat law in cases of violence against children is important. This study not only examines the substance of the qanun as a legal norm, but also how the qanun is implemented in practice and the extent to which it is able to provide effective protection for children. This study also highlights the need for harmonization between national criminal law and local criminal law, considering that both apply simultaneously in Aceh and have the potential to create synchronization issues.

Through an in-depth analysis of regulations, case data, and law enforcement practices, this study aims to provide a comprehensive overview of the effectiveness of the Qanun Jinayat in providing protection for children and to offer recommendations for improving the legal system in Aceh.

Literature Review

Qanun is known by the name *kanun*, which means laws, regulations, statutes, and rules. The term *qanun* in Arabic is a verb form of *qanna*. In Arabic, the verb *qanna* means “to make a law” or “to legislate.” In its development, the word *qanun* came to mean law, rule, regulation, or statute (code).

In Acehese society, the use of the term *qanun* to refer to a rule of law or to designate a customary provision has long been established and has become part of Aceh’s cultural and customary tradition. Many legal and customary rules issued during the Aceh Sultanate era were called *qanun*. These *qanun* generally contained Islamic sharia rules that had been adapted into Acehese customs (Efendi, 2014).

According to Law Number 11 of 2006 concerning the Government of Aceh, *Qanun Aceh* is a type of provincial regulation that governs the administration of government and the lives of the people of Aceh. Meanwhile, *qanun regency/city* refers to district/city regulations that govern the administration and lives of the people at the district/city level in Aceh. Terminologically, as mentioned above, *qanun* is a legal stipulation that applies within society and is used for the benefit of the community (Chairul Fahmi, 2012).

Qanun holds a recognized position within Indonesia’s legislative hierarchy and is equivalent to a regional regulation (Perda). This allows the Central Government to more easily supervise and guide regional policymaking, although Aceh’s special status must still be observed. Under this special authority, the Aceh Regional Legislature (DPR Aceh) can enact Qanun related to jinayat (Islamic criminal law) as procedural law in the Mahkamah Syariah, provided it does not contradict Islamic creed (‘aqidah), sharia, and morality. Thus, although Qanun is formally equivalent to a Perda, it differs in substance because it carries special characteristics not found in other regions of Indonesia. (Gultom, 2010).

In the context of implementing Islamic *sharia* comprehensively (*kaffah*) through state authority, the Aceh Government has enacted a number of Aceh *qanun*, including those regulating legal institutions, substantive law, and procedural law (Kamarusdiana, 2016). These Aceh *qanun* include, among others (Dinas Syari’at Islam, n.d.):

- a. Regional Regulation of the Special Region of Aceh No. 5 of 2000 concerning the Implementation of Islamic Sharia in the Province of the Special Region of Aceh;
- b. Qanun Aceh No. 10 of 2002 concerning Islamic Sharia Courts;
- c. Qanun Aceh No. 11 of 2002 concerning the Implementation of Islamic Sharia in the field of Aqidah, Worship and Islamic Syiar;
- d. Qanun Aceh No. 12 of 2003 concerning Khamar Beverages and the like;
- e. Qanun Aceh No. 13 of 2003 concerning Maisir (Gambling);
- f. Qanun Aceh No. 14 of 2003 concerning Khalwat (Perverted);
- g. Qanun Aceh No. 7 of 2004 concerning Zakat Management;
- h. Qanun Aceh No. 11 of 2004 concerning the Functional Duties of the Nanggro Aceh Darussalam Regional Police;
- i. Qanun Aceh No. 19 of 2008 concerning the Development of Customary Life and Customs;
- j. Qanun Aceh No. 10 of 2008 concerning Customary Institutions;
- k. Qanun Aceh No. 2 of 2008 concerning the Ulema Consultative Assembly;
- l. Qanun Aceh No. 10 of 2010 concerning Baitul Mal;
- m. Qanun Aceh No. 7 of 2003 concerning the Procedural Law of Jinayat;
- n. Qanun Aceh No. 6 of 2014 concerning the Law of Jinayat;
- o. Qanun Aceh No. 8 of 2014 concerning the Principles of Islamic Sharia.

From the explanation above, it can be concluded that there are 15 types of *qanun* materials that have been enacted in Aceh, covering legal institutions, substantive law, and procedural law.

Method

This research uses a normative legal research method that views law as a system of norms, including principles, rules, court decisions, and doctrines (Soerjono Soekanto dan Sri Mamudji, 2010). The approach used includes a legislative approach to examine regulations related to Qanun Jinayat, as well as a case approach to observe the application of legal norms through decisions that have permanent legal force, particularly in cases of violence against children (Peter Mahmud Marzuki, 2005). The research was conducted in Aceh Province due to its special autonomy status, which allows the implementation of Islamic criminal law, while the rate of violence against children remains high, making this study relevant. Data were collected through literature studies, using primary legal materials (the 1945 Constitution, Aceh's special autonomy laws, criminal regulations, Qanun Jinayat), secondary legal materials (journals, books, research studies), and tertiary legal materials (dictionaries, encyclopedias, indexes, and electronic sources). All data were analyzed qualitatively using content analysis techniques to understand the substance of Islamic criminal law and the practices of law enforcement in cases of violence against children. The results are presented narratively and argumentatively.

Result and Discussion

Settings Countermeasures Follow Punishment Violence Against Children in Aceh Province

The increase in cases of violence against women and girls in Aceh, along with the various impacts experienced by the victims including those resulting from inadequate handling and services indicates that the Aceh Government has not fully fulfilled its commitment and responsibility to protect and uphold their rights. In fact, as a region with special autonomy and the implementation of Islamic Law, Aceh possesses significant authority to provide protection and empowerment, which is reflected in the various policies issued at both the provincial and district/city levels. (Pocut Ismyati Vonda & Cut Dian Fitri, 2017).

These policies include: Aceh Government Law Number 11 of 2006 (UUPA), Qanun Aceh Number 6 of 2008 concerning Women's Protection, Qanun Aceh Number 5 of 2009 concerning

Child Protection, seven regent regulations (*Perbup*) concerning the prevention and handling of cases of violence against women and children, an MoU involving 23 government and community institutions for the handling and services for women and children, and at least 23 Regent/Mayor Decrees on the establishment of P2TP2A (Integrated Service Center for Handling Violence against Women and Children) and its management structure in 23 districts/cities. (*Pusat Pelayanan Terpadu Perempuan Dan Anak Aceh (P2TP2A)*, 2018)

Specifically, Article 227 paragraph (2) of Aceh Government Law No. 11 of 2006 affirms that (Pemerintahan Aceh, n.d.):

“Against the population it is not permissible to: carry out any form of arbitrary or unlawful search of the body, residence, clothing, deprivation or deprivation of rights, or restriction of the liberty of any person; arbitrary torture and unlawful deprivation of the right to life; and unlawfully arrested, detained, tried, and imprisoned.”

Meanwhile, Article 231 also affirms that:

“The government, the Aceh Government, and the regency/city governments as well as the people of Aceh are obliged to advance and protect the rights of women and children and carry out dignified empowerment efforts.”

Cases of violence against children in Aceh remain very high, and their handling often results in new forms of violence experienced by the victims. Children who experience pregnancies outside of marriage, for example, are often subjected to torture, ostracism, and expulsion from school. The psychological trauma experienced by children who are victims of conflict has also not been properly addressed, even though Aceh has been in a period of peace since the 2005 Helsinki MoU.

Normatively, Aceh already has a strong legal foundation to protect children, such as the UUPA No. 11 of 2006, the Child Protection Qanun, several *Perbup* (Regent Regulations), and MoUs with various service institutions. However, the high rate of violence especially within the domestic sphere, which accounted for 73.6% of all cases in 2011–2012 indicates that policy implementation has not been effective.

Data from various agencies also show an increase in cases of child molestation and sexual abuse from year to year, including in Banda Aceh. This situation demonstrates that although the regulations exist, the protection and handling of violence against children in Aceh remain inadequate and require serious strengthening from the government, service institutions, and the community.

Summary of Forms of Violence Against Children in Aceh Province in 2012-2018

Yes	TYPES OF HARDNESS	YEAR							TOTAL
		2012	2013	2014	2015	2016	2017	2018	
1	Physical	48	44	47	169	243	82	238	871
2	Psychic	42	3	20	32	332	130	154	713
3	Sexual	15	199	12	141	268	93	203	931
4	Neglect	0	18	23	87	172	39	10	349
5	TPPO	0	20	24	2	2	1	8	57
6	Sexual (incest)	0	5	13	5	17	4	3	47
7	Sodomy	2	0	17	12	47	18	74	170
8	Exploitation	0	0	0	0	18	7	7	32
9	Sexual	2	20	24	2	0	8	33	89

10	Rape	11	58	21	49	27	44	96	306
11	Domestic Violence	0	0	11	6	237	33	48	335
12	ABH(*)	0	11	7	20	9	9	48	104
13	ETC	0	212	132	26	49	24	54	497
Sum		120	590	461	399	1.421	492	926	4.409

(*) ABH = child in conflict with the law

The legal protection of children from acts of violence can be seen in Article 80 of Law No. 35 of 2014 concerning Child Protection, which states: a) Every person who violates the provisions referred to in Article 76C shall be subject to imprisonment for a maximum of 3 (three) years and 6 (six) months and/or a maximum fine of Rp72,000,000.00 (seventy-two million rupiah). b) In the event that the child as referred to in paragraph (1) suffers serious injuries, the perpetrator shall be subject to imprisonment for a maximum of 5 (five) years and/or a maximum fine of Rp100,000,000.00 (one hundred million rupiah). c) In the event that the child as referred to in paragraph (2) dies, the perpetrator shall be subject to imprisonment for a maximum of 15 (fifteen) years and/or a maximum fine of Rp3,000,000,000.00 (three billion rupiah). d) The criminal penalty shall be increased by one-third of the provisions referred to in paragraphs (1), (2), and (3) if the perpetrator of the violence is the child's parent (Priyatno, 2010)

Legal protection for children from violence in the Aceh Qanun can be found in Article 34 of Qanun Aceh No. 6 of 2014 concerning the Jinayat Law, as follows (Agus Salim, 2017):

“Every adult who commits *zina* with a child, in addition to being subject to *uqubat hudud* as referred to in Article 33 paragraph (1), may be supplemented with *uqubat ta'zir*, a maximum of 100 (one hundred) lashes or a maximum fine of 1,000 (one thousand) grams of pure gold or imprisonment for a maximum of 100 (one hundred) months.”

Qanun Aceh No. 6 of 2014, Article 47 concerning the Jinayat Law, states:

“Any person who intentionally commits sexual abuse as referred to in Article 46 against a child shall be subject to *uqubat ta'zir*, a maximum of 90 (ninety) lashes or a fine of up to 900 (nine hundred) grams of pure gold or imprisonment for a maximum of 90 (ninety) months.”

Qanun Aceh No. 6 of 2014 Article 50 concerning the Jinayat law, states:

"Any person who deliberately commits rape as referred to in Article 48 against a child is threatened with *uqubat ta'zir* whipping at least 150 (one hundred and fifty) times, a maximum of 200 (two hundred) times or a fine of at least 1,500 (one thousand five hundred) grams of pure gold, a maximum of 2,000 (two thousand) grams of pure gold or imprisonment of a minimum of 150 (one hundred and fifty) months, a maximum of 200 (two hundred) months".

The sanctions for perpetrators of violence against children as stipulated in the Qanun Jinayat are significantly lighter than those regulated in the Child Protection Law (UUPA). This situation appears to be less effective in curbing the increasing number of cases of violence against children in Aceh.

Synchronization between Regional Regulations (Perda) and the Criminal Code (KUHP) can only be achieved if three main aspects are strengthened in an integrated manner. First, in terms of legal material, the Regional Regulation must clearly classify the types of prohibited acts, consider the impacts of criminalization, adjust the formulation of provisions to the scope of regional authority, and ensure alignment with national development goals as well as the capacity of law enforcement agencies. Second, with respect to sanctions, local governments must formulate proportionate penalties that do not exceed the higher-level regulations, prioritizing

administrative or criminal fines that are arranged through a clear and comprehensive system. Third, in the aspect of law enforcement, the implementation of the Regional Regulation must be harmonized with national law through a clear division of authority between PPNS and Satpol PP, as well as through the application of summary examinations in accordance with the KUHP to ensure judicial efficiency. Overall, effective synchronization can only be realized through clear legal provisions, proportionate sanctions, and coordinated law enforcement.

Conclusion

The regulation and control of crimes of violence against children in Aceh Province have a relatively comprehensive legal basis, including UUPA No. 11 of 2006, the Qanun on Child Protection, the Qanun Jinayat, various *Perbup*, and MoUs with multiple service institutions. However, although this regulatory framework appears complete, its implementation has not yet been effective in providing real protection for children.

The high rates of violence against children particularly sexual, physical, psychological, and neglectful violence demonstrate that the enforcement of child protection laws remains weak. The annual increase in cases, coupled with the fact that most incidents occur in the domestic sphere, indicates that the Aceh Government has not fully carried out its commitments and responsibilities. Case handling often results in secondary victimization, such as stigma, school expulsion, and inadequate psychological recovery, especially for children affected by conflict.

Additionally, there is a discrepancy between the criminal sanctions contained in the Qanun Jinayat and those in the Child Protection Law, with sanctions in the Qanun being comparatively lighter and therefore less effective as a deterrent. This highlights the urgent need for legal harmonization between local regulations (Qanun/Perda) and national criminal law, particularly in the aspects of legal substance, sanctions, and law enforcement mechanisms.

Overall, although Aceh possesses a strong legal framework, the effectiveness of its child protection efforts remains low. Strengthening implementation, harmonizing regulations, and enhancing the capacity of law enforcement agencies and integrated service institutions are urgent priorities for reducing violence against children and ensuring the comprehensive fulfillment of their rights.

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