

## **IMPLEMENTATION OF UQUBAT: An Effort to Minimize Khalwat Crimes in Aceh**

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**Abstract:** Aceh is the only province in Indonesia that has officially implemented Islamic sharia law. As a region with special privileges to enforce Sharia law, aceh has enacted uqubat punishments as an effort to reduce criminal acts, including khalwat (intimate proximity between a man and a woman who are not mahram). This study aims to explore the implementation of uqubat punishment for khalwat behavior in the context of crime prevention in Aceh. This research uses a qualitative method with data collection techniques through interviews, observations, and documentation. Once all the data is collected, it will be analyzed using content analysis techniques. The results of the study indicate that the enforcement of uqubat punishment has had a significant impact on reducing criminal acts, including khalwat behavior. However, there are also several challenges in its implementation, such as issues of justice in the application of uqubat, its effectiveness, and others. Therefore, this study recommends the need

for a comprehensive evaluation of the implementation of uqubat punishment as well as continuous improvements in the judicial system in Aceh to ensure its effectiveness in reducing crime without violating principles of justice.

**Keywords:** Uqubat, Minimizing, Criminal Acts, Khalwat.

**Abstrak:** Aceh sebagai satu-satunya provinsi di Indonesia yang secara legal menerapkan syariah islam secara resmi. Sebagai daerah yang mempunyai hak keistimewaan untuk menjalankan syariat islam, Aceh telah memberlakukan hukuman uqubat sebagai upaya untuk menekan tindak kejahatan, termasuk perilaku *khalwat* (berduaan antara pria dan wanita yang bukan mahram). Penelitian ini bertujuan untuk mengeksplorasi implementasi hukuman uqubat terhadap perilaku khalwat dalam konteks penanggulangan tindak kejahatan di Aceh. Penelitian ini menggunakan metode kualitatif dengan teknik pengumpulan data melalui wawancara, observasi, dan dokumentasi. Setelah data semua terkumpul akan dianalisis dengan menggunakan teknik content analysis. Hasil penelitian menunjukkan bahwa pemberlakuan hukuman uqubat telah memberikan dampak yang signifikan dalam mengurangi tindak kejahatan, termasuk perilaku khalwat. Namun, terdapat juga beberapa tantangan dalam implementasinya, seperti masalah keadilan dalam penerapan uqubat, keefektivan, dan lainnya. Oleh karena itu, penelitian ini merekomendasikan perlunya evaluasi yang komprehensif terhadap penerapan hukuman uqubat serta upaya pembenahan terus-menerus dalam sistem peradilan di Aceh guna memastikan efektivitasnya dalam mengurangi tindak kejahatan tanpa melanggar prinsip-prinsip keadilan.

**Kata Kunci :** Uqubat, Meminimalkan, Tindak Pidana, Khalwat.

## Introduction

It is interesting to see how Islamic law applies in Aceh from a legal perspective<sup>1</sup>. Due to the implementation of Islamic Sharia, which the government regulates through law no. 11 of 2006 concerning the government of Aceh, the application of laws and regulations in Aceh differs from those in other regions in Indonesia because of law no. Eighteen concerning special autonomy for the area of Aceh province was ratified in

2001.<sup>2</sup> because Aceh is a specific region, it has the authority to apply its legal regulations. The absolute authority contained in law no. 4 of 2004 concerning judicial power, including the authority already mentioned in this regulation.<sup>3</sup>

As stated in qanun no. 11 of 2002, concerning the application of Islamic Sharia in the fields of aqidah, Muslim teachings, and worship. One of Aceh's prerogatives in realizing the realm of religious life is the implementation

<sup>1</sup> Mustaqilla, Safira, et al. "The Existence of Non-Muslim Minorities in Aceh Indonesia: A Study of Civil and Police Institutions." *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8.1 (2024): 628-645.

<sup>2</sup> Ilahi, M. Ridho, et al. "Fatwa Institutions in Handling Religious Blasphemy Crimes in Indonesia and Malaysia." *Al-Ahkam* 34.1 (2024).

<sup>3</sup> Sirajuddin, *Pemberlakuan Syariat Islam Di Nanggroe Aceh Darussalam Pasca Reformasi* (Yogyakarta: Teras, 2011).

of regulations regarding Islamic Sharia. One approach to ending the Aceh dispute that needs to be handled thoroughly is the implementation of Muslim Sharia.<sup>4</sup> Therefore, the problems in Aceh will not end with enforcing Islamic Sharia if we do not use other initiatives to achieve justice and improve the welfare of Aceh<sup>5</sup>. The Aceh government law (UUPA) is a component of the overall national political strategy to maintain peace in Aceh.

As a region still under the central government's control, Aceh has greater authority, which regulation by its regulations compared to the other areas<sup>6</sup>. For example, Aceh gives additional authority to implement Islamic law, education, and other things. In implementing this authority, it is stated explicitly that the Aceh province qanun is an implementing regulation so that the Qanun implements its provisions directly based on the law and is not subject to presidential or government regulations.<sup>7</sup>

Law no. 11 of 2006 concerning the Aceh government reflects Aceh's unique features in the legal field. Several Sharia institutions, including the Islamic Sharia service, the

Ulama Consultative Council, and legal instruments such as qanuns outside the legal field, further support it. The unique legal system in Aceh, especially in matters of religion, customs, and culture of the Acehnese people, cannot be separated from Sharia values, so implementing Sharia is not only symbolic.<sup>8</sup> Aceh is often called the "veranda of mecca" because, for a long time, the people of Aceh have used Islamic law to guide life. With all its legal manifestations, the people of Aceh obey its teachings. Article 3 paragraph (2) letter a of law No-44 of 1999 concerning the implementation of Aceh specialties, which grants Aceh special privileges in religious life. Then, article 4, paragraph (1) emphasizes religion as the basis for implementing Islamic law in Aceh. So, Islamic law is applied to its adherents in society as a religion of life (Aceh) in an area.

In the context of implementing the Qanun by the Islamic Sharia service in Aceh as a law that regulates how to improve and civilize the Acehnese population with the Sharia system, the Aceh qanun is, of course, a regulation that all people must follow in Aceh.<sup>9</sup> The Islamic Sharia service is a government institution established in Aceh to maintain Islamic Sharia.<sup>10</sup> Even though initially they were relatively unfamiliar with the Indonesian government and law enforcement officials,<sup>11</sup> in Aceh, this service

4 Nanda Amalia, Mukhlis Mukhlis, and Yusrizal Yusrizal, "Model Penyelesaian Sengketa Dan Peradilan Adat Di Aceh," *Jurnal Hukum Ius Quia Iustum* 25, no. 1 (2018): 159-79,

5 Muslimin, J. M., Shubhan Shodiq, and Thamer Hamdi M. Almutairi. "Sextortion, Gender, and Digital Crime: A Socio-Legal Comparison between Positive and Islamic Law." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19.1 (2024): 53-77.

6 Harahap, Zul Anwar Ajim, and Muhammad Ridwan. "Analyzing the Offense of Juvenile Khalwat in Aceh: Evaluation of Qanun Number 14 of 2003 from an Islamic Legal Perspective." *Al-Manahij: Jurnal Kajian Hukum Islam* (2024): 79-94.

7 Al Yasa' Abubakar, *Undang-Undang Pemerintahan Aceh: Otonomi Khusus Di Bidang Hukum* (Yogyakarta: Fakultas Syariah UIN Sunan Kalijaga, 2007).

8 Mubarrak, Husni, Faisal Yahya, and Iskandar Iskandar. "Contestation on Religious Interpretation in Contemporary Aceh Sharia: Public Caning in Prison as the Case of Study." *JURIS (Jurnal Ilmiah Syariah)* 22.2 (2023): 213-222.

9 Sirajuddin, *Implementation of Islamic Sharia in Nanggroe Aceh Darussalam Post-Reformation*.

10 Harisudin, M. Noor. "The formulation of Fiqh Nusantara in Indonesia." *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 21.1 (2021): 39-57.

11 Ilahi, M. Ridho, et al. "Fatwa Institutions in

was able to adapt and find a place in the eyes of the central government. They primarily consider that there is a direct agreement with the Aceh government regarding the need for peace in Aceh after the conflict.<sup>12</sup>

In this case, the Islamic Sharia service, assisted by the wilayat hisbah (wh) police, is given the authority to implement Islamic law.<sup>13</sup> The Islamic Sharia service, together with wilayat hisbah, often carries out raids in urban centers to minimize violations of Islamic Sharia enforcement, especially about seclusion because khalwat is part of the crime.<sup>14</sup> This is because it is still a habit for young people to go out with each other at events, so a preventative method is needed.<sup>15</sup>

Based on these facts, it can be seen that the authority of the Islamic Sharia service in Aceh is carrying out its duties in enforcing Islamic Sharia.<sup>16</sup> In this way, the Islamic Sharia service has, of course, worked and

made efforts to implement this Sharia, which, of course, has contributed to realizing Aceh as an area for enforcing Islamic Sharia so that it is far from the practices of sexual crimes or khalwat.<sup>17</sup> Based on this, it is essential to conduct a study related to the implementation of uqubat on khalwat behavior in reducing sexual crimes, especially in Bireuen Regency.

A study on the implementation of uqubat on khalwat behavior in reducing sexual crimes, as explained above, is very necessary because, with this study, it will be known how law enforcement institutions in Aceh have been carrying out their duties to enforce Islamic Sharia.<sup>18</sup> Many books and journal articles examine khalwat from their perspectives and studies.<sup>19</sup> However, it has not yet touched on the discussion specifically regarding the implementation of uqubat against khalwat behavior in reducing sexual crimes.

This argument is based on a review of several articles as a literature review relevant to the study of the implementation of Islamic Sharia in Aceh, especially related to khalwat, such as articles about khalwat, which led to forced marriage.<sup>20</sup> This study only discusses

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Handling Religious Blasphemy Crimes in Indonesia and Malaysia." *Al-Ahkam* 34.1 (2024).

12 Marah Halim, *Eksistensi Wilayatul Hisbah Dalam Pemerintahan Islam* (Banda Aceh: UIN Ar-Raniry, 2012).

13 Mansari, Mansari, and Rizkal Rizkal. *Peranan Hakim dalam Upaya Pencegahan Perkawinan Anak: Antara Kemashlahatan dan Kemudharatan*. *El-USRAH: Jurnal Hukum Keluarga* 4.2 (2021): 328-356.

14 Ramizah Wan Muhammad, "Khalwat as a Moral Crime in Malaysia: Issues and Realities," *Journal of Islam, Law and Judiciary* 1, no. 2 (2015): 1-25.

15 Muntasir Abdul Kadir et al., "The practice of Wearing Hijab among Female Students of Al-Aziziyah Samalanga Islamic Institute, Bireuen: Study of Islamic Law and Legal Politics," *Samarah* 6, no. 1 (2022): 391-406,

16 Rostovska, Karyna, et al. "Place of Principles of Law in Legal Regulation of Public Relations in Conditions of Digital Society: Theoretical and Legal Research." *Syariah: Jurnal Hukum dan Pemikiran* 24.1 (2024): 73-87.

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17 Miqat, Nurul, et al. "The Development of Indonesian Marriage Law in Contemporary Era." *De Jure: Jurnal Hukum Dan Syariah* 15 (2023): 54-66.

18 Siti Zubaidah Ismail, "The Legal Perspective of Khalwat (Close Proximity) as a Shariah Criminal Offence in Malaysia," *Pertanika Journal of Social Sciences and Humanities* 24, no. 3 (2016): 923-35.

19 Muhammad Hafiz Bin Badarulzaman et al., *A Review on Legal Interpretation of Khalwat Under the Syariah Criminal Law in Malaysia*, *Journal of Global Business and Social Entrepreneurship (GBSE)* 2, no. 5 (2016): 44.

20 Utsany, Royan, and Afrizal Tw. "Women's Rights and Gender Equality: An Analysis of Jasser Auda's Thoughts and His Contribution

Khalwat perpetrators who were forcibly married as a sanction for their actions.<sup>21</sup> Apart from that, there is also an article written by Hudzaifah with a study of the implementation and challenges of qanun jinayat, in which this article also discusses Qanun in Aceh. However, the focus of this article's study is the position of Aceh Qanun on legislation and its implementation<sup>22</sup>, as well as the issues and challenges involved in its implementation.<sup>23</sup> Apart from that, there is also an article with the title Sanctions for sexual crimes according to the Aceh qanun; this study also discusses kilowatt (sexual crimes) but is limited to theory and does not discuss its application.<sup>24</sup> Based on the description and literature review above, a study is needed to find out the extent of the implementation of uqubat in minimizing the level of sexual crimes in Aceh.

## Methods

This research focuses on the implementation of uqubat as an effort to minimize khalwat crimes in Aceh. This research uses qualitative methods to understand how

uqubat is implemented and its impact on khalwat behavior.<sup>25</sup> Data collection techniques used include interviews, observation, and documentation.<sup>26</sup> Interviews were conducted with various sources with in-depth knowledge of the implementation of Islamic law in Aceh, including religious figures, Sharia service officers, and individuals involved in Khalwat cases. They conducted observations to get a direct picture of the implementation of uqubat and social conditions in Aceh. Documentation users are to complement data from interviews and observations and to obtain historical information regarding the implementation of sharia law in Aceh.

After having collected all the data, an analysis was carried out using content analysis techniques.<sup>27</sup> This technique allows researchers to identify the main themes and patterns that emerge from the data that has been collected. This process involves coding data, grouping information based on specific categories, and interpreting findings relevant to the research objectives. Content analysis helps process raw data into meaningful information and provides in-depth insight into the effectiveness of implementing uqubat in minimizing khalwat crimes in Aceh.

## Results and discussion

### The existence of Qanun as legislation in Aceh

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to Renewal of Islamic Family Law in Indonesia." *J. Islamic L.* 3 (2022).

21 Karimuddin, "Legality of Forced Marriage Performers of Khalwat According to the View of Syafi'iyah Fiqh," *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)* 4, no. 3 (2021): 7192-7202.

22 Berutu, Ali Geno. "Penalaran Fikqh Terhadap Rumusan Ancaman Pidana Ta'zir Pada Pelaku Khalwat Dalam Qanun Aceh No. 6 Tahun 2014." *El-Mashlahah* 9.2 (2019).

23 Hudzaifah Achmad Qotadah and Adang Darmawan Achmad, "Qanun Jinayat Aceh Antara Implementasi, Isu Dan Tantangan," *Adliya: Jurnal Hukum Dan Kemanusiaan* 14, no. 2 (2020): 171-90,

24 Karimuddin Abdullah Lawang; et al., "Sanksi Tindak Pidana Kekerasan Seksual : Studi Komparatif Fiqh, Qanun Aceh dan KUHP, At Turas:Jurnal Studi Keislaman 9.no.1 (2022):102-210.

25 Endah Marendah Ratnaningtyas; Ramli; Syafruddin; Edi Saputra; Desi Suliwati; Bekty Taufiq Ari Nugroho; Karimuddin; Muhammad Habibullah Aminy; Nanda Saputra; Khaidir; Adi Susilo Jahja, *Metodologi Penelitian Kualitatif* (Sigli Pidie: Yayasan Penerbit Muhammad Zaini, 2023).

26 Sugiyono, *Metode Penelitian Kuantatif Kualitatif Dan R & D*, (Bandung: CV. Alfabeta, 2012), 35, 2012.

27 Klaus Krippendorff, *Content Analysis: An Introduction to Its Methodology* (California: SAGE Publications, 2022).

The Arabic dictionary defines Qanun as law, tradition, or ritual.<sup>28</sup>In Acehese civilization, the term "qanun" means laws or regulations that have long been in effect and are an integral part of Acehese culture. The term "qanun" refers to several laws and traditions that the kingdom of Aceh has implemented. Often, qanuns contain Islamic Sharia law modified to reflect Acehese culture.

Article 1, numbers 21 and 22 of law number 11 of 2006 concerning the government of Aceh states:

- a. *Qanun*Aceh is a legal agreement that regulates Aceh's management and life, including settlements and provinces.
- b. In the districts and cities of Aceh, there are statutory regulations known as government/city qanuns, which regulate the administration and social life of the community in a manner that is the same as district/city regional regulations.

The provisions of these two articles show the purpose of the Qanun about regional regulations in other provinces in Indonesia. Still, the meaning of the Qanun is less precise than the regional regulations. This is unique to nad and differentiates it from other regions where legal provisions may not be based on Islamic teachings. Qanun requires that the laws and regulations in force be based on Islamic law.<sup>29</sup>Qanun rules can include legal rules governing formal and substantive procedural law in sharia courts,

unlike other regional regulations in Indonesia.

As a result, the meaning of the Qanun is different, and the contents of the Qanun must not conflict with Islamic law if it is based on Islamic principles. There is a legal hierarchy in Indonesia.

The role of Qanun is equated with the role of regional regulations (*perda*) in other regions. Article 7 of law number 10 of 2004 concerning the formation of legislative regulations states the legal hierarchy, namely the 1945 constitution of the Republic of Indonesia, government regulations instead of laws, government regulations, presidential regulations, and regulations area. According to the interpretation of Article 7, the provinces of Papua and Aceh have regional regulations, such as Qanun and *Perdasus*.

The position of Qanun is recognized in the Indonesian legal hierarchy and is included in regional regulations based on the abovementioned rules. It is viewed from the perspective of the establishment of Qanun, which is the meaning of Qanun in law no. 10 of 2004 is acceptable. With this knowledge, it will be easier for the state to supervise and direct regions, especially in matters relating to the implementation of regional policies. Remember to pay attention to the nad center's unique instructions. For example, the Aceh DPR could use qanun jinayat, or Islamic criminal justice, as procedural law in Sharia courts, depending on the specifications given by the center. To avoid confrontation, this qanun product only needs to fulfill the following requirements: worship, *ahwal al-syakhshiyah* (family law), *muamalah* (civil law), and *jinayah* consisting of *syar'iyah* and *akhlak* (law). Crime, justice (*qadha'*), education (*tarbiyah*), *da'wah* (propaganda), symbolism, and defense of Islam. There is no doubt that Indonesian local law prohibits this practice.

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28 Mahmud Yunus, *Arabic-Indonesian Dictionary* (Jakarta: Haida Karya Agung, 1990).

29 Ismail Pane; Hasan Syazali; Syaflin Halim; Karimuddin; Imam Asrofi; Muhammad Fadlan; Kartini; Muhammad Saleh, "Contemporary Mu'amalah Fiqh," ed. Muannif Ridwan (Sigli Pidie: Muhammad Zaini Publishing Foundation, 2022).



The following are the laws and regulations that determine the position/position of Qanun:

- a. The autonomy agency for the specific province of Aceh, Aceh province, was established by decree no. 18 of 2001. Article 1, paragraph 8 explains the status of Qanun as follows: province qanun is a regional regulation as law enforcer in the territory of and province in the context of implementing special autonomy;
- b. Making statutory regulations explaining article 7 paragraph (2) letter reads: and regional qanun and Papua province perdasus and perdasi are types of regional regulation province;
- c. The Aceh government law states in articles 21 and 22 that Qanun is a law regulating Aceh's government and life management. They are comparable to regional laws.

### **Legal effectiveness and its relationship with criminal acts of khalwat**

Legal effectiveness measures how well the legal system functions to achieve its societal goals. In a country, the success of the legal system can be measured through several main aspects that reflect its ability to provide justice, maintain order, and protect its citizens.<sup>30</sup>

For example, a country that successfully maintains justice can be seen from how the law handles criminal cases. Are the sanctions appropriate to the level of the violation committed, and does the judicial process provide fair rights to all parties involved? Justice is also reflected in equal treatment

before the law, regardless of social, economic, or cultural status.

The effectiveness of the law can also be measured through the level of community compliance with existing rules. If the law only exists in theory but is not applied consistently, society may lose confidence in the legal system. Therefore, it is essential to ensure that laws not only exist to regulate but are strictly enforced.<sup>31</sup>

Another aspect that shows the effectiveness of the law is the existence of effective sanctions that provide a deterrent effect to violators. If the penalties imposed do not create adequate deterrence, this can undermine the effectiveness of the law in preventing illegal acts.

Accessibility to the legal system is also an essential factor. The public must be able to quickly understand the rules of law and access the justice system without excessive obstacles. If access to justice is hampered, this can reduce the effectiveness of the law in providing equal protection to all citizens.

In looking at the effectiveness of the law, not only is the law enforcement aspect essential, but conflict prevention efforts and effective conflict resolution are also essential. A successful legal system addresses the consequences of illegal actions, works to prevent conflict to the greatest extent possible, and offers fair and efficient resolution mechanisms.

Overall, legal effectiveness reflects how well the legal system can create and maintain order, justice, and protection for the entire community. Analysis of these aspects provides an in-depth understanding of how law can play a role in forming a just, safe, and orderly society.

30 Soerjono Soekanto, *Factors that Influence Law Enforcement* (Jakarta: Raja Grafindo Persada, 2007).

31 Lalu M. Alwin Ahadi, "Legal Effectiveness from a Legal Philosophy Perspective: The Relation of the Urgency of Socialization to the Existence of Legal Products," *USM Law Review Journal* 5, no. 1 (2022): 110.

The effectiveness of the law in enforcing regulations related to criminal acts of Khalwat in Aceh is closely related to several factors. First is the success of the justice system in detecting and handling khalwat cases. This includes the ability of law enforcement officers to patrol, investigate, and arrest violators until the execution of decisions.<sup>32</sup> Second, the effectiveness of the law also depends on public awareness of the applicable regulations. In Aceh, the public is generally accustomed to the rules of Sharia law and can act as informal monitors of daily behavior. However, there are still challenges in ensuring that everyone adheres to the rules consistently.<sup>33</sup>

Apart from that, it is also essential to consider aspects of justice and proportional law enforcement. An effective legal system must ensure that the punishment given is appropriate to the level of the offense committed and does not violate the principles of justice or human rights. However, there is also criticism of law enforcement regarding criminal acts of khalwat in Aceh. Some parties argue that implementing harsh punishments for khalwat violators can create an atmosphere of fear and increase the potential for abuse of power by law enforcement officials.

In this context, the effectiveness of law in Aceh in dealing with the criminal acts of Khalwat can be seen as a reflection of the extent to which the legal system can enforce applicable rules consistently, fairly, and

proportionally while paying attention to the values of justice and human rights. With a balanced and sustainable approach, it is hoped that a legal environment that supports social justice and societal harmony can be created.

### **Seclusion as a criminal offense**

*Seclusion* is the state of being invisible to others and being alone. This expression has both positive and negative connotations. In a good way, khalwat leaves the silence and busy environment to get closer to god. When used negatively, "khalwat" refers to men and women who are not mahram or married and living together privately.<sup>34</sup> The second meaning of seclusion was raised in this conversation. Intimate relationships outside of marriage, which are permitted in Islam, are among the behaviors for which the term "khalwat" was coined.

*Seclusion* is a sin for which hudud and penance are not required. Violations of this kind of khalwat fall into the category of jarimah ta'zir, which requires countless punishments—for example, kissing or having sex with a woman you know when you are alone and in a relaxed environment. According to the shafi'iyah legal theory, this immoral act is related to the ruler's ijihad and determining its proportions.<sup>35</sup>

The act of khalwat is highly condemned in the Qur'an and Sunnah, but the punishment is not stated explicitly. Therefore, a ta'zir group can consist of these actions. It should be strictly prohibited to carry out any action that benefits society. Of course, this violation

32 Bambang Sugeng Ariadi Subagyo and G hansham Anand, "The Problematics of Execution Law Against Non-Executable Judgments and Comparisons With Malaysian Law," *Jurisdictie* 9, no. 2 (2019): 244.

33 Bagus Bahrul Ulum and Muhammad Ilham Cahyo Kusumo, "Mengembangkan Strategi Yang Berkeadilan Untuk Meningkatkan Penegakan Hukum," *Indigenous Knowledge* 2, no. 1 (2023): 40-50.

34 Al Yasa' Abu Bakar, *Islamic Sharia in NAD Province, Paradigms, Policies and Activities* (Banda Aceh: NAD Province Islamic Sharia Service, 2005).

35 Nasrullah, *Konsep Ancaman Pidana Ta'zir Dalam Fiqih Syafi'iyah (Analisis Terhadap Qanun NAD Nomor 14 Tahun 2003)* (Banda Aceh: Pustaka Buku, 2006).



must be carried out in a way that is considered legal based on community agreement.

The act of khalwat is a crime in the act determines that the act of khalwat is a crime in the act. Islam has two general categories for its criminal law: essential (generic) elements and unique elements.

Meanwhile, the specific components of a crime differ depending on the type of crime. It arises when we discuss particular crimes; consequently, a criminal offense can contain unique elements not present in other criminal acts. Therefore, taking practical steps to reduce the number of criminals in an area is essential.<sup>36</sup>

Identification of khalwat behavior within this framework has been demonstrated and classified as immoral acts/crimes that must be strictly prohibited, and punishment for perpetrators can be determined as immoral based on the description of basic (general) and particular factors above.

### **Implementation of uqubah to minimize the crime of khalwat in Aceh**

Implementing uqubah (punishment) is one significant aspect of the Aceh government's efforts to reduce khalwat crimes. In this context, uqubah can include various forms of punishment, such as caning or fines, imposed on perpetrators of khalwat crimes following Sharia law in force in Aceh.

In implementing Sharia law, violations of the rules related to khalwat can be punished following the provisions of Islamic law. The implementation of uqubah is the main instrument in efforts to minimize khalwat crimes in this region.

Caning is often applied to perpetrators of khalwat as a form of harsh punishment and

as an example for others to comply with sharia rules. Caning is carried out openly in front of the public to provide a deterrent effect and warn the public about the consequences of this violation.

Apart from that, the implementation of uqubah also includes prevention efforts, such as tightened patrols and supervision by law enforcement officials and local Sharia institutions. With increased supervision and strict law enforcement, it is hoped that the potential for violations of khalwat regulations can be minimized.

In addition to law enforcement, implementing uqubah can involve an educational approach and public awareness. Academic programs and outreach campaigns about moral values and Sharia rules can help increase public understanding of the importance of complying with khalwat regulations and reduce the tendency to violate them.

However, it is essential to remember that implementing uqubah must be carried out by paying attention to the principles of justice, proportion, and human rights. Apart from that, the effectiveness of implementing uqubah in minimizing khalwat crimes can also be influenced by society's complex social, cultural, and economic factors.

Thus, to minimize khalwat crimes in Aceh, implementing uqubah is a vital strategy but must be accompanied by a holistic approach involving various aspects, including effective law enforcement, public education, and strengthening moral values in society.

*Qanun* Aceh province regarding khalwat is intended to help reduce adultery, which is a societal misery that initially started from khalwat/obscene acts. The extent of *Qanun*'s contribution to ending khalwat is still debated. According to the results of an interview with Mr. Jufliwan, head of the Islamic Sharia service of the bireuen regency government, even though there is a *qanun*

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36 D. Max Crowley, "Building Efficient Crime Prevention Strategies," *The American Society of Criminology* 12, no. 2 (2013): 353.

and it aims to prevent khalwat/obscene acts with threats, slaps, and fines, if the implementation is only partial, it will not be successful, even for khalwat perpetrators like those mentioned above. We'll see now.<sup>37</sup>

The implementation of Qanun Islamic law in Bireuen Regency, Aceh, he continued, is strongly supported by the implementation of uqubat against perpetrators of khalwat crimes. The implementation of qanun 14 of 2003 concerning khalwat continues to be improved from the investigation process to the execution of sentences against criminals according to the results of court decisions. The decline in the number of sexual crimes, especially khalwat, can be seen from the number of khalwat cases handled in court or the Bireuen Syar'iyah court, which only had 10 cases from 2015 to 2017.<sup>38</sup>

According to Mr. Sayuti Adam, secretary of the Bireuen Regency government's Islamic sharia service, he stated that the main aim of qanun 14 of 2003, which regulates khalwat and related matters, is to prevent acts of vandalism. From this perspective, society has created strong incentives for this implementation to be successful, ensuring that members generally refrain from embarrassing or demoralizing behavior—especially considering that Acehnese is considered religious. So, implementing this Qanun in the form of uqubat greatly influences the minimum crime rate in each region, especially the Bireuen Regency area.<sup>39</sup>

The decrease in the number of sexual crimes, especially khalwat cases in the bireuen regency area, is, of course, influenced by

several factors in the implementation of uqubat.

### 1. *Dimensions of justice in the implementation of uqubat*

Based on the results of the interview with Mr Julian, he said it was essential to ensure that the implementation of the law was carried out fairly and proportionally. Punishment must be appropriate to the level of the offense committed and must not violate the principles of justice or human rights. So, in this case, the Sharia court, namely the Syar'iyah court, always makes the Islamic Sharia service a partner in adjudicating and executing decisions.<sup>40</sup>

Mr. Bustamam continued that although the Bireuen Regency Islamic Sharia Service is the organization tasked with realizing the implementation of Islamic Sharia in Aceh, it is necessary to make side-by-side efforts between the Islamic Sharia service and the Sharia court as a court institution to maximize the adjudication process fairly and proportionally based on the law. Sharia law.<sup>41</sup>

The dimension of justice in applying the law must be prioritized to impact the operation of legal regulations or Qanun. Punishment to khalwat perpetrators, from the investigation stage to the execution of the decision in flogging, must be applied fairly without taking sides or looking at who the perpetrator is and their social status. In this way, the public will heed Qanun if all law enforcers reasonably process it.

37 Jufliwan, "Hasil Wawancara Dengan Kepala Dinas Syariat Islam Kabupaten Bireuen, Pada Tanggal 28 Januari 2021," n.d.

38 Jufliwan.

39 Sayuti Adam, "Results of an Interview with the Secretary of the Bireuen Regency Islamic Sharia Service, on January 29 2021,".

40 Jufliwan, "Hasil Wawancara Dengan Kepala Dinas Syariat Islam Kabupaten Bireuen, Pada Tanggal 28 Januari 2021."

41 Bustamam, "Hasil Wawancara Dengan Kepala Seksi Pelaksanaan Syariat Islam Dinas Syariat Islam Kabupaten Bireuen, Pada Tanggal 30 Januari 2021,".

## 2. *Dimensions of the effectiveness of uqubat implementation*

According to the results of an interview with Mr. Bustamam, the head of the Islamic law department of the Islamic Sharia service, in realizing the effectiveness of implementing uqubat regarding khalwat in Bireuen Regency, collaboration was carried out with other authorities such as the Civil service police unit (staple pp), wilayatul hisbah (wh), and/pole, prosecutor's office, and the sharia court.<sup>42</sup>

According to Mr. Sayuti Adam, apart from that, the bireuen regency Islamic Sharia service invited all village-level officials in the regency, such as Neutrik and Imam Chik in all villages in the existing sub-districts, from Samalanga to Gandapura sub-districts, to agree on the implementation of uqubat against perpetrators of khalwat. In addition, the Islamic Sharia Service invited the police, the prosecutor's office, and courts in the Bireuen Regency area to create a joint understanding of the implementation of Qanun regarding khalwat.<sup>43</sup>

In line with the agreement between law enforcement agencies regarding the implementation of uqubat against criminals, especially those related to khalwat, the perpetrators of these crimes have become aware of the limited space to commit crimes so that the number of crimes, especially khalwat, has begun to decrease. Students and adults, along with the implementation of uqubat, it was commonplace for every event or activity to look for loopholes for seclusion. Still, now, these loopholes for immorality have been fortified by frequent raids and patrols as well as public flogging of perpetrators who the Sharia court has convicted.

Mr. Jufliwan explained that the Islamic Sharia service is an institution that has the authority to issue orders or regulations based on the ratified Qanun. We have agreed on elements of the police, staple pp, and what to do in this uqubat enforcement scenario if there is a report of a khalwat violation. We will send a team to investigate, and they will arrest the violators if there is evidence. The Islamic shaIslamic Shariams to carry out supervision while collaborating with Satpol pp & WH to precisely precisely<sup>44</sup>

## 3. *The prevention dimension in the implementation of uqubat*

Because there are still a handful of people who feel uncomfortable with the implementation of Islamic law, when they are reminded, they sometimes feel disturbed by their business or business that violates the law. So, they must be monitored as a preventive measure to always comply with Sharia. However, it took a long time for society to realize the importance of practicing Islamic Sharia. This prohibition of khalwat is not intended to interfere with or restrain other people's rights, and the Sharia service only wants to apply Muslim law in a *kaffah* manner.

So, in terms of prevention, there are two forms:

- a. Prevention direct, such as raids and patrols.
- b. Prevention is indirect, such as appeals and discussion forums for compliance with Sharia.<sup>45</sup>

## 4. *Implementation dimensions' uqubat for Sharia violators*

<sup>42</sup> Bustamam.

<sup>43</sup> Adam, "Results of Interview with Secretary Bireuen Regency Islamic Sharia Service, January 29 2021.

<sup>44</sup> Jufliwan, "Results of an Interview with the Head of the Bireuen Regency Islamic Sharia Service, on January 28 2021."

<sup>45</sup> Jufliwan.

*Uqubatis* is a punishment for perpetrators of crimes (*al-jarimah*). *Al-jarimah* is also called '*uqubat*'. '*Uqubat*' was implemented to provide a deterrent effect for violators of the *khalwat qanun*.<sup>46</sup> Protecting society from various detrimental behaviors is the aim of implementing Islamic Sharia so that morals and customs will be maintained following the objectives of the *shari'a*, namely, creating a peaceful and harmonious life.<sup>47</sup>

The Bireuen Regency, Islamic Sharia service, has implemented several programs regarding the implementation of *qanun* number 14 of 2003 concerning *khalwat*. Implementing this *Qanun* is a form of minimizing the number of *khalwat* crimes, which is, of course, greatly influenced by the involvement and cooperation of the Islamic Sharia service with law enforcement agencies.

The Islamic Sharia service bears the primary responsibility for the success or failure of implementing *uqubat* against *khalwat* perpetrators in Bireuen. Apart from the Islamic Sharia service, other institutions such as *Satpol pp* and *WH* also make a total contribution to implementing *uqubat* for *khalwat* perpetrators.<sup>48</sup>

*Qanun* regarding *khalwat* and other crime-related regulations, which are implemented proactively and follow the authority of each institution or agency. Apart from arresting *khalwat* perpetrators, *staple pp* and *wh* are also tasked with carrying out raids on people or places that violate the *khalwat qanun*. So, with the system of enforcing *uqubat* against

*khalwat* perpetrators in the Bireuen district, Aceh province, *khalwat* crimes can be reduced significantly.

## Conclusion

Based on this research, it can be concluded that *qanun* no. 14 of 2003 concerning *khalwat* has been implemented optimally in Aceh, especially in the Bireuen regency area. By implementing the *Qanun* regarding *khalwat*, parties or institutions related to law enforcement, such as *salpol pp*, *wilayatul hisbah (wh)*, *sharia court (mahkamah syar'iyah)*, and the Islamic sharia service, have worked optimally following their respective duties and authorities from the investigation of a case to the court process to the execution of the flogging of *khalwat* perpetrators.

Implementing the flogging law against *khalwat* perpetrators since the *Qanun* on *Khalwat* was passed in 2003 has significantly impacted the number of *khalwat* crimes, especially in the Bireuen regency, Aceh province. So, it is highly recommended that *uqubat* against *khalwat* perpetrators be implemented optimally in other districts in Aceh. Hopefully, other provinces will also be given the authority to implement Islamic law, as in Aceh.

## Bibliography

- Abubakar, Al Yasa'. *Undang-Undang Pemerintahan Aceh: Otonomi Khusus Di Bidang Hukum*. Yogyakarta: Fakultas Syariah Uin Sunan Kalijaga, 2007.
- Adam, Sayuti. "Results of an Interview with the Secretary of the Bireuen Regency Islamic Sharia Service, on January 29, 2021," N.D.
- Ahadi, Lalu M. Alwin. "Efektivitas Hukum Dalam Perspektif Filsafat Hukum: Relasi Urgensi Sosialisasi Terhadap Eksistensi Produk Hukum." *Jurnal Usm Law Review* 5, No. 1 (2022): 110.

46 Bukhari, "Khalwat Dalam Perspektif Hukum Islam Dan Hukum Positif," *Jurnal Ilmu Syari'ah, Perundang-Undangan Dan Ekonomi Syariah* 10, no. 2 (2018): 109-20.

47 Bustamam, "Results of an Interview with the Head of the Islamic Sharia Implementation Section of the Bireuen Regency Islamic Sharia Service, on January 30 2021."

48 Bustamam.

- <https://doi.org/10.26623/julr.v5i1.4965>.
- Amalia, Nanda, Mukhlis Mukhlis, And Yusrizal Yusrizal. "Model Penyelesaian Sengketa Dan Peradilan Adat Di Aceh." *Jurnal Hukum Ius Quia Iustum* 25, No. 1 (2018): 159-79.
- Ariadi Subagyo, Bambang Sugeng, And Ghansham Anand. "The Problematics Of Execution Law Against Non-Executable Judgments And Comparisons With Malaysian Law." *Jurisdiction* 9, No. 2 (2019): 244. <https://doi.org/10.18860/J.V9i2.5592>.
- Bahrul Ulum, Bagus, And Muhammad Ilham Cahyo Kusumo. "Mengembangkan Strategi Yang Berkeadilan Untuk Meningkatkan Penegakan Hukum." *Indigenous Knowledge* 2, No. 1 (2023): 40-50.
- Bakar, Al Yasa' Abu. *Syariat Islam Di Provinsi Nad, Paradigma, Kebijakan Dan Kegiatan*. Banda Aceh: Dinas Syariat Islam Provinsi Nad, 2005.
- Bukhari. "Khalwat Dalam Perspektif Hukum Islam Dan Hukum Positif." *Jurnal Ilmu Syari'ah, Perundang-Undangan Dan Ekonomi Syariah* 10, No. 2 (2018): 109-20. <https://doi.org/10.32505/Jurisprudensi.V10i2.942>.
- Bustamam. "Hasil Wawancara Dengan Kepala Seksi Pelaksanaan Syariat Islam Dinas Syariat Islam Kabupaten Bireuen, Pada Tanggal 30 Januari 2021," N.D.
- Crowley, D. Max. "Building Efficient Crime Prevention Strategies." *The American Society Of Criminology* 12, No. 2 (2013): 353. <https://doi.org/10.1111/1745-9133.12041>.
- Hafiz Bin Badarulzaman, Muhammad, Alias Azhar, Mohammad Azam Hussain, Shuhairimi Abdullah, And Fauziah Mohd Noor. "A Review On Legal Interpretation Of Khalwat Under The Syariah Criminal Law In Malaysia." *Journal Of Global Business And Social Entrepreneurship (Gbse)* 2, No. 5 (2016): 44.
- Halim, Marah. *Eksistensi Wilayahul Hisbah Dalam Pemerintahan Islam*. Banda Aceh: Uin Ar-Raniry, 2012.
- Ismail Pane; Hasan Syazali; Syaflin Halim; Karimuddin; Imam Asrofi; Muhammad Fadlan; Kartini; Muhammad Saleh. "Fiqh Mu'amalah Kontemporer." Edited By Muannif Ridwan. Sigli Pidie: Yayasan Penerbit Muhammad Zaini, 2022.
- Ismail, Siti Zubaidah. "The Legal Perspective Of Khalwat (Close Proximity) As A Shariah Criminal Offence In Malaysia." *Pertanika Journal Of Social Sciences And Humanities* 24, No. 3 (2016): 923-35.
- Jahja, Endah Marendah Ratnaningtyas; Ramli; Syafruddin; Edi Saputra; Desi Suliwati; Bekty Taufiq Ari Nugroho; Karimuddin; Muhammad Habibullah Aminy; Nanda Saputra; Khaidir; Adi Susilo. *Metodologi Penelitian Kualitatif*. Sigli Pidie: Yayasan Penerbit Muhammad Zaini, 2023.
- Jufliwani. "Hasil Wawancara Dengan Kepala Dinas Syariat Islam Kabupaten Bireuen, Pada Tanggal 28 Januari 2021," N.D.
- Kadir, Muntasir Abdul, Karimuddin Abdullah Lawang, Muhammad Haikal, Muhammad Aminullah, And Supriadi Ishak. "The Practice Of Wearing Hijab Among Female Students Of Al-Aziziyah Samalanga Islamic Institute, Bireuen: Study Of Islamic Law And Legal Politics." *Samarah* 6, No. 1 (2022): 391-406.
- Karimuddin. "Legality Of Forced Marriage Performers Of Khalwat According To The View Of Syafi'iyah Fiqh." *Budapest International Research And Critics Institute-Journal (Birci-Journal)* 4, No. 3 (2021): 7192-7202.
- Karimuddin Abdullah. "Perilaku Lesbian, Gay, Bisexual Dan Transgender (Lgbt) Dalam Pandangan Al-Qur'an Dan Hadis." *Al-Mizan* 3, No. 2 (2016): 101-14. <https://doi.org/10.26623/julr.v5i1.4965>.

- 54621/Jiam.V3i2.436.
- Krippendorff, Klaus. *Content Analysis: An Introduction To Its Methodology*. California: Sage Publications, 2022. <https://doi.org/10.4135/9781071878781>.
- Lawang, Karimuddin Abdullah, Muntasir A Kadir, Syamsiah, Nur, And Sasralina Rika. "Sanksi Tindak Pidana Kekerasan Seksual: Studi Komparatif Fiqh, Qanun Aceh Dan Kuhp." *At-Turās: Jurnal Studi Keislaman* 9, No. 1 (2022): 102-21. <https://doi.org/10.3650/At-Turas.V9i1.3439>.
- Lalu M. Alwin Ahadi, "Legal Effectiveness From A Legal Philosophy Perspective: The Relation Of The Urgency Of Socialization To The Existence Of Legal Products," *Usm Law Review Journal* 5, No. 1 (2022): 110, <https://doi.org/10.26623/julr.V5i1.4965>.
- Mahmud Yunus, *Arabic-Indonesian Dictionary* (Jakarta: Haida Karya Agung, 1990).
- Nasrullah. *Konsep Ancaman Pidana Ta'zir Dalam Fiqih Syafi'iyah (Analisis Terhadap Qanun Nad Nomor 14 Tahun 2003)*. Banda Aceh: Pustaka Buku, 2006.
- Qotadah, Hudzaifah Achmad, And Adang Darmawan Achmad. "Qanun Jinayat Aceh Antara Implementasi, Isu Dan Tantangan." *Adliya: Jurnal Hukum Dan Kemanusiaan* 14, No. 2 (2020): 171-90. <https://doi.org/10.15575/Adliya.V14i2.9246>.
- Sayuti Adam, "Results Of An Interview With The Secretary Of The Bireuen Regency Islamic Sharia Service, On January 29, 2021
- Sirajuddin. *Pemberlakuan Syariat Islam Di Nanggroe Aceh Darussalam Pasca Reformasi*. Yogyakarta: Teras, 2011.
- Siti Idaliyah. *Tindak Pidana Khalwat Di Nanggroe Aceh Darussalam Dalam Perspektif Hukum Pidana Indonesia*. Yogyakarta: Universitas Islam Indonesia, 2010.
- Soerjono Soekanto, *Factors That Influence Law Enforcement* (Jakarta: Raja Grafindo Persada, 2007).
- Sugiyono. *Metode Penelitian Kuantitatif Kualitatif Dan R & D*, (Bandung: Cv. Alfabeta, 2012), 35, 2012.
- Wan Muhammad, Ramizah. "Khalwat As A Moral Crime In Malaysia: Issues And Realities." *Journal Of Islam, Law And Judiciary* 1, No. 2 (2015): 1-25. <http://irep.iium.edu.my/42853/1/KhalwatJoilAmended.Pdf>.