

WHY THE GROWTH OF QANUN JINAYAH IN ACEH WAS SLOWLY? An Analysis Using Structural Functionalism Theory

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Abstract: The growth of *Qanun Jinayah* in Aceh is running stagnantly, although the implementation of Islamic Sharia has been implementing for seventeen years. The local government ratified only five *qanun Jinayah*. In fact, within that time, Aceh Government had imposed 177 *qanuns* and the crime rate in the region is increasing. Based on the case, this article aims to discuss recent progress of *Jinayah* law in Aceh and the challenges it faces. Then, using structural-functionalism theory discuss how coordination among sharia institutions worked as part of totality implementation of Islamic law in Aceh. By using qualitative and descriptive-interpretative methods, to examine interpretations and experiences of the subjects, in this case the sharia institutions, including Islamic Sharia Office, the Ulama Consultative Council, Sharia Court, and Sharia police, during their effort to implement Islamic Sharia. And finally, draw conclusion that the growth and development of *Jinayah* law in Aceh was prolonged because of weak coordination function among the sharia institutions. Therefore, it required a systematic approach based on structural-functionalism theory to encourage coordination between the sharia institutions in supporting the *kaffah* implementation of Islamic law in Aceh, including its *Jinayah* law.

Keywords: *Qanun Jinayah*, Sharia Institutions in Aceh, Structural-Functional Theory

Abstrak: Penelitian ini berangkat dari suatu kegelisahan empiris sekaligus akademis yang mempertanyakan mengapa pelaksanaan syariat Islam di Aceh terkesan berjalan sangat lamban terutama terkait hukum jinayah. Gerak lamban ini setidaknya terlihat pada tataran legislasi bahwa sejak tahun 2004 hingga hari ini, hanya ada lima buah *qanun* jinayah yang disahkan, yaitu *Qanun Hukum Acara Pidana* (Nomor 7/ 2013) dan *Qanun Jinayah* (Nomor 6/ 2014), padahal di tahun 2003 pernah lahir tiga *qanun* jinayah sekaligus, dan akhir-akhir ini angka kriminalitas di Aceh juga cenderung meningkat. Untuk mengkaji hal tersebut penelitian ini menggunakan metode kualitatif.

tatif yang diikat dengan pendekatan deskriptif-interpretatif, di mana salah satunya ditandai dengan suatu perspektif yang dibangun berdasarkan interpretasi dan pengalaman para subjek dalam hal ini lembaga syariah di Aceh. Temuan tulisan ini menginformasikan bahwa pertumbuhan dan perkembangan hukum jinayah di Aceh berjalan sangat lamban disebabkan karena fungsi koordinasi antar lembaga syariah sangat minim. Oleh karena itu perlu pendekatan sistematis berdasarkan teori fungsionalisme struktural untuk mendorong koordinasi antar lembaga-lembaga syariah dalam mendukung pelaksanaan hukum Islam secara kaffah di Aceh termasuk hukum jinayahnya.

Kata Kunci: *Qanun Jinayah*, Institusi sharia, teori fungsionalisme structural

Introduction

Doing something at the drop of a hat is the most fitting idiomatic expression to describe the fate of *jinayah* law in Aceh today. Since the enactment of Law no. 11/2006, the growth and development of *jinayah* Law in Aceh has been moving to crawl. This sluggish movement portrait the process of signing at the legislative level. After three *jinayah Qanun* in 2003, up to the present, Aceh government ratified only five *jinayah qanuns*, namely the Criminal Procedure Code (Number 7/2013) and the *Jinayah Qanun* (Number 6/2014). In fact, in 2003, the Government of Aceh ratified three *qanuns* at once, including *Qanun* on alcohol (*Khamar*) (Number 12/2003), gambling (Number 13/2003), and adultery (Number 14/2003). Furthermore, compared to the overall growth of *qanuns* from 2004 until today, no less than 177 *qanuns* have been enforced in Aceh.¹ On the other hand, the crime rate in Aceh has also increased significantly (<https://www.acehbisnis.com/news/polda-aceh-> accessed 3 November 2020).² This

condition means that during fifteen years, the local government only ratified two *qanuns* on *jinayah* since the law on the Government of Aceh No. 11 of 2006 was imposed.

Additionally related to the implementation of the privileges and specialties of Aceh,³ the regional government establishes several Islamic institutions to support as a consequence of the implementation of Islamic Law.⁴ This paper will only review

30 cases, but in 2021 from January-June, there were 216 cases. See the report on the *jinayah* case submitted to the *Sharia* Court in Aceh Province in January-December 2020.

³ These institutions are the Islamic *Sharia* Service (*Dinas Syariat Islam*), *Sharia* police (*Wilayatul Hisbah*), *Ulama* Consultative Council (*Majelis Permusyawaratan Ulama*), *Sharia* Court (*Mahkamah Syariah*), State Guardian (*Wali Nanggro*), *Dayah* Agency, Regional Education Council (*Majelis Pendidikan Daerah*), and Aceh Customary Council (*Majelis Adat Aceh*). However, due to time constraints, in this paper, the author only discusses four closely related institutions to implement Islamic law in Aceh, namely Islamic *Sharia* Service, *Ulama* Consultative Council, *Sharia* Court, and *Sharia* Police. However, this study also uses a snowballing system; if later links are found with other institutions and people involved in implementing Islamic law, these institutions and people will also be studied to clarify problems and enrich information.

⁴ These institutions are the Islamic *Sharia* Service, *Sharia* Police, *Ulama* Consultative Council, *Sharia* Court, *Wali Nanggro*, *Dayah* Board, Regional Education Council, Aceh Customary

¹ The data is based on the Aceh *Qanun* list that the author obtained from the Aceh Province Islamic *Sharia* Office on August 23, 2021.

² Based on the 2014 Central Bureau of Statistics report on Criminal Statistics, Aceh Province was ranked 12th out of 31 provinces in Indonesia. See Central Bureau of Statistics, Criminal Statistics 2014 (Accessed 23 June 2021). See also data from the Provincial *Sharia* Court, case reports that went to the Court in 2020 from January-December were

four institutions ranging from the Islamic Sharia Office, the Ulama Consultative Council, the Sharia Court, and the Sharia Police⁵.

Several studies on *qanun jinayah* in Aceh have been conducted, but the existing research generally examines the Sharia regulations' legal standing, including the pros and cons of *Qanun Jinayah* in Aceh. In addition, Ridwan Nurdin (2019), Mulksan (2017), Kamarusdiana (2016), Dwiwana Achmad, and Hartanto (2017) examine the contribution of *jinayah* law in Aceh to the development of criminal law in Indonesia. Some studies examine the legislative process of Islamic criminal law into national law, which is termed the legislative process or

formalization of Islamic criminal law in Indonesia, such as the Amsori & Jailani (2018), Ali Geno Berutu (2017), and Iskandar (2017) all discuss its challenges and obstacles.

Of all the studies, none has studied the growth and development of *Qanun Jinayah* concerning inter-institutional coordination. Likewise, there have been no studies on *Qanun jinayah* using the structural-functional approach. This paper specifically examines the growth and development of Islamic criminal law in Aceh in relation to coordination between *sharia* institutions using a structural-functional theory approach. Talcott Parson's structural-functionalism theory is essential to understand the correlation or linkage of law enforcement indicators as a system. Therefore, this study is critical because it aims to determine the coordination indicators between *sharia* institutions in Aceh. In a nutshell, the problems are: (1) how is the coordination between *sharia* institutions in Aceh in the perspective of structural functionalism theory (2) what is the impact on the development of Islamic criminal law in Aceh.

Products of *Qanun Jinayah* in Aceh

In discussing *Qanun Jinayah* in Aceh, it is necessary first to comprehend the meaning of *Qanun* and the concept of *jinayah* law in Islamic law terminology. This is necessary to see whether the concept of Islamic criminal law understood and implemented by the Acehnese is the same as the ideal concept of Islamic criminal law? And how is the position of Islamic criminal law in the legal system of the unitary state of the Republic of Indonesia?

The term *Qanun* comes from the Greek language, absorbed into Arabic through the Syriac language. Initially, this word meant a measuring instrument; it also means origin, principal, base, or general rules, whether

Council (MAA). However, due to time constraints, in this paper, the author only discusses four institutions that are closely related to the implementation of Islamic law in Aceh, namely Islamic Sharia Service, Ulama Consultative Council, Sharia Court and Sharia Police. However, this study also uses a snowballing system. It means that if later links are found with other institutions or people involved in implementing Islamic law, these institutions and people will also be studied to clarify problems and enrich information.

⁵ Several other institutions are related to the implementation of Islamic *sharia* in Aceh because, based on the *Qanun*, each Government agency in Aceh has a responsibility to support the implementation of Islamic *sharia* in the area. Such as the Aceh Privileges Agency, the Regional Education Council, the Aceh Customary Council, the Attorney General's Office, the Police, and Educational Institutions. However, due to time constraints, this paper limits it to only four institutions, namely the Ulema Consultative Assembly, the Islamic *sharia* Service, the *sharia* Court, and the *Shari'a* Police. In terms of the implementation of Islamic law in Aceh, according to Alyasa' Abubakar, four things need to be studied, firstly the content or scope of Islamic law, secondly, its implementation practices, thirdly, the forum, and fourthly the establishment of the agency or institution. See Alyasa' Abubakar, *Islamic sharia in Aceh as a Privilege of Isometric Autonomy (Concept and Authority Review)*, Banda Aceh: Muhammadiyah and Shahifah University, (2019), p. 53.

they are related to law or not.⁶ For example, Ibn Sina wrote a book entitled *al-Qanûn fî al-Tibb* (medicine rules). Then the meaning of *Qanun* develops into rules, norms, laws, regulations or laws. According to modern Arabic, *qanuns* are laws. *Qanun* is the official law enforced in a country⁷. Even though they contain complete regulations on *mu'amalah* or politics (*siyâsah*), the fiqh books circulating in the community are not referred to as *qanuns*.

The *qanun* intended in this paper is a regional regulation (*Perda*) as a local law for the Aceh Province used to implement their special autonomy.⁸ Accordingly, the Aceh *Qanun* is a statutory regulation, a type of provincial regulation controlling the administration and life of the Acehnese people.⁹ Moreover, specifically, regulating the issue of Islamic criminal law refers to *Qanun Jinayah*.

Islamic law divides *jinayah* into three types based on the severity and lightness of the punishment imposed, namely *jinayah Hudud*, *qishâs-diyat*, and *ta'zîr*. *Hudud* is *jinayah* that Allah Himself determined the punishment in the form of *hudud* punishment. The purpose of *hudud* signifies that

the punishment that has been arranged must be carried out as determined; it cannot be more or less than the stipulation. *Hudud* punishment is a provision from Allah and may not be aborted by anyone, either by individuals or institutions. Punishment is seen as the right of Allah, and its purpose is for the benefit of public to avoid *mafsadat* and bring benefits to society. The types of *jinayah hudud* are; adultery, accusing adultery (*qadzaf*), drinking alcohol, stealing, robbery, opposing the government, and apostasy.¹⁰

Qishâs- Diyat is *jinayah* whose punishment is in the form of *qishâs* and *diyat*. In this case, Allah Himself gives punishment and is also the right of the individual or the victim, not society's right; therefore, the sentence is unchangeable, cannot be extended and must be by God's command. This punishment is a personal right for the victim or his family, either forgive the perpetrator of *jinayah* or not. If the victim or his family forgives the perpetrator, the crime of *jinayah* falls from the criminal. As for these types of *jinayah*, they include; Intentional homicide, semi-intentional homicide, accidental homicide, intentional injuring, semi-intentional injuring, and unintentional injuring.¹¹

Ta'zîr is a general term that includes other forms of punishment other than *qishâsh-diyat* and *hudûd*. Technically, *ta'zîr* means to mention actions that are warnings or lessons given to people who make mistakes that are not regulated by the provisions of had law.¹² Or in other words, *ta'zîr* is a punishment imposed for a crime or *jarimah* that is not sentenced to the punishment specified in Is-

⁶ Ahmad Warson Munawir, *Kamus al-Munawwir*, (Yogyakarta: Unit Pengadaan Buku-buku Ilmiah Keagamaan Pesantren, 1986), p.1252.

⁷ Abd al-Qadir Audah, *al-Tasyri'*....., p.14

⁸ Law of the Republic of Indonesia Number 18 of 2001, concerning special autonomy for the Province of the special region of Aceh as the Province of Nanggroe Aceh Darussalam, Chapter I Article 1. Al-Yasa' Abu Bakar, *Islamic Sharia in the Province of Nanggroe Aceh Darussalam, Paradigms, Policies and Activities* (Banda Aceh: Dinas Syarai'at Islam, 2005), Third edition, p. 67.

⁹ Law of the Republic of Indonesia Number 11 of 2006, Chapter I Article 1 paragraph (21). There are two types of *Qanun*; first, Provincial *Qanun*, referred to as Aceh *Qanun* as stated in the Act above. Second Regency or Municipal *Qanun*, namely statutory regulations similar to district or city regional regulations that regulate government administration and community life in districts or cities in Aceh. See the Law of the Republic of Indonesia Number 11 of 2006, chapter I article 22.

¹⁰ 'Abdul Qadîr Audah, *al-Tasyrî' al- Jinâi al-Islâmî Muqarran bi al-Qanûn al-Wadh'î*, (Beirut: Dâr al-Kitâb al-'Arabî, t.th), Jilid. I, h. 79. See also Muhammad Abu Zahrah, *al-'Uqûbah*, (Qahirah: Dâr al-Fikr al-' Arabî, t.th.), p. 93.

¹¹ 'Abdul Qadîr Audah, *al-Tasyrî' al- Jinâi*..., p. 79. See also Muhammad Abu Zahrah, *al-'Uqûbah*, p. 84.

¹² 'Abdul Qadîr Audah, *al-Tasyri'-Jinai*..., p. 79. See also Abu Zahrah. *Al-Uqubah*, p. 84..., Haliman, *Hukum Pidana Syariat Islam*, (Jakarta: Bulan Bintang, 1971), p. 458-459.

lamic law, the Qur'an, and the *Sunnah*, such as *jarimah hudud* and *qishâsh-diyat*.¹³ In this condition, the actions are considered *ta'zîr*, and the authorities or judges decide the punishments.

Comprehending the above complexities, Aceh seems challenging to implement the *jinayah* law because the province is part of the Unitary State of Indonesia that embraces a secular system of government. Accordingly, the 1945 Constitution and the five pillars as the fundamental basis for implementing the law in Indonesia are also the juridical foundation for implementing Islamic law in Aceh.¹⁴

According to Hazairin, the principle of Belief in One God, clarified by Article 29 paragraphs (1) and (2) of the 1945 constitution, shows that the opportunity for Islamic law to become part of Indonesian national law is promising. Indonesia, based on the One Godhead, guarantees every Muslim and adherent of other religions to embrace his religion and worship according to that religion. Therefore, based on Article 29 of the 1945 Constitution, the Republic of Indonesia is obliged to guarantee the implementation of Islamic law, which requires state power through laws.¹⁵

For the case of privilege for Aceh, there are several juridical grounds in the implementation of Islamic Sharia since Indonesia's independence, for example, Prime Minister Hardi's Decree,¹⁶ Law no. 44 of 1999 concerning the Implementation of the privileges of the province of the particular region of Aceh, Law no. 18 of 2001 concerning special autonomy for the Province of the particular region of Aceh as the Province of Nanggroe

out, becomes a personal obligation to God for each person who carries it out himself his respective religion. Fourth, if regulation is found contrary to the third, fourth, and fifth precepts in the *Pancasila* due to misinterpretation or religious books, then such religious regulations must be deactivated after discussion with religious leaders. Fifth, the relationship between religion and the second precept in *Pancasila* is left to the norms of the religion itself or the wisdom of the adherents of the religion. In other words, if the norm in the second precept is contrary based on the pattern of their religion or the general understanding of its adherents, then the norm does not apply to them. Sixth, the Indonesian people who have not been included in the four "religions," namely the people who still worship ancestors and lowly creatures such as animals and trees, and imaginary creations such as *mambang* and fairies, are subject to the second precept, third, fourth and fifth in carrying out a normative culture caused by their living culture, which is commonly called their customs (customary law, social morality, and traditional arts), so-called in waiting for the success of life improvement efforts their spirituality to a standard of religious life devoted to the Almighty God. See Hazairin, *Pancasila Democracy*, p. 30-31 and h. 74-75.

¹⁶ In 1959 the Government of the Republic of Indonesia, through the Decree of the Prime Minister No.1/Missi/1959, which Mr. Hardi signed, once Deputy Prime Minister I / Head of the Aceh Government Mission, gave privileges Aceh. The privileges given are in three areas: religion, education, and customs, so that Aceh has the right to be called a Special Region. See Zufran Sabrie, *the Existence of Religious Courts: A Study on the Implementation of Islamic Law in Nanggroe Aceh Darussalam*, Jakarta: Thesis on the Master's Program in Legal Studies at the Graduate Program of the University of Muhammadiyah, 2003, 147. See also A. Basiq Djalil, *Religious Courts in Indonesia*, (Jakarta: Kencana, 2006), p. 161.

¹³ 'Abdul Qadîr Audah, *al-Tasyrî' al- Jinaî ...*, h.81..., Ahmad Hanafi, *Asas-asas Hukum...*, p. 299.

¹⁴ In the 1945 Constitution (amendment), concerning regional government, Articles 18A and 18B, it is stated that the State recognizes and respects regional government units that are special or special regulated by law.

¹⁵ According to Hazairin, Article 29 paragraph 1 of the 1945 Constitution, states that the state is based on the Supreme Deity, contains the meaning: First, in the Republic of Indonesia, something that is contradictory to the rules of religion, either the rules of Islam, Christianity, Hinduism, or the opposite of Buddhist is not permitted. Second, the state of the Republic of Indonesia is obliged to implement Islamic law for Muslims, Christian law for Christians, and Hindu law for Hindus, which requires state intermediaries. Third, the *sharia*, does not require the assistance of the state power to bear it, which each of its adherents can carry

Aceh Darussalam, Presidential Decree No. 11 of 2003 concerning the *sharia* Court, the Provincial *sharia* Court in the Province of Nanggroe Aceh Darussalam and Law no. 11 of 2006 concerning the Government of Aceh.

Although juridically, the implementation of Islamic law in Aceh has had a solid legal protection, after *Qanun Jinayah* No. 12 of 2003 on *khamar*, *Qanun* No. 13 of 2003 on *maisir* *Qanun* No. 14 of 2003 on seclusion, the production of *qanuns* halted for ten years. Then in 2013, two more *jinayah qanuns* were passed, namely the Criminal Procedure Code (Number 7/2013) and the *Jinayah Qanun* (Number 6/2014). Therefore, from 2003 up to the present time, only five *Jinayah qanuns* validated in Aceh after seventeen years of Islamic *sharia* implementation, namely first, *Qanun* Number 12 of 2003 concerning the prohibition of alcohol, second, *Qanun* Number 13 of 2003 concerning *maisir*, third, *Qanun* Number 14 of 2003 concerning seclusion, fourth, *Qanun* on the Criminal Procedure Code (Number 7/2013) and finally, *Qanun Jinayah* (Number 6/2014).

Islamic Institutions in Aceh

After enacting several laws related to the implementation of Aceh's privileges and specificities to implement Islamic law, the local government established several *sharia* Institutions to support the implementation of Islamic *sharia* in the area.¹⁷

¹⁷ These institutions are the Islamic *sharia* Service, *sharia* Police, Ulama Consultative Assembly, *sharia* Court, Wali Nanggroe, Dayah Agency, Regional Education Council (MPD), and Aceh Customary Council (MAA). However, due to time constraints, in this paper, the author only discusses four closely related institutions to implement Islamic law in Aceh, namely the Islamic *sharia* Service, *sharia* Police, Ulama Consultative Assembly, *sharia* Court. However, this study also uses a snowballing system. It means that if later links are found with other institutions and people involved in implementing Islamic law, these institutions

These institutions are directly or indirectly related to the development of Islamic law in Aceh, including the growth and development of the *qanun jinayah*. In this paper, only four institutions are essential for analyses, namely the Islamic *Sharia* Service (DSI), the Ulama Consultative Council (MPU), the *Sharia* Court (MS), and the *Sharia* police (WH).¹⁸

The first institution is the Islamic *Sharia* Service Institute (*Dinas Syariah Islam*), established underpinning on the Regional Regulation of the Province of the Special Region of Aceh No. 33 of 2001. The institution is acting on behalf of the Regional Government for implementing *sharia* in Aceh. Second, the Ulama Consultative Council (*Majelis Permusyawaratan Ulama*), well known as MPU, was established based on Law Number 44 of 1999 concerning the implementation of the Privileges of Aceh, Which strengthens the four features of Aceh including to being exceptional in religion, education, customs, and also give the ulama

and people will also be studied to clarify problems and enrich information.

¹⁸ Several other institutions are related to the implementation of Islamic *sharia* in Aceh because, based on the *Qanun*, each Government agency in Aceh has a responsibility to support the implementation of Islamic *sharia* in Aceh. Such as the Aceh Privileges Agency, the Regional Education Council (MPD), the Aceh Customary Council (MAA), the Attorney General's Office, the Police, and Educational Institutions. However, due to time constraints, this paper limits it to only four institutions, namely the MPU, the Islamic *sharia* Service, the *sharia* Court, and *sharia* Police. In terms of the implementation of Islamic law in Aceh, according to Alyasa' Abubakar, four things need to be studied, firstly the content or scope of Islamic law, secondly, its implementation practices, thirdly, the forum, and fourthly the establishment of the agency/institution. See Alyasa' Abubakar, *Islamic sharia in Aceh as a Privilege of Isometric Autonomy (Concept and Authority Review)*, Banda Aceh: Muhammadiyah and Shahifah University, 2019), p. 53.

a role in determining regional policies.¹⁹ Based on this law, the task of the MPU institution is not only to support the implementation of Islamic *Sharia* in Aceh but also to monitor every regulation made by the Aceh Government to avoid conflict with Islamic *Sharia*.

The Third organization is *Shar'ia* Court (*Mahkamah Syariah*). This Islamic judiciary *plus*²⁰ institution were formed based on Law no. 18 of 2001 (Chapter XII Articles 25, 26, and 27). Then its existence was reaffirmed by Presidential Decree Number 11 of 2003 on March 3, 2003 or the 1st of Muharram 1424 Hijriah.²¹ Fourth, the *Sharia* Police

(*Wilayatul Hisbah*) institution.²² This institution was born based on the Decree of the Governor of the Province of Nanggroe Aceh Darussalam Number 1 of 2004 concerning the establishment of the organization and work procedure of the *Sharia* Police (*Wilayatul Hisbah*) after being mandated by *Qanun* No. 11 of 2002, which has the task of supervising and fostering violations of *sharia qanuns*. However, after the birth of Law no. 11/2006, The *Hisbah* Area Organization was merged into the Civil Service Police Unit (Satpol PP).²³

The Growth of *Qanun Jinayah* in the Perspective of Structural-Functional Theory

Acehnese have struggled to demand the implementation of Islamic law throughout the founding of the Unitary State of the Republic of Indonesia. This demand is not an exaggeration, considering not only because of the historical factor that Aceh has Islamic kingdoms, but Aceh also has excellent services for establishing this country (Iskandar, 2017). Apprehending these facts, through a long and even bloody political struggle (A. Hasjmi: 1983; A. Rani Usman: 2003), finally in the reform period, the Central Government issued some laws as a legal protection for the implementation of Islamic law in Aceh, namely Law No.44 of 1999 (regarding the Implementation of the Privileges of Aceh), Law No.18/2001 (regarding Special Autonomy for Aceh), Law no. 11/2006 (regarding the Aceh Government) and Law 48/2007 (regarding the handling of legal issues in the framework of implementing the rehabilitation and reconstruction of territories and community lives in the Provinces of NAD and Nias). These laws allow the formal implementation of the

¹⁹ Law No. 44/1999 Article 3 paragraph (2) and Article 9. However, Law No.22/1999 on Regional Government has also mentioned the role of the *ulama* in Aceh in determining regional policies. Even Article 9 of the law explains that this *ulama* institution (MPU) is not an institution under the Governor or the Regional People's Representative Council but is equal. It should be added that there are five institutions (institutions) mentioned in Law No.11/2006 regarding the privileges and specificities of Aceh, namely: *Wali Nanggroe* Institution (P. 96), Aceh Customary Council (P. 98), *Ulama* Consultative Council (P. 138), Aceh Education Council (P. 220) and *Baitul Mal* (P. 191). However, what is specifically studied in this paper is only the *Ulama* Consultative Council because it is related to implementing the law of *jinayah* in Aceh.

²⁰ It is called a judiciary plus because the task of the *sharia* Court is the task of the religious court plus the authority to adjudicate *jinayah* cases that have been regulated in the *Qanun*. See, Law No. 3 of 2006 concerning Amendments to Law No. 7 of 1989, Article 3A. Also, see Law No.4 of 2004 concerning judicial power, article 15 paragraph (2) states that the Islamic *Sharia* Court in Aceh Province is a special court within the scope of religious court as long as its authority relates to the authority of the religious court.

²¹ In addition, there are some other legal bases related to the existence of this *sharia* Court, namely *Qanun* No.10/2002 concerning Islamic *Sharia* Courts, Law No.4/2004 on Judicial power, and Law no. 3/2006 concerning Amendments to Law No. 7/1989 on Religious Courts. It will be explained later in this paper.

²² It is referred to as WH.

²³ See Law No.11/2006, Article 134 (2).

totality enforcement of Islamic law even in the realm of the judiciary.

As already mentioned, as a consequence of the implementation of Islamic *Sharia* in Aceh, several institutions related to the implementation of the privileges and specificities of Aceh were established, either directly or indirectly linked to the development of the *qanun jinayah* and inter-institutional coordination. However, in this paper, only four institutions are examined: the Islamic *Sharia* Service, the *Ulama* Consultative Council, the *Sharia* Court, and *Sharia* police.

The relationship between the development of Islamic criminal law and coordination between *sharia* institutions in Aceh can be studied through structural-functionalism. This theory shows that indicators of inter-institutional coordination linkage to legal development are a system that cannot be separated but can be differentiated and is integrally comprehensive. This system implies that each indicator has interdependence on other indicators so that the analysis must be viewed as a whole from each indicator but is a unified whole.

In analyzing the coordination issues among *sharia* institutions, the author employs Talcott Parson's theory on structural functionalism. This theory helps understand the correlation or linkage of law enforcement indicators as a system, so that problems can be identified through the coordination between *sharia* institutions that impact Islamic criminal law's growth and development from structural functionalism theory.

According to Parson, a system must have four functions to prevail: Adaptation, Goal Attainment, Integration, and Latency (or pattern maintenance), abbreviated to AGIL²⁴. The first aspect is adaptation; in this

case, the need for *Qanun Jinayah* must adapt to environmental conditions and adjust the environment so that the *qanun* can be born. The rise of criminal cases in Aceh requires a solution in the form of a new regulation (*qanun*). Therefore, the government urgently needs to carry out the administrative process to answer the problem of crime. Therefore, the local government needs to carry out the administrative process promptly to solve the crime problem.²⁵ Until now, the local government has issued very few *qanuns*, even though the implementation of Islamic law in Aceh has been almost seventeen years.

Second, Goal Attainment is a system that defines and achieves its primary goals. Concerning the formation and development of Islamic criminal law, these activities aim to increase the legal awareness of the citizens towards Islamic criminal law. The fiction theory adage, which says that "everyone is considered to have understood the law" after being legally promulgated, is insufficient to achieve the goal of a law-abiding society. Therefore, it is essential to disseminate information to the public on every promulgated law. Regarding the growth and development of Islamic criminal law, several respondents were asked about what *qanuns* have been promulgated to test their knowledge of law awareness and law acquaintance.

However, the data reveals, except for the Islamic *Shari'a* Service Chairperson, almost all the *sharia* institutions' heads studied doubtful how many *jinayah qanuns* issued in Aceh. All respondents ensure they could be

²⁴ Parsons, Talcott. 1937. *The Structure of Social Action*. New York, N.Y.: McGraw-Hill Bo Company. Also read George Ritzer, *Modern Sociological Theo-*

ry, translation of Alimandan (Jakarta: Kencana Prana Media Group, 2012) p. 121. Initially, this theory was pioneered by Radcliffe-Brown (R-B), but in the 1950s, Parsons developed it in a more complex form. Read Amri Marzali, *Structural-Functionalism, Indonesian Journal of Anthropology*, No. 52.

²⁵ Interview with the Chairperson of the Aceh *Ulama* Consultative Council Tgk. Faisal, August 9, 2021.

re-check in the *qanun*.²⁶ Attitudes of law awareness and law acquaintance encourage a tendency to act. Legal attitude means the tendency to act according to or not by the law. The legal attitude does not determine people's level of legal awareness because the behavior has not occurred, there is only a tendency to act. However, several factors influence the tendency of people's legal attitude, such as the level of knowledge about the contents of the regulations, instrumental attitudes; the existence of knowledge about the contents of the regulations, the prominence of self-interests, and fundamental attitudes such as age, education level, and length of residence) (Soekanto, 1982).

The third is integration. In coordination requires a system of integration to set the relationships between the organizations. The system also becomes its components and manages the relationships between the three other essential functions of A,G, L to function effectively.

The four law enforcement components, including *Sharia* Service, *Sharia* Courts, *Sharia* Police, and *Ulama* Consultative council, are unity because they are part of one system. If one component does not function properly, the work system and goals will be disrupted. For example, suppose those who care about the *qanun* jinayah are merely the department of *Sharia* service, while other institutions ignore them. In that case, the work system and the achievement of goals are disturbed. Or vice versa, if the *Sharia* Service neglects its duties as coordinator, then the executing agency in the field also becomes less effective.

One form of integration is the problem of coordination between institutions. In this case, the author finds that the *Shari'a* institutions in Aceh do not have a fixed agenda for regular coordination.²⁷ Some meetings are incidental when some legal issues occur in the community and require an immediate solution.²⁸ Even some institutions claim never receive invitations for meetings, let alone coordination.²⁹

The fourth component of Parson's theory is latency, also called pattern maintenance. A system must complement, maintain, and improve individual motivation and cultural patterns that create and sustain motivation. Legal coordination must be carried out continuously by evaluating the components that need improvement. If the weakness lies in the legal factor (law), then efforts to revise or change the regulations are necessary because the norms or legal rules can no longer follow society's development. However, it is also necessary to change legal norms carefully because these changes can be degressive.

However, in the context of Aceh, up to the present time, there has been no clear roadmap to direct the travel route of *Shari'a* in Aceh, which can be a guide for all institutions and communities. The blueprint of Islamic law in Aceh has been discussed for a long time ago, but it has not been completed until recently, even though many parties consider this primary concept necessary. This then impacts the slow growth and development of Islamic crimi-

²⁶ Interview with the Chairperson of the Aceh *Ulama* Consultative Council Tgk. Faisal, August 9, 2021. Interview with the Chairperson of Aceh Shariah Court Dra. Hj. Rosmawardani, 28 Juli 2021. Interview with the Head of the Sharia Police service Unit Marzuki S.Ag., M.H., 27 July 2021. Interview with the chairperson of the Aceh Islamic Sharia Office Dr. EMK Alidar, S.Ag., M., 10 Juli 2021.

²⁷ Interview with the Chairperson of the Aceh *Ulama* Consultative Council Tgk. Faisal, August 9, 2021. Interview with the Chairperson of Aceh *Sharia* Court Dra. Hj. Rosmawardani, 28 Juli 2021. Interview with the Head of the *Sharia* Police Service Unit Marzuki S.Ag., M. H., 27 Juli 2021.

²⁸ Interview with the Chairperson of Aceh *Sharia* Court Dra. Hj. Rosmawardani, 28 Juli 2021. Interview with the Head of the Sharia Police service Unit Marzuki S.Ag., M.H., 27 Juli 2021.

²⁹ Interview with the Chairperson of Aceh *Sharia* Court Dra. Hj. Rosmawardani, 28 Juli 2021.

nal law in Aceh. Therefore, it is not surprising that the impact on legal products, especially criminal law, is minimal.

Conclusion

Coordination between *sharia* institutions in Aceh did not go smoothly, both in programs and coordination between institutions. The journey of the *sharia* does not have clear *goal attainment*. As a result, *sharia* issues are resolved incidentally, case by case. This fact indicates the local government's lack of seriousness in carrying out the mandate of Islamic law in Aceh. The local government lacks attention and political will in supporting the implementation of Islamic law in Aceh, especially regarding the case of *jina-yah*. As proof, several regions do not execute the caning sentence because there is no allocation of funds, as shown in the data above. This situation then influences the slow growth and development of Islamic criminal law in Aceh. It is not surprising though the impact on legal products related to criminal law is insignificant.

These conclusions were analyzed using a structural, functional theory approach. The work of *sharia* institutions in Aceh is still not satisfying. These unsatisfied performances are evidenced by the non-fulfillment of aspects of *adaptation*, *goal attainment*, *integration*, and factor maintenance of work patterns or *Latency* in the unity of the system. All these institutions should be interdependent in their work, although in their respective functions, and cannot be replaced and must run well. If each feature does not function in balance, everything will be damaged. Like an organism, if something is broken, others will hurt. Likewise, the law is a system that cannot be separated but can be distinguished and is integrally comprehensive, in the sense that each indicator has interdependence on other indicators so that

the analysis must be viewed as a whole from each indicator but is a unified whole.

This study is limited to four *sharia* institutions in Aceh that use a structural-functionalism approach to see the development of *qanun jinayah*. This study has not integrated it with the community perspective and its practical implications to determine the level of effectiveness. This method allows finding a more concrete solution for every legal problem because, in essence, the law is to be enforced amid society, not just promulgated on paper.

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