

## **Criminalising Women, Silencing Victims: Human Rights and Sharia Enforcement in Aceh**

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### **Abstract:**

This study critically examines the role of Islamic law and local customs (*adat*) in Aceh in shaping criminalisation processes and victims' rights, particularly focusing on the protection of women. Aceh, endowed with special autonomy within Indonesia, presents a unique legal framework that blends Islamic law (*Sharia*) with indigenous customary law, creating a hybrid legal environment grounded in both religious doctrine and cultural values. Although often perceived as rigid, Acehnese Islamic law incorporates a humanist ethos that prioritises community harmony and upholds women's dignity. Using normative legal research methods, with a conceptual approach and scientific interpretation, the research evaluates the extent to which the current legal system aligns with national and international human rights standards. Specifically, it focuses on how legal norms are formulated, interpreted, and applied in cases of gender-based violence. By examining academic literature and legal analyses, this study underscores the importance of a balanced approach within Aceh's legal framework, one that respects Islamic values and cultural traditions while strengthening the protection of women's rights. The study's main contribution lies in its normative critique of Aceh's dual legal system and its recommendation to harmonise Islamic legal norms with

international human rights obligations. By proposing a rights-based recalibration of the existing framework, the research offers a pathway to enhance legal protections, improve access to justice, and ensure that Islamic law functions as a means of empowerment rather than marginalisation. This review provides critical insights into the complexities of Aceh's Islamic legal system and its broader societal implications.

**Keywords:** women; Islamic law; human rights; Acehnese; victims.

## Introduction

The enforcement of Sharia law in Aceh, Indonesia's only province granted the authority to formally implement Islamic legal codes,<sup>1</sup> has emerged as a focal point in debates concerning legal pluralism, state sovereignty, and human rights.<sup>2</sup> Since the enactment of regional bylaws (*qanun*) under the framework of Aceh's special autonomy, a growing body of research has documented how these laws disproportionately affect women and marginalised groups.<sup>3</sup> Ostensibly aimed at promoting moral order and religious observance, Sharia-based regulations in Aceh have increasingly functioned as mechanisms of social control, often criminalising behaviours that intersect with gender, sexuality, and bodily autonomy.<sup>4</sup> The criminalisation of women for immoral behaviours reflects a wound within the body of Islamic legal tradition—one that must be addressed through a just, contextual, and humanistic approach. Gender justice is not a threat to Islam; rather, it represents the realisation of Islam's fundamental principles.

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<sup>1</sup> Sehat Ihsan Shadiqin and Eka Srimulyani, "The Contested Authorities: Institution and Agency in the Enforcement of Sharia Law in Aceh, Indonesia," *Journal of Contemporary Islam and Muslim Societies* 5, no. 2 (January 14, 2022): 198–223, <https://doi.org/10.30821/jcims.v5i2.10601>; Zul Anwar Ajim Harahap, Zulfan, and Muhammad Ridwan, "Analyzing the Offense of Juvinile Khalwat in Aceh: Evaluation of Qanun Number 14 of 2003 from an Islamic Legal Perspective," *Al-Manahij: Jurnal Kajian Hukum Islam*, May 3, 2024, 79–94, <https://doi.org/10.24090/mnh.v18i1.10648>; Ibnu Elmi AS Pelu et al., "Polygamy Law Reform Through the Development of the Aceh Qanun: A New Approach to Protecting the Rights of Women and Children in Indonesia," *El-Mashlahah* 14, no. 1 (June 30, 2024): 149–68, <https://doi.org/10.23971/el-mashlahah.v14i1.7864>; Istianah Zainal Asyiqin and Yanis Rinaldi, "Local Government's Role in Aceh's Sharia Banking Transition: Legal and Institutional Perspectives," *Legality: Jurnal Ilmiah Hukum* 33, no. 1 (April 11, 2025): 244–60, <https://doi.org/10.22219/ljih.v33i1.39419>.

<sup>2</sup> Tody Sasmita Jiwa Utama, "Between Adat Law and Living Law: An Illusion of Customary Law Incorporation into Indonesia Penal System," *The Journal of Legal Pluralism and Unofficial Law* 53, no. 2 (May 4, 2021): 269–89, <https://doi.org/10.1080/07329113.2021.1945222>; Duhriah Duhriah et al., "Institutionalization of Islam and Adat: The Legal System of Hak Langgeih in Aceh," *JURIS (Jurnal Ilmiah Syariah)* 23, no. 1 (June 10, 2024): 41–53, <https://doi.org/10.31958/juris.v23i1.7482>.

<sup>3</sup> Firdaus Firdaus and Ratih Agustin Wulandari, "Implications of Low Women's Representation: Strategies and Challenges Towards Gender Equality in Indonesian Politics," *Indonesian Journal of Religion and Society* 5, no. 2 (December 30, 2023): 138–53, <https://doi.org/10.36256/ijrs.v5i2.383>; Sulastri Caniago et al., "Gender Integration in Islamic Politics: Fiqh Siyasah on Women's Political Rights since Classical to Contemporary Interpretations," *MILRev: Metro Islamic Law Review* 3, no. 2 (December 30, 2024): 411–31, <https://doi.org/10.32332/milrev.v3i2.9962>.

<sup>4</sup> Saskia E. Wieringa, "Nationalism and Two Sexual Moral Panics in Indonesia," in *Local Responses to Global Challenges in Southeast Asia* (WORLD SCIENTIFIC, 2022), 137–58, [https://doi.org/10.1142/9789811256462\\_0009](https://doi.org/10.1142/9789811256462_0009).



Women often struggle to access justice when they are the victims of crimes, particularly in cases of sexual violence and domestic abuse. Traditional Islamic legal standards place a heavy evidentiary burden on female victims, often requiring the testimony of multiple male witnesses to prove offences such as rape.<sup>5</sup> Without such testimony, women can face criminal charges, as accusations of rape may be interpreted as admissions of illicit sexual conduct.<sup>6</sup> This legal paradox leaves women vulnerable not only to violence but also to further victimisation by the defect of the justice system.<sup>7</sup> The following data from the Aceh Women and Child Protection Empowerment Office (DPPPA) states that the percentage of cases of violence against women and children in Aceh has increased by 10 per cent, starting from the COVID-19 pandemic in 2020 to 2023. According to the data received, in 2020, cases of violence against women and children reached 905 cases, while in 2021, it rose again to 924. This number further increased to 1,092 in 2022, and from January to October 2023, the violence decreased to 849.<sup>8</sup>

The Central Bureau of Statistics (BPS) report shows that Aceh Province has the highest number of rape cases in Indonesia, with 135 cases in 2022. Meanwhile, the Aceh Syariyah Court showed findings of more rape cases than the BPS report. Maximum sanctions for rapists have been established based on the applicable qanun. However, the representatives of the Human Rights National Commission (Komnas HAM) in Aceh reminded that the victims' rights must also be optimally fulfilled.<sup>9</sup> In addition to moral offences, Islamic criminal law also governs matters of personal injury and retribution through the principles of *qisās* and *diya* (monetary compensation). However, even in these cases, women remain prone to unequal treatment. For example, in traditional interpretations, the blood money paid for the wrongful killing of a woman is often set at half the amount of that for a man, reflecting a broader societal belief in the lesser value of women's lives.<sup>10</sup> These disparities in the treatment of women under Islamic criminal law raise significant concerns about gender equality and justice.<sup>11</sup>

<sup>5</sup> Mohammad Hashim Kamali, *Shari'ah Law: An Introduction*, Foundations of Islam (Oxford, England: Oneworld, 2008), 98.

<sup>6</sup> Lynn Welchman, *Women and Muslim family laws in Arab states: a comparative overview of textual development and advocacy*, ISIM series on contemporary Muslim societies (Amsterdam: Amsterdam University Press, 2007), 86–88.

<sup>7</sup> Amber Joy Powell and Michelle S. Phelps, "Gendered Racial Vulnerability: How Women Confront Crime and Criminalization," *Law & Society Review* 55, no. 3 (2021): 429–51, <https://doi.org/10.1111/lasr.12561>.

<sup>8</sup> Safrina, "Kekerasan Terhadap Perempuan Dan Anak Meningkat 10 Persen," December 12, 2023, <https://acehprov.go.id/berita/kategori/pemerintahan/kekerasan-terhadap-perempuan-dan-anak-meningkat-10-persen>.

<sup>9</sup> Aprizal Rachmad, Fahrul Marwansyah, and Rinto A Navis, "Kasus Korban Perkosaan di Aceh Tertinggi di Indonesia, Komnas HAM Ingatkan Hak Korban," tempo.co, July 11, 2024, <https://www.tempo.co/video/arsip/arsip/kasus-korban-perkosaan-di-aceh-tertinggi-di-indonesia-komnas-ham-ingatkan-hak-korban--19380>.

<sup>10</sup> E. Stark, A. Flitcraft, and W. Frazier, "Medicine and Patriarchal Violence: The Social Construction of a 'Private' Event," *International Journal of Health Services: Planning, Administration, Evaluation* 9, no. 3 (1979): 461–93, <https://doi.org/10.2190/KTLU-CCU7-BMNQ-V2KY>.

<sup>11</sup> Mohamed Sulthan Ismiya Begum et al., "Gender Equity in Muslim Family Law: Modern and Contemporary 'Ulamā's View," *Al-Ahkam* 34, no. 2 (October 31, 2024): 221–56, <https://doi.org/10.21580/ahkam.2024.34.2.20773>.



Ironically, women who are victims of sexual violence often face the risk of criminalisation if they fail to meet extremely burdensome evidentiary standards,<sup>12</sup> such as presenting four male eyewitnesses who directly witnessed the act—an almost impossible requirement in reality. In such circumstances, women who dare to report rape or sexual harassment are frequently accused of committing adultery, particularly when out-of-wedlock pregnancy is presented as evidence. In some interpretations of Sharia-based legal systems, pregnancy is not regarded as an indication that the woman was a victim but rather as proof of illicit sexual conduct if coercion or a valid marriage cannot be established.<sup>13</sup>

Indonesia offers a particularly complex case study in the application of Islamic criminal law due to its legal pluralism. While Indonesia is constitutionally a secular state, Islamic law plays a significant role in its legal scope, particularly in the province of Aceh. Aceh is unique within Indonesia, as it is the only region authorised to implement Sharia as part of its local legal system, specifically under the *Qanun Jinayat* (Islamic Criminal Code), which was enacted in 2015.<sup>14</sup> The *Qanun Jinayat* serves as a central point for understanding how Islamic criminal law intersects with women's rights in Indonesia. While Aceh's implementation of Sharia is often framed as a reflection of the region's cultural and religious identity, it raises significant concerns regarding gender equality and human rights.<sup>15</sup> Moreover, female victims of sexual violence in Aceh face legal obstacles that make it difficult to pursue justice, as the evidentiary requirements in cases of rape are so stringent that women are often reluctant to come forward.<sup>16</sup>

Regarding women's issues and victim protection, the study conducted by Syarifah Rahmatillah Aljamalulail, Faisal A. Rani, and Muazzin explores the legal, political policies and procedures surrounding the effective fulfilment of restitution rights for rape victims in Aceh.<sup>17</sup> The second study by Khairul Hasni analyses the impact of the Sharia legal system on women, both legally and socially. It investigates gender discrimination within criminal law as well as the increasing trend of violence

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<sup>12</sup> Paul Kirby, "Ending Sexual Violence in Conflict: The Preventing Sexual Violence Initiative and Its Critics," *International Affairs* 91, no. 3 (May 1, 2015): 457–72, <https://doi.org/10.1111/1468-2346.12283>.

<sup>13</sup> Faradilla Fadlia and Ismar Ramadani, "The Qanun Jinayat Discriminates Against Women (Victims of Rape) in Aceh, Indonesia," *Journal of Southeast Asian Human Rights* 2, no. 2 (December 1, 2018): 448–70, <https://doi.org/10.19184/jseahr.v2i2.8358>.

<sup>14</sup> Kurnia Warman, Saldi Isra, and Hilaire Tegnan, "Enhancing Legal Pluralism: The Role of Adat and Islamic Laws Within the Indonesian Legal System," *Journal of Legal, Ethical and Regulatory Issues* 21, no. 3 (May 23, 2018), <https://www.abacademies.org/abstract/enhancing-legal-pluralism-the-role-of-adat-and-islamic-laws-within-the-indonesian-legal-system-7242.html>.

<sup>15</sup> Kristina Großmann, "Women's Rights Activists and the Drafting Process of the Islamic Criminal Law Code (Qanun Jinayat)," in *Islam and the Limits of the State* (Brill, 2016), 87–117, [https://doi.org/10.1163/9789004304864\\_005](https://doi.org/10.1163/9789004304864_005).

<sup>16</sup> Muzakkir Muzakkir, "Dawn of Justice: Evaluating the Alignment of Women and Children in Aceh's Qanun Jinayat," *Al-Ahkam* 32, no. 2 (October 30, 2022): 131–52, <https://doi.org/10.21580/ahkam.2022.32.2.12130>.

<sup>17</sup> Syarifah Rahmatillah Aljamalulail, Faisal A. Rani, and Muazzin Muazzin, "The Politics of Law on the Fulfillment of Restitution Rights for Rape Victims Based on the Qanun Jinayat in Aceh," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (March 31, 2024): 299–316, <https://doi.org/10.22373/sjhk.v8i1.16307>.



against women from 2005 to 2019.<sup>18</sup> The third study by Iim Halimatusa'diyah and Windy Triana discusses sexism and women's access to justice: feminist judgments in Indonesia's Islamic judiciary. The article asserts that feminist judicial practices are crucial to ensuring women's access to justice and that female judges tend to employ feminist reasoning more frequently than their male counterparts.<sup>19</sup> This present study, however, differs in its focus by highlighting the ideological and patriarchal dimensions embedded within legal norms themselves and critically examining whether a legal system claimed to be based on religion can indeed provide substantive justice for female victims in Aceh, including how such a system constructs women as legal subjects.

The novelty of this study lies in its critical examination of the impact of Islamic criminal law on the criminalisation of women and their rights as victims in Indonesia, with a specific focus on Aceh. By analysing how Islamic law is implemented and its interaction with local customary practices, this paper aims to explore the challenges women face in navigating a legal system that often prioritises religious and moral concerns over gender equality. This study also examines the broader implications of legal pluralism in Indonesia, where national law, Islamic principles, and local customs coexist, resulting in a complex legal landscape that disproportionately affects women. Through this analysis, the paper aims to highlight the pressing need for legal reforms that provide enhanced protection for women's rights within the framework of Islamic law in Indonesia. Based on the above background, this study focuses on several key issues: the relationship between Islamic law, women's rights, and the role of customary traditions within the legal system in Aceh. The research analyses the dimensions of Islamic law in Aceh regarding the fulfilment of women's rights, the challenges faced by female victims of sexual violence in seeking justice, and the role of customary practices in shaping and influencing legal practices concerning women. This study makes a significant contribution to the literature on Islamic law and gender justice in Aceh by shifting the focus from issues of moral regulation and political Islam to the analysis of victims' rights within the Islamic criminal justice system. It also engages with Critical Islamic Legal Theory as an analytical foundation for critiquing the prevailing Islamic legal structures in Aceh, while remaining within an Islamic framework. This approach enables a more inclusive, gender-just, and victim-centred understanding of the law. The study adopts a victim-based approach that integrates Islamic jurisprudence with human rights frameworks.

## Methods

This study employs a normative legal research method,<sup>20</sup> combined with a qualitative analytical approach, to examine the relationship between criminalisation,

<sup>18</sup> Khairul Hasni, "English Sharia Police: Gender Discrimination, and Elite Politics in Aceh," *Al-Hayat: Journal of Islamic Education* 4, no. 1 (June 26, 2020): 30–43, <https://doi.org/10.35723/ajie.v4i1.57>.

<sup>19</sup> Iim Halimatusa'diyah and Windy Triana, "Sexism and Women's Access to Justice: Feminist Judging in Indonesian Islamic Judiciary," *Women's Studies International Forum* 103 (March 1, 2024): 102883, <https://doi.org/10.1016/j.wsif.2024.102883>.

<sup>20</sup> M. Yakub Aiyub Kadir et al., "The Interplay of Human Trafficking and the Rohingya Refugee Crisis in Aceh Province, Indonesia: Exploring the Complexities of Criminality and Humanitarian Concerns," *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 1 (April 29, 2024): 122–45, <https://doi.org/10.29303/ius.v12i1.1355>; Khoirul Hidayah et al., "Regulatory Model for Taxation



victims' rights, and gender justice under Islamic law in Aceh. Normative legal research is appropriate for analysing legal texts, principles, and doctrines to assess whether existing laws align with theoretical foundations of justice and legal protection, particularly within Islamic jurisprudence.<sup>21</sup> This study also employs a conceptual approach, focusing on the interpretation and critical examination of fundamental legal concepts. The conceptual approach complements the qualitative analysis of legal materials and literature review by providing a theoretical framework for interpreting and analysing legal texts.<sup>22</sup> By clarifying essential legal concepts, the conceptual approach helps resolve ambiguities and enhances the precision of legal arguments.

This study utilises secondary data sources that refer to information obtained or collected from existing sources. These data are derived from library materials, literature, previous research, books, and similar references.<sup>23</sup> The secondary data used in this research consist of the following: First, primary legal materials, such as the Qur'an, Hadith, Law Number 11 of 2006 concerning the Governance of Aceh, Law Number 12 of 2022 concerning the Crime of Sexual Violence, Qanun Number 6 of 2009 concerning Women's Empowerment, and Qanun Number 6 of 2014 concerning Jinayat Law; second, secondary legal materials, which encompass all legal publications such as textbooks that discuss the fundamental principles of legal science, legal philosophy, and classical views of legal scholars concerning justice for women in Aceh, criminalisation, and the rights of victims under Islamic law; third, tertiary legal materials, including legal dictionaries, newspapers, and internet sources that are relevant to the research.

The data processing method in this research involves citing references to be presented as research findings, abstracting them for comprehensive information, and interpreting them to generate knowledge for conclusions.<sup>24</sup> This data processing includes an editing stage, which entails reviewing and examining the data to ensure its validity and accountability according to factual reality. The data analysis method in this study involves a systematic processing of research materials for a comprehensive examination. The method employed for analysis is qualitative.<sup>25</sup> A

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of Non-Fungible Token Digital Assets as Creative Works in Indonesia," *Jambura Law Review* 7, no. 2 (March 20, 2025): 336–58, <https://doi.org/10.33756/jlr.v7i2.28678>.

<sup>21</sup> Michael D. Bayles, *Principles of Law*, vol. 5, Law and Philosophy Library (Dordrecht: Springer Netherlands, 1987), <https://doi.org/10.1007/978-94-009-3775-8>.

<sup>22</sup> Theresia Anita Christiani, "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object," *Procedia - Social and Behavioral Sciences*, 3rd Global Conference on Business and Social Sciences (GCBSS-2016) on "Contemporary Issues in Management and Social Sciences Research", Kuala Lumpur, Malaysia, 219 (May 31, 2016): 201–7, <https://doi.org/10.1016/j.sbspro.2016.05.006>.

<sup>23</sup> Andrew England, "Quantitative and Qualitative Research Methods," in *Research for Medical Imaging and Radiation Sciences*, ed. Euclid Seeram et al. (Cham: Springer International Publishing, 2021), 71–96, [https://doi.org/10.1007/978-3-030-79956-4\\_5](https://doi.org/10.1007/978-3-030-79956-4_5).

<sup>24</sup> Rebecca Popenoe et al., "A Practical Guide to Data Analysis in General Literature Reviews," *Nordic Journal of Nursing Research* 41, no. 4 (December 1, 2021): 175–86, <https://doi.org/10.1177/2057158521991949>.

<sup>25</sup> Hari Sutra Disemadi, "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies," *Journal of Judicial Review* 24, no. 2 (November 30, 2022): 289–304, <https://doi.org/10.37253/jjr.v24i2.7280>.



qualitative approach involves analysing the systematically presented findings through the study of legal theory and positive law. This approach aims to explain legal research issues in a logical, scientific, and easily understandable manner.

## Results and Discussion

### Islamic Law and Women's Rights in Aceh

Aceh has long been regarded as the stronghold of Islam in Indonesia, often referred to as the “Verandah of Mecca.” Historically, Islamic law was part of the region's local governance even before colonial times. However, the modern reintroduction of Sharia law in Aceh was catalysed by the post-Suharto era of Indonesian decentralisation. In 2001, Aceh was granted special autonomy, allowing the local government to enforce Sharia law as part of its legal system. This political concession aimed to quell separatist movements by granting Aceh the right to self-governance in matters of religion and culture.<sup>26</sup> The rights of women are fundamentally a crucial aspect within the framework of Islamic law. Islam, as a religion that acknowledges the rights and responsibilities of every individual—including women, provides a clear legal foundation regarding the protection of women's rights within the family context.<sup>27</sup> However, in practice, there are often cases of gender-based discrimination affecting the implementation of these rights. The importance of protecting women's rights in the family stems not only from religious values but also from humanitarian principles and the pursuit of social justice.

It is essential to foster public awareness regarding women's rights in Islam. Education is vital in transforming perceptions and reducing gender discrimination. Several Muslim-majority countries have implemented legal reforms aimed at enhancing the protection of women's rights.<sup>28</sup> It remains crucial to continuously update and develop laws that promote gender equality, particularly in the context of Aceh. The legal foundation for implementing the *Qanun Jinayat* in Aceh is rooted in Law Number 44 of 1999 concerning the Special Autonomy of Aceh and is further

<sup>26</sup> Putri Rahmah Nur Hakim, Irwan Abdullah, and Lina Marlina, “Aceh and the Politics of Islamic Identity: Implications for Social and Political Dynamics,” *Jurnal Politik Profetik* 12, no. 2 (September 25, 2024): 98–115, <https://doi.org/10.24252/profetik.v12i2a1>; Safaruddin Safaruddin et al., “The Implementation of the Aceh Special Autonomy Policy towards Poverty Alleviation in Aceh,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 1 (March 30, 2025): 597–616, <https://doi.org/10.22373/sjhk.v9i1.23088>.

<sup>27</sup> Saleha M. Abedin, “Women in Search of Equality, Development and Peace: A Critical Analysis of the Platform for Action, Fourth World Conference on Women, and the Islamic Perspective,” *Journal of Muslim Minority Affairs* 16, no. 1 (January 1, 1996): 73–98, <https://doi.org/10.1080/13602009608716329>.

<sup>28</sup> Asif Mohiuddin, “Human Rights Law in Muslim Majority Countries: An Assessment,” in *Human Rights Law in Egypt and Malaysia: Freedom of Religion and Expression, Volume 1*, ed. Asif Mohiuddin (Cham: Springer Nature Switzerland, 2024), 35–74, [https://doi.org/10.1007/978-3-031-63859-6\\_2](https://doi.org/10.1007/978-3-031-63859-6_2); Abdighani Abdikarim Ahmed, “Evaluation of Family Law Reform in Muslim-Majority Countries and Somali: The Case of Somali Socialist Family Law Reforms towards Women's Rights,” *Karadeniz Ekonomi Araştırmaları Dergisi* 5, no. 1 (July 30, 2024): 35–46; Yusida Fitriyati et al., “Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah,” *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 25, no. 1 (May 1, 2025): 122–40, <https://doi.org/10.19109/nurani.v25i1.27133>; Nur Faizah et al., “The Role of Indonesian Women Ulama Congress (KUPI) in the Search for Gender Equality-Based Islamic Law,” *Al-'Adalah* 21, no. 2 (December 25, 2024): 323–46, <https://doi.org/10.24042/adalah.v21i2.23698>.



reinforced by Law Number 11 of 2006 concerning the Governance of Aceh. The *Qanun Jinayat* represents one of the key instruments for the application of Islamic law in the Province of Aceh, as stipulated in Qanun Number 6 of 2014. The enforcement of this law reflects the regional government's efforts to integrate Islamic values into the local legal system while simultaneously preserving the Islamic identity of the Acehnese society.

Nevertheless, the implementation of the *Qanun Jinayat* is not without challenges. On the one hand, this law is regarded as effective in strengthening public morality and reducing certain types of crime. On the other hand, it has faced criticism concerning issues such as gender discrimination, incompatibility with human rights principles, and instances of law enforcement that are perceived as lacking transparency or fairness.<sup>29</sup> According to the Fatwa of the Majelis Permusyawaratan Ulama Aceh Number 27 of 2015 on the Protection of Women and Children from the Perspectives of Sharia, Custom, and Psychology, any form of violence against women and children is considered haram (forbidden) and direct contradiction with Acehnese customary values (*Adat Aceh*). The fatwa affirms that Acehnese customs are congruous with the principles of Islamic Sharia.

Violent acts that result in physical or psychological harm to women and children are classified as criminal behaviour. However, disciplinary actions that are educational in intent, do not cause negative impacts, and do not inflict physical or psychological harm are deemed permissible under both religious and cultural frameworks. The fatwa also states that psychological guidance aimed at fostering awareness and development in children is acceptable and encouraged. In contrast, sexual harassment directed toward women and children is a forbidden act (haram) and is subject to Sharia-based punishment (*Uqubat Syar'iyah*). Furthermore, neglecting to prevent or allowing immoral acts (*maksiat*) to take place is considered contravening both national legislation and Islamic Sharia.

In light of the fundamental principles outlined in Islam regarding family life, it is evident that all forms of violence against women stand in direct contradiction to these values.<sup>30</sup> This implies that men (husbands) who commit acts of violence can be deemed as committing grave sins for violating the foundational teachings of the religion. Such behaviour warrants moral condemnation and deserves to be prosecuted in a criminal court. Despite the strong cultural affinity to Islam in Aceh, the formal implementation of Sharia law, especially in areas like public morality and personal conduct, has stirred controversy. For women, Sharia law in Aceh manifests most visibly in areas like dress code enforcement, restrictions on public behaviour, and gendered expectations in the public sphere. A humanist interpretation of Islamic law emphasises the principles of justice, compassion, and respect for human dignity.

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<sup>29</sup> Dian Andi Nur Aziz et al., "Examining Qanun in Aceh from a Human Rights Perspective: Status, Substance and Impact on Vulnerable Groups and Minorities," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (June 5, 2023): 37–56, <https://doi.org/10.18326/ijtihad.v23i1.37-56>; Muhibbuthabary et al., "The Implementation of the Caning Law in Aceh: Is It More Effective?," *PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH* 8, no. 2 (November 1, 2023): 159–74, <https://doi.org/10.22373/petita.v8i2.210>.

<sup>30</sup> Emma Fulu and Stephanie Miedema, "Violence Against Women: Globalizing the Integrated Ecological Model," *Violence Against Women* 21, no. 12 (December 2015): 1431–55, <https://doi.org/10.1177/1077801215596244>.



It seeks to contextualise Sharia in a way that prioritises the well-being of individuals, particularly vulnerable groups like women, rather than rigidly adhering to punitive measures. Humanism within Islamic thought is not antithetical to Sharia; rather, it represents a moral and ethical framework that aligns with key Islamic values, such as mercy (*rahmah*) and the pursuit of justice (*adl*).

In the context of Aceh, a humanist approach to Sharia law would demand a reevaluation of current legal practices that disproportionately affect women. Instead of focusing on punitive measures like caning, a humanist perspective would advocate for legal interpretations that protect women's rights, promote their welfare, and respect their agency. Such an approach is not without precedent in Islamic jurisprudence, which has a rich tradition of *ijtihad* (independent reasoning) to adapt legal principles to changing contexts. Islamic criminal law, also known as *Sharia*, has shaped legal systems across Muslim-majority countries, including Indonesia. However, Indonesia presents a unique case due to its legal pluralism, where Islamic law coexists alongside national and customary laws (*adat*). The application of Sharia in Indonesia is most pronounced in Aceh Province, where Islamic criminal law is implemented under the framework of regional autonomy. In Aceh, specific regulations, including the *Qanun Jinayat* (Islamic Criminal Law Code), have raised concerns regarding the criminalisation of women and their rights as victims under the law. Aceh is the only province in Indonesia that implements full-fledged Islamic criminal law and has been granted special autonomy following the 2005 peace agreement between the Indonesian government and the Free Aceh Movement (GAM).<sup>31</sup>

While Aceh is the only region in Indonesia that formally implements *hudud*<sup>32</sup> punishments, the interpretation and application of Islamic law vary across different regions. Other provinces, particularly in Java and Sumatra, continue to exert significant influence from Islamic law in local legal practices although the national legal framework remains secular. The existence of Islamic courts, which adjudicate family and personal status matters, further demonstrates the influence of Sharia in Indonesia. These courts often reflect conservative interpretations of Islamic law, particularly concerning issues of morality, modesty, and women's conduct.<sup>33</sup> The lack of legal assistance for women in conflict with the law in Aceh has significantly impacted their right to justice as victims. Although Aceh has enacted *Qanun* on the empowerment and protection of women and children, which principally grants protective rights to women, such protection, particularly in the form of legal aid, is often unavailable when women are involved in legal proceedings. As a result, legal protection for women is not effectively applied in the enforcement of the *Qanun Jinayat*, leaving the Aceh government's commitment to protecting women unfulfilled.

<sup>31</sup> Danial Danial, "Criminalization in Islamic Penal Code: A Study of Principles, Criminalization Methods, and Declining Variations," *Jurnal Ilmiah Peuradeun* 11, no. 3 (September 30, 2023): 1005–26, <https://doi.org/10.26811/peuradeun.v11i3.1058>.

<sup>32</sup> Farrukh B. Hakeem, M. R. Haberfeld, and Arvind Verma, "The Concept of Punishment Under Sharia," in *Policing Muslim Communities: Comparative International Context*, ed. Farrukh B. Hakeem, M.R. Haberfeld, and Arvind Verma (New York, NY: Springer, 2012), 7–21, [https://doi.org/10.1007/978-1-4614-3552-5\\_2](https://doi.org/10.1007/978-1-4614-3552-5_2).

<sup>33</sup> Simon Butt, "Religious Conservatism, Islamic Criminal Law and the Judiciary in Indonesia: A Tale of Three Courts," *The Journal of Legal Pluralism and Unofficial Law* 50, no. 3 (September 2, 2018): 402–34, <https://doi.org/10.1080/07329113.2018.1532025>.



The absence of adequate legal safeguards poses a threat to achieving gender equality.<sup>34</sup>

Criminalisation of women in Indonesia, in the cases of sexual and moral offences, is not confined to Aceh. There have been cases across Indonesia where women have been penalised under local *adat* laws that align closely with Islamic principles regarding sexual morality. These local customs, though not formally part of the national legal framework, often result in the punishment of women for offences such as premarital sex or unwed pregnancy, reflecting the strong influence of Islamic morality in shaping societal expectations.<sup>35</sup> Several high-profile cases in Aceh highlight the disproportionate criminalisation of women under Islamic criminal law. In one case, a young woman was sentenced to public caning after being accused of committing *zina*<sup>36</sup> with a man who was found in her home. Despite her claims that the man was an intruder, the lack of witnesses to support her version of events led to her conviction under the *Qanun Jinayat*. This case illustrates the challenges women face in defending themselves against accusations of moral transgressions, particularly in a legal environment that heavily favours male testimony.<sup>37</sup>

Another case involved a young couple publicly caned for engaging in physical affection in public, an act deemed to violate Aceh's moral laws. The woman, in this case, was reportedly subjected to greater scrutiny and social condemnation than the man, reflecting the broader societal expectation that women are the guardians of morality.<sup>38</sup> These cases underscore how Islamic criminal law in Indonesia, particularly in Aceh, reinforces traditional gender norms that place a disproportionate burden on women to uphold public morality. The implementation of Sharia law in Aceh, particularly its impact on women, raises significant ethical and legal questions. While Islamic law is an integral part of Aceh's cultural and religious identity, its application has, in many cases, disproportionately affected women, treating them as moral subjects rather than as autonomous individuals deserving of protection and respect. A humanist approach to Sharia, rooted in Islamic principles of justice, mercy, and human dignity, offers a path forward that can

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<sup>34</sup> Munawiah Abdullah et al., "Legal Protection and Family Resilience of Women Victims of Post-Peace Conflict in Aceh: A Study of Gender Approach," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (June 13, 2022): 56, <https://doi.org/10.22373/sjhk.v6i1.12401>; Mursyid Djawas et al., "The Position of Non-Muslims in the Implementation of Islamic Law in Aceh, Indonesia," *AHKAM: Jurnal Ilmu Syariah* 23, no. 1 (June 19, 2023), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/32127>.

<sup>35</sup> M. B. Hooker, *Indonesian Syariah: Defining a National School of Islamic Law* (Singapore: Institute of Southeast Asian Studies, 2008).

<sup>36</sup> Hina Azam, "Rape as a Variant of Fornication (Zinā) In Islamic Law: An Examination of the Early Legal Reports," *Journal of Law and Religion* 28, no. 2 (January 2013): 441–66, <https://doi.org/10.1017/S0748081400000102>.

<sup>37</sup> Dedy Sumardi, Ratno Lukito, and Moch Nur Ichwan, "Legal Pluralism within The Space of Sharia: Interlegality of Criminal Law Traditions in Aceh, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (June 30, 2021): 426–49, <https://doi.org/10.22373/sjhk.v5i1.9303>.

<sup>38</sup> Maria Platt, Davies ,Sharyn Graham, and Linda Rae and Bennett, "Contestations of Gender, Sexuality and Morality in Contemporary Indonesia," *Asian Studies Review* 42, no. 1 (January 2, 2018): 1–15, <https://doi.org/10.1080/10357823.2017.1409698>.



reconcile religious values with the protection of women's rights.<sup>39</sup> By reinterpreting Sharia law from a humanist perspective, Aceh could develop a legal system that respects women's autonomy, protects them from violence and discrimination, and promotes a more inclusive and just society. This requires a shift away from punitive measures, such as public caning and moral policing, and towards legal practices that prioritise education, compassion, and the dignity of all individuals, particularly women.

### Challenges for Female Victims of Sexual Violence

Adat in Aceh has a longstanding presence, intertwining with Islamic values to create a hybrid legal culture that affects social and legal interactions. Adat in Aceh is more than just a traditional set of beliefs; it is a normative system that underpins both informal social norms and formal legal practices, particularly in rural areas.<sup>40</sup> The coexistence of *adat* and Islamic law reflects a dual legal system that shapes communities' perception and enforcement of laws related to women's rights and protection. The role of *adat* in protecting women is complex and multi-faceted. While *adat* can reinforce protective measures, it can also perpetuate gender biases, limiting women's autonomy and rights. As Buehler and Muhtada observe, the application of *adat* often depends on the interpretations of local leaders who may or may not support progressive views on women's rights.<sup>41</sup> The influence of *adat* is particularly evident in cases involving family disputes, inheritance rights, and domestic violence. In these cases, the informal mechanisms provided by *adat* sometimes offer faster and more culturally resonant resolutions than formal legal procedures. However, the reliance on *adat* can also lead to inconsistencies and subjective interpretations that may fail to provide sufficient protection for women, especially in cases of violence and discrimination.<sup>42</sup>

The discrimination experienced by female victims under such conditions is inconsistent with the Aceh Government's commitment to protecting women, as mandated by Article 231 of Law Number 11 of 2006 and Qanun Number 6 of 2009. These regulations emphasise the empowerment and protection of women based on principles aimed at ensuring justice and achieving gender equality, including the protection and fulfilment of victims' rights. Consequently, the objective of guaranteeing that women can enjoy their fundamental human rights and feel safe in all aspects of life can be realised as part of the implementation of the 1945 Constitution of the Republic of Indonesia and the State's obligations following the ratification of CEDAW (Convention on the Elimination of All Forms of Discrimination against Women) to eliminate discrimination against women. In the

<sup>39</sup> Muhammad Amin Suma, Ridwan Nurdin, and Irfan Khairul Umam, "The Implementation of Shari'a in Aceh: Between the Ideal and Factual Achievements," *AHKAM: Jurnal Ilmu Syariah* 20, no. 1 (June 30, 2020), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/14704>.

<sup>40</sup> Muhammad Nasir and Budi Juliandi, "The Practice of Walimat Al-'Urs: Competing Sharia and Tradition in Aceh," *Journal of Contemporary Islam and Muslim Societies* 5, no. 2 (January 14, 2022): 290, <https://doi.org/10.30821/jcims.v5i2.9341>.

<sup>41</sup> Michael Buehler and Dani Muhtada, "Democratization and the Diffusion of Shari'a Law: Comparative Insights from Indonesia," *South East Asia Research* 24, no. 2 (June 2016): 261–82, <https://doi.org/10.1177/0967828X16649311>.

<sup>42</sup> Sita Hidayah, "From Unity in Diversity to Culture Wars? Aceh Women's Mastery over *Adat*, Islam, and the State Inheritance Laws," *Women's Studies International Forum* 103 (March 1, 2024): 102881, <https://doi.org/10.1016/j.wsif.2024.102881>.



context of Aceh, Law Number 11 of 2006 concerning the Governance of Aceh grants regional authority to implement Islamic law while adhering to the principles of human rights. Article 231 specifically stipulates the necessity of protecting and empowering women as an integral part of regional development policy.

When referring to the increase in cases of violence against women that occur in Aceh, as well as the various impacts experienced by victims, including the further impacts received by victims due to the non-optimality of handling and services in the process of fulfilling victims' rights, it can be said that the Aceh Government does not adequately fulfil its commitment and responsibility towards efforts to protect and fulfil the rights of women, especially women and girls who are victims of violence against women.<sup>43</sup> The violence against women today remains common in the province of Aceh, where the local government should be able to present its role in dealing with violence against women to ensure the same thing does not recur continuously and able to guarantee women's rights. The data from the Gender and Child Information System (SIGA) of the Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia shows cases and victims of violence against women in Aceh in 2024 (Table 1)

**Table 1.** Number of Cases and Victims of Violence against Women in Aceh in 2024

No	District/City	Number of Cases	Number of Victims
1	West Aceh Regency	21	22
2	Southwest Aceh Regency	14	14
3	Aceh Besar Regency	13	13
4	Aceh Jaya Regency	4	4
5	Aceh Singkil Regency	5	5
6	South Aceh Regency	3	3
7	Aceh Tamiang Regency	17	17
8	Southeast Aceh Regency	2	2
9	East Aceh Regency	27	27
10	Central Aceh Regency	39	39
11	North Aceh Regency	86	86
12	Bener Meriah Regency	36	36
13	Bireuen Regency	33	34
14	Gayo Lues Regency	5	5
15	Nagan Raya Regency	19	19
16	Pidie Regency	9	9
17	Pidie Jaya Regency	7	7
18	Simeulue Regency	0	0
19	Banda Aceh	62	62
20	Langsa	37	37
21	Lhokseumawe	31	31

<sup>43</sup> Asiah Uzia et al., "Menjelajur Pengalaman Kekerasan Perempuan Di Aceh: Perjuangan Tiada Henti Meniti Keadilan: Catatan Dua Tahun Terakhir, 2011-2012 Kekerasan Terhadap Perempuan Di Aceh" (Jakarta: Komnas Perempuan, 2013).



22	Sabang	7	7
23	Subulussalam	11	1
	Total	488	480

**Source:** Sistem Informasi Gender dan Anak (SIGA) Kementerian Pemberdayaan Perempuan dan Anak RI, 2024.

The statistical data from 2024 reveals a clear concentration of violence against women in several regions of Aceh. The most notable is the Regency of the North Aceh, which alone accounts for 86 cases, representing 17.6% of the total cases reported across the province. This is followed by Banda Aceh, the provincial capital, which reports 62 cases or approximately 12.7% of the total. Other districts, such as Central Aceh Regency and Langsa, with 39 and 37 cases, respectively, also demonstrate significantly high numbers. The prevalence of cases in these regions may indicate two overlapping realities: first, a genuinely higher incidence of violence against women; second, the presence of better institutional mechanisms, such as access to reporting systems, legal services, and public awareness campaigns, which facilitate the documentation and response to such incidents. These areas might have more active civil society organisations, women's advocacy networks, or better-trained law enforcement personnel.

In contrast, certain regions report alarmingly low or even zero cases, raising concerns about systematic underreporting rather than the absence of violence itself. Simeulue Regency stands out with zero cases, while Kabupaten Aceh Tenggara and Kabupaten Aceh Selatan report only two and three cases, respectively. Such figures are statistically improbable in the broader context of gender-based violence in Indonesia and suggest the influence of cultural stigma, geographic isolation, or limited institutional outreach, which may discourage or prevent victims from coming forward. The lack of support infrastructure, such as legal aid services and shelter facilities, further compounds this invisibility.

Moreover, the data exhibits notable inconsistencies that point to administrative and procedural weaknesses. For instance, Bireuen Regency shows 33 cases with 34 victims, which could imply that at least one case involved multiple victims, possibly a family or group-related incident. In a more perplexing case, Subulussalam reports 11 cases but only one victim, an inconsistency that likely stems from data input errors or misclassification. These anomalies underscore the need for improved data management, including standardised reporting protocols, trained personnel, and monitoring systems to ensure the accuracy and reliability of gender-based violence data.

**Table 2.** Forms of Violence Against Women in Aceh

No	Type of Violence	Description
1	Domestic Violence	Violence occurring within the household, often involving intimate partners.
2	Physical Violence	Acts causing physical harm, such as hitting, slapping, or beating.
3	Psychological Violence	Emotional abuse, including threats, humiliation, or verbal harassment.
4	Neglect	Failure to provide basic needs such as food, shelter, or medical care.



5	Rape	Non-consensual sexual intercourse, often involving force or coercion.
6	Sexual Violence	Unwanted sexual acts or advances not classified as rape.
7	Others	Other forms of abuse not categorised above, possibly including economic abuse.

**Source:** Dinas Pemberdayaan Perempuan dan Perlindungan Anak Aceh

The Indonesian government officially recognises *adat* and allows its principles to coexist with national laws, especially in regions like Aceh that hold special autonomous status. This coexistence is not without challenges, as formal legal frameworks may conflict with local customs, creating a complex dynamic that influences legal outcomes. In some instances, *adat* may align with formal laws to provide additional protection for women, but in other cases, it may contradict national or international standards, compromising women's rights. As a study by Simonetti illustrates, the interplay between *adat* and national laws requires careful navigation to ensure that women's rights are consistently upheld across both formal and informal systems.<sup>44</sup> The role of *adat* in shaping legal outcomes for women in Aceh highlights both the potential and the limitations of relying on local customs for protection. *Adat*'s influence reflects the cultural and social values of the community, providing a framework for handling legal matters in a way that resonates with the local populace. However, while *adat* can enhance the protection of women, it can also perpetuate patriarchal norms that limit women's rights. Future legal reforms in Aceh may benefit from a balanced integration of *adat* with formal legal standards, ensuring that women receive consistent and fair protection across both customary and formal systems.

Female victims of sexual violence in Indonesia, particularly in regions where Islamic law is applied, face significant legal and social barriers in seeking justice. Islamic criminal law, as applied in Aceh, adheres to stringent evidentiary requirements in cases of rape and other forms of sexual violence. Victims must provide four male witnesses to substantiate their claims, a standard that is nearly impossible to meet in most cases. As a result, women who come forward with allegations of rape often face the risk of being prosecuted for *zina* if they cannot meet the evidentiary burden.<sup>45</sup> The *Qanun Jinayat* does not comprehensively regulate sexual violence crimes, as it only addresses sexual harassment and rape. Its regulatory focus is primarily on punishing perpetrators without sufficient attention to the rights and needs of the victims.<sup>46</sup> Moreover, the handling of such cases often fails to be victim-centred. For example, the burden of proof is frequently placed on the victim, which further exacerbates their vulnerability within the legal process.

<sup>44</sup> Didik Sukriono et al., "Local Wisdom as Legal Dispute Settlement: How Indonesia's Communities Acknowledge Alternative Dispute Resolution?," *Legality: Jurnal Ilmiah Hukum* 33, no. 1 (April 15, 2025): 261–85, <https://doi.org/10.22219/ljih.v33i1.39958>.

<sup>45</sup> Tim Lindsey, "Islamization, Law, and the Indonesian Courts: The More Things Change ...," in *Routledge Handbook of Contemporary Indonesia* (Routledge, 2018).

<sup>46</sup> Hasnil Basri Siregar, "Islamic Law in a National Legal System: A Study on the Implementation of Shari'ah in Aceh, Indonesia," *Asian Journal of Comparative Law* 3 (January 2008): 1–26, <https://doi.org/10.1017/S2194607800000156>.



This legal environment discourages women from reporting sexual violence and perpetuates a culture of impunity for perpetrators. In many cases, victims are further victimised by the legal process itself, facing public shaming and social ostracism. The fear of retaliation or being labelled as immoral often silences victims, leading to the underreporting of sexual violence in Aceh and other conservative regions of Indonesia.<sup>47</sup> One of the most significant challenges for female victims under Islamic criminal law is the weight given to their testimony. In many interpretations of Sharia, a woman's testimony is considered half that of a man's, based on Quranic injunctions related to financial transactions. This principle has been applied to criminal cases in various contexts, resulting in an imbalance in the valuation of male and female testimonies in court. In Aceh, the requirement for four male witnesses in cases of rape or adultery makes it nearly impossible for women to successfully pursue charges of sexual violence.<sup>48</sup>

This disparity in evidentiary standards reflects broader gender inequalities within Islamic law and poses significant barriers to justice for women. Moreover, the social stigma attached to women who come forward with allegations of sexual violence further discourages them from seeking legal recourse. Women who report sexual violence often find their testimonies dismissed or disbelieved, leading to a lack of accountability for perpetrators and a deepening of the culture of impunity.<sup>49</sup> Proving acts of sexual violence in any form has long been extremely difficult. The Criminal Procedure Code stipulates the principle of valid evidence, which includes witness testimony, documents, indications, expert opinions, and the defendant's confession. The defendant has the right to remain silent or to provide a statement. Furthermore, any confession made by the defendant must be corroborated by other evidence. In practice, the defendant's alibi or denial of allegations of sexual harassment or rape often leads to the termination of legal proceedings.

Secondary victimisation, where victims of crime are further harmed by the legal process, is a significant issue for women under Islamic criminal law in Indonesia. Women who report crimes such as rape or sexual harassment often find themselves subjected to public scrutiny and moral judgment, with their personal behaviour and character being called into question. This secondary victimisation is particularly prevalent in conservative regions like Aceh, where women's behaviour is closely monitored, and any deviation from strict moral codes is harshly penalised.<sup>50</sup> In many cases, women who come forward with accusations of sexual violence are viewed as humiliating their families and communities, leading to social ostracism or even retaliation. This creates a powerful disincentive for women to seek justice, as the consequences of pursuing a legal case may be more damaging than the crime itself.

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<sup>47</sup> Jessica Johnson, and Ian Fairweather, *An Analysis of Saba Mahmood's Politics of Piety: The Islamic Revival and the Feminist Subject*, Macat Library, 2017.

<sup>48</sup> Yogi Febriandi, Muhammad Ansor, and Nursiti Nursiti, "Seeking Justice Through Qanun Jinayat: The Narratives of Female Victims of Sexual Violence in Aceh, Indonesia," *QIJIS (Quidus International Journal of Islamic Studies)* 9, no. 1 (July 29, 2021): 103–40, <https://doi.org/10.21043/qjjis.v9i1.8029>.

<sup>49</sup> Ziba Mir-Hosseini, "Muslim Women's Quest for Equality: Between Islamic Law and Feminism," *Critical Inquiry* 32, no. 4 (June 2006): 629–45, <https://doi.org/10.1086/508085>.

<sup>50</sup> Michael G. Peletz, *Sharia Transformations: Cultural Politics and the Rebranding of an Islamic Judiciary* (California: Univ of California Press, 2020).



As a result, many women choose to remain silent, allowing perpetrators to go unpunished and perpetuating the cycle of violence.<sup>51</sup>

In many Muslim-majority societies, cultural stigmas surrounding sexual violence create additional barriers for victims. Women who are victims of sexual violence are often blamed for their assault, facing intense social pressure and shame. This victim-blaming is rooted in deeply entrenched patriarchal values that prioritise female modesty and chastity over individual rights and justice. As a result, many women are reluctant to report sexual violence, fearing that they will be shamed or ostracised by their communities. Islamic teachings, when interpreted from a humanist perspective, strongly oppose this culture of blame and shame. The Prophet Muhammad (peace be upon him) famously said, “Do not harm women” (reported in Abu Dawood), underscoring the importance of protecting and respecting women in all aspects of life. Furthermore, the Quran repeatedly emphasises the importance of justice and compassion for the oppressed, calling on believers to defend those who are wronged. A humanist interpretation of Islamic law would seek to dismantle the cultural stigmas surrounding sexual violence, promoting a more compassionate and supportive response to victims.<sup>52</sup>

In many cases, female victims of sexual violence face pressure from their families and communities to remain silent about their assault. This pressure is often driven by concerns about family honour and reputation, which are tied to the behaviour and perceived chastity of women. In some cases, victims are encouraged to marry their rapists as a way to “restore” the family's honour, a practice that is both harmful and degrading to the victim. Such practices are not only culturally harmful but also contradict Islamic teachings on justice and human dignity. Islamic law places a strong emphasis on the protection of individual rights, including the rights of women. The Quran explicitly forbids coercion in marriage (Surah An-Nisa, 4:19), and the Prophet Muhammad (peace be upon him) strongly opposed forced marriages. A humanist approach to Islamic law would reject the practice of pressuring victims into silence or forced marriage, instead advocating for legal and social reforms that prioritise the well-being and autonomy of the victim over cultural notions of honour.<sup>53</sup> Female victims of sexual violence often experience significant psychological trauma, including symptoms of post-traumatic stress disorder (PTSD), depression, and anxiety. The lack of adequate legal protection and social support can exacerbate this trauma, leaving victims feeling isolated and powerless. In many Muslim-majority societies, mental health issues related to sexual violence are often stigmatised, making it difficult for victims to access the care and support they need.

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<sup>51</sup> Angie C. Kennedy and Kristen A. Prock, “I Still Feel Like I Am Not Normal’: A Review of the Role of Stigma and Stigmatization Among Female Survivors of Child Sexual Abuse, Sexual Assault, and Intimate Partner Violence,” *Trauma, Violence & Abuse* 19, no. 5 (December 2018): 512–27, <https://doi.org/10.1177/1524838016673601>.

<sup>52</sup> Shuaibu Umar Gokaru, “The Contribution of Uthman Bin Foduye (D. 1817) in Changing Nigerian Society: A Discussion from the Perspective of IBN Khaldun’s Concept Ofnumran” (Doctor of Philosophy Thesis, Kuala Lumpur, University of Malaya, 2017).

<sup>53</sup> Shagufta Omar, “Marriage in Islam: Life Partnership or Discriminatory Family Set Up? An Analysis of Some Protective Legal and Moral Shariah Provisions for Women with Special Reference to Surah An-Nisa,” SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, September 5, 2014), <https://doi.org/10.2139/ssrn.2492224>.



Islamic teachings place a strong emphasis on the importance of mental and emotional well-being. The Prophet Muhammad (peace be upon him) said, “There is no disease that Allah has created, except that He also has created its treatment” (Sahih Bukhari). This hadith emphasises the importance of seeking treatment and care for all forms of illness, including mental health issues. A humanist approach to Islamic law would advocate for the development of comprehensive support systems for victims of sexual violence, including access to psychological counselling, medical care, and legal assistance.<sup>54</sup> In addition to psychological support, female victims of sexual violence require community-based support systems to help them reintegrate into society. In many cases, victims face social isolation and rejection from their families and communities, further compounding their trauma. Islamic teachings, however, emphasise the importance of supporting and protecting the vulnerable. The Prophet Muhammad (peace be upon him) said, “Whoever alleviates the suffering of a believer in this world, Allah will alleviate his suffering on the Day of Resurrection” (Sahih Muslim). This hadith underscores the importance of providing support and compassion to those who are suffering.

A humanist approach to Islamic law would promote the development of community-based programs that offer social, emotional, and financial support to victims of sexual violence. These programs could include shelters for victims, legal aid services, and educational initiatives to raise awareness about sexual violence and the importance of supporting victims. By fostering a more compassionate and supportive community response, Islamic societies can better uphold the principles of justice and mercy that are central to the faith.<sup>55</sup> Female victims of sexual violence face significant challenges in Islamic societies, both in terms of legal barriers and cultural stigmas. However, a humanist approach to Islamic law offers a path forward, prioritising the protection, dignity, and rights of victims. By engaging in *ijtihad* and focusing on the core principles of justice, mercy, and human dignity, Islamic legal systems can develop more compassionate and just responses to sexual violence. Legal reforms, community support, and psychological care are all essential components of a holistic approach to supporting female victims of sexual violence, ensuring that they are respected and protected within the framework of Islamic law.

### The Role of Local Customs in Shaping Legal Outcomes

In Islamic jurisprudence, *urf* refers to the customary practices of a particular society that are not explicitly mentioned in the Quran or Sunnah but are accepted as part of the social fabric.<sup>56</sup> *Urf* is recognised as a secondary source of Islamic law, provided that it does not contradict core Islamic principles. The role of *urf* is especially prominent in areas of law where the Quran and Hadith are silent or

<sup>54</sup> Harold G. Koenig and Saad Al Shohaib, *Health and Well-Being in Islamic Societies: Background, Research, and Applications* (Cham: Springer International Publishing, 2014), <https://doi.org/10.1007/978-3-319-05873-3>.

<sup>55</sup> Fathayatul Husna and Ainal Fitri, “Gender-Based Dayah: The Role of Female Ulama in Trauma Recovery Strategies for Sexual Violence Victims in Aceh,” *Sawwa: Jurnal Studi Gender* 18, no. 2 (October 30, 2023): 169–94, <https://doi.org/10.21580/sa.v18i2.17416>.

<sup>56</sup> Fauzi Fauzi, “Urf and Its Role in The Development of Fiqh: Comparative Study of Famliy Law Between Egypt and Indonesia,” *El-Usrah: Jurnal Hukum Keluarga* 7, no. 1 (June 30, 2024): 346–71, <https://doi.org/10.22373/ujhk.v7i1.23968>.



ambiguous, such as in matters of marriage, inheritance, and social behaviour.<sup>57</sup> Islamic scholars have traditionally incorporated *urf* into legal rulings to ensure that Islamic law remains relevant and applicable to local contexts. For example, the Hanafi and Maliki schools of thought have been particularly open to the integration of local customs into legal judgments. However, while *urf* can serve as a tool for contextualising Islamic law within diverse societies, it can also introduce practices that conflict with the fundamental ethical principles of Islam, particularly when it comes to issues of gender equity and justice for women.

In Indonesia, the application of Islamic criminal law is heavily influenced by local customs and *adat* traditions, which vary significantly across the archipelago.<sup>58</sup> In many regions, particularly in rural areas, local customs regarding morality, modesty, and women's behaviour are closely aligned with Islamic principles, even though these customs are not formally part of the national legal framework. This blending of local customs with Islamic law often results in the criminalisation of women for behaviour that is not explicitly prohibited by Sharia but is viewed as morally transgressive in the local context.<sup>59</sup> For example, in some parts of Java and Sumatra, women who engage in premarital relationships or become pregnant outside of marriage may be punished under local *adat* laws, even though these actions do not constitute crimes under national law. These punishments often take the form of social ostracism, forced marriages, or, in extreme cases, physical punishment. The influence of local customs in shaping legal outcomes for women underscores the importance of understanding the broader cultural context in which Islamic law is applied.<sup>60</sup> Indonesia's legal pluralism gives rise to a complex interplay among state law, Islamic law, and local customs. While the national legal framework is secular, regions like Aceh have the authority to implement Islamic criminal law, leading to significant variations in how women are treated under the law. In regions where Islamic law is applied, women are often subject to harsher penalties for moral offences, while in other parts of the country, secular laws provide greater protection for women's rights.<sup>61</sup>

This legal pluralism can result in unequal treatment for women depending on where they live. In Aceh, for example, women may be caned for acts deemed

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<sup>57</sup> Andriyaldi Andriyaldi, "Al-'Urf Theory and Its Relevance to Contemporary Jurisprudence Issues," *Al-Hurriyah: Jurnal Hukum Islam* 6, no. 2 (2021): 118–30, <https://doi.org/10.30983/alhurriyah.v6i2.4784>.

<sup>58</sup> Lilik Mulyadi, "Eksistensi Hukum Pidana Adat Di Indonesia: Pengkajian Asas, Norma, Teori, Praktik Dan Prosedurnya," *LITIGASI* 17, no. 2 (November 29, 2016): 3284–3313, <https://doi.org/10.23969/litigasi.v17i2.138>; Zaimuariffudin Shukri Nordin et al., "Integrating Islamic Law and Customary Law: Codification and Religious Identity in the Malay Buyan Community of Kapuas Hulu," *Journal of Islamic Law* 6, no. 1 (February 28, 2025): 89–111, <https://doi.org/10.24260/jil.v6i1.3410>.

<sup>59</sup> Hasnil Basri Siregar, "Lessons Learned from the Implementation of Islamic Shari'ah Criminal Law in Aceh, Indonesia," *Journal of Law and Religion* 24, no. 1 (January 2008): 143–76, <https://doi.org/10.1017/S074808140000196X>.

<sup>60</sup> Linda Rae Bennett, *Women, Islam and Modernity: Single Women, Sexuality and Reproductive Health in Contemporary Indonesia* (United Kingdom: Routledge, 2005).

<sup>61</sup> Mursyid Djawas et al., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism," *Hasanuddin Law Review* 10, no. 1 (May 1, 2024): 64–82, <https://doi.org/10.20956/halrev.v10i1.4824>.



immoral, while in Jakarta, such acts would not be considered criminal offences. The coexistence of multiple legal systems presents challenges for ensuring consistent protection of women's rights nationwide.<sup>62</sup> Indonesia's legal pluralism, which allows for the coexistence of Islamic law, secular law, and customary law, presents unique challenges and opportunities for balancing religious principles with modern legal norms.<sup>63</sup> While Aceh's implementation of Islamic criminal law has raised concerns about gender discrimination, other parts of Indonesia have made significant strides in protecting women's rights through legal reforms. For example, the introduction of the 2004 Law concerning the Elimination of Domestic Violence represents a significant step forward in providing legal protections for women, even though it is not always effectively enforced.<sup>64</sup>

The challenge for Indonesia lies in reconciling these different legal frameworks in a way that upholds women's rights while respecting religious and cultural diversity. This requires careful consideration of how Islamic law can be interpreted and applied in a manner that is consistent with the principles of justice and gender equality enshrined in national and international legal frameworks.<sup>65</sup> Despite the challenges arising from the implementation of Islamic criminal law in regions such as Aceh, Indonesia has undergone significant legal reforms aimed at strengthening the protection of women's rights. One of the key milestones in this reform process is the enactment of Law Number 12 of 2022 concerning Sexual Violence Crimes. This legislation marks a progressive step toward providing more comprehensive legal protection for victims of sexual violence, including women and children. The law recognises various forms of sexual violence that were previously not specifically addressed in the criminal code and underscores the importance of victim recovery and respect for their rights. This reflects the state's commitment to responding to the demands of civil society and human rights organisations to establish a legal system that is more just and responsive to the needs of victims.<sup>66</sup>

The enactment of the Law concerning Sexual Violence Crimes represents a significant advancement; however, its implementation still faces considerable challenges. A lack of understanding among law enforcement officials regarding the substance of the law, insufficient training, and the persistent influence of patriarchal culture in society often hinder victim-centred law enforcement. In addition, coordination among the institutions involved in victim protection and recovery—such as the police, prosecutors, service agencies, and the judiciary—needs to be strengthened to ensure a prompt and comprehensive response to cases of sexual

<sup>62</sup> Dina Afrianty, *Women and Sharia Law in Northern Indonesia: Local Women's NGOs and the Reform of Islamic Law in Aceh* (Routledge, 2015).

<sup>63</sup> Arskal Salim, "Dynamic Legal Pluralism in Indonesia: Contested Legal Orders in Contemporary Aceh," *The Journal of Legal Pluralism and Unofficial Law* 42, no. 61 (January 1, 2010): 1–29, <https://doi.org/10.1080/07329113.2010.10756640>.

<sup>64</sup> Danial Danial, Yoesrizal M. Yoesoef, and Nur Sari Dewi M, "Sexual Violence in the Islamic Law Perspective: Aceh Islamic Law and Local Wisdom Approach," *Ulumuna* 27, no. 1 (September 12, 2023): 367–89, <https://doi.org/10.20414/ujis.v27i1.677>.

<sup>65</sup> Zakiyuddin Baidhawy, "Building Harmony and Peace through Multiculturalist Theology-based Religious Education: An Alternative for Contemporary Indonesia," *British Journal of Religious Education* 29, no. 1 (January 1, 2007): 15–30, <https://doi.org/10.1080/01416200601037478>.

<sup>66</sup> Christina Maya Indah and Sri Harini Dwiyatmi, "Advancing Access to Justice for Female Victims of Sexual Violence Through Restitution," *Jurnal Hukum* 40, no. 1 (September 1, 2024): 171–86, <https://doi.org/10.26532/jh.v40i1.37794>.



violence. However, the enforcement of these laws remains inconsistent, particularly in regions where Islamic and customary laws hold significant control. Ensuring that these legal protections are applied uniformly nationwide is essential for advancing gender equality and protecting women's rights.<sup>67</sup> Therefore, legal reform must be accompanied by broader social changes, including public education, women's empowerment, and the elimination of stigma against victims so that the protections provided by law can be realised in everyday life.

The application of Islamic criminal law in Indonesia, particularly in Aceh, has a disproportionate impact on women, who are often criminalised for moral offences while facing significant barriers to justice as victims of sexual violence. The stringent evidentiary requirements, the unequal treatment of female testimony, and the influence of local customs all contribute to a legal environment in which women are disadvantaged. While Islamic law in Indonesia is intended to uphold principles of justice, its practical application often reinforces gender inequality. This is particularly evident in cases where women are punished for offences such as adultery or public displays of affection, while men receive lesser penalties or are not prosecuted at all.<sup>68</sup> The legal system's failure to adequately protect female victims of sexual violence further compounds this inequality, as women who report rape or assault face the risk of being prosecuted for *zina* if they cannot meet the evidentiary burden.<sup>69</sup>

The implementation of Islamic law in the Province of Nanggroe Aceh Darussalam should not be viewed merely as a normative legal policy standing in isolation but rather as a long and complex process that involves social, cultural, and legal dynamics. Within this framework, Alyasa' Abu Bakar,<sup>70</sup> a key figure in the formulation and oversight of the implementation of Islamic law in Aceh, emphasises that the enforcement of syariah in Aceh is not solely about punitive legal measures. Instead, it constitutes a broader social transformation and moral development initiative, which must be approached wisely, inclusively, and per the local context and Indonesia's national legal framework. Thus, Islamic law in Aceh represents a manifestation of the region's special status rather than an exception to national law. This implies that universal values such as justice, equality before the law, and the protection of human rights remain integral components of the implementation of syariah. The application of Islamic legal norms should be understood as part of a broader effort to strengthen public civility and ensure a socially just order.<sup>71</sup>

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<sup>67</sup> Jessica Johnson and Ian Fairweather, *An Analysis of Saba Mahmood's Politics of Piety: The Islamic Revival and the Feminist Subject* (London: Macat Library, 2017), <https://doi.org/10.4324/9781912128365>.

<sup>68</sup> Mufidah Cholil, "Complexities in Dealing with Gender Inequality: Muslim Women and Mosque-Based Social Services in East Java Indonesia," *JOURNAL OF INDONESIAN ISLAM* 11, no. 2 (December 5, 2017): 459–88, <https://doi.org/10.15642/JIIS.2017.11.2.459-488>.

<sup>69</sup> Victoria Leonard, "Gendered Violence, Victim Credibility and Adjudicating Justice in Augustine's Letters," *Transactions of the Royal Historical Society* 1 (December 2023): 219–39, <https://doi.org/10.1017/S0080440123000087>.

<sup>70</sup> Al Yasa' Abubakar, *Syariat Islam di Provinsi Nanggroe Aceh Darussalam : Paradigma Kebijakan dan Kegiatan Edisi Revisi* (Banda Aceh: Dinas Syariat Islam, 2006).

<sup>71</sup> Ikhwan Matondang et al., "Resolving Human Rights Violation Cases in Aceh, Indonesia," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 24, no. 1 (June 30, 2024): 42–57, <https://doi.org/10.30631/alrisalah.v24i1.1539>.



In his reflections and analysis, Alyasa' Abu Bakar offers a contextual and realistic middle path. Islamic law in Aceh is not meant to be imposed but rather nurtured and developed through cultural and educational approaches. It is not merely a set of legal rules but a system of values and a way of life that requires deep understanding, appropriate strategies, and active community participation.<sup>72</sup> Accordingly, the implementation of syariah in Aceh can serve as a model for applying Islamic law within a pluralistic and democratic society as long as it remains grounded in the principles of inclusivity, justice, and wisdom. Aceh is not establishing a religious state but is striving to make Islamic values an integral part of building a more dignified society within the framework of the Unitary State of the Republic of Indonesia (NKRI). To address these challenges, legal reforms are necessary to ensure that women's rights are protected within the framework of Islamic law. This includes revising discriminatory provisions in the *Qanun Jinayat*, addressing evidentiary standards in cases of sexual violence, and promoting greater awareness of women's rights within Islamic law. By addressing these issues, Indonesia can move toward a more just and equitable legal system that upholds the rights of all citizens, regardless of gender.

## Conclusion

In conclusion, Islamic law in Aceh, informed by local customs, indeed reflects a humanist dimension in its goal of protecting women and maintaining social harmony. Yet, to fully realise this potential, ongoing efforts are needed to ensure that women can access their rights without societal constraints that may compromise their safety and dignity. Strengthening the integration of human rights standards within both Islamic and customary frameworks could allow Acehnese women to benefit from a legal system that not only honours tradition but also provides equitable, consistent protection and justice. However, while this blend of Islamic and customary law strives to protect women, the practical implementation sometimes falls short due to societal pressures and traditional gender norms that can limit women's rights and access to justice. For instance, the preference for out-of-court settlements or community-based resolutions can lead to cases where women are pressured to prioritise family reputation over personal justice, thereby obscuring or undervaluing the rights of victims, particularly in cases involving violence or abuse. This critical review reveals that while Islamic law in Aceh criminalises specific actions for the maintenance of social order, it also embodies humanist principles and customs that seek to prioritise the protection and dignity of women.

This research primarily focuses on normative legal texts and doctrinal analysis without extensive empirical fieldwork to measure actual implementation or victims' lived experiences. Additionally, it focuses on Aceh as a single case study, limiting the generalisability of findings to other regions with Islamic legal influences. Future research should employ socio-legal or empirical methodologies to investigate the implementation of legal reforms on the ground, including interviews with victims, judges, and community leaders. This study recommends that legal reform in Aceh be directed toward a stronger normative integration of Sharia values, local customary traditions, and international human rights principles. This is essential for

<sup>72</sup> Farid Wajdi Ibrahim, Dicky Wirianto, and Shohibul Adib, "The Thought of Figures of Islamic Mass Organization About Caliphate: A Case Study in Banda Aceh and West Java," *Jurnal Ilmiah Islam Futura* 22, no. 2 (August 31, 2022): 164–81, <https://doi.org/10.22373/jiif.v22i2.9396>.



constructing a legal system that reflects the cultural and religious identity of Acehnese society and ensures that the principle of substantive justice, particularly for women, is upheld in everyday legal practice.

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