

De Jure: Jurnal Hukum dan Syar'iah

Volume 18 Issue 1, 2026, p. 102-125

ISSN (Print): 2085-1618, ISSN (Online): 2528-1658

DOI: <http://dx.doi.org/10.18860/j-fsh.v18i1.40543>

Available online at <http://ejournal.uin-malang.ac.id/index.php/syariah>

***Mihita La Ua Uatto* as a Normative Moral Order: Converging Customary Law and Islamic Penal Law**

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Received: 19-01-2025	Revised: 29-04-2026	Published: 10-05-2026
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Abstract:

This study examines the philosophy, social function, and contemporary implementation of the Iha customary law known as *Mihita La Ua Uatto*, which is grounded in the local philosophical adage, “where there is balance, there is peace.” The research seeks to: (1) analyse the role of this customary sanction in preserving social and spiritual order within the Iha community amid contemporary legal and social transformation; and (2) explore the convergence between its restorative values and the foundational principles of Islamic Penal Law (*Hukum Pidana Islam*), particularly *al-Ta’dīb* (moral education) and *al-‘Adālah* (justice). This study employs a qualitative socio-legal approach through field interviews with customary leaders, religious figures, and community members, supported by an examination of customary records, local narratives, and relevant legal literature. The findings reveal that *Mihita La Ua Uatto* derives its authority not merely from coercive punishment, but from collective moral legitimacy, ritual symbolism, and communal participation that reinforce social harmony and accountability. The study further formulates the concept of *al-Uqūbah al-Jamā‘iyyah al-Mutakāmilah* (Integrated Collective Punishment Theory), which emphasises that sanctions become socially effective when embedded within collective ethical consciousness and restorative objectives. This research demonstrates that customary law operates as a living normative order capable of contributing to the harmonisation of local wisdom, Islamic legal values, and national legal development.

Keywords: *customary law; mihita la ua uatto; Islamic law.*

Introduction

In the dynamics of social life, law and society constitute two inseparable dimensions, encapsulated in the maxim *Ibi Ius Ibi Societas*: wherever there is a society, there is law.¹ Customary law lives amid the legal systems established within communities.² The presence of customary law represents a historical and sociocultural reality that remains integral to Indonesian society.³ Although much of it is not codified in writing, customary law remains binding, sustained by generational practices, social legitimacy, and the institutional role of customary leaders.⁴ This reality is evident in many regions of Indonesia, where Indigenous communities continue to refer to their own normative systems, maintain customary governance structures, and impose sanctions for violations of communal norms even within a modern context marked by increasing state interference. Practices such as customary courts, village deliberation forums, and *adat*-based dispute resolution remain prevalent, particularly in eastern Indonesia.⁵ Cases that cannot be effectively resolved through state law, such as family disputes, moral infractions, or interpersonal conflicts, are often returned to customary forums, as they are deemed more effective, expedient, and contextual with the community's sense of justice. However, the state, through its various regulations, frequently encroaches upon customary authority, creating tensions between *adat* sovereignty and the supremacy of

¹ Monia Ciravegna, "Ubi Societas, Ibi Ius: The Legal System," in *Damanhur: An Esoteric Community Open to the World*, ed. Stefania Palmisano and Nicola Pannofino (Cham: Springer International Publishing, 2023), 75–96, https://doi.org/10.1007/978-3-031-10137-3_4.

² Jamilya Susantin et al., "Rokat Pandhaba Tradition as a Local Legal System from Clifford Geertz's Perspective in Madura," *Trunojoyo Law Review* 8, no. 1 (February 2026): 145–77, <https://doi.org/10.21107/tr.v8i1.32099>; Nur Saniah and Ahmad Bastomi, "Acculturation of Traditional and Islamic Law in the Practice of Inheritance Distribution of the Mandailing Tribe of North Sumatra," *Fenomena* 21, no. 2 (December 2022): 255–70, <https://doi.org/10.35719/fenomena.v21i2.134>.

³ Alexander Edo Tondas et al., "Simbur Cahaya Customary Law in Sociological Jurisprudence Perspective," *Jurnal Bina Mulia Hukum* 9, no. 2 (March 2025): 266–76, <https://doi.org/10.24198/jbmh.v9i2.1879>; Iwan Setiajie Anugrah et al., "Legal Pluralism and Rural Welfare: Harmonizing Customary Law and Islamic Principles in Indonesia's Village Fund Allocation," *El-Mashlahah* 15, no. 2 (December 2025): 303–24, <https://doi.org/10.23971/el-mashlahah.v15i2.10429>.

⁴ Maarten Manse, "The Plural Legacies of Legal Pluralism: Local Practices and Contestations of Customary Law in Late Colonial Indonesia," *Legal Pluralism and Critical Social Analysis* 56, no. 3 (September 2024): 328–48, <https://doi.org/10.1080/27706869.2024.2377447>; Melisa M. Chawaremera, "Displaced Belongings: Indigenous Identity, Customary Law and the Struggles for Recognition in Post-Colonial Migration Systems," *Frontiers in Human Dynamics* 7 (October 2025), <https://doi.org/10.3389/fhumd.2025.1655777>.

⁵ Nisfawati Laili Jalilah et al., "Sidikare as Kinship-Based Dispute Resolution of Sasak Muslim within the National and Islamic Law Framework," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 20, no. 2 (December 2025): 370–92, <https://doi.org/10.19105/al-lhkam.v20i2.17220>; 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 2025): 1, <https://doi.org/10.22219/ljih.v33i1.39958>; Islamul Haq et al., "Unlocking The Potential of 'Kalosara': An Extensive Analysis of Adultery Instances Dispute Resolution in the Tolaki Tribe through the Lens of al-Ishlah Concept," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 24, no. 1 (June 2024): 88–102, <https://doi.org/10.30631/alrisalah.v24i1.1488>.



national law.⁶

Customary law constitutes a set of values and norms that live and evolve organically within a community, even though much of it is not formally documented.⁷ Its existence carries a strong binding force because it is rooted in collective consciousness, making any violation of customary norms typically addressed through community-sanctioned penalties.⁸ For societies that continue to uphold their cultural identity, customary law is not merely a system of social regulation; it is a mechanism for maintaining balance and communal harmony.⁹ In practice, customary law remains an important point of reference for resolving issues, including those in judicial contexts.¹⁰ Judges are even required to understand and take customary law into account when written law does not provide adequate guidance, making knowledge of customary norms integral to delivering contextual and substantive justice.¹¹

In legal matters, the state holds full authority, manifested through the implementation of statutory law.¹² However, the fundamental understanding of the rights to customary law and the sovereignty traditionally held by Indigenous communities is often subject to revocation by the state through its governing power.¹³ Although the general public is regarded as the substantive foundation of customary law, the high degree of social diversity often renders it a complex social issue to resolve.¹⁴ One of the unique phenomena that persists to this day is the practice of customary law in Negeri Iha, West Seram Regency, Maluku. In this region, the tradition of *Mihita La Ua Uatto*—caning imposed as punishment—is still strongly enforced.¹⁵ The existence of this tradition is scientifically compelling to study because while similar practices in other parts

⁶ Jan Michiel Otto, "Sharia and National Law in Indonesia," in *Sharia Incorporated*, by Jan Michiel Otto (Amsterdam University Press, 2012), 433–90, <https://doi.org/10.1515/9789400600171-013>.

⁷ Anthony C. Diala, "The Concept of Living Customary Law: A Critique," *The Journal of Legal Pluralism and Unofficial Law* 49, no. 2 (May 2017): 143–65, <https://doi.org/10.1080/07329113.2017.1331301>.

⁸ Ahmad Syaafi, Aurora Fatimatuz Zahra, and Mursidah, "The Existence of Customary Law: Badamai Customary Law," *Research Horizon* 1, no. 3 (June 2021): 94–99, <https://doi.org/10.54518/rh.1.3.2021.16>.

⁹ Ferry Fathurokhman, *Hukum pidana adat Baduy dan pembaruan hukum pidana* (Jakarta: Kencana, 2022).

¹⁰ Tyas Ismi Trialfhianty, Claire Helen Quinn, and Maria Beger, "Engaging Customary Law to Improve the Effectiveness of Marine Protected Areas in Indonesia," *Ocean & Coastal Management* 261 (February 2025): 107543, <https://doi.org/10.1016/j.ocecoaman.2025.107543>.

¹¹ Achmad Asfi Burhanudin, "Eksistensi Hukum Adat Di Era Modernisasi," *Salimiya: Jurnal Studi Ilmu Keagamaan Islam* 2, no. 4 (December 2021): 96–113, <https://doi.org/10.2906/salimiya.v2i4.466>.

¹² Dinoroy Marganda Aritonang et al., "Extensive Jurisdiction of State Administrative Courts in Indonesia: Interpretation and Legal Coherence Issues," *Public Integrity* 27, no. 3 (May 2025): 287–99, <https://doi.org/10.1080/10999922.2023.2290750>.

¹³ Marthen B. Salinding, "Prinsip Hukum Pertambangan Mineral Dan Batubara Yang Berpihak Kepada Masyarakat Hukum Adat," *Jurnal Konstitusi* 16, no. 1 (April 2019): 148–69, <https://doi.org/10.31078/jk1618>.

¹⁴ Sardjana Orba Manullang, "Understanding the Sociology of Customary Law in the Reformation Era: Complexity and Diversity of Society in Indonesia," *Linguistics and Culture Review*, July 18, 2021, 16–26, <https://doi.org/10.21744/lingcure.v5nS3.1352>.

¹⁵ Muis S. A. Pikahulan, "Efektifitas Sanksi Sosial Terhadap Pelanggaran Hukum Adat Di Masyarakat Negeri Iha Kulur Kabupaten Seram Bagian Barat," *TAHKIM* 17, no. 2 (2021): 189–208, <https://doi.org/10.33477/thk.v17i2.2265>.



of Maluku have begun to fade under the influence of positive law, the Iha–Ulupia community has instead strengthened their collective consensus to preserve this ancestral heritage.¹⁶

The *Mihita La Ua Uatto* tradition is established through collective consensus to address deviant behaviours that contravene communal norms. Although shifting social dynamics have led to changes in the specific offences targeted by the sanction, the essence of the law remains vital in society, particularly in mitigating the negative impacts of alcohol consumption among the youth. Through the continued implementation of caning in Negeri Iha–Ulupia, the community seeks to protect itself from potential calamities and to promote social and cultural harmony within their customary society. The purpose of this tradition is to ensure that all members of the Iha–Ulupia community can live in peace. Consequently, *Mihitta La Ua Uatto* is preserved and safeguarded for future generations in Iha–Ulupia, adhering to the historical cultural values that the community has respected to date. Although individual interpretations among community members may vary regarding its history and relationship to their social diversity, these cultural values remain recognised and upheld.¹⁷

Evidence indicates that while caning traditions in many regions of Maluku have gradually disappeared due to modernity, social change, and the increasing influence of state law, the community of Negeri Iha–Ulupia continues to uphold the *Mihita La Ua Uatto*. This practice is maintained not only as a formal punitive measure but also as a customary ritual with significant social values. This tradition takes place publicly, and offenders are required to be accompanied by their families as a form of collective responsibility. The punishment may be administered only by customary officials who inherit their authority through generational succession. Within the framework of Islamic criminal law, caning is implemented as an instrument to safeguard public welfare in line with the objectives of *maqāṣid al-sharī‘ah*.¹⁸ Its application is governed by strict rules concerning the manner, conditions, and limits of punishment, reflecting the aim of preserving moral order and social stability rather than merely inflicting suffering. Accordingly, this study examines how the tradition of *Mihitta La Ua Uatto* serves to maintain social and spiritual security within the Negeri Iha community while identifying its convergence with the concept of *uqubah al-Islāmiyyah* in Islamic criminal law.

Previous studies regarding this tradition have been conducted. Research conducted

¹⁶ Muhammad Luhulima, Fricean Tutuarima, and Aisa Abas, “Eksistensi Hukum Cambuk (Mihita La Ua Uatto) Dalam Masyarakat Adat Iha-Ulupia Dikaji Dalam Perspektif Hak Asasi Manusia (HAM),” *Ideas: Jurnal Pendidikan, Sosial, Dan Budaya* 7, no. 3 (August 2021): 151–58.

¹⁷ Luhulima, Tutuarima, and Abas.

¹⁸ Nasruddin Yusuf, Ridwan Jamal, and Misbahul Munir Makka, “The Significance of Ushul Al-Fiqh and Maqashid Syari’ah Approaches in Reforming Islamic Law in Indonesia: A Critical Study of the Penal Code or Another Topic,” *Asy-Syir’ah: Jurnal Ilmu Syari’ah Dan Hukum* 58, no. 2 (December 2024): 389–417, <https://doi.org/10.14421/ajish.v58i2.1450>; Tuan Muhammad Faris Hamzi Tuan Ibrahim, Nasrul Hisyam Nor Muhamad, and Ahmad Syukran Baharuddin, “Maqāṣid Al-Sharī‘ah and Digital Forensics: Towards a Fiqh-Based Evidentiary Model in Sharī‘ah Criminal Justice,” *Al-‘Adalah* 22, no. 2 (December 2025): 565–98, <https://doi.org/10.24042/adalah.v22i2.27886>; Opik Rozikin et al., “Contextualizing Maqāṣid Al-Sharī‘ah in Indigenous Legal Practices: A Comparative Study of Family Resilience in Kasepuhan Ciptagelar and Kampung Naga,” *Nurani: Jurnal Kajian Syari’ah Dan Masyarakat* 25, no. 2 (September 2025): 344–62, <https://doi.org/10.19109/nurani.v25i2.27760>.



by Pikhulan indicates that the *Mihita La Ua Uatto* has proven effective in curbing deviant behaviour, particularly alcohol consumption, within the community of Negeri Iha.¹⁹ This study, however, confines its analysis to the social regulatory function of customary law without situating the practice within the broader framework of Islamic criminal law. In contrast, works by Zuriah and Saputra²⁰ examine whipping sanctions from the perspectives of *uqubah al-Islāmiyyah* and the *maqāṣid al-sharī'ah*, demonstrating that such punishments aim to safeguard morality, public order, and communal welfare. These studies, nonetheless, do not engage with the role of caning within Indigenous customary systems such as *Mihita La Ua Uatto*.

In addition, Salinding highlights the institutional tensions between customary authority and the state.²¹ To date, however, no study has undertaken a systematic analysis of the conceptual and normative intersections between *Mihita La Ua Uatto* and *uqubah al-Islāmiyyah*. This study, therefore, moves beyond merely identifying the convergence or divergence between *Mihita La Ua Uatto* and the principles of *uqubah al-Islāmiyyah* in Islamic criminal law. Instead, it focuses on two interrelated dimensions: the philosophical and the implementing aspects of the customary punishment within the Indigenous community of Negeri Iha. Philosophically, the study seeks to uncover the deep cultural meanings embedded in the practice by examining how community members internally interpret caning as a moral obligation, a mechanism of social balance, and a sacred inheritance from ancestral authority. This dimension explores why the community continues to preserve the practice, what values legitimise it, and how customary punishment is understood not merely as coercion but as a culturally meaningful expression of communal ethics and protection.

At the level of punishment implementation, the research examines how *Mihita La Ua Uatto* functions in practice and whether it achieves its intended legal objectives, particularly the realisation of justice, social order, and collective harmony. Rather than assessing punishment solely through formal legal standards, this study analyses how justice is perceived and experienced by the local community itself. It investigates whether the caning sanction is regarded as fair, effective, and socially legitimate, and how its enforcement contributes to conflict resolution and communal stability. This focus distinguishes the present study from earlier research. Luhulima, Tutuarima, and Abas examine caning punishment primarily through a human rights framework,²² while Pikhulan emphasises the social efficacy of customary sanctions without exploring their philosophical foundations or their relationship with Islamic criminal law.²³ By

¹⁹ Pikhulan, "Efektifitas Sanksi Sosial Terhadap Pelanggaran Hukum Adat Di Masyarakat Negeri Iha Kulur Kabupaten Seram Bagian Barat."

²⁰ Zuriah Zuriah, Teuku Amnar Saputra, and Muhammad Novriansyah, "The Effectiveness of Qanun Jinayat in Preventing Sexual Violence Against Children from a Psychological Perspective," *An-Nisa Jurnal Kajian Perempuan Dan Keislaman* 16, no. 2 (December 2023): 183–94, <https://doi.org/10.35719/annisa.v16i2.176>.

²¹ Salinding, "Prinsip Hukum Pertambangan Mineral Dan Batubara Yang Berpihak Kepada Masyarakat Hukum Adat."

²² Luhulima, Tutuarima, and Abas, "Eksistensi Hukum Cambuk (Mihita La Ua Uatto) Dalam Masyarakat Adat Iha-Ulupia Dikaji Dalam Prespektif Hak Asasi Manusia (HAM)."

²³ Pikhulan, "Efektifitas Sanksi Sosial Terhadap Pelanggaran Hukum Adat Di Masyarakat Negeri Iha Kulur Kabupaten Seram Bagian Barat."



integrating philosophical inquiry into deep cultural interpretation with an examination of practical legal outcomes, this study contributes a more comprehensive understanding of the interaction between customary law, communal justice, and Islamic penal principles within the socio-legal context of Negeri Iha.

More specifically, this study does not merely describe the existence of *Mihita La Ua Uatto* as a customary sanction. Still, it seeks to uncover how members of the Iha–Ulupia community internally interpret and justify its continued legitimacy. The analysis emphasises community perceptions of the meaning of punishment, the moral obligations associated with customary obedience, and the belief that sanctions serve to restore social balance rather than inflict suffering. Through this perspective, customary law is understood not simply as a regulatory system imposed by authorities, but as a collectively shared moral order embedded in everyday social consciousness. The study explores how customary leaders, families, and ordinary community members construct meanings around justice, shame, reconciliation, and communal harmony, revealing the cultural logic that sustains *Mihita La Ua Uatto* across generations.

Methods

This study employs a qualitative research design using ethnographic and socio-legal approaches to examine the philosophical foundations and social functioning of *Mihita La Ua Uatto* within the Indigenous community of Negeri Iha. The ethnographic component enables an in-depth exploration of lived experiences, ritual practices, and cultural meanings embedded in the implementation of customary caning sanctions. Through this approach, the study seeks to understand how community members interpret, preserve, and legitimise the practice as part of their inherited normative order. Meanwhile, the socio-legal approach is used to analyse customary law as a reflection of social values, collective consciousness, and local conceptions of justice. Rather than merely assessing its relevance to Islamic criminal law, this approach explores the legal principles underlying the customary system, including social balance, moral responsibility, communal harmony, and legitimacy. In this sense, law is understood as a social institution formed by the worldview and legal consciousness of the Indigenous community. The research setting was purposively selected because *Mihita La Ua Uatto* is actively practised to date amid the modernisation and the presence of formal state legal systems. This condition highlights the significance of Negeri Iha, thereby providing a basis for examining the relationship between customary norms and community-based justice.

Data were collected through multiple techniques to ensure methodological rigour and triangulation. Primary data were obtained through semi-structured and in-depth interviews with key informants, including the Raja Iha, traditional leaders/the *Kepala Soa*, the *Marinyo*, the head of the youth group, and community members who have either witnessed or been subjected to caning. The demographic profile of the informants is presented in Table 1. Informants are anonymised using codes (C1–C8)

Table 1. Profile of Informants

Code	Age	Position in Society	Gender
C1	47	The Marinyo	Male
C2	44	the <i>Kepala Soa</i>	Male



C3	56	King (Raja) of Negeri Iha	Male
C4	37	the head of the youth group	Male
C5	41	Resident of Negeri Iha	Male
C6	34	Resident of Negeri Iha	Male
C7	34	Resident of Negeri Iha	Male
C8	45	Resident of Negeri Iha	Male

These interviews explored perceptions of justice, ritual procedures, moral values, and the social functions of the punishment. Participant observation was conducted during customary meetings and communal activities to capture contextual practices and community dynamics. In addition, documentary analysis of customary manuscripts, village meeting notes, and related legal texts was conducted to complement the primary data and provide historical depth. The data analysis followed an interactive model consisting of data reduction, data display, and conclusion drawing. Interview transcripts and field notes were coded thematically to identify recurring patterns related to customary sanction mechanisms, community legitimacy, and their intersections with *uqubah al-Islāmiyyah*. Thematic categories were then compared across informant groups to ensure credibility and confirmability. Triangulation of sources—particularly between the Raja Iha, traditional authorities, youth leaders, and ordinary community members helped validate the interpretations. The final analysis synthesises cultural, legal, and theological perspectives to explain the relevance and convergence between *Mihita La Ua Uatto* and Islamic criminal law within the socio-cultural context of Negeri Iha.

Results and Discussion

Philosophical Foundations of *Mihita La Ua Uatto* Customary Law

The term *Mihita La Ua Uatto* can be defined as “returning an individual to the right path,” which constitutes the core spirit of the Iha customary legal system. This principle underscores that the primary purpose of customary punishment is not retribution, but the correction of behaviour and the restoration of social harmony. Within the customary framework, violations are not viewed as personal disgrace, but rather as disruptions to collective equilibrium. Consequently, every sanction imposed is accompanied by efforts to repair social relations among the offender, the affected parties, and the wider community.²⁴ The core principle of *Mihita La Ua Uatto* is rooted in a simple yet profound adage: “*where there is balance, there is peace.*” For the people of Iha, “balance” is not merely a social regulation, but a spiritual harmony between the soul, the community, and the Creator.²⁵ Transgressions such as intoxication or adultery are regarded as “hot” acts that spiritually defile the village. If left unaddressed, this “heat” is believed to invite *bala* (calamity) as a form of divine warning, manifesting as failed harvests or communal hardships. Within

²⁴ Mohammad Sarfan Basyir Putuhena, “Effectiveness of Customary Law Hita La Uwa Uwato as A Form of Settlement of Pidana Theft in The Country of Iha,” *Jurnal Hukum Volkgeist* 6, no. 2 (2022): 156–61, <https://doi.org/10.35326/volkgeist.v6i2.2028>.

²⁵ Muhammad Luhulima, Fricean Tutuarima, and Aisa Abas, “Eksistensi Hukum Cambuk (*Mihita La Ua Uatto*) dalam Masyarakat Adat Iha-Ulupia Dikaji dalam Perspektif HAM,” *Ideas: Jurnal Pendidikan, Sosial, dan Budaya* 7, no. 3 (2021): 151, <https://doi.org/10.32884/ideas.v7i3.452>.



this framework, caning functions as a "coolant." The physical pain of the lashes is believed to help with purification—a way to wash away the "heat" of the sin. A customary elder explained this meaning movingly:

*"When someone violates the law, the village feels 'heavy.' The cane is not meant to destroy the person, but to lift that spiritual burden from the community."*²⁶

From this perspective, true peace can only return once balance is restored through public repentance and accountability. Each stroke of the rattan is seen as a way of stitching back the social and spiritual fabric that was torn by the offence. The offender is not discarded; rather, through the discipline of the sanction, they are cleansed so they can be welcomed back with open arms by the community. Thus, justice in Iha is not a rigid or heartless scale, but a collective hand that guides the strayed back to the right path to ensure the safety and blessings of the entire village. This customary law is also closely linked to ancestral heritage and collective identity. The Iha community perceives *Mihita La Ua Uatto* as a legacy inherited from previous generations, functioning as a moral protection against social deterioration. The legitimacy of this law does not derive from written statutes but from communal trust, oral transmission, and cultural continuity. Through traditional ceremonies, storytelling, and informal socialisation, customary leaders reinforce the idea that obedience to customary law is essential for preserving communal stability.

Beyond its social function, *Mihita La Ua Uatto* possesses a spiritual dimension. The community believes that unresolved violations may disturb the harmony among individuals, society, and the ancestral order that governs communal life. This understanding places customary punishment within a sacred framework, in which legal sanctions are not merely juridical responses but symbolic acts intended to restore collective well-being. From such a perspective, customary punishment serves to address wrongdoing and reaffirm the moral relationship between community members and the values inherited from their ancestors. Therefore, the authority of customary law is sustained through a combination of moral obligation, spiritual meaning, and collective social consensus. In other words, the philosophical meaning of *Mihita La Ua Uatto* extends beyond punishment itself. It reflects an internal interpretation of justice within the Iha community, where fairness is understood as restoring disrupted relationships rather than merely imposing suffering. In this sense, customary law serves as a living normative order that embodies local conceptions of morality, responsibility, and communal peace.

Implementation of *Mihita La Ua Uatto* Customary Law

The revitalisation of the application of the caning law in the 1990s marked a significant milestone in the customary history of Iha. This took place during the leadership of King Abdul Gawi Latukaisupy, who was committed to more consistently reviving ancestral traditions. Historical evidence demonstrates that implementation of this law is not simply an antiquated tradition but a relevant adaptation to constantly evolving social conditions. This consistency also illustrates how the Iha-Ulupia customary community affirms its identity and legal framework

²⁶ C1, Personal Interview, (Negeri Iha, 2025)



amidst modern developments. Thus, revitalisation of customary law indicates that it remains both current and functional today.²⁷ Caning sanctions are typically imposed for serious offences such as alcohol consumption (intoxication), theft, gambling, and adultery. These violations are considered the primary threats to social harmony across generations.²⁸ Various customary records indicate that these four offences frequently trigger division and spark conflict within the community. Through the enforcement of the caning law, the customary community can effectively control these sources of disruption. Therefore, the customary sanction is not merely intended as a punishment but as a strategy for maintaining social stability.

Social changes have reduced the frequency of certain types of offences, leading to a shift in the focus of customary law enforcement. Currently, alcohol consumption has become the main priority, as it is widely regarded as the source of many social problems. Various reports indicate that alcohol consumption frequently triggers violence, criminality, and moral instability, particularly among the younger generation. This emphasis indicates that the community takes serious attention to protecting vulnerable groups from negative influences. Thus, although the form of offences may change, the relevance of customary law is maintained through this adaptation. The existence of the customary law *Mihita La Ua Uatto* has been shaped by a long historical process within the Iha community, which continually upholds ancestral heritage as a guide for communal life. This law is viewed as both a moral and social protection against social anomalies. A customary elder in a field interview revealed, "I feel that this caning law is not intended to hurt, but to protect this village so that it is not ruined by alcohol. This is our parents' inheritance, and we continue to preserve it until now."²⁹ This quotation illustrates that the caning law is not perceived as violence but as an expression of collective affection aimed at preserving the community's purity from potentially destructive behaviour.

Research by Luhulima, Tutuarima, and Abas notes that the Iha-Ulupia customary community is now less involved in gambling, theft, and adultery.³⁰ Consequently, caning has been intended more for alcohol-related violations. This shift should not be understood merely as the disappearance of certain offences, but rather as the result of broader social and cultural transformations within the community. One important factor is the deterrent effect produced by the long-standing implementation of *Mihita La Ua Uatto*. Over time, repeated enforcement has strengthened collective awareness that violations carry not only personal consequences but also social shame and communal accountability. As one former offender explained during an interview, "I was once punished by whipping, and after that I never repeated my actions because I felt ashamed before my family and the community." This testimony suggests that the sanction functions not only as punishment but also as a means of correcting an individual's internal morality.

²⁷ Luhulima, Tutuarima, and Abas, "Eksistensi Hukum Cambuk (*Mihita La Ua Uatto*) Dalam Masyarakat Adat Iha-Ulupia Dikaji Dalam Perspektif Hak Asasi Manusia (HAM)."

²⁸ Luhulima, Tutuarima, and Abas.

²⁹ C2, Personal Interview, (Negeri Iha, 2025)

³⁰ Luhulima, Tutuarima, and Abas, "Eksistensi Hukum Cambuk (*Mihita La Ua Uatto*) Dalam Masyarakat Adat Iha-Ulupia Dikaji Dalam Perspektif Hak Asasi Manusia (HAM)."



In addition, the decline in cases such as theft, gambling, and adultery is influenced by stronger informal social control, increased communal monitoring, and the internalisation of customary norms across generations. Families and customary leaders play an active role in reinforcing behavioural expectations through everyday socialisation, making preventive control more effective than punitive intervention. Taking a serious measure on alcohol-related offences reflects the community’s perception that alcohol remains the primary trigger for social disorder, violence, and juvenile delinquency. Therefore, the adaptation of *Mihita La Ua Uatto* does not weaken customary law; instead, it can respond selectively to contemporary social risks while maintaining its fundamental purpose of preserving social harmony.

Table 2. Customary Violations in Numbers (2017–2022)

No	Type of Violation	Number of Cases per Year						Total
		2017	2018	2019	2020	2021	2022	
	Alcohol							
1	consumption (Khamr)	15	11	7	10	11	9	63
2	Gambling	21	18	9	2	-	-	50
3	Theft	14	8	-	-	-	-	22
4	Adultery	-	-	-	-	-	-	-

Source: the Head of Youth Affairs of Negeri Iha

The existence of the customary law *Mihita La Ua Uatto* illustrates that customary law is not merely a traditional rule but also a form of local wisdom capable of adapting to contemporary social issues. Its restorative value lies both in the punishment itself and in the communal process through which sanctions are determined and imposed. Before imposition, customary leaders, religious figures, community elders, and the offender’s family are involved in deliberation to assess the violation and determine an appropriate response. This collective process indicates that justice is understood as a shared social decision rather than a unilateral act of authority. The restorative aspect of *Mihita La Ua Uatto* is further reflected in its emphasis on restoring social balance following a violation. The sanction is intended to reintegrate the offender into communal life by reaffirming responsibility and rebuilding trust between the individual and the community. Public implementation of punishment serves to deter and acknowledge wrongdoing publicly, thereby facilitating moral accountability and reconciliation. In this sense, the punishment is intended to repair disrupted relationships rather than solely inflicting suffering.

This law is viewed as both a moral and a social protection against



deterioration in the social order. A customary elder revealed in the interview, ‘I feel that this caning law is not intended to hurt, but to safeguard this village so that it is not ruined by alcohol. This is our parents’ inheritance, and we continue to preserve it until now.’³¹ This statement shows that the sanction is not perceived as an expression of hostility but as a communal effort to preserve harmony and collective well-being. When deeply understood, the practice of this customary law is not only part of the Iha community’s historical continuity but also reflects restorative justice embedded in local legal traditions. The involvement of multiple actors in decision-making, social reintegration, and the restoration of communal equilibrium indicates that *Mihita La Ua Uatto* embodies a culturally established model of justice oriented toward social repair rather than retribution alone. The continuity of *Mihita La Ua Uatto* within the Iha community is closely related to the role of customary leaders and the older generation in transmitting customary values across generations. Field interviews indicate that customary norms are introduced to younger members of the community through traditional gatherings, oral storytelling, and participation in customary ceremonies. These informal mechanisms function as channels for preserving collective understanding regarding acceptable behaviour and communal responsibility.

The legitimacy of *Mihita La Ua Uatto* does not derive from codified legal texts but from sustained social recognition within the community. Several informants emphasised that customary sanctions continue to be respected because they are perceived as part of a shared moral framework inherited from earlier generations. This collective acceptance suggests that the authority of customary law is reinforced through repeated social practice and communal agreement rather than formal legal enforcement. Consequently, the maintained caning law reflects a socially embedded legal consciousness in which customary norms remain relevant to maintaining order and collective identity within Negeri Iha. The Iha Community (*Negeri Iha*) once faced a serious debate over the continued enforcement of the caning law, which had long been integral to its social order. Waves of criticism emerged from human rights activists who argued that physical punishment contravened modern principles of humanity.³² However, the Iha community views caning as a customary sanction, not as an act of violence, but as a moral symbol for maintaining social balance and order. This situation prompted the Village Council (*Saniri Negeri*) to convene a great deliberation to determine whether the caning law should be continued or abolished.

During this deliberation, the Village Council decided to seek people's voice to respect the principle of communal collectivity. The Raja (King) of Iha recounted, ‘The caning law in 2013 led the Village Council to seek our opinions, and we offered the matter to the community, asking how we should revise the caning law. The community responded, ‘It is only the caning law that keeps Iha peaceful.’³³

³¹ C2, Personal Interview, (Negeri Iha, 2025)

³² Dedy Ardian Prasetyo and Rahimah Embong, ‘The Impact of Human Rights Principles on the Criminal Act of Caning: Asymmetric Decentralization Insight,’ *Journal of Human Rights, Culture and Legal System* 5, no. 1 (March 2025): 60–90, <https://doi.org/10.53955/jhcls.v5i1.528>.

³³ C3, Personal Interview, (Negeri Iha, 2025)



This statement illustrates that customary decisions are reached through a democratic process based on community participation. The legitimacy of the customary law originates not from formal authority but from the social will to preserve a value proven to maintain harmony.

The implementation of the caning law in the Iha Community is not carried out arbitrarily but rather through a structured, hierarchical coordination mechanism under the supervision of customary institutions. The Head of Youth holds a central role as the coordinator for the technical execution of the sanction, from preparing the location and overseeing security to ensuring the offender's presence and proper treatment. The involvement of the Head of Youth is based on his social position, emotional closeness to the citizens, and his competence in maintaining a balance between firmness and humanity. Thus, in this context, the Head of Youth bridges customary authority and the younger generation to enforce social discipline based on local wisdom. The Village Task Force of Negeri, established by the Village Council, is responsible for executing the punishment in the field. Task Force members are selected citizens known for their integrity, composure, and good understanding of customary rules. They are trained to perform their duties with discipline, observe ethical limits, and avoid excessive violence. During the execution of the punishment, the Task Force ensures that the process adheres to customary provisions, in which caning is administered with a rattan, avoiding vital body parts, and is witnessed by community representatives and customary figures as a form of transparency and moral accountability.³⁴

Coordination between the Head of Youth and the Village Task Force is strictly maintained through small meetings led by the Village Council. Every offence designated for sanctioning is discussed again at a coordination meeting to determine the time, location, and implementation procedure. The Head of Youth ensures all citizens understand the purpose of the sanction to prevent misunderstandings, while the Task Force prepares the equipment and maintains security during the procession. This meticulous organisation reflects a customary legal system that enforces discipline while upholding a strong sense of social responsibility. The involvement of both the youth element and the Task Force in implementing the caning law demonstrates a collective, hierarchical system of customary legal enforcement. The Head of Youth is tasked with preserving the social legitimacy and moral value of the execution, while the Task Force ensures that the technical aspects comply with the rules. Through this local system, the customary law *Mihita La Ua Uatto* functions as both a sanction and a tool for moral education, instilling values of discipline, justice, and solidarity among citizens. This coordinated system affirms that customary law in the Iha Community is a living law, administered by community members to foster peace within the community.

The application of the *Mihita La Ua Uatto* customary law in the Iha community is known for its strictness, as it does not take age or social status into account when imposing sanctions. This principle departs from the belief that true justice can be

³⁴ Ahmad Rifai Siregar, "Pelaksanaan hukuman cambuk terhadap pelaku jarimah maisir (studi Putusan No.2/JN/2023/Ms.Ttn)" (undergraduate, UIN Syekh Ali Hasan Ahmad Addary Padangsidempuan, 2024), <https://etd.uinsyahada.ac.id/11712/>.



upheld only if everyone is treated equally under the customary norm. The community holds that a transgression, no matter how small, can disrupt social balance if left without fair sanction. Therefore, both the young and the old are held accountable for violating customary provisions as a form of moral responsibility to the community. This principle of equality is clearly illustrated in daily practice, as explained by the Marinyo (a traditional official) in the interview:

“Here, we do not discriminate; we do not show favour. The old, the young, everyone must be punished if they transgress. But for the elders, we usually give lighter punishments, such as cleaning public places.”³⁵

This statement reflects the balance between firmness and humanity in the execution of customary law. For the Iha community, respecting age does not translate into an exemption from social responsibility; rather, it means imposing a form of punishment that remains educationally meaningful without violating humanitarian values. Furthermore, the preservation of this customary law also possesses symbolic and spiritual dimensions. The implementation of *Mihitta La Ua Uatto* is believed to ward off disaster and maintain the harmony of the customary community. Consequently, the sanction is viewed not only as a form of punishment, but it is also intended to protect society and ensure communal safety. Therefore, the Iha-Ulupia community continues to uphold this caning law as a cultural heritage that is both historically valuable and relevant to the contemporary context. This law serves as a social control and an instrument of unity, binding all community members to a shared vision of a safe, peaceful, and dignified life.

A resident of Iha stated in an interview, “If someone violates customary law, disaster (*bala*) can come. So, we all take care, so the village remains safe.”³⁶ In other words, customary law is not merely interpreted juridically but is also viewed as a sacred and spiritual rule that functions to maintain communal harmony. Adherence to customary law is rooted in the collective awareness that transgression carries consequences that transcend the mundane aspect. The execution of *Mihitta La Ua Uatto*, carried out publicly before the community, is intended to deter an offender and provide a social lesson for all to consistently uphold the rules. The legal process also contains an educative value that strengthens social cohesion, not only the punishment per se.³⁷ The Iha community believes that every punishment must generate a deterrent effect on the offender and simultaneously serve as a warning to others. In an interview, one customary figure asserted,

“We administer the caning to provide a deterrent effect to the community, but the number [of strokes] can change according to community conditions. The more people commit crimes, the greater the number of caning strokes.”³⁸

A clear example of the effectiveness of customary law enforcement in the Mitta community can be seen from the direct testimony of an ex-offender subjected

³⁵ C3, Personal Interview, (Negeri Iha, 2025)

³⁶ C4, Personal Interview, (Negeri Iha, 2025)

³⁷ Luhulima, Tutuarima, and Abas, “Eksistensi Hukum Cambuk (*Mihitta La Ua Uatto*) Dalam Masyarakat Adat Iha-Ulupia Dikaji Dalam Prespektif Hak Asasi Manusia (HAM).”

³⁸ C5, Personal Interview, (Negeri Iha, 2025)



to the caning punishment:

“I was caught drinking alcohol and was then caned. After I was caned, I have never wanted to drink alcohol again.”³⁹

This personal experience demonstrates that the implementation of the caning punishment can provide moral education that deters violators. The punishment strongly implies that every action has consequences, and the deterrence caused is a powerful incentive for offenders to avoid repeating similar conduct. The execution of *Mihita La Ua Uatto* reflects a structured and hierarchical principle of justice that is formally regulated within the customary system of Negeri Iha–Ulupia. Field findings indicate that the sanction is not uniform but follows a progressive escalation model based on the recurrence of violations. This structure is summarised in the Table below, illustrating how customary law differentiates sanctions according to the level of offence and recidivism.

Table 3. Escalation of Caning Sanctions in *Mihita La Ua Uatto* Customary Law

Offence Level	Type of Violation	Number of Lashes	Additional Sanction	Implementation Remark
First offence	Alcohol consumption	7 lashes	None	Initial sanction for deterrent effect
Second offence	Repeated alcohol consumption	14 lashes	Social exclusion	Applied if the same violation is repeated
Third offence	Continued repetition of the same violation	21 lashes	Expulsion from Negeri Iha	The highest sanction in the customary structure

Source: Interview with the Head of Youth of Negeri Iha.

As shown in Table 2, offenders proven to have consumed alcohol for the first time are subjected to seven lashes as an initial deterrent. If the same individual reoffends, the punishment increases to 14 lashes followed by social exclusion from the community. In cases of further recidivism, the sanction escalates to 21 lashes followed by expulsion from Negeri Iha. This graduated sanction system demonstrates that customary law does not impose a static punishment but rather an adaptive mechanism that responds to behavioural repetition and social risk. The execution of this caning punishment consistently upholds the principle of justice, where the number of strokes is determined by the severity of the transgression. Before a sanction is imposed, a communal deliberation is conducted involving customary leaders, religious figures, and the offender’s family. The involvement of these various parties demonstrates that Iha’s customary law is not oriented solely toward repressive action, but toward the principle of restorative justice. The primary goal is to restore social relationships, maintain village harmony, and ensure the offender does not repeat the same transgression. Thus, the implementation of punishment in Negeri Iha Ulupia represents a legally structured customary system in which proportionality, repetition, and social accountability form the basis of the

³⁹ C6, Personal Interview, (Negeri Iha, 2025)



sanctioning logic. The flexibility in the number of caning strokes is a clever social strategy. When the number of offences increases, the punishment is made more severe to strengthen the collective deterrent effect. Conversely, if the community demonstrates moral improvement, the sanction can be reduced to avoid inducing excessive fear. This principle shows a balance between justice and wisdom. Customary law in the Iha Community is primarily intended as a moral mechanism that responds to the social dynamics of its populace.

The Convergence of Islamic Penal Principles and *Mihita La Ua Uatto*

Punishment in both traditional society and Islamic law is consistently present as a mechanism for preserving the moral order. These two legal traditions are meant to cease deviant actions and enforce boundaries that maintain social cohesion. Both originate from a collective need to preserve stability and security. The experience of various communities indicates that punishment is effective when understood as a shared moral consensus. Therefore, observing the point of convergence between the two opens a new way to understand the social function of punishment. Islamic criminal law is based on the idea that punishment is the guardian of the *maqāṣid sharī'ah*. This system ensures society is protected from moral and social degradation. The structure, comprising *hudūd*, *qiṣāṣ-diyāt*, and *ta'zīr*, demonstrates an integration of textual rigour and contextual flexibility. In its historical practice, this system has been capable of shaping an orderly society because it operates through divine legitimacy and social acceptance. Thus, *'uqubah* (Islamic sanction) becomes part of the community's moral framework.⁴⁰

Customary law, *Mihita La Ua Uatto*, views transgression as a disturbance to the communal equilibrium. The determination of the type of sanction is conducted through deliberation, ensuring the decision possesses strong social legitimacy. This customary tradition serves as a restoration mechanism, ensuring the community returns to its proper state. The consistency of its implementation leads the community to perceive it as part of their collective identity. Therefore, customary punishment functions as the guardian of the community's moral structure. In this study, Islamic Penal Principles refer to the foundational doctrines of *fiqh al-jināyāt* (Islamic criminal law) that regulate the philosophy, objectives, and structure of punishment. These principles include *al-'adālah* (justice), *al-tanāsub* (proportionality), *al-zajr* (deterrence), and *al-iṣlāḥ wa al-ta'dīb* (moral reform), which are derived from the broader objectives of *maqāṣid al-sharī'ah*, namely the protection of religion, life, intellect, lineage, and property. Thus, Islamic penal principles serve as legal rules and moral frameworks that guide punishment toward human welfare and ethical balance.⁴¹

Justice is the primary principle that connects these two legal systems. Islamic

⁴⁰ Islamul Haq, "Prison in Review of Islamic Criminal Law: Between Human and Deterrent Effects," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 4, no. 1 (June 2020): 132–50, <https://doi.org/10.22373/sjhk.v4i1.6683>.

⁴¹ Fauzan Fauzan, "Alternatives to Criminal Conviction in a Comparative Analysis of Positive Law and Islamic Criminal Law," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 May (May 2022): 183–202, <https://doi.org/10.29240/jhi.v7i1.4308>.



law bases punishment on the principle of *al-'Adālah*, which demands proportionality, while Iha custom upholds justice through deliberation by customary leaders.⁴² In the view of the Iha community, justice is not achieved through a cold, formalistic verdict, but through a consensus that considers the social standing of the parties involved. As noted by a village elder, "Justice here means the village is calm again. If we only follow a piece of paper, but the families are still fighting, that is not justice for us."⁴³ This indicates that the emic perception of justice in Iha is inextricably linked to communal peace, aligning with the substantive justice sought in Islamic Law.

The public nature of punishment demonstrates that both systems share a strong educative function. In Islam, openness aims to enforce a social deterrent effect, while the Iha custom maintains public execution as a means of collective learning. For the local community, witnessing the caning is a ritual of 'shame' that serves as a powerful psychological barrier. One community member stated, 'Seeing the whipping with my own eyes makes me think a thousand times before touching alcohol. It is not just about the physical pain of being lashed, but also the shame of being seen by the entire village.'⁴⁴ This reinforces the idea that the deterrent effect (*zajr*) in Iha operates through the social pressure of the 'public eye', a mechanism that aligns with the Islamic objective of preventing crime through social visibility."

Both systems agree that punishment must be oriented toward the offender's moral improvement. Interestingly, the Iha community does not perceive the lashes as an act of cruelty, but as a form of "strict correction" to save the soul of the youth. A parent whose child underwent the punishment remarked, "We let the customary officials whip our son because we love him. It is better he feels the cane now than he ruins his life and our village's name later."⁴⁵ This perspective aligns perfectly with the Islamic concept of *ta'dīb* (discipline/education), whose goal is to rehabilitate (*iṣlāḥ*).⁴⁶ Proportionality is a critical element in both Islamic and Iha customary law. Islam differentiates the levels of punishments according to the category of *jarīmah* (offence), while Iha custom adjusts the number of caning strokes based on the seriousness of wrongdoing. Both systems reject excessive punishment or the trivialisation of wrongdoing, as that would generate new injustice. This proportionality ensures that the punishment is accepted as a moral instrument rather than a tool of power. Therefore, the principle of balance underpins the sanction's legitimacy.⁴⁷

⁴² Nor Salam, "Criticism of the Islamic Inheritance Distribution System Perspective of the Principle of Proportionality.," *MAQASHID Jurnal Hukum Islam* 6, no. 2 (November 2023): 16–24, <https://doi.org/10.35897/maqashid.v6i2.1022>.

⁴³ C7, Personal Interview, (Negeri Iha, 2025)

⁴⁴ C8, Personal Interview, (Negeri Iha, 2025)

⁴⁵ C8, Personal Interview, (Negeri Iha, 2025)

⁴⁶ Islamul Haq et al., "Unlocking The Potential of 'Kalosara': An Extensive Analysis of Adultery Instances Dispute Resolution in the Tolaki Tribe through the Lens of al-Ishlah Concept," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 24, no. 1 (June 2024): 86–100, <https://doi.org/10.30631/alrisalah.v24i1.1488>.

⁴⁷ Islamul Haq et al., "I'adah al-Nadzr (Reconsideration): A Critical Comparative Study between Indonesian Law and Saudi Arabian Law Perspectives (Fiqh Murafa'at)," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 November (December 2022): 311–28, <https://doi.org/10.29240/jhi.v7i2.5248>.



The spiritual dimension also reinforces the similarity between the two. Islam views transgression as an act that damages the human relationship with Allah, while Iha customary tradition sees it as a violation of the ancestral equilibrium. This perspective frames punishment as a process of restoring the human relationship with transcendent values. This spiritual effect ensures that the punishment is not merely a worldly action. Thus, punishment works on social and spiritual dimensions simultaneously.

The following Table presents a comparison of sanctioning principles in Islamic criminal law and *Mihita La Ua Uatto* customary law.

Table 4. Comparison of sanctioning principles in Islamic criminal law and *Mihita La Ua Uatto* customary law

Principle	Islamic Criminal Law	<i>Mihita La Ua Uatto</i> Customary Law (Iha)	Point of Convergence (Analysis & Benefit)
<i>Al-Adālah</i> (collective justice)	Punishment must be proportional (<i>al-tanāsib</i>) to the offence; safeguarding the rights of the offender, victim, and community (substantive justice).	Sanctions are determined in deliberation by customary leaders (Saniri Negeri), emphasising collective consensus, not sole authority.	Dialogical Justice: Both systems reject arbitrary will and establish sanctions through agreed-upon mechanisms (text vs. deliberation), guaranteeing the moral legitimacy of the punishment.
<i>Al-Rad' wa al-Zajr</i> (deterrence)	Punishment is executed openly in public to create fear and prevent offences collectively.	Caning is performed in public as a means of collective learning for the offender and to deter them, thereby allowing the community to recognise moral boundaries.	Socio-Educative Function: Both utilise the openness of execution as a strong preventive mechanism strategy, positioning punishment as a continuous social reminder.
<i>Al-Iṣlāḥ wa al-Ta'dīb / al-Raḥmah</i> (moral reform)	Punishment serves as <i>ta'dīb</i> (moral education) and an opportunity	Punishment is viewed as "collective affection" aimed at	Rehabilitative Paradigm: Both emphasise the goal of restoring (rehabilitating) the



	for <i>taubat</i> (repentance) for the offender (humanitarian dimension).	restoring the offender's standing and dissuading them from destructive behaviour.	offender, rather than mere retribution, ensuring that the offender remains integrated into the community.
<i>Al-Tanāsib/al-Tanwī'</i> (proportionality)	Punishment differs among <i>hudūd</i> , <i>qisās</i> , and <i>ta'zīr</i> ; sanctions are adjusted according to the level and category of offence.	The number of caning strokes is flexible and adjusted according to the severity of the offence and the community's moral condition (smart social strategy).	Adaptive Substantive Justice: Both implement different sanctions to avoid new injustices, demonstrating that the legal system can be adaptive and responsive to social dynamics.
<i>Al-Shumūl</i> (spiritual dimension)	Criminal offence incurs the wrath of Allah; punishment is intended to restore <i>taqarrub</i> (transcendent relationship).	Customary offence is believed to invite <i>bala</i> (calamity) from the ancestors; punishment represents collective prayer for safety.	Guardian of Cosmic Balance: Both regard law preserving spiritual and cosmic balance, rooting compliance in an awareness that transcends worldly aspects.

Source: Field interviews with customary leaders, youth leaders, and community figures in Negeri Iha, 2025

The findings regarding this value relationship demonstrate that the effectiveness of punishment is not contingent upon the harshness or leniency of the sanction. Rather, it emerges from the social legitimacy that accompanies the punishment. When the community accepts the punishment as an integral part of its moral fabric, transgressions tend to decrease because the sanction is viewed as a collective reminder. The Iha customary experience illustrates that social rituals amplify the message of the punishment. Therefore, the acceptance of the underlying value is more determinant than the legal form itself. This convergence of values provides an opportunity to formulate a new theoretical framework concerning the relationship between Islamic law and local custom. The *maqāṣid* framework, which forms the basis of Islamic law, can be integrated with the framework of communal



harmony in Iha custom. Both converge on the orientation of preserving social and moral sustainability. This affirms that custom can be interpreted as a system of values that aligns with the *maqāṣid*. Thus, custom is not merely culture, but a normative moral order.

From this relationship emerges the concept of the Theory of *al-'Uqūbah al-Jamā'iyah al-Mutakāmilah* (The Integrated Collective Punishment Theory). This theory posits that punishment is effective when it functions within the framework of ritual value and collective communal legitimacy. Islam upholds divine values (*ilahiyah*), while custom utilises kinship and ancestral values. Both affirm that punishment is moral communication, not merely a legal act. Therefore, this theory expands the scope of *'uqubah* studies within a socio-cultural context. Within this integrated theoretical framework, the public execution of punishment is understood as a communal moral reminder ritual. The Iha customary tradition maintains this ritual as a form of identity, while Islam establishes it as an instrument for strengthening divine consciousness. The publicity of the punishment instils the same value through two aspects: religion and custom. The effect is the strengthening of the collective memory of moral boundaries. In this way, public ritual becomes an instrument that binds value.

Beyond the function of deterrence, both systems view punishment as a pedagogical process. Islam teaches *ta'dīb* as moral education, while Iha custom treats punishment as a process of restoring the offender's dignity within the community. The punished offender is rehabilitated to resume a normal role. The community also understands that punishment contributes to moral development and serves as a form of moral transformation. Social relations are also part of the orientation of both punishment systems. Islam opens space for reconciliation by providing forgiveness in *qiṣāṣ*, while Iha custom ensures the re-acceptance of the offender after they have undergone the sanction. Both prevent the likelihood of prolonged resentment. This restorative approach strengthens social harmony and reduces the potential for new conflicts. Therefore, punishment serves as a means of restoring social relations.

This functional similarity shows that Islamic law and custom are not two mutually exclusive models but two variants of communal moral enforcement that mutually reinforce each other. Islam provides theological legitimacy, and custom provides social legitimacy. Therefore, converging the two will construct a more robust model of law enforcement; their integration is natural within a religio-cultural society. This integrated model indicates that the application of sanctions needs to fit the community's culture. Islamic law will be more effective when operating within a social sphere with established customary values. The Iha custom proves that the community requires rituals and symbols to strengthen the message of punishment. When *Sharia* values are intertwined with customary rituals, social stability is better maintained. Therefore, this theoretical integration should harmonise national, Islamic, and customary law.

The fusion of Islamic legal values and Iha custom creates a new horizon in the study of criminal law based on local wisdom. The closeness of their values suggests that traditional societies possess a moral structure that is parallel to the



maqāṣid. This research expands the concept of *‘uqubah* as a moral-ritual system that works through symbols, rituals, and social legitimacy. This approach also allows for culture-based legal reconstruction. Thus, this integrated theory is a significant academic contribution to the study of Islamic and customary law.

Conclusion

This study confirms that the customary caning law, *Mihita La Ua Uatto*, functions as a vital mechanism for maintaining social and spiritual equilibrium in the Iha-Ulupia community, founded on the local adage "*where there is balance, there is peace*." The most significant finding is the demonstration of the law's effectiveness, which stems primarily from its high social legitimacy, rooted in communal consensus and ritual acceptance rather than the severity of the sanction itself. The law exhibits remarkable adaptability, strategically shifting its focus to address alcohol abuse as the primary contemporary threat, thus maintaining its current relevance. Crucially, the research identifies a profound normative convergence between the values embedded in *Mihita La Ua Uatto* and the core principles of Islamic Penal Law (*‘Uqubah*). This convergence is evident across five dimensions: *al-‘Adālah* (dialogical justice), *al-Rad‘ wa al-Zajr* (Socio-Educative Function), *al-Ta’dīb* (rehabilitative goals), substantive proportionality, and a shared focus on the Spiritual/Cosmic Balance. This convergence leads to the proposition of the Theory of *al-‘Uqubah al-Jamā‘iyyah al-Mutakāmilah* (The Integrated Collective Punishment Theory). This theory advances the understanding of punishment by asserting its effectiveness is maximised when it operates as a moral-ritual system integrated into the community's collective legitimacy, affirming that custom is not merely culture but a normative moral order that is naturally harmonious with the *maqāṣid sharī‘ah*.

The primary strength of this study lies in its integrated theoretical framework, moving beyond the typical legal pluralism dichotomy to forge a new conceptual model rooted in socio-cultural analysis. By utilising in-depth field interviews with customary leaders, community members, and former offenders, the research provided empirical evidence of the punitive sanction's success in achieving moral transformation and preventing recidivism—a perspective often lacking in external human rights critiques. Furthermore, the study contributes significantly to the literature by elevating a specific local custom into a universal theoretical concept, demonstrating the potential of local wisdom to inform and refine broader legal scholarship. Despite its strengths, the study acknowledges several limitations. First, the data rely heavily on self-reported accounts and customary perspectives, which may be susceptible to social desirability bias, particularly regarding the *ta’dīb* (moral reform) effects of the sanction. Second, the analysis of *al-Tanāsib* (proportionality) is based on traditional leaders' discretion and communal perception, lacking a standardised, quantitative measure of offence severity relative to sanction application. Finally, the legal-anthropological scope intentionally prioritises the community's internal logic (emic perspective), which inherently limits the depth of engagement with the complexities of the national and international human rights law debate (etic perspective) concerning physical punishment. Future research should address these limitations by incorporating quantitative measures of



recidivism and a more robust comparative analysis with formal state court records.

Acknowledgment

The author expresses sincere gratitude to the Lembaga Pengelola Dana Pendidikan (Indonesia Endowment Fund for Education) under the Ministry of Finance of the Republic of Indonesia for supporting this publication and collaborative effort.

Conflict of Interest Statement

The authors declare that there are no conflicts of interest regarding the publication of this paper. The authors have no known competing financial interests, institutional affiliations, or personal relationships that could have influenced the research, analysis, or conclusions presented in this study.

Funding Statement

This work was funded by the Indonesia Endowment Fund for Education (Lembaga Pengelola Dana Pendidikan/LPDP) under the Ministry of Finance of the Republic of Indonesia, in support of this publication and collaborative research effort.

Declaration of the use of AI

The authors affirm that no artificial intelligence (AI)-assisted technologies were directly used in the preparation, writing, analysis, or revision of this article. The authors only used AI as a technical supporting tool, and it did not influence the content, analysis, or conclusions of the research.

Credit of Author Statement

Islamul Haq: Conceptualization, Supervision, Methodology, Formal Analysis, and Writing Original Draft Preparation. **Rasna:** Data Curation, Investigation, and Writing Review and Editing. **Resi:** Data Collection, Validation, and Writing Review and Editing. **Habib Maulana Maslahul Adi:** Methodology Support, Analysis Assistance, and Editing. **Agam Royana:** Formal Analysis, Comparative Review, and Writing Review and Editing.

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