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Guaranteeing Women's Freedom under the Constitution: Gender Analysis of *Qânûn* Practices in Aceh

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Abstract

This article analyses and critiques the practice of *qânûn* in Aceh on guaranteeing women's freedom. Research data were collected from library research, including primary data obtained from scientific publications in journals, books, and proceedings on six *qânûn* documents in Aceh; secondary data consist of laws and regulations. The data were also gathered from interviews with Acehnese figures who were familiar with *qânûn*, Islamic law, and Acehnese customs. The analysis method refers to a descriptive-qualitative approach that combines doctrinal-normative and socio-legal analysis. The results show that all *qânûn* in Aceh are normatively valid legal products, as the Regional People's Representative Council ratifies them. However, their formulation and ratification reveal gender bias, as only 5% of female legislators have been involved, and in some regions, the percentage of female members remains at 0% until 2024. In its implementation, gender bias is also considered to be obvious, particularly in the application of caning punishment in public places, which gives social pressure on women, leaving women's interests not fully affirmed. The interviews with Acehnese figures suggest that *qânûn* is essentially a recognition of the synergy having existed since ancient times, when Aceh was

still a kingdom where Islamic law and customary practices in Acehnese society placed women in policymaking roles.

Keywords: Women's Freedom; Gender Equality; *Qânun* Aceh; Indonesia.

Introduction

The enactment of *qânûn* in Aceh departed from a negotiation between the Indonesian government and political elites from the Aceh region.¹ This negotiation aimed to maintain Aceh's unity with Indonesia, ultimately leading to the enactment of Law No. 18 of 2001 concerning the Government of Aceh, which was subsequently amended by Law No. 11 of 2006. This law granted Aceh special autonomous rights to regulate and apply Islamic law in various aspects of criminal and civil law.² It also allows Aceh to apply Islamic law in several aspects of life, including criminal, economic, and socio-cultural law.³ Implementing Islamic law in Aceh is a socio-religious phenomenon and an integral part of the region's legal and constitutional system.⁴ Pradana et al. state that *qânûn* in Aceh has contributed many benefits to the community through maintaining ethics and social order, especially *qânûn jinâyât*, which regulates violations, such as gambling, alcohol, and immoral acts.⁵

However, some research examines *qânûn* and offers reformulation ideas, citing gender bias, particularly in the underrepresentation of women in the issuance of *qânûn*. Then, in practice, it has a profound impact on the existence of women. Muzakir's research shows that the *Qânûn Jinâyât* (Islamic Law) in Aceh does not

¹ E. M. K. Alidar et al., "The Shared Values of Sharia Banking: Non-Muslims Under The Qanun on Islamic Financial Institutions in Aceh," *AHKAM: Jurnal Ilmu Syariah* 24, no. 1 (2024): 185–98, <https://doi.org/10.15408/ajis.v24i1.39188>; Syarifah Rahmatillah Aljamalulail et al., "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 (2024): 1, <https://doi.org/10.22373/sjhk.v8i1.16307>; Zul Anwar Ajim Harahap et al., "Analyzing the Offense of Juvenile Khalwat in Aceh: Evaluation of Qanun Number 14 of 2003 from an Islamic Legal Perspective," *Al-Manahij: Jurnal Kajian Hukum Islam*, May 3, 2024, 79–94, <https://doi.org/10.24090/mnh.v18i1.10648>; Fatimah Zuhrah et al., "Tradition Beyond Formal Fiqh: Ethnic Perspectives on Negotiating Kafa'ah in Marriage within the Aceh Singkil Community," *Journal of Islamic Law* 6, no. 2 (2025): 155–76, <https://doi.org/10.24260/jil.v6i2.4187>.

² Ovi Amalia Sari et al., "Pertentangan Etnis Minoritas Terhadap Agenda Politik Identitas Elite Pemerintah Aceh," *Journal of Governance and Social Policy* 3, no. 2 (2022): 140–51, <https://doi.org/10.24815/gaspol.v3i2.29422>; Muhammad Maulana et al., "Islamic Banking Services for Communities and Families in Aceh Province Post Closure Of Conventional Banks: A Comprehensive Review," *El-Usrah: Jurnal Hukum Keluarga* 7, no. 2 (2024): 903–22, <https://doi.org/10.22373/ujhk.v7i2.26312>.

³ Joni Helandri et al., "Implementasi Prinsip Negara Hukum Dalam Meningkatkan Good Governance Di Indonesia," *Hutanasyah: Jurnal Hukum Tata Negara*, 3, no. 1 (2024): 39–60. DOI: <https://doi.org/10.37092/hutanasyah.v3i1.888>

⁴ M Idris and Dinda Rizky Amalia, "Islamic Shari'a and Traditions in Aceh Darussalam," *Formosa Journal of Social Sciences (FJSS)* 1, no. 1 (2022): 11–24, <https://doi.org/10.55927>.

⁵ Anjas Putra Pradana et al., "Perkembangan Qanun Aceh Dalam Perubahan Sosial dan Politik di Aceh," *JIMMI: Jurnal Ilmiah Mahasiswa Multidisiplin* 1, no. 1 (2024): 64–77, <https://doi.org/10.71153/jimmi.v1i1.100>; Karimuddin Abdullah Lawang et al., "Kontribusi Dinas Syariat Islam Terhadap Penerapan Qanun Tentang Khalwat di Aceh," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 24, no. 1 (2024): 28–41, <https://doi.org/10.30631/alrisalah.v24i1.1427>.



favour women and children. First, it is difficult for rape victims to provide evidence due to psychological pressure. Second, the legal dualism between Articles 81 and 82 of the Child Protection Law and Article 47 of the *Qânûn Jinâyât* leaves room for violence against children. This case stems from the *Qânûn Jinâyât*, which was formulated and ratified with minimal involvement from certain parties and limited public participation.⁶ In line with Muzakir's research, also expressed by Fadlia & Ramadani, who found that the *Qânûn Jinâyât* discriminates against women, particularly the female victims of rape. Article 52, paragraph 1 states that rape victims must provide evidence when reporting, thus placing a heavy burden on female rape victims and allowing for injustice and human rights violations.⁷

Ridwan Nurdin also expressed several critical aspects and crucial issues regarding the implementation of *qânûn* in Aceh. First, from a political perspective, the criminal penalties in the *qânûn* are not stipulated in the Criminal Code (KUHP), contradicting the human rights principles enshrined in the 1945 Constitution. Second, from an implementation perspective, the Aceh *qânûn* has failed to effectively address moral crimes. Some law enforcement officers even act beyond their assigned tasks, as in Langsa City, where the *Wilayatul Hisbah* (Islamic Law Enforcement Agency) violated the criminal act of *khalwat* (intimacy) involving women.⁸ However, several studies differ from the findings above. Mohd. Din & Abubakar, who also examined the Aceh *qânûn* using a legal history approach, demonstrate that the *qânûn* or Islamic Sharia in Aceh has unique characteristics. The existence of special rights for Aceh makes it natural for Aceh to have a *qânûn*, given its long history, especially in relation to the development of criminal law in Indonesia, which still refers to the Criminal Code inherited from the Dutch East Indies.⁹ In line with this research, Juliandika & Fazzan also firmly concluded that the implementation of the *Qânûn Jinâyât* plays an essential role in strengthening Islamic identity in Aceh; there is, however, a resilience that requires further supervision and harmonisation with national legal principles and human rights values.¹⁰ Therefore, the study of Aceh's *qânûn* in guaranteeing women's freedom remains highly relevant, as the current average number of women in the Acehnese parliament remains below the latest national requirement (30%). Only one region, Lhokseumawe City (28%), comes close. Three areas exceed 20%, and two regions have no female members (Chart 1).

⁶ Muzakir Muzakir, "Dawn of Justice: Evaluating the Alignment of Women and Children in Aceh's Qanun Jinayat," *Al-Ahkam* 32, no. 2 (2022): 131–52, <https://doi.org/10.21580/ahkam.2022.32.2.12130>.

⁷ 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 (2018): 448–470, <https://doi.org/10.19184/jseahr.v2i2.8358>.

⁸ Ridwan Nurdin and Muhammad Ridwansyah, "Aceh, Qanun and National Law: Study on Legal Development Orientation," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 4, no. 1 (2020): 107–31, <https://doi.org/10.22373/sjhk.v4i1.6416>.

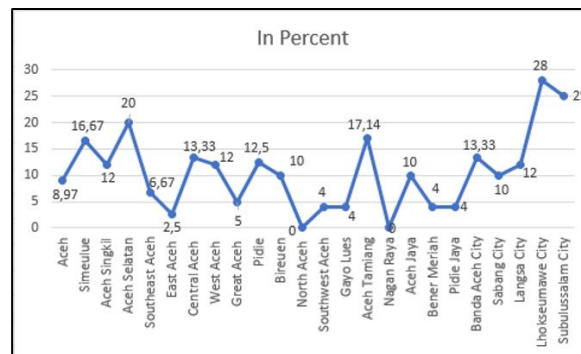
⁹ Mohd Din and Al Yasa' Abubakar, "The Position of the Qanun Jinayat as a Forum for the Implementation of Sharia in Aceh in the Indonesian Constitution," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (2021): 689, <https://doi.org/10.22373/sjhk.v5i2.10881>.

¹⁰ Adam Juliandika and Fazzan, "The Implementation of Islamic Sharia in the Enforcement of Qanun Jinayat in Aceh: A Legal Analysis and Social Impact," *Ahlika: Jurnal Hukum Keluarga Dan Hukum Islam* 1, no. 2 (2024): 148–61, <https://doi.org/10.70742/ahlika.v1i2.94>.



Yunus and Aziz et al. discuss constitutional and gender criticism of the implementation of *qânûn* in Aceh and the implications arising from this policy.¹¹ Hanafi et al. explain that a critical perspective is essential to find a just and inclusive solution that can respect Aceh's autonomy while upholding constitutional principles and gender justice in Indonesia.¹² Danial finds the caning penalty contains several weaknesses, potentially violating human rights, especially concerning the crime of *khalwat* and its legal aspects.¹³ Qotadah finds debates in society, where the application of *qânûn jinâyat* is contrary to the principles of legislation and human rights.¹⁴

Chart 1. Composition of Women in the Aceh Parliament



Source: Central Statistics Agency, 2024.¹⁵

A moderate study on *qânûn* in Aceh by Summa et al. reveals that applying Islamic law in Aceh provides essential insights into how religion and the state interact in the pluralistic Indonesian context.¹⁶ This article aims to analyse the extensive literature on *qânûn* studies in Aceh from two perspectives: on the one hand, it critiques the *qânûn* in Aceh concerning the guarantee of women's freedom, and, on the other hand, it presents a neutralising synthesis. This neutralising opinion is based on interview data with several Acehnese community leaders, who have academic backgrounds and are active in the social sector in Aceh, as they tend to be neutral.

¹¹ Firdaus M Yunus et al., "Penerapan Dan Tantangan Pelaksanaan Syariat Islam Di Aceh," *Jurnal Sosiologi USK (Media Pemikiran & Aplikasi)* 17, no. 1 (2023): 181–92, <https://doi.org/10.24815/jsu.v17i1.32865>; 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 (2023): 37–56, <https://doi.org/10.18326/ijtihad.v23i1.37-56>.

¹² Imam Hanafi et al., "Exploring The Compatibility of Sharia Law And Democratic Values In Indonesia's Democracy," *Sibatik Journal* 2, no. 10 (2023): 3169–3186.

¹³ Danial, "Qanun Jinayah Aceh Dan Perlindungan HAM (Kajian Yuridis-Filosofis)," *Al-Manahij* 6, no. 1 (2012): 85–98.

¹⁴ Hudzaifah Achmad Qotadah and Adang Darmawan Achmad, "Qanun Jinayat Aceh Antara Implementasi, Isu Dan Tantangan," *Adliya: Jurnal Hukum Dan Kemanusiaan* 14, no. 2 (2020): 171–90, <https://doi.org/10.15575/adliya.v14i2.9246>.

¹⁵ Central Statistics Agency (BPS), "Women's Participation in Parliament (Percent), 2024," April 25, 2025. (<https://www.bps.go.id/id/statistics-table/2/NDY0IzI=/keterlibatan-perempuan-di-parlemen.html>)

¹⁶ Muhammad Amin Suma et al., "The Implementation of Sharia in Aceh: Between The Ideal and Factual Achievements," *Ahkam: Jurnal Ilmu Syariah* 20, no. 1 (2020): 19–48, <https://doi.org/10.15408/ajis.v20i1.14704>.



This neutralising opinion, supported by interview data, is a new finding and strength of this article, not expressed in previous research.

Research methods

This study is library research discussing *qânûn* in Aceh. This explanatory-critical research aims to describe the phenomenon of implementing *qânûn* in Aceh, while evaluating and critiquing it from a gender perspective. The primary sources of data include various literature that discusses *qânûn* enacted on 2003, No. 12 concerning *Khamar* (a substance containing alcohol and intoxicating), No. 13 concerning *Maysir* (Gambling), No. 14 concerning *Khalwat* (Perverted, regulates acts that are close to adultery and indecent acts), and No. 6 of 2014 concerning the Law of *Jinayat*. Additional data sources were obtained from interviews with representatives in Aceh who are familiar with various legal theories, the development of *qânûn* in Aceh, and societal problems (Table 1).

Table 1. Informant Data and Identity

Initial Name	Identity	Gender
M.M.	Professor of Islamic Law at the Faculty of Law, State Islamic University Ar-Raniry, Banda Aceh.	Male
B. A	Chairman of the Indonesian Anthropological Association (AAI) Aceh for the 2021-2026 period	Male
H. F.	Young Acehese figure, Doctor at State Islamic University Ar-Raniry Banda Aceh	Male
T. K. F.	Young Acehese Figure of NU, Lecturer of Anthropology at Malikussaleh University, Lhokseumawe Aceh	Male
B. E.	Young Acehese Figure, Head Youth Gampong Rukoh, Syiah Kuala District, Banda Aceh. Lecturer at the Department of Law at the University of Syiah Kuala Aceh	Male
K.	Doctor, Management of the Centre for Women's Studies, Management of the Integrated Service Unit for the Prevention and Handling of Sexual Violence (ULT PPKS), State Islamic University Ar-Raniry Banda Aceh	Female

This study employed a descriptive-qualitative method, combining doctrinal-normative and socio-legal analysis methods. The doctrinal-normative approach analyses the constitutional aspects of implementing Acehese *qânûn* within the framework of Indonesian law. In contrast, the socio-legal approach examines the social and gender implications of these regulations in Acehese society.

Results and Discussion

Criticism of *Qânûn* Aceh in Gender Perspective

Criticising *qânûn* in Aceh on the gender aspect, the majority starts from the birth of *qânûn*, which is considered to have minimal involvement of women in the legislative process.¹⁷ Haridison said the process of formulating *qânûn* in Aceh involves

¹⁷ Anyualatha Haridison, "Modal Sosial Dalam Pembangunan," *Journal Ilmu Sosial, Politik dan Pemerintahan* 2, no. 2 (2021): 1–9, <https://doi.org/10.37304/jispar.v2i2.363>.



only a minimal female role.¹⁸ Sutrisno found that during the 2009-2014 elections, when the *qânûn* was formulated and promulgated, the involvement of women in the Aceh Provincial House of Representatives (DPRA) was limited, with only four women (5.8%) represented in the Aceh parliament.¹⁹ Abbas et al. reaffirmed that men still take the major proportion in the formulation of *qânûn* Aceh.²⁰ Novita Sari and Aminah reported that men outnumber the female members in the Aceh House of Representatives (DPRA), indicating that women's aspirations and interests are underrepresented in the formulation of *qânûn*, especially those related to Shariah and social law. The policies formulated remain dominated by a patriarchal perspective; therefore, some of the rules enforced tend to be stricter for women than for men.²¹

Tamrin stated that the minimal representation of women in the Aceh parliament led to suboptimal legislation, resulting in policy decisions that failed to address women's needs and experiences.²² This rule raises concerns about the underrepresentation of women's perspectives in policymaking, which has a direct impact on women's lives.²³ The presence of women in the legislative process is essential in ensuring that the regulations do not merely represent a male perspective; women's perspectives should be equally considered. This imbalance in representation has led to many policies being less sensitive to gender issues and not fully accounting for their impact on women in social, economic, and legal life.²⁴

In the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Part II, Article 7, States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right (a) to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies, (b) to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) to participate in non-governmental organizations and associations concerned with the public and political life of the country. The articles considered most gender-biased are Article 13, paragraph (1) and Article 23 of Qanun Aceh No. 11 of 2002, which explains the obligation to use clothes according to sharia and the provisions of punishment from warnings, *takzir* and whipping, which, in this context, women are the ones who suffer the most and

¹⁸ Arifin Abdullah, "Peran Legislatif Perempuan Dalam Pembentukan Qanun Di DPRA Periode 2014-2019 Tinjauan Dari Perspektif Islam," *El-Hadhanah : Indonesian Journal Of Family Law And Islamic Law* 2, no. 1 (2022): 91–107, <https://doi.org/10.22373/hadhanah.v2i1.1739>.

¹⁹ Sutrisno, "Perempuan Dan Politik Di Aceh: Studi Keterwakilan Perempuan Pasca Pemilihan Umum Tahun 2014," *Jurnal As-Salam*, 1, no. 2 (2016): 105–17.

²⁰ Syahrizal Abbas et al., "The Dynamics of Sharia Law Taqin in Aceh 2013-2017: Analysis of Regulative Policy and Social Reality," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 1 (2024): 269–89, <https://doi.org/10.22373/petita.v9i1.286>.

²¹ Novita Sari and Aminah, "Affirmative Action Di Aceh: Kendala Dan Upaya Partai Politik Dalam Meningkatkan Keterwakilan Perempuan," *Journal of Political Spere* 1, no. 1 (2020): 40–60.

²² Sopian Tamrin, "Patriarki Berkedok Tubuh Perempuan: Sebuah Analisis Feminis," *Jurnal Perspektif* 7, no. 2 (2024): 301–10, <https://doi.org/10.24036/perspektif.v7i2.858>.

²³ Bukhari and Anwar, "Implementasi Hukum Islam Di Aceh Dalam Perspektif Historis," *At-Tasyri': Jurnal Ilmiah Prodi Muamalah* 9, no. 1 (2022): 65–73, <https://doi.org/10.47498/tasyri.v14i1.951>.

²⁴ Sulistiyowati and Lestari Agusalim, "Covid-19, Ketimpangan Gender, Dan Pertumbuhan Ekonomi: Studi Empiris Indonesia," *Sosio Informa* 9, no. 2 (2023): 173–96.



are affected by the regulation. Muhsinah and Sulaiman stated that despite efforts to optimise the role of women in the implementation of Shariah law in Aceh, significant obstacles remain.²⁵ The above literary assumptions suggest that the minimal involvement of women in the preparation of *qânûn* is also influenced by social and cultural barriers that still consider politics and law as the domain of men, resulting in low participation by women in politics and legislation.

An Acehnese woman states that many women possess competence and leadership qualities but struggle to find the space to contribute to policymaking. Lack of access to political education and opportunities to occupy strategic positions also hinders women's participation in the legislative process.²⁶ However, this is an assumption or thought that is a historical fact among the people of Aceh itself. Since ancient times, *qânûn* in Aceh has also been handed over to women, as there is an expression that has been known and practised by the people of Aceh:

*Adat bak Poteu Meureuhom,
Hukom bak Syiah Kuala,
Qanun bak Putroe Pahang,
Reusam bak Laksamana*

The above sentences serve as the "triaspolitica" in Aceh that existed even before the Trias Politica theory of the Montesque model (1700s) emerged. The phrase *Qânûn bak Putroe Phang* is translated as *qânûn* that serves as the authority of the Princess of Pahang. The phrase "Putri Pahang" highlights the central role of women in preparing the *qânûn*.²⁷ The phrase, contained in the *Tadzkiat al-Radikin* (1889) by Sheikh Abbas bin Muhammad al-Muqallab (known as Teungku Chiek Kutakarang): "*Adat bak Poteu Meureuhom, Hukom bak Syiah Kuala,*" has been recognised in Aceh since the kingdom era, especially among those concerned with culture. The meaning is that custom and law (Islamic teachings) are two aspects that are integrated into the lives of the Acehnese people. "*Adat bak Poteumeureuhom*" means that custom is maintained and controlled by the king, while "*Hukom bak Syiah Kuala*" implies that Islamic teachings are delivered under the control and supervision of the ulama. These two phrases reflect the importance of custom in the lives of the Acehnese people. During the glory days of the Aceh Darussalam Kingdom, cooperation between the ulama as the leaders implementing Islamic law and the *umara* (king) as the holder of power went very well. This fact has led to the emergence of an expression that unites *qânûn* and *adat*, "*Hukom ngon adat lagee zat ngon sifeut,*" meaning that God's law (Islamic teachings) and *adat* (tradition) are united, like God's essence and attributes.²⁸ Therefore, a perception is emerging between the local Acehnese public and academics, with various literature suggesting that gender criticism focuses more on implementation than on historical aspects. This is crucial for all parties to continuously evaluate and improve the implementation of the *qânûn*, keeping its adherence to the principles and human rights of the Acehnese people. Constructive dialogue among the government, the community, and other stakeholders is essential

²⁵ Muhsinah and Sulaiman, "peran perempuan dalam pelaksanaan syariat islam di provinsi aceh," *MIQOT: Jurnal Ilmu-ilmu Keislaman* 43, no. 2 (2019): 202, <https://doi.org/10.30821/miqot.v43i2.617>.

²⁶ K., "Interview," September 2, 2025.

²⁷ B.E., "Interview," August 4, 2025.

²⁸ B.A., "Interview," August 6, 2025.



for striking a balance between law enforcement and respecting individual rights, particularly those of women.

Several articles in *qânûn jinâyat* that burden women more than men, even in terms of legal construction, can potentially violate individual rights guaranteed by the Constitution.²⁹ Some literature shows that the problem of *qânûn* in Aceh is the application of double standards to rights between men and women.³⁰ Some of the literature that strongly criticises *qânûn* in Aceh because it is considered gender biased is the research by Rodiah Nur et al., who see the role of women in the legislative process. Their voices are often overlooked in policymaking, despite men and women having the same status and being able to work together.³¹ Marwing sees the application of *qânûn* in Aceh as a form of discrimination against women.³² The most prominent aspect is *qânûn jinâyat*, which regulates punishment for moral transgressions, such as *zinâ*, *khalwat* (making out with the opposite sex who is not *mahrâm*), and sexual harassment. In practice, some concerns applying this *qânûn* have more impact on women than men, especially in cases related to socialisation and clothing.³³

Apriliandra and Krisnani also reveal that in cases of *zinâ* and *khalwat* violations, women are often the main object of law enforcement. At the same time, the men involved usually do not receive the same sanctions. This case creates a heavier social stigma for women and has a significant psychological impact due to such discrimination.³⁴ In the context of gender, Santoso et al. also observe that women who are subjected to this punishment experience much greater social stigma than men, and this creates injustice.³⁵ The emphasis on strict morality and restrictions on women's freedom is often rooted in traditional views that demean women. In this

²⁹ 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 (2018): 448-470, <https://doi.org/10.19184/jseahr.v2i2.8358>.

³⁰ Muhammad Rusdi bin Muhammadiyah and Muhazir, "Dinamika Hukum Islam Dan Perubahan Sosial Di Aceh (Upaya Membangun Hukum Pindana Islam Yang Responsif Dan Dinamis)," *LĒGALITĒ. Jurnal Perundang Undangan Dan Hukum Pidana Islam* 6, no. 1 (2021): 1-23, <https://doi.org/10.32505/legalite.v6i1.2918>; T. Saiful Saiful, "Gender Perspektif dalam Formalisasi Syariat Islam di Aceh," *Kanun Jurnal Ilmu Hukum* 18, no. 2 (2016): 235-63.

³¹ Efa Rodiah Nur et al., "The Reconstruction of The Livelihood Concept from A Mubâdalah Perspective in Lampung Province," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (2023): 1897-1920, <https://doi.org/10.22373/sjhk.v7i3.17613>.

³² Khairul Hasni, "Sharia Police: Gender Discrimination, and Elite Politics in Aceh," *Al-Hayat: Journal of Islamic Education (AJIE)* 4, no. 1 (2020), <https://doi.org/10.35723/ajie.v4i1.57>; Abdul Jalil Salam et al., "The Urgency of Ammending Jinâyat Qânûn in Eradicating Cyber Sexual Crime in Aceh, Indonesia," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 2 (2024): 603-31, <https://doi.org/10.19105/al-lhkam.v19i2.15118>.

³³ 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 (2018): 448-70, <https://doi.org/doi:10.19184/jseahr.v2i1.8358>.

³⁴ Sarah Apriliandra and Hetty Krisnani, "Perilaku Diskriminatif Pada Perempuan Akibat Kuatnya Budaya Patriarki Di Indonesia Ditinjau Dari Perspektif Konflik," *Jurnal Kolaborasi Resolusi Konflik* 3, no. 1 (2021): 1-13, <https://doi.org/10.24198/jkrk.v3i1.31968>.

³⁵ Arif Dian Santoso et al., "Pengaruh Penerapan Qanun Jinayat Terhadap Angka Kriminalitas Di Aceh," *Borobudur Law Review* 2, no. 1 (2021): 53-63, <https://doi.org/10.31603/burrev.4787>; Bastiar Bastiar et al., "Syariat in Action: Assessing the Impact of Jinayat Law on Social Order in Aceh," *Justicia Islamica* 22, no. 1 (2025): 159-84, <https://doi.org/10.21154/justicia.v22i1.9913>.



context, women are positioned as subjects who need to be protected and controlled, rather than as individuals who have the right to make decisions about their own lives.³⁶ Thus, strict laws and high social control can negatively impact women's mental health.³⁷ Fear of stigma, punishment, and constant scrutiny can lead to anxiety, depression, and feelings of isolation. This legal and social uncertainty can prevent women from actively participating in social and economic life.³⁸

The material of *qânûn* that is also highlighted is Article 13, Paragraph 1 of Qanun No. 2002, which sets out the Muslim attire requirements for women, stipulating that they must wear hijab and dress modestly. Although these regulations aim to uphold Islamic values, some believe that they may limit women's freedom to express themselves and choose what to wear according to their preferences. Social sanctions against women who do not meet established dress standards are also often greater than sanctions against men, indicating an imbalance in the application of gender-based rules.³⁹ To overcome some of these problems, the government and society need to take concrete steps to encourage women's participation in politics and policymaking. Steps that can be taken are to increase the involvement of women in the Aceh House of Representatives (DPRA) and the Regency/Municipal House of Representatives (DPRK) through affirmative policies, such as a 30% quota for women's representation in politics as stipulated in Law No. 2 of 2008 concerning Political Parties.⁴⁰

Political education for women also needs to be strengthened to realise good governance so that they understand the legislative system and the *qânûn*.⁴¹ By increasing women's participation in the legislative process, *Qânûn* Aceh is expected to be more inclusive and represent the interests of the entire community, not only from a man's perspective. It will also help create policies that are more equitable and responsive to gender issues, so that the *qânûn* applied in Aceh not only refers to sharia values, but also respects women's rights and the principle of gender equality. Leny Nofianti states that in the modern world, women's participation in public activities in the public sector has been around for a long time.⁴² The author agrees more with

³⁶ Ahyar Ari Gayo, "Aspek Hukum Pelaksanaan Qanun Jinayat Di Provinsi Aceh," *Jurnal Penelitian Hukum De Jure* 17, no. 2 (2017): 131, <https://doi.org/10.30641/dejure.2017.V17.131-154>.

³⁷ Arif Dian Santoso et al., "Pengaruh Penerapan Qanun Jinayat Terhadap Angka Kriminalitas Di Aceh," *Borobudur Law Review* 2, no. 1 (2021): 53–63, <https://doi.org/10.31603/burrev.v2i1.4787>; 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 (2024): 149–68, <https://doi.org/10.23971/el-mashlahah.v14i1.7864>.

³⁸ Muhammad Isa and Suhaimi Efendi, "The Involvement of Legal Drafter From KEMENKUMHAM Aceh in Formstion of District Qanun," *Kanun Jurnal Ilmu Hukum* 22, no. 1 (2020): 73–88, <https://doi.org/10.24815/kanun.v22i1.11862>.

³⁹ Miftakhul Setiavani, "Kepemimpinan Perempuan Sebagai Kepala Perangkat Daerah Di Lingkungan Pemerintah Daerah Kabupaten Bandung Barat," *JLAPD: IPDN* 13, no. 12 (2021): 21–34, <https://doi.org/10.33701/jlapd.v13i2.2242>.

⁴⁰ K., "Interview," September 2, 2025.

⁴¹ Joni Helandri, Dobi Yuliansa, Athika Nur Aulia Sahary, et al., "Implementasi Prinsip Negara Hukum Dalam Meningkatkan Good Governance Di Indonesia," *Hutanasyah: Jurnal Hukum Tata Negara* 3, no. 1 (2024): 39–60, <https://doi.org/10.37092/hutanasyah.v3i1.888>.

⁴² Leny Nofianti, "Perempuan Di Sektor Publik," *Marwah: Jurnal Perempuan, Agama Dan Jender* 15, no. 1 (2016): 51–61, <http://dx.doi.org/10.24014/marwah.v15i1.2635>; Afrizal Tjoetra et al., "Pasang Surut Partisipasi Masyarakat Sipil Dalam Pembentukan Kebijakan Publik Di Aceh," *Jurnal Sosiologi Andalas* 9, no. 2 (2023): 140–56, <https://doi.org/10.25077/jsa.9.2.141-157.2023>.



the opinion of Muhammad Zawil Kiram, who believes that *qânûn* in Aceh does not strengthen gender inequality in society or provide legal norms that tend to improve the existence of men.⁴³ A more neutral view was expressed by Khairul Hasni, believing the *qânûn* is true. However, there is a discrepancy in the application of *qânûn*, leading people to believe that Islamic law in Aceh is patriarchal and often regulates women's conduct more strictly than men's, causing stigma and social injustice.⁴⁴ Thus, the error begins with the interpretation of the execution of the punishment and the determination of the punishment (*ta'zîr*), or severe punishment (*uqûbah*).

Despite the numerous literature criticising the existence of the *qânûn*, which has a severe impact on women, existing data shows that the *qânûn* has a greater effect on men who are punished. Data from the Institute for Criminal Justice Reform (ICJR) indicates that the practice of caning in Aceh has continued to increase since the Qanun Jinayat was enacted in 2015, but men remain disproportionately affected. The ICJR Monitoring Data from 2016 reported that the Aceh Sharia Court ruled over 340 *jinayat* cases throughout Aceh (Table 3).

Table 3. Number of Convicts Executed by Caning in Aceh in 2016

Violation	Convict		Amount
	Male	Female	
<i>Maysir</i> (gambling)	259	2	261
<i>Khamar</i> (alcoholic beverage)	7	2	27
<i>Khalwat</i> (being together in a quiet place)	11	9	27
<i>ikhtilâth</i> (gathering men and women freely)	10	11	21
Nasty	7	7	14
<i>Zinâ</i> (sexual violations)	6	6	12
Indecency	2	0	2
Total	302	37	339

Source: Monitoring ICJR 2016.⁴⁵

Even in the case of West Aceh, the *qânûn jinayat* (Islamic law) has proven effective in reducing crime rates between 2020 and 2024, particularly for violations related to alcohol (*khamr*) and gambling (*maysir*), which have decreased to zero. Most cases were related to fashion, specifically women's attire deemed immodest in public spaces. Meanwhile, sexual violations (*ikhtilâth* and *zinâ*) only occurred in 2024, with a total of 3 and 1 cases, respectively (Table 4).⁴⁶

⁴³ Muhammad Zawil Kiram, "Gender and Family in Modern Acehnese Society," *Jurnal Sosiologi USK (Media Pemikiran & Aplikasi)* 14, no. 1 (2020): 126–46, <https://doi.org/10.24815/jsu.v14i1.16794>.

⁴⁴ Suma et al., "The Implementation of Sharia in Aceh: Between The Ideal and Factual Achievements."

⁴⁵ ICJR (Institute for Criminal Justice Reform), *Praktek Hukuman Cambuk Di Aceh Meningkatkan Atas Qanun Jinayat Harus Dilakukan Pemerintah*, February 6, 2017, <https://icjr.or.id/praktek-hukuman-cambuk-di-aceh-meningkat-evaluasi-atas-qanun-jinayat-harus-dilakukan-pemerintah/>.

⁴⁶ <https://data.acehbaratkab.go.id/dataset/jumlah-pelanggaran-syariat-islam-menurut-jenis-qanun-per-kecamatan/resource/ee304b42-55c8-4529-87df-a524766a51d2>.



Table 4. Number of violations of Qanun in West Aceh

Violation	Number of violations of Qanun per year				
	2020	2021	2022	2023	2024
<i>Syiar Busana</i> (Fashion)	103	32	19	24	56
<i>Khamr</i> (alcohol)					
<i>Maysir</i> (gambling)					
<i>Khalwat</i>	18	10	7	17	19
<i>Ikhtilath</i> (sexual violations)					3
<i>Zina</i> (sexual violations)					1

Tables 3 and 4 show that the implementation of the qanun has a significant impact on men, as violations committed by men are predominantly *maysir* (gambling) and *khamar* (alcoholic beverages) (Table 3). Regarding women, this *qânûn* can be considered gender-biased due to the lack of protection for women, resulting in many women being caught in raids for wearing clothes that do not comply with Islamic law, particularly in 2020, with 103 cases. This number declined for a time but rose again in 2024, with 56 cases.

Response and Adaptation of Acehnese Women to the Implementation of *Qânûn*

Acehnese women's responses and adaptations to applying *qânûn* show a diverse spectrum, reflecting the complexity of the relationship between sharia-based regulations and the dynamics of contemporary women's lives.⁴⁷ Based on some literature, Acehnese women, mainly from conservative and rural backgrounds, accept and support the practice of *qânûn* as part of their cultural and religious identity. For this group, *qânûn* is seen as an instrument that protects Islamic values and creates a safe social environment for women. Field research indicates that women from this group tend to view clothing and social rules as a form of protection, rather than restriction.⁴⁸ This opinion represents a historical truth that has developed in Aceh since ancient times.⁴⁹ On the other hand, Aceng Murtado et al. argue that Acehnese women's groups exist, especially among educated and urban circles, who have developed various adaptation and negotiation strategies related to *qânûn* implementation. They do not directly reject *qânûn*, but try to reinterpret and contextualise its implementation to be more in line with the realities of modern life. Women from this group often use religious knowledge and an understanding of women's rights in Islam to refute interpretations that they consider discriminatory or patriarchal.⁵⁰

However, there are also groups of women who have been negatively impacted by the application of *qânûn*, especially those from marginalised or minority groups. Women from lower economic backgrounds, informal workers, and other vulnerable groups are often the primary targets of raids and social sanctions. Research shows

⁴⁷ Hudhaif Zuhdi Al-afify and Mu'min Firmansyah, "Penerapan Qanun Jinayat di Aceh," *Al-Tarbiyah: Jurnal Ilmu Pendidikan Islam* 3, no. 1 (2025): 188–97, <https://doi.org/10.59059/al-tarbiyah.v3i1.1956>.

⁴⁸ Fajriatun Nisa Islami, "Dampak Radikalisme Terhadap Perempuan Masa Kini," *Focus* 2, no. 2 (2022): 97–107, <https://doi.org/10.26593/focus.v2i2.5404>.

⁴⁹ B.E., "Interview," August 4, 2025.

⁵⁰ Aceng Murtado et al., "Diskriminasi Gender Dalam Pendidikan Dan Tempat Kerja: Analisis Faktor Sosial Dan Agama," *Journal on Education* 06, no. 03 (2024): 17510–24.



that women from these groups have limited access to voice objections or defend themselves when faced with accusations of violating *qânûn*. Social stigmatisation of women who are convicted of caning or detained for *khalwat* is also more severe than that of men in similar cases, suggesting a double standard in assessing morality.

Meanwhile, in terms of social reality, there are already numerous women's groups that actively promote Islamic values in the public space and support the enforcement of *qânûn* as part of a collective effort to maintain Aceh's unique identity, particularly among women's groups residing in urban areas. Through civil society organisations and discussion forums, they voice alternative perspectives on how Islamic law can be applied in a more gender-sensitive way. Another adaptation strategy takes a professional approach, where Acehnese women enter various public sectors such as education, health, and bureaucracy to influence policy implementation from within the system. The phenomenon of women being increasingly vocal in Aceh also reflects women's efforts to be involved in interpreting religious texts that have so far been dominated by men, and several women do this with Islamic boarding school backgrounds.⁵¹

An Acehnese female figure who volunteered as an informant said that the 2003 qanun codification process was considered to have insufficiently involved women. This could be due to several factors. Politically, women's involvement in parliament at that time was not very beneficial. Social factors included limited public access, especially for women, to the qanun codification process, including the draft discussions that ultimately resulted in the enactment of various *qânûns*. From a socio-religious perspective, she believes the qanun is a strong legal umbrella, providing a comprehensive scope of materials to protect women from open acts and rape. However, these weaknesses lie in its implementation, due to the weak enforcement of law enforcement agencies in upholding justice, as well as the budgeting for disseminating and implementing the qanun.⁵² The complexity of Acehnese women's responses and adaptations illustrates that the implementation of *qânûn* cannot be understood in a monolithic manner, but needs to be seen as a phenomenon that gives rise to women's diverse experiences and strategies in dealing with religion-based regulations in the context of the modern state.

Is the reformulation of the Aceh *Qânûn* on Gender Affirmation still relevant?

The reformative approach was initiated by Kurniawan in 2014. He stated that reformulating *qânûn* in Aceh should not be understood as rejecting Islamic law but rather contextualising its implementation to align with constitutional principles and universal human rights standards, which are more inclusive and participatory.⁵³ In Malaysia, some laws in several states, such as Kelantan and Terengganu, are more moderate and pay attention to plurality. The sharia legal system in Malaysia applies only to Muslims and coexists with the national legal system, resulting in a relatively

⁵¹ M.M., "Interview," July 31, 2025.

⁵² K., "Interview," September 2, 2025.

⁵³ Kurniawan, "Uji Kepatuhan Terhadap Proses Pembentukan Qanun Dalam Rangka Penyelenggaraan Pemerintahan (Suatu Penelitian di Kabupaten Bireuen, Aceh Jeumpa)," *Yustisia Jurnal Hukum* 3, no. 1 (2014), <https://doi.org/10.20961/yustisia.v3i1.10132>.



harmonious dual legal system.^{54,55} Likewise, Brunei Darussalam, which applies the concept of Malay Islamic Monarchy (MIB) as its national philosophy, applies Islamic law more comprehensively. Still, it considers the local socio-cultural context, especially regarding the plurality of tribes in Brunei, namely Kedayan, Iban, Tutong, Belait, Dusun, Bisaya, Murut, Bajau, and Suluk. Also, the kingdom was attentive to the needs of Chinese and foreign nationals living in Brunei Darussalam.⁵⁶ Formulating Islamic law in Brunei from the material and implementation aspects still provides cross-ethnic and faith-based public freedom.

Saudi Arabia implements a stricter interpretation of Islamic law with a judicial system based entirely on Islamic rules. Still, in recent years, Saudi Arabia has made significant reforms, including granting more freedoms to women, such as the right to drive and work in the public sector without a guardian.⁵⁷ However, Iqbal Maulana reiterates that *qânûn* in Aceh demonstrates a more adaptive approach to the context of Indonesia as a democratic country with Pancasila as its basis. *Qânûn* Aceh aims to integrate Islamic law principles into the Indonesian national legal framework, thereby creating a distinct model of Islamic law within the framework of the Republic of Indonesia.⁵⁸ Iqbal Maulana adds that reformulating *qânûn* in Aceh is not as urgent and crucial as part of the uniqueness of national legal governance. This uniqueness is evident in how Aceh manages the tension between universal human rights values and local interpretations of Islamic law, which tend to be more moderate than those in some Middle Eastern countries.

Perhaps what needs to be observed, as explained by Teuku Kemal Fasya, is the challenges faced by Aceh that are not much different from those of other Islamic countries, especially in terms of the interpretation of religious texts, consistent implementation of laws, and the protection of the rights of minorities and women. This comparative study is essential to demonstrate that the implementation of Sharia law can vary depending on the social, cultural, and political context of each region. It provides valuable lessons for Aceh in refining a more inclusive, just, and human rights-respecting *qânûn* system. The involvement of women from diverse social, economic, and educational backgrounds in the legislative process needs to be enhanced to meet the quota of formal representation and ensure that women's aspirations and experiences are genuinely reflected in the substance of the law. The involvement of progressive Islamic academics and gender experts is also needed to

⁵⁴ Asif Mohiuddin, "Application of Islamic Criminal Law in Malaysia: Legal and Political Implications," *World Affairs* 28, no. 3 (2024).

⁵⁵ Shad Saleem Faruqi, "Legal Pluralism in Malaysia: Navigating the Civil and Shariah Systems," *Perspective*, April, no. 27 (2025): 1-12.

⁵⁶ Jamal Abdul Aziz et al., "The Role of the Islamic Community and Government in the Development of Islamic Finance in Brunei Darussalam," *Pakistan Journal of Life and Social Sciences (PJLSS)* 22, no. 2 (2024), <https://doi.org/10.57239/PJLSS-2024-22.2.00809>.

⁵⁷ Yolanda Aixelà, "Women and the Law in the Arab-Muslim Countries," *Revista Angolana de Sociologia* December, no. 4, (2009): 159-175.

⁵⁸ Iqbal Maulana and Yuni Roslaili, "Penerapan Syariat Islam Dalam Bingkai Keberagaman Nusantara," *Dusturiyah Jurnal Hukum Islam Perundang-Undangan Dan Pranata Sosial* 8, no. 2 (2019): 96-116, <https://doi.org/10.22373/dusturiyah.v8i2.4216>.



offer an alternative perspective in interpreting the religious texts on which *qânûn* is based.⁵⁹

Regarding substance, the reformulation of the *qânûn* needs to consider the principle of balance between protecting public morals and respecting personal autonomy. *The law* that regulates personal aspects, such as how to dress and interact between the sexes, needs to be reviewed considering its impact on women's freedom and dignity. This reformulation also includes strengthening the monitoring and evaluation mechanism for the impact of implementing *qânûn* on women.⁶⁰ Applying the whipping penalty in *qânûn* Jinayat also needs to be reviewed because it can potentially violate the principle of respect for human dignity guaranteed by the Constitution.⁶¹ More humane and rehabilitative alternative sanctions, such as community service or educational programs, can be considered as a substitute for corporal punishment that tends to inflict trauma and stigma, especially for women. It is also essential to develop a more gender-sensitive approach to enforcing *qânûn*. Law enforcement officials must have a deep understanding of gender equality and women's human rights.

Meanwhile, Muhammad Maulana states reforming *qânûn* is not something urgent. Still, institutional aspects may be able to establish special institutions that have a mandate to ensure that the implementation of *qânûn* does not conflict with the principles of gender equality, such as the Supervisory Commission or Sharia Ombudsman with members representing various community groups, including women's organisations.⁶² The recapitulation of the settlement of cases by the Aceh Sharia Court reported that, from 2018 to 2020, there was a consistent decrease in the crime rate due to the implementation of *qânûn* (Table 5).

Table 5. Number of criminal cases following the imposition of *qânûn*

Year	2018	2019	2020
Number of Cases	326	267	281

Source: Recapitulation of the settlement of the Aceh Syariah Court case

Table 5 shows that *qânûn* is quite efficient in suppressing community crime. However, there is also a factor of innate obedience from the community to legal norms related to the quality of their faith and piety.⁶³ *Qânûn* helps create a safer and

⁵⁹ Joni Helandri et al., "Implementasi Prinsip Negara Hukum dalam Meningkatkan Good Governance di Indonesia," *Hutanasyah: Jurnal Hukum Tata Negara* 3, no. 1 (2024): 39–60, <https://doi.org/10.37092/hutanasyah.v3i1.888>.

⁶⁰ Joni Helandri et al., "Implementasi Prinsip Negara Hukum dalam Meningkatkan Good Governance di Indonesia," *Hutanasyah: Jurnal Hukum Tata Negara* 3, no. 1 (2024): 39–60, <https://doi.org/10.37092/hutanasyah.v3i1.888>.

⁶¹ Dian Agung Wicaksono and Ola Anisa Ayutama, "Pengaturan Hukum Cambuk Sebagai Bentuk Pidana Dalam Qanun Jinayat," *Majalah Hukum Nasional* 48, no. 1 (2018): 23–43, <https://doi.org/10.33331/mhn.v48i1.111>.

⁶² Muhammad Maulana, "Interview," July 31, 2025.

⁶³ Arif Dian Santoso et al., "Pengaruh Penerapan Qanun Jinayat Terhadap Angka Kriminalitas Di Aceh," *Borobudur Law Review* 2, no. 1 (2021): 53–63, <https://doi.org/10.31603/burrev.v2i1.4787>.



conducive environment for social life.⁶⁴ *Qânûn* Aceh is indeed presented as a special form of autonomy to preserve the cultural and religious identity of the Acehnese people.⁶⁵ In the economic sector, the application of *qânûn* in Sharia financial institutions has positively impacted the financial system in Aceh.⁶⁶ All financial institutions are obligated to operate in accordance with Sharia principles, ensuring that people can avoid the practice of usury and access fairer financial services.⁶⁷ *Qânûn* also encourages the growth of the Islamic education sector by ensuring that religious values remain part of the curriculum in schools and Islamic boarding schools (*dayah*), so that the younger generation has a strong understanding of religion.

Conclusion

The existence of *qânûn* in Aceh is a unique phenomenon in Indonesia's legislative products; first, some *qânûn* regulate very private public spaces; second, the legislative products are produced by regional legislators; third, the majority of *qânûn* material refers to the source of Shariah or Islamic law. This existence results from the value of the agreement between the Aceh Provincial Government and Indonesia within the framework of the Special Area. In development, most literature criticises this matter from many perspectives. From the perspective of women's role in political involvement, significant development has occurred until 2024. However, in some regions, women's involvement in the legislature is virtually nonexistent. This legislature controls the implementation of *qânûn* and has also decreased. However, academics and anthropologists from Aceh believe that, in general, *qânûn* is a relic of Acehnese teachings that has existed for a long time and substantially does not change the role of women in it. So if gender bias occurs, it may be due to the interpretation of the *qânûn* enforcer. The solution to implementing *qânûn* that is not discriminatory and gender-neutral is to return to the role of women and their involvement in the political realm. Women's organisations in Aceh must encourage women's awareness of political control, especially in terms of implementing *qânûn*.

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⁶⁴ Firdaus M. Yunus et al., "Penerapan Dan Tantangan Pelaksanaan Syariat Islam Di Aceh," *Jurnal Sosiologi USK: Media Pemikiran & Aplikasi* 17, no. 1 (2023): 181–92, <https://doi.org/10.24815/jsu.v17i1.32865>.

⁶⁵ Dahlan A Rahman et al., "Otonomi Daerah Khusus Aceh: Jembatan Menuju Rekonsiliasi Atau Sumber Ketegangan Baru," *Jurnal Pemerintahan Dan Politik* 9, no. 3 (2024): 183–94.

⁶⁶ Candra Adi Kurnia and Jalaluddin, "Dampak Kebijakan Qanun Lembaga Keuangan Syariah Terhadap Administrasi Bisnis Bagi Pelaku Ekspor dan Impor di Banda Aceh," *SANGER: Journal Social, Administration and Government Review* 1, no. 1 (2023): 1–15, <https://doi.org/10.22373/sanger.v1i1.2932>.

⁶⁷ Windi Anggriyani and Rayyan Firdaus, "Implementasi Prinsip Akuntansi Syariah Dalam Upaya Menghindari Praktik Riba Terhadap Transaksi Pinjam Meminjam," *Jurnal Inovasi Ekonomi Syariah Dan Akuntansi* 1, no. 6 (2024): 34–45, <https://doi.org/10.61132/jiesa.v1i6.579>.



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