

## **Autonomy and Islamic Criminal Law Enforcement in Creating Social Order in Aceh Region**

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### **Abstract:**

This study departed from the special status of Aceh as the only province in Indonesia granted specific authority to implement Islamic law through Law No. 11 of 2006 concerning the Government of Aceh. One of the manifestations of this special status is the existence of the Sharia Court, which holds the authority to adjudicate *jinayah* (Islamic criminal) cases, such as *khalwat* (close proximity between unmarried individuals), *maisir* (gambling), and *khamar* (alcohol consumption). This research aims to analyse how the Sharia Court performs its judicial function in resolving *jinayah* cases, the challenges it faces in practice, and the effectiveness of *jinayah* enforcement in fostering justice and social order. The method used is an empirical juridical approach, with data collected through interviews, document analysis, and direct observation. The findings reveal that the Sharia Court plays a significant role in enforcing Islamic criminal law in Aceh. However, the implementation of the *jinayah* still faces several obstacles, particularly regarding coordination among law enforcement agencies, limited human resources, and resistance from certain segments of society toward the *jinayah* law. These findings suggest that the success of *jinayah* enforcement is not solely dependent on regulations but also on the readiness of judicial institutions, community support, and synergy among legal enforcement bodies. This study is expected to make a significant contribution to the evaluation and reinforcement of the Sharia judicial system within the framework of Aceh's special autonomy, while offering strategic recommendations to enhance the effectiveness of Islamic law enforcement that is just and sustainable.

**Keywords:** sharia court; Islamic criminal law; special autonomy; Islamic law.

## Introduction

The implementation of the Islamic Criminal Law (*jinayah*) in Muslim society represents a diversity of philosophical orientations shaped by the political, social, and ideological contexts of each country.<sup>1</sup> In Saudi Arabia, the application of the *jinayah* follows the Hanbali school as the main reference for the country's Islamic judicial system. Its implementation emphasises a literal understanding of the Qur'an and Hadith, aiming to preserve *maqashid al-syariah*, particularly the protection of religion, life, intellect, lineage, and property. Furthermore, this legal practice also functions as a political instrument of legitimacy for the monarchy, linking royal authority to the obligation of upholding Islamic law.<sup>2</sup> Meanwhile, in Sudan, the application of the *jinayah* is grounded in the Islamisation of the national legal system to strengthen Islamic identity in the public sphere.<sup>3</sup> As for neighbouring Brunei Darussalam, the *jinayah* has been enforced through the Syariah Penal Code Order 2013, which has been gradually implemented since 2014. Its philosophical foundation lies in the state ideology of "Melayu Islam Beraja" (MIB), a combination of Malay tradition, Islamic teachings, and an absolute monarchy. Within this framework, *jinayah* is seen as the state's responsibility to safeguard public morality, preserve social harmony, and affirm the Sultan's position as the protector of religion and the holder of supreme authority.<sup>4</sup>

Aceh is the only region in Indonesia that officially implements *jinayah* through the Mahkamah Syariah, based on Law No. 11 of 2006 concerning the Governance of Aceh and the *Qanun Jinayah* enacted in 2014.<sup>5</sup> This implementation is rooted in Aceh's special autonomy, which grants authority in matters of religion, education,

<sup>1</sup> Ali Ansori et al., "Pengaruh Perkembangan Sosial Terhadap Implementasi Fiqih Jinayah Di Negara Muslim," *Jurnal Pendidikan Tambusai* 9, no. 1 (2025): 4550–59; Edi Rosman et al., "Tulou As A Customary Criminal Sanction in Mentawai: Convergensi of Customary and Islamic Law for Social Reconciliation," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 3 (2025), <https://doi.org/10.22373/wqch0850>.

<sup>2</sup> Frank E. Vogel, *Islamic Law and Legal System: Studies of Saudi Arabia* (Brill, 2000); Bakhrul Huda et al., "Assessing the Legality of Cryptocurrency Trading in Indonesia's Commodity Market: An Analytical Study Based on Maqāṣid Al-Shari'ah," *Syariah: Jurnal Hukum Dan Pemikiran* 25, no. 1 (2025): 67–95, <https://doi.org/10.18592/sjhp.v25i1.16759>; Abdulsatar Shaker Salman, "Mass Surveillance and the Maqasid Al-Shari'ah: Balancing Security and Human Rights in Contemporary Islamic Discourse," *International Journal of Syariah and Law* 1, no. 1 June (2025): 59–72; Zumiyati Sanu Brahim et al., "Integration of Maqāṣid Al-Shari'ah in the Criminal Law Reform to Achieve Justice and Human Dignity," *Jurnal Hukum Islam* 23, no. 1 (2025): 105–44, <https://doi.org/10.28918/jhi.v23i1.04>.

<sup>3</sup> Carolyn Fluehr-Lobban, "Islamization in Sudan: A Critical Assessment," *Middle East Journal* 44, no. 4 (1990): 610–23.

<sup>4</sup> Ahmad Effendi, "Melayu Islam Beraja : Ideologi Negara Brunei Darussalam," *Tafhim Al-'Ilmi: Jurnal Pendidikan Dan Pemikiran Islam* 13, no. 2 (2022): 195–213, <https://doi.org/10.37459/tafhim.v13i2.5549>; Samsudin Aziz, "Kanunisasi Fikih Jinayah Komtemporer: Studi Materi Muatan Qānūn Jināyat Aceh dan Brunei Darussalam," *Al-Ahkam* 24, no. 2 (2014): 173, <https://doi.org/10.21580/ahkam.2014.24.2.145>.

<sup>5</sup> Putri Rahmah Nur Hakim et al., "Contesting Sharia and Human Rights in the Digital Sphere: Media Representations of the Caning Controversy under the Qanun Jinayat in Aceh," *Journal of Islamic Law* 6, no. 2 (2025): 206–35, <https://doi.org/10.24260/jil.v6i2.3600>; 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>.



and customary practices. Philosophically, the enforcement of the *jinayah* in Aceh is intended to create social order and uphold public morality.<sup>6</sup> The establishment of special courts is regulated by law, including the formation of the Sharia Court within the Religious Court System in Nanggroe Aceh Darussalam, based on Law No. 18 of 2001.<sup>7</sup> The creation of the Sharia Court cannot be separated from the long history of implementing Islamic law in Aceh, where Islamic law has long served as the identity and way of life of the local community.<sup>8</sup> According to data from the Mahkamah Syariah Aceh, the number of *jinayah* cases has fluctuated but remains significant in the past three years. In 2022, there were 173 recorded cases (seven cases of *khalwat*, 153 of *maisir*, and 13 of *khamar*). This number declined in 2023 to 122 cases (four *khalwat*, 95 *maisir*, and 23 *khamar*). However, in 2024, the number rose dramatically to 272 cases (eight *khalwat*, 247 *maisir*, and 17 *khamar*). These figures indicate that despite the enforcement of the *jinayah* law, violations remain prevalent.<sup>9</sup>

The academic problem that arises is how the implementation of *jinayah* in Aceh can genuinely deter offenders and foster social order. On the one hand, the *jinayah* is viewed as an instrument to safeguard public morality and reflect Aceh's Islamic identity.<sup>10</sup> On the other hand, challenges persist, including community resistance, limited law enforcement resources, and difficulties in harmonising *jinayah* with Indonesia's national legal framework.<sup>11</sup> This tension triggers an important academic question: to what extent is the *jinayah* effectively enforced within the pluralistic and dynamic social context of Aceh? Scholars argue that while religious-based law can function as a mechanism for social control and moral regulation, its effectiveness depends greatly on institutional capacity, social acceptance, and integration with broader legal systems.<sup>12</sup> Thus, Aceh provides a critical case study for examining the interplay between Islamic law, state law, and social realities in Indonesia.

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<sup>6</sup> 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>; 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>; 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>; Istianah Zainal Asyiqin and Yanis Rinaldi, "Local Government's Role in Aceh's Sharia Banking Transition: Legal and Institutional Perspectives," *Legality: Jurnal Ilmiah Hukum* 33, no. 1 (2025): 244–60, <https://doi.org/10.22219/ljih.v33i1.39419>.

<sup>7</sup> A. Basiq Djalil, *Peradilan Agama di Indonesia* (Prenada Media, 2010).

<sup>8</sup> Emilia Justyna Powell, "Islamic Law States and the International Court of Justice," *Journal of Peace Research* 50, no. 2 (2013): 203–17, <https://doi.org/10.1177/0022343312470275>.

<sup>9</sup> Mahkamah Syar'iyah Aceh, "Laporan Perkara Jinayat Mahkamah Syar'iyah Aceh Tahun 2025," Google My Maps, June 2025, <https://ms-aceh.go.id/kepaniteraan/laporan-perkara/laporan-perkara-jinayat.html>.

<sup>10</sup> Septeddy Endra Wijaya et al., "Restorative Justice in the Criminal Act of Rape (Analysis of the KUHP & Qanun Jinayat)," *JURNAL AKTA* 12, no. 1 (2025): 36–48, <https://doi.org/10.30659/akta.v12i1.43726>; Alidar et al., "The Shared Values of Sharia Banking."

<sup>11</sup> Faisol Dzikir Towil et al., "WHIP Sanctions in the Criminal Act of Prostitution Based on Qonun Aceh Number 06 of 2014 Concerning Jinayat Law from A Human Rights Perspective," *International Journal of Cultural and Social Science* 6, no. 1 (2025): 243–51, <https://doi.org/10.53806/ijcss.v6i1.1030>.

<sup>12</sup> Azharuddin Azharuddin et al., "Dinamika Pemidanaan Khalwat Di Aceh: Urgensi Revisi Qanun Jinayat Untuk Mencegah Konflik Hukum," *El-Suffah: Jurnal Studi Islam* 1, no. 2 (2024): 185–205, <https://doi.org/10.70742/suffah.v1i2.73>; Karimuddin Abdullah Lawang et al., "Kontribusi Dinas Syariat Islam Terhadap Penerapan Qanun Tentang Khalwat di Aceh," *Al-Risalah: Forum Kajian*



Several previous studies have examined various aspects of the Sharia Court in Aceh; however, this study offers a distinct and more in-depth perspective. Luthfiyah Trini Hastuti's research addresses the issue of the absolute authority of the Sharia Court within the Indonesian judicial system<sup>13</sup>, while Friwarti et al. highlight the role of the Sharia Court in strengthening Islamic law in Aceh<sup>14</sup>. Abdul Halim's study focuses on the effectiveness of the implementation of the *jinayah* for non-Muslims.<sup>15</sup> Additionally, Zulfia Hanum Alfi Syahr's research focuses on the pattern of resolving child sexual abuse cases in Aceh<sup>16</sup>, both in the Sharia Court and in the District Court, and efforts to resolve the issue of court dualism in adjudicating such cases. Siregar et al. examine the Sharia Court from the perspective of *maqashid sharia*<sup>17</sup>. While these studies significantly contribute to understanding the Sharia Court, this research differs in its focus on the implementation of the Sharia Court in handling *jinayah* cases through a special autonomy approach, as well as the challenges faced in applying the *Qanun Jinayah* to achieve community justice in Aceh. In addition, this study incorporates several recent data sources that address the issue of *jinayah* cases in Aceh. Based on the background above, this study aims to analyse how the Sharia Court exercises its autonomy in adjudicating *jinayah* cases, the challenges it encounters, and the effectiveness of implementing *jinayah* in achieving justice within Acehnese society.

## Methods

This research is a qualitative study employing the empirical juridical method to gain a profound understanding of the implementation of the Sharia Court for *jinayah* cases in Aceh within the context of Special Autonomy.<sup>18</sup> This approach was chosen to describe social reality comprehensively, based on empirical data collected through

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*Hukum dan Sosial Kemasayarakatan* 24, no. 1 (2024): 28–41, <https://doi.org/10.30631/alrisalah.v24i1.1427>.

<sup>13</sup> Luthfiyah Trini Hastuti et al., "The Problematic Issue of Sharia Court Absolute Authority under Indonesia Judicial System," *IJCLS (Indonesian Journal of Criminal Law Studies)* 5, no. 2 (2020): 2, <https://doi.org/10.15294/ijcls.v5i2.28111>.

<sup>14</sup> Sri Dwi Friwarti et al., "The Existence of the Sharia Court in the Mechanism of Legal Integration in Aceh," *FITRAH: Jurnal Kajian Ilmu-Ilmu Keislaman* 7, no. 2 (2021): 2, <https://doi.org/10.24952/fitrah.v7i2.4524>.

<sup>15</sup> Abdul Halim, "Non-Muslims in the Qanun Jinayat and the Choice of Law in Sharia Courts in Aceh," *Human Rights Review* 23, no. 2 (2022): 265–88, <https://doi.org/10.1007/s12142-021-00645-x>.

<sup>16</sup> Zulfia Hanum Alfi Syahr et al., "The Role of Indigenous Peoples, Social Workers, and the Syar'iyyah Court in Diversion of Children Perpetrators of Jinayah," *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 1 (2023): 113–24, <https://doi.org/10.24090/mnh.v17i1.7349>.

<sup>17</sup> Dangas Siregar et al., "Application of the Simple, Fast and Light Cost Principles in the Determination of Time for Case Settlement in the Religious Court / Syar'iyyah Court in Perspective of Maqashid Syari'ah," *JURNAL AKTA* 10, no. 4 (2023): 4, <https://doi.org/10.30659/akta.v10i2.34031>; Sukataman et al., "Maqāṣid Al-Shari'ah and the Prohibition of Incest in Indonesian Legislation: An Analysis of the Protection of Lineage and Public Morals," *Al-Manahij: Jurnal Kajian Hukum Islam*, September 18, 2025, 205–26, <https://doi.org/10.24090/mnh.v19i2.14989>; Yusida Fitriyati et al., "Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 25, no. 1 (2025): 122–40, <https://doi.org/10.19109/nurani.v25i1.27133>.

<sup>18</sup> John W. Creswell and J. David Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, Sixth edition (SAGE Publications, Inc., 2023).



interviews, observation, and documentary studies. The study site was centred in Aceh Province, with a focus on the Banda Aceh Sharia Court, which handles significant *jinayah* cases. The research data were collected through observations, interviews, and document studies, including case files and Sharia Court rulings. Out of approximately 3,000 cases handled by the Sharia Court in Aceh within six months, the researcher examined 43 *jinayah* cases that received significant attention at the national, regional, and international levels. In-depth interviews were conducted with judges, prosecutors, police officers, members of *Wilayatul Hisbah*, and perpetrators involved in *jinayah* cases. The perpetrators included BA, ABS, SR, MS, and ND from Banda Aceh, who were involved in *jinayah* cases. Individuals from Wilayatul Hisbah included Muslim and Tarmidzi. The police representatives include Sujoko and Sukoco. Meanwhile, the authorities interviewed consisted of Judge Murdani, Judge Jakfar, and Prosecutor Faisol from the Sharia Court, who were involved in case decisions. In addition, direct observation in the court environment was carried out for six months to gain a contextual understanding of the trial process. This study also considered ethical aspects of maintaining the confidentiality of informants' identities and obtaining approval before conducting interviews. The study was limited to *jinayah* cases as decided by the Sharia Court since the enactment of Qanun Jinayah in full in 2024.

Data were analysed descriptively and analytically, which involved a data reduction process, data presentation, and conclusion development. Data reduction was conducted by sorting out relevant information from the results of interviews, observations, and documentation. Data were presented in a narrative form to clarify findings. Furthermore, data were analysed to describe the patterns, themes, and inter-variable relationships related to the implementation of the *jinayah* under the Sharia Court. The validity of the data was guaranteed through the triangulation technique of sources, methods, and time, to ensure the consistency of findings. Source triangulation involves comparing information from law enforcement officials with the perspectives of local government officials, religious leaders, community leaders, and the general public. Method triangulation involved a combination of in-depth interviews, field observations, and the examination of official documents such as Qanun, Sharia Court decisions, and institutional reports to reinforce the findings. Meanwhile, time triangulation was conducted by collecting data at different moments, such as during trials, executions of punishment, and after the issuance of new regulations, thereby allowing researchers to observe the consistency and dynamics of the implementation of the *jinayahin* Aceh. This study is expected to provide a comprehensive description of the implementation of the *jinayahin* Aceh in the context of special autonomy, as well as offering recommendations for higher effectiveness of its implementation in the future.

## **Results and Discussion**

### **Application of Criminal Law in the Aceh Sharia Court**

The Sharia Court in Aceh Province represents a unique and special position and authority within Indonesia's judicial system. Its legal framework is not only derived from national laws but also from special legal instruments that accommodate Aceh's distinctiveness. The primary foundation of this authority is Law No. 18 of 2001 concerning Special Autonomy for the Province of the Special Region of Aceh, which was later strengthened and further elaborated in Law No. 11 of 2006



concerning the Governance of Aceh. Based on these laws, the Aceh Sharia Court is granted the authority to administer justice within the realm of Islamic law, covering not only civil law (*al-ahwal al-syakhshiyah*), as in Religious Courts in other provinces, but also Islamic criminal law (*jinayat*).<sup>19</sup> This authority is implemented through the Qanun Aceh No. 6 of 2014, which is a regional-level regulation governing the enforcement of Islamic law, including criminal provisions. Thus, the legal framework of the Aceh Sharia Court is dualistic in nature. Structurally and administratively, it falls under the jurisdiction of the Supreme Court of Indonesia; however, substantively, it applies Islamic substantive law (Sharia Penal Code), derived from the *Qanun Aceh*, which significantly distinguishes it from general courts.<sup>20</sup> The existence of the Aceh Sharia Court in handling criminal cases often leads to discussions regarding its position within the national legal system. Technically, its criminal jurisdiction is both personalised and territorially limited, meaning it only applies to Muslims residing in Aceh Province.<sup>21</sup> The criminal cases it adjudicates are violations of the *Qanun Jinayat*, such as gambling, *khalwat* (improper seclusion), *ikhtilath* (intimate interaction between non-mahram individuals), alcohol consumption, adultery, and *qadzaf* (false accusation of adultery without evidence).<sup>22</sup> This indicates that the scope of Islamic criminal law in Aceh focuses on acts considered to damage public morality and violate Islamic teachings, while general crimes such as theft, murder, or narcotics remain under the jurisdiction of the District Court (general judiciary).<sup>23</sup>

The process of handling criminal (*jinayat*) cases in the Aceh Sharia Court follows a systematic procedure, starting from investigation to the execution of verdicts. This process is regulated under Qanun Aceh No. 6 of 2013 concerning Criminal Procedure and, subsidiarily, refers to the Indonesian Code of Criminal Procedure (KUHAP). In the Initial Stage (Investigation and Inquiry), the process begins with reports or complaints from the community to the *Wilayatul Hisbah* (WH)—the “Sharia police”—or to the state police. The WH conducts preliminary investigations. If sufficient evidence is found, the case proceeds to the investigation stage to gather evidence and identify suspects. *Prosecution Stage*: Once the investigation is declared complete (P-21), the case file is submitted to the Sharia Prosecutor (Public Prosecution Office within the Sharia Court system). The prosecutor examines the file and then drafts an indictment containing charges under relevant provisions of the *Qanun Jinayat*. *Trial Stage*: The case file and indictment are submitted to the Sharia Court. The presiding judge sets a trial date. During the trial,

<sup>19</sup> Baudouin Dupret, “What Is Islamic Law?: A Praxiological Answer and an Egyptian Case Study,” *Theory, Culture & Society* 24, no. 2 (2007): 79–100, <https://doi.org/10.1177/0263276407074997>.

<sup>20</sup> Zainul Fuad et al., “Wither Qanun Jinayat? The Legal and Social Developments of Islamic Criminal Law in Indonesia,” *Cogent Social Sciences* 8, no. 1 (2022): 2053269, <https://doi.org/10.1080/23311886.2022.2053269>.

<sup>21</sup> Melissa Crouch, *Law and Religion in Indonesia: Conflict and the Courts in West Java* (Taylor & Francis, 2013).

<sup>22</sup> Alfitri, *Islamic Law and Society in Indonesia: Corporate Zakat Norms and Practices in Islamic Banks* (Routledge, 2022), <https://doi.org/10.4324/9781003183112>; Mizaj Iskandar Usman et al., “Adultery Offenses in Indonesia’s New Penal Code: Examining the Influence of Islamic and Customary Law,” *JURIS (Jurnal Ilmiah Syariah)* 24, no. 1 (2025): 73–84, <https://doi.org/10.31958/juris.v24i1.13208>.

<sup>23</sup> Arskal Salim and Azyumardi Azra, *Shari'a and Politics in Modern Indonesia* (Institute of Southeast Asian Studies, 2003), <https://bookshop.iseas.edu.sg/publication/262>.



both parties (the prosecutor and the defendant/defence counsel) present their arguments and evidence. Admissible evidence in *jinayah* trials includes confession, witness testimony, oaths, and other means, such as expert opinions and documents. The judge renders a verdict based on his or her conviction drawn from valid evidence.<sup>24</sup> In the Judgment and Execution Stage, the verdict may impose *uqubat* (punishment) such as caning, fines, or imprisonment, or rehabilitative sanctions. Defendants have the right to appeal to the Provincial Sharia Court (appellate level) and even to file for cassation at the Supreme Court of Indonesia.<sup>25</sup> Once the decision holds permanent legal force (*inkracht*), execution is delivered by the Sharia Prosecutor. For instance, caning sentences are executed publicly under regulated procedures to ensure the safety and health of the convict. The following is statistical data on criminal (*jinayah*) cases decided by the Sharia Court of Aceh for the last five years (2020–2024). This data provides an overview of the trends and the most common types of violations.<sup>26</sup>

**Table 1.** Most Common Case Types (Based on *Qanun Jinayah*)

| Year  | Number of Cases Decided | Most Common Case Type (Based on <i>Qanun Jinayah</i> )   |
|-------|-------------------------|--|
| 2020  | 269                     | Consumption of alcohol ( <i>khamar</i> ), gambling ( <i>maisir</i> ), seclusion ( <i>khalwat</i> ), <i>ikhtilath</i> , adultery, rape, and sexual harassment |
| 2021  | 474                     | Consumption of alcohol ( <i>khamar</i> ), gambling ( <i>maisir</i> ), seclusion ( <i>khalwat</i> ), <i>ikhtilath</i> , adultery, rape, and sexual harassment |
| 2022  | 448                     | Consumption of alcohol ( <i>khamar</i> ), gambling ( <i>maisir</i> ), seclusion ( <i>khalwat</i> ), <i>ikhtilath</i> , adultery, rape, and sexual harassment |
| 2023  | 409                     | Consumption of alcohol ( <i>khamar</i> ), gambling ( <i>maisir</i> ), seclusion ( <i>khalwat</i> ), <i>ikhtilath</i> , adultery, rape, and sexual harassment |
| 2024  | 516                     | Consumption of alcohol ( <i>Khamar</i> ), gambling ( <i>Maisir</i> ), seclusion ( <i>khalwat</i> ), <i>ikhtilath</i> , adultery, rape, and sexual harassment |
| Total |                         | 2116   |

**Source:** <https://ms-aceh.go.id/kepaniteraan/laporan-perkara/laporan-perkara-jinayah>

Based on data from the Sharia Court of Aceh, the number of *jinayah* cases decided over the past five years has fluctuated with an overall increasing trend. In 2020, there were 269 cases, the lowest figure during this period. This number nearly doubled in 2021 to 474 cases, indicating increased supervision as well as greater public awareness in reporting violations. In 2022, there was a slight decrease to 448 cases, and in 2023, the number of cases further declined to 409 cases. The peak occurred in 2024, with 516 cases, marking the highest number of cases in the five years. The total number of cases from 2020 to 2024 reached 2,116 cases. In terms of

<sup>24</sup> Alfitri, *Islamic Law and Society in Indonesia*.

<sup>25</sup> Salim and Azra, *Shari'a and Politics in Modern Indonesia*.

<sup>26</sup> Mahkamah Syar'iyah Aceh, "Laporan Perkara Jinayah," 2025, <https://ms-aceh.go.id/kepaniteraan/laporan-perkara/laporan-perkara-jinayah.html>.



types of violations, the data shows a clear consistency. The most frequently occurring cases include consumption of alcohol (*khamar*), gambling (*maisir*), seclusion (*khalwat*), ikhtilath (non-mahram free association), adultery (*zina*), as well as more serious cases, such as rape and sexual harassment.<sup>27</sup> The dominance of cases related to morality and decency indicates that the focus of the Sharia Court of Aceh adheres to enforcing Sharia law that governs social and moral behaviour in society.

### Challenges Faced in *Jinayah* Cases

Special autonomy is a policy given by the central government to certain regions with typical social, cultural, and legal characteristics. In the context of the *jinayah* law, regions with special autonomy often face challenges in the implementation of laws that are different from national law.<sup>28</sup> The relevant legal theories in this study included legal pluralism theory and regional autonomy theory. Legal pluralism theory states that a society can apply more than one legal system simultaneously.<sup>29</sup> In the context of special autonomy, this theory explains how local *jinayah* can coexist with national law. On the other hand, the regional autonomy theory highlights regional authority in regulating itself according to its nature. This theory supports the idea that regions with special autonomy status have the right to apply *jinayah* parallel to local values.

In light of special autonomy, *jinayah* legal policies often experience a conflict between national law and local law.<sup>30</sup> For example, in Aceh, the implementation of Islamic law-based *jinayah* through *qanun* experiences various challenges, both in terms of national law legitimacy and implementation in the field.<sup>31</sup> In the national legal system, criminal law is regulated under the Criminal Code (KUHP),<sup>32</sup> while the *jinayah* in Aceh has its own rules regulated in the *Jinayah Qanun*. The mismatch of legal norms often caused dilemmas in implementation. Another policy challenge was regarding the aspect of justice. Court that handles *jinayah* cases in the special autonomy territory often face issues in coordinating with national justice institutions. Furthermore, the difference in legal procedures and the evidence standards between local *jinayah* and national law also represents a major obstacle in law enforcement.<sup>33</sup>

In practice, the implementation of the *jinayah* in the special autonomy area faces various challenges. First, perceptions between law enforcement officials, the community, and the central government regarding the implementation of the *jinayah* often differ. For example, law enforcement officials often have difficulty

<sup>27</sup> Istikhomariyah Istikhomariyah and Iwan Iwan, "Sanctions for Zina Perpetrators: A Review of Interfaith Couples from the Perspective of the Criminal Code and Fiqh Jinayah," *Al-Adalah: Jurnal Hukum Dan Politik Islam*, March 20, 2025, 232–46, <https://doi.org/10.30863/ajmp.v10i2.8575>.

<sup>28</sup> Robert W. Hefner, review of *Review of Challenging the Secular State: The Islamization of Law in Modern Indonesia*, by Arskal Salim, *Pacific Affairs* 82, no. 4 (2009): 750–52.

<sup>29</sup> Crouch, *Law and Religion in Indonesia*.

<sup>30</sup> Bryan S. Turner and Berna Zengin Arslan, "Shari'a and Legal Pluralism in the West," *European Journal of Social Theory* 14, no. 2 (2011): 139–59, <https://doi.org/10.1177/1368431011403459>.

<sup>31</sup> Crouch, *Law and Religion in Indonesia*.

<sup>32</sup> Junaidi Abdillah et al., "Contribution Model of Al-Mas'ūliyyah al-Jinā'iyyah in the Formulation of Criminal Liability in Indonesia's New Criminal Code," *Al-Ahkam* 34, no. 2 (2024): 367–92, <https://doi.org/10.21580/ahkam.2024.34.2.22592>.

<sup>33</sup> John R. Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge University Press, 2003), <https://doi.org/10.1017/CBO9780511615122>.



determining the limits of authority between national law and local law for proper application.<sup>34</sup> The implementation of the *jinayah* has revealed differences in perceptions between law enforcement officials, the community, and the central government. In cases related to moral or decency violations, such as when a non-mahram couple is found together in a secluded place, national law may not categorise it as a criminal offence. However, Aceh's *Qanun* sees this conduct as *khulwat*, subject to flagellation. In such cases, coordination between law enforcement and *Wilayatul Hisbah* (WH) is required to ensure that the legal process is followed. However, determining who should handle the case and which law applies can be time-consuming, particularly when the case involves residents from outside Aceh who may not understand the *Qanun*. At the prosecutor's office, confusion often arises when receiving unclear case files about whether they fall under national law or *Qanun* jurisdiction. For example, gambling is classified as a general crime under the Criminal Code, but in Aceh, it is also regulated by the Sharia *Qanun*, involving a different legal approach. The problem lies in synchronising these two legal systems to avoid overlapping management. Additionally, a dilemma arises when the case involves the perpetrators from outside Aceh, as they often question the application of the *Qanun* to their cases. This situation requires meticulous consideration of both legal and social implications to ensure the proper application of the law. This step is reinforced by research on the legal challenges and public responses to the implementation of Islamic criminal law in Aceh, which finds that although a legal framework has been established, its implementation often faces resistance and inconsistencies, reflecting a gap between legal theory and its practical application.<sup>35</sup>

Second, in terms of social aspects, the implementation of *jinayah* has shown both pros and cons within the community.<sup>36</sup> In Aceh, some people support the law, viewing it as a form of Sharia implementation that reflects Aceh's identity, believing it will create social order and uphold morality through punishments like caning.<sup>37</sup> However, others reject it, considering such punishment, often performed in public, to be inhumane.<sup>38</sup> Furthermore, some individuals believe that *jinayah* has not been applied fairly and remains selective, leading to public distrust in its enforcement.<sup>39</sup> Those who stand for it view it as an essential part of Aceh's special status and as a deterrent for violations such as *zina*, *khamar*, and gambling. However, opposition often arises from those who are more critical of justice, transparency, and legal equality, as they perceive disparities in its application, such as offenders from certain groups being more likely to avoid punishment. The pressure from international

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<sup>34</sup> Tim Lindsey, *Religion, Law and Intolerance in Indonesia*, 1st Edition (Taylor & Francis, 2018).

<sup>35</sup> Fuad et al., "Wither Qanun Jinayah?"

<sup>36</sup> Sita Hidayah, "From Unity in Diversity to Culture Wars? Aceh Women's Mastery over *Adat*, Islam, and the State Inheritance Laws," *Women's Studies International Forum* 103 (March 2024): 102881, <https://doi.org/10.1016/j.wsif.2024.102881>.

<sup>37</sup> Ira Nurliza et al., "Formulation of Criminal Sanctions against Alcohol Drinkers in the Jinayah *Qanun* in Aceh," *Syariah: Jurnal Hukum Dan Pemikiran* 22, no. 2 (2022): 194–202, <https://doi.org/10.18592/sjhp.v22i2.5666>.

<sup>38</sup> Wahyuni Retno Wulandari et al., "Inheriting Inequity: A Comparative Legal Dissection of Gender Discrimination in Indonesian Inheritance Law," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, June 30, 2025, 285–307, <https://doi.org/10.24090/volksgeist.v8i1.12994>.

<sup>39</sup> Mashhood A. Baderin, "Identifying Possible Mechanisms within Islamic Law for the Promotion and Protection of Human Rights in Muslim States," *Netherlands Quarterly of Human Rights* 22, no. 3 (2004): 329–46, <https://doi.org/10.1177/016934410402200302>.



media and human rights NGOs also significantly contributes to forming public perception regarding the relevance and fairness of *jinayah* in today's world.<sup>40</sup> This notion is reinforced by research on the challenges of enforcing Islamic criminal law in Aceh's Sharia courts, which identified issues such as the applicability of qanun to non-Muslims and human rights concerns, indicating that the application of *jinayah* often conflicts with broader human rights principles.<sup>41</sup>

Third, in terms of politics and regulations, the *jinayah* in the special autonomy domain often experiences obstacles in synchronisation with national policy.<sup>42</sup> The central government has the authority to supervise the implementation of law in the regions, including *jinayah* in the special autonomy region. Disharmony between regional and national policies can hamper the effectiveness of the *jinayah* and trigger legal uncertainty.<sup>43</sup> This is further supported by research on the slow development of the *jinayah* in Aceh, which attributes the issue to a lack of coordination among Sharia institutions. Such a lack of coordination results in fragmented law enforcement and uneven application, further exacerbating the gap between theoretical objectives and practical implementation.<sup>44</sup> The following are the results of interviews with the authorities regarding the *jinayah* in the special autonomy area which often faces issues in synchronising with national policy. Central government support for the implementation of the *jinayah* in Aceh is still perceived as limited and largely normative.<sup>45</sup> The interview results indicate that although the central government officially recognises Aceh's special status and its authority to enforce *jinayah* through qanun, concrete support, such as budget allocation, legal dissemination, and officer training, remains insufficient. He also noted that the central government seems hesitant or reluctant to become deeply involved, partly due to concerns over international media scrutiny. From the regional perspective, however, comprehensive support in terms of regulations and harmonised policies is urgently needed to ensure that the implementation of the *jinayah* operates optimally in practice.<sup>46</sup>

The Public Prosecutor's Office also echoed this concern, asserting that although formal legal space has been provided through Law No. 11 of 2006 concerning the Governance of Aceh, this law has not been properly implemented. Regulatory and policy synchronisation continues to face issues due to tensions between special

<sup>40</sup> Jeremy Menchik, "The Co-Evolution of Sacred and Secular: Islamic Law and Family Planning in Indonesia," *South East Asia Research* 22, no. 3 (2014), <https://doi.org/10.5367/sear.2014.022>.

<sup>41</sup> Nasrullah Nasrullah et al., "The Challenges of Islamic Criminal Law Implementation in Aceh Sharia Court," *Diponegoro Law Review* 9, no. 1 (2024): 121–35, <https://doi.org/10.14710/dilrev.9.1.2024.121-135>.

<sup>42</sup> Nicholas Parsons and Marcus Mietzner, "Sharia By-Laws in Indonesia: A Legal and Political Analysis," *Australian Journal of Asian Law* 11, no. 2 (2009): 190–217, <https://doi.org/10.3316/informit.447415887465919>; Mohammad Fadel, "Political Legitimacy, Democracy and Islamic Law: The Place of Self-Government in Islamic Political Thought," *Journal of Islamic Ethics* 2, nos. 1–2 (2018): 59–75, <https://doi.org/10.1163/24685542-12340015>.

<sup>43</sup> Crouch, *Law and Religion in Indonesia*.

<sup>44</sup> Yuni Roslaili et al., "Why the Growth of Qanun Jinayah in Aceh Was Slowly? An Analysis Using Structural Functionalism Theory," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 21, no. 2 (2021): 182–93, <https://doi.org/10.30631/alrisalah.v21i2.928>; Moamen Gouda and Shima Hanafy, "Islamic Constitutions and Democracy," *Political Research Quarterly* 75, no. 4 (2022): 994–1005, <https://doi.org/10.1177/1065912921991241>.

<sup>45</sup> Zainal Arifin Hoessein, *Kekuasaan Kehakiman Di Indonesia : Sejarah, Kedudukan, Fungsi, Dan Pelaksanaan* (Setara Press, 2016).

<sup>46</sup> Tarmidzi, "Results of an Interview with Wilayatul Hisbah Regarding Political and Regulatory Challenges," July 24, 2024.



autonomy principles and national legal standards, and legal dilemmas frequently arise when certain cases potentially conflict with national or international human rights norms. This situation reflects a gap between formal recognition and substantive support from the central government, which hinders the full optimisation of the *jinayahas* a means of achieving justice for the community in Aceh.<sup>47</sup> Therefore, the current study found that the implementation of the *jinayahin* the context of special autonomy faces issues in terms of legal theory, policies, and practices in the field. Legal pluralism theory and regional autonomy theory provide a basis for understanding that *jinayahcan* go side by side with national law. However, in practice, differences between national law and local law often cause glitches in their implementation. In addition, social, political, and regulatory problems also hamper the implementation of the *jinayahin* the special autonomy area.<sup>48</sup> Therefore, there is a need for further efforts in the harmonisation of regulations and an increase in the capacity of the legal apparatus to implement the *jinayahmore* effectively and fairly.

**Table 2.** Comparison of *Jinayah* Challenges in Aceh

| Type of Challenge               | Concrete Example in Aceh   | Impact on Implementation  |
|---------------------------------|--|---|
| Legal Perception and Authority  | Confusion between national law and Aceh's Qanun. E.g., Gambling cases being treated differently under national law vs. <i>jinayah</i> law. There are jurisdictional overlaps, especially with non-Aceh residents     | Delays in processing cases, confusion over jurisdiction, and inefficient law enforcement. Non-Aceh residents may not understand or accept the application of the Qanun                          |
| Social Aspects                  | Public division regarding the punishment methods, such as caning. Some view it as integral to maintaining order, while others consider it inhumane. Selective enforcement issues, where some groups avoid punishment | Polarised community opinions lead to resistance and public distrust in law enforcement, undermining the effectiveness of the law. Public perception of fairness and transparency is compromised |
| Political and Regulatory Issues | Weak synchronisation between regional and national policies. E.g., disharmony between the central government's authority and Aceh local implementation, affecting  | Fragmented law enforcement and legal uncertainty. Disharmony between national and regional policies hampers the application of <i>jinayah</i> law, reducing its overall effectiveness           |

<sup>47</sup> Faisol, "Results of an Interview with Public Prosecutor's Office Regarding Political and Regulatory Challenges," July 23, 2024.

<sup>48</sup> Fadel, "Political Legitimacy, Democracy and Islamic Law."



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the consistency and certainty of the law

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The Table above illustrates the multidimensional issues faced in the implementation of the *jinayahin* Aceh, including differences in perceptions about jurisdiction between national and regional law, social tensions regarding the imposition of punishments that some consider inhumane, and the misalignment between regional and central government policies. All of these factors contribute to the difficulties in consistently and effectively implementing the *jinayah* law, resulting in legal uncertainty and a lack of public trust in the justice system.

### **Effectiveness of the Implementation of *Jinayahin* Achieving Community Justice**

*Jinayahis* part of Islamic criminal law that regulates sanctions for certain violations in society. The implementation of this law in Aceh through the Sharia Court is based on the special autonomy authority granted by the central government. The Sharia Court plays a vital role in enforcing Islamic criminal law, including adjudicating cases such as *maisir* (gambling), *khamar* (alcohol consumption), *khalwat*, *ikhtilath*, *zina*, *liwath*, and sexual harassment (Qanun Aceh No. 6 of 2014). This law enforcement aims to deter offenders and maintain social order in Acehnese society. Its legal basis derives from Law No. 11 of 2006 concerning the Governance of Aceh, Qanun Aceh No. 6 of 2014 concerning Jinayah Law, and Qanun Aceh No. 7 of 2013 concerning Jinayah Procedural Law. Through this mechanism, the Sharia Court functions as a judicial body ensuring that social norms based on Islamic law are upheld in Aceh.<sup>49</sup>

In addition to law enforcement, the Sharia Court also implements a restorative justice approach to achieve community justice.<sup>50</sup> In certain *jinayah* cases, the legal process is not solely oriented toward punishment but also emphasises the recovery of social relations between offenders, victims, and the community. Case resolution may consider aspects of public benefit, prevention, and social education, so that deterrence can be applied without creating prolonged social stigma. This aligns with the provisions in Qanun on *Jinayah* Procedural Law, which grants judges discretion to impose sanctions that not only punish but also restore social harmony.<sup>51</sup> Through this approach, *jinayah* contributes to community protection from moral and social disturbances.

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<sup>49</sup> Muhammad Yusuf, "Efektivitas Pelaksanaan Hukum Jinayah Di Aceh," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 3, no. 1 (2019): 1, <https://doi.org/10.22373/sjhk.v3i1.3668>.

<sup>50</sup> Absar Aftab Absar, "Restorative Justice in Islam with Special Reference to the Concept of *Diyya*," *Journal of Victimology and Victim Justice* 3, no. 1 (2020): 38–56, <https://doi.org/10.1177/2516606920927277>.

<sup>51</sup> Arskal Salim, *Contemporary Islamic Law in Indonesia : Sharia and Legal Pluralism* (Edinburgh University Press, 2015), <https://www.jstor.org/stable/10.3366/j.ctt14brz2b>; Kamaruzzaman Bustamam-Ahmad, "The Application of Islamic Law in Indonesia: The Case Study in Aceh," *Journal of Indonesian Islam* 1, no. 1 (2007): 1, <https://doi.org/10.15642/JIIS.2007.1.1.135-180>.



Furthermore, the implementation of the *jinayah* through the Sharia Court in Aceh serves as a symbol of the legitimacy of special autonomy. The enforcement of Qanun Jinayah reinforces Aceh's legal identity, which represents local values and Islamic law, while also strengthening public trust in the regional legal system. This enforcement is supported by Law No. 44 of 1999 concerning Aceh's Special Status and Law No. 11 of 2006, which grants Aceh the authority to implement Sharia-based criminal law within the framework of the Unitary State of the Republic of Indonesia.<sup>52</sup> Thus, the Sharia Court functions not only as a judicial institution but also as an instrument to guarantee social justice, maintain public order, and reinforce Aceh's legal identity under special autonomy.

Furthermore, the implementation of the *jinayah* in Aceh shows significant support from the community, especially those with a strong religious adherence.<sup>53</sup> Many people comply with the Qanun enforced by the Sharia Court, considering it as part of the Islamic teachings that form Aceh's identity. This compliance is reinforced by a deep understanding of religion, where most people believe that the enforcement of *jinayah* law, such as the flagellation, can create social order and uphold morality. However, despite this support, some still believe that the *jinayah* has not been applied fairly and remains selective, which could lead to public distrust in its enforcement.<sup>54</sup> The implementation of the *jinayah* has had an impact on reducing the crime rate in Aceh.<sup>55</sup> Clear punishments, especially those performed publicly, have a deterrent effect, particularly for severe violations like *zina*, gambling, and *khamar*.<sup>56</sup> Many people are ashamed and do not want their families to bear the shame when the execution is open to the public. This indirectly makes them think twice before committing offences. However, while *jinayah* can provide a deterrent effect, not everyone is influenced, especially those who reoffend due to a lack of further guidance or because their environment does not support change. This shows that, besides the law, a continuous approach to religious education and social guidance is also necessary to boost the effectiveness of the *jinayah* law.

Based on Figure 1, from 2021 to 2024, the number of *khalwat* cases showed a declining trend, decreasing from 18 cases in 2021 to four cases in 2023, although there was a slight increase to eight cases in 2024. This trend may reflect a combination of more effective law enforcement, increased public awareness, or certain social fluctuations. In contrast, *khamar* cases tended to rise from 10 cases in 2021, peaking to 23 cases in 2023. However, this figure slightly decreased to 17 cases in 2024, indicating that violations related to alcohol consumption remain a significant enforcement challenge.

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<sup>52</sup> Arskal Salim, *Contemporary Islamic Law in Indonesia* (Edinburgh University Press, 2015).

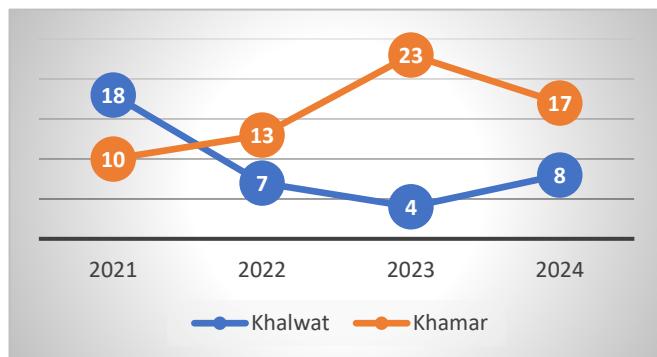
<sup>53</sup> Powell, "Islamic Law States and the International Court of Justice."

<sup>54</sup> Sara McLaughlin Mitchell et al., "Domestic Legal Traditions and States' Human Rights Practices," *Journal of Peace Research* 50, no. 2 (2013): 189–202, <https://doi.org/10.1177/0022343312466561>.

<sup>55</sup> Mulizar Mulizar et al., "Maqashid Sharia Perspective of Legal Sanction for Khalwat Actors in Aceh," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 May (2022): 1 May, <https://doi.org/10.29240/jhi.v7i1.3587>.

<sup>56</sup> Zuriah Zuriah et al., "The Effectiveness of Qanun Jinayah in Preventing Sexual Violence Against Children from a Psychological Perspective," *An-Nisa Journal of Gender Studies* 16, no. 2 (2023): 2, <https://doi.org/10.35719/annisa.v16i2.176>.



**Figure 1.** Data on *Khalwat* and *Khamar* Violations

The success of implementing *jinayahin* Aceh is not only driven by community compliance but also by support from the relevant government institutions. Institutions like Wilayatul Hisbah (WH) and the Sharia Court have been actively conducting outreach programs and supervision, although coordination and territorial coverage still show some shortcomings. The WH frequently conducts patrols to remind the public to comply with Sharia, and the Sharia Court follows legal procedures in accordance with Islamic principles. However, it seems that outreach programs need some improvements that may take into account a more persuasive approach and expanded territorial coverage, especially in rural areas that have not been fully reached. These improvements are aimed at fostering the optimal and extensive implementation of the *jinayah* law. The effectiveness of the implementation of the *jinayahin* realizing community justice depends on various factors, including community compliance, government institutional support, and legal acceptance by the wider community.<sup>57</sup> Although *jinayah* has the potential to uphold justice and reduce crime rates, the challenges in its implementation remain a major concern. Therefore, a holistic and adaptive approach is needed to implement the *jinayah* effectively in modern society.

## Conclusion

Finally, this study concludes that the Sharia Court in Aceh had implemented its judicial function in handling *jinayah* cases, such as *khalwat*, *maisir*, and *khamar*, as part of the specificity of Aceh in the special autonomy frame based on Law No. 11 of 2006. This institution serves as an important instrument in implementing Islamic Sharia in the realm of Islamic criminal law (*Jinayah*). However, in practice, the Sharia Court faces several obstacles, including the lack of optimal coordination between law enforcement officials, limited professional human resources, and varying levels of community acceptance towards *jinayah* law. These factors hinder the judicial process and the effectiveness of law enforcement. To increase the effectiveness of the Sharia Court in handling *jinayah* cases, it is necessary to improve the quality and capacity of the judicial apparatus, implement continuous outreach programs of *jinayah* for the community, and strengthen synergy between legal institutions and the community.

<sup>57</sup> Muhammad Nasir and Hamdani Hamdani, "Analysis Of The Settlement Of The Worship Penalty Against Action Of Jinayah Maisir's In Aceh," *Jurnal Geuthèè: Penelitian Multidisiplin* 5, no. 3 (2022): 3, <https://doi.org/10.52626/jg.v5i3.198>.



Thus, the implementation of Islamic law in Aceh is expected to run more fairly and effectively, thereby being widely accepted by all elements of society. This study, however, has a limited scope in terms of the study area and the number of respondents interviewed, as it could not cover all regencies/cities in Aceh as a whole. In addition, the very diverse socio-cultural dynamics of society regarding the perception of the *jinayah* has not been further explored. Therefore, further studies are recommended to expand geographical coverage and involve various and more inclusive community groups, including women, youth, and traditional leaders. An in-depth study regarding the effectiveness of *jinayah* legal sanctions on particular violations is also essential and needs to be considered to assess the success of Sharia Court in creating substantive justice in the community.

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