

The Urgency of A Victim-Oriented Approach to Address the Vacuum of Substantive Justice in Caning Sentences for Sexual Harassment Cases in Aceh

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ABSTRACT

Objective: The implementation of special autonomy authority in Aceh Province through the application of Qanun Number 6 of 2014 concerning Jinayat Law has raised dynamics in law enforcement, particularly in handling sexual harassment cases. The sentencing practice that focuses on inflicting physical punishment in the form of caning (offender-oriented) is considered to leave a vacuum in providing guarantees of substantive justice for the victims. This study aims to examine three main issues: (1) the proportionality of caning for perpetrators of sexual harassment when viewed from substantive justice for the victims; (2) the implications of enforcing the Jinayat Qanun on the victims' right to feel safe and human rights protection; and (3) the idea of reconstructing the enforcement of jinayat law to be oriented towards victim recovery (victim-oriented). **Method:** This study uses a normative legal research method through a statute approach and a conceptual approach. Data collection was carried out through library research on laws and regulations, court decisions, human rights instruments, and academic literature, which were then analyzed qualitatively-descriptively. **Results:** The results of the study indicate that, first, the imposition of caning in sexual harassment cases is not proportional to the victim's suffering. The short-lived physical execution is considered disproportionate to the long-term psychological trauma experienced by the victim, thus failing to fulfill the element of substantive justice. Second, the current enforcement of jinayat law is not yet optimal in accommodating the fundamental rights of the victims, especially the recovery instruments and the fulfillment of the right to feel safe and protected as mandated by the constitution. **Novelty:** Third, it is necessary to reconstruct the paradigm of Islamic criminal law in Aceh by adopting victimological principles, where the orientation of sentencing must not stop at mere physical punishment, but must be integrated with the obligation of restitution and psychological rehabilitation that guarantees the full recovery of the victims.

INTRODUCTION

The Province of Aceh occupies a unique and privileged position within the Indonesian state. This special administrative status did not emerge from a historical vacuum; rather, it constitutes formal state recognition of the deeply entrenched religious identity and cultural distinctiveness of its populace. Empowered by a legitimate statutory framework, Aceh has been granted comprehensive authority to formulate and execute Islamic Sharia within its societal structure. The operationalization of Islamic Sharia across the province is meticulously calibrated to align with regional exigencies and the spiritual aspirations of a society seeking an existence anchored in divine principles. The trajectory of formalizing Islamic Sharia in Aceh established its constitutional foundation through Law Number 44 of 1999 concerning the Implementation of the Privileges of the Special Region of Aceh [1]. This legislation unequivocally acknowledges Aceh's specificities in

the domains of religion, customary practices (adat), education, and the strategic function of Islamic scholars (ulama) in regional policymaking.

This foundational recognition was subsequently fortified by Law Number 18 of 2001 regarding Special Autonomy for the Special Region of Aceh, as Nanggroe Aceh Darussalam Province [2], ultimately reaching its jurisprudential apex in Law Number 11 of 2006 on the Governance of Aceh [3]. Within this definitive legal construct, Article 125 explicitly delineates the parameters of Sharia implementation, encompassing three fundamental pillars: *aqidah* (theology), *syari'ah* (Islamic law), and *akhlaq* (ethics or morality). Furthermore, the operational scope of *syari'ah* is broadly defined to include *ibadah* (ritual worship), *ahwal al-syakhsyiyah* (family law), *muamalah* (civil jurisprudence), *jinayat* (criminal law), *qadha'* (the judicial system), *tarbiyah* (education), *dakwah* (proselytization), *syiar* (Islamic propagation), and the defense of Islam.

To operationalize the constitutional mandate within the realm of criminal law, the Government of Aceh enacted Aceh Qanun Number 6 of 2014 concerning Jinayat Law. This Qanun serves as a legal instrument that comprehensively regulates the classifications of criminal offenses (*jinayah*) alongside their corresponding sanctions. The normative framework of the Jinayat Qanun is established upon six fundamental principles: Islamic values, legality, justice and balance, public interest (*kemaslahatan*), the protection of human rights, and public education or deterrence (*tadabbur*). Furthermore, the spectrum of offenses regulated therein is extensive, encompassing the consumption of intoxicants (*khamar*), gambling (*maisir*), illicit proximity (*khalwat*), illicit mingling (*ikhtilath*), adultery (*zina*), sexual harassment, rape, false accusation of adultery (*qadzaf*), male homosexuality (*liwath*), and female homosexuality (*musahaqah*). Each category of offense (*jarimah*) is subject to varying sanctions, ranging from public caning and fines payable in pure gold to imprisonment. This penal spectrum is calibrated according to the gravity of the offense; at the lowest threshold, offenders may face ten strokes of the cane, a fine of one hundred grams of gold, or ten months of imprisonment. Conversely, at the maximum threshold, sanctions can escalate to one hundred and fifty strokes of the cane, a fine of one thousand five hundred grams of gold, or one hundred and fifty months of imprisonment.

Despite possessing a robust philosophical and juridical foundation, the ratification and, more notably, the execution of caning sentences have engendered social dynamics fraught with contentious debates. Certain segments of society have articulated profound concerns that the implementation of the Jinayat Qanun harbors discriminatory potential, disproportionately targeting vulnerable demographics, while concurrently arguing that the practice of public caning constitutes a violation of human rights [4]. Similar apprehensions are reflected in the findings of Nurbaiti et al., which illustrate a polarized public perception regarding the efficacy and social ramifications of executing caning sentences in Aceh [5]. This dichotomy of discourse is not confined to local deliberative spheres but has also provoked intense scrutiny from both national and international perspectives.

From a theoretical standpoint, the essence of penal sanctions in Islamic jurisprudence is fundamentally oriented toward a tripartite objective: deterrence, rehabilitation, and education. Sentences are intended to be imposed proportionally, with continuous regard for the protection of human rights, ensuring equitable justice between the perpetrator and the victim directly impacted by the offense. However, the empirical reality of applying caning sentences for the *Jarimah* (criminal offense) of sexual harassment, particularly in cases involving women and children, is argued to have marginalized the victims' right to feel safe and protected [6]. This disparity becomes increasingly evident when contrasting the profound, long-term psychological trauma sustained by the victims with the relatively brief duration of the corporal punishment. Furthermore, the rapid resocialization of convicted offenders, which allows them to swiftly resume normal societal activities, is perceived as undermining the fulfillment of the victims' fundamental rights to guaranteed protection, as explicitly mandated by the 1945 Constitution of the Republic of Indonesia [7].

The trend in the adjudication of sexual harassment *Jarimah* (Islamic criminal offenses) cases at the Mahkamah Syar'iyah Jantho demonstrates a predominance of caning as the primary penal sanction. This phenomenon necessitates critical reflection, considering that the Qanun on Jinayat Law explicitly provides statutory alternatives, such as imprisonment and fines, which are fundamentally more conducive to achieving justice for the victims. The imposition of physical punishment via caning is deemed disproportionate to the severe physical and psychological harm endured by the victims, particularly when the victims are minors whose extensive futures require rigorous protection.

In diametric contrast to victimless crimes such as *khamar* (intoxicant consumption) and *maisir* (gambling), where the destructive impacts are confined solely to the perpetrators, the criminal act of sexual harassment inflicts profound and enduring trauma upon the victim. Consequently, the application of caning for perpetrators of sexual harassment is perceived as inadequate in establishing an equitable and ideal paradigm of law enforcement from the victim's perspective. Ultimately, the fundamental objective of Jinayat procedural law, which aims to ensure balanced legal guarantees and protections for both the victim and the defendant, remains suboptimally realized.

Building upon these multidimensional issues, the implementation of the Qanun Jinayat in the context of sexual harassment cases demonstrates a significant void in securing substantive justice for victims. The current law enforcement framework, which predominantly emphasizes the swift execution of caning, is deemed inadequate in accommodating the fulfillment of human rights, particularly the victims' rights to security and legal protection. This excessively offender-oriented process, focused heavily on the physical punishment of perpetrators, tends to disregard the urgent need for victims' trauma recovery. Consequently, the ideal objectives of Islamic criminal law, which inherently promise both justice and public welfare, fail to be optimally achieved. Therefore, this research is of paramount importance and relevance to comprehensively examine the psychosocial impacts of caning, its efficacy as a deterrent, and its

implications for human rights. The objective is to formulate recommendations for jinayah law enforcement that not only deter perpetrators but are also equitable and dedicated to victim rehabilitation.

This academic concern finds its most authentic justification in the narratives of female victims in Aceh. Their marginalized voices reveal that the Qanun Jinayat enforcement system frequently fails to deliver the restorative justice sought by victims of crime. More alarmingly, the disproportionate and inequitable mechanisms of evidentiary procedure and sentencing (*uqubat*) carry a substantial risk of precipitating revictimization. This constitutes a judicial irony wherein victims endure secondary suffering inflicted by the very justice system intended to protect and advocate for them [8]. In light of this paradoxical reality, mainstreaming a victim-oriented approach is a pressing necessity. Such a paradigm shift is imperative to resolve the deficit of substantive justice and to ensure that the jinayat law in Aceh authentically serves as a blessing for all stakeholders, particularly those most vulnerable to victimization.

RESEARCH METHOD

This study constitutes normative legal research, frequently referred to in academic traditions as doctrinal research. This approach centers on the application of the rules, norms, and principles of positive law. The primary focus of this research is specifically directed toward the application of sanctions within the Acehnese Qanun Jinayat (Islamic Criminal Code) and its implications for victims of sexual harassment. As articulated by Peter Mahmud Marzuki, normative legal research relies on the analysis of library materials encompassing positive legal norms, legal principles, doctrines, and the systematic structure of law relevant to the legal issues under consideration [9]. In the context of this study, a doctrinal approach is employed to comprehensively dissect the operational mechanics of the normative construction of the Qanun Jinayat, as well as the extent to which its implementation aligns with the principles of substantive justice.

To analyze the issue in a comprehensive and multidimensional manner, this study utilizes two primary approaches: the statute approach and the conceptual approach. The statute approach is executed by systematically examining various legal instruments directly related to the investigated issue. This examination transcends a mere grammatical reading of legal texts; it also investigates the *ratio legis* and the underlying spirit of the formulation of each regulation. The regulations analyzed encompass the 1945 Constitution of the Republic of Indonesia, serving as the supreme constitutional foundation that guarantees the fulfillment of every citizen's human rights; Aceh Qanun Number 7 of 2013 concerning Jinayah Procedural Law, which governs the procedural mechanisms in jinayat cases [10]; Aceh Qanun Number 6 of 2014 concerning Jinayat Law as the substantive law detailing the types of *jarimah* (offenses) and their corresponding sanctions [11]; and Aceh Qanun Number 12 of 2025 concerning the Amendment to Qanun Number 6 of 2014, representing the most recent refinement of the jinayat regulations [12]. Meanwhile, the conceptual approach is derived from the doctrines and scholarly perspectives that have evolved within legal discourse.

This approach is employed to construct robust legal arguments by integrating the theory of substantive justice, human rights concepts, and the principles of victimology. The theory of substantive justice serves as a vital analytical framework to evaluate whether the application of formal legal norms has yielded genuine justice for the involved parties, particularly the victims. In his magnum opus, *A Theory of Justice*, John Rawls emphasizes that justice cannot be adequately comprehended merely as normative certainty; rather, it must be measured by its capacity to benefit the most vulnerable demographics [13]. It is within this context that the principles of victimology acquire their profound significance. As a discipline that examines the position of victims within the criminal justice system, victimology offers a critical perspective, positing that any law enforcement process that disregards victim suffering constitutes a systemic failure necessitating correction [14]. Ultimately, these conceptual approaches are operationalized synergistically to formulate an ideal law enforcement paradigm that is intrinsically victim-oriented.

The legal materials utilized in this study are categorized into three mutually complementary classifications. Primary legal materials are authoritative and legally binding, encompassing constitutional instruments such as the 1945 Constitution, a series of Aceh Qanuns pertaining to Jinayat Law and Jinayat Procedural Law, and judicial documents. The latter includes the trend of verdicts from the Jantho Syar'iyah Court, which illustrates the patterns of sanction imposition in sexual harassment cases. Secondary legal materials provide elucidation and analysis of the primary sources, comprising academic literature, texts on Islamic criminal law, criminology, and victimology, as well as scientific journal articles relevant to the discourse on caning sentences and the protection of sexual violence victims. Furthermore, tertiary legal materials serve a supplementary function by offering guidance and additional explanations for both primary and secondary sources. These include legal dictionaries and glossaries of Islamic legal terms, which assist in clarifying key terminologies within the scholarly discussion.

Data collection in this research was conducted exclusively through library research. This procedure involved reading, reviewing, cataloging, and classifying written legal materials to ensure they were systematically structured and prepared for examination. All compiled legal materials were subsequently subjected to a qualitative-descriptive analysis. This method emphasizes the articulation of data into organized, coherent, and logical propositions, thereby capturing the underlying significance of the written legal texts. The analytical process was undertaken to assess the proportionality of caning sentences and to evaluate the extent to which the victims' right to security has been accommodated within the jinayat justice system. Ultimately, the culmination of this comprehensive analysis is prescriptive, as is characteristic of normative legal research. Rather than concluding with mere description, it formulates recommendations regarding the optimal measures that law enforcement officials and policymakers ought to implement to reconstruct a jinayat judicial framework that ensures genuine substantive justice for victims of sexual harassment.

RESULTS AND DISCUSSION

The Proportionality of Caning for Sexual Harassment Offenders from the Perspective of Substantive Justice

The implementation of caning in Aceh generally garners substantial support from a majority of contemporary clerics and various societal elements, as it is perceived to possess the capacity to generate a profound psychological deterrent effect. This punitive measure is designed with distinctive characteristics, specifically its execution in public spaces where it can be observed by the general populace. Consequently, it aims to induce intense shame in the offender while simultaneously offering a collective moral lesson, or *tadabbur*, for the public witnessing the proceeding [15]. From the perspective of its proponents, the institution of caning is regarded as an authentic manifestation of Islamic law that serves a dual function: as a mechanism for the perpetrator's expiation of sins (*al-jaza'*) and as a social deterrent (*al-rad'*) to dissuade other members of society from committing analogous offenses. This conviction is rooted in the paradigm that Islamic jurisprudence does not solely aim to penalize, but rather seeks to educate and cultivate a superior moral order within society.

Viewed through the lens of formal or procedural justice, the execution mechanism of caning in Aceh fundamentally adheres to the principle of legality, which serves as a cornerstone of the rule of law. The comprehensive procedure is stringently codified within Aceh Qanun Number 7 of 2013 concerning Jinayah Procedural Law, encompassing the prosecution phase, judicial evidentiary proceedings, and the protocols for public execution. The Acehnese government maintains that the practice of caning does not contravene human rights principles. This assertion is predicated on the fact that the executions are rigorously monitored by authorized medical personnel, utilize implements with strictly defined specifications, and are not intended to inflict fatal physical trauma or permanent disability upon the convicted individuals [15]. Furthermore, the presence of physicians and paramedics at the execution venue serves as evidence of the state's effort to reconcile the enforcement of Sharia law with the protection of the offender's fundamental rights. Within this conceptual framework of formal justice, provided that all procedures are executed in strict accordance with prevailing legal provisions, the imposition of caning is deemed both legally valid and constitutional.

Nevertheless, when the analytical framework is shifted from formal justice to the principles of substantive justice, particularly from the perspective of sexual harassment victims, the imposition of caning as a singular sanction is demonstrably disproportionate and inherently flawed from a philosophical standpoint. The concept of substantive justice, as articulated by John Rawls in *A Theory of Justice*, posits that justice cannot be adequately measured solely by normative certainty and procedural consistency [13]. Instead, it must be evaluated by its efficacy in generating authentic utility for the most vulnerable and disadvantaged groups. In this context, victims of sexual harassment represent the most vulnerable constituency and ought to be the focal point of the judicial system.

Empirical realities reveal a striking disparity: the execution of caning is exceedingly brief, transpiring within a matter of minutes, after which the convicted individual is immediately permitted to reintegrate into normal social life, devoid of continuous supervision. Conversely, victims of sexual harassment are compelled to endure prolonged psychological trauma and mental distress, which in many instances are permanent and pervade all future dimensions of their lives [6]. This profound asymmetry between the transient suffering experienced by the perpetrator and the protracted anguish borne by the victim constitutes the crux of the proportionality dilemma within the discourse of substantive justice.

Notably, this imbalance has been recognized and addressed within the judicial practices of the Mahkamah Syar'iyah. Empirical evidence indicates a significant disparity in sentencing, wherein certain judges deliberately elect to impose imprisonment rather than caning for sexual offenders. This judicial discretion is not driven by mere subjective preference but is fundamentally grounded in careful victimological considerations. Roslaili observes that judges across several Mahkamah Syar'iyah are acutely aware that the execution of caning, which concludes within a single day, expedites the perpetrator's return to society [16]. This rapid reintegration, in turn, harbors a substantial potential to precipitate revictimization or recurrent violence against the same victim. Such apprehensions are well-founded, considering that the nature of sexual offenses frequently involves inherent power dynamics and personal proximity between the perpetrator and the victim. Consequently, the expeditious release of offenders without subsequent supervisory measures can subject victims to a continuous state of threat. Ultimately, this phenomenon of sentencing disparity substantiates that caning, as a singular alternative sanction, fails to fulfill the principle of proportionality regarding the victim's suffering and is substantially inadequate in delivering a sense of justice for the direct victims of sexual crimes.

The Implications of the Enforcement of Qanun Jinayat on the Victim's Right to a Sense of Security

The discourse surrounding the enforcement of the Qanun Jinayat has historically exhibited an asymmetrical tendency, wherein public debates are almost exclusively centered on the fate and treatment of the perpetrators, thereby reflecting a predominantly offender-oriented paradigm. One of the most prominent debates within this discourse concerns the policy of relocating caning executions from open public spaces to the confines of correctional facilities. This policy was formalized through Aceh Governor Regulation Number 5 of 2018 [17], which officially transferred the venue for caning to the premises of Correctional Institutions or State Detention Centers. The enactment of this policy immediately precipitated a sharp wave of polarization among Acehnese Islamic scholars (ulama).

A specific faction of these scholars vehemently opposed the relocation, arguing that it eliminates the public educational function, or *tadabbur*, which serves as the fundamental essence of the caning penalty under Sharia law. From their perspective, the pedagogical value for the broader community is nullified when executions can no longer

be directly witnessed by the general public. Conversely, the faction of scholars endorsing the policy predicated their arguments on political considerations designed to mitigate international pressure and condemnation regarding public caning. Furthermore, they cited social control as a primary rationale, asserting that the relocation ensures a more orderly execution process and prevents the emergence of potentially anarchic mass gatherings [18].

However, it is highly regrettable that the prevailing discourse is almost entirely consumed by debates concerning the perpetrators and procedural technicalities, thereby neglecting the most fundamental and urgent imperative: the protection of the victims. The tendency to impose corporal punishment, specifically caning, upon perpetrators of sexual harassment has been criticized for marginalizing the victims' most elementary human rights, namely, the right to feel safe and protected, which is explicitly guaranteed and mandated by the 1945 Constitution of the Republic of Indonesia [6]. This constitutional guarantee unequivocally asserts that every citizen, without exception, is entitled to protection from fear and the assurance of personal security against external threats. Consequently, when the legal framework focuses exclusively on penalizing the offender while disregarding the mechanisms for victim rehabilitation and post-conviction protection, the state fundamentally fails to fulfill its constitutional mandate to provide comprehensive security for citizens who have been victimized by crime.

The argument concerning the urgency of victim protection acquires a more robust foundation when a definitive distinction is drawn between two categories of criminal offenses regulated within the Qanun Jinayat. In fundamental contrast to victimless crimes (*jarimah*) such as gambling (*maisir*) and the consumption of intoxicating beverages (*khamar*) where the destructive impacts remain confined to the perpetrator and abstract public morality the offense of sexual harassment inflicts tangible, deeply personal, and profound harm upon the individual victim. Sexual harassment transcends a mere violation of moral decency; it shatters the physical and psychological integrity of an individual, strips them of bodily autonomy, and leaves a traumatic imprint that may persist for a lifetime.

This categorization proves crucial as it necessitates distinct legal responses: while a retributive approach might be justifiable for victimless crimes, offenses resulting in actual victims require a paradigm shift in the legal framework to adequately accommodate the interests of victim restitution and recovery. Absent this paradigm shift, the enforcement of the Qanun Jinayat will remain ensnared in a paradox wherein the state zealously penalizes perpetrators in the name of Sharia, yet simultaneously abandons victims to navigate their trauma independently, devoid of any rehabilitative support from judicial institutions.

The Concept of Reconstructing Jinayat Law Enforcement Towards a Victim-Oriented Approach

Historically, the orientation of Jinayat law enforcement in Aceh has been heavily steeped in retributive paradigms, wherein the judicial emphasis is exclusively focalized on proportional retaliation and the physical penalization of the perpetrator a framework

commonly designated as offender-oriented. Within this classical retributive framework, justice is perceived as actualized once the perpetrator endures suffering commensurate with their transgressions, thereby neglecting the post-verdict welfare and specific needs of the victim. This enduring practice has provoked severe criticism from academics and legal scholars, as it is deemed profoundly dismissive of the victim's circumstances, despite the victim being the party most severely aggrieved by the criminal act.

Based on comprehensive research conducted by Y. Febriandi, M. Ansor, and Nursiti examining the narratives of female victims in Aceh, a deeply concerning reality has emerged: victims of sexual violence frequently report that the Qanun Jinayat system fails to deliver the restorative justice they seek [8]. Rather than attaining recovery and a sense of security, these individuals endure what victimological literature terms as revictimization. This tragic phenomenon occurs when victims are subjected to secondary trauma, not by the original perpetrators, but by the very judicial system mandated to safeguard them. Such revictimization manifests through multiple avenues, including evidentiary procedures that are inherently interrogative and degrading to the victim's dignity, the imposition of *uqubat* (punishments) upon offenders that are disproportionate to the victims' suffering, and the absence of structured, post-trial rehabilitation mechanisms. Under these circumstances, the judicial process, which ideally functions as a sanctuary for justice, paradoxically transforms into a secondary arena of profound distress for the victims.

This predicament is consistent with the critical perspective articulated by Nadia Maulida Zuhra, who posits that victim protection must extend beyond indirect measures, such as the mere psychological satisfaction derived from the public physical penalization of the perpetrator [6]. Genuine legal protection necessitates the implementation of direct protective instruments that yield tangible, beneficial outcomes, thereby enabling victims to reconstruct their lives with dignity. These direct instruments encompass a comprehensive and integral spectrum of interventions, including mandatory restitution paid by the perpetrator to the victim, state-provided compensation facilitated by authorized institutions, holistic medical services aimed at physical rehabilitation, and adequate legal representation throughout the adjudicative process. In the absence of these concrete mechanisms, the assertion that the Qanun Jinayat adequately protects victims remains an empty rhetoric, devoid of any transformative impact on the actual lives of sexual violence survivors.

The proposition for a victim-oriented reconstruction of *jinayat* (Islamic criminal) law enforcement necessitates fundamental reforms encompassing not only substantive law but also procedural law, which serves as the operational backbone of the judicial system. Substantive justice remains fundamentally unattainable if the burden of proof in sexual crime cases is imposed upon victims, who are inherently in a state of physical and psychological vulnerability. Existing procedural practices permit case resolution through the mechanism of mutual oath-taking (*li'an*) between the perpetrator and the victim of harassment. Structurally, this mechanism places the victim in a profoundly asymmetrical position, significantly increasing their susceptibility to judicial defeat. Furthermore,

within the deeply entrenched patriarchal social context of Aceh, allocating the burden of proof to the victim constitutes not merely a technical impediment but also a source of severe social and psychological coercion.

Therefore, as incisively argued by Salma et al., the evidentiary burden regarding the *jarimah* (offenses) of sexual harassment and rape must be the absolute responsibility of investigative authorities and public prosecutors, rather than being inflicted upon victims who are concurrently striving to recover from trauma [19]. Beyond fundamental reforms to evidentiary mechanisms, the holistic recovery of victims necessitates the implementation of a tangible, structured, and sustainable rehabilitation system. In their study, Nurbaiti et al. highlight a concerning discrepancy between normative provisions and practical implementation: although rehabilitation clauses are explicitly mandated within *jinayat* regulations, their execution in the field remains substantially deficient and falls significantly short of expectations [5].

Victims of sexual violence are frequently left to navigate post-judicial trauma independently, devoid of systematic psychosocial support from the state. Conversely, perpetrators are immediately reintegrated into society without adequate supervisory periods following the summary execution of corporal punishment (caning). This asymmetric paradigm illustrates the extent to which the *jinayat* justice system continues to marginalize victims, treating their interests as merely residual. Consequently, future reconstructive efforts in law enforcement must mandate the establishment of a specialized institution endowed with the authority and capacity to systematically monitor the psychological rehabilitation of victims. This institution must ensure the provision of continuous counseling services and facilitate the social reintegration of victims, thereby enabling them to resume societal participation unencumbered by the trauma of their past experiences.

The initial progression toward a victim-oriented legal reconstruction has achieved a highly significant juridical momentum through the ratification of Aceh Qanun Number 12 of 2025, which amends Qanun Number 6 of 2014 concerning *Jinayat* Law. The substantive modifications embedded within this recent legislative framework represent a progressive response to the persistent victimological critiques articulated over the years by academics, activists, and civil society. Notably, this Qanun introduces several progressive breakthroughs that warrant scholarly recognition. First, it enacts a fundamental paradigm shift in sentencing policy; the penal sanctions for perpetrators of sexual harassment have transitioned from an alternative to a cumulative framework. This adjustment provides the judiciary with a robust legal foundation to concurrently impose corporal punishment (caning), financial penalties, and imprisonment. Such a policy is deliberately designed to mitigate the issue of sentencing disparity, which has historically disadvantaged victims by permitting perpetrators to discharge their penal obligations solely through a caning procedure completed in a matter of minutes. Second, the Qanun broadens the conceptual dimensions of sexual harassment. Sexual offenses are no longer narrowly construed as strictly physical contact; rather, the legal definition has been

expanded to encompass the ramifications of psychological intimidation, verbal degradation, and violence predicated upon asymmetrical power relations.

Thirdly, and constituting the most fundamental breakthrough, Qanun No. 12 of 2025 explicitly reinforces the guarantee of substantive recovery for victims. The right to restitution, which remains the liability of the perpetrator, is now governed by a more detailed and operational regulatory framework. Furthermore, the state assumes a more proactive role by mandating victim compensation, which is disbursed through the Baitul Mal, an institution that commands significant legitimacy within the Acehnese societal structure. Additionally, the rights of victims to medical, psychological, and social rehabilitation are now formally acknowledged as integral components of the jinayat justice system, rather than mere optional supplements. Fourthly, the Qanun demonstrates heightened sensitivity toward vulnerable populations by affording specific recognition and protection to individuals with disabilities. Recognizing them as subjects highly susceptible to sexual violence, the legislation imposes aggravated maximum penalties on perpetrators who target this demographic [16].

Nevertheless, it must be acknowledged that the reconstructive framework articulated in Qanun No. 12 of 2025 is currently confined to substantive law and has yet to encompass the dimensions of formal or procedural law, which function as the operational mechanisms within judicial proceedings. To ensure that a genuinely victim-oriented or victim-centered paradigm is concretely realized and yields tangible benefits for survivors of sexual violence, the Government of Aceh, in collaboration with the Aceh House of Representatives, is strongly urged to undertake a comprehensive reform of the Jinayah Procedural Law Qanun (QHAI). In the absence of precise and rigorous technical guidelines regarding the humane examination of vulnerable victims, effective restitution recovery mechanisms, measurable rehabilitation procedures, and the protection of victim identity and privacy during trials, the progressive rights established in Qanun No. 12 of 2025 will inevitably be reduced to a dead letter. This condition contradicts the progressive legal perspective advocated by Satjipto Rahardjo, which asserts that the law should not be interpreted as a static and definitive text [20], but rather as a continuous humanitarian project designed to manifest justice and welfare for society, particularly for those who are most vulnerable and disproportionately affected by sexual offenses.

CONCLUSION

Fundamental Finding : Based on the analysis of the implementation of the Qanun Jinayat (Islamic Criminal Code) concerning sexual harassment cases in Aceh Province, three principal conclusions and their corresponding implications can be drawn as follows: First, the imposition of corporal punishment (caning) as a singular sanction for perpetrators of sexual harassment has proven to be disproportionate, thereby failing to fulfill substantive justice. The instantaneous nature of caning starkly contrasts with the enduring psychological trauma experienced by victims. This discrepancy is evident in the judicial practices of the Mahkamah Syar'iyah (Islamic Court), where judges increasingly favor custodial sentences (imprisonment) to prevent revictimization caused

by the perpetrator's premature reintegration into society. Second, the enforcement of the jinayat law remains predominantly offender-oriented. This is evident in public discourse, which frequently fixates on the venue of the caning executions while neglecting the substantive aspects of victim protection. A singular orientation toward physical punishment marginalizes the victims' constitutional right to feel safe and protected, as guaranteed by the 1945 Constitution of the Republic of Indonesia. Furthermore, it neglects the provision of concrete restorative instruments, including restitution, compensation, and psychosocial support. Third, a fundamental paradigm shift from retributive justice to victim-oriented restorative justice is imperative. A juridical momentum has emerged through the enactment of Aceh Qanun Number 12 of 2025, which introduces cumulative sanctions, a broader definition of sexual harassment, rights to restitution and rehabilitation, and specific protections for persons with disabilities.

Implication : Theoretically, this research underscores the urgency of integrating victimological perspectives into the study of contemporary Islamic criminal law. Specifically, it advocates for a paradigm shift from a retributive approach to restorative justice, positioning the victim as the central subject of the judicial process. Practically, these findings serve as a foundational reference for the Mahkamah Syar'iyah to optimize the implementation of cumulative sanctions as mandated by Qanun Number 12 of 2025. Additionally, it urges investigators and prosecutors to adopt examination procedures that are sensitive to vulnerable victims.

Limitation : Nevertheless, this legal reform necessitates the immediate revision of the Qanun on Jinayah Procedural Law (QHAJ) to ensure that the victims' rights to recovery do not remain mere dead letters.

Future Research : From a policy perspective, this study recommends that the Government of Aceh and the Aceh House of Representatives (DPRA) urgently reform the Qanun on Jinayah Procedural Law. This reform must incorporate technical guidelines regarding restitution, victim rehabilitation, and identity protection, thereby ensuring that the normative guarantees for survivors of sexual violence possess transformative operational efficacy rather than remaining a dead letter.

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