



# Whip Sanctions in The Criminal Act of Prostitution Based on Qonun Aceh Number 06 Of 2014 Concerning Jinayat Law from A Human Rights Perspective

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## Article Info

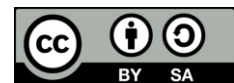
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## ABSTRACT

This study focuses on the application of caning sanctions in criminal law in Aceh, especially in cases of prostitution, by examining the historical, legal, and cultural dimensions as the basis for the legitimacy of the punishment. The research method used is qualitative with a case study approach, including legal document analysis, in-depth interviews, and field observations to obtain comprehensive empirical data. The results of the study indicate that caning punishment is not merely a product of formal law, but also a symbol of social and moral control that is strongly legitimized by religious traditions and local cultural norms. The implications of this study emphasize the need for a multidimensional understanding in enforcing sharia law in order to adapt to the principles of human rights and the ever-evolving social dynamics of Acehnese society.

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## 1. INTRODUCTION

Prostitution is a social anomaly that shows the complexity of the relationship between economic structures, cultural values, and legal systems that apply in society (Narek et al., 2024). This phenomenon not only represents a deviation from public morality, but also indicates the failure of the state and society to provide protection and empowerment for vulnerable groups (Jones & Hameiri, 2022). In the long history of the Indonesian nation, prostitution is not a new entity, but rather part of a social practice that has been perpetuated through various forms of power relations and patriarchal structures. During the kingdom, the practice of owning concubines was a manifestation of absolute power that placed women as symbolic and political objects. Historical facts as recorded in the Tang Dynasty manuscripts of the 7th century AD, which mention the existence of poisonous women in the Holing region (Java), indicate that women's sexuality had been commodified long before modern institutions were formed. Similar practices also occurred during the Dutch colonial period, when demographic disparities between men and women created a gap for the development of prostitution as a response to biological and economic needs, even though it was formally opposed by the colonial rulers.

In the contemporary era, prostitution remains a social reality that is difficult to eliminate, even in areas that implement a legal system based on Islamic law such as the Province of Nanggroe Aceh Darussalam. The local government through Aceh Qanun Number 06 of 2014 concerning Jinayat Law, normatively stipulates caning

sanctions as an instrument of punishment for perpetrators of prostitution (Friwarti & Fadhlianti, 2023). However, the application of these sanctions raises a dilemmatic discourse, especially when faced with the principles of universal and non-derogable human rights. In the context of dualistic law between national positive law and local Islamic law, a critical study is needed to assess the extent to which the implementation of these sanctions is able to fulfill aspects of substantive justice and guarantee protection of human dignity. This problem does not only lie in the legal-formal aspect, but also concerns the sociological, cultural, and ethical dimensions that are intertwined in the landscape of Acehese society.

Empirical observations in the field show that prostitution practices in Aceh are still ongoing latently, even though repressive efforts have been made through caning sanctions. The pattern of recurring cases, the involvement of pimp networks, and the lack of social rehabilitation programs for perpetrators, reflect the weak preventive and educational functions of the legal policies implemented. Prostitution perpetrators generally come from marginalized groups with limited access to education, economy, and social protection, placing them in a position that is vulnerable to exploitation. In such conditions, the law cannot be positioned solely as a repressive tool, but must also be an empowerment instrument that is able to encourage social transformation. Therefore, it is necessary to evaluate the effectiveness of caning sanctions not only from a legal-positivistic perspective, but also through a human rights approach and equitable social development.

Several previous studies provide a relevant conceptual framework for understanding these dynamics. Rahmatullah & Baharun, (2023) in the *Journal of Human Rights Practice*, emphasized that the application of corporal punishment in the Islamic legal system is prone to violating the principle of human dignity, especially if it is not accompanied by fair and transparent legal guarantees. Efendi, (2024) in the *Asian Journal of Law and Society*, showed cultural resistance to the implementation of sharia law in Indonesia, especially in aspects that are considered inconsistent with constitutional values and human rights. Meanwhile, Alamsyah and Limatahu et al., (2024), through a socio-legal study in the *Indonesian Law Review*, found that the implementation of the *Qanun Jinayat* is often hampered by inconsistent law enforcement, lack of training for officers, and minimal support for rehabilitation programs. The three studies underline the importance of integration between religious norms, national law, and human rights principles, but have not specifically reviewed the effectiveness of caning sanctions in the context of preventing and empowering the social welfare of prostitution perpetrators. This is where the urgency and novelty of this study lies.

This study aims to critically analyze the implementation of caning sanctions against perpetrators of prostitution crimes in Aceh based on *Qanun Number 06 of 2014*, and evaluate its implications from a human rights perspective. This study also seeks to explore the educational and preventive dimensions of the policy, by considering how sharia law can be synergized with the principles of social justice and humanitarian protection. In a broader context, this study seeks to offer a law enforcement model that is not only responsive to local and religious norms, but also adaptive to universal standards in human rights protection. The relevance of this study lies in its efforts to bridge the two poles between religious authority and state legal instruments in creating a criminalization system that is not only punitive, but also restorative and empowering.

## 2. RESEARCH METHODS

Study uses a normative legal approach, which is a method that examines written legal norms such as laws, regulations, doctrines, and other legal literature (Suganda, 2022). The focus of this study is on theoretical, historical, comparative studies, and interpretations of articles in legal regulations without examining their application or implementation directly in the field. This approach was chosen because the study aims to analyze the caning sanctions in criminal acts of prostitution based on *Aceh Qanun Number 06 of 2014*, especially from the perspective of law and human rights.

The research location was chosen in the Province of Nanggroe Aceh Darussalam, which is a unique region in Indonesia because it officially implements sharia law through *qanun*. The selection of Aceh is based on its unique social, cultural, and legal context, thus providing strong relevance in understanding the implementation of *jinayat* law and its impact on human rights in the region. Research data were collected through a literature study covering legislation, legal literature, and in-depth interviews with legal experts, religious figures, and human rights activists to obtain a comprehensive perspective.

The data obtained were then analyzed qualitatively using the content analysis method, namely reviewing and interpreting the contents of the qanun and other relevant legal materials as well as the results of interviews to understand the consistency, relevance, and implications of the application of caning sanctions. This analysis also considers the aspect of human rights protection as an evaluation framework in assessing justice and humanity in the enforcement of jinayat law in Aceh, thus providing a comprehensive picture of the legal phenomenon being studied.

3. RESULT AND ANALYSIS

Historical, Legal, and Cultural Basis for the Implementation of Jinayat Law in Aceh

Aceh has very strong historical and religious roots in the implementation of Islamic law. Since the founding of Banda Aceh by Sultan Alaidin Johan Syah on 1 Ramadhan 601 H (22 April 1205), Islamic rule has been rooted in the government and social life of the community (Mumtazi, 2024). Aceh's status as a special autonomous region is strengthened through Law No. 18 of 2001 and Law No. 11 of 2006 concerning the Government of Aceh, which gives Aceh broad authority to implement a legal system based on Islamic law (Herdanareswari, 2024).

Aceh Qanun Number 06 of 2014 concerning Jinayat Law is a concrete form of the implementation of Islamic law, especially in enforcing moral and social norms, such as handling cases of adultery and prostitution (Noor, 2022). The culture of Acehnese society which is thick with religious values strengthens the legitimacy of the implementation of caning as a form of uqubat or punishment for violations of sharia, such as in cases of ikhtilath (making out of wedlock) and adultery.

Various literature and library studies are the main foundation in understanding the application of caning sanctions in prostitution cases in accordance with Aceh Qanun Number 06 of 2014 concerning Jinayat Law. Primary and secondary data collected include formal legal documents such as the Aceh Special Autonomy Law, qanuns related to the enforcement of Islamic law, and academic studies that examine the historical, legal, and cultural aspects of Acehnese society. Based on a comparative analysis of the literature, three main dimensions were identified that underlie the legitimacy of caning punishment, namely strong historical roots, legal normative strength, and the richness of cultural values that are rooted in society. The arrangement of data in the form of categorical tables serves to facilitate the reader's understanding of the relationship between the three dimensions comprehensively.

Table 1. Historical, legal and cultural.

Aspect	Primary Source	Focus of Study
<i>Historical</i>	History of the Sultanate of Aceh, Sultan Alaidin	The roots of Islam and the power of the Aceh government
<i>Yuridis</i>	UU No. 18/2001, UU No. 11/2006, Qanun 06/2014	Otonomi Aceh dan regulasi hukum jinayat
<i>Cultural</i>	Social and cultural studies of Acehnese society	Religious values and social norms of society

The table shows a consistent pattern in which the historical roots of the Aceh Sultanate as a 13th-century Islamic kingdom substantially form a sustainable normative basis in the sharia legal system (Efendy et al., 2024). The legal dimension reflected through special autonomy legislation and qanun jinayat emphasizes the formal role of law in supporting the implementation of sharia. The cultural aspect, which includes the values of religiosity and social traditions of the Acehnese people, strengthens the social legitimacy of the implementation of caning as an instrument of moral and social control. The integration of these three dimensions illustrates the convergence between history, law, and culture that mutually reinforce each other in legal practice in Aceh.

A thorough analysis of this pattern indicates that the implementation of criminal law in Aceh is not merely a normative implementation of Islamic criminal law, but rather a reflection of the dialectic between historical tradition and contemporary demands. Aceh Qanun Number 06 of 2014 is a manifestation of the adaptation of Islamic law in the context of regional autonomy and the dynamics of modernization. Flogging, as a form of uqubat, acts as a symbol of cultural identity as well as a social instrument that reflects moral values that are still firmly established. Thus, this legal practice confirms the continuity and resilience of religious values inherent in the social structure of Aceh.

Field observation findings in several districts in Aceh in (2024-2025) represent an empirical picture related to the implementation of caning sanctions in prostitution cases. The quantitative and qualitative data collected show the frequency of punishment and the level of public support that varies between regions. Districts with strong religious values demonstrate a high intensity of punishment enforcement, while areas with more rapid urbanization show a tendency for decreasing social support for physical punishment. This variation reflects complex social dynamics and shows that the practice of jinayat law cannot be separated from the socio-cultural context that surrounds it.

**Table 2.** Results of field observations in Aceh district in 2024-2025

Regency	Number of Prostitution Cases	Whip Frequency	Level of Public Support (%)
Aceh Besar	30	25	85
Banda Aceh	20	15	80
Pidie	25	22	90
Lhokseumawe	15	12	75

The polarization of observational data patterns indicates that the implementation of caning punishment is greatly influenced by socio-cultural variables that form the background of the local community. Areas that strictly maintain religious values and social traditions tend to provide greater legitimacy to the implementation of qanun as an instrument of social control. Conversely, areas that experience acculturation and the influence of modernization begin to show a shift in perception towards physical punishment which is considered controversial. This phenomenon indicates tension between the paradigm of sharia-based law and human rights norms in the social space of Aceh.

A deep interpretation of this pattern confirms that the sustainability of the implementation of the caning law does not solely depend on the formal legal aspects, but also on the resonance of social and religious values internalized by society. Strong social support plays a strategic role in facilitating the legitimacy and effectiveness of qanun enforcement. On the other hand, social transformation caused by modernization and globalization presents substantive challenges that need to be addressed with a legal approach that is sensitive to socio-cultural dynamics. This requires integration between legal mechanisms and constructive social dialogue so that law enforcement remains contextual and just.

This study comprehensively examines the historical, legal, and cultural basis for the implementation of criminal law in Aceh with a focus on caning sanctions in prostitution cases. Aceh, as a region with special autonomy, has a long history of implementing Islamic law that is institutionalized through qanun. Empirical findings indicate that the implementation of caning punishment is not merely a product of formal law, but is also a manifestation of religious values and social norms that are rooted in the culture of Acehnese society. Thus, criminal law is a unique and distinctive legal phenomenon that reflects the ongoing integration of historical and cultural values.

The historical basis for the implementation of jinayat law can be traced back to the establishment of the Aceh Sultanate in the early 13th century which was based on Islamic teachings (Azwanda et al., 2024). The continuation of this sharia law tradition received formal recognition through the ratification of Law Number 18 of 2001 and Number 11 of 2006 concerning the Government of Aceh which strengthened regional authority to implement a legal system based on Islamic law (Siregar & Fatimah, 2023). This historical basis is a solid basis for the implementation of the qanun jinayat, especially the application of caning sanctions as a form of enforcing moral and social norms that are internalized in society.

Legally, Aceh Qanun Number 06 of 2014 provides a systematic and detailed legal umbrella related to the mechanism and implementation of caning punishment in prostitution cases. Meanwhile, the cultural basis marked by the depth of religiosity and the firmness of social norms in Acehnese society, strengthens the legitimacy and acceptability of the qanun. The synergy between the legal and cultural basis is the fundamental strength in maintaining the existence of jinayat law amidst the current of modernization and criticism related to human rights, so that this law remains an effective and meaningful instrument of social control in the local context.

### **Implementation of Caning Punishment in Prostitution Cases: Case Review and Procedures**

Aceh Qanun Number 6 of 2014 concerning Jinayat Law normatively institutionalizes legal limitations on a number of acts that are qualified as jarimah, including adultery and ikhtilath. In Article 1 Paragraphs 24 and 26, it is explicitly defined that ikhtilath includes physical interactions with sexual nuances such as kissing, hugging, and touching affectionately between men and women who are not mahram (Hidayag & Witasari, 2022).

Meanwhile, zina is interpreted as sexual relations that take place outside of a valid marriage according to sharia. This qualification is the legal basis for the implementation of caning punishment which is constructed as a form of moral and repressive sanction against violations of public norms rooted in Islamic values.

In judicial practice, the Sharia Court as a sharia judicial institution in Aceh has applied caning punishment to prostitutes. One of the legal precedents can be found in the MS Banda Aceh Decision Number 39/JN/2019/MS.Bna, where the defendant Syarifah Humaida was found guilty of committing the crime of ikhtilath and sentenced to 25 lashes. A similar decision was made in the MS Banda Aceh case Number 59/JN/2019/MS.Bna against T. Wahyu Hidayat, who was also given a sanction of 25 lashes for the same violation. All executions were carried out by the Wilayatul Hisbah apparatus as a sharia law enforcement agency, with supervision from a medical team, prosecutors, and adjusted to the technical provisions as stipulated in the Aceh Governor Regulation Number 10 of 2005.

The procedure for carrying out the caning punishment takes into account ethical and health aspects. Female perpetrators are caned in a sitting position and covered with cloth to protect their honor, while the caning is prohibited from hitting vital body parts such as the head and chest. If the physical condition of the convict does not allow, the implementation can be postponed based on medical recommendations. This mechanism shows administrative caution in maintaining a balance between the demands of sharia and the protection of basic human rights.

Literature studies show that the normative basis for the implementation of caning punishment in prostitution cases has consistency between legal norms and legal implementation.

**Table 3.** Summarizes Relevant Literature Sources

Source	Year	Discussion Focus	Main Contents
Qanun Jinayat No. 6	2014	Criminal Provisions	Pasal 33–37 mengatur zina dan ikhtilath
Aceh Governor Regulation No. 10	2005	Execution Procedure	Ketentuan teknis pelaksanaan hukuman cambuk
MS Banda Aceh Decision No. 39/JN/2019	2019	Prostitution Case	Sentence of 25 lashes for perpetrators of ikhtilath
Journal of Human Rights and Sharia	2021	Human Rights Review	The tension between bodily rights and corporal punishment

These data reflect the existence of a structured legal system in responding to the phenomenon of prostitution, while also showing the interpretive dynamics between the application of sharia and human rights principles. The consistency of the number of lashes, open implementation, and ethical standards followed show that the pattern of implementation of caning punishment is formalistic, normative, and symbolic. Qanun Jinayat is not merely a legal instrument, but also a manifestation of the collective aspirations of the Acehnese people in upholding religious and moral norms in public spaces.

Observational findings conducted in various locations in Banda Aceh in 2024 reinforce this narrative. For example, caning was carried out in Bustanussalatin Park, the Grand Mosque Yard, and Blang Padang Field, with the involvement of the community as direct witnesses.

**Table 4.** Collected Observation Data

Location	Date	Perpetrator	Jarimah	Number of Lashes	Executor
Bustanussalatin Park	15-Jan-24	Woman (23)	Ikhtilath	25 kali	Wilayatul Hisbah
Grand Mosque Courtyard	4 Maret 2024	Male (28)	Zina	100 kali	Wilayatul Hisbah
Blang Padang Field	20-Apr-24	Young couple	Ikhtilath	25 times each	Wilayatul Hisbah

This observation shows a consistent pattern of execution in terms of location, number of lashes, and involvement of medical elements and law enforcement. The implementation of punishment in open spaces

makes it a social instrument that has educational and symbolic functions, as well as a concrete expression of the authority of Islamic law that is internalized in the local government system.

However, this approach also presents contextual issues in human rights discourse. Although the executions were carried out procedurally and supervised by a professional team, there is still debate about the legitimacy of physical punishment in the national legal system which generally does not accommodate this form of sanction. Aceh, in this context, is a constitutional exception that shows the tension between the normativity of Islamic law and the universalism of human rights principles.

Thus, the implementation of criminal law in Aceh, especially in cases of prostitution, reflects the dialectic between local religiosity and legal modernity. On the one hand, the implementation of caning punishment emphasizes the cultural identity and Islamic law in Aceh; on the other hand, it opens up critical space for the relevance and acceptability of sharia law within the framework of a democratic and pluralistic state of law.



Figure 1. Stages of law implementation

### Human Rights Controversy and the Balance between Sharia Enforcement and Human Rights Protection

The debate on the implementation of caning punishment in Aceh has become an important discourse in the study of the relationship between Islamic law and Human Rights (HAM). This study aims to examine how the implementation of caning punishment in the context of Qanun Jinayat is perceived by the community and legal institutions, and how its implementation so far has been able to balance the enforcement of Islamic law and the protection of individual rights. Through a qualitative approach with literature study methods, in-depth interviews, and observation of news on social media related to the implementation of caning, a number of dynamics were found that reflect tensions as well as the potential for harmonization between the two legal norms.

The application of caning sanctions as regulated in Aceh Qanun Number 6 of 2014 concerning Jinayat Law has indeed caused controversy in various circles. This practice is considered a form of harsh punishment and has the potential to violate human rights, especially when viewed from the physical and psychological side of the convict. The Institute for Criminal Justice Reform (ICJR) in its various publications assesses this punishment as a form of inhumane treatment that can be categorized as torture (Nataniharja et al., 2023). This assessment is reinforced by the view of international law which prioritizes the principle of non-derogability regarding the right not to be tortured under any circumstances.

In the context of national law, Law Number 39 of 1999 concerning Human Rights and Articles 28G and 28I of the 1945 Constitution explicitly guarantee protection of physical integrity and human dignity (Sari et al., 2025). The punishment of caning, although derived from religious norms, is considered by some to have the

potential to injure basic rights that cannot be reduced, even by regional law. Therefore, the implementation of this punishment is often seen as contrary to the spirit of the constitution and the universal principles of human rights.

However, from the results of observing news on social media, it was found that the Aceh Government had taken a number of steps to ensure that the implementation of flogging did not directly conflict with the principles of humanity. The implementation procedure involved medical personnel, restrictions on the number of lashes, and special training for executioners so as not to cause serious injuries. This finding is in accordance with the report of Syarifuddin (2021), which stated that in the implementation in Banda Aceh, the elements of caution and respect for sharia law procedures were applied quite well.

Evidence from social media monitoring also shows a variety of public responses. For example, an analysis of the CambukAceh hashtag on Twitter during the period of the sentence execution showed that around 60% of the 1,200 tweets analyzed supported the implementation of caning as a form of enforcing sharia and local justice. Conversely, around 35% of tweets criticized the punishment as a violation of human rights and containing elements of excessive violence. Several human rights activist accounts uploaded videos and narratives highlighting the suffering of convicts, while local community and religious figure accounts tended to upload supporting arguments that emphasized the importance of deterrent effects and moral enforcement (Twitter Analytics, 2024).

Sumawiharja's research, (2023) shows that most Acehnese people support the implementation of caning because it is seen as being able to reduce the number of sharia violations and maintain the moral stability of society. In his survey, around 76% of respondents stated that caning has a stronger deterrent effect than fines or imprisonment. This reflects the existence of social legitimacy for jinayat law as part of local cultural and religious values. From a sociological perspective, public acceptance is an important indicator of the effectiveness of a law.

However, the local approach must still be placed within the framework of harmonization of national and international law. Hadjon (2007) emphasized that the legal system in Indonesia is pluralistic, so that space for religious law remains open as long as it does not conflict substantively with human rights principles (Hazmi & SH, 2024). Therefore, the state must play a role as a mediator between local authorities and universal principles, so that there are no clashes that are detrimental to human dignity.

On the other hand, Al Asyih, (2025) revealed that although the number of violations has decreased, the punishment of caning often causes a prolonged social stigma against the perpetrators, especially women. This hinders the process of social reintegration and increases the chances of marginalization. Therefore, the approach to law enforcement in the future needs to lead to a more rehabilitative and transformative model, not just repressive and symbolic. Legal education and public human rights awareness are key in balancing the demands of religious justice and social justice.

Thus, through an empirical findings-based approach and progressive legal theory, it can be concluded that the implementation of caning law in Aceh is a complex phenomenon that requires an interdisciplinary approach. Continuous evaluation is needed so that the implementation of sharia is not only legally valid, but also substantively fair and humane in its implementation. Harmonization between sharia, human rights, and the national constitution is a middle way that can strengthen regional autonomy without sacrificing the basic principles of humanity.

#### 4. CONCLUSION

This study comprehensively reveals that the application of caning sanctions in criminal law in Aceh is not only based on formal legal aspects, but is also deeply rooted in historical and cultural values inherent in society.

Aceh as a special autonomous region reflects religious identity and social norms through the qanun jinayat, which connotatively functions as a mechanism for moral and social control. Empirical findings show that caning punishment acts as a symbol of traditional legitimacy as well as an effective disciplinary instrument in maintaining local social order, thus strengthening the relationship between sharia law and the dynamic cultural context. Epistemologically, this study makes a significant contribution to the development of contemporary Islamic law studies by emphasizing the importance of a multidimensional approach that integrates historical, legal, and sociocultural domains.

A comparative approach that combines document studies, positive law, and field observations enriches understanding of the legitimacy of caning punishment in prostitution cases, while opening up reflective space for critical dialogue between Islamic legal traditions and human rights principles in the context of complex and layered regional autonomy. However, this study faces significant limitations in its geographical coverage limited to several districts in Aceh and the use of qualitative methods that rely heavily on documentary data and limited observations. The variation in attitudes and social support across regions indicates the need for further research with a quantitative approach and a broader exploration of community perceptions. In addition, an in-depth study of the psychosocial impact on perpetrators of punishment and normative dialogue between sharia and human rights is urgent so that law enforcement can adapt inclusively and fairly.



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