

Public Whipping Punishment for Adultery Offenders in Aceh: A Study on the Application of Islamic Criminal Law and International Human Rights

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Entered : August 03, 2025
Accepted : September 16, 2025

Revised : September 03, 2025
Published : September 24, 2025

ABSTRACT

This study discusses the legal legitimacy of public whipping in Aceh as part of the legal specificity regulated through Law Number 11 of 2006 concerning the Government of Aceh. This specificity provides a constitutional basis for Aceh to implement Islamic law-based law through Qanun Jinayat, especially Qanun Number 6 of 2014 concerning the Jinayat Law which regulates the punishment for certain criminal acts, including adultery. Although normatively legitimate because it is underpinned by asymmetric decentralization mechanisms, the practice of public caning is controversial from a human rights perspective. Indonesia has ratified the ICCPR through Law Number 12 of 2005, so it is bound by the prohibition of cruel, inhuman, and degrading treatment. This condition creates a normative tension between Islamic sharia principles that emphasize social morality and international human rights principles that emphasize individual dignity. The research uses normative juridical methods with a legislative and conceptual approach, and analyzes the relationship between Islamic law, national law, and international law. The results of the study show the need for a more contextual reconstruction of punishment, emphasizing *maqāsid al-syarī'ah* as a meeting point between religious values and human rights principles. Alternatives such as closed executions or rehabilitative punishment can be a solution so that the application of jinayat law remains relevant without causing serious contradictions. Thus, this study emphasizes the importance of humanistic, transformative, and substantive justice regulatory innovation.

Keywords: Punishment of Whipping; International; Qanun Jinayat

INTRODUCTION

Aceh is one of the provinces in Indonesia that has a specific government and legal system, so it is different from other provinces. This specificity is regulated in Law Number 11 of 2006 concerning the Government of Aceh, which provides legitimacy for the application of Islamic law-based law. The implementation of this sharia is then outlined in the Qanun of Aceh, one of which is Qanun Number 6 of 2014 concerning the Law of Jinayat. This Qanun regulates various criminal acts, including adultery, with the threat of whipping as a form of sanction.¹ This phenomenon makes Aceh the only region

¹ Jufrizal, J. (2025). Hukum Cambuk Di Aceh: Antara Efek Jera Dan Perlindungan Hak Asasi Manusia. *Madania Jurnal Hukum Pidana Dan Ketatanegaraan Islam*, 15(1), 53-56.

in Indonesia that formally adopts Islamic criminal law in the national system. The existence of these rules not only shows the independence of local law, but also shows the integration of religious values into positive laws. Therefore, the application of law in Aceh is interesting to study further from a national and international perspective.

However, the implementation of public caning has caused quite complex controversy at the national and global levels. From the perspective of Indonesian law, this punishment is valid because it is supported by Aceh's special autonomy through the UUPA. However, from the perspective of international law, the practice is often questioned because it is considered to have the potential to violate human rights principles.² The criticism that has arisen is related to allegations of cruel, inhumane, or degrading treatment as prohibited in the ICCPR. This debate illustrates the tension between the legitimacy of national law and international legal standards. This condition shows that the applicability of the punishment of caning cannot be seen partially, but must be understood in the context of plurality of laws. Thus, this issue becomes relevant because it concerns the interaction between domestic legal sovereignty and Indonesia's global commitments.

The punishment of public caning also raises quite serious humanitarian problems in society. In addition to inflicting physical suffering on the perpetrators, executions in open spaces present psychological trauma and deep shame. Perpetrators not only serve punishment, but also have to endure prolonged social stigma. This raises critical questions about the purpose of punishment in Islamic law, whether it is actually achieved or actually produces negative side effects. If the purpose of punishment is *ta'dib* (education) and *zajr* (prevention), then it is necessary to question the effectiveness of public whipping in realizing it.³ Are the perpetrators really deterrents or are they increasingly excluded from society? This question then gives rise to a more in-depth study space regarding the effectiveness of the punishment.

On the other hand, the people of Aceh have different views on the punishment of public whipping. This punishment is considered a symbol of the enforcement of moral and religious values that are in line with their cultural identity. The inherent social and religious legitimacy has made the practice of whipping maintained despite criticism from outside.⁴ From a local point of view, the implementation of this punishment is considered an effort to maintain the purity of the community from acts that damage morals. However, when viewed from a global perspective, there is a fairly sharp difference in value. There is a gap between the concept of community-based justice and the concept of justice based on the universality of human rights. This situation shows a clash of values that is difficult to avoid in a plural legal system.

Thus, the issue of public caning in Aceh is not solely related to the text of positive law. This issue also touches the realm of legal philosophy, legal sociology, and legal politics at the same time. The tensions that arise between the principles of local sovereignty, the value of religiosity, and international human rights norms demonstrate a

² Ardiansyah, F., Ramadhana, M., Tambunan, H. R. A., Amanina, F., & Hasibuan, F. A. (2025). Diskursus Uqubat Cambuk Dalam Qanun Jinayat Aceh: Antara Efektivitas Hukum Dan Kritik Ham Internasional. *Journal Sains Student Research*, 3(4), 369-379.

³ Efendi, S. (2024). Transformation Of Islamic Criminal Law In Modern Society In Aceh. *Al-Qanun: Jurnal Kajian Sosial Dan Hukum Islam*, 5(2), 41-49.

⁴ Salma, S., Rama, A. S., Jarudin, J., Bin Samsudin, M. A., & Fadhilah, D. R. (2024). Between Flogging And Imprisonment: The Disparity Effect Of The Sharia Court's Decision On The Supremacy Of The Qanun Jinayat Of Aceh. *Al-Istinbath: Jurnal Hukum Islam*, 9(2), 573-596.

distinctive complexity.⁵ This is where it can be seen that the study of public whipping punishment has a significant dimension of novelty. This novelty lies in the disclosure of the interaction between religious norms, national laws, and global human rights standards in a single frame of analysis.⁶ So far, studies have mostly stopped at the pros and cons of legality without delving into the depth of value relations. Therefore, this research is relevant to provide a more comprehensive understanding.

Furthermore, the discourse on public caning opens up space for reflection on the mechanism of Islamic criminal law enforcement in the era of globalization. Indonesia as a member state of the ICCPR is faced with the obligation to adapt national law to international human rights principles. However, at the same time, the state must also respect Aceh's special autonomy which is rooted in Islamic law. This situation creates a normative as well as a practical dilemma in national legal governance. The question that arises is how Indonesia balances global commitments with local needs. The answer to this question is not only important for Aceh, but also for Indonesia's image in the eyes of the international community. This shows that the issue of whipping has wider implications.

In this context, this research has considerable academic and practical urgency. Academically, research can enrich the literature on the interaction of Islamic law, national law, and international law. Practically, research can provide input in formulating a more just and civilized legal policy. Indonesia as a democratic country needs to show its commitment to human rights without ignoring the aspirations of the Muslim community in Aceh. Indonesia's strategic position as the largest Muslim country makes this issue sensitive as well as influential globally. Therefore, this research not only touches on the theoretical realm, but is also relevant to international legal diplomacy. Thus, the issue of public caning in Aceh is not just a local phenomenon, but part of the dynamics of global law.

Finally, the study of public whipping for adulterers in Aceh is directed at more than just elaborating on the legality debate. This research seeks to present an alternative perspective on how Islamic sharia can be enforced contextually without negating human rights principles. This effort is important because it offers a middle ground between the demands of the locality of Islamic law and the universality of human rights. The novelty of this research lies in the search for normative synthesis that has not been touched much in previous studies. Thus, the results of the research are expected to not only make an academic contribution, but also offer normative recommendations for policymakers. This approach can also be a model for the application of Islamic criminal law that is adaptive to global dynamics. Therefore, this study is expected to be a new contribution to the discourse of Islamic law, national law, and international human rights.

METHOD

This research uses a normative juridical method that focuses on the study of written legal norms through the analysis of laws and regulations and relevant legal doctrines. This method was chosen because the focus of the research is to examine the

⁵ Panjaitan, E. M., & Tjandra, H. (2022). The Practice Of Public Flogging In The Perspective Of International Human Rights In Nanggroe Aceh Darussalam Indonesia. *Jurnal Hukum Dan Peradilan*, 11(1), 93-108.

⁶ Sebar, H., & Ismail, S. M. (2021). The Use Of Flogging As A Punishment In Saudi Arabia From The Perspective Of International Human Rights Law. *Iiumlj*, 29, 77.

legality aspects of public caning for adulterers in Aceh from the perspective of Islamic criminal law, national law, and international human rights instruments.

Normative research aims to examine and understand how the law should apply (*das sollen*), not how the law is practiced in empirical reality (*das sein*), so that the entire analysis process relies on primary and secondary legal materials that are textual and conceptual.⁷

As explained by Peter Mahmud Marzuki, normative legal research is a method that focuses on the study of legal materials as the main object of study, by interpreting and constructing applicable laws to answer certain legal issues.⁸ According to Marzuki, this approach is prescriptive because it aims not only to describe the law, but also to provide normative arguments for the validity of a legal action or act in the legal system adopted.⁹ Meanwhile, Soerjono Soekanto and Sri Mamudji stated that normative legal research includes research on legal principles, legal systematics, legal synchronization, legal history, and comparative law.¹⁰

The main approach used is the statute *approach*, which is to examine the relationship between several legal instruments that have direct relevance to the issue being studied. These instruments include Law Number 11 of 2006 concerning the Government of Aceh (UUPA Aceh), which provides special authority for Aceh to implement Islamic law-based law; Qanun Aceh Number 6 of 2014 concerning the Law of Jinayat, which is the normative basis for the application of the punishment of whipping to the perpetrator of adultery; Law Number 39 of 1999 concerning Human Rights, which guarantees the principles of respect, protection, and fulfillment of human rights in Indonesia; and Law No. 12 of 2005 concerning the Ratification of the ICCPR (International Covenant on Civil and Political Rights), which affirms Indonesia's commitment to international human rights standards, especially the prohibition of torture and inhuman treatment.

In addition, this study also uses a *conceptual approach* to understand the philosophy of punishment in Islamic criminal law, especially related to the purpose of enacting hudud as a means of *ta'dib* (education), *zajr* (prevention), and *zawajir* (deterrent effect). Through this approach, the analysis is carried out by comparing the basic values of Islamic criminal law with the universal principles of human rights, so that a common point and potential contradiction can be found in the application of the caning penalty in Aceh.

The legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials are in the form of laws and regulations, Qanun Aceh, and international legal instruments that have been ratified by Indonesia. Secondary legal materials include literature, scientific journals, research results, and the opinions of experts discussing Islamic criminal law, national law, and international human rights. The tertiary legal materials are in the form of legal dictionaries, encyclopedias, and other supporting sources that provide additional understanding.

⁷ Novea Elysa Wardhani, Sepriano, And Reni Sinta Yani, *Metodologi Penelitian Bidang Hukum* (Jambi: Pt. Sonpedia Publishing Indonesia., 2025).

⁸ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2011).

⁹ Mahlil Adriaman Et Al., *Pengantar Metode Penelitian Ilmu Hukum* (Padang: Yayasan Tri Edukasi Ilmiah, 2024).

¹⁰ Rangga Suganda, "Metode Pendekatan Yuridis Dalam Memahami Sistem Penyelesaian Sengketa Ekonomi Syariah," *Jurnal Ilmiah Ekonomi Islam* 8, No. 3 (2022): 2859, <https://doi.org/10.29040/jiei.v8i3.6485>.

The analysis of legal materials is carried out in a descriptive-analytical manner. First, laws and regulations and Qanun are elaborated systematically to understand the normative construction of the application of the whipping penalty in Aceh. Second, national legal norms are reviewed and compared with international human rights standards as stated in the ICCPR to identify conformity and potential for disharmony. Third, the results of the analysis are drawn into the form of legal arguments that are both evaluative and prescriptive, so that they can offer a model for the application of Islamic criminal law in Aceh that still respects Islamic sharia but is in line with human rights principles.

DISCUSSION

1. Legal Legitimacy of Public Whipping in the Perspective of National Law and Islamic Sharia

The legal legitimacy of public whipping in Aceh rests on the constitutional and juridical basis specifically given to the region through Law Number 11 of 2006 concerning the Government of Aceh (UUPA Aceh). This law was born as a consequence of the Helsinki peace agreement in 2005 which ended the long conflict between the Free Aceh Movement (GAM) and the Indonesian Government. Through the asymmetric decentralization mechanism, Aceh gained wider authority than other regions, including in the field of the implementation of Islamic law. The UUPA provides space for Aceh to draft qanun, which is a special regional regulation that is *lex specialis* to national law within the limits of its authority. In this context, Qanun Aceh Number 6 of 2014 concerning the Jinayat Law is the main instrument that regulates the types of sharia crimes and the form of sanctions, one of which is in the form of whipping.¹¹ Normatively, the existence of this qanun derives legitimacy from the principle of asymmetric decentralization recognized in the Indonesian legal system, thus providing a formal legal space for Aceh to implement Islamic criminal law that is different from other provinces, while reflecting the state's recognition of the special cultural, political, and religious identity of the Acehnese people.¹²

From the perspective of Islamic law, the punishment of whipping has a strong theological basis in the category of hudud, which is a type of sanction that is directly determined by the nash of the Qur'an and hadith. Some examples of hudud that contain the punishment of whipping are adultery (QS. An-Nur: 2), qadzaf or accusation of adultery (QS. An-Nur: 4), as well as the consumption of khamar (HR. Bukhari-Muslim).¹³ In the framework of Islamic criminal law, hudud is seen as a form of sanction that not only has a retributive dimension, but also educational and preventive. The function of this punishment includes ta'dib (moral education) so that the perpetrator understands the mistakes and repents, zajar (prevention of re-offenses) so that the community avoids similar behavior, and zawajir (social deterrent effect) which aims to maintain the social

¹¹ Iqbal, M., & Kabir, M. A. (2020). Perkembangan Pelaksanaan Hukuman Cambuk Di Aceh. *Jurnal Legitimasi*, 9(1).

¹² Iqbal, M., & Kabir, A. (2020). The Implementation Of The Cunnig Punishment In Aceh [Perkembangan Pelaksanaan Hukuman Cambuk Di Aceh]. *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum*, 9(1), 153-175.

¹³ Surya, R. (2018). Klasifikasi Tindak Pidana Hudud Dan Sanksinya Dalam Perspektif Hukum Islam. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2(2), 530-547.

order from moral damage. Thus, the punishment of whipping cannot be understood only as a form of physical violence or repressive acts, but more broadly as an instrument of moral development and protection of society in line with the principles of maqashid al-shariah, namely safeguarding religion, soul, intellect, descent, and property.

However, the application of public whipping has caused debate in the perspective of national law, especially related to the principle of human rights (HAM) as guaranteed in the 1945 Constitution, Law Number 39 of 1999 concerning human rights, as well as various international instruments that have been ratified by Indonesia, such as the ICCPR (International Covenant on Civil and Political Rights).¹⁴ The criticism that arises is generally related to procedural and substantive aspects, such as the view that the punishment of caning has the potential to degrade human dignity, violates the principle of non-derogable rights, and is contrary to universal standards of treatment of the convict. On the other hand, supporters of the implementation of public whipping argue that within the framework of legal pluralism, Aceh has special constitutional autonomy to implement Islamic law, so the application of the caning law cannot be seen as a violation of human rights as long as it is implemented based on the applicable positive law. This tension shows the paradigm difference between Islamic criminal law that emphasizes collective morality and social piety and national law that emphasizes respect for individual dignity.¹⁵

Furthermore, the dynamics of the legitimacy of the public whipping law can also be analyzed from the perspective of integrative legal theory that seeks to connect the legal-positivistic dimension, religious values, and social justice demands. In this framework, legal legitimacy is not only measured by the formal validity (normative validity) of a regulation, but also by social acceptance (sociological validity) and moral values (ethical legitimacy). The punishment of caning in Aceh is normatively valid because it has a legal basis and qanun; sociologically accepted because it is in accordance with the aspirations of the majority of the religious Acehnese people; and morally considered legitimate because it is oriented towards the goals of Islamic law. However, this legitimacy becomes problematic when dealing with universal human rights values that emphasize the protection of individuals, thus creating a dialectic between local values and universal norms.

In addition, it should be noted that the practice of public whipping in Aceh is often in the international spotlight and poses a political and legal dilemma for Indonesia as a democratic country committed to global human rights principles. On the one hand, the central government is obliged to respect the specificity of Aceh as guaranteed by the constitution; but on the other hand, Indonesia is also bound by an international obligation to guarantee the protection of every citizen without discrimination and cruel treatment. This dilemma shows that the legitimacy of the public whipping law is not a single issue that can be seen textually normatively, but rather a complex phenomenon involving the interaction between national law, Islamic law, decentralized politics, human rights values, and international diplomacy. Therefore, a scientific analysis of this topic must take into account not only the normative and philosophical dimensions, but also the political, legal and international relations dimensions.

¹⁴ Jufrizal, J. (2025). Hukum Cambuk Di Aceh: Antara Efek Jera Dan Perlindungan Hak Asasi Manusia. *Madania Jurnal Hukum Pidana Dan Ketatanegaraan Islam*, 15(1), 53-56.

¹⁵ Fadel, M. (2018). Political Legitimacy, Democracy And Islamic Law: The Place Of Self - Government In Islamic Political Thought. *Journal Of Islamic Ethics*, 2(1-2), 59-75.

2. Public Caning Punishment and Challenges to Human Rights Principles

The punishment of public whipping in Aceh is a form of criminal sanction born from the application of Qanun Jinayat as part of regional specificity regulated in Law Number 11 of 2006 concerning the Government of Aceh. The application of these sanctions is considered a manifestation of the aspirations of the Acehnese people who want to enforce criminal law based on Islamic sharia as a cultural and religious identity. However, the practice of public whipping is not only understood in the formal legal dimension of the region, but also carries normative consequences that are contrary to the universal principle of Human Rights. On the one hand, the legitimacy of these punishments is considered valid according to national legal mechanisms because it is accommodated through asymmetric decentralization; But on the other hand, its implementation raises serious debates regarding potential violations of basic rights, especially the right to be free from treatment that degrades human dignity. This contradiction makes the punishment of public caning a legal issue that is at the intersection of local legality and international commitments that Indonesia must uphold.

If examined from the perspective of Law Number 39 of 1999 concerning Human Rights, everyone is guaranteed the right to be free from torture and inhuman treatment. Article 33 of the Law affirms that no one shall be tortured or treated in a cruel, inhuman or degrading manner. This provision is intertwined with Indonesia's international obligations after ratifying the International Covenant on Civil and Political Rights (ICCPR) through Law Number 12 of 2005, where Article 7 of the ICCPR explicitly prohibits cruel, inhuman, or degrading treatment.¹⁶ In this context, public whipping has the potential to fall into the category of prohibited treatment because it not only causes physical suffering but also psychological trauma due to being carried out in front of the masses. This raises a juridical dilemma: whether the sovereignty of local law can be used as a basis for justification for practices that in an international perspective qualify as human rights violations.

Furthermore, the implementation of public whipping poses a sociological problem because in addition to being intended as an instrument of deterrence, this practice also embarrasses the perpetrator in the social space. The publication dimension of the punishment adds to the psychological burden that can lead to prolonged social stigma, so that it has the potential to violate the principle of non-derogable rights inherent in human dignity. Criticism coming from various national and international human rights institutions shows that there is an imbalance between the goal of enforcing sharia law and respect for individual rights. When these punishments are carried out openly, it is not uncommon for resistance from groups who consider that the practice is no longer in line with the development of global human rights standards. Thus, the social aspect of public whipping emphasizes the position of this practice as a point of friction between the values of regional law particularism and the universality of human rights.

In addition, there is a problem of normative disharmony between local legitimacy based on Qanun Jinayat and Indonesia's international obligations sourced from global human rights instruments. Indonesia as a party to the ICCPR has a responsibility to ensure

¹⁶ Monica, M., Hartono, M. S., & Yulianti, N. P. R. (2021). Sanksi Kebiri Kimia Dalam Tindak Pidana Pencabulan Anak Berdasarkan Undang-Undang Nomor 17 Tahun 2016 Tentang Perlindungan Anak Ditinjau Dari Tujuan Pemidanaan Dan Perspektif Hak Asasi Manusia (Ham). *Jurnal Komunitas Yustisia*, 4(2), 564-575.

that all national legal rules, including those that apply specifically in Aceh, remain in line with the principle of respect for human dignity. However, Aceh's privileged position within the framework of a unitary state provides space for legal differentiation which in practice causes a clash with universal norms. This phenomenon shows that legal pluralism in Indonesia still faces serious challenges in harmonizing local, national, and international values. If not managed properly, the disharmony can reduce Indonesia's credibility in international forums as well as cause problems of legal legitimacy in the country.

Therefore, the discussion on the punishment of public caning cannot stop only at the issue of formal legality, but must be directed at efforts to find a common ground between the application of Islamic sharia in Aceh and Indonesia's constitutional and international commitment to upholding human rights. A solution that can be considered is to reform the mechanism for the implementation of punishments, for example by eliminating elements of publications that degrade dignity and replacing them with closed implementation or alternative forms of sanctions that remain in accordance with sharia principles but do not contradict human rights. In this way, Aceh can still maintain its legal identity, while Indonesia as a country continues to fulfill its obligations in the eyes of international law. This discussion emphasizes the importance of a holistic approach, which does not simply place local law and human rights as two polar opposites, but as elements that can be synergized through regulatory innovations that are equitable and human dignity-oriented.

3. Reconstruction of the Criminal Model: Finding a Common Point between Islamic Sharia and International Human Rights

The reconstruction of the criminal model in Aceh is an important discourse because it concerns the meeting between religious norms rooted in Islamic law and the universal principle of human rights that are required through international agreements. The punishment of whipping as part of the jinayat law has a strong legitimacy basis in the fiqh tradition, and has even been legally institutionalized through Qanun Aceh Number 6 of 2014. However, the practice of its implementation, especially in the form of public executions, raises normative tensions with Law Number 39 of 1999 concerning Human Rights and the International Covenant on Civil and Political Rights (ICCPR) which Indonesia has ratified. This creates a legal dilemma, where the state is required to maintain its commitment to respect for international human rights without ignoring Aceh's privileges in implementing Islamic law as guaranteed in Law Number 11 of 2006 concerning the Government of Aceh.¹⁷ Therefore, this study places the issue of criminal reconstruction as a relevant academic and practical agenda.

From the perspective of Islamic law, punishment is not solely understood as a form of physical punishment, but also as an instrument of moral education and social prevention. The approach of *maqāṣid al-syarī'ah* (the goals of Islamic law) can be used as a methodological basis to affirm that any form of punishment must be oriented towards the protection of five main principles: religion, soul, intellect, descent, and property. If it is associated with the implementation of whipping, then the main goal is to maintain the moral purity of the community while having a deterrent effect. However, openly implemented forms of corporal punishment are often considered to cause excessive suffering and violate human dignity. Thus, there is open space for normative reinterpretation so that the punishment applied still meets the goals of sharia but is

¹⁷ Assaidi, A. I. A. (2025). Konvergensi Hukum Jinayah Islam Dan Hukum Pidana Modern: Telaah Normatif Dan Praktis. *Jurnal Al-Nadhair*, 4(01), 42-54.

implemented in a more humane form and in accordance with global human rights commitments.

From a national legal perspective, Indonesia is faced with a double obligation: first, ensuring respect for Aceh's specificity through an asymmetric decentralization policy; second, maintaining consistency with human rights principles as stipulated in laws and regulations and international instruments. This tension is heightened when the punishment of caning is practiced in public, which the UN Human Rights Committee often categorizes as a form of torture or treatment that degrades human dignity. This situation shows that the criminal model in Aceh needs to be reconstructed so as not to position Indonesia in a contradictory position in international forums. Reconstruction can be directed at formulations that allow punishment to remain sharia-based, but modified through alternative approaches such as closed execution, substitution with social punishment, or the application of restorative justice mechanisms that emphasize the restoration of social relations rather than mere retribution.

Theoretically, the synthesis between Islamic sharia and international human rights can be realized through an integrative approach that places *maqāṣid al-syarī'ah* in line with human rights principles.¹⁸ For example, the protection of human honor, which is one of the aspects of *maqāṣid*, can be harmonized with the principle of non-derogable rights in the ICCPR. In this way, punishments that were initially physical can be transformed into rehabilitative punishments, such as religious counseling, social work, or moral rehabilitation programs that involve the community. This not only shows flexibility in the interpretation of sharia, but also demonstrates the ability of Islamic law to adapt to modern dynamics without losing its authenticity. The reconstruction process is also an important contribution to the national legal discourse, as it provides a concrete example of how religious law, state law, and international law can complement each other.

CONCLUSION

The conclusion of the discussion on the legal legitimacy of public whipping in Aceh shows that this practice has a strong constitutional basis through Law Number 11 of 2006 concerning the Government of Aceh, as well as obtaining religious legitimacy from Islamic sharia which is the identity of the Acehnese people. *Qanun Jinayat* functions as a formal instrument that regulates the types of sharia crimes and their sanctions, including whipping, which is seen not only as physical punishment but also as a means of education, prevention, and moral protection. However, the existence of public caning causes normative tension with human rights principles as stipulated in the 1945 Constitution, Law Number 39 of 1999 concerning human rights, and the ICCPR which has been ratified by Indonesia. This tension shows a paradigm shift between Islamic law that emphasizes social piety and human rights law that emphasizes individual dignity. Normatively, public whipping is legal according to the national legal system because it is based on asymmetric decentralization, but internationally it is seen as problematic because it has the potential to fall into the category of cruel and degrading treatment. This poses a political and legal dilemma for Indonesia, which on the one hand is obliged to respect the specificity of Aceh, but on the other hand is bound by international obligations. Therefore, an integrative approach is needed that connects *maqāṣid al-syarī'ah* with human rights principles so that punishment can be carried out without causing serious contradictions.

¹⁸ Bhayangkara, D. A. (2025). *Efektifitas Pelaksanaan Penghentian Penyidikan Dalam Perkara Pecandu Narkotika Berbasis Keadilan Restoratif (Studi Putusan Nomor 116/Pid. Sus/2024/Pn. Sda)* (Doctoral Dissertation, Universitas Islam Sultan Agung Semarang).

Reform of the penal model, for example through closed executions or alternative forms of rehabilitative punishment, can be a middle ground that maintains sharia values while respecting human rights. Thus, the reconstruction of the caning law in Aceh is an important agenda for strengthening the legitimacy of plural and democratic national law. Resolving this dilemma requires regulatory innovation that favors substantive justice, not just formal legality. If successful, Aceh could become an example of a legal laboratory that shows harmony between religious law, state law, and international law. This conclusion confirms that the future of public whipping must be directed towards a contextual, humanist, and transformative model for the achievement of complete justice.

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