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The Position of the *Qanun Jinayat* as a Forum for the Implementation of Sharia in Aceh in the Indonesian Constitution

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Abstract: The purpose of this paper is to describe the position of the *Qanun Jinayat* as a forum for the implementation of Sharia in Aceh within the framework of the Indonesian constitution. It is considered essential because the implementation of Sharia is conducted based on the UUPA (Law on Governing of Aceh). However, its implementation is often misunderstood, causing the implementation of Sharia to face many challenges from various parties, including the government's official institutions. This article is written to answer the main problem: the alignment of regulations, qanuns, with other laws and regulations. This study is normative legal research using a legal history approach. The analytical tools used are the theory of leveling norms and asymmetric decentralization. The study results show that the Sharia qanuns in Aceh, especially the *Qanun Jinayat*, have a different position from the regional regulations in other provinces in Indonesia. The difference lies in the special right of the Government of Aceh as a region with asymmetrical decentralization to make its regulations which at a certain level are permitted to be inconsistent with the laws on higher hierarchy. However, it must still align with the basic norms as the primary reference. The existence of special rights for Aceh is considered natural because of its long history, mainly when it is associated with the development of criminal law in Indonesia, which until now still uses the KUHP inherited from the Dutch East Indies. This specificity is a legal order regarding autonomous or special regions.

Keywords: *qanun*, *sharia*, Indonesia's Constitution, regional autonomy, hierarchy of laws

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Abstrak: Tujuan tulisan ini adalah menggambarkan kedudukan qanun Jinayat sebagai salah satu wadah pelaksanaan Syariat Islam di Aceh dalam kerangka konstitusi Indonesia. Ini dianggap penting karena pelaksanaan Syariat Islam dilaksanakan berdasarkan pada perintah Undang-undang Nomor 11 Tahun 2006 tentang Pemerintahan Aceh, akan tetapi implementasinya dalam bentuk Qanun seringkali disalahpahami, sehingga menyebabkan pelaksanaan Syariat Islam mendapatkan banyak tantangan dari berbagai pihak, termasuk dari lembaga resmi pemerintah sendiri. Artikel ini ditulis untuk menjawab pertanyaan utama, bagaimana keselarasan pengaturan di dalam bentuk qanun dengan peraturan perundang-undangan lain? Pertanyaan ini akan dijawab melalui penelusuran sejarah dan substansi peraturan perundangan terkait dengan daerah otonomi dan istimewa. Alat analisis yang digunakan adalah teori pertingkatan norma dan teori desentralisasi asimetris. Hasil penelitian menunjukkan bahwa qanun-qanun Syariat Islam di Aceh, khususnya Qanun Jinayat memiliki posisi yang berbeda dengan dengan peraturan daerah pelaksana undang-undang di provinsi lain di Indonesia. Perbedaan tersebut terletak pada hak khusus Pemerintah Aceh sebagai daerah dengan desentralisasi asimetris untuk membuat regulasi sendiri yang pada tingkat tertentu diberi izin untuk tidak sejalan dengan undang-undang di atasnya. Namun tetap mesti sejalan dengan norma dasar sebagai acuan utama. Adanya hak khusus untuk Aceh dianggap wajar karena perjalanan sejarahnya yang panjang, terlebih lagi ketika dikaitkan dengan pembangunan hukum pidana di Indonesia yang sampai sekarang masih memakai KUHP peninggalan Hindia Belanda. Kekhususan ini merupakan perintah undang-undang mengenai daerah otonomi atau daerah istimewa.

Katakunci: Qanun, Syariat, Konstitusi Indonesia, Otonomi Daerah, Hirarki Hukum

Introduction

The implementation of Sharia Law in Aceh through *Qanun Jinayah* (Islamic criminal code) is in some cases considered discriminatory against non-Muslims, women, and violates higher laws and regulations, in this case, the criminal law and the Criminal Code. The provisions regarding the position of non-Muslims that are different from Muslims and several prohibited acts such as *liwat* (gay) and *musahaqah* (lesbian) and the existence of caning in the Qanun Jinayah are considered by some as a violation of human rights. More than that, Sharia qanuns are considered regional regulations that lead to the formation of a state within a state. It is not only the opinions of some people who are "allergic" to Sharia but also some legal experts or law enforcement officials. For example, the enforcement of Aceh Qanun Number 6 of 2014 concerning the Law of Jinayat is considered as a regulation that is contrary to the Criminal Code (KUHP) or,

for a child criminal case, it is contrary to the 2012 Law on Child Crime, and several other laws and regulations. Several criminal cases related to sexual violence against children are processed through the District Court by some law enforcement officials even though the law stipulates that it is the authority of the Syar'iyah Court.¹ It happens because, among other things, the perception of the position of the qanun, which is hierarchically under the national law, without considering Aceh's position as a region with asymmetrical decentralization.

The position and existence of the Qanun Syari'at Islam and Qanun Jinayat Aceh, which are mentioned in several articles as Sharia Regional Regulations, are often discussed in several studies. These studies, among others, state that Regional Regulations with Islamic Shari'a nuance cause pros and cons in the community.² There are several problems related to existence of Sharia regulations; a. seemed discriminatory, b. the quality of some articles only imitate other laws and regulations, and c. reinforcement issues.³ There are also those who highlight that the sharia regulations only regulate and apply to the lower class or ordinary people, and this is, of course, related to its enforcement. While in its formation, there is an assumption that it is only to fulfill political promises. So far, Shari'ah Regional Regulations are more of a moral appeal than legal norms.⁴ Some of the contents of the sharia regulations are considered contrary to the principles of Human Rights (HAM) according to Islamic law and the perspective of the Indonesian constitution.⁵ All of this illustrates that the Qanun Sharia is still in question, both in terms of its content and position.

On that basis, this paper answers several questions, (1) what is the position of sharia qanun as positive law in Aceh; (2) how does the content of the 2006

¹Arskal Salim, *Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism*, Edinburgh UK: Edinburgh Univeristy Press, 2015. Arskal Salim, *Challenging The Seculer State: The Islamization of Law in Modern Indonesia*, Honolulu: University of Hawai'i Press, 2008. Jimly Asshiddiqie, *Perihal Undang-Undang*, Jakarta: Grafindo Persada, (2011), p. 23-40. Kamarusdiana, "Qanun Jinayat Aceh dalam Perspektif Negara Hukum Indonesia," *Ahkam: Jurnal Ilmu Syariah* 14, No. 2 (2016), p. 151-162. Ridwan Nurdin, "Kedudukan Qanun Jinayat Aceh dalam Sistem Hukum Pidana Nasional Indonesia," *Jurnal Miqot XLII*, No. 2 (2018), p. 356-378.

²Ummu Salamah and Reinaldo Rianto. "Perda Syariah Dalam Otonomi Daerah," *Mizan: Jurnal Ilmu Syariah* 2, No. 2 (2014), p. 245-254. Hayatun Na'imah and Bahjatul Mardhiah, "Perda Berbasis Syariah dan Hubungan Negara-Negara dalam Perspektif Pancasila," *Mazahib: Jurnal Pemikiran Hukum Islam* 15, No. 2 (2016), p. 151-167.

³Dani Muhtada, "Perda Syariah di Indonesia: Penyebaran, Problem, dan Tantangannya". Delivered in a scientific oration in the 7th Anniversary of the Faculty of Law, State University of Semarang on December 4, 2014 in Semarang.

⁴Dian Bakti Setiawan "Keberadaan Dan Penerapan Peraturan Daerah Syari'ah Sebagai Perundang-Undangan Pada Tingkat Daerah," *Soematra Law Review* 1, No. 1 (2018).

⁵Cholida Hanum, "Perda Syari'ah Perspektif Ketatanegaraan dan siyasah Dusturiyyah," *Al-Ahkam: Jurnal Ilmu Syariah dan Hukum* 4, No. 2 (2019). Hudzaifah Achmad Qotadah dan Adang Darmawan Achmad, "Qanun Jinayat Aceh Antara Implementasi, Isu dan Tantangan," *Adliya: Jurnal Hukum dan Kemanusiaan* 14, No. 2 (2020), p. 171-190.

UUPA regulates privileges and specificity related to the Constitution and other laws and regulations; (3) What is the authority and position of Qanun Jinayat in Indonesian Laws.

This study is normative legal research using a legal history approach.⁶ The analytical tools used are the theory of leveling norms and asymmetric decentralization. At the level of norms, the constitution is the highest norm, and regional regulations are the lowest, while qanuns are norms at the level of regional regulations with special powers. Regarding asymmetric decentralization, Article 18A of the 1945 Constitution states that the relationship of authority between the central government and provincial, district and city governments are regulated by law by taking into account the specificity and diversity of the regions. Aceh as a province is given privileges and specialties based on the 1999 Aceh Special Law and 2006 UUPA. Based on the two laws and regulations, the privileges and specificities applied to Aceh are not the same as the autonomy granted to other parts of Indonesia.

The Position of Sharia Qanun as Positive Law in Aceh

Studies related to sharia qanun certainly cannot be separated from the historical aspect. The Acehnese under the leadership of Tgk. Mohammad Daud Beureueh, since the beginning of independence, had stood firm and loyal behind the Republic of Indonesia. Aceh was the only area that the Dutch colonialists could not occupy in the military aggression carried out in the early days of independence. Likewise, since the beginning of independence, the government and the people of Aceh had tried and had taken several steps to make Islamic Shari'a (hereinafter abbreviated as Shari'a) the basis of government policies and activities in Aceh. At the local level, with the permission of the Governor of Sumatra, the Government of Aceh (at that time, the Residency of Aceh) established a Syar'iyah Court at the sub-district, district, and provincial levels, which would examine and make decisions on various disputes based on the sharia. The Aceh government also established (nationalized) elementary schools with a curriculum of 60% general subjects and 40% religious subjects, which were approximately the same number as state elementary schools owned by the Central Government.⁷

To corroborate this idea, Tgk. Muhammad Daud Beureueh as the leader of Aceh, submitted a request to the President of Indonesia, Soekarno, during his visit to Aceh in 1948. He wanted Acehnese people to be permitted to live under

⁶Jonaedi Efendi dan Johnny Ibrahim, *Metode Penelitian Hukum: Normatif dan Empiris*, Jakarta: Kencana, 2018, p. 143-144. Peter Mahmud Marzuki, *Metodologi Penelitian Hukum*, Jakarta: Kencana, 2014, p. 166.

⁷Al Yasa` Abubakar, *Pelaksanaan Syariat Islam di Aceh sebagai Otonomi Khusus yang Asimetris (Sejarah dan Perjuangan)*, Banda Aceh: Dinas Syariat Islam Aceh, 2020, p. 91-141. Mainly chapter III A, Perjuangan untuk Mendapat Pengakuan.

the auspices of the Shari'a with state protection, facilities, and encouragement when conditions were safe. This request was approved verbally, but he never complied. So, it became one of the causes of the rebellion outbreak, often referred to as the "Aceh incident" in 1953, which was settled in 1962.⁸

In 1959, the Government of Indonesia, to resolve the above rebellion, through a Decree of the Deputy Prime Minister, granted privileges to Aceh in religion, education, and customs, which the Acehnese people considered as an entry point for the Aceh Government to implement sharia as a regional policy.⁹ In practice, this political decision was not supported by formal regulations, so it was just a name that could not be implemented in real terms. Finally, in 1999, the Government recognized the three privileges through the 1999 Law and even added one more feature, ulame's role (authority), to advise the Aceh Government.¹⁰ In this law, Aceh's privileges were implemented through regional regulations. In practice, they still had no real meaning because regional regulations are the lowest in the Indonesian laws and regulations hierarchy. The entire territory of Indonesia also uses this kind of regional regulation. Thus, what was expressly given to Aceh through privileges is implicitly owned by all other provinces in Indonesia that do not have the same privileges. The forum for implementing it is the same through regional regulations owned by all provinces.

As time goes by, based on TAP MPR RI Number IV/MPR/2000 concerning Policy Recommendations in the Implementation of Regional Autonomy, this privilege was enhanced by Law Number 18 of 2001 concerning Special Autonomy for Aceh.¹¹ Then, it was refined again through the 2006 UUPA (UU/11/06), which was issued to accommodate the agreement between the Government of Indonesia and the Free Aceh Movement to end the prolonged

⁸ Amran Zamzami, *Jihad Akbar di Medan Area*, (Jakarta: Bulan Bintang, 1990), p. 322 dan 342. Lihat juga M. Nur El Ibrahimy, *Peranan Tgk. Daud Beureu'eh dalam Pergolakan Aceh*, (Jakarta: Media Dakwah, 2001), p. 332.

⁹ The Government issued this decision due to negotiations by representatives of the Government with rebel groups and, therefore, could not end the rebellion completely. This movement could be ended when Abu Beureueh reverted to the NKRI in 1962. See also, Al Yasa' Abubakar, *Pelaksanaan Syariat Islam ...*, p. 130.

¹⁰ This law originates from the proposal of the Governor of Aceh to the Chair of the Indonesian House of Representatives regarding the draft Law on the Privileges of Aceh, hoping that it can be discussed and ratified. This proposal was accommodated by 45 members of the DPR and was eventually taken over and discussed as a proposal for the initiative of members of the DPR. See also Al Yasa' Abubakar, *Pelaksanaan Syariat Islam di Aceh sebagai Otonomi Khusus yang Asimetris (Telaah Konsep dan Kewenangan)*, Banda Aceh: Universitas Muhammadiyah Aceh dan Sahifah, 2019, p. 38.

¹¹ This law was enacted in response to MPR TAP No IV/MPR/1999 on GBHN, which requested that Aceh be given special autonomy, and after that MPR TAP No IV/MPR/2000 on Policy Recommendations in the Implementation of Regional Autonomy, which requested that the Law could be passed before May 2001. This law was repealed and replaced by Law 11/06. See also Al Yasa' Abubakar, *Pelaksanaan Syariat ...* p. 91.

conflict in Aceh.¹² In the last two laws, Aceh is given special privileges and autonomy, implemented by qanun. Qanun is a regional regulation with more authority, as explained below. While the privilege to implement the Shari'a in the 1999 Law is still very general, in the UUPA 2006, it has been broken down into two major parts, the first is a government task, and the second is a positive law.

According to the UUPA, as described below, Aceh is permitted to implement sharia as positive law in *ahwal syakhshiyah* (family law), *mu'amalah* (civil law), and *jinayat* (criminal law), through the Aceh Qanun. This law also establishes a special court to implement sharia, the Syar'iyah Court, a judicial body that only exists in Aceh, which is declared a sub-system in the justice system in Indonesia. The Syar'iyah Court consists of (district/city level) and appeal (provincial level). Meanwhile, the Supreme Court of the Republic of Indonesia carries out the cassation level trial. The procedural law used by this court and the material law is based on the Shari'ah and must first be included in the Aceh Qanun. Thus, Aceh is permitted to have its positive law, material and formal in the fields of *ahwal syakhshiyah*, *mu'amalah* and *jinayah*, which are based on sharia and have their judiciary, which is the Syar'iyah Court, which culminated in the Supreme Court. This privilege is only given to Aceh and not to other regions in Indonesia. Therefore, this permit, directly or indirectly, has made positive law in Aceh in the three areas above a sub-system of the national legal system.

The Aceh Qanun as a forum for sharia used as positive law in Aceh (material and formal), is part of Indonesian legislation and is a product that must be discussed and approved jointly by the Aceh House of Representatives (DPRA) and the Aceh Government (Governor of Aceh), following the provisions regarding the technique of making laws and regulations that apply nationally.¹³

¹² In 1976, the Free Aceh Movement (GAM) revolt in Aceh, which wanted to separate itself from the Republic of Indonesia and promote Acehnese identity as an ideology. This movement did not use Islamic law as the basis and goal of its struggle. After going through various ways, in the end, there was an agreement between the Government of Indonesia and the leaders of GAM, known as the Helsinki MoU in August 2005 (after the tsunami), which among others gave Aceh its own government called Special Autonomy, permission to form local parties as a forum for GAM to channel political aspirations, greater financial balance for Aceh compared to other regions, and permits to implement Islamic law. In the first paragraph of this Memorandum of Understanding, it is stated, "The Government of the Republic of Indonesia and the Free Aceh Movement (GAM) affirm their commitment to resolving the Aceh conflict in a peaceful, comprehensive, sustainable and dignified manner for all."

¹³ The implementation of sharia as a government task in Aceh is broader than the three fields above. It still includes several other fields, such as worship, education, economy, customs, and social society (especially the protection of orphans). Among its forms, zakat is local revenue (PAD) because it is managed by the Aceh government and becomes an income tax deduction. The education curriculum in Aceh must be appropriate and support the implementation of the Shari'a. Islamic moral education also should be a hidden curriculum. Customs are directed and developed to align with and even support the implementation of Islamic worship and law.

The Conformity of the UUPA with the Constitution and other Legislations Related to the Implementation of Sharia

This study indeed cannot be separated from the study of special autonomy so that the specificity of Aceh can (should) be carried out and harmonized with the law on decentralization which is asymmetric for Aceh.¹⁴ Autonomy is the region's right, authority, and obligation to manage and regulate its region.¹⁵ Because Indonesia is a state of law, the region's rights of authority and obligations must be in line with the laws and regulations of the state. The permission for the regions to take care of their household or autonomy is undoubtedly related to the existence of Indonesia as a unitary state divided into central and regional governments.

Bagir Manan stated that autonomy is a sub-system of a unitary state (*eenheidsstaat*). Autonomy is a unitary state phenomenon. All definitions and contents of autonomy are the definitions and contents of a unitary state.¹⁶ According to Bagir Manan, there is freedom and independence (*vrijheid* and *zelfstandigheid*) in autonomy, from lower government units to regulate and manage some government affairs of the lower government unit. So, freedom and independence are the essences of the content of autonomy.¹⁷ Therefore, Regional Autonomy is the transfer of affairs/authorities from the central government to regional governments to regulate and manage the interests of the government and its people and must be aligned and respect the unitary state of the Republic of Indonesia. The implementation of regional government in Indonesia is based on autonomy as stated in Article 1, number 2 of Law 32/04 (regarding Regional Government), as amended by Law 15/19 (regarding the second amendment to Law 23/14). Regional Government and DPRD are the administration of government affairs at the regional level. It is based on the principle of autonomy and assistance tasks with the principle of autonomy in the system and principles of the Unitary State of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia.

In the considering and *observing* of Law 11/06, there are six articles of the 1945 Constitution of the Republic of Indonesia which are mentioned: Article 1 paragraph (1), Article 5 paragraph (1), Article 18, Article 18A, Article 18B and Article 20. Article 1 paragraph (1) states, "The State of Indonesia is a Unitary

¹⁴ This it can be seen for example in, Ni`matul Huda, *Desentralisasi Asimetris dalam NKRI: Kajian terhadap Daerah Istimewa, Daerah Khusus dan Otonomi Khusus*, Bandung: Nusa Media, 2014.

¹⁵ Ateng Syafrudin, *Pasang surut Otonomi Daerah*. Bandung: Binacipta, 1985, p. 5.

¹⁶ Bagir Manan, *Perjalanan Historis Pasal 18 UUD 1945; Perumusan dan Undang-Undang Pelaksanaannya*. Karawang: Unsika, 1993, p. 2.

¹⁷ Bagir Manan, *Perjalanan Historis...*, p. 2.

State in the form of a Republic"; paragraph (3) states, "The state of Indonesia is a state of law. Article 5 regulates the President's right to submit bills to the DPR and the President's duty to stipulate government regulations. Article 18 contains seven paragraphs that, among others, explain the division of Indonesia's territory into provinces and districts/cities, whose regional heads are democratically elected, each of which regulates and manages government affairs on its own according to the principles of autonomy and co-administration. Article 18A states, "(1) The relationship of authority between the central government and regional governments of provinces, regencies, and municipalities, or between provinces and regencies and cities, shall be regulated by law with special regard for regional specificity and diversity. (2) Financial relations, public services, utilization of natural resources and other resources between the central government and regional governments shall be regulated and administered with justice and equity according to law". Article 18B states, "(1) The State recognises and respects units of regional authorities that are special and distinct, which shall be regulated by law. (2) The State recognises and respects traditional communities along with their traditional customary right to the extent they still exist and are in accordance with the development of the society and the principle of the Unitary State of the Republic of Indonesia, which shall be regulated by laws". Meanwhile, Article 20 regulates the power of the DPR to form laws.

The provisions in Article 18A paragraph (1) and Article 18B need to be underlined because these Articles clearly state the recognition and respect for special or distinct regional governments regulated by law. Recognition of special regions is stated in the amended Constitution and the original 1945 Constitution. It is mentioned in Article 18, which regulates this matter. As for Aceh, specialties and privileges are recognized and contained in Law 44/99 and Law 11/06, mentioned above. In the (official) *Elucidation* of Law 11/06, in the General section, it is stated that "... the widest possible autonomy system implemented in Aceh based on this law is a subsystem in the national government system. Thus, the widest possible autonomy is not just a right, but more than that, it is a constitutional obligation utilized as much as possible for the welfare of Aceh". Regarding the content of the privileges, the General Explanation above states, "Such a life requires the formal implementation of the enforcement of Islamic law. That is part of the background for the formation of the Syar'iyah Court, which is one part of the anatomy of Aceh. The enforcement of Islamic law is carried out with the principle of Islamic personality towards everyone in Aceh without distinguishing nationality, position, and status within the territory under the regional boundaries of the Aceh Province".

Furthermore, there are several articles in the Constitution that the author considers relevant to mention, for example, Article 28E, which among other things states that everyone is free to embrace religion and worship according to his religion, chooses citizenship, chooses a place to live in the territory of the

country and leaves, and has the right to return. Everyone also has the right to freedom, to believe in faiths, express thoughts and attitudes based on their conscience. Furthermore, regarding Human Rights, Article 28J states that the only restrictions on human rights that must be adhered to are those stipulated by law (second amendment, August 2000). Regarding religion, it is regulated in Article 29, which declares that the State is based on the One God, and the State guarantees the independence of every citizen to embrace his religion and worship according to his religion and belief. From the several articles above, it can be seen that there is no special quote of the position or relationship of the religion (shari'ah) of Islam with the state. Thus, the permission for the application of sharia in Aceh by law is due to the recognition and respect for regional privileges and specificities, not because of sharia itself.

In the case of the autonomy that applies in Indonesia, Article 18 paragraph (5) of the Constitution states that regional governments carry out autonomy to the fullest, except for government affairs determined by law to be the affairs of the Central Government (residual theory). The current law on regional autonomy is *Law Number 23 of 2014 concerning Regional Government*, in lieu of *Law Number 32 of 2004 concerning Regional Government* which was in effect when Law 11/06 was passed.

Government affairs under the authority of the Central Government, as stated in Law 23/14, are slightly different from those listed in Law 11/06. The difference in the authority of the Central Government in the framework of regional autonomy, which is given to all regions in Indonesia, based on Law 32/04 and Law 23/14, with that given to Aceh under Law 11/06, can be compared as follows.

Table 1: Central Government Authority in Three Laws

No	LAW 32/04	LAW 23/14	LAW 11/06
	[Article 10 paragraph (3)]	[Article 10 paragraph (1)]	[Article 7 paragraph (2)]
		Absolute Government Affairs	National Government Affairs
1	Foreign policy	Foreign policy	Foreign policy
2	Defence	Defence	Defence
3	Security	Security	Security
4	Justist	Justist	Justist
5	national monetary and fiscal	national monetary and fiscal	national monetary and fiscal

6	Religion	Religion	certain matters in the topic of religion
7		[Article 16 paragraph (1)] [Central Government] To Stipulate: a. norm, b. standard, c. procedure , and d. criteria, in administering Government Affairs (NSPK); and e. provide guidance and supervision of the implementation of Government Affairs which are the authority of the Regions.	[Article 11 paragraph (1)] [Central Government] To Stipulate: a. norm, b. standard, c. procedure (NSP); and d. supervise the affairs carried out by the Aceh Government and district/city.
		[Article 9 paragraph (3)] Concurrent Government Affairs	[Article 7 paragraph (2)]
8		National government affairs	National government affairs
		[Article 9 paragraph (5)] General Government Affairs	
9		government affairs that fall under the authority of the President as head of government	

Source: Al Yasa 'Abubakar, compiled from three laws

From the table above, two things need to be underlined. First, in Law 11/06, the duties of government are still stated in general and have not been classified. In contrast, in the last law (UU 23/14), government duties have been classified into three, absolute government affairs (authority of the Central Government), concurrent government affairs (a joint authority between the Central Government and local governments), and general government affairs (which are the authority of the president as head of government). Second, there are significant differences regarding the authority to administer the religious

sector between Law 11/06 and the other two laws, which can be considered one of the prominent differences between (ordinary) regional autonomy and special autonomy and privileges granted to Aceh. In the regional autonomy law, religion is entirely (wholly) the authority and affairs of the Central Government. However, in Law 11/06, religion which is a matter for the Central Government, only part of it is clearly stated. Thus, of course, parts of religion are no longer the authority of the Central Government, which are handed to the Regions (Aceh) to manage. The existence of a clear handover of some religious affairs to Aceh by Law 11/06 can be considered as confirmation of the privileges mentioned in Law 44/99.

Furthermore, apart from what is mentioned above, the authority and duties of the Government (Central) in Aceh, which is regulated differently from other regions, can still be found in Law 11/06. For example, the Syar'iyah Court as a special court to enforce the Shari'a for Muslims living in Aceh, and permission for Aceh to draft qanuns as material and formal law to be implemented by the Syar'iyah Court. As mentioned in the General Elucidation of Law 11/06 cited above, these two things are given to Aceh as part of the privilege to implement sharia. This arrangement is unique because the Syar'iyah Court is an instrument of the Government (a judicial institution, part of the Supreme Court) which only exists in Aceh. Meanwhile, the material and formal laws are sharia-based laws included in the Aceh Qanun. Thus, based on the content and activities, these two (positive law and the judiciary), according to common practice, are included in judicial affairs, not religion.

Based on the description above, it can be stated that special autonomy is all other matters beyond the Shari'a, including (a) absolute government authority of the Central Government, which is handed over by the Central Government to the Aceh Government; (b) absolute government authority of the Government which is still controlled by the Government but is regulated differently for Aceh; and (c) the authority of the concurrent government (not absolute) which is clearly delegated to Aceh, while for other regions it is still managed by the Central Government or at least clearly delegated to the regions. As for the privileges, it includes the implementation of sharia, without distinguishing whether it is religion or justice, either as a task entrusted to the Aceh Government (formulating positive law) or still managed by the central government (judicial bodies, the Syar'iyah Court, and other law enforcers, who implement the Shari'a as positive law).

In the implementation of Shari'a--as part of the privilege, in Law 11/06, out of a total of 40 chapters, 273 articles, there are three chapters that are directly related to the implementation of Islamic Shari'a which is placed in sequence, (1) Chapter XVII of Islamic Shari'a and its Implementation (three articles, 125-127, are the duty of the Aceh Government and districts/cities); (2) Chapter XVIII of the Syar'iyah Court (10 articles, 128-137); and (3) Chapter XIX of the *Ulama*

Consultative Assembly (three articles, 138-140). Apart from the three chapters above, the term Islamic shari'a as well as policy-making and carrying out tasks that need to regard Islamic shari'a or Islamic values, are still mentioned and used in the other 14 chapters. Thus, 17 of the 40 chapters in Law 11/06 are related to Islamic law or Islamic values. Moreover, there are several other articles related to the implementation of Islamic law but do not directly use the term Shari'a or Islamic values. For example, Article 213 paragraph (4): "The Aceh government and/or district/city governments are obliged to provide legal protection for waqf lands, religious assets, and other sacred purposes". Since this paper discusses the implementation of sharia as positive law, the author will quote and discuss several relevant articles from Chapter XVIII. Articles from other chapters are quoted and discussed if they are related to the issue of writing the qanun.

Chapter XVIII concerning the Syar'iyah Court, consisting of 10 articles, can be explained as follows. Article 128 (authority) (1) The Islamic Shari'ah Court in Aceh, which is managed by the Syar'iyah Court, is part of the national judicial system; (2) The Syar'iyah Court is a court for every Muslim who resides in Aceh; (3) The Syar'iyah Court has the authority to examine, hear, decide, and settle cases covering the family law, civil law, and criminal law. Article 129 (submission); (1) a non-Muslim violating the law may submit voluntarily to the law of *jinayat*; (2) non-Muslims who commit *jinayat* violations that the Criminal Code does not regulate, the *jinayat* law can be applied.

Article 130 (court level) The Syar'iyah Court consists of the district/city Syar'iyah Court as the court of the first instance and the Aceh Syar'iyah Court as the court of appeal. Article 131 (Supreme Court); (1) The decision of the Syar'iyah Court may be appealed to the Supreme Court; (2) The cassation case concerning marriage, *talaq* (repudiates), divorce and reconciliation shall be settled by the Supreme Court no later than 30 (thirty) days after being registered at the Registrar's Office of the Supreme Court; (3) The decision of the Aceh Syar'iyah Court or the Syar'iyah Court which has permanent legal force, can be requested for review to the Supreme Court; Article 132 (material and formal law); (1) The procedural law applicable to the Syar'iyah Court is the procedural law regulated in the Aceh Qanun; (2) Before the Aceh Qanun concerning procedural law in paragraph (1) was enacted: a) the procedural law applicable to the Syar'iyah Court was the procedural law as applied to religious courts within the religious courts in Indonesia; b) the procedural law applicable to the Syar'iyah Court insofar as it concerns *jinayat* is the procedural law as applicable to courts within the general judiciary except as specifically regulated in this Law.¹⁸

¹⁸ For the *Jinayat Procedural Law* and the *Jinayat Law*, the Aceh Government together with the DPRA have also determined each Qanun; Aceh Qanun Number 7 of 2013 concerning *Jinayat Procedural Law* and Aceh Qanun Number 6 of 2014 concerning *Jinayat Law*. These two qanuns are used as the basis by judges at the Syar'iyah Court in deciding the *jinayat* case.

Then Article 133 (investigation task), the task of investigating for the enforcement of Islamic law on *jinayat* is carried out by the Indonesian National Police and Civil Servant Investigators. Article 134 concerning the preparation of investigators, Article 135; (1) regarding the appointment and dismissal of judges by the President at the suggestion of the Chief Justice of the Supreme Court; Article 136 concerning development and financing originating from State funds; Article 137 concerning disputes over the authority to adjudicate becomes the authority of the Supreme Court for the first and last levels.

In the article above, it is stated that the Syar'iyah Court is given relative authority, covering the entire province of Aceh, and absolute authority covers three areas: *ahwal al-syakhsiyah* (family law), *muamalah* (civil law), and *jinayah* (criminal law) based on Sharia; This authority is basically exercised on Muslims residing in Aceh, following the principles of Islamic personality as stated in the *General Explanation*. From this provision, it is understood that the material and formal laws used by the Syar'iyah Court must first be included in the Aceh Qanun; should not be taken directly from the book of *fiqh* or interpreted directly from the Qur'an and Hadith by law enforcement officials or outlined in the form of an MPU *fatwa*.

The Authority and Position of Qanun Jinayat in Indonesian Law and Legislation

There are three things examined here. First, the position and authority of the qanun compared to regional regulations; second, the qanun as a forum to accommodate Islamic law, which becomes positive law used by the Syar'iyah Court as material and formal law; and thirdly, the Syar'iyah Court as an institution that implements the qanun, whose authority increase in accordance with the addition of the qanun as material law, in the three areas above.

It is a common understanding that the hierarchy of legislation largely determines the strength of the enactment of legislation. Hierarchy is the position of each type of legislation based on the principle that lower laws and regulations must not conflict with higher laws. This is intended to create legal order and harmonization. Satjipto Rahardjo argues that independent laws and regulations are actually bound in a single unit originating from a single unit of certain ethical judgments as described by Hans Kelsen in *Stufenbau Theory*.¹⁹ Regarding the theoretical picture of the legal hierarchy, not much progress has occurred. Some articles in journals simply repeat Hans Kelsen's opinion, such as Bivitri Susanti²⁰,

¹⁹ Satjipto Rahardjo. *Ilmu Hukum*, Bandung: Citra Aditya Bakti, 1991, p.49

²⁰ Bivitri Susanti, "Menyoal Jenis dan Hierarki Peraturan Perundang-undangan di Indonesia", *Jurnal Jentera* 1, No. 2 (2017).

A'an Efendi,²¹ and Bayu Dwi Anggono²². If we consider the hierarchy (level of legal norms) as in the *stufentheorie* theory of Hans Kelsen, which was later developed by one of his students, Hans Nawiasky, then Pancasila is the fundamental norm of the state. Nawiasky's theory is called *theorie von stufenaufbau der rechtsordnung*. The arrangement of norms according to the theory is as follows.

1. The country's fundamental norms (*Staat-sfundamentalnorm*);
2. State basic rules (*staatsgrundgesetz*);
3. Formal law (*formell gesetz*); and
4. Implementing regulations and autonomous regulations (*verordnung en autonom e satzung*).

Therefore, in assessing the laws and regulations, Pancasila as the state's fundamental norm is the highest unit of ethical judgment. Based on the hierarchy above, the position of qanun lies at the fourth level, which is called implementing regulations and autonomous regulations (*verordnung en autonom e satzung*) which must be in line with the regulations above. However, to assess its existence in the context of Aceh as an asymmetrical decentralized area and also in the context of the development of criminal law in Indonesia, what really must be considered is an ethical assessment of its compatibility with Pancasila as the source of all sources of law, not with the Criminal Code as formal law.

The position of the Criminal Code in the hierarchy of legislation above is at the third level (the level of law), which has a higher position than the legislation made by regional officials. This is what is often became an issue in connection with the existence of Qanun in Aceh because ideally, the Criminal Code as the main source of material criminal law should be used as a guide in making laws and regulations that contain criminal provisions. However, the Criminal Code used in Indonesia comes from *Wetboek van Strafrecht* (WvS) which the Dutch Government imposed during the colonial period. Even though it is enforced with some adjustments, if it is related to the hierarchy of legal norms described by Hans Kelsen above, not all of its contents are in accordance with higher rules, down to the basic norm (*grondnorm*).²³ Moreover, Aceh is a region with asymmetric decentralization (special autonomy), which to some extent is given the authority to make different regulations with higher regulations (of course apart from the fundamental norms of the state), as will be mentioned below.

²¹A'an Efendi, Problematik Penataan Jenis Dan Hierarki Peraturan Perundang-Undangan, *Jurnal Veritas Et Justitia* 5, No. 1 (2019), p. 20-47.

²²Bayu Dwi Anggono "Tertib Jenis, Hierarki, Dan Materi Muatan Peraturan Perundang-Undangan: Permasalahan Dan Solusinya", *Jurnal Masalah-Masalah Hukum* 47, No. 1, (2018), p. 1-9.

²³ Mohd. Din, "Kebijakan Pidana Qanun Aceh dalam Preskriptif Kebijakan Hukum Pidana," *Kanun: Jurnal Ilmu Hukum* 17, No.3, (2015).

The term *qanun* was first mentioned in the revoked Law 18/01, later reused in Law 11/06. In *Law Number 12 of 2011 concerning the Establishment of Legislative Regulations*, the *qanun* is not mentioned in the body, but it is stated in the Elucidation of Article 7 that the position of the provincial *qanun* is the same as that of the provincial regulation while the position of the regency/city *qanun* is the same as that of the regency/city regional regulation. This formulation is relatively similar to Law 11/2006 Article 1 number (1).

Furthermore, the author cites three articles from Law 11/06, Chapter XXXV entitled “*Qanun, Governor Regulation, and Regent/Mayor Regulation*” (Articles 232-245). Article 233 states: “(1) *Qanun* is established in the context of administering the Aceh Government, district/city administrations, and implementing co-administration tasks; (2) The *Qanun* as referred to in Article 232 shall come into force after being promulgated in the Aceh Regional Gazette or the Regency/Municipal Gazette”. Article 241 states, “(1) *Qanun* may contain provisions for the imposition of coercive costs for law enforcement, in whole or in part, to violators in accordance with statutory regulations; (2) The *Qanun* may contain maximum imprisonment of 6 (six) months and/or a maximum fine of Rp. 50,000,000.00 (fifty million rupiah); (3) *Qanun* may contain criminal threats or fines other than those referred to in paragraph (2) in accordance with those stipulated in other laws and regulations; (4) *Qanun* concerning *jinayat* (criminal law) is excluded from the provisions of paragraph (1), paragraph (2), and paragraph (3)”.

Then Article 244 states, “(1) Governors, regents/mayors in enforcing *qanuns* in the administration of public order and public peace may form a Public Order Police Unit. (2) Governors, regents/mayors in enforcing Sharia *qanuns* in implementing Islamic Shari'a may form a Wilayatul Hisbah Police unit as part of the Public Order Police Unit. (3) Further provisions regarding the formation and organization of the Public Order Police Unit as referred to in paragraph (1) shall be regulated in *qanun* guided by the laws and regulations”.

If the articles in Chapter XXXV above are examined, especially the provisions in article 241, it will be seen that there are two types of sanctions in the Aceh *Qanun*, the general *qanun* and the *Jinayah qanun* (regarding Islamic law). Sanctions in general *qanuns* may not conflict with generally applicable provisions, which is the threat of imprisonment for a maximum of 6 (six) months and/or a fine of a maximum of Rp. 50,000,000.00 (fifty million rupiahs); while the sanctions for the special *qanun* on *jinayat*, mentioned in paragraph (4), are excluded from the general provisions.

In Law 11/06, there are two explanations regarding the *qanun*. In Article 1 of Law 11/06, it is stated that the Aceh *Qanun* is a regional regulation to regulate the administration and life of the Acehnese people. Meanwhile, Article 233 paragraph (1) states that the Aceh *Qanun* was established in administering the Aceh Government, district/city administrations, and implementing co-

administration tasks. In the two articles above, the purpose of establishing the qanun is written with different editorials. According to the editor-in-chief in Article 1, it is broader than the editorial in Article 233. Article 1, which is a general provision, defines the qanun to regulate government duties and people's lives, including as a forum for material and formal law for implementing Islamic law used by the Sharia Court. A comparison of the meaning of qanun in the two laws can be seen in the following table.

Table II
Comparison of Definition and Authority of Regional Regulations and Qanun in Law 12/11 and 11/06.

No	Law 12/11	Law 11/06
1	Article 1 number 7 Provincial Regulations are laws and regulations established by the Provincial Regional People's Representative Council with the mutual consent of the Governor.	Article 1 number 21 Aceh Qanun is a statutory regulation similar to a provincial regional regulation that regulates the administration and life of the Acehnese people.
2	Article 1 number 8 Regency/Municipality Regulations are laws and regulations established by the Regency/Municipality People's Representative Council with the joint approval of the Regent/Mayor.	Article 1 number 22 Regency/Municipality Qanun is a law and regulation similar to a district/Municipality regional regulation that regulates the administration of government and the life of the district/city community in Aceh.
3	Article 14 The content of Provincial Regulations and Regency/Municipal Regulations contains material in the context of implementing regional autonomy and co-administration tasks as well as accommodating special regional conditions and/or further elaboration of higher Law and Regulations.	Article 233 (1) Qanun was formed in the context of administering the Aceh Government, district/city administrations and implementing co-administration tasks.

Source: Al Yasa' Abubakar, processed from the two laws in question.

Article 7, Law 12/11 above, which is a formulation of the meaning, only explains how to form regional regulations. Meanwhile, the content of regional regulations is stated in Article 14. If the meaning of "accommodating special regional conditions" in Article 14, Law 12/11 is considered to be in line with the meaning of "*life of the Acehnese people*," which is written in Article 1, Law 11/06, then these two meanings can be considered analogous, that qanuns are the same as regional regulations. However, if these two meanings are deemed incompatible, then the content of the regional regulation is different from the qanun; Qanun has broader authority than local regulations. Apart from the discussion above, the use of a special term for regional regulations in Aceh, qanun, (in Law 11/06) as a substitute for regional regulations (in other laws), must be understood as something that is deliberately done to accommodate different contents, which considered more significant, which is not accommodated in local regulations.

From the description above, it can be concluded that the Aceh Qanun was truly authorized and prepared as a forum for positive law to be used by the Syar'iyah Court in Aceh. It can be seen in Article 132 of Law 11/06, which clearly states that the formal/procedural law to be used by the Syar'iyah Court is the procedural law regulated in the Aceh Qanun. Before the qanun on procedural law was enacted, the Syar'iyah Court used procedural law that is applicable nationally. As for the material law included in the Aceh Qanun is not stated how it relates to material law that applies nationally. However, it must be remembered that, as described above, the law states that the law in the three areas above is based on Islamic law, which the Aceh Qanun further regulates. Thus, if it follows the logic used for formal law, then the material law that the Syar'iyah Court applied before the qanun was made is the law that applies nationally. According to the author, the above conclusion becomes stronger because Law 11/06 gives special authority to Aceh Qanun to determine sanctions in the case of jinayat, which are not bound by the provisions that apply to ordinary regional regulations.

Conclusion

To conclude this paper, there are three things the writer would like to mention. *First*, the Indonesian constitution (UUD 1945), either before or after the amendment, recognizes and respects the existence of special or distinct regional governments regulated by law. In the case of Aceh, these privileges and specialties are regulated in the 2006 UUPA. In the General Elucidation, it is stated that privileges and specialties are granted to the people of Aceh with the "principle of autonomy as wide as possible." The government of Aceh is "an inseparable part of the Unitary State of the Republic of Indonesia," and "the widest possible autonomy system implemented in Aceh based on Law 11/06 is a sub-system of the national government system." For Aceh, these privileges and specialties are regulated in the 2006 LoGA. In the General Elucidation, it is stated

that privileges and specialties are granted to the people of Aceh with the "principle of autonomy as wide as possible." The government of Aceh is "an inseparable part of the Unitary State of the Republic of Indonesia" and "the widest possible autonomy system implemented in Aceh based on Law 11/06 is a sub-system of the national government system." Therefore, the presence of Law 11/06 gives Aceh a special and specific position because Aceh deserves it, and it should be considered part of the effort to implement the constitution. The broadest possible application of autonomy is shown, among others, by granting permission to Aceh to implement Islamic law as positive law through the Aceh Qanun as a sub-system in the national government system.

Second, regarding the implementation of Islamic law, in the considerations (b. and c.) of Law 11/06, it is stated that based on the constitutional journey of the Republic of Indonesia, Aceh is a special and distinct regional government unit in regard to one of the distinctive characteristics of the history of the people of Aceh, which are known for their high resilience and fighting spirit; sourced from a view of life, based on Islamic law, which resulted in a strong Islamic culture, so that Aceh became a capital for the struggle to seize and defend the independence of the Republic of Indonesia. Furthermore, in the General Explanation, it is stated that the religious life of the Acehnese people requires the formal implementation of Islamic law. This statement implicitly strengthens the previous conclusion that Aceh has permission to implement sharia as a positive law through the Syar'iyah Court. Therefore, to avoid uncertainty and the assumption that the provisions contained in Law 11/06 are still unclear (complete) or otherwise too excessive, the understanding and interpretation of Law 11/06 need to be based on the background and purpose of its application. The formula used by Law 11/06 to give permission for the implementation of sharia in Aceh is positive law. It is stated as an acknowledgment of the constitutional rights of the Acehnese people, which is ordered to be included in the Aceh Qanun and will be implemented by the Syar'iyah Court as part of the system of the national judiciary. It is also based on the desire to carry out the Shari'a in its entirety as positive law.

Third, the desire of the Acehnese people to implement sharia as positive law by the above law is stated not only as a right but also as a constitutional obligation to be utilized as much as possible for the welfare of Aceh, and it causes the belief of Acehnese to get stronger. As a constitutional obligation, this task falls not only on the Acehnese people, leaders, and government of Aceh but indirectly also burdens the Indonesian people as a whole. In general, according to the author, the involvement of the Indonesian people can be done in at least two ways. The first way is to provide an understanding and interpretation of Law 11/06 so that this law is understood to be truly capable of accommodating privileges of the Acehnese people to carry out Shari'a as positive law (teleological interpretation) and conversely refute the understanding or interpretation that

considers it unable to accommodate these privileges. The form of interpretation that can be carried out and even must be taken is, of course, wide open, but according to the author, all of them must be bound with the aim of providing opportunities for the Acehnese people to carry out privileges in the form of implementing Shari'a as positive law. The second method is to provide input on the provisions of the Shari'a, which are based on the Shari'a itself and considered more or even the most appropriate to the conditions of the Acehnese people in particular and the Indonesian people in general, within the framework of the legal system and judicial system in force in the Unitary State of the Republic of Indonesia.

References

Books and Journal

- Abubakar, Al Yasa', *Pelaksanaan Syariat Islam di Aceh sebagai Otonomi Khusus yang Asimetris (Sejarah dan Perjuangannya)*, Banda Aceh: Dinas Syariat Islam Aceh, 2020.
- Abubakar, Al Yasa', *Pelaksanaan Syariat Islam di Aceh sebagai Otonomi Khusus yang Asimetris (Telaah Konsep dan Kewenangan)*, Banda Aceh: Universitas Muhammadiyah Aceh dan Sahifah, 2019.
- Anggono, Bayu Dwi, "Tertib Jenis, Hierarki, dan Materi Muatan Peraturan Perundang-Undangan: Permasalahan dan Solusinya," *Jurnal Masalah-Masalah Hukum* 47, No. 1, (2018).
- Asshiddiqie, Jimly, *Perihal Undang-Undang*, Jakarta: Grafindo Persada, 2011.
- Din, Mohd. "Kebijakan Pidana Qanun Aceh dalam Preskriptif Kebijakan Hukum Pidana," *Kanun: Jurnal Ilmu Hukum* 17, No. 3 (2015).
- Efendi, A'an, "Problematic Penataan Jenis Dan Hierarki Peraturan Perundang-Undangan," *Jurnal Veritas Et Justitia* 5, No. 1 (2019).
- Hanum, Cholida, "Perda Syariah Perspektif Ketatanegaraan dan Siyasah Dusturiyyah," *Al-Ahkam: Jurnal Ilmu Syariah dan Hukum* 4, No 2 (2019).
- Ismail, Salim `Abd-ul `Al, *Al-Bahts al-Fiqihi, Thabi`atuh, Khasha'ishuh, Ushuluh, Mashadiruh ma`a al-Mushthalahat al-Fiqihiyyah fi al-Madzahib al-'Arba`ah*, Kairo: Maktabah al-Zahra', 1992.
- Kamarusdiana, "Qanun Jinayat Aceh dalam Perspektif Negara Hukum Indonesia," *Ahkam: Jurnal Ilmu Syariah* 14, No. 2 (2016).
- Manan, Bagir, *Perjalanan Historis Pasal 18 UUD 1945; Perumusan dan Undang-Undang Pelaksanaannya*, Karawang: Unsika, 1993.
- Muhammadin, Fajri Matahati dan Dian Agung Wicaksono, *Hukum Cambuk sebagai Implementasi Syariat Islam pada Qanun Aceh dalam Perspektif Konstitusi dan Convention against Torture*, Laporan Penelitian, Yogyakarta, Fakultas Hukum Universitas Gadjah Mada, 2016.

Muhtada, Dani, "Perda Syariah di Indonesia: Penyebaran, Problem, dan Tantangannya." Disampaikan dalam orasi ilmiah dalam rangka Dies Natalis VII Fakultas Hukum Universitas Negeri Semarang pada tanggal 4 Desember 2014 di Semarang.

Na'imah, Hayatun dan Bahjatul Mardhiah, "Perda Berbasis Syariah dan Hubungan Negara-Negara dalam Perspektif Pancasila," *Mazahib: Jurnal Pemikiran Hukum Islam* 15, No. 2 (2016).

Nuridin, Ridwan, "Kedudukan Qanun Jinayat Aceh dalam Sistem Hukum Pidana Nasional Indonesia," *Jurnal Miqot XLII*, No. 2 (2018).

Qotadah, Hudzaifah Achmad dan Adang Darmawan Achmad, "Qanun Jinayat Aceh Antara Implementasi, Isu dan Tantangan," *Adliya: Jurnal Hukum dan Kemanusiaan* 14, No. 2 (2020).

Rahardjo, Satjipto, *Ilmu Hukum*, Bandung: Citra Aditya Bakti, 1991.

Salim, Arskal, *Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism*, Edinburgh UK: Edinburgh Univeristy Press, 2015.

Salim, Arskal, *Challenging The Seculer State: The Islamization of Law In Modern Indonesia*, Honolulu: University of Hawai'i Press, 2008.

Setiawan, Dian Bakti, "Keberadaan Dan Penerapan Peraturan Daerah Syari'ah Sebagai Perundang-Undangan Pada Tingkat Daerah," *Jurnal Soumatara Law Review* 1, No. 1 (2018).

Susanti, Bivitri, "Menyoal Jenis dan Hierarki Peraturan Perundang-undangan di Indonesia," *Jurnal Jentera* 1, No. 2 (2017).

Syafrudin, Ateng, *Pasang Surut Otonomi Daerah*, Bandung: Binacipta, 1985.

Tim Penerjemah Badan Pembinaan Hukum Nasional Departemen Kehakiman, *KUHP Kitab Undang-Undang Hukum Pidana*, Jakarta: Sinar Harapan, 1983.

Zamzami, Amran, *Jihad Akbar di Medan Area*, Jakarta: Bulan Bintang, 1990.

Laws and Regulations

1945 Constitution of the Republic of Indonesia.

Law Number 44 of 1999 concerning the Implementation of the Privileges of the Province of the Special Region of Aceh.

Law Number 18 of 2001 concerning Special Autonomy for the Province of the Special Region of Aceh as the Province of Nanggroe Aceh Darussalam.

Law Number 32 of 2004 concerning Regional Government.

Law No. 11 of 2006 concerning the Government of Aceh.

Law Number 12 of 2011 concerning the Establishment of Legislation.

Law Number 23 of 2014 concerning Regional Government.

Aceh Qanun Number 7 of 2013 concerning Jinayat Procedural Law.

Aceh Qanun Number 6 of 2014 concerning Jinayat Law.