

COMMUNITY PERCEPTION ON THE IMPLEMENTATION OF THE PUNISHMENT OF lashing IN WEST ACEH

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Keywords	Abstract. Caning in Aceh is a form of punishment regulated in the Qanun Jinayah. The implementation of caning has given rise to various public perceptions, namely that there are those who support it and some who do not agree with various reasons, both psychologically and for reasons of human rights. This study aims to determine the public's perception of the implementation of caning in West Aceh. This research was conducted using empirical methods, namely collecting data through observation, interviews and documentation, then analyzed and described in written form and words to draw conclusions. The results of the study show that from 2018 to 2021 in West Aceh Regency there were 77 (seventy-seven) cases of violations of the Jinayah Qanun which were lashed based on the Syari'iyah Court Decision.
Public Perception, Whip, Qanun Jinayat	

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1. INTRODUCTION

The State of the Republic of Indonesia recognizes and respects regional government units that are special or special in nature as regulated by law. Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, namely: "The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in the Act."

Aceh province is the only area that applies law based on Islamic Shari'a in Indonesia. The application of Islamic law in Aceh is regulated by Law Number 44 of 1999 concerning the Implementation of the Privileges of Aceh, namely in the fields of religion, customs, education and the role of ulama in determining regional policies, then the existence of Islamic law in Aceh is strengthened by Law Number 18 of 2001 about special autonomy for the province of the Special Region of Aceh as Nanggroe Aceh Darussalam. Article 31 of Law Number 18 of 2001 states that the provisions for implementing the Law concerning the authority of the Provincial Government of Nanggroe Aceh Darussalam are stipulated by the Qanun of the Province of Nanggroe Aceh Darussalam, meaning that the implementation of Islamic Sharia in Aceh can also be regulated through the Aceh Qanun.

In addition to the above laws, the culmination of the basis for the implementation of Islamic Shari'ah in Aceh is the Aceh Government Law Number 11 of 2006 which explains that The government may designate special areas in Aceh and/or districts/cities to carry out certain government functions of a special nature. In the establishment of special areas as referred to in paragraph (1), the Government is obliged to include the Aceh Government and/or district/city governments. This law was made for the Aceh Government as a special regional government that was legalized to follow up on the results of the peace agreement between the Government of Indonesia and the Free Aceh Movement.

The privilege given to the Aceh Province is an award given by the government to the Acehnese people for their loyalty who is willing to give up their property and life for the establishment of the Unitary State of the Republic of Indonesia. Based on the specifics that have been given to the Aceh Government to implement the Islamic Shari'a, which later became the background for the formation of several regional regulations known as Qanun.

One of the types of Qanun in Aceh is the Jinayat Qanun which is a regulation in Islamic criminal law that applies in the Aceh region which functions to regulate the penalties imposed and manage the

system or treatment of punishment for violators of Islamic Shari'ah. Punishment in jinayah fiqh is divided into several categories according to the act of the finger. One form of punishment contained in the fiqh of jinayah is caning or volume punishment.

For the people and government of Aceh, the application of caning is an effort to create peace, tranquility, happiness and safety in the world and the hereafter. The caning punishment in particular can occur in several actions prohibited by the Qanun which aim to provide awareness, conviction, repentance, or a deterrent effect. If only social sanctions in the form of insults and insults are deemed insufficient and sometimes do not provide a deterrent effect, so that the violator is likely to repeat the disgusting act in the future.

The caning punishment is a tangible manifestation of Preventive Power which can prevent criminal offenses and make a lesson for the perpetrator so as not to repeat his actions. In the implementation of the caning punishment, it is intended not only to harm physically but also so that the perpetrator has an impact on the psychological (inner) by being lashed in a public area. Instead of imprisonment or criminal sanctions whose implementation process is private and not public, it is likely that there will be bribery or acquittal. The implementation of the caning itself is also contained in Aceh Qanun Number 7 of 2013 concerning the procedural law of jinayat in Article 2, namely: "Implementation is based on the principles: Justice and balance, legality, presumption of innocence. presumption of innocence, human rights, rehabilitation and compensation, thorough, simple, fast, and low-cost trial, valid judge's decisions, legal aid for defendants, open court to the public, and learning for the community (tadabbur).

Many lashes have been given to violators of the Islamic Shari'ah in Aceh, of course, for those who are proven to have violated the law regulated in the Qanun Jinayat. One of the areas that has applied the caning punishment is West Aceh Regency, namely from 2017 to 2022 there are 10 cases that have been processed using Qanun Number 6 of 2014 concerning Jinayat, of course using caning. The types of acts regulated in the Qanun Jinayat are not only adultery, sexual harassment, rape but there are also other cases that can be processed using the Qanun Jinayat such as alcohol (alcohol), maisir (gambling), and other things that are prohibited according to the law. Islamic law.

The use of caning for violators of Islamic law in Aceh also reaps many pros and cons in various circles, both academics, practitioners and the public. This does not only appear in the regions, but also becomes a national and even international problem. The application of caning is expected to reduce the occurrence of violations of Islamic Shari'a in Aceh, but the implementation of the caning caused different reactions in the community. This response then forms perceptions or views and assessments of an object or event. Rejection and opposition to the enforcement of Qanun Jinayat in Aceh because many parties do not understand correctly about the law of jinayah, the purpose of punishment and order and shari'ah which is to be realized by the law of jinayat.

2. METHOD

This study uses empirical legal research methods with data collection techniques by observation and direct interviews with parties who are considered capable of answering problems including the West Aceh prosecutor's office and the people of West Aceh. This study uses the narrative method which is a report rearranging the stories of the informants so that they become more organized and systematic, so that there is a clear structure from the beginning, middle and end of the various information obtained. The data analysis technique is processed from the results of data collection or information from events experienced or interpreted by respondents and then analyzed sequentially to obtain comprehensive information to draw conclusions related to the implementation of caning and public perceptions in the implementation of caning in Aceh Barat Regency.

3. RESULTS AND DISCUSSION

The purpose of punishment for perpetrators of shari'ah violators is in two forms, namely physical and psychological, physical punishment is caning or deterrent punishment, which will give pain and create fear for the perpetrators and the people who witness it. Psychic punishment is the perpetrator intentionally punished in front of the crowd with the intention of giving the perpetrator a sense of shame,

as well as for people who have never violated Shari'ah law will think twice about committing an offense because they will get a painful punishment and shame. very large, so that his good name is damaged and his self-esteem and dignity in the eyes of society fall. The process of execution of the caning is carried out by taking into account the aspects of justice, safety and health of the convict. This means that the execution of the caning is not done arbitrarily. Based on the Governor's Regulation Number 10 of 2005 concerning Technical Instructions for the Implementation of Uqubat Whips, the implementation of the punishment (uqubat) of whipping is carried out based on a number of provisions. Several provisions that serve as guidelines for the implementation of caning, namely: (a) Caning is carried out by wilayatul hisbah (WH); (b) It is carried out in a place that can be seen by the public, attended by the Prosecutor and a doctor appointed by the Ministry of Health; (c) Whipping is carried out all over the body, except for the head, face, neck, chest and genitals; (d) The degree of lashing is not to injure; (e) The male convict is whipped in a standing position without being tied up; (f) Convicted woman is whipped in a sitting position and covered with a cloth over it; (g) Pregnant women caned 60 days after giving birth;

3.1 Application of the Caning Law in Aceh Barat

The implementation of the caning is an implementation of the legalization of the Islamic Shari'a government system in the province of Aceh. Canings are imposed for certain violations regulated in Qanun No. 12 concerning Alcoholic Drinks (alcohol) and the like, Qanun No. 13 concerning Maisir (gambling), and Qanun No. 14 concerning Seclusion (immorality) at this time, all of these Qanuns have been duplicated in the Qanun. The new one is Qanun Jinayat Number 6 of 2014. The West Aceh District Government implemented the caning punishment with the aim of deterring the perpetrators of violating the Islamic Shari'ah. The deterrent referred to here is not because they have been subjected to bodily torture, but because the convict and the convict's family have felt very ashamed. The shame that is obtained is what is then hoped that the convicted person will truly repent, and promise to Allah not to do the same.

West Aceh is a district that holds the title of Tawhid Sufism. Therefore, the qanun regarding the prohibition of violating Islamic Shari'ah is carried out as a preventive measure through the imposition of uqubat which can be in the form of whips or fines. The effectiveness of the implementation of the qanun, assisted by the investigative and prosecution institutions, is carried out supervision and guidance to violators by Peabat wilayatul hisbah (WH), and the government also asks the community to take an active role in preventing violations of Islamic law.

Based on data obtained from the Meulaboh Syari'iyah Court from 2018 to 2021, there were 77 cases of violations of Islamic Shari'ah that were given a caning sentence. Of these 77 cases, 45 cases occurred in 2018 itself, and in 2019 there were 11 cases and also in 2021 there were 9 cases. The cases of violations of the Qanun Jinayah in West Aceh that occurred from 2018 to 2021 were all given sentences in the form of whips with different amounts in accordance with the actions carried out according to the provisions stipulated in Qanun Number 6 of 2014 concerning Jinayah and most of them because of doing maisir (gambling), khamr (drunk) and seclusion.

So it can be concluded that cases of violations of the Qanun Jinayah from 2018 to 2021 in West Aceh Regency the decline in the number of cases is inseparable from the efforts of the West Aceh government and also the active role of the community in efforts to enforce Islamic Shari'a kaffah.

3.2 West Aceh Community's Perception of the Caning Law

The activity of applying caning punishment for perpetrators of criminal acts that have been implemented in Aceh currently raises many pros and cons in various circles. Most of the people of West Aceh agree with the application of this caning because it is to provide lessons and a deterrent effect to violators of Islamic law, and to give fear to others so as not to commit the same crime. Caning is imposed to reduce psychological factors that encourage the desire to do pleasures that are contrary to Islamic law.

In particular, the basis for the implementation of Islamic law in Aceh is Law Number 11 of 2006 concerning the Government of Aceh (UUPA). Prior to the existence of the qanun jinayah in Aceh in

the context of implementing shari'at Islam, the Aceh government in 2003 issued three qanuns, namely Number 12 of 2003 concerning the Prohibition of Alcohol, Number 13 of 2003 concerning Maisir (gambling), and Number 14 of 2003 concerning Seclusion. Then, the three qanuns were combined into one qanun with the addition of seven other criminal offenses into Qanun Number 6 of 2014. There are 10 forms of criminal acts in the Qanun Jinayah including khalwat, maisir, seclusion, ikhtilat, adultery, sexual harassment, rape, qadhaf, liwats and musahaqah.

Regarding the procedure for implementing the caning of jinayah offenders, it is regulated by Aceh Qanun Number 7 of 2013 concerning the Jinayah procedural law. Of course, the qanun cannot stand alone because it must be preceded by Qanun Number 6 of 2014 concerning the law of jinayah which is its material law.

The caning punishment as a form of punishment stipulated in the Qanun Jinayat has received various views from the community which can be analyzed in psychological studies. The various views of the community have a significant influence on the emergence of behavior related to caning, including witnessing directly and documenting in the form of videos the process of flogging and inviting children to watch it. In addition, there are also people who do not want to witness because they feel sorry for the convict.

Based on the results of the study, it can be concluded that the public is aware of the implementation of caning in West Aceh as a form of punishment for violations of the Qanun Jinayat. Knowledge of the caning punishment was obtained from observations and from the process of witnessing the caning punishment as well as some information from social media. Socialization from the implementing party is still very lacking, causing a lack of knowledge regarding the provisions and the system for implementing the caning punishment. Knowledge is limited to general information such as the types of offenses that are often punished with caning, information on the type of punishment is also obtained from the results of witnessing the caning procession. From the results of interview analysis some respondents can conclude the explanation that caning must still be carried out as a form of punishment in Aceh.

The perception of the people of West Aceh towards the implementation of the caning for violators of the qanun jinayat received a positive response and the people of West Aceh supported the perpetrators of violators of Islamic law being punished based on the qanun jinayat, of course, through caning. Regarding the implementation problem, witnessed by the public or underage children, it is not a problem because it is a learning effort for other people and also causes embarrassment so that the perpetrator will no longer repeat his actions. It is also the hope of the community that the caning punishment will continue to be carried out for violators of Islamic law in West Aceh, if possible, also in the qanun jinayah as well as actions that can be punished by flogging not only for the ten acts listed in the current qanun jinayah,


4. CONCLUSION

The following are conclusions that can be concluded from the research on public perceptions of the caning law in West Aceh. The West Aceh District Government is serious and consistent in implementing Islamic law, including in criminal cases (jarimah). The cases that were proven to have violated the Jinayah Qanun in West Aceh that occurred from 2018 to 2021 totaled 77 cases and all of them were given a caning sentence as a sanction. The existence of caning in cases of violations of the Qanun Jinayah from 2018 to 2021 in West Aceh Regency can prevent and minimize crimes that occur in society. The people of West Aceh support the implementation of caning for violators of the qanun jinayah in the West Aceh region. The public believes that caning is very effective in preventing the occurrence of Jinayah's actions and can also make the perpetrator aware of what he has done. It is also the hope of the community that the caning punishment will continue to be carried out for violators of the Islamic Shari'a in West Aceh to enforce Islamic Shari'ah in Teuku Umar's land.

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