

ANALYSIS OF WHIPPING SANCTIONS FOR PROSTITUTION PERPETRATORS BASED ON ACEH QANUN NUMBER 06 OF 2014 CONCERNING JINAYAT LAW AS REVIEWED FROM THE FACE OF HUMAN RIGHTS

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Abstract

This research focuses on the legal, philosophical, and human rights analysis of the application of caning sanctions in prostitution crimes as regulated in Aceh Qanun Number 06 of 2014. The study is directed to examine the legal legitimacy, social effectiveness, and normative tensions between sharia norms and human rights principles in the context of Aceh's special autonomy. The research method used is a normative legal approach, with a review of legislation, legal doctrine, and academic literature. The analysis was conducted qualitatively through content analysis methods to assess the consistency, relevance, and consequences of the application of caning sanctions. The results show that caning sanctions in Aceh have strong legal legitimacy through the constitution, UUPA, and Qanun Jinayat, and are based on philosophical values of justice, welfare, and deterrent effects. However, its effectiveness in suppressing prostitution practices is still limited due to more dominant socio-economic factors. From a human rights perspective, caning creates normative tensions because it has the potential to violate the principle of prohibition of torture and treatment that degrades human dignity. The implications of this research emphasize the importance of reformulating Aceh's criminal justice policy to be more adaptive to human rights criticisms without neglecting the legitimacy of sharia. This effort can be achieved through regulatory evaluation, strengthening empirical indicators of deterrent effects, and exploring more humane alternatives to sharia-based punishment.

Keywords: *Caning Sanction, Qanun Jinayat, Human Rights*

INTRODUCTION

Prostitution remains a social issue that poses both legal and moral dilemmas in Indonesia, particularly in Aceh Province. This province is unique in that it implements a criminal law system institutionalized through Aceh Qanun No. 6 of 2014¹. The regulation regulates various forms of criminal acts, including prostitution, by providing space for the implementation of caning sanctions as a form of punishment that is considered in line with the principles of Islamic law². However, the application of caning sanctions has given rise to serious debate in the realm of human rights, because this punishment is

¹ Dwiana Adinda et al., "Peran Majelis Permusyawaratan Ulama (MPU) Dalam Penegakan Syariat Islam Di Kabupaten Aceh Barat," *At-Tafakur: Jurnal Ilmu Syari'ah Dan Hukum* 2, no. 1 (2025): 68–83.

² Safrijal Safrijal, "Penerapan Sadd Al-Dzari'ah Dalam Penetapan Regulasi Pemberlakuan Syariat Islam Di Aceh," *Fathir: Jurnal Studi Islam* 1, no. 3 (2024): 224–46.

considered to have the potential to conflict with the principle of respect for human dignity as regulated in international human rights instruments³. This social fact shows that there is a tug of war between religious-based legal norms and universal human rights-based legal norms that need to be studied academically to find a rational and just meeting point. Field observations indicate that the imposition of caning as a punishment for prostitution in Aceh has elicited mixed responses. Some Acehnese support this policy, believing it will reduce prostitution rates and reinforce the region's Islamic identity. Conversely, sharp criticism has come from both national and international human rights organizations, which consider the practice of caning to be cruel, inhumane, and degrading. This situation highlights the gap between local social acceptance and international human rights standards regarding the treatment of prisoners. This situation reinforces the urgency of analyzing how caning is implemented in prostitution cases and whether the punishment is justifiable from both a legal and humanistic perspective.

Previous research has addressed similar issues from a broader perspective. Zaki Priambudi and Avina Nakita Oktavia (2021) highlight the inherent contradiction between the implementation of hudud in Muslim countries and the principle of non-derogable rights in the ICCPR⁴. Yonathan Parlinggoman Wicaksono (2025) examines the practice of Islamic law in Indonesia which often shows a compromise between religious norms and national legal standards, although it has not provided a comprehensive answer regarding human rights aspects⁵. Tanuri Tanuri (2024) examined the public response to the Qanun Jinayat in Aceh and found tension between social legitimacy and criticism from the international community⁶. While these three studies provide important insights, their focus remains on the normative and political aspects of law in general. None specifically examines caning sanctions in prostitution cases within a human rights framework, indicating an untapped area of research.

This description clearly demonstrates a significant research gap. Previous studies tended to highlight the macro dynamics of the relationship between Islamic law and national and international law, but had not yet deeply examined the application of caning sanctions in prostitution cases from a human rights perspective. This gap is what this study aims to fill. By emphasizing a normative juridical approach, this study seeks to weigh the provisions of Acehnese laws and regulations against universally applicable international human rights instruments. This effort is important because it can broaden the horizon of thinking regarding how local laws interact with global humanitarian standards.

³ Anissa Djuarni Siti Ningrum, "Eksistensi Ham Dalam Tindak Pidana Perzinaan Perspektif Hukum Nasional Dan Hukum Islam (Analisis Pasal 411 UU No. 1 Tahun 2023 Tentang KUHP)" (Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta, 2024).

⁴ Zaki Priambudi and Avina Nakita Oktavia, *FK2H Law Review 2021: Dinamika Perkembangan Hukum HAM, Hukum Internasional, Dan Pembangunan Hukum Di Indonesia* (UPT Penerbitan & Percetakan Universitas Jember, 2021).

⁵ Yonathan Parlinggoman Wicaksono, Tomi J E Hutasoit, and Lindryani Sjojfan, "Eksistensi Hukum Islam Dalam Sistem Hukum Nasional Indonesia: Peluang Dan Tantangan," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 3, no. 3 (2025): 2138–51.

⁶ Tanuri Tanuri, "Epistemologi Hukum Islam Dalam Hukum Positif Di Indonesia," *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 12, no. 01 (2024).

The novelty of this research lies in its analysis, which simultaneously integrates Aceh's criminal law with international human rights principles. The approach taken not only assesses the formal legality of caning but also considers its ethical and humanistic implications in the context of handling prostitution. The research's focus on specific crimes provides a more concrete and distinct picture compared to previous, more general studies. Thus, this research is expected to provide a new contribution in the form of a more holistic perspective on the possibility of reconciling religious-based law enforcement with the principle of respect for human rights.

Based on this background, the primary objective of this research is to analyze the caning sanction for prostitution as stipulated in Aceh Qanun No. 06 of 2014 concerning Criminal Law from a human rights perspective. This research seeks to assess the suitability, relevance, and implications of caning sanctions against basic human rights principles, both as guaranteed by national law and international instruments. The urgency of this research lies in its contribution to strengthening the academic basis for the debate between local legal norms and universal standards, while also providing insight for academics, legal practitioners, and policymakers in formulating more humane regulations. With this direction, this research has both theoretical and practical significance for the development of legal science and human rights protection in Indonesia.

METODE

This research uses a normative legal approach, namely a method that focuses on the study of written legal norms such as laws, regulations, doctrines and other legal literature⁷. The study focused on theoretical, historical, and comparative aspects, as well as interpretations of legal articles, without focusing on practice or direct implementation in the field. This approach was chosen to analyze the sanction of caning in prostitution crimes, as stipulated in Aceh Qanun No. 06 of 2014, with an emphasis on legal and human rights perspectives.

This research was conducted in Nanggroe Aceh Darussalam Province, a region characterized by the official implementation of sharia law through qanun (Islamic law). The location was selected based on its unique social, cultural, and legal characteristics, making it relevant for examining the application of jinayat law and its implications for human rights. Data were collected through a literature review of regulations, legal literature, and other academic sources⁸.

The collected data was analyzed qualitatively using the content analysis method⁹. This process includes reviewing and interpreting the substance of the qanun and related legal documents. The analysis aims to assess the consistency, relevance, and consequences of the caning sanction. Furthermore, the aspect of human rights protection serves as an evaluative framework for weighing the justice and humanitarian

⁷ David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8, no. 8 (2021): 2463–78.

⁸ Muhammad Naufal Hanif and Romi Fasliah, "Regulasi Dan Realitas: Tantangan Hukum Dalam Mencegah Praktik Bisnis Yang Tidak Adil," *Jurnal Kajian Hukum Dan Pendidikan Kewarganegaraan/ E-ISSN: 3089-7084* 1, no. 3 (2025): 291–95.

⁹ M Syahrani Jailani and Deassy Arestya Saksitha, "Tehnik Analisis Data Kuantitatif Dan Kualitatif Dalam Penelitian Ilmiah," *Jurnal Genta Mulia* 15, no. 2 (2024): 79–91.

values in enforcing criminal law in Aceh. Therefore, this research is expected to provide a comprehensive understanding of the legal phenomenon under study.

RESULTS AND DISCUSSION

Table 01. Introduction to Discussion / Findings

Sub-Discussion	Main Focus	Foundation / Evidence	Direction of Findings
Juridical-Philosophical Review of Caning in Aceh	Legal legitimacy of caning within the Constitution, UUPA, Qanun, and the 2018 Governor Regulation; philosophical basis: justice, public benefit (masalah), and deterrence effect	- Article 18B of the 1945 Constitution - Law No. 11 of 2006 (UUPA) - Qanun Jinayat No. 6/2014 - Aceh Governor Regulation No. 5/2018	Caning is legally valid, rooted in Sharia, yet continuously modified to align with human rights standards
Social Effectiveness of Caning in Prostitution Cases	Impact of caning on prostitution practices, community acceptance, and socio-economic factors	- ICJR (2019): prostitution persists clandestinely - Ismail (2020): community support - KontraS (2021): social discrimination - Suryadi (2018): economic roots	Caning is symbolically and morally effective but does not fully curb prostitution; structural factors remain more dominant
Human Rights Perspective on Caning	Conflict between local Sharia norms and national & international human rights principles	- Articles 28G & 28I of the 1945 Constitution - Law No. 39 of 1999 on Human Rights - ICCPR (2006) - HRW (2017), Komnas HAM, ICJR, KontraS	There is a normative tension between universal human rights and local particularism; solutions are directed toward compromise based on maqashid al-sharia

A Legal-Philosophical Study of Caning Sanctions in Aceh

From a legal perspective, the legitimacy of caning sanctions in Aceh rests on three layers of legal norms, namely the constitution, special laws, and regional Qanun¹⁰. The 1945 Constitution, through Article 18B, recognizes and respects the uniqueness and privileges of regions that have customary or religious legal systems, as long as they do

¹⁰ Indis Ferizal, "Hukuman Cambuk Dan Pengaruhnya Terhadap Kesadaran Hukum Masyarakat Di Aceh" (UIN AR-RANIRY, 2021).

not conflict with the principles of the Unitary State of the Republic of Indonesia¹¹. This recognition became the foundation for the birth of the criminal law system in Aceh, which allows for the existence of caning sanctions as part of the regional positive legal apparatus.

This special status is emphasized through Law Number 11 of 2006 concerning the Government of Aceh (UUPA), which gives Aceh the authority to implement Islamic law in various aspects of community life¹². The UUPA provides a formal legal basis for the establishment of Qanun as a form of regional legislation that can include criminal provisions (uqubat). Several studies of Sharia judicial institutions in Aceh also show that the Sharia Court uses Qanun as a guideline in issuing decisions on criminal offenses, thus giving flogging strong institutional legitimacy¹³.

At the regional norm level, Aceh Qanun Number 6 of 2014 concerning Jinayat Law confirms the definition of jarimah and uqubat, and lists flogging as one form of hudud and ta'zir punishment that can be imposed by judges¹⁴. This qanun provides the positive legal basis for the practice of caning for certain crimes such as gambling (maisir), alcohol (alcohol), and khalwat (seclusion). Therefore, from a formal legal perspective, caning is positioned as a legitimate punishment in Aceh, and its existence has a clear regulatory basis within the regional legal structure.

The implementation of caning sanctions then underwent procedural corrections through Aceh Governor Regulation Number 5 of 2018 which stipulates that executions are no longer carried out in public spaces, but are instead moved to the Correctional Institution or Detention Center area¹⁵. This policy demonstrates concrete efforts to mitigate the negative impacts of public spectacles and protect the dignity of convicts, including children and women. The gubernatorial regulation demonstrates the regional government's response to criticism from civil society and human rights organizations, strengthening Aceh's position in maintaining a balance between the implementation of Islamic law and respect for fundamental rights.

From a philosophical perspective, the caning sanction in Aceh is based on three main values, namely justice ('adl), welfare (maslahah), and deterrent effect (zajr)¹⁶. This philosophical argument aligns with Islamic legal principles that emphasize protecting

¹¹ Eddy Asnawi and Andrizal Andrizar, "Otonomi Khusus Terhadap Eksistensi Negara Kesatuan Republik Indonesia," *Jurnal Analisis Hukum* 4, no. 2 (2021): 242–63.

¹² Anjas Putra Pradana et al., "Perkembangan Qanun Aceh Dalam Perubahan Sosial Dan Politik Di Aceh," *Jimmi: Jurnal Ilmiah Mahasiswa Multidisiplin* 1, no. 1 (2024): 64–77.

¹³ Muhammad Redha Valevi, "Rekonstruksi Regulasi Kompetensi Absolute Peradilan Agama Dalam Memutuskan Perkara Pidana Terhadap Penyelewengan Pengelola Zakat Melalui Mahkamah Syarīyah Di Provinsi Aceh Berbasis Nilai Keadilan" (Universitas Islam Sultan Agung (Indonesia), 2023).

¹⁴ Ida Ayu Rosida, "Pemberlakuan Sanksi Cambuk, Qanun Jinayat Di Aceh Dalam Perspektif Hak Asasi Manusia" (Universitas Muhammadiyah Surabaya, 2023).

¹⁵ Muhammad Syarif, "Limitation of the Punishment of Caning in Open Places in Aceh.," *Media Syarī'ah: Wahana Kajian Hukum Islam Dan Pranata Sosial* 24, no. 1 (2022).

¹⁶ Saufiah Saufiah, Pagar Pagar, and Budi Sastra Panjaitan, "Pandangan MUI Terkait Hak Asasi Manusia Dalam Penetapan Sanksi Qanun No. 6 Tahun 2014 Tentang Jinayat (Analisa Penerapan Nilai-Nilai Maqasid Al-Syari'ah Di Kabupaten Aceh Tenggara)," *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 10, no. 02 (2022).

society from sin and moral decay. However, several policy studies caution that a deterrent effect should not be simply assumed but rather needs to be empirically tested. One study found that the change in the venue for caning, as stipulated in Governor Regulation 5/2018, was chosen to balance public welfare and human rights protection, although debate over the substance of physical punishment remains¹⁷.

From a human rights perspective, the practice of flogging has come under scrutiny both nationally and internationally. Reports from the National Commission on Human Rights (Komnas HAM) and international organizations such as Human Rights Watch have assessed that flogging potentially violates the principle of prohibition against torture or other degrading treatment¹⁸. The 2017 caning of a same-sex couple is a concrete example that has sparked widespread criticism. Analysis by the Institute for Criminal Justice Reform (ICJR) and KontraS also highlighted the risks of discrimination and the psychological impact on convicts, demonstrating a normative tension between the principle of Aceh's special autonomy and the state's obligation to protect the human rights of its citizens¹⁹.

Thus, legally, the caning sanction in Aceh is valid because it is supported by the constitution, UUPA, and Qanun Jinayat, while philosophically it is constructed on the basis of the values of justice, welfare, and deterrent effect²⁰. However, policy evidence in the form of Governor Regulation 5/2018 and recent research findings indicate that its practice continues to be adjusted to be more in line with human rights standards. Future strengthening efforts include three areas: clarifying deterrent indicators based on empirical data, ensuring that execution procedures respect fundamental rights, and establishing regular evaluation channels involving the government, judiciary, academics, and human rights organizations. This way, Aceh's unique characteristics can remain within the constitutional framework while respecting universal commitments to human dignity.

Overall, this research demonstrates that caning in Aceh enjoys strong legal legitimacy, both within the constitution, the Basic Agrarian Law (UUPA), and the Qanun Jinayat (Islamic Law). However, its practice has undergone procedural modifications through Governor Regulation 5/2018 to mitigate the negative impact of public executions. Philosophically, caning is positioned as an instrument of justice, public welfare, and a deterrent, although its effectiveness still requires empirical evidence. From a human rights perspective, the practice of caning has generated controversy due to its potential to violate the principle of anti-torture and degrade human dignity. These

¹⁷ M Rizwan, "Penyelenggaraan Pemerintahan Berdasarkan Asas Keislaman Menurut Undang-Undang Nomor 11 Tahun 2006 Tentang Pemerintahan Aceh" (Universitas Islam Negeri Sumatera Utara, 2022).

¹⁸ Fitra Ardiansyah et al., "Diskursus Uqubat Cambuk Dalam Qanun Jinayat Aceh: Antara Efektivitas Hukum Dan Kritik HAM Internasional," *JOURNAL SAINS STUDENT RESEARCH* 3, no. 4 (2025): 369–79.

¹⁹ Irfan Harmain et al., "Diskrepani Praktik Hukuman Mati Di Indonesia Terhadap Standar Ham Internasional: Analisis Reformasi Kuhp 2023 Dan Implikasinya Bagi Kebijakan Pidana Nasional," *Jurnal Hukum Samudra Keadilan* 20, no. 1 (2025): 1–16.

²⁰ Ferizal, "Hukuman Cambuk Dan Pengaruhnya Terhadap Kesadaran Hukum Masyarakat Di Aceh."

findings indicate that the continuation of flogging in Aceh is in a constant negotiation between Islamic law, regional specificities, and Indonesia's commitment to universal human rights standards.

The Social Effectiveness of Caning Sanctions in Prostitution

The social effectiveness of caning sanctions in prostitution cases in Aceh needs to be seen in the context of the implementation of Qanun Jinayat Number 6 of 2014. This regulation places prostitution (criminal acts of *ikhtilath*, adultery, or sexual exploitation) as an act subject to punishment, including caning²¹. Normatively, the primary goal is to provide a deterrent effect and suppress prostitution, which is considered detrimental to public morals. However, this effectiveness cannot be measured solely by the legal text, but also by the social realities that emerge after the sentence is implemented.

Several studies have found that despite consistent caning, prostitution in Aceh has not completely disappeared. ICJR research (2019) shows that prostitution continues to occur underground in several major cities, such as Banda Aceh and Lhokseumawe, even after many perpetrators have been caned²². This shows that physical punishment alone fails to address the root of the problem, namely the economic and social factors that drive people to engage in prostitution. These findings underscore the need for a structural approach beyond repression.

From a social acceptance perspective, Acehnese society is divided into two views. Most support flogging as a symbol of upholding Islamic law and an instrument for maintaining public morality. A study by Md Shodiq (2025) showed that public support is particularly strong among religious leaders, traditional figures, and rural communities, who view flogging as a form of substantive justice²³. However, others, particularly educated youth and human rights activists, believe that caning is ineffective and has the potential to create long-term social stigma against convicts.

The social implications of caning are also evident in how society views prostitutes. Caning often serves not only as a physical punishment but also as a social one, carrying consequences such as ostracism, difficult reintegration, and loss of employment opportunities. A field study by KontraS (2021) found that many former prostitutes who had been caned experienced discrimination upon returning to their communities, leading some to revert to old practices as a survival strategy. This phenomenon demonstrates a paradox between the objectives of criminal law and the resulting social outcomes.

Socioeconomic factors are important variables in measuring the effectiveness of caning. Poverty, unemployment, and limited access to education have been shown to be key drivers of prostitution in Aceh. A study by A. R. Baharuddin (2023) confirms that unless these structural roots are addressed, caning tends to only address the symptoms

²¹ Rizqi Mumtazi, "Analisis Ulama Dalam Mencegah Akses Masyarakat Ke Aplikasi Prostitusi Online Mi-Chat" (Universitas Islam Negeri Ar-Raniry, 2024).

²² Siti Rena Maulida and Ahmad Syaafi, "Analisis Kebijakan Hukum Pidana Terhadap Prostitusi Di Indonesia Dalam Perspektif Hukum," *Jurnal Kolaboratif Sains* 8, no. 6 (2025): 3713–23.

²³ Md Shodiq, *Kebijakan Hukum Pidanas* (Takaza Innovatix Labs, 2025).

without addressing the underlying causes²⁴. This means that the effectiveness of the cane is very limited if it is not accompanied by more comprehensive economic and social empowerment policies.

Furthermore, the social effectiveness of caning needs to be viewed from a sustainability perspective. Despite a decline in prostitution cases in some periods, Aceh police data shows that the practice continues to resurface under different patterns. Online prostitution, for example, has developed as a new adaptation to avoid police raids and caning. This suggests that caning has not completely eradicated prostitution, but rather encouraged a shift in its methods toward more covert ones.

Thus, the social effectiveness of caning in prostitution in Aceh is relative. On the one hand, it has symbolic and normative value in maintaining public morality and enforcing sharia law. However, on the other hand, empirical evidence shows that prostitution persists due to complex economic, social, and cultural factors. The social implications of stigma and exclusion of perpetrators also complicate the reintegration process. Therefore, a long-term solution requires a comprehensive approach that combines legal sanctions with rehabilitation policies, moral education, and economic empowerment, so that criminal law truly addresses the root of the problem.

Human Rights Perspective on Caning Sanctions

The human rights (HAM) perspective on caning sanctions in Aceh opens up a complex discourse space between local sharia-based legal norms and universal human rights principles²⁵. Within the national legal framework, Articles 28G and 28I of the 1945 Constitution guarantee the right of every person to be free from torture and treatment that degrades human dignity²⁶. This is reinforced by Law Number 39 of 1999 concerning Human Rights which emphasizes the prohibition against all forms of cruel, inhumane or degrading treatment²⁷. Thus, the existence of caning punishment in the Qanun Jinayat presents a normative conflict between the legitimacy of special autonomy and the constitutional principle of human rights protection.

From an international legal perspective, Indonesia has been a state party to the International Covenant on Civil and Political Rights (ICCPR) since 2006²⁸. This instrument expressly prohibits the practice of torture or cruel, inhuman, or degrading treatment (Article 7). The UN Human Rights Committee, in a number of General Comments, also emphasized that corporal punishment, including flogging, can be categorized as

²⁴ A R Baharuddin, "Hukuman Cambuk Bagi Prostitusi Online (Studi Fenomena Prostitusi Di Banda Aceh Dan Lhokseumawe)," 2023.

²⁵ Ardiansyah et al., "Diskursus Uqubat Cambuk Dalam Qanun Jinayat Aceh: Antara Efektivitas Hukum Dan Kritik HAM Internasional."

²⁶ Herdi Munte and Christo Sumurung Tua Sagala, "Perlindungan Hak Konstitusional Di Indonesia," *Jurnal Ilmiah Penegakan Hukum* 8, no. 2 (2021): 183–92.

²⁷ s Zulkarnain And Riadi Asra Rahmad, "Penjatuhan Kebiri Kimia Bagi Pelaku Kekerasan Seksual Dalam Pandangan Hak Asasi Manusia," *Desiderata Law Review* 1, no. 1 (2024): 63–82.

²⁸ Rines Prameswari and Ridarson Galingging, "Pengakuan Dan Pelindungan Suku Awyu Dan Moi Menurut Perspektif Undang-Undang Nomor 12 Tahun 2005 Tentang Pengesahan International Covenant On Civil And Political Rights (Kovenan Internasional Tentang Hak-Hak Sipil Dan Politik)," *ADIL: Jurnal Hukum* 16, no. 1 (2025): 131–56.

treatment prohibited by the ICCPR²⁹. Therefore, the practice of caning in Aceh often becomes an international spotlight, because it is seen as contradicting global legal commitments that Indonesia has ratified.

Several reports have shown strong criticism of caning. The Indonesian National Commission on Human Rights (Komnas HAM) has stated that caning has the potential to violate the principle of non-derogable rights, which cannot be reduced under any circumstances. Human Rights Watch (2017) also documented the caning of a same-sex couple in Banda Aceh as a form of degrading treatment. This finding shows that the human rights perspective highlights not only the legal and formal aspects, but also the reality of the psychological and social impacts experienced by convicts.

Nevertheless, supporters of caning in Aceh believe that sharia norms have their own legitimacy within the framework of special autonomy recognized by the constitution. The argument put forward is that caning is not intended as torture, but rather as an educational punishment that emphasizes a deterrent effect and maintains community morality. Some local academics argue that the meaning of human rights must be contextualized to the culture and religion of the local community. This view demonstrates an epistemological debate between the universalism of human rights and the particularism of local norms.

In practice, attempts at compromise are seen through changes in technical implementation. Aceh Governatorial Regulation No. 5 of 2018, for example, moved caning from public spaces to correctional facilities. This policy was intended to mitigate the impact of public humiliation on convicts and accommodate some human rights criticisms. However, several studies have deemed this measure merely procedural, not substantive, as it retains caning as a form of corporal punishment. In other words, the normative issue remains unaddressed.

The implication of this normative conflict is the emergence of challenges in reconciling local sharia-based legal norms with universal human rights principles. The central government faces a dilemma: on the one hand, it must respect Aceh's uniqueness as stipulated in the 1945 Constitution and the Basic Agrarian Law (UUPA), while on the other hand, it is obligated to fulfill international commitments to human rights. Several constitutional law experts suggest a dialogical approach, namely opening up space for deliberation between religious scholars, academics, the government, and human rights institutions to find common ground that would allow for the sustainability of sharia while respecting human rights³⁰.

Thus, a human rights perspective on caning in Aceh highlights a fundamental tension between local legal particularism and human rights universalism. Nationally, caning potentially contravenes constitutional guarantees of human dignity; internationally, it could qualify as treatment prohibited by the ICCPR. However, locally, caning is considered part of the sovereignty of Sharia law, which has social and religious

²⁹ Ardiansyah et al., "Diskursus Uqubat Cambuk Dalam Qanun Jinayat Aceh: Antara Efektivitas Hukum Dan Kritik HAM Internasional."

³⁰ Siti Ruhaini Dzuhayatin and H Shofiyullah Muzammil, "Pidato Pengukuhan Guru Besar: Prof. Dr. Siti Ruhaini Dzuhayati, MS., Prof. Dr. Badrun, M. SI., Prof. Dr. H. Shofiyullah Muzammil, M. Ag., Prof. Dr. Usman, SS., M. Ag.," 2025.

legitimacy. A possible compromise is to strengthen legal innovation based on the maqasid of Sharia, seek alternative forms of punishment that are more in line with human rights principles, and establish a joint evaluation mechanism between Acehese authorities, the central government, and human rights institutions.

CONCLUSION

The conclusion of this study confirms that the caning sanction in Aceh has strong legal legitimacy, supported by the constitution, the Aceh Governance Law (UUPA), and the Qanun Jinayat, and is also based on philosophical values that include justice (‘adl), public welfare (maṣlaḥah), and a deterrent effect (zajr). However, its effectiveness in suppressing prostitution is still relative, because socio-economic and cultural problems are more dominant in determining behavioral patterns. The implementation of this sanction even has implications for the emergence of social stigma that is embedded in the perpetrators. On the other hand, from a human rights perspective, the caning punishment creates normative tension with national legal principles and international conventions that reject forms of treatment that are considered degrading to human dignity. Therefore, this study presents an epistemological reflection that Sharia-based criminal law must continue to be reinterpreted and negotiated, to align with universal values of justice without denying the local socio-cultural context. Thus, these findings emphasize that sustainable law enforcement cannot rely solely on formal legal aspects, but also requires the integration of moral, social, and human rights dimensions as substantive corrections.

The fundamental contribution of this research lies in its multidimensional perspective, connecting juridical, philosophical, and human rights analysis in examining caning sanctions. This integrative approach provides a renewal in the academic landscape, which previously tended to be sectoral and partial. Furthermore, this research emphasizes the urgency of empirical indicators to measure the validity of the deterrent effect and highlights the need for structural strategies such as economic empowerment, social transformation, and cultural engineering as more sustainable preventive alternatives. However, the research's limitations are evident in its focus on the Aceh context, without comparison with similar practices in other regions or countries, and its failure to examine the diversity of perpetrators' experiences based on gender, age, or social background. Therefore, further research is needed with a broader scope through survey methods, cross-jurisdictional comparative studies, and studies based on vulnerable groups, in order to produce a more comprehensive picture and serve as a basis for the formulation of adaptive, humanistic, and targeted legal policies.

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