

Dynamics of the Legislation of the Aceh *Jinayat Qanun* in the Perspective of Hadith: An Analysis of Contextual Normative Relations

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Abstract: This article critically analyses the relationship between hadith and Aceh *Qanun* No. 6 of 2014 concerning *Jinayat* Law within Indonesia's constitutional framework. Focusing on three key offenses *zinā*, *khalwah*, and *qadhaf* this study maps how hadiths narrated by al-Bukhārī, Muslim, Abū Dāwūd, and al-Tirmidhī are articulated through madhhab jurisprudence into Aceh's positive law. Methodologically, this research employs a qualitative-normative approach, combining statutory analysis, comparative methods, hadith criticism (*naqd al-ḥadīth* of *sanad* and *matn*), and a *maqāṣid al-sharī'ah* framework. The research findings indicate the *hadith qanun* relationship is non-linear, forming three distinct configurations: adaptive divergence in *zinā* (bypassing the stoning narration for national legal harmonization), preventive expansion in *khalwah* (elevating the *sadd al-dharī'ah* norm into an independent criminal offense), and normative convergence in *qadhaf* (directly adopting the *ḥudūd* sanction of 80 lashes for legal certainty). These variations demonstrate that Aceh's legislation is not merely classical fiqh transplantation, but rather a form of institutional *ijtihād*. It represents a collective deliberation by state and religious institutions negotiating hadith legitimacy with *maqāṣid*, local social needs, and national legal harmonization. Theoretically, this study offers a typology of normative-contextual *hadith qanun relations*, illuminating how Islamic law undergoes transformation from classical scholarly authority into the legislative arena of the modern state.

Keywords: *Hadith; Jinayat Qanun; Islamic Criminal Law; Institutional Ijtihad; Maqasid al-Shari'ah*

Abstrak: Artikel ini secara kritis mengkaji hubungan antara hadis dan Qanun Aceh Nomor 6 Tahun 2014 tentang Hukum Jinayat dalam kerangka negara hukum Indonesia. Berfokus pada tiga tindak pidana utama *zinā*, *khalwah*, dan *qadhaf* studi ini memetakan bagaimana hadis riwayat al-Bukhārī, Muslim, Abū Dāwūd, dan al-Tirmidhī diartikulasikan melalui fikih mazhab ke dalam hukum positif Aceh. Secara metodologis, riset ini menggunakan pendekatan kualitatif-normatif, yang menggabungkan analisis perundang-undangan, metode komparatif, kritik hadis (*naqd*

al-ḥadīth sanad dan matn), serta kerangka *maqāṣid al-sharī'ah*. Temuan penelitian menunjukkan bahwa hubungan hadis dan Qanun bersifat *non-linear*, yang membentuk tiga konfigurasi utama: *divergensi adaptif* pada *zinā* (mengesampingkan riwayat rajam demi harmonisasi hukum nasional), *ekspansi preventif* pada *khalwah* (meningkatkan norma *sadd al-dharī'ah* menjadi delik pidana mandiri), dan *konvergensi normatif* pada *qadhf* (mengadopsi langsung sanksi *ḥudūd* 80 cambukan untuk kepastian hukum). Variasi tersebut menegaskan bahwa legislasi di Aceh bukanlah sekadar transplantasi fikih klasik, melainkan sebuah bentuk *ijtihad institusional*. Proses ini mewakili musyawarah kolektif antara institusi negara dan agama yang secara aktif menegosiasikan legitimasi hadis dengan *maqāṣid*, kebutuhan sosial masyarakat lokal, serta tuntutan harmonisasi sistem hukum nasional. Secara teoretis, studi ini menawarkan tipologi hubungan hadis-qanun yang *normatif-kontekstual* guna menjelaskan bagaimana hukum Islam bertransformasi dari otoritas ulama klasik ke arena legislasi negara modern.

Kata kunci: *Hadis; Qanun Jinayat; Hukum Pidana Islam; Ijtihad Institusional; Maqashid Syariah*

1. Introduction

In contemporary Islamic legal studies, legislation is no longer understood as a mechanical copying from classical normative proofs (*dalīl*) into the legal instruments of the state, but rather as a politico-legal process that brings together sacred texts, jurisprudential traditions (*fiqh*), the authority of scholars (*‘ulamā’*), state institutions, and the needs of modern society (Bowen, 2019; Césari, 2019; Hallaq, 2016). This framework is crucial because the formation of positive Islamic law in various Muslim countries and autonomous regions tends to take place under conditions of legal pluralism, constitutional pressure, and demands for compatibility with human rights standards (Crouch, 2018; Lombardi, 2016). In the Indonesian context, Aceh holds a unique position because through its special autonomy status, this region has obtained a relatively broad space to formalize *sharī'ah* norms into the form of *qanun* that are legally binding (Aceh Government, 2014; Effendi, 2024; Halim, 2018).

The existence of Aceh *Qanun* No. 6 of 2014 concerning Jinayat Law asserts that the Qur'an and the Al-Ḥadīth are positioned as the primary foundations of legislation, yet their translation into criminal norms is not always identical to classical jurisprudential formulations (Aceh Government, 2014; Danial, 2021). The *qanun* regulates several *jarīmah*, including *khalwah*,

zinā, and *qadhāf*, and establishes a combination of *‘uqūbah ḥudūd* and *ta‘zīr* within the structure of Aceh’s positive law (Aceh Government, 2014; Hasan, 2021). At this point, a sharper academic question emerges: to what extent is *hadīth* as an authoritative text investigated both through the authenticity of its chain of transmission (*sanad*) and the hermeneutics of its textual content (*matn*) truly a determinative source in the formation of the *Jinayat Qanun*, and to what extent does it function as a framework of legitimacy that is reprocessed through considerations of *maqāṣid al-sharī‘ah*, legal pluralism, and regional legislative politics (Auda, 2016; Kloos, 2018; Kamali, 2018)?

This issue is important because some provisions in the *Jinayat Qanun* demonstrate alignment with classical legal formulations, while others display significant modifications (Danial, 2021; Rahman et al., 2022). In the case of *zinā*, for instance, the *qanun* establishes a punishment (*‘uqūbah*) of 100 lashes without distinguishing between *muḥṣan* and *ghayr muḥṣan* offenders, unlike the construction of classical jurisprudence and the *hadīth* narrated by al-Bukhārī and Muslim regarding stoning (*rajm*) (Abdullah, 2021; Brown, 2017). Conversely, in *qadhāf*, the *qanun* is relatively close to the normative construction of the Qur'an and *hadīth* by maintaining the threat of *ḥudūd* of 80 lashes for accusing someone of *zinā* without four witnesses (Nasution, 2020; Siddique, 2020). Meanwhile, in *khalwah*, the *qanun* expands from a preventive norm based on the *hadīth lā yakhluwanna rajulun bi imra‘atin* into a distinct category of *jarīmah* with clear *ta‘zīr* sanctions (Rahmawati, 2019; Hasan, 2021).

Existing literature has mostly highlighted the implementation of *sharī‘ah* in Aceh from the aspects of legal politics, legal pluralism, human rights, and social governance, whereas the normative foundation of *hadīth* in the formation of the *Jinayat Qanun* has not been systematically analyzed as a primary variable (Crouch, 2018; Feener, 2011; Kloos, 2018). Other studies on the drafting of the *qanun* have indeed discussed methods of *istinbāt*, particularly on the article regarding *zinā*, but have not developed a comparative typology of the *hadīth qanun* relationship across several major *jarīmah* simultaneously (Danial, 2021; Abdullah, 2021). On the other hand, *hadīth* studies tend to remain within the horizons of *sanad*, *matn*, and classical jurisprudence, and thus have not been widely connected with modern legislative theory and the

shift of legal authority from the scholars (*‘ulamā*) to the state (Brown, 2017; Siddique, 2020). Accordingly, a research gap exists: the lack of a study that explicitly places *hadīth* as the primary analytical object to map typologically the interaction patterns of *hadīth Jinayat Qanun* at a substantive article-by-article level while linking it with the concept of institutional *ijtihād* in the modern nation-state (Effendi, 2024; Nurlaelawati, 2017).

Based on this gap, this article aims to: first, critically reconstruct the normative construction and *takhrīj* of *hadīth* related to *zinā*, *khalwah*, and *qadhaf* across the spectrum of school (*madhhab*) jurisprudence; second, systematically compare them with the provisions in the Aceh *Jinayat Qanun*; and third, formulate a normative-contextual *hadīth qanun* relationship typology that can explain the dynamics of *jināyāt* legislation within the framework of a modern state (Aceh Government, 2014; Danial, 2021). The novelty of this article lies in the construction of a typology of three relationship patterns adaptive divergence, preventive expansion, and normative convergence driven by a reading of *hadīth* criticism, as well as the elaboration of the concept of institutional *ijtihād* to explain how the state processes *hadīth* as an authoritative legal source that is not always adopted literally (Césari, 2019; Effendi, 2024; Lombardi, 2016).

2. Methods

This study utilizes a qualitative method of normative-library research that relies on the analysis of primary legal sources, primary Islamic normative sources, and relevant academic literature (Nurdin et al., 2025; Rahman et al., 2022). The primary source of this research is Aceh *Qanun* No. 6 of 2014 concerning *Jinayat Law*, particularly the provisions regarding the definition of *jarīmah*, the principles of implementing *jināyāt* law, and the regulations regarding *khalwah*, *zinā*, and *qadhaf* (Aceh Government, 2014).

The Islamic normative sources analyzed in depth as primary research objects include the textual content (*matn*) and chain of transmission (*sanad*) pathways of legal *hadīths* pertaining to *jināyāt*, including:

1. *Hadīth* on the punishment for *zinā muḥṣan* and *ghayr muḥṣan* (Narrated by Muslim no. 1690 from ‘Ubādah ibn al-Ṣāmit; Narrated by al-Bukhārī no. 6829 from Ibn ‘Abbās concerning *āyat al-rajm*).

2. *Hadīth* on the prohibition of *khalwah* (Narrated by al-Bukhārī no. 5233 and Narrated by Muslim no. 1341 from Ibn ‘Abbās).
3. *Hadīth* on the determination of *qadh* sanctions and its evidentiary proof (Narrated by Abū Dāwūd no. 4474 and Narrated by al-Tirmidhī no. 1432).

The analytical approach was conducted in four stages. First, *hadīth* criticism analysis (*naqd al-ḥadīth*) to test the authenticity of the *sanad*, continuity of narrators (*ittiṣāl al-sanad*), the integrity (*‘adālah*) and accuracy (*ḍabt*) of narrators, as well as analyzing the structure of the *matn* from the aspects of general-specific (*‘āmm-khāṣṣ*), abrogation (*nāsikh-mansūkh*), and textual indication (*dalālah al-alfāz*) (Rahman, 2017; Siddique, 2020). Second, normative-juridical analysis to read the legal construction in the *Jinayat Qanun* as a positive legislative text (Aceh Government, 2014; Halim, 2018). Third, a comparative approach to contrast the *hadīth* norms, school (*madhhab*) opinions, and *qanun* formulations so that points of convergence and divergence can be identified (Abdullah, 2021; Danial, 2021). Fourth, the *maqāṣid al-sharī‘ah* framework is used to explain the contextual rationality behind the process of legislative adaptation, especially when modifications occur to the forms of punishment or the expansion of preventive norms into positive criminal norms (Auda, 2016; Kamali, 2018).

Epistemologically, this study does not evaluate the *Jinayat Qanun* purely through binary categories of compliance or non-compliance with *hadīth* but rather seeks to read the relationship between the two dialectically (Bowen, 2019; Césari, 2019). Within this framework, legislation is understood as a collective process of *ijtihād* (institutional *ijtihād*) involving the state, scholars, and modern legal instruments, so that the analysis is directed at the interaction patterns between textual authority and legislative authority (Effendi, 2024; Nurlaelawati, 2017).

3. Results and Discussion

Normative Construction of Hadith in the Formulation of the Aceh Jinayat Qanun

In the Islamic legal tradition, *hadīth* holds a fundamental position as the second normative source after the Qur'an, functioning to explain (*bayān*),

elaborate (*tafṣīl*), specify the general expressions of the Qur'an (*takhṣīs al-‘āmm*), and in a number of cases independently establish legal norms (*ithbāt al-ḥukm*), including in the field of *jināyāt* (Rahman, 2017; Siddique, 2020). Therefore, classical Islamic criminal law regarding *zinā*, *qadhāf*, and various other moral offenses was constructed upon the interaction between the Qur'an, *hadīth*, and the elaborations of jurisprudence schools (*madhhab*) (Brown, 2017). However, when these norms are confronted with modern legislation such as the Aceh *Jinayat Qanun*, *hadīth* is no longer present merely as a text to be adopted as-is, but as a source that is reinterpreted and renegotiated through the state's institutional apparatus (Césari, 2019; Lombardi, 2016).

Aceh *Qanun* No. 6 of 2014 explicitly asserts principles of Islam, legality, justice, public benefit (*maṣlaḥah*), protection of human rights, and learning for society (Aceh Government, 2014). The formulation of these principles is important because it demonstrates that *jināyāt* law in Aceh was built from the outset upon the convergence of Islamic normative commitment and modern legal system requirements (Halim, 2018). Here, *hadīth* operates not only as a foundation of religious legitimacy, but also as normative raw material that must be aligned with formal legality, rights guarantee, and the orientation of public welfare (Auda, 2016; Kamali, 2018).

In the context of legislation, this transformation is visible in the division between *ḥudūd* and *ta‘zīr* in the *qanun*. The *qanun* only establishes *ḥudūd* in the form of lashing, while other types of punishment such as imprisonment, fines, restitution, rehabilitation, and community service are categorized under *ta‘zīr* (Aceh Government, 2014; Hasan, 2021). This choice shows that policymakers in Aceh did not adopt the entire spectrum of classical *jināyāt* sanctions, but executed a normative selection tailored to social conditions and the structure of Indonesian laws and regulations (Crouch, 2018; Rahman et al., 2022).

Methodologically, the formulation of the *Jinayat Qanun* relies on the principle that the Qur'an and Sunnah remain the foundational sources, but their interpretation is connected to the local needs of Aceh society, the legal framework of the Unitary State of the Republic of Indonesia (NKRI), future orientation, human rights protection, gender equality, and the maxim *al-muḥāfaẓah ‘alā al-qadīm al-ṣāliḥ wa al-akhdhu bi al-jadīd al-aṣlah* (preserving

the good old traditions and adopting the better new ones) (Effendi, 2024; Halim, 2018). This principle demonstrates that the legislative process in Aceh does not move within a framework of pure literalism, but in a model of *istinbāt* that synthesizes text, context, and legal objectives (*maqāṣid*) (Auda, 2016). Therefore, the relationship between *hadīth* and the *qanun* is more appropriately read as an interpretive relationship rather than a reproductive relationship (Césari, 2019; Lombardi, 2016).

Zinā: Adaptive Divergence from Classical Construction

Textual and Sanad Analysis of Zinā Hadiths

In examining the offense of *zinā*, there are two key *hadīths* that historically became the foundation for the differentiation of criminal sanctions in classical jurisprudence (*fiqh*):

- a. Hadith on the Determination of the Punishment for Zinā (Hadīth al-Bākah / al-Jild wa al-Rajm)

عَنْ عُبَادَةَ بْنِ الصَّامِتِ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "خُذُوا عَنِّي خُذُوا عَنِّي قَدْ جَعَلَ اللَّهُ لَهُنَّ سَبِيلًا، الْبِكْرُ بِالْبِكْرِ جُلْدٌ مِائَةً وَنَفْيٌ سَنَةً، وَالثَّيْبُ بِالثَّيْبِ جُلْدٌ مِائَةً وَالرَّجْمُ".

Narrated by ‘Ubādah ibn al-Ṣāmit, he said: The Messenger of Allah (peace be upon him) said: “Take from me, take from me! Indeed, Allah has ordained a way for them. The unmarried with the unmarried (ghayr muḥṣan) is one hundred lashes and banishment for one year, and the married with the married (muḥṣan) is one hundred lashes and stoning.” (Narrated by Muslim, Kitāb al-Ḥudūd, No. 1690).

Sanad Analysis: This *hadīth* is transmitted through the chain of Qatādah from al-Ḥasan from Ḥiṭṭān ibn ‘Abdillāh al-Raqāshī from ‘Ubādah ibn al-Ṣāmit. All narrators in this chain are classified as trustworthy (*thiqah*), the chain is continuous (*muttaṣil*), and it exhibits no hidden flaw (*‘illah*) or irregularity (*shādh*). Based on the standards of *naqd al-ḥadīth*, this *hadīth* holds the status of *Ṣaḥīḥ*.

Matn Analysis and Jurisprudence Hermeneutics: Textually (*manṭūq*), this *hadīth* strictly divides the qualification of *zinā* perpetrators (*al-bikr/ghayr muḥṣan* vs *al-thayyib/muḥṣan*). Most scholars (*jumhūr al-fuqahā’*) use this

hadīth as a specification (*takhṣīṣ*) to the generality of the verse in Surah al-Nūr [24]: 2.

- b. Hadith of ‘Umar ibn al-Khaṭṭāb’s Sermon Concerning the Stoning Verse

عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ عُمَرُ بْنُ الْخَطَّابِ: "إِنَّ اللَّهَ بَعَثَ مُحَمَّدًا صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِالْحَقِّ، وَأَنْزَلَ عَلَيْهِ الْكِتَابَ، فَكَانَ مِمَّا أَنْزَلَ اللَّهُ آيَةُ الرَّجْمِ، فَقَرَأْنَاهَا وَعَقَلْنَاهَا وَوَعَيْنَاهَا، رَجَمَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَرَجَمْنَا بَعْدَهُ..."

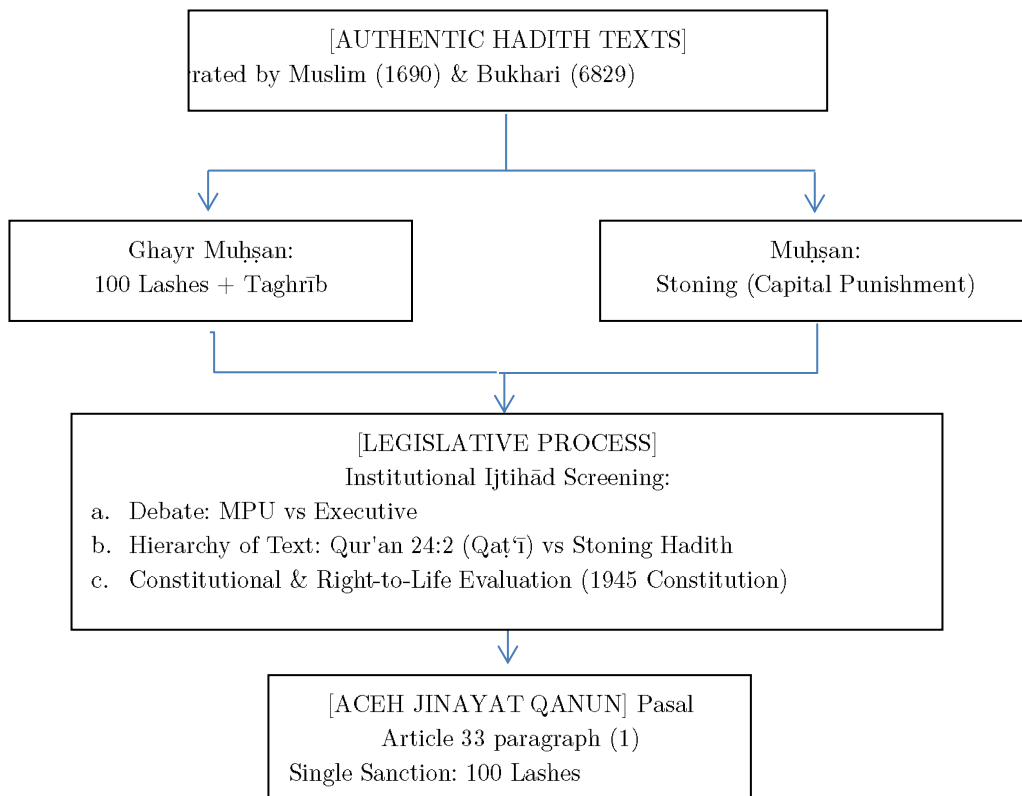
Narrated by Ibn ‘Abbās, he said: ‘Umar ibn al-Khaṭṭāb said: “Indeed, Allah sent Muhammad (peace be upon him) with the truth and revealed the Book to him. Among what Allah revealed was the verse of stoning; we read it, understood it, and comprehended it. The Messenger of Allah (peace be upon him) performed stoning and we performed stoning after him...” (Narrated by al-Bukhārī No. 6829; Narrated by Muslim No. 1691).

Sanad Analysis: Transmitted through the chain of al-Zuhrī from ‘Ubaydullāh ibn ‘Abdillāh ibn ‘Utbah from Ibn ‘Abbās from ‘Umar. This chain ranks at the highest level of authenticity (*aṣaḥḥ al-asānīd*) and holds the status of *Mutawātir Ma’nawī* or *Ṣaḥīḥ Li-Dhātih*.

Comparative Analysis and Dialectics of *Qanun* Formulation

Aceh *Qanun* No. 6/2014 Article 33 paragraph (1) defines *zinā* as sexual intercourse without a valid marital bond and sets a single sanction: “Any person who intentionally commits Jarimah Zinā shall be threatened with ‘Uqubat Hudud of whipping at most 100 (one hundred) times” (Aceh Government, 2014).

Diagram 1. Comparative Analysis and Dialectics of *Qanun* Formulation



This comparison illustrates a break in linearity between the stoning hadith and Aceh's positive law. During the draft debate of the *qanun*, orthodox-oriented members of the MPU urged the inclusion of stoning for muḥṣan offenders in accordance with the hadīth of 'Ubādah. However, considerations by the Aceh Regional Government Assistance Team and material consultation with the Ministry of Law and Human Rights led to a normative compromise: the punishment of stoning contradicted the right-to-life clause in the 1945 Constitution and risked being annulled through judicial review at the Supreme Court (Crouch, 2018). Methodologically, this divergence of opinion was resolved by adopting a minority jurisprudential view such as that of the Khārijites and certain Mu'tazilites supported by an uṣūl al-fiqh approach asserting that the generality of the text of Qur'an 24:2 is decisive qaṭ'ī, whereas its specification via solitary Aḥād stoning hadīths does not abrogate the general Quranic rule for capital punishment sanctions (Danial, 2021).

This formulation was based on the understanding that Qur'an 24:2 uses general phrasing, thus making no distinction regarding the perpetrator's

marital status. Syahrizal Abbas also evaluated the stoning *hadīth* as an *aḥād* or *mashhūr hadīth* that cannot specify a Quranic verse that is *qaṭ'ī al-wurūd* definitive in origin, and further viewed that stoning was abrogated naskh by Qur'an 24:2. Meanwhile, Al-Yasa' Abubakar explained that the implementation of *sharī'ah* in Aceh is conducted gradually, such that stoning as capital punishment has not been applied (interviews with Syahrizal Abbas and Al-Yasa' Abu Bakr).

The controversy over stoning also highlights differing views in Aceh. Traditional scholars tended to consider the entire Sunnah of the Prophet as legislative *tashrī'iyah* and obligatory to follow, whereas the drafters of the *qanun* considered methodological, social, and developmental phases of law enforcement. In legislative deliberations, stoning was briefly proposed with the support of several experts, but the executive rejected it for the time being because it was deemed inappropriate for implementation at that stage; whipping was considered sufficient for that period (Nurun Nisa', 2009).

Thus, the *hadith qanun relation* in the case of *zinā* displays a pattern of adaptive divergence. It is termed divergent because the *qanun* substantively departs from the consensus *ijmā'* of the four schools of jurisprudence based on the *hadith* of 'Ubādah ibn al-Ṣāmit regarding stoning for *muḥṣan* offenders (Brown, 2017; Siddique, 2020). It is termed adaptive because this setting-aside is not a rejection of the Prophet's authority, but an adaptation *ta'wīl* based on considerations of *maqāṣid al-sharī'ah* namely *ḥifẓ al-nafs* (protection of life) and *ḥifẓ al-nasl* protection of lineage aligned with the constitutional limits of the NKRI (Auda, 2016; Kamali, 2018; Halim, 2018). The locus of *ijtihād* shifted from individual jurisprudential reasoning to the state's rational decisions institutional *ijtihād* (Bowen, 2019; Effendi, 2024).

Khalwah: Preventive Expansion from Moral Norms to Criminal Norms

Textual and Sanad Analysis of *Khalwah* Hadiths

The normative foundation regarding the prohibition of being alone between a non-mahram man and woman derives from the following authentic *hadīth*:

عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا أَنَّهُ سَمِعَ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: "لَا يَخْلُونَ
رَجُلٌ بِامْرَأَةٍ إِلَّا وَمَعَهَا ذُو مَحْرَمٍ"

Narrated by Ibn ‘Abbās (may Allah be pleased with both), he heard the Prophet (peace be upon him) say: “Never should a man be alone with a woman unless she is accompanied by a mahram.” (Narrated by al-Bukhārī, No. 5233; Narrated by Muslim, No. 1341).

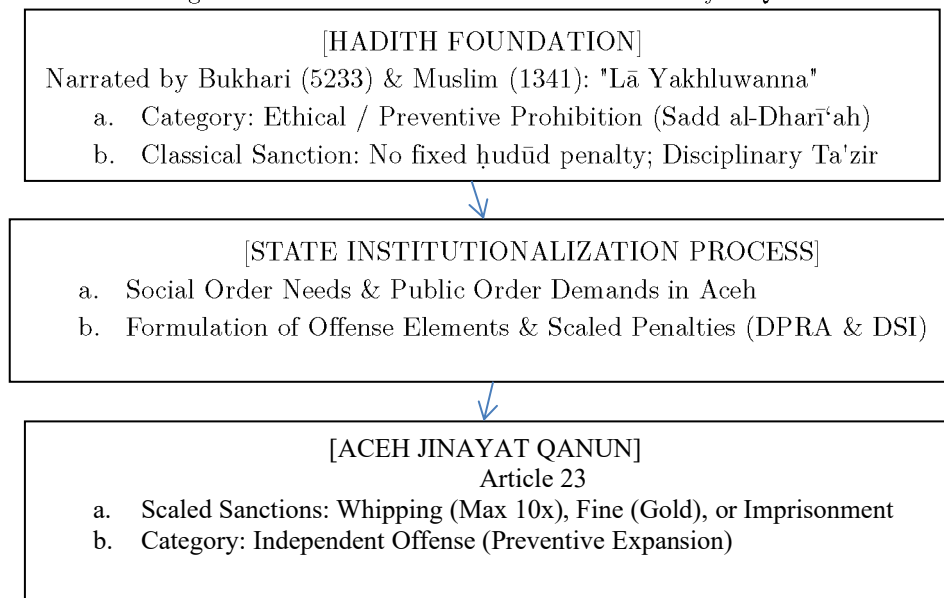
Sanad Analysis: Transmitted through the chain of Sufyān ibn ‘Uyaynah from ‘Amr ibn Dīnār from Abū Ma‘bad (freed slave of Ibn ‘Abbās) from Ibn ‘Abbās: This chain belongs to the golden chain *silsilah al-dhahab* graded as *Ṣaḥīḥ A‘lā* (Highest Level of Authenticity).

Matn Analysis and Hermeneutics: The phrase *lā yakhluwanna* employs *lām al-nahy* combined with *nūn al-ta’kīd al-thaqīlah*, indicating a emphatic prohibition *al-nahy al-mu’akkad*. However, in classical texts, this *hadīth* is categorized as an advisory norm or preventive measure *sadd al-dharī‘ah*, blocking the means to evil whose sanction is not fixed *ghayr muqaddarah*, placing it in the realm of social ethics or moral *ta‘zīr* without a codified criminal penalty (Rahman, 2017; Siddique, 2020).

Positive Criminalization in the Jinayat *Qanun*

Aceh *Qanun* No. 6/2014 Article 23 paragraph (1) reshapes this ethical norm into a binding formal offense: “Any person who intentionally commits *Jarīmah Khalwah* shall be threatened with ‘*Uqubat Ta’zir* of whipping at most 10 (ten) times or a fine of at most 100 (one hundred) grams of pure gold or imprisonment for at most 10 (ten) months” (Aceh Government, 2014).

Diagram 2. Positive Criminalization in the Jinayat *Qanun*



The transformation above marks a pattern of preventive expansion. During legislative drafting in the DPRA, demands for social order from the community and local police necessitated a legal framework to address disturbing public behaviors before they led to *zinā* (Danial, 2021). The MPU and the *qanun* drafters integrated the jurisprudential principle of *sadd al-dharī'ah* from the *hadith lā yakhluwanna* with the *ta'zīr* authority possessed by the ruler *walī al-amr*. The state exercised its legislative authority to elevate this preventive norm into a statutory criminal offense *strafbaar feit* backed by coercive legal power (Rahmawati, 2019; Hasan, 2021). Differences regarding the boundary between private and public space were resolved by adding the clause “in a closed or hidden place leading toward the commission of *jarīmah zinā*” as a element of formal proof (Aceh Government, 2014).

Qadhf: Normative Convergence between Hadith and Legislation

Textual and Sanad Analysis of *Qadhf Hadiths*

In the realm of false accusations of *zinā qadhf*, the *hadīth* text serves to reinforce the formulation of the Qur'an (Surah al-Nūr: 4) regarding the protection of an individual's honor. One authoritative explanatory narration is:

عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: “لَمَّا نَزَلَ عُذْرِي، قَامَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى الْمَنْبَرِ، فَذَكَرَ ذَلِكَ وَتَلَا الْقُرْآنَ، فَلَمَّا نَزَلَ مِنَ الْمَنْبَرِ أَمَرَ بِالرَّجُلَيْنِ وَالْمَرْأَةِ فَضَرَبُوا حُدَّهُمْ.

Narrated by ‘Ā’ishah she said: “When my exoneration was revealed concerning the slanderous accusation/*Iftik*, the Prophet peace be upon him stood upon the pulpit, mentioned that, and recited the Qur'an. When he descended from the pulpit, he ordered that two men and one woman the accusers be brought, and they were whipped according to their *ḥd* (*ḥudd*). (Narrated by Abū Dāwūd No. 4474; Narrated by al-Tirmidhī No. 1432).

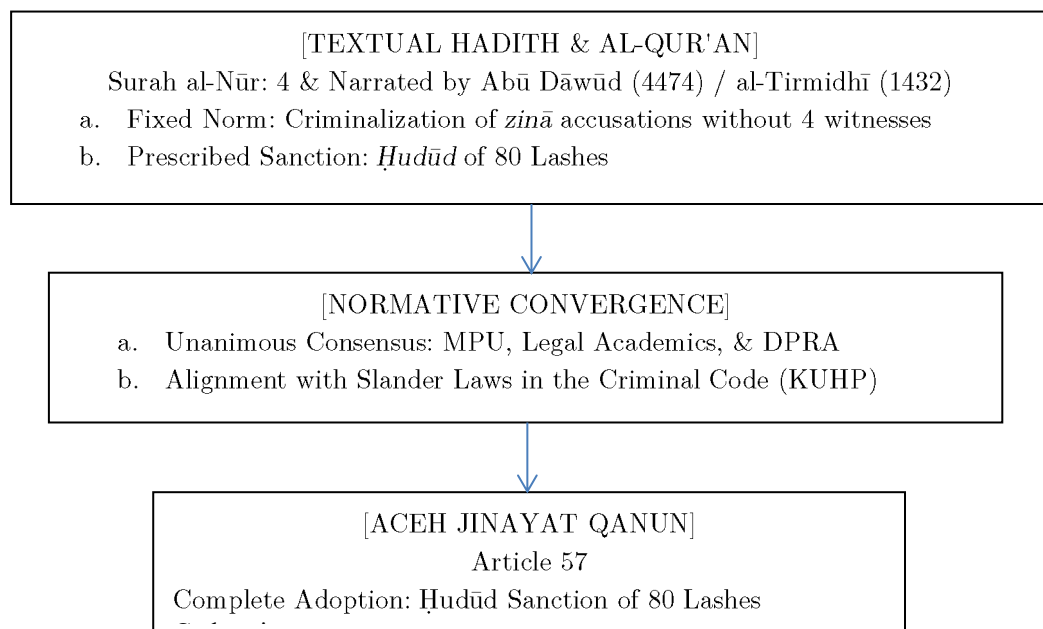
1. Sanad Analysis: Transmitted through the chain of Muḥammad ibn Ishāq from Ya'qūb ibn 'Utbah from al-Zuhrī from 'Urwah from 'Ā'ishah. Although Ibn Ishāq is known as a narrator who engaged in *tadlīs*, in this pathway his transmission *'an'anah* is explicitly verified by direct hearing *simā'*, leading Imam al-Tirmidhī to grade it as *Ḥasan Ṣaḥīḥ*.

2. Matn Analysis: This *hadīth* demonstrates direct enforcement taṭbīq ‘amalī by the Prophet in the form of an 80-lashes sanction against individuals making accusations of zinā without the proof of 4 witnesses. This matn is confirmatory *ta’kīd* and prescriptively fixed.

Prescriptive Adoption in the *Jinayat Qanun*

Aceh *Qanun* No. 6/2014 Article 57 paragraph (1) states: “Any person who intentionally commits *Jarīmah Qadhif* shall be threatened with ‘*Uqubat Hudud* of whipping 80 (eighty) times (Aceh Government, 2014).

Diagram 3. Prescriptive Adoption in the *Jinayat Qanun*

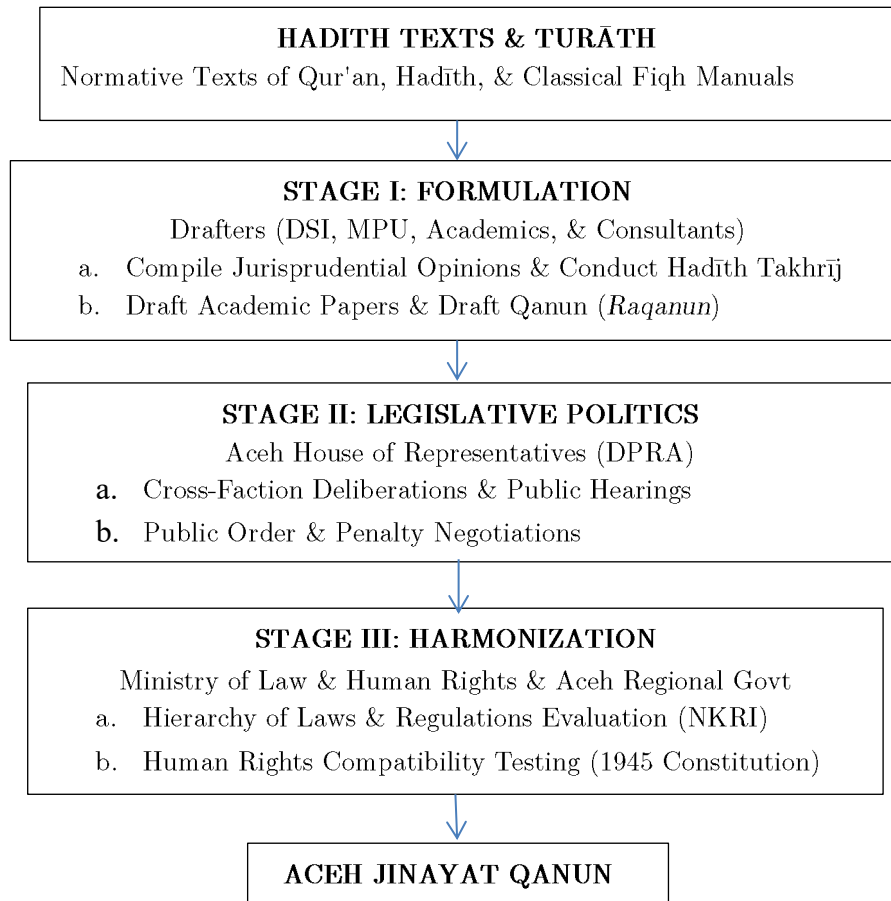


The interaction pattern in the offense of *qadhif* is normative convergence. Unlike the case of *zinā*, which experienced intense debate, *qadhif* saw complete consensus among the MPU, university academics, and factions within the DPRA. There was no conflict between the *hadīth* norm and positive national law, as the criminal substance regarding defamation in the Indonesian Criminal Code (KUHP) likewise criminalizes accusations lacking evidence, enabling the adoption of 80 lashes without complex methodological disputes in *uṣūl al-fiqh* (Nasution, 2020; Halim, 2018).

Dialectics of Scholar and State Authority in Jināyāt Legislation: The Operational Mechanism of Institutional Ijtihād

The diverse relationship patterns observed across *zinā*, *khalwah*, and *qadhif* confirm that the formation of the Aceh Jinayat *Qanun* does not operate linearly or merely transcribe classical *turāth* texts into statutory provisions (Césari, 2019). Rather, it proceeds through institutional *ijtihād* a collective, structured, and procedural process of Islamic legal interpretation conducted by modern state organs (Effendi, 2024; Lombardi, 2016).

Diagram 4. Dialectics of Scholar and State Authority in Jināyāt Legislation



The operationalization of institutional *ijtihād* in drafting the Aceh Jinayat *Qanun* manifests through four key components:

Actors Involved and Their Roles: The process of formulating the Jinayat *Qanun* was no longer monopolized by individual muftis or fiqh scholars as in classical tradition (Hallaq, 2016). The drafting involved four primary actors:

- a. Islamic Sharia Office (Dinas Syariat Islam) and Drafting Assistance Team: Responsible for drafting initial Academic Papers, compiling jurisprudential opinions *tarjīḥ*, and mapping out *jināyāt hadīths*.
- b. Aceh Ulama Consultative Council (Majelis Permusyawaratan Ulama): Responsible for providing religious evaluations, testing the validity of

fiqh and hadith arguments, and issuing religious recommendations on pivotal articles (Effendi, 2024).

- c. Aceh House of Representatives (*Dewan Perwakilan Rakyat Aceh*): Responsible as the legislative body to articulate local political interests, conduct public hearings, and debate draft *qanun* s from sociological and law enforcement budget perspectives.
- d. Ministry of Law and Human Rights of the Republic of Indonesia (Kemenkumham): Responsible for harmonizing draft *qanun* s with the national legal system, the 1945 Constitution, and human rights instruments (Crouch, 2018).

Selection of Fiqh Opinions and Hadith Choice (Institutional *Tarjīh*): The selective- eclectic selection of school madhhab opinions and *hadīths* was not based solely on classical *sanad* strength criteria, but also on public interest *maṣlaḥah mursalah* and criminal enforcement practicality. In the case of *zinā*, the MPU and drafters consciously filtered out the majority *jumhūr* opinion mandating stoning, opting instead for views emphasizing unified whipping or *ta'zīr* sanctions to prevent capital punishment from conflicting with the national constitution (Danial, 2021). This choice shows that *tarjīh* is no longer a private scholarly act *tarjīh fardī*, but an institutional-bureaucratic one *tarjīh mu'assasī*.

Resolution of Legal Disagreements (*Ikhtilāf*): Internal disagreements between textualist MPU scholars and legal academics or state officials were resolved through voting procedures in the DPRA, consensus building (*musyawarah*), and compromise clauses. For instance, tensions surrounding stoning were resolved by establishing 100 lashes as the maximum *ḥudūd*, while alternative monetary gold fines or banishment were converted into structured '*uqūbah ta'zīr* agreed upon by legislative factions (Aceh Government, 2014; Danial, 2021).

Influence of State Law Considerations on Final Decisions: Modern state law imposed clear constraints that influenced how hadith texts were read. Three primary state law considerations mediated the application of *hadīth*:

- a. Principle of Legality (*Nullum Delictum Sine Lege*): Required all acts prohibited in general *hadīths* (such as *khalwah*) to have their statutory

elements (*strafbaar feit*) explicitly defined in written provisions, eliminating classical penalty ambiguities.

- b. Harmonization of the National Legal System: Mandated that criminal sanctions in the *qanun* must not contradict higher statutory hierarchies (Law No. 12 of 2011 and Law No. 11 of 2006 on Aceh Governance) (Halim, 2018).
- c. Human Rights Standards: Restricted extreme physical penalties (such as amputation or stoning) to prevent annulment by the Supreme Court or international condemnation that could destabilize regional political harmony (Crouch, 2018; ICJR, 2015).

Through this institutional *ijtihad*, the state acts not merely as an executing agency for classical jurisprudence, but as the primary interpreter producing positive Islamic law with a hybrid character: possessing roots of legitimacy in *hadīth* and *fiqh*, yet packaged within the formats, procedures, and legal boundaries of a modern state (Bowen, 2019; Effendi, 2024; Lombardi, 2016).

Typology of Hadith–Qanun Relations

Based on the analysis of the three major *jarīmah* and their underlying hadith *takhrīj*, the typology of the relationship between hadith and the Aceh Jinayat *Qanun* is summarized in the following table:

Table 1. Typology of *hadith qanun*

<i>Jarīmah</i>	Primary Normative Hadith Foundation (Text, Quality, & Sanad)	Classical School (Madhhab) Formulation	Formulation in Aceh Jinayat Qanun (Qanun No. 6/2014)	Typology of Normative-Contextual Relation Pattern	Hadith Hermeneutical Methodology by the State
<i>Zinā</i>	Narrated by Muslim No. 1690 (‘Ubādah ibn al-Ṣāmit) & Narrated by al-Bukhārī No. 6829 (Ibn ‘Abbās)	Sanction differentiation: a. Muḥṣan: Stoning (Capital Punishment) b. <i>Ghayr Muḥṣan</i> : 100 Lashes + Taghrīb	Article 33 (1): 100 lashes as a single sanction without distinguishing marital status	Adaptive Divergence	Prioritizing the generality of the Quranic text (Qur'an 24:2) and setting aside the specification (<i>takhṣīs</i>) of stoning

						narrations for national legal harmonization and right to life
	Status: Ṣaḥīḥ					
	Narrated by al-Bukhārī No. 5233 & Narrated by Muslim No. 1341 (Ibn ‘Abbās: “ Lā yakhluwanna rajulun...”).	Ethical/preventive moral prohibition (<i>sadd al-dharī‘ah</i>); unquantified sanction (<i>uncodified ta‘zīr</i>)	Article 23 (1): Independent offense with <i>ta‘zīr</i> sanctions of max 10 lashes, gold fine, or imprisonment	Preventive Expansion		Transforming a preventive ethical norm from hadīth into a formal criminal offense with binding legal force
Khalwah	Status: Ṣaḥīḥ A’lā.					
	Narrated by Abū Dāwūd No. 4474 & Narrated by al-Tirmidhī No. 1432 (‘Ā’ishah)	Criminalization of accusations of zinā without 4 witnesses; Ḥudūd sanction of 80 lashes	Article 57 (1): Adoption of Ḥudūd sanction of 80 lashes	Normative Convergence		Direct prescriptive adoption of a hadith <i>matn</i> evaluated as having legal certainty and aligning with human rights protections
Qadzaf	Status: Ḥasan Ṣaḥīḥ.					

This typology shows that *sharī‘ah* legislation in Aceh functions through non-uniform normative selection. The state may choose to simplify, expand, or adopt almost intact a given provision, depending on its level of compatibility with social needs, legislative politics, and national legal frameworks (Effendi, 2024; Halim, 2018). Consequently, the relationship between hadith and the *qanun* is varied and multi-tiered rather than singular and homogeneous (Bowen, 2019; Kloos, 2018).

Theoretical and Practical Implications

Theoretically, these findings underscore the need for a paradigm shift in contemporary Islamic legal studies. Hadith studies cannot stop merely at sanad validity and *matn* literal meaning, while Islamic legislation studies cannot be analyzed merely as an extension of classical *fiqh* (Brown, 2017; Siddique, 2020). An integrative approach is needed that views *hadīth*, *maqāṣid*, legal pluralism,

and modern legislative techniques as interacting elements in contemporary Islamic law production (Auda, 2016; Kamali, 2018; Césari, 2019).

The concept of institutional *ijtihād* utilized in this article contributes to explaining how Muslim states or autonomous regions like Aceh reformulate Islamic law without fully abandoning traditional legitimacy (Effendi, 2024; Nurlaelawati, 2017). In a broader context, this analytical model can be applied to read *sharī'ah* legislation in other jurisdictions facing tensions between jurisprudential orthodoxy, modern constitutionalism, and human rights demands (Crouch, 2018; Lombardi, 2016).

Practically, this article indicates that future revisions or developments of the *Jinayat Qanun* should be articulated with more explicit hadith and *istinbāṭ* methodological arguments. Every modification of a hadith norm needs to be openly explained in terms of *maqāṣid*, statutory harmonization, and criminal policy rationale (Auda, 2016; Kamali, 2018). This step is vital so that the *qanun* maintains not only formal legitimacy, but also stronger academic and social legitimacy amidst ongoing critiques concerning efficacy, penalty proportionality, and rights protections (ICJR, 2015; Rahman et al., 2022).

4. Conclusion

Based on the analysis above, it can be affirmed that the relationship between *hadīth* and the legislation of the Aceh *Jinayat Qanun* is complex, dialectical, and contextual. *Hadīth* remains an important normative source in constructing *jināyāt* law, but its function in modern legislation is not always literally determinative. In legislative practice, hadith undergoes selection, reinterpretation, and institutionalization influenced by *maqāṣid al-sharī'ah*, social necessities of the Acehnese people, the special autonomy structure, and demands for harmonization with the national legal system.

This study identifies three primary relationship patterns: *zinā*, adaptive divergence occurs because the *qanun* simplifies the classical punishment framework by setting aside stoning narrations for the sake of normative and institutional compatibility. In *khalwah*, preventive expansion occurs because the *hadīth* norm *lā yakhluwanna*, which originally served as a moral-preventive prohibition, was elevated into a formal criminal offense. In *qadhf*, normative

convergence occurs because the *qanun* adopts the basic sanction framework of 80 lashes, which aligns closely with both the Qur'an and *hadīth*.

These findings confirm that the Aceh *Jinayat Qanun* cannot be evaluated solely by the metric of textual conformity to *hadīth*. What is more critical is how the *qanun* represents institutional *ijtihād* a deliberative process bringing together the MPU, DPRA, legislative drafters, and state ministries striving to actualize Islamic normative values within a modern statutory format. Therefore, legislative flexibility in Aceh is accurately read not merely as a deviation from tradition, but as an expression of the transformation of Islamic law when encountering changing constitutional, political, and social realities.

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