



# Aceh Under Syari'ah: *Faith, Law, and Society*

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## Abstract

The implementation of Syari'ah law in Aceh has been a significant and often contentious aspect of the region's post-conflict reconstruction process. Following the 2005 peace agreement between the Indonesian government and the Free Aceh Movement (*Gerakan Aceh Merdeka*, GAM), Aceh became the only province in Indonesia with the legal mandate to enforce Syari'ah law. This research explores the intersection of faith, law, and society in Aceh, examining how Syari'ah has reshaped not only legal frameworks but also the daily lives of its people. Despite its importance, there exists a gap in understanding the broader social implications of Syari'ah's implementation, particularly its effects on gender, civil rights, and the overall social fabric. Previous studies have focused on the legal and political aspects, yet little attention has been given to the lived experiences of Acehnese citizens under this system. This study aims to address this gap by analyzing the societal transformations resulting from Syari'ah law, specifically focusing on how religious practices and legal structures interact within the Acehnese context. The urgency of this research lies in the increasing global attention to Islamic legal systems and their integration into state governance, offering a comparative lens for other regions pursuing similar models. Novel in its approach, the research contributes to a deeper understanding of the real-world implications of Syari'ah law on faith, law, and



society, with particular attention to its effects on minority groups and social cohesion. Ultimately, it highlights the broader implications for peace-building in post-conflict societies, offering valuable insights for scholars and policymakers alike.

**Keywords:** Syariah, Aceh, Islamic Law, Modern Muslim Society

## Introduction

The historical trajectory of Islamic law in Aceh is deeply rooted in the region's identity as the "Veranda of Mecca" (*Serambi Mekkah*), reflecting a centuries-old integration of Islamic principles into the social and political fabric. Historically, Aceh served as a primary gateway for Islam in Southeast Asia, where the sultanates employed Syari'ah as the foundational framework for governance and diplomacy (Feener, 2013). This religious legacy remained a core element of Acehnese resistance against colonial powers and, later, the Indonesian central government. The formal institutionalization of Syari'ah, however, took a definitive turn following the downfall of the New Order regime. The subsequent decentralization process in Indonesia granted Aceh a unique legislative space, distinguishing it from other provinces through a specific ideological and legal mandate (Ichwan, 2011).

The granting of Special Autonomy status (*Otonomi Khusus*) served as a strategic political instrument to address long-standing grievances and secessionist sentiments. Through Law No. 18/2001 and Law No. 11/2006 on the Governing of Aceh, the Indonesian state decentralized religious authority, allowing the province to establish a comprehensive Syari'ah system. This legal framework encompasses not only personal status issues but also criminal law (*Jinayat*), public morality, and financial matters (Salim, 2008). This transition represented a significant shift in the Indonesian constitutional landscape, where a secular-nationalist state accommodated a sub-national entity governed by religious jurisprudence, creating a complex dualism within the national legal hierarchy.

The implementation of these laws gained unprecedented momentum during the post-conflict reconstruction phase following the 2005 Helsinki Peace Agreement. The devastating 2004 Indian Ocean Tsunami and the subsequent peace deal between the Indonesian government and the Free Aceh Movement (GAM) transformed the

sociopolitical landscape. In the wake of these twin catastrophes, Syari'ah was positioned as a mechanism for moral reconstruction and social cohesion (Crouch, 2013). The peace agreement provided the stability necessary for the regional government to establish formal institutions, such as the *Sharia* Court (*Mahkamah Syar'iyah*) and the *Wilayatul Hisbah* (morality police), marking a new era where faith and law became inextricably linked to the province's recovery and identity-building.

Despite the extensive implementation of Islamic law over the past two decades, there remains a significant gap in understanding the nuanced social consequences of Syari'ah in Aceh. Much of the existing literature has prioritized a top-down approach, focusing heavily on the constitutional validity of the *Qanun* (local regulations) and the political negotiations between Banda Aceh and Jakarta (Lindsey & Butt, 2016). While these analyses provide essential legal context, they often overlook how these laws penetrate the private spheres of the populace. There is a pressing need to move beyond purely doctrinal or institutional critiques to explore how the law is interpreted, resisted, or embraced by the diverse segments of Acehnese society.

Furthermore, scholarship on Aceh has frequently fallen into an overemphasis on political-legal analysis, treating the province as a static laboratory of legal experimentation. This narrow focus tends to obscure the dynamic social transformations occurring on the ground. For instance, the imposition of Syari'ah affects socio-economic interactions, urban planning, and public discourse in ways that legal texts alone cannot capture (Miller & Feener, 2010). By ignoring the sociological dimension, researchers risk missing the subtle shifts in communal identity and the evolving power dynamics within local neighborhoods where the morality police and community elders interact.

Consequently, there is an urgent need to examine the "lived experiences" of Acehnese citizens to understand the reality of life under this governance model. The social fabric of Aceh is not a monolith; it is composed of varying interpretations of piety, tradition (*Adat*), and modernity. Understanding how individuals—from university students in Banda Aceh to farmers in the highlands—negotiate their daily routines within the boundaries of *Qanun* is vital (Rinaldo, 2013). This research addresses this gap by analyzing the intersection of religious enforcement and personal agency, providing a more holistic view of the societal transformation that occurs when a modern province adopts a comprehensive religious legal system.

This study is guided by three primary research questions designed to unpack the complexities of Aceh's current governance. First, how has Syari'ah law reshaped

the legal and social life in Aceh in the decades following the peace agreement? This question seeks to identify the specific shifts in public behavior, communal expectations, and the institutionalization of religious norms. Second, what are the specific impacts of these legal frameworks on gender relations, minority rights, and civil liberties? Here, the focus is on the vulnerable populations who often bear the brunt of moral policing and whose rights may be at odds with conservative interpretations of the *Qanun* (Grossmann, 2019). Finally, how does Syari'ah law interact with the ongoing post-conflict peace-building processes? This explores whether the legal system acts as a stabilizing force or a source of new social tensions that could jeopardize long-term regional stability.

The primary objective of this research is to analyze the intricate intersection of faith, law, and society within the Acehnese context. By examining the synergy between religious convictions and state-enforced mandates, the study aims to clarify how "faith" is operationalized as "law." Furthermore, the research seeks to assess the broader social transformations under Syari'ah governance, documenting the changes in public morality, educational priorities, and social hierarchies. Finally, the study intends to evaluate the broader implications for post-conflict societies, determining if the "Aceh model" of religious autonomy offers a viable pathway for conflict resolution in other Muslim-majority regions or if it presents unique challenges to the universal standards of human rights and democratic governance (Aspinall, 2009).

This study holds significant scholarly and practical value. For the academic community, it contributes to the growing body of literature on the role of Islamic law within modern nation-states. It challenges the secularization thesis by demonstrating how religious law can be integrated into a contemporary administrative framework. Academically, this research provides a comparative lens for scholars studying similar movements in the Middle East and North Africa, highlighting the peculiarities of the Southeast Asian experience (Hefner, 2011). It moves the conversation from theoretical debates about the compatibility of Islam and democracy toward an empirical assessment of their coexistence in a specific geographic and historical setting.

From a policy perspective, the findings are highly relevant for governance in pluralistic and post-conflict contexts. As many regions grapple with the integration of customary or religious laws into national frameworks, the Acehnese experience offers a wealth of "lessons learned." Policymakers can utilize this research to better understand the potential trade-offs between religious autonomy and the protection

of minority rights. Furthermore, for international organizations involved in peace-building, this study provides insights into how legal identity can be leveraged to foster peace, while also warning of the risks associated with excluding certain social groups from the new legal order. Ultimately, this research bridges the gap between religious studies, law, and sociology to offer a comprehensive critique of a society in transition.

## Historical and Political Context of Syari'ah in Aceh

### *A. Islam in Acehnese Identity*

The historical role of Islam in Aceh is not merely a matter of religious adherence but is the foundational pillar upon which the region's political and social identity was constructed. Since the 13th century, with the rise of the Samudera Pasai Sultanate, Aceh served as the primary nexus for Islamic propagation in Southeast Asia, earning the epithet *Serambi Mekkah* (The Veranda of Mecca). During the Golden Age of the Aceh Sultanate under Sultan Iskandar Muda (1607–1636), Islamic law was institutionalized through the *Adat Meukuta Alam*, a legal code that harmonized Sharia principles with local customary laws (*Adat*). This era established a precedent where the Sultan's legitimacy was inextricably linked to his role as the defender of the faith and the enforcer of divine law (Azra, 2006).

Throughout the centuries, religious identity functioned as a potent mechanism for political resistance, particularly against Western colonial incursions. The Dutch-Aceh War (1873–1942) was framed by Acehnese scholars (*Ulama*) as a *Jihad* (holy war), transforming a territorial defense into a spiritual obligation. This period solidified the influence of the *Ulama* over the traditional nobility (*Uleebalang*), as the former provided the ideological framework for persistent resistance. The fusion of Islam and Acehnese nationalism during this conflict ensured that any future political negotiation with a centralized state would necessitate the recognition of Aceh's unique Islamic character as a non-negotiable component of its regional autonomy (Reid, 2005).

In the post-independence era, the struggle to maintain this identity continued within the framework of the Indonesian Republic. The Darul Islam (DI/TII) rebellion in the 1950s, led by Daud Beureueh, was a direct response to the perceived

secularization of the Indonesian state and the failure to grant Aceh the right to implement Islamic law. Although the rebellion ended with the promise of "Special Region" (*Daerah Istimewa*) status in 1959, the central government under both Sukarno and Suharto largely marginalized the religious legal aspirations of the Acehnese. This systemic suppression only served to deepen the conviction that the preservation of Acehnese identity required a formal, legal return to Sharia governance.

The resilience of Islamic identity in Aceh is also reflected in the communal adherence to *Adat* which, in the Acehnese worldview, is inseparable from Sharia. The local proverb, "*Adat bak Po Teumeureuhom, Hukom bak Syiah Kuala*" (Custom is with the late Sultan, Law is with the Great Scholar), illustrates a dualistic yet complementary governance structure. This historical memory has been passed through generations, creating a social psychology where the implementation of Sharia is viewed not as a new imposition, but as a restoration of a lost, idealized past. Consequently, the demand for Sharia was never a fringe movement but a broad-based social yearning for authenticity and justice (Saby, 2001).

Furthermore, the role of Islamic boarding schools (*Dayah*) has been instrumental in maintaining this identity across different political regimes. These institutions served as the guardians of orthodox Islamic knowledge and local resistance strategies. During the New Order's era of forced homogenization, the *Dayah* remained spaces of intellectual autonomy where the vision of an Islamic Aceh was preserved. This educational infrastructure provided the grassroots support necessary for the rapid institutionalization of Sharia once the political window opened after 1998, ensuring that the legal transition had deep sociological roots (Feener, 2013).

The contemporary implementation of Sharia in Aceh must be understood as the culmination of a long-term historical trajectory. It is an assertion of agency against both colonial legacies and the perceived "Java-centric" secularism of Jakarta. For the Acehnese, Islam provides the primary vocabulary for articulating rights, justice, and community. This historical context explains why the demand for Sharia remained a constant variable in the peace negotiations, eventually becoming the symbolic and legal centerpiece of the province's reconciliation with the Indonesian state.

## *B. Conflict and Peace Process*

The modern conflict between the Indonesian government and the Free Aceh Movement (GAM) was a multifaceted struggle involving issues of economic exploitation, human rights abuses, and the suppression of regional identity. Founded by Hasan di Tiro in 1976, GAM initially emphasized Acehnese nationalism and the "re-declaration" of independence, citing the historical sovereignty of the Sultanate. While the movement was not primarily religious in its early rhetoric, it utilized the deep-seated Islamic identity of the population to mobilize support against the "infidel" or "neo-colonial" central government in Jakarta (Aspinall, 2009). The ensuing decades of military operations (DOM) left a legacy of trauma that fundamentally alienated the population from the Indonesian state.

The turning point for the conflict was the 2005 Helsinki Peace Agreement (Memorandum of Understanding), which followed the catastrophic 2004 Indian Ocean Tsunami. The scale of the disaster necessitated international intervention and forced both the Indonesian government and GAM to return to the negotiating table. The MoU provided a framework for "self-government" within the Unitary State of the Republic of Indonesia (NKRI). Crucially, the peace process was predicated on the idea that Aceh would receive significant concessions in exchange for dropping its demand for total independence. These concessions included the right to use regional symbols, the establishment of local political parties, and the full implementation of Sharia law.

Special autonomy, as codified in Law No. 11 of 2006 on the Governing of Aceh (LoGA), provided the legal authority to deviate from national legal norms in several key areas. Article 125 of the LoGA explicitly states that Sharia in Aceh includes matters of *Ibada* (worship), *Ahwal Al-Syakhsyiyah* (family law), *Muamalah* (civil law), *Jinayah* (criminal law), and *Qada* (judiciary). This law effectively decentralized the Ministry of Religious Affairs' authority, allowing Aceh to build its own religious bureaucracy. This legal authority was seen as a "peace dividend"—a way to satisfy the ideological demands of the conservative elite and the *Ulama* while maintaining the territorial integrity of Indonesia (Kingsbury, 2006).

However, the peace process also created a complex dynamic between the former combatants of GAM and the religious authorities. While GAM was traditionally more secular-nationalist, they embraced the Sharia agenda as a pragmatic political

tool to maintain legitimacy in the post-conflict era. This alliance between nationalist politicians and religious scholars helped solidify the Sharia project as a core component of the "new" Aceh. The peace agreement, therefore, did not just end the fighting; it redefined the terms of Acehnese citizenship, making adherence to religious law a marker of loyalty to the post-conflict regional order (Hillman, 2012).

The role of the international community during this reconstruction phase was equally significant. While international NGOs and donors focused on physical rebuilding, they often navigated the Sharia landscape with caution. The implementation of religious law occurred simultaneously with the influx of global aid, leading to a unique environment where modern humanitarian standards and conservative religious jurisprudence coexisted. This intersection created tensions, particularly regarding women's rights and public participation, but it also forced a dialogue on how Sharia could be adapted to the requirements of a modern, recovering society (Miller, 2009).

The 2005 peace agreement established a "shared sovereignty" model that continues to be tested. The legal authority granted to Aceh is not absolute, as it remains subject to the Indonesian Constitution and the national Supreme Court. Yet, the autonomy is broad enough that Aceh has developed a distinct legal personality. This period of reconstruction demonstrated that for the Acehnese, peace was not merely the absence of war, but the presence of an indigenous legal system that reflected their faith. The transition from a zone of conflict to a zone of Sharia governance represents one of the most significant experiments in sub-national constitutionalism in the Muslim world.

### *C. Legal Foundations of Syari'ah*

The legal foundation of Sharia in Aceh is built upon a sophisticated hierarchy of national and local laws. At the national level, the Indonesian Constitution (UUD 1945) provides the overarching framework for religious freedom and regional autonomy. Specifically, the "specialty" of Aceh is recognized under Article 18B, which acknowledges regional entities with special characteristics. This constitutional recognition is operationalized through several key national laws, including Law No. 44 of 1999 on the Implementation of Special Status for the Province of Aceh and

the later Law No. 11 of 2006 (LoGA). These statutes provide the "legal umbrella" under which Aceh can enact regional regulations known as *Qanun* (Salim, 2015).

The *Qanun* are the primary instruments through which Sharia is applied in daily life. Unlike standard provincial regulations (*Perda*) in other Indonesian regions, *Qanun* in Aceh can prescribe criminal sanctions, including public caning (*Uqubat*). The most comprehensive of these is the *Qanun Jinayat* (Islamic Criminal Code), enacted in 2014, which covers offenses such as *Khamar* (consumption of alcohol), *Maisir* (gambling), *Khalwat* (seclusion between unrelated genders), and *Zina* (adultery). These regulations are drafted by the provincial parliament (DPRA) and reviewed by the Ministry of Home Affairs, though the central government has historically been hesitant to veto them for fear of reigniting regional tensions (Butt, 2010).

To enforce these laws, Aceh established unique institutional structures that parallel national institutions. The *Mahkamah Syar'iyah* (Sharia Court) handles cases involving both family law and the criminal offenses defined in the *Qanun*. While these courts are integrated into the Indonesian national judicial system under the Supreme Court, they possess a specialized jurisdiction that is unique to Aceh. This institutionalization signifies a shift from "informal" or "communal" Sharia to a "statist" Sharia, where the power of the state is used to define and punish moral transgressions (Ichwan, 2007).

One of the most visible and controversial aspects of this legal structure is the *Wilayatul Hisbah* (WH), often referred to as the "Religious Police." Established under the Department of Sharia Affairs (*Dinas Syariat Islam*), the WH is tasked with monitoring public behavior, providing guidance, and apprehending violators of the *Qanun*. Unlike the regular police, the WH does not have the power to detain suspects for long periods or conduct formal investigations without the national police (POLRI); however, their presence in the public sphere is a powerful symbol of the state's moral authority. Their role is primarily preventative, focused on "commanding right and forbidding wrong" in public spaces (Crouch, 2013).

The interaction between these Sharia institutions and the national police/prosecutors is often a source of legal complexity. For a case to move from an arrest by the WH to a caning sentence in the *Mahkamah Syar'iyah*, it must pass through various stages of the Indonesian criminal procedure code (*KUHAP*). This creates a hybrid legal environment where secular procedural law and Islamic substantive law are forced to interact. This "bureaucratization of Sharia" has led to a

more systematic application of the law, but it has also raised concerns regarding the protection of due process and the rights of the accused within a dualistic system (Lindsey & Butt, 2016).

Furthermore, the legal foundations of Sharia are supported by the *Majelis Permusyawaratan Ulama* (MPU), a council of religious scholars that acts as an advisory body to the government. The MPU issues *Fatwas* (religious edicts) that influence the drafting of *Qanuns* and guide public policy. While their edicts are not legally binding in the same way as state law, they carry immense social and moral weight. This structure ensures that the legal implementation of Sharia is continuously aligned with the theological interpretations of the local *Ulama*, creating a governance model where religious authority and state power are deeply intertwined.

## The Legal Architecture of Syari'ah in Aceh

### A. Criminal Law (*Jinayat*)

The criminal legal framework in Aceh represents a unique departure from the Indonesian Penal Code (*KUHP*), codified primarily through the comprehensive *Qanun Aceh* No. 6 of 2014 on *Jinayat* (Islamic Criminal Law). This *Qanun* identifies ten primary offenses (*Jarimah*) that fall under provincial jurisdiction, ranging from *Khamar* (alcohol consumption) and *Maisir* (gambling) to more socially sensitive categories such as *Khalwat* (affectionate contact between non-mahram individuals), *Ikhtilath* (mingling), and *Liwath* (sodomy). Scholars note that the expansion of the *Jinayat* code signifies an attempt to moralize the public sphere by transforming private sins into state-sanctioned crimes (Feener, 2013). This transition from a purely ethical obligation to a legal mandate reflects a "positivization" of Sharia, where the state assumes the role of moral guardian, a concept often discussed in the context of Ebrahim Moosa's theories on the modern state's co-option of religious authority.

Procedurally, the *Jinayat* framework is governed by *Qanun* No. 7 of 2013 on the Criminal Procedure Code (*Hukum Acara Jinayat*). This legal provision outlines the stages of investigation, prosecution, and trial, largely mirroring the national *KUHAP* but incorporating specific religious evidentiary requirements. For instance, in cases of adultery (*Zina*), the evidentiary threshold remains high, requiring either a confession or the testimony of four witnesses. However, legal critics argue that the

introduction of "circumstantial evidence" in lower-level morality offenses often lowers this bar, leading to potential due process concerns. The procedural mechanism is designed to ensure that the implementation of Sharia does not exist in a vacuum but is integrated into the administrative realities of the Indonesian bureaucratic state (Salim, 2015).

The most distinct—and controversial—aspect of the *Jinayat* architecture is its system of punishments (*Uqubat*). Unlike the custodial sentences prevalent in the national system, the *Qanun* prioritizes corporal punishment, specifically public caning (*Uqubat Cambuk*), alongside fines (*Diyat*) and social rehabilitation. According to Article 6 of the *Qanun Jinayat*, caning is intended to serve as a deterrent and a means of social shaming rather than physical injury. From a theoretical perspective, this aligns with Michel Foucault's observations on "spectacles of scaffold," where the punishment serves to reassert the sovereignty of the law in the eyes of the public. However, human rights scholars such as Tim Lindsey argue that public caning may contravene Indonesia's obligations under the Convention Against Torture (CAT), creating a lingering tension between regional autonomy and international human rights standards.

The implementation of these punishments is managed by the Prosecutor's Office (*Kejaksaan*) and executed in public spaces, usually following Friday prayers. This ritualistic element is central to the legal philosophy of the Acehnese government, which views the punishment as a communal educational tool (*Dakwah*). Scholars like Arskal Salim point out that while the physical severity of the cane is regulated—limiting the swing and the impact area—the psychological and social impact on the offender is profound. This "moral pedagogy" is a cornerstone of the Sharia project in Aceh, aiming to cultivate a self-regulating, pious citizenry through the visible enforcement of divine boundaries.

Furthermore, the legal architecture provides a "choice of law" for non-Muslims who commit offenses together with Muslims. Under Article 129 of the Law on the Governing of Aceh (LoGA), non-Muslims can voluntarily submit to the *Jinayat* code, often choosing caning over lengthy prison sentences under the national *KUHP* due to the speed and lower financial cost of the Sharia process. This legal pluralism, while pragmatic, raises complex questions about the universality of law and the protection of minorities within a religiously defined jurisdiction. It demonstrates a form of "legal competition" where the efficiency of Sharia courts may inadvertently attract those outside the faith (Butt, 2010).

The *Jinayat* architecture is not static; it continues to evolve through judicial review and social feedback. The tension between conservative religious imperatives and the constitutional protections of the Indonesian state ensures that the criminal code remains a site of constant negotiation. As legal scholars observe, the *Qanun Jinayat* is a hybrid product: it is Islamic in substance, Indonesian in form, and Acehnese in its political aspirations. This triple identity makes it one of the most complex criminal justice experiments in the modern Muslim world.

### *B. Family and Civil Law*

Family and civil law in Aceh are governed by the *Mahkamah Syar'iyah*, which possesses broader jurisdiction than the Religious Courts (*Pengadilan Agama*) in other Indonesian provinces. While family law across Indonesia is largely influenced by the Compilation of Islamic Law (KHI), Aceh's special autonomy allows for specific regional refinements through *Qanuns*. This includes matters of marriage (*Nikah*), divorce (*Talak*), and inheritance (*Warits*). In the Acehnese context, these legal provisions are often viewed through the lens of protecting the family unit as the nucleus of an Islamic society. Scholars such as Kamaruzzaman Bustamam-Ahmad argue that the implementation of family law in Aceh is a form of "social engineering" aimed at preserving traditional moral hierarchies in the face of rapid globalization (Bustamam-Ahmad, 2010).

The intersection with national law is particularly evident in the registration of marriages and the protection of women's rights. While Sharia law is the primary framework, it must still align with National Law No. 1 of 1974 on Marriage. This dualism occasionally creates friction, particularly regarding the minimum age of marriage and the practice of polygamy. In Aceh, the *Qanun* on Family Law seeks to provide a more structured approach to these issues, often requiring stricter administrative approvals for polygamous unions than are found in other regions. This reflects a "bureaucratic Sharia" that attempts to balance patriarchal religious interpretations with modern administrative oversight.

Gender roles within the Acehnese legal framework are a subject of intense scholarly debate. Critics, including feminist scholars like Rachel Rinaldo, point out that while Sharia provides certain protections for women (such as inheritance rights and *Mahr*), the public morality *Qanuns* often disproportionately target women's

behavior and attire. Provisions regarding *Khalwat* (seclusion) are frequently enforced in ways that restrict women's mobility in the public sphere after dark. This creates a legal environment where women are viewed as the primary carriers of communal honor, a theoretical concept often termed "gendered morality." The law, therefore, serves as a tool for defining the "ideal Muslim woman" within the post-conflict social order (Rinaldo, 2013).

Inheritance law (*Faraid*) in Aceh follows the standard Shafi'i school of jurisprudence, which generally grants a 2:1 ratio for male and female heirs. However, in practice, this often intersects with *Adat* (customary law), where Acehnese tradition frequently grants women ownership of the family home (*Rumoh Aceh*). This synergy between Sharia and *Adat* provides a unique form of social security for women that is not always captured by a strict reading of Islamic texts. Legal scholars refer to this as "living law," where the formal *Qanuns* are tempered by local practices that have existed for centuries. The *Mahkamah Syar'iyah* often acts as a mediator between these two systems, ensuring that legal outcomes are socially acceptable (Bowen, 2003).

The civil dimension of Sharia in Aceh also extends to Islamic economics and *Muamalah* (financial transactions). Under *Qanun* No. 11 of 2018 on Islamic Financial Institutions, Aceh became the first province to mandate that all financial institutions, including banks and insurance providers, operate according to Sharia principles. This bold legal provision effectively expelled conventional banks from the province, creating a localized Sharia economy. From a theoretical standpoint, this represents an attempt to achieve "total Sharia" (*Kaffah*), where faith governs not only the soul and the family but also the marketplace. This move has been met with both praise for its ideological consistency and concern regarding its impact on regional investment and economic integration.

Family and civil law in Aceh serve as the bridge between the private faith of the individual and the public authority of the state. By codifying these aspects of life, the Acehnese government seeks to create a holistic Islamic environment. However, the ongoing interaction with national secular laws and the diverse realities of modern Acehnese families mean that this legal architecture is characterized by "negotiated piety." The law provides the framework, but the actual social practice is a complex blend of religious doctrine, customary tradition, and contemporary necessity.

### *C. Institutional Mechanisms*

The institutional strength of Sharia in Aceh is anchored by the *Mahkamah Syar'iyah*, a specialized judicial body that replaces the traditional Religious Courts found elsewhere in Indonesia. Established under Presidential Decree No. 11 of 2003, these courts are unique because they possess "extended jurisdiction" to hear both civil (*Muamalah*) and criminal (*Jinayat*) cases. This institutional design is a product of the "one-roof" judicial system in Indonesia, where all courts fall under the administrative control of the Supreme Court (*Mahkamah Agung*). However, the *Mahkamah Syar'iyah* retains its distinct identity through its focus on Islamic jurisprudence, creating a hybrid judicial space where Sharia judges (*Hakim*) apply state-sanctioned religious law (Crouch, 2013).

The enforcement of Sharia is not the sole responsibility of the courts but involves a specialized agency known as the *Dinas Syariat Islam* (Department of Sharia Affairs). This body acts as the "executive arm" of the Sharia project, responsible for policy formulation, public education, and the drafting of *Qanuns*. Unlike other government departments, the *Dinas Syariat Islam* has a broad mandate that touches upon education, culture, and public morality. Its existence ensures that Sharia is not merely a reactive legal system but a proactive social agenda. Scholars note that this institutionalization represents the "bureaucratization of piety," where religious goals are integrated into the standard operating procedures of provincial governance (Ichwan, 2007).

Supporting the enforcement efforts is the *Wilayatul Hisbah* (WH), often misunderstood as a traditional police force. In the legal architecture of Aceh, the WH is a sub-unit of the *Satpol PP* (Civil Service Police Unit) and functions as a morality inspectorate. Their primary role is *Amar Ma'ruf Nahi Munkar* (enjoining good and forbidding wrong) through public patrols and moral guidance. Legally, the WH lacks the power of arrest and detention possessed by the National Police (*Polri*). Instead, they must work in coordination with *Polri* to process criminal suspects. This institutional overlap often leads to jurisdictional friction, as the "secular" police and the "religious" WH may have different priorities and protocols for handling sensitive cases (Lindsey & Butt, 2016).

The interaction with the national judiciary remains one of the most complex aspects of Aceh's legal architecture. While the *Mahkamah Syar'iyah* is a regional

institution, its decisions can be appealed to the Supreme Court in Jakarta. This creates a fascinating legal dynamic where secular Supreme Court justices must interpret *Qanuns* and Sharia principles. This "vertical integration" ensures that Aceh's Sharia system remains anchored within the Indonesian constitutional framework, preventing it from becoming a completely separate legal entity. Legal scholars like Simon Butt argue that this provides a crucial "safety valve," allowing the central government to maintain a degree of oversight over the more controversial aspects of regional Sharia (Butt, 2010).

Another vital institution is the *Majelis Permusyawaratan Ulama* (MPU), or the Council of Religious Scholars. The MPU holds a unique legal status in Aceh, as it is mandated by the Law on the Governing of Aceh (LoGA) to provide "consideration" on all regional policies and *Qanuns*. This gives the *Ulama* a formal seat at the table of government, bridging the gap between theological authority and legislative power. While the MPU's *Fatwas* are not legally binding codes, they carry such immense social capital that the provincial parliament rarely passes legislation without their approval. This institutionalized "consultation" ensures that the legal architecture remains grounded in local religious consensus.

Ultimately, the institutional mechanisms of Sharia in Aceh represent a sophisticated attempt to build a "Sharia State" within a secular-nationalist republic. The coordination between the *Dinas Syariat Islam*, the *Mahkamah Syar'iyah*, the WH, and the MPU creates a comprehensive web of governance. While this architecture has been successful in establishing the visible presence of Sharia, it also faces ongoing challenges regarding institutional capacity, human rights compliance, and the need for professionalization. The success of this model depends on its ability to provide justice that is both religiously authentic and administratively fair in the eyes of a modern, diverse population.

## Faith and Everyday Life

### *A. Public Morality and Religious Observance*

The implementation of Syari'ah in Aceh has fundamentally altered the aesthetics and rhythms of the public sphere, moving religious observance from the private domain of conscience to the public domain of state regulation. Central to this transformation

is the enforcement of Islamic dress codes, particularly for women, as mandated by *Qanun* No. 11 of 2002. This regulation requires "Muslims to wear Islamic clothing," which has been interpreted by enforcement agencies as the *jilbab* (headscarf) and loose-fitting attire for women, and modest clothing for men. Scholars like Robin Bush (2008) argue that such codes serve as a visible marker of the state's Islamic identity, creating a "disciplined" public space where piety is measured by outward appearance.

Public conduct regulations extend beyond attire to include the policing of social interactions through the prohibition of *Khalwat* (seclusion) and *Ikhtilath* (mingling). These provisions, codified in the *Qanun Jinayat*, criminalize proximity between unrelated members of the opposite sex in private or semi-private spaces. This has led to a culture of communal surveillance, where local "morality guards" and the *Wilayatul Hisbah* monitor parks, cafes, and vehicles. From a sociological perspective, this represents what Julian Millie calls "the bureaucratization of the village," where traditional social control is replaced by formalized, state-led moral policing that aims to eliminate "social diseases" (*penyakit masyarakat*).

The enforcement of religious observance is perhaps most visible during the holy month of Ramadan. During this period, local ordinances strictly prohibit the operation of food stalls and restaurants during daylight hours, and public eating is subject to legal sanction. Furthermore, the mandatory suspension of business activities during Friday prayers for men is a unique feature of Acehnese public life. These regulations are not merely symbolic; they are backed by the threat of administrative and criminal penalties. Scholars observe that while many Acehnese support these measures as a reflection of their faith, the coercive nature of the enforcement marks a shift from voluntary piety to "compulsory religiosity" (Feener, 2013).

The regulation of public morality also impacts the urban landscape and the economy of leisure. The provincial government frequently issues circulars restricting live music, cinema, and other forms of entertainment deemed "un-Islamic." These restrictions are often justified by the MPU (Council of Scholars) through the concept of *Sadd al-Dhara'i* (blocking the means to evil), a legal principle used to prohibit acts that might lead to prohibited behavior. This proactive approach to morality often places Aceh at odds with the modern, globalized lifestyle seen in other Indonesian metropolises like Jakarta or Medan, creating a distinct "moral geography" within the nation.

However, the "lived experience" of these morality laws is often characterized by negotiation and selective enforcement. In urban centers like Banda Aceh, young people often find creative ways to navigate the boundaries of the law, utilizing digital spaces or private venues to bypass the gaze of the *Wilayatul Hisbah*. This dynamic suggests that while the state has successfully altered the "surface" of public life, the underlying social attitudes remain complex and pluralistic. The tension between state-mandated morality and individual agency remains a defining feature of contemporary Acehnese society.

The enforcement of public morality in Aceh reflects a specific vision of an "ordered" society where the state acts as the ultimate arbiter of virtue. This model of governance assumes that a pious society can be engineered through the consistent application of legal sanctions. Yet, as critics like Arskal Salim point out, the focus on "public" sins often overlooks "private" or structural issues like corruption or poverty. The result is a legal architecture that is highly effective at regulating the visible symbols of faith but faces challenges in addressing the deeper, more complex social transformations of the post-conflict era.

## *B. Gender and Social Norms*

The intersection of Syari'ah law and gender in Aceh has created a contested terrain where traditional patriarchal structures are often reinforced by modern legal statutes. While the *Qanun* is theoretically gender-neutral, its application frequently focuses on the regulation of female bodies and behaviors. Women's mobility, in particular, has been a focal point of legislative debate, with several districts attempting to pass "curfew" regulations that restrict women from being in public spaces after 11:00 PM without a male guardian (*Mahram*). Although these are often framed as "protective" measures, feminist scholars argue they reinforce the "domestication" of women and limit their participation in the public workforce (Grossmann, 2019).

Gendered interpretations of morality are most sharply felt in the enforcement of "modesty" laws. Data from human rights organizations often show that women are disproportionately stopped by the *Wilayatul Hisbah* for "improper" clothing, such as wearing tight trousers. This "gendered policing" creates a social environment where women's presence in the public sphere is conditional upon their adherence to

a specific moral aesthetic. As Rachel Rinaldo (2013) notes, this process creates a "moral burden" for women, who are seen as the primary repositories of communal and religious honor, making them the first targets of social engineering projects.

Furthermore, the legal framework often views women through the lens of family and domesticity, which can complicate their access to justice. In cases of domestic violence or sexual assault, the high evidentiary threshold required by the *Qanun Jinayat*—such as the need for multiple witnesses or a confession—can make it difficult for victims to seek redress within the Sharia court system. While the national Law on the Elimination of Domestic Violence (PKDRT) still applies, the social pressure to settle "family matters" through religious mediation often overrides secular legal protections. This "justice gap" highlights the vulnerability of women when religious law is prioritized over universal human rights frameworks.

Despite these challenges, Acehese women are not passive subjects; they have historically been agents of change. From the female warriors of the Sultanate to modern activists, there is a strong tradition of women's leadership in Aceh. Today, many women's rights organizations in Aceh use an "internal critique" approach, arguing for gender equality from within an Islamic framework. They challenge conservative interpretations by citing egalitarian verses of the Quran and the historical role of the *Ulama Perempuan* (female scholars). This suggests that the struggle for gender justice in Aceh is not a battle between "Islam" and "Secularism," but a contest over the interpretation of Islamic law itself.

The social norms regarding marriage and divorce also reflect this gendered complexity. While Sharia provides women with the right to *Khulu* (divorce initiated by the wife), the social stigma and economic consequences can be prohibitive. Conversely, the legalization of certain forms of polygamy under the *Qanun* provides a legal avenue for a practice that remains controversial. Legal scholars note that while the state attempts to regulate these practices to protect women's rights, the underlying power imbalance in a patriarchal society often means that the law is used to formalize existing inequalities rather than dismantle them.

Gender relations in Aceh under Syari'ah are characterized by a "dual-status" for women: they are granted high symbolic status as the "mothers of the nation" while simultaneously being subjected to rigorous moral surveillance. The impact of Syari'ah on gender is thus a mix of protection and restriction. As Aceh continues to evolve, the ability of women to participate fully in the political and social life of the

province will be a key indicator of whether the Sharia project can accommodate modern standards of gender equality and social justice.

### *C. Minority Communities*

The implementation of Syari'ah in Aceh presents unique challenges for religious minorities and non-conforming groups, testing the limits of Indonesia's national motto, *Bhinneka Tunggal Ika* (Unity in Diversity). Although the *Qanun* officially applies only to Muslims, the "Shariatization" of the public sphere inevitably affects non-Muslim residents. The most prominent issue involves the regulation of houses of worship. Under the 2006 Joint Ministerial Decree (PBM) and further regional regulations, the requirements for establishing non-Muslim places of worship are stringent, leading to the closure of several churches in districts like Aceh Singkil. This creates a "legalized marginalization" where minorities feel their religious freedom is subordinated to the majority's legal mandate (Crouch, 2013).

Religious minorities also face social pressure to conform to Islamic public norms, such as dress codes and Ramadan restrictions. While the *Wilayatul Hisbah* generally refrains from arresting non-Muslims for dress code violations, the social expectation to "respect the majority" creates a climate of self-censorship. Minority leaders often describe their experience as living in a state of "tolerated presence" rather than full citizenship. This social vulnerability is exacerbated during periods of heightened religious fervor, where minority groups are often used as political scapegoats to bolster conservative credentials.

The most acute legal and social vulnerabilities are faced by the LGBTQ+ community in Aceh. The *Qanun Jinayat* (2014) explicitly criminalizes same-sex relations (*Liwath* and *Musahaqah*), punishable by up to 100 lashes. This codification has led to several high-profile public canings of gay men, attracting international condemnation. Scholars like Benedict Anderson have noted that in many post-conflict societies, "moral panics" regarding sexual minorities are used to define the boundaries of the "new" nation. In Aceh, the exclusion of LGBTQ+ individuals is framed as a defense of "natural law" and Islamic morality, effectively stripping this community of their basic civil liberties and forcing them into a precarious underground existence.

Furthermore, the vulnerability of these groups is not just legal but physical. The rhetoric used by state officials and the MPU often frames "minority deviations" as a threat to the implementation of Sharia and a potential cause of "divine wrath." This discourse provides a degree of social license for vigilante groups to conduct raids on private gatherings. The lack of police protection for these marginalized communities creates a "gray zone" where the rule of law is superseded by the "rule of the mob." This environment underscores the difficulty of maintaining a pluralistic society within a framework of majoritarian religious law.

The legal status of non-Muslims in Sharia courts also remains a point of contention. As mentioned previously, non-Muslims can "choose" to be tried under Sharia law for certain offenses. While some view this as a form of flexible legal pluralism, others argue it is a "false choice" driven by the harshness or inefficiency of the secular alternative. The integration of Sharia into the provincial legal system has thus created a hierarchy of rights where one's religious identity determines their legal standing and social mobility. This "differential citizenship" challenges the constitutional guarantee of equality before the law for all Indonesian citizens.

The experience of minority communities in Aceh serves as a "litmus test" for the compatibility of Syari'ah with modern pluralism. While the Acehese government maintains that Sharia protects all citizens, the reality on the ground for religious and sexual minorities is often one of exclusion and fear. Addressing these legal and social vulnerabilities is essential for ensuring that Aceh's peace process is truly inclusive. Without the protection of minority rights, the "Aceh model" of religious autonomy risks becoming a source of new social fractures that could undermine the very stability it seeks to preserve.

## **Syari'ah and Post-Conflict Peace-Building**

### *A. Syari'ah as Political Compromise*

The institutionalization of Syari'ah in Aceh represents a profound application of Asymmetric Autonomy Theory, serving as a strategic instrument for conflict de-escalation. Within the context of the 2005 Helsinki Memorandum of Understanding (MoU), the granting of religious legal authority was far more than a cultural gesture; it was a non-negotiable political compromise that allowed the Indonesian state to

maintain its territorial integrity. By decentralizing moral and legal jurisdiction, the central government successfully transformed the secessionist energy of the Free Aceh Movement (GAM) into a participatory governance framework. This transition illustrates the "sovereignty-sharing" model where the central state retains control over external defense and macroeconomics while ceding the "moral soul" of the province to local authorities (Stepan, 2001). This structural flexibility allowed for a "soft landing" of secessionist demands into the framework of the unitary state.

Analyzing the legal foundations, the Law on the Governing of Aceh (LoGA) No. 11/2006 acted as the constitutional anchor for this compromise. Article 125 of this law explicitly empowers the Aceh provincial government to implement Sharia in its *kaffah* (comprehensive) form, covering everything from worship to criminal law. Scholars like Edward Aspinall (2009) argue that this provision functioned as a "peace dividend" that catered to the primordial identities of the Acehnese people. For the Indonesian government, accommodating Sharia was a pragmatic necessity to resolve a thirty-year insurgency; for the Acehnese, it was the fulfillment of a historical mandate that predated the republic itself. This synergy created a unique legal space where religious identity became the primary currency for political reconciliation, effectively substituting territorial independence with religious autonomy.

The "Shariatization" of the peace process also facilitated the political transition of former GAM combatants. Although the movement's origins were rooted in ethno-nationalist grievances rather than religious fundamentalism, the adoption of a Sharia-centric platform allowed the post-conflict leadership to consolidate power among a conservative electorate. As Michael Feener (2013) observes, this move effectively "Islamized" the nationalist struggle, making the implementation of *Qanun* (local regulations) the benchmark for successful self-governance. By focusing on moral reconstruction, the regional government was able to present a tangible "win" to the populace, even as structural economic challenges remained. This suggests that in post-conflict settings, religious law can act as a stabilizing "grand narrative" that replaces the rhetoric of war with a project of communal purification.

However, this compromise established a complex Constitutional Dualism. While the LoGA grants Aceh specific religious autonomy, the province remains technically bound by the 1945 Indonesian Constitution and national human rights standards. This creates a perpetual state of "negotiated legality" between Banda Aceh and Jakarta. Critics argue that the central government's "hands-off" approach to Sharia enforcement in Aceh is a form of "political convenience" that risks sacrificing

the rights of minorities and women at the altar of regional stability (Lindsey, 2012). Nevertheless, from a conflict resolution perspective, the trade-off has been successful: the guns have remained silent because the *Qanun* has provided a sufficient sense of indigenous sovereignty to satisfy the former rebels and the religious elite.

Furthermore, the role of the international community during the post-tsunami reconstruction phase added another layer to this compromise. Global donors and NGOs had to navigate a landscape where they were building modern infrastructure alongside a burgeoning religious legal system. This resulted in a unique "hybridity" where international humanitarian standards and Sharia principles were forced to coexist. This environment forced the Acehnese government to professionalize its Sharia institutions, such as the *Mahkamah Syar'iyah*, to meet minimum administrative standards. The institutionalization of Sharia, therefore, was not a retreat into the past but an attempt to modernize religious authority within a contemporary state framework, a process that Arskal Salim (2015) describes as the "positivization" of divine law through state bureaucracy.

The Acehnese model suggests that "Special Autonomy" is most effective when it addresses the core identity grievances of a population. In Aceh, those grievances were inextricably linked to the suppression of Islamic identity during the New Order era. By making Sharia the centerpiece of the 2005 peace deal, the Indonesian state successfully co-opted the religious legitimacy of the *Ulama* and the political legitimacy of GAM. This "nested sovereignty" remains a rare example of how a secular-nationalist republic can successfully integrate a sub-national entity governed by religious law. The compromise has turned a zone of conflict into a zone of "legal experimentation," marking a significant shift in the global history of Islamic political movements and state-building (Miller, 2009).

### *B. Governance, Legitimacy, and Stability*

The post-conflict governance of Aceh has increasingly relied on Performance Legitimacy, where the regional government's standing is measured by its vigor in defending the "moral borders" of the province. This shift has led to the "bureaucratization of piety," where government departments like the *Dinas Syariat Islam* act as the primary architects of social order. Under this model, the legitimacy of the governor or local regents is often tied to their visible support for *Qanun*

enforcement rather than traditional metrics of economic growth. As Marzuki Shereen Ichwan (2007) notes, this "Shariatization of politics" has created a new class of "religious bureaucrats" who wield significant power over the daily lives of citizens, transforming the state into a moral supervisor that monitors public behavior and private morality.

This focus on moral governance has complex implications for democratic norms in Aceh. On one hand, the implementation of Sharia is the result of a democratic process, with the provincial parliament (DPRA) consistently voting for conservative regulations that reflect the will of the majority. On the other hand, the enforcement of these laws through the Wilayatul Hisbah (morality police) often overrides the "liberal" aspects of democracy, such as individual civil liberties and the protection of minority rights. This creates a "majoritarian democracy" where the protection of collective religious values is viewed as a higher priority than the autonomy of the individual (Bush, 2008). This tension remains a central theme in contemporary Acehnese discourse, where the definitions of "democracy" and "Islamic values" are constantly contested.

The stability provided by Sharia governance is often described as a "moral peace." For a society that endured decades of arbitrary military violence, the introduction of a predictable—albeit strict—legal code offered a sense of psychological security. The visible enforcement of laws against gambling (*Maisir*) and alcohol (*Khamar*) serves as a constant reminder that the state is "working" to restore the social fabric. From the perspective of Social Control Theory, public canings and morality patrols act as ritualistic mechanisms to reassert the authority of the state in the eyes of the public. This stability, however, is frequently critiqued by human rights defenders for being an "illiberal peace" that maintains order through social shaming and the systematic suppression of non-conformist identities (Crouch, 2013).

Legal institutionalization also plays a critical role in maintaining regional stability. The integration of the *Mahkamah Syar'iyah* into the national judicial hierarchy under the "One Roof System" ensures that Sharia in Aceh is not a rogue legal system but a specialized branch of the Indonesian judiciary. This institutional link provides a "safety valve" for the central government to oversee regional law through the Supreme Court. As Simon Butt (2010) highlights, this prevents a complete legal "breakaway," ensuring that while Aceh is "special," it remains legally accountable to the republic's judicial oversight. This administrative integration is the

backbone of the province's political stability, preventing the legal pluralism of the LoGA from devolving into constitutional chaos or a total jurisdictional split.

Moreover, the role of the *Majelis Permusyawaratan Ulama* (MPU) as a formal advisory body adds a unique layer of "theocratic legitimacy" to the secular government structure. Article 138 of the LoGA requires the government to consult with the MPU on policies related to Sharia. This creates a system of "shared authority" between elected officials and religious scholars. While this ensures that laws remain religiously authentic, it also complicates the policy-making process, as secular developmental goals must often be justified through a religious lens. This "consultative governance" represents a hybrid model that seeks to harmonize democratic representation with traditional religious authority, a balance that is essential for maintaining the support of the conservative rural populace (Srimulyani, 2012).

The long-term stability of Aceh's governance depends on its ability to move beyond "symbolic Sharia." There is a growing discourse within Acehnese civil society that calls for "Sharia with Justice," focusing on poverty alleviation, anti-corruption, and transparency—principles often referred to as *Maqasid al-Sharia* (the objectives of Sharia). Scholars like Kamaruzzaman Bustamam-Ahmad (2010) argue that if Sharia remains focused only on punitive measures and public morality, it may eventually lose its legitimacy among a youth population that is increasingly globalized and economically frustrated. Therefore, the future of Aceh's stability lies in the government's ability to translate religious law into a comprehensive framework for social and economic welfare that addresses the material needs of the post-conflict generation.

### C. Comparative Perspectives

The "Aceh Experiment" offers invaluable lessons for other Muslim-majority post-conflict regions, serving as a template for Conflict Transformation through legal pluralism. In regions such as the Bangsamoro in the Southern Philippines or the semi-autonomous regions of the Middle East, the Aceh model demonstrates that a "state-within-a-state" approach to religious law can be a viable alternative to secession. The primary takeaway is that by granting "spiritual sovereignty," a central government can satisfy the psychological and identity-based demands of an insurgent

group without relinquishing territorial control. This provides a roadmap for "Asymmetric Federalism" where legal identity is used as a tool for national integration rather than a precursor to independence (Horowitz, 2000).

However, the Aceh case also provides a cautionary tale regarding the "price of peace." Comparative analysis shows that when religious law is used as a political bargaining chip, the rights of vulnerable groups—specifically women and religious minorities—are often the first to be compromised. In Aceh, the rapid "statization" of Sharia led to a legal environment that is often at odds with universal human rights, particularly regarding corporal punishment and freedom of expression. For other regions, such as the BARMM (Bangsamoro Autonomous Region in Muslim Mindanao), the lesson is to embed robust "human rights safeguards" within the initial peace agreement to ensure that religious autonomy does not become a vehicle for majoritarian authoritarianism (McGibbon, 2004).

Another critical lesson lies in the Institutionalization of Religion. Aceh shows that Sharia is most "stable" when it is managed through professional, state-sanctioned bureaucracies rather than informal militia groups. By creating the *Dinas Syariat Islam* and the *Mahkamah Syar'iyah*, Indonesia successfully brought Sharia under the "rule of law." This prevents the "vigilante Sharia" seen in other conflict zones where non-state actors enforce their own interpretations of divine law. For post-conflict reconstruction, the Aceh model proves that the state must remain the primary "enforcer" to prevent social chaos (Hefner, 2011). This "statist approach" ensures that Sharia remains a predictable legal system rather than an arbitrary tool of extremist groups.

Furthermore, the Aceh experience highlights the importance of Legal Hybridity. The province's ability to function while operating under both a secular national constitution and an Islamic regional code is a testament to the flexibility of the Indonesian legal system. This suggests that "constitutional creativity" is a prerequisite for peace in pluralistic societies. Comparative scholars point out that the rigid application of "one law for all" often fuels secessionist movements in diverse nations (Reid, 2005). Aceh proves that a "multi-layered legal identity" can actually strengthen a nation-state by making it more inclusive of the diverse religious and cultural realities of its citizens, provided there is a central judicial mechanism to mediate conflicts.

From a sociological perspective, Aceh illustrates the concept of "Living Sharia," where the law is constantly reshaped by local culture and political necessity. The way

Sharia is practiced in Aceh is distinct from models found in the Gulf states because it is tempered by the Southeast Asian tradition of *Adat* and the democratic framework of the Indonesian republic. This "localized Sharia" offers a model for "Democratic Islamism," where religious law is integrated into a system of checks and balances (Rinaldo, 2013). For global policymakers, this demonstrates that there is no "one-size-fits-all" Sharia, and that local context is the most important variable in determining whether the implementation of religious law will lead to peace or further conflict.

Therefore, at this context, Aceh remains the world's most significant experiment in sub-national Islamic governance. It provides a unique lens through which to view the intersection of faith, law, and post-conflict society. The broader implications for peace-building are clear: religious law can facilitate an end to war, but the resulting "peace" requires constant negotiation to remain inclusive and just. As other regions look to Aceh for inspiration, they must consider both its successes in stabilization and its challenges in protecting civil liberties (Grossmann, 2019). Ultimately, the Aceh model proves that while the "Spirit of Mecca" can bring peace to a "Veranda," the "Spirit of Democracy" is required to ensure that peace is shared by all its inhabitants.

## **Aceh Under Syari'ah: A Debate on Practices**

### *A. The Interplay Between Religious Authority and State Governance*

The implementation of Syari'ah in Aceh presents a sophisticated paradigm of "statist Islam," where the traditional moral authority of the *Ulama* (religious scholars) is formalized through modern bureaucratic structures. This interplay is most visible in the dual authority shared between the executive branch of the provincial government and the *Majelis Permusyawaratan Ulama* (MPU). According to the Theory of Institutional Capture, this arrangement prevents religious authority from becoming an external critic of the state; instead, it becomes a structural component of governance (Ichwan, 2011). While this integration lends the state immense religious legitimacy, it also subjects divine law to the pragmatism of administrative processes, essentially bureaucratizing piety. The tension arises when the "purity" of religious

doctrine must be filtered through the "proceduralism" of national law, leading to a hybrid governance model where the state acts as the ultimate enforcer of morality.

This institutionalization reflects a departure from the historical role of the *Ulama* as independent moral arbiters. In the pre-modern Sultanate, religious scholars often served as a check on royal power; however, in contemporary Aceh, they are integrated into the state apparatus through the Law on the Governing of Aceh (LoGA) No. 11/2006. This law mandates that the provincial government must consult the MPU on matters of public policy, effectively granting the clergy a "veto-lite" power. Scholars such as Robert Hefner (2011) argue that this "civic Shariatization" creates a unique form of governance where the boundaries between the sacred and the secular are blurred. The state does not just enforce the law; it defines orthodoxy through regional regulations (*Qanun*), thereby centralizing religious interpretation within the hands of government-appointed scholars.

The operationalization of this interplay is further manifested in the Dinas Syariat Islam (Department of Sharia Affairs), which manages the practical application of religious mandates. This department functions like any other civil service agency, dealing with budgeting, human resources, and strategic planning, yet its "product" is the moral conduct of the citizenry. This represents a "modernization of the traditional," where ancient jurisprudential concepts are managed via contemporary management systems. The result is a system of "Bureaucratic Sharia" that is more systematic and pervasive than any historical model in the region's past. This bureaucratization ensures that the legal system is predictable, but it also strips religious law of its traditional flexibility, replacing communal consensus with state-mandated codes.

Furthermore, the relationship between religious authority and state governance is complicated by the presence of the national police (*Polri*) and the *Wilayatul Hisbah* (WH). While the WH is a provincial body focused on morality, it must coordinate with the national police for any formal criminal processing. This overlap creates a "jurisdictional friction" where the secular priorities of the central government often clash with the religious priorities of local enforcers. Analysis of this friction suggests that religious authority in Aceh is not absolute; it is constantly negotiating its boundaries with the secular authority of the Indonesian republic. This negotiation is a central theme in the discourse of Legal Pluralism, where multiple legal systems vie for dominance within a single geographic territory (Salim, 2015).

The impact of this interplay on public legitimacy is profound. The Acehese government derives its "performance legitimacy" not only from economic development but from its perceived success in upholding the *Qanun*. This creates a political incentive for leaders to pass increasingly conservative regulations to prove their religious credentials. However, as Feener (2013) notes, this can lead to a "race to the top" in moral conservatism, which may eventually alienate more moderate segments of the population. The state, therefore, walks a tightrope between satisfying the demands of the conservative *Ulama* and maintaining its standing as a modern administrative unit within a democratic nation-state.

The interplay between religious authority and state governance in Aceh demonstrates that the implementation of Sharia is as much a political project as it is a religious one. The state has successfully co-opted religious discourse to stabilize a post-conflict region, but in doing so, it has fundamentally transformed the nature of religious authority. The *Ulama* have gained political power but lost their status as independent observers. This "theocratic-bureaucratic" hybrid is a significant contribution to the study of modern Islamic political thought, providing a template for how religious law can be integrated into a contemporary state without necessitating a total theological revolution.

### *B. The Negotiation Between Tradition and Modernity*

Aceh's legal journey is characterized by a constant negotiation between centuries-old traditions (*Adat*) and the demands of a 21st-century globalized society. This synthesis is not a rejection of modernity but an attempt to construct an "Islamic Modernity" that adheres to religious principles while participating in modern statehood. The Social Engineering Theory of Roscoe Pound is highly relevant here, as the Acehese government utilizes the *Qanun* to reshape social norms to fit an idealized Islamic identity (Feener, 2013). However, this negotiation is often fraught with friction, particularly regarding women's rights and digital connectivity. As Acehese society becomes more integrated into the global economy, the state must balance the preservation of local conservative values with the practical necessity of modern economic and civil participation.

A critical site of this negotiation is the Acehese family unit and the role of women in public life. Traditional Acehese *Adat* has historically been relatively

egalitarian, with women playing strong roles in property ownership and communal leadership. However, the modern implementation of Sharia has introduced more patriarchal interpretations of gender roles, often imported from the Middle East. This creates a "clash of traditions" within the Sharia framework itself. Scholars like Eka Srimulyani (2012) highlight that Acehese women often use their traditional standing to negotiate the boundaries of the new religious laws, arguing for a "localized Sharia" that respects indigenous female agency while remaining faithful to Islamic doctrine.

The digital age has introduced further complexities into this negotiation. The rise of social media and globalized youth culture in Banda Aceh presents a challenge to the "moral surveillance" model of the *Wilayatul Hisbah*. While the state attempts to regulate public behavior through the *Qanun*, the private digital lives of Acehese youth are often beyond the reach of the morality police. This creates a "dual reality" where individuals perform piety in the physical public sphere while engaging with globalized, secular trends in the digital sphere. This phenomenon suggests that modernity is not replacing tradition in Aceh; rather, the two are being "re-mixed" by the younger generation, creating new, hybrid identities that the formal legal system struggles to categorize.

Furthermore, the economic dimension of modernity poses a significant challenge to Sharia governance. The 2018 mandate that all financial institutions in Aceh operate on Sharia principles (Qanun No. 11/2018) is a bold attempt to decouple the province from global interest-based (*Riba*) banking. This move represents a "modernity of resistance," where Aceh seeks to participate in global trade on its own ethical terms. However, the practical difficulties of this transition—ranging from capital flight to reduced investment—highlight the friction between religious idealism and the harsh realities of the modern global market. The state must constantly refine its "Islamic economic" model to ensure it does not isolate the province from the very modernity it seeks to engage with.

The architecture and urban planning of post-tsunami Aceh also reflect this negotiation. The reconstruction of the Baiturrahman Grand Mosque and the development of the Tsunami Museum symbolize a city that is simultaneously looking back at its religious heritage and forward toward a future defined by science and memory. This "built environment" acts as a physical manifestation of the Sharia project, where modern engineering is used to enhance the religious character of the city. Analysis of urban spaces in Aceh reveals a "disciplined modernity," where public

squares are designed both for communal gathering and for the performance of public punishments, serving as a constant reminder of the state's dual commitment to progress and tradition.

In the educational sphere, the "negotiation" is seen in the integration of the *Dayah* (traditional boarding schools) into the formal provincial education system. Instead of replacing religious education with secular curricula, Aceh has opted to "modernize the *Dayah*," introducing vocational training and science subjects alongside classical Arabic texts. This ensures that the next generation of religious leaders is equipped for the modern workforce, bridging the gap between traditional scholarship and contemporary societal needs. This model of "integrated education" is one of Aceh's most successful strategies for harmonizing its religious identity with the requirements of a modern developing society.

Ultimately, the negotiation between tradition and modernity in Aceh proves that Sharia is not a static set of medieval rules, but a dynamic and evolving legal discourse. The Acehnese experience demonstrates that a society can be intensely modern while remaining deeply religious. This "modernity with a Muslim face" challenges Western secularist assumptions that progress necessitates the decline of religion. Instead, Aceh offers a model of "multiple modernities," where faith acts as a guiding framework for development rather than an obstacle to it. The success of this model will depend on the continued ability of the Acehnese people to adapt their religious interpretations to the shifting realities of the 21st century.

### *C. Syari'ah as Legal Pluralism Within a Unitary State*

The Acehnese model represents a radical experiment in Legal Pluralism, challenging the traditional concept of legal uniformity in a unitary state. By allowing a sub-national entity to enforce a distinct criminal code (*Qanun Jinayat*) that differs from the national Penal Code (KUHP), Indonesia has adopted a "shared sovereignty" approach. This pluralism allows for the accommodation of regional religious aspirations without severing the territorial bond to the central government. Nevertheless, this dualism creates a "constitutional gray zone" where the Supreme Court in Jakarta must mediate between universal human rights standards and regional religious autonomy. The discussion ultimately highlights that Aceh's legal

architecture is a living example of how a modern republic can manage deep-seated religious diversity by decentralizing legal authority.

Analyzing this through the lens of Legal Hybridity, Aceh functions as a unique judicial laboratory. Within the province, an individual may be subject to three distinct legal layers: Indonesian National Law, Aceh's Sharia *Qanun*, and local *Adat* (customary law). This "triple legalities" requires a high degree of judicial sophistication. For example, a civil dispute over land may involve National Land Law, Sharia principles of inheritance, and village-level *Adat* mediation. As Arskal Salim (2015) notes, this pluralism is not always harmonious; it often results in "forum shopping," where litigants choose the legal venue most likely to favor their interests. This dynamic challenges the state to ensure that the coexistence of these systems does not lead to a breakdown in the rule of law.

The constitutional validity of this pluralism is anchored in the "Specialty" of Aceh as recognized in Article 18B of the Indonesian Constitution. However, the extent of this specialty is a subject of constant debate in the Constitutional Court (*Mahkamah Konstitusi*). Some legal scholars argue that the *Qanun Jinayat* violates the principle of "equality before the law" by creating different punishments for the same crime based on geography. Others argue that true democracy requires the state to respect the "living law" of a specific region. This tension between Universalism and Relativism is at the heart of the Acehnese experiment, providing a case study for how modern nations can handle the "clash of jurisdictions" in an increasingly fragmented world.

Furthermore, the Acehnese experience highlights the role of "Inter-legal Coordination." Because the Sharia courts (*Mahkamah Syar'iyah*) are part of the national "One Roof System" under the Supreme Court, there is a formal bridge between the regional religious law and the national secular law. This prevents Sharia from becoming an "isolated island" of jurisprudence. When a *Qanun* case is appealed to the Supreme Court, secular justices must grapple with Sharia concepts, and vice versa. This cross-pollination of legal ideas is a significant development in Indonesian legal history, suggesting that the "unitary state" can survive—and even thrive—with high levels of legal diversity, provided there is a centralizing judicial authority to ensure ultimate consistency.

The impact of this pluralism on non-Muslims and "outsiders" is another critical point of discussion. As mentioned in Section 3.1, non-Muslims in Aceh can "voluntarily submit" to Sharia law for certain offenses. While this is framed as an

exercise in legal choice, it underscores the dominance of the Sharia framework in the province. From a Human Rights perspective, critics argue that this "choice" is often coercive, as the alternative (prison under national law) may be more economically or socially damaging than a public caning. This raises fundamental questions about whether legal pluralism in a religious context can ever truly be "neutral" or whether it inevitably leads to the marginalization of the "other."

The discussion of legal pluralism in Aceh must account for the "political durability" of the model. Since the 2005 peace agreement, the Sharia project has become the primary source of political stability in the region. The central government is hesitant to strike down controversial *Qanuns* for fear of reigniting secessionist sentiments. This suggests that legal pluralism in Aceh is not just a judicial choice but a "security imperative." The unitary state of Indonesia has effectively traded a degree of legal uniformity for long-term regional peace. This "peace-building through pluralism" is a major takeaway for other pluralistic societies facing internal conflict, proving that a flexible constitution can be a nation's strongest defense against disintegration.

## Conclusion

### *A. Summary of Key Findings*

The implementation of Syari'ah in Aceh represents one of the most significant legal and societal transformations in contemporary Southeast Asia. This research has demonstrated that the transition from a zone of protracted conflict to a province governed by Islamic law was not merely a legislative shift but a profound re-engineering of the social fabric. The key transformations identified include the "positivization" of religious norms into state-sanctioned codes, the bureaucratization of moral authority through institutions like the *Wilayatul Hisbah*, and the reconfiguration of public spaces to align with conservative religious aesthetics. While Sharia has provided a sense of "moral security" and regional identity in the post-conflict era, it has also introduced new complexities regarding the protection of individual liberties and the negotiation of gender roles within a modernizing society.

Furthermore, the study finds that the Acehnese legal architecture has successfully integrated into the Indonesian national judicial system through a "one-

roof" administrative model. This integration has prevented the emergence of a completely separate legal entity, maintaining a crucial link between regional autonomy and national constitutional oversight. However, the lived experiences of Acehnese citizens reveal a "negotiated piety," where individuals constantly navigate the boundaries between state-enforced mandates, traditional customary practices (*Adat*), and the influences of globalized modernity. Ultimately, Syari'ah in Aceh has functioned as a cornerstone of regional stability, satisfying long-standing identity grievances while presenting ongoing challenges for inclusive governance.

### *B. Theoretical Contributions*

This study offers significant theoretical insights into the role of Islamic law within the framework of the modern nation-state. By applying Legal Pluralism Theory, the research challenges the conventional "Westphalian" notion of legal uniformity, demonstrating that a unitary state can successfully accommodate a sub-national entity with a distinct religious legal system. This "asymmetric constitutionalism" provides a new lens for understanding state formation in pluralistic societies, where the decentralization of moral authority acts as a tool for national integration rather than disintegration. The Acehnese case proves that Sharia is not inherently antithetical to modern statehood but can be adapted into a bureaucratic and democratic administrative framework.

In the realm of post-conflict governance, the study contributes to the concept of "Performance Legitimacy" through religious mandates. It illustrates how a post-insurgency government can utilize the enforcement of morality to consolidate its authority and fill the "legitimacy vacuum" left by years of war. This model suggests that in societies where identity is deeply tied to faith, religious law can serve as a potent "peace-building" mechanism by providing a shared cultural project. Theoretically, this moves the discussion beyond the "secular-liberal" peace model, offering a "religious-communitarian" alternative that prioritizes communal harmony and indigenous authenticity over individualistic liberal norms.

### *C. Policy Implications*

From a policy perspective, the Acehnese experience underscores the urgent need for robust "human rights safeguards" within the implementation of religious law. While Sharia has contributed to regional stability, the disproportionate impact of morality policing on women and minority groups highlights a tension between regional autonomy and universal rights. Policymakers involved in similar post-conflict regions must ensure that the granting of religious authority is accompanied by clear mechanisms for the protection of marginalized communities. This includes professionalizing religious enforcement agencies and ensuring that the high evidentiary standards of Islamic jurisprudence are strictly maintained to prevent miscarriages of justice.

The balance between autonomy and pluralism remains the most delicate policy challenge for the Indonesian government and Acehnese authorities. Future policy frameworks should focus on "*Maqasid al-Sharia*" (the higher objectives of Sharia), shifting the emphasis from punitive measures to social and economic welfare. By broadening the definition of Sharia to include anti-corruption, poverty alleviation, and environmental protection, the government can ensure that the legal system addresses the contemporary needs of all citizens. This holistic approach would foster a more inclusive form of Sharia that strengthens social cohesion while maintaining the province's unique religious identity within the Indonesian republic.

### *D. Limitations and Future Research*

This research acknowledges certain limitations, particularly the reliance on existing legal literature and qualitative snapshots of social life. There is a pressing need for longitudinal studies that track the long-term impact of Sharia on the socio-economic mobility of women and the educational outcomes of the "post-conflict generation." As the initial fervor of the peace process fades, understanding how the youth—who did not experience the war—perceive and interact with Sharia governance will be critical for predicting the legal system's future sustainability. Future research should utilize quantitative surveys to complement qualitative findings, providing a more statistically robust view of societal shifts.

Furthermore, there is a fertile ground for comparative research across different regions implementing Islamic law, such as the Bangsamoro in the Philippines or sub-national entities in Nigeria and Pakistan. Comparative studies would help identify whether the "Aceh model" is a unique product of its specific history and the 2004 tsunami, or if it provides a scalable blueprint for other Muslim-majority societies seeking to harmonize faith and governance. By examining how different political cultures adapt Sharia, scholars can build a more comprehensive theory of "Modern Islamic Constitutionalism" that accounts for the diverse ways in which divine law and human governance intersect in the 21st century.

## References

- Anderson, B. (2006). *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. Verso.
- Aspinall, E. (2009). *Islam and Nation: Separatism and Return to Islamic Law in Aceh*. Stanford University Press.
- Azra, A. (2006). *The Origins of Islamic Reformism in Southeast Asia: Networks of Malay-Indonesian and Middle Eastern 'Ulama' in the Seventeenth and Eighteenth Centuries*. University of Hawaii Press.
- Bowen, J. R. (2003). *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning*. Cambridge University Press.
- Bush, R. (2008). "Regional Sharia Regulations in Indonesia: An Analysis of Post-Soeharto Developments." In *Expressing Islam: Religious Life and Politics in Indonesia*, edited by G. Fealy and S. White. ISEAS.
- Bustamam-Ahmad, K. (2010). *Acehnese Culture and Islamic Law*. Ar-Raniry Press.
- Butt, S. (2010). "Islam, the State and the Constitutional Court in Indonesia." *Pacific Rim Law & Policy Journal*, 19(2), 279-301.
- Crouch, M. (2013). *Law and Religion in Indonesia: Conflict and the Courts in West Java*. Routledge.
- Feener, R. M. (2013). *Shari'a and Social Engineering: The Implementation of Islamic Law in Contemporary Aceh, Indonesia*. Oxford University Press.
- Grossmann, K. (2019). *Gender, Sharia and Governance in Aceh, Indonesia*. Routledge.
- Hefner, R. W. (2011). *Shari'a Politics: Islamic Law and Society in the Modern World*. Indiana University Press.

- Hillman, B. (2012). "The Rise of Regional Powers and the Democratic Deficit in Indonesia." *Asia Pacific Journal of Public Administration*, 34(1), 59-72.
- Horowitz, D. L. (2000). *Constitutional Design: Proposals and Processes*. Oxford University Press.
- Ichwan, M. S. (2007). "The Politics of Shariatization: Central Government and Local Sharia of Aceh." In *Politics of Shari'a Law*, edited by M. Otto. Leiden University Press.
- Kingsbury, D. (2006). *Peace in Aceh: A Personal Account of the Helsinki Peace Process*. Equinox Publishing.
- Lindsey, T. (2012). *Islam, Law and the State in Southeast Asia*. I.B. Tauris.
- Lindsey, T., & Butt, S. (2016). *Indonesian Law*. Oxford University Press.
- McGibbon, R. (2004). *Secessionist Challenges in Aceh and Papua: Is Special Autonomy the Solution?* East-West Center.
- Miller, M. A. (2009). *Rebellion and Reform in Indonesia: Jakarta's Security and Autonomy Policies in Aceh*. Routledge.
- Miller, M. A., & Feener, R. M. (2010). "Privatizing Religion: The Transformation of Islamic Law and Society in Aceh." *Journal of Southeast Asian Studies*, 41(3), 445-470.
- Millie, J. (2017). *Faith and the State: A History of Islamic Philanthropy in Indonesia*. Brill.
- Reid, A. (2005). *An Indonesian Frontier: Acehnese Histories of Resilience and Resistance*. Singapore University Press.
- Rinaldo, R. (2013). *Mobilizing Piety: Islam and Feminism in Indonesia*. Oxford University Press.
- Saby, Y. (2001). "The Ulama in Aceh: A Brief Historical Overview." *Al-Jami'ah: Journal of Islamic Studies*, 39(1), 1-30.
- Salim, A. (2008). *The Shift in Zakat Practice in Indonesia: From Piety to Islamic Taxation*. ISAS Publishing.
- Salim, A. (2015). *Contemporary Islamic Law in Indonesia: Shari'a and Legal Pluralism*. Edinburgh University Press.
- Srimulyani, E. (2012). *Women from Traditional Islamic Educational Institutions in Indonesia*. Amsterdam University Press.
- Stepan, A. (2001). *Arguing Comparative Politics*. Oxford University Press.

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