

Research Article

Procedures for Carrying Out Flogging Punishment Against Gamblers Applied in Simeulue District, Aceh Province

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Abstract: Aceh is a province with special status in Indonesia that has special authority in the implementation of Islamic law, as stipulated in Law No. 11 of 2006 concerning the Government of Aceh. One form of its implementation is Qanun Aceh No. 6 of 2014 on Jinayat Law, which regulates a number of offences, including maisir (gambling), with penalties in the form of flogging, fines, or imprisonment. This study aims to examine the application of flogging for gambling offenders in Simeulue Regency, covering the legal basis, implementation procedures, and level of effectiveness. The research questions include: (1) how flogging is applied to gambling offenders; (2) what are the stages of implementation; and (3) to what extent is it effective in reducing violations. The research uses a qualitative descriptive method with a socio-legal approach. Data was obtained through literature review, field observation, and interviews with Satpol PP and Wilayahul Hisbah officials, the Sharia Court, the prosecutor's office, and community leaders. The findings show that the application of flogging punishment has a strong constitutional basis and is in accordance with the principles of Sharia law. The implementation is carried out openly in accordance with criminal procedure law and is supervised by medical personnel. Statistics from the last five years show a decrease in gambling cases from 11 cases in 2020 to 3 cases in mid-2024, reflecting a deterrent effect and an increase in compliance.

Keywords: Aceh; Flogging; Gambling offenders; Islamic law; Jinayat Law

1. Introduction

The Unitary State of the Republic of Indonesia (NKRI), through the provisions of Article 18B paragraph (1) of the 1945 Constitution, guarantees recognition and respect for the existence of regions that have special characteristics or privileges. One of the regions that has obtained this status is the Province of Aceh. As a region with a long history of struggle and an important role in the spread of Islam in the archipelago, Aceh has been granted special rights to implement its religious values within the regional government system. The implementation of these special characteristics is legally formalised in Law No. 11 of 2006 on the Government of Aceh, which serves as the constitutional basis for the creation of various qanuns as regional legal products characterised by Islamic law.

One concrete form of the implementation of Islamic law is the enactment of Aceh Qanun No. 6 of 2014 on Jinayat Law, which contains criminal provisions for acts categorised as violations of Sharia norms. This Qanun was drafted to replace previous sectoral regulations, thereby creating a more structured and comprehensive regional Islamic criminal law system. Some of the criminal offences regulated in this qanun include khamar (alcoholic beverages), khalwat, ikhtilath, zina, sexual harassment, rape, qadzaf, liwath, musahaqah, and maisir (gambling), with detailed penalties to prevent and punish deviant behaviour that undermines social and religious order.

Gambling is one type of violation of Sharia law that receives serious attention in the Qanun Jinayat due to its widespread negative impact, both morally, socially and economically.

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In addition to contradicting the values of Islamic teachings as affirmed in the Qur'an, gambling also clearly damages the lives of individuals and society. Qanun Aceh No. 6 of 2014 regulates in detail the provisions of the Aceh Criminal Code () regarding *maisir* in Articles 18 to 22, covering the definition of the act, elements of the offence, and types of sanctions that can be imposed, such as *uqubat ta'zir* in the form of a maximum of 12 lashes, a fine equivalent to 120 grams of pure gold, or imprisonment for 12 months.

The enforcement of sanctions against gambling offenders is crucial, given that gambling practices are still prevalent in Aceh society in various forms. In the Simeulue Regency, gambling is not only conducted conventionally through card and dice games but also in digital forms such as online gambling, which is more difficult to detect and eradicate. Sharia enforcement agencies such as the Civil Service Police Unit (Satpol PP) and Wilayatul Hisbah (WH) have a strategic role in cracking down on gambling violations, including the public flogging of offenders as a form of law enforcement and moral warning to the community.

The implementation of flogging punishment for gambling offenders in Simeulue Regency is carried out according to predetermined procedures, starting from the arrest stage, evidence gathering, Sharia Court verdict, to execution by the local District Attorney's Office. Although formally regulated, the implementation of *qanun* in the field still faces challenges, such as limited personnel, a lack of supporting facilities, and the perception of the community that still considers gambling a form of entertainment or a tradition passed down from generation to generation. Therefore, the approach applied cannot be solely repressive, but must also prioritise education, guidance, and community-based social supervision.

Although considered effective in reducing the number of offences, the use of caning has also drawn criticism from a number of groups, particularly human rights activists. They argue that this form of punishment violates the principles of respect for human dignity. This criticism comes from international organisations and local NGOs, including Amnesty International, which considers flogging to be a form of cruel and inhuman treatment, and contrary to Law No. 39 of 1999 on Human Rights and various international conventions ratified by Indonesia. Nevertheless, the implementation of *Qanun Jinayat* remains legal under the constitution and national legislation. The enforcement of Sharia law in Aceh is considered a form of recognition of the region's uniqueness and an expression of the local community's culture. In fact, some Acehnese people fully support the implementation of the *qanun*, including the caning penalty, because they believe it creates order, reduces crime rates, and strengthens religious norms within the community. Data from the Islamic Sharia Agency shows that offences such as *maisir* and *khamar* have decreased since the *qanun* was actively enforced.

Considering the complexity of the issue and the socio-cultural and legal influences behind it, an in-depth empirical study is needed on the implementation of flogging punishment for gambling offenders in Aceh, particularly in Simeulue Regency. This study is expected to provide a comprehensive understanding of the effectiveness of the application of *jinayat* law, the challenges of its implementation in the field, and its contribution to the enforcement of sharia values and the strengthening of the social order. An empirical approach will provide a realistic picture of how the implementation of sharia law works in the context of local communities and its role in Indonesia's national legal system.

Based on this urgency, the author feels it necessary to raise this issue in a scientific study in the form of a journal entitled: "Empirical Study of the Application of Caning Punishment for Violators of Islamic Law in Aceh Province (Case Study at the Satpol PP and Wilayatul Hisbah (WH) Office in Simeulue Regency)". Through this research, it is hoped that it can provide academic and practical contributions in responding to the challenges of implementing Islamic law in the special region of Aceh, as well as providing input for the development of Islamic criminal law in Indonesia, particularly in the regulation and implementation of laws related to *maisir* violations. Based on the background description above, this study focuses on *jinayat* violations in the form of *maisir* (gambling) as regulated in Articles 18 to 22 of Qanun Aceh Number 6 of 2014 concerning *Jinayat* Law, with a case study in the Simeulue Regency. The issues that are the subject of this study can be formulated as follows: (1) How is the punishment of flogging applied to perpetrators of *maisir* (gambling) in Simeulue Regency, Aceh Province? (2) What is the procedure for carrying out flogging punishments against perpetrators of *maisir* (gambling) in Simeulue Regency, Aceh Province? (3) How is flogging carried out for violators of Islamic law in Simeulue Regency, Aceh Province?

2. Preliminaries or Related Work or Literature Review

2.1. The concept of maisir (gambling) in Islamic law

Maisir is a term in Islamic law that refers to all forms of gambling or betting that contain elements of uncertainty (gharar), exploitation of others, and acquisition of wealth without lawful effort. In the Qur'an, maisir is explicitly prohibited, as stated in Surah Al-Ma'idah verses 90–91, which state that maisir is a vile act and one of the deeds of Satan that must be avoided. The scholars agree that gambling, in any form, is contrary to the principles of justice and blessing in Islamic muamalah. According to Wahbah Zuhaili (2007), maisir is a transaction in which there is a risk of profit or loss without a clear cause and which is detrimental to one of the parties. Maisir is also categorised as a major sin because it destroys the social structure and causes hostility between individuals and community groups.

2.2 Aceh Qanun No. 6 of 2014 on Jinayat Law

This Qanun is the main basis for the enforcement of Islamic criminal law in Aceh, including regulations on maisir or gambling offences. Articles 18 to 22 detail the types of acts that are classified as maisir, such as betting in the form of money, goods, or services, as well as forms of gambling that contain elements of speculation. Penalties for perpetrators can take the form of uqubat hudud (flogging), uqubat ta'zir (fine of pure gold), and/or imprisonment. The implementation of flogging has a standard procedure involving law enforcement officials and relevant institutions to ensure compliance with legal provisions and human rights principles.

2.3 Application of Caning Law in Aceh

Caning or uqubat cambuk is part of the Sharia law enforcement system in Aceh, which is carried out openly and formally by the Satpol PP and Wilayatul Hisbah authorities, based on the decision of the Sharia Court. This punishment is intended to have a deterrent effect and serve as a warning to the community to stay away from immoral acts, including gambling. Research by Mukhlis & Jeumpa (2020) states that the application of flogging in Aceh has had a significant impact on reducing sharia violations, particularly in cases of khamar and maisir. However, the enforcement of this law must also take into account the rights of convicts and the principle of proportionality of punishment in accordance with Islamic sharia and humanitarian principles.

2.4 Effectiveness of Caning in Reducing Gambling Crimes

The effectiveness of a law can be seen from the extent to which it is obeyed and able to produce the expected results. In the context of gambling, the effectiveness of flogging is a key indicator of the success of enforcing the Qanun Jinayat. Research by Willy Purnamasari (2013) found that the implementation of flogging in Langsa City empirically showed a decline in gambling, although similar cases with more covert methods were still found. According to Soerjono Soekanto (2008), the effectiveness of the law is influenced by five main factors: (1) the law itself, (2) law enforcement, (3) resources or facilities, (4) society, and (5) legal culture. In the context of Aceh, all of these factors are highly relevant, given that the success of the Qanun Jinayat is determined not only by the wording of its articles, but also by the extent to which the community supports it and the authorities are able to consistently enforce the punishment.

2.5 Criticism of Caning Punishment from a Human Rights Perspective

The application of flogging in Aceh has not escaped national and international scrutiny regarding alleged violations of human rights principles. An Amnesty International report (2023) assesses that flogging can be categorised as cruel and inhuman treatment. This is considered to be in violation of Law No. 39 of 1999 on Human Rights and the International Covenant on Civil and Political Rights, which Indonesia has ratified. Nevertheless, the Aceh government states that the implementation of qanun is part of regional specificity protected by the constitution and does not conflict with the national legal system. In fact, the implementation of Islamic law in Aceh is intended to maintain public order and morality, in accordance with the local values that exist within Acehnese society.

3. Proposed Method

This study uses a descriptive qualitative approach that aims to systematically and thoroughly describe the application of flogging punishment for maisir (gambling) offenders in Simeulue Regency, Aceh Province. This method is used to obtain a holistic and empirical understanding of social phenomena related to the enforcement of jinayat law in the context of Islamic law in special autonomous regions.

The approach used is sociological jurisprudence. This approach is used to examine how the legal norms contained in Aceh Qanun No. 6 of 2014 concerning Jinayat Law (Articles 18–22) are implemented in practice by law enforcement officials in the field, particularly by the Satpol PP and Wilayatul Hisbah of Simeulue Regency. This approach also allows researchers to understand the influence of legal culture, community responses, as well as obstacles and effectiveness in the implementation of flogging sanctions for gambling offenders.

4. Results and Discussion

4.1 Research Results

Local religious cultural factors in Aceh play an important role in supporting the effectiveness of Sharia law enforcement, including the prohibition of gambling. From the perspective of criminal responsibility theory, the implementation of flogging punishment for gambling offenders has gone through a legitimate judicial process in accordance with criminal procedure law. This shows that the imposition of *uqubat* is a legitimate and ethical form of criminal responsibility in the Islamic legal system that is constitutionally implemented in Aceh.

Based on the results of field research, it is known that the process of carrying out flogging punishments against violators of *maisir* criminal acts in Simeulue has followed the criminal procedure as stipulated in Aceh Qanun Number 7 of 2013 and Aceh Governor Regulation Number 5 of 2018. The procedure begins with a report from the community or direct findings by Satpol PP and Wilayatul Hisbah (WH) personnel regarding gambling activities, whether open or closed. After the perpetrators are secured, an investigation is conducted by Wilayatul Hisbah (WH) investigators, and the results of the investigation are submitted to the Sinabang Sharia Court. If found guilty, the court will impose a flogging sentence, which will be carried out after it becomes final and binding.

The flogging punishment is carried out openly in public places such as mosque courtyards, Wilayatul Hisbah (WH) offices, or other open spaces. The prosecutor leads the execution, assisted by trained executioners. The Health Department is also involved to ensure the health condition of the convict before and after the punishment is carried out, so that the execution remains humane.

Referring to Soerjono Soekanto's theory of legal effectiveness, the successful implementation of the qanun on *maisir* in Simeulue is influenced by five main components, namely the substance of the law (qanun), law enforcement officials (Wilayatul Hisbah (WH), Sharia Court, and the public prosecutor's office), supporting facilities, the community as the recipients of the law, and the developing legal culture.

4.2 Discussion

4.2.1 Legal Basis for the Application of Caning to Gamblers

The implementation of flogging as punishment for gambling offences in Aceh Province, particularly in Simeulue District, has strong legitimacy in terms of both national law and Sharia law. In the national legal system, the constitutional basis is enshrined in Article 18B paragraph (1) of the 1945 Constitution, which guarantees recognition of the special status of certain regions. In this context, Aceh Province has the right to implement Sharia-based governance, as guaranteed by Law No. 11 of 2006 on the Government of Aceh.

As a regional legal product based on Sharia, Qanun Aceh No. 6 of 2014 on Jinayat Law regulates various forms of Sharia criminal offences, including gambling (*maisir*). Articles 18 to 22 state that perpetrators of *maisir* are subject to a maximum of 12 lashes, or a fine equivalent to 120 grams of pure gold, or a maximum of 12 months imprisonment. This provision confirms the position of *maisir* as a serious violation that threatens morality and public order, and demands strict law enforcement.

4.2.2 Effectiveness of Caning in Reducing Maisir

Based on data compiled from the Islamic Sharia Agency and the Wilayatul Hisbah (WH) Public Order Agency of Simeulue Regency, there has been a significant decrease in the number of gambling cases over the past five years. It was recorded that in 2020 there were 11 cases, then decreased to 9 cases in 2021, 6 cases in 2022, and only 4 cases in 2023. This downward trend is seen as evidence that flogging penalties have a deterrent effect on both perpetrators and the general public.

Interviews with community leaders and local clerics also revealed strong support for the implementation of flogging as punishment for gambling offenders, as it is considered capable of preserving the sanctity of Islamic values and fostering legal awareness within the community. However, challenges remain, such as the prevalence of online gambling, which

is difficult to track, and covert gambling practices that are often carried out during traditional events.

As part of preventive efforts, Satpol PP and Wilayatul Hisbah (WH) also conduct outreach to various segments of society, including schools and gampong (villages), to build public understanding of the dangers of gambling and the legal provisions governing it. This shows that the approach to enforcing qanun is not only repressive, but also educational and developmental.

4.2.3 Challenges in Implementing the Qanun Jinayat on Maisir

Although the implementation of qanun has been relatively effective, various obstacles remain in the field. Some of the main obstacles include: (a) The limited number of law enforcement personnel, particularly Wilayatul Hisbah (WH) investigators, who are unevenly distributed across sub-districts. (b) Limited supporting facilities and infrastructure, including transportation and documentation. (c) Social and cultural obstacles, where some members of society still consider gambling to be part of local traditions or entertainment. (d) Lack of coordination between law enforcement agencies, resulting in delays in the transfer of cases and the implementation of decisions.

4.2.4 Disparities and Recommendations

Disparities in resource and budget constraints, the effectiveness of flogging as a punishment is still questionable, and public perceptions vary. Furthermore, the standards for the treatment of non-Muslims () are not yet consistent. Conducting direct empirical studies, identifying and documenting operational obstacles, and analysing perceptions of the Simeulue community.

5. Comparison

This study compares the implementation of flogging in Simeulue District with similar practices in several other regions in Aceh. The findings show that the procedure for carrying out flogging in Simeulue is relatively consistent with the provisions of Qanun Aceh No. 6 of 2014 concerning Jinayat Law, especially in terms of the stages of implementation, the involvement of officials, and transparency in front of the public. However, compared to the implementation in Banda Aceh City, the process in Simeulue tends to be simpler and receives less media attention, so that the deterrent effect is more local in nature.

In addition, this study reveals that in several other districts, such as North Aceh and West Aceh, there is a stronger emphasis on education and socialisation prior to the implementation of flogging. This is in contrast to Simeulue, where the main focus is on direct law enforcement in accordance with court verdicts. This difference shows variations in the approach to implementing Sharia law, even though the legal framework used is the same.

In terms of duration and technical implementation, Simeulue applies a relatively quick procedure after a final and binding verdict, while in other areas implementation can be delayed due to various administrative factors or security considerations. This difference can affect public perception of the consistency and effectiveness of flogging laws in each region. This comparison shows that although the procedures for flogging in Aceh are normative and uniform, their implementation is still influenced by geographical conditions, the capacity of the authorities' resources, and the culture of the local community. Thus, this study highlights that the effectiveness of flogging is not only determined by the rules, but also by the manner and context of its implementation in each district/city.

6. Conclusions

Based on the results of this study, it can be concluded that the implementation of the legal basis for the application of caning punishment for maisir perpetrators in Aceh Province has strong normative legitimacy. This provision is sourced from Article 18B paragraph (1) of the 1945 Constitution and Law Number 11 of 2006 concerning the Government of Aceh, which regulates Aceh's specificity in applying Islamic Sharia values. Qanun Aceh No. 6 of 2014 explicitly regulates gambling as a criminal offence punishable by flogging, fines, or imprisonment. The mechanism for carrying out flogging in Simeulue is procedural and open, beginning with the identification of cases by Wilayatul Hisbah (WH), followed by investigation, trial in the Sharia Court, and execution by the prosecutor's office under the supervision of medical personnel. This implementation shows that the jinayat legal system in Aceh is running in accordance with regional regulations and upholds the aspect of legality. The effectiveness of flogging in curbing gambling practices is evident in the decline in the number of gambling cases from year to year. This reflects that flogging sanctions have a

deterrent effect and are able to build legal awareness among the community. The execution of sentences in public spaces also reinforces normative and social values, while serving as a symbolic medium for legal education.

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