

PROBLEMATICS OF JINAYAT QANUN IMPLEMENTATION IN NANGGROE ACEH DARUSSALAM COMMUNITY**Zainuddin¹, Sahban²**

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Abstract

This paper explores the implementation of jinayat law in the perspective of equality before the law in the people of Nanggroe Aceh Darussalam. Qanun Number 6 of 2014 concerning Jinayah Law is the implementation of Law Number 18 Year 2001 concerning Special Autonomy for the Province of Aceh Special Region as the Province of Nanggroe Aceh Darussalam. Qanun Number 6 of 2014 concerning Jinayah Law. This research is a normative law and is descriptive in nature and the approach used is the law approach, case approach, and conceptual approach. In its application, the Jinayat Qanun has heeded the principle of equality before the law because Jinayat Qanun applies only to certain fingerprints. There are ten prohibited acts (jarimah) in accordance with Islamic Shari'a in the qanun. The clause is khalwat, maisir, and gambling, adultery, the practice of homosexuals (liwath), lesbians (musahaqah) and marital bonding (ikhtilat). In addition, it has not protected women victims of crime, and also discriminates against non-Muslims.

Keywords: *Problem; Jinayat Qanun; Society of NAD*

INTRODUCTION

The demand for the implementation of Islamic law in the Province of Nanggroe Aceh Darussalam (hereinafter referred to as NAD Province) reappeared in the reform era. Similar demands have actually appeared during the revolution. The difference is that the demands of the reform era just implementation of Islamic law alone, while the demands of the revo-

lutionary period would make Islam the basis of the state ideology through efforts to make Indonesia as Darul Islam / Islamic Army of Indonesia (DI / TII)¹

The implementation of Islamic law in Aceh since 2003 is a follow further from the enactment of Law No. 18 of

¹Moh. Fauzi. (2012). "Problematika Yuridis Legislasi Syariat Islam di Provinsi Nanggroe Aceh Darussalam". *Al-Ahkam, Jurnal Pemikiran Hukum Islam*, 22 (1): 1.

2001 concerning Special Autonomy for the Province of Aceh Special Region as the Province of Nanggroe Aceh Darussalam. In the context of the theory of legal unification, the enactment of Islamic law in Aceh led to debate among legal circles. For its supporters, the enactment of special Islamic law in Aceh is the application of legal pluralism. In the context of legal politics in Indonesia, legal pluralism needs to be implemented in order to maintain the integrity of the Unitary State of the Republic of Indonesia. Islamic Sharia in Aceh was formed in a Qanun.²

Based on Law No. 11 of 2006 concerning the Government of Aceh, the regional government of NAD was given some special authority in managing its area. One of the authorities possessed by the government of NAD was the application of Islamic Shari'a values to the local community which was governed by the Qanun. Qanun itself is a statutory regulation similar to provincial / regency / city regional regulations governing the administration and life of Acehnese people.

Some of the Islamic Sharia Qanun related to Islamic criminal law include Qanun Number 10 of 2002 concerning

Islamic Sharia Law, Qanun Number 11 of 2002 concerning Implementation of Islamic Law, Qanun Number 12 of 2003 concerning Khamar and the like, Qanun Number 13 of 2003 about Maisir (Gambling), Qanun Number 14 of 2003 concerning Seclusion, Qanun Number 7 of 2013 concerning Jinayat Procedure Law, and Qanun Number 6 of 2014 concerning Jinayat Law³

Establishment of Aceh Qanun Number 6 of 2014 concerning Jinayat Law based on 4 (four) the principles of the philosophy of sharia law, namely: *First*, the criminal provisions contained in Jinayat's Law Qanun are spurred on the Qur'an and al-Sunnah, and some practices of friends. *Second*, the interpretation or understanding of the Qur'an and the Sunnah is related to the conditions and needs of the local (custom) of the Acehnese in particular, and the world of Indonesian Malay in general, and the rules that apply in the Unitary State of the Republic of Indonesia (NKRI). *Third*, the interpretation and understanding is always strived towards the future, in order to meet the needs of the developing Indonesian people in the early fifteenth century hijriah or the twenty-first century AD, and be able to know the spirit of modern times as the issue of human

²Ahmad Bahiej. (2014). "Studi Komparatif terhadap Qanun Aceh tentang Hukum Jinayat dan Enakmen Jenayah Syariah Selangor Malaysia". *Asy-Syir'ah Jurnal Ilmu Syari'ah dan Hukum*, 48 (2): 334.

³*Ibid.*: 335.

rights protection, gender equality and considering the progress of science and technology, especially legal science whose development has been very rapid and rapid. *Fourth*, in order to complete the three principles above, the principles embodied in a kulliyah fiqhiyah rule are widely known: *al-muhafadhah 'ala alqadimi al-shalih wa al-akhzu bi al-jadid al-ashlah* which means to maintain and use provisions lama (mazhab) which is still good (relevant), and trying to find and formulate new provisions that are better and superior. These four principles are the philosophical basis and framework for formulating the Jinayat Qanun as positive fiqh in Aceh.⁴

In 2015, the Jinayat Qanun was questioned by its legality through a material test of the Jinayat Qanun by the Society for Criminal Justice Reformation (ICJR) to the Supreme Court. The Supreme Court in Decision Number 60 P / HUM / 2015 states that the application cannot be accepted (*niet onvankelijke verklaard*) because the request for a material test is premature (not yet), considering Law No. 12 of 2011 concerning the Establishment of Laws and Regulations which

⁴Ahyar Ari Gayo. (2017). "Aspek Hukum Pelaksanaan Qanun Jinayat Di Provinsi Aceh". *Jurnal Penelitian Hukum DE JURE*, 17 (2): 145-146.

are used as the basis for the application for the judicial review, which is currently in the process of testing at the Constitutional Court with case registers Number 59 / PUU-XIII / 2015.⁵

At the level of its implementation, the Jinayat Qanun is a pro-con⁶. For groups that are contradictory, Jinayat Qanun is considered discriminatory⁷, and is resistant to human rights violations⁸. There are those who want the implementation of the Islamic Shari'ah to be carried out in a manner that is accurate (not only a certain fingerprint group), covering all dimensions of life and strict sanctions as stated in the Qur'an and al Hadist.⁹ Therefore, this problem at the scientific level is very feasible and actual to be studied comprehensively, so as to find a construc-

⁵Endri. (2018). "Analisis Yuridis terhadap Legalitas Qanun Aceh No. 6/2014 tentang Hukum Jinayat", *Kanun Jurnal Ilmu Hukum*. *Kanun Jurna Ilmu Hukum*, 20 (1): 126.

⁶Hasyim. (2012). Pro-Kontra Qanun Jinayat. Available from: <http://aceh.tribunnews.com/2012/06/02/pro-kontra-qanun-jinayat> (Accessed November 25, 2018)

⁷Hayati Nopus. (2017). "Aktivis perempuan nilai Qanun Jinayat diskriminatif" Available from: <https://www.aa.com.tr/id/nasional/aktivis-perempuan-nilai-qanun-jinayat-diskriminatif/932556> (Accessed 10 November 2018)

⁸Ursul Florene. (2017). "Komnas HAM Kritik Penerapan Qanun Jinayat" Available from: <https://www.rappler.com/indonesia/berita/170766-komnas-ham-kritik-qanun-jinayat> (Accessed November 25, 2018)

⁹Mahdi. (2011). "Sistem Hukum Penegakan Qanun Jinayat Di Aceh". *Media Syariah*. XIII (2): 182.

tive thought that can contribute positively to the application of the Jinayat Qanun in the perspective of equality before the law.

METHODS

This research is classified as normative legal research or commonly called doctrinal research which is conceptualized as something written in *law in books* or law which is conceptualized as a norm or norm which is a benchmark for community behavior towards what is deemed appropriate¹⁰, the data used is secondary data or literature.

Judging from its nature, this study includes descriptive research, namely research that is intended to provide data as thorough as possible about the situation or other symptoms. The goal is to reinforce hypotheses in order to help in strengthening old theories, or in the framework of compiling new theories. From its shape, this research is classified as prescriptive research, namely research aimed at getting suggestions on what should be done to overcome certain problems. In order to get the information needed to be able to analyze the legal problems being studied,

statutory approach, case approach, and conceptual *approach* are used.

DISCUSSION

Speaking of Islamic law in Aceh is not new because Acehnese people have actually implemented Islamic law since Islam first entered and developed in Aceh. Islamic Shari'a has been implemented since Aceh was still in the form of a kingdom. The Islamic Shari'a applied is in accordance with the provisions in the Qur'an and Hadith which regulate all aspects of community life including aspects of *aqidah*, worship, *muamalah*, and *jinayat*. The prohibition on drinking *khamar*, gambling, adultery, killing, and stealing which for violators will get punishments according to their deeds.¹¹

Viewed from the point of view of the goal of the implementation of Islamic law in Aceh, there are two different sides, First; the Indonesian side, namely the enactment of Islamic law in Aceh aimed at preventing Aceh from separating from the Unitary State of the Republic of Indonesia. From this side it can be seen that the processes of implementing Islamic law in Aceh are not a genuine and natural process, but rather a move and political poli-

¹⁰Jonaedi Efendi & Johnny Ibrahim. (2018). *Metode Penelitian Hukum: Normatif dan Empiris*. Jakarta: Kencana, p. 24

¹¹Teuku Abdul Manan. (2018). *Mahkamah Syari'iyah Aceh Dalam Politik Hukum Nasional*. Jakarta: Kencana, p. 391

cy in order to prevent Aceh from attempting to separate it from the NKRI. The application of the Islamic Shari'a at this stage, namely to minimize Aceh's dissatisfaction with the policies of the central government, and to be more political, an emergency political step, to save Aceh in the republic's lap, which aims to bring psychological comfort to the people of Aceh. *Second*; ideas or goals of the Acehnese people. This means that the enactment of Islamic law in Aceh is an ideal and desire that has long been hidden since the DI / TII era led by Teuku Muhammad Daud Beureueh¹²

Based on Aceh Qanun No. 6 of 2014 concerning Jinayat Law, sentences are imposed on parties judged to have committed acts that are prohibited in Islamic sharia, or called "jarimah," which include: drinking liquor or khamar, gambling or maisir, non-different types of non-Muslim couples in confined spaces which allows the occurrence of adultery or called khalwat, flirt or ikhtilath, same-sex sexual relations or liwath (to fellow men) and musahaqah (to fellow women), adultery, sexual abuse, and rape. All rules do govern mere moral deeds.

¹²Ali Beno Gerutu. (2016). "Penerapan Syariat Islam Aceh dalam Lintas Sejarah", *Jurnal Hukum Istimbath*, 13 (2): 184.

The criminal sanctions stipulated in Jinayat Law vary, ranging from the lowest sentence of being caned as many as 10 (ten) times to about 200 (two hundred) lashes as the heaviest caning sentence. The threat of fines to those who violate Islamic law in Aceh, ranging from a fine of 10 (ten) grams of pure gold up to 200 (two hundred) grams of pure gold or prison sentences of 20 (twenty) to 200 (two hundred) months in prison. Qanun No. 6 this punishes khalwat in the form of 10 (ten) lashes or a fine of 100 (one hundred) grams of pure gold and / or 10 (ten) months imprisonment. This is the lightest form of punishment, while the most severe form of punishment is threatened by the perpetrators of rape of children, in the form of being subject to a whip penalty of 150 (one hundred and fifty) up to 200 (two hundred) lashes or 1,500 fines (one thousand five hundred) to 2,000 (two thousand) grams of pure gold and/or imprisonment for 150 (one hundred and fifty) to 200 (two hundred) months imprisonment¹³

There are some problems enforcement of Jinayat Qanun the people of Aceh are:

¹³Ali Geno Berutu. (2017). "Pengaturan Tindak Pidana Dalam Qanun Aceh: Komparasi Antara Qanun No. 12, 13, 14 Tahun 2003 dengan Qanun No. 6 Tahun 2014". *Mazahib: Jurnal Pemikiran Hukum Islam*, XVI (2): 105-106.

1. Jinayat Qanun apply to jarimah specified

In Article 3 Paragraph (2) Aceh Qanun No. 6 of 2014 concerning Jinayat Law that the fingerprints regulated in the qanun include:

- a. Khamar (intoxicating drink);
- b. Maisir (gambling);
- c. Seclusion (both in a closed or hidden place between men and women who are not mahram and marital ties that lead to adultery);
- d. Ikhtilath (acts of intimacy such as flirting, touching, hugging and kissing between men and women who are not husband and wife with the willingness of both parties, whether in a closed or open place);
- e. Adultery;
- f. Sexual harassment;
- g. Rape;
- h. Qadzaf (accusing someone of committing adultery without proof);
- i. Liwath (sexual homosexual acts); and
- j. Musahaqah (act of lesbian).

Based on Article 3 above, the scope of the material in Qanun No. 6 of 2014 is broader than the Qanun compiled in 2003. Although this coverage is broader, it has never been implemented, because it officially took effect in 2015. From the existing scope it can be seen

that the expanded material is only related to sexually deviant sexual behavior. The rest, two more still regulate the problem of khamar (liquor) and maisir (gambling). Thus, other hudud fingerprints, such as theft, robbery and others were not included, as was the case with jarimah qishash / diyat, such as murder and persecution.¹⁴

In accordance with Article 4 of Jinayat's Law above, it applies to every Muslim person domiciled in Aceh and for non-Muslims who conduct jarimah in Aceh together with Muslims and elect and submit themselves voluntarily to jinayat law, and non-Muslims who conduct jarimah in Aceh which are not regulated in the Criminal Code or criminal provisions outside the Criminal Code but are regulated in this qanun.

At the time of the issuance of Qanun Aceh No. 6 of 2014 concerning Jinayat Law. Various views that do not agree to the ratification of the qanun because it creates dilemma in the enforcement process. Some groups of people who are concerned that the implementation of the qanun is only intended for "small" com-

¹⁴Ahyar Ari Gayo. (2016). *Legitimasi Qanun Hukum Jinayat dan Qanun Pokok-Pokok Syariat Islam dalam Budaya Hukum Masyarakat Indonesia*. Jakarta: Badan Penelitian dan Pengembangan Hukum dan Hak Asasi Manusia Kementerian Hukum dan Hak Asasi Manusia RI, p. 65.

munities as a reflection of the implementation of the previous qanun. This also contributed to the dynamics in the community which tended to not understand the purpose of the ratification of Qanun Number 6 of 2014.¹⁵

Five people who were judged to have committed lewd acts and violated Islamic law in Aceh were sentenced to caning early last week. While Aceh Governor Irwandi Yusuf and Bener Meriah Regent who were involved in corruption cases, were determined to be suspects using Indonesian positive law. This is a difference in legal use for violations that occur equally in Aceh.¹⁶ Citizens consider the implementation of the whip law that has been going on for a long time in Aceh Province only for the lower classes.¹⁷

There is no legal basis in Aceh to implement a whip or even a verdict such as cutting off hands for corruption. Even though it was discussed in 2015, but until

¹⁵Zaki Ulya. (2016). "Dinamika Penerapan Hukum Jinayat Sebagai Wujud Rekonstruksi Syari'at Islam di Aceh". *Jurnal Rechtsvinding*, 5 (1): 138

¹⁶Eva Mazrieva, (2018) "Tebang Pilih' Penggunaan Hukum Syariah Islam di Aceh", Available from <https://www.voaindonesia.com/a/tebang-pilih-penggunaan-hukum-syariah-islam-di-aceh/4646301.html> (Accessed November 10, 2018)

¹⁷BBC (2018) "Warga Aceh Desak Pejabat yang Korupsi Dihukum Sesuai Syariat Islam" Available from: <https://www.bbc.com/indonesia/indonesia-44824916> (Accessed December 13, 2018)

now the discussion has not been completed in the Aceh DPRD. Jinayat's law only regulates adultery, consumption of liquor, sexual orientation, how to dress, and gambling. The arrangement is related to moral affairs and no one has been involved in white-collar crime.

2. Jinayat Qanun Jinayat has not protected women victims of the crime

Jinayat Qanun Jinayat which was officially implemented on October 23, 2015, which has the potential to increase violence and discrimination against women. According to the *Institute for Criminal Justice Reform* (ICJR), several provisions in the Qanun concerning the formulation of criminal norms (multiple interpretations, discriminations, *over criminalization*, duplication with national criminal law policies), potentially targeting vulnerable groups namely: women, children and LGBT. The presence of the Aceh Qanun 6 of 2014 should be for efforts to fill the vacancy provisions in the Criminal Code but with no contradiction with the provisions above, but Qanun has presented new rules that clash with the Criminal Code. There are several criminal acts in the Criminal Code which are rearranged in the

Qanun. This situation has led to legal uncertainty, legal uncertainty in Indonesia.¹⁸

One example is Article 52 (1) which regulates the Burden of Rape Victims to Provide Evidence. In fact, in rape cases it is difficult to provide evidence or witnesses. Moreover, rape victims also experience psychological impacts and trauma which result in them having difficulty expressing what happened to them. In addition, in the process of proof, rape perpetrators can be free from punishment by simply taking an oath. This will certainly make it very difficult for rape victims to get justice. For example rape cases experienced by disabled girls in Meunasah Geudong Village, Bireun district, Aceh. As a result of the article, the victims and their families did not dare to report their cases to the police, because of the limitations of the victims. Besides that women who get sexual violence will also get negative stigma by the community.¹⁹

According to Nisa Yura, Program Coordinator of the National Executive

¹⁸Ahyar Ari Gayo. (2016). *Legitimasi Qanun Hukum Jinayat... op.cit.*, hlm. 53.

¹⁹Jaringan Masyarakat Sipil untuk Advokasi Qanun Jinayat. "Desak Pemerintah untuk Meninjau Ulang Qanun Jinayat, Pasca 3 Tahun Pengesahan, Jaringan Masyarakat Sipil untuk Advokasi Qanun Jinayat (22 Oktober 2017), Available from: "http://www.ylbhi.or.id/wp-content/uploads/2017/10/final-media-briefing-3-tahun-QJ.pdf", (Accessed November 10, 2018)

Board for Women's Solidarity (SP), substantially, Jinayat Qanun violates 10 laws and regulations, with four discriminatory articles, one of which is related articles. rape, the victim is charged with evidence. The provision of evidence of rape cases is not easy, especially the victims are experiencing psychological impacts, while the perpetrators can be free from punishment only by oath, Qanun has the potential to revitalize victims of²⁰

Jinayat Qanun impact on the increasingly vulnerable women become victims, because women are often seen as objects teasing so often officers are wrongly arrested and accused of khalwat, ikhtilath, or adultery without a comprehensive process of evidence or recovery. Even other marginalized groups, such as women with disabilities, are one of the parties who are severely discriminated against by the authorities and the community because of this²¹

Qanun. In the Jinayat Qanun, one of the rules governed is qadzaf, which accuses women of adultery. Qadzaf is considered to be detrimental to women. It can be

²⁰Hayati Nopus. (2017) "Aktivis perempuan nilai Qanun Jinayat diskriminatif", Available from:<https://www.aa.com.tr/id/nasional/aktivis-perempuan-nilai-qanun-jinayat-diskriminatif/932556>, (Accessed November 10, 2018)

²¹Jaringan Masyarakat Sipil untuk Advokasi Qanun Jinayat. (2017)... *loc.cit.*

seen that victims of rape or adultery must submit evidence and witnesses if they will report acts of rape or adultery they have experienced. If the victim cannot submit evidence or witnesses, then the victim will be deemed to have committed the act of rape. In addition, the existence of Article 55 which contains alleged rape perpetrators can be free from legal snares by declaring oaths 5 times, making it feel like the regulation protects rape suspects and abandons rape victims.²²

According to Khairani, et al in Zaki Ulya that based on the principle of substantive equality, namely equality of rights, opportunities, access and enjoyment of benefits, as explained in the conceptual framework, the provisions of punishment for the perpetrators of khalwat, ikhtilath, zina, qadzaf, liwath and the effort there is gender bias . Because, even though in the provisions of the sentence there are no differences, disparities / disadvantages or disadvantages to women because of gender differences (still limited to formalistic equality), the implementation is likely to be biased due to the vagueness of certain provisions which ultimately lead to discrimination. This kind

²²Syafira Farhani Ramadhanti, (2018) "Qanun, Qanun Jinayat, dan Permasalahannya", Available from: <https://kumparan.com/syafira-farhani-ramadhanti/qanun-qanun-jinayat-dan-permasalahannya> (Accessed November 15, 2018)

of discrimination is known as indirect discrimination because the state does not succeed in ensuring that discrimination does not occur as a result of the policies it has drawn. The disadvantages felt by the women's group emerged in carrying out in the field. This section is explained in the jinayat procedural law.²³

3. Jinayat Qanun discriminates against non-Muslims.

In principle, the regulation in Jinayat Qanun is a moral rule that moves only from the teachings of Islam. However, given the imposition of an indiscriminate *relationship* between religious adherents in Aceh, making the Jinayat Qanun and the Principles of Islamic Law from the point of view of the community groups contradicts the principle of non-discrimination, in the sense that the government seeks to harmonize the implementation of religion / belief individuals in the Aceh region, as well as the comments of the pros and cons of the community.

Previously the Qanun-qanun applied in principle to the Acehnese people who were Muslim, but at the Jinayat Qanun the times they were applied to all the people in Aceh, including non-Muslim communi-

²³Zaki Ulya, "Dinamika Penerapan Hukum Jinayat Sebagai Wujud Rekonstruksi Syari'at Islam di Aceh", *op.cit.*, : 142

ties. There is an underlying principle of *equality before the law* so that the reason Jinayat Qanun applies to non-Muslim citizens living in Aceh.

Based on Article 126 of Law No. 11 of 2006 concerning the Government of Aceh regulates:

- (1) Every Muslim in Aceh must obey and practice Islamic law;
- (2) Everyone who resides or resides in Aceh must respect the implementation of Islamic law. Here we see the use of the principles of the subject and territorial principles. The principle of the subject means anyone who is Muslim; while the territorial principle means that it applies to all people living in Aceh.

Meanwhile, Article 129 of Law No. 11 of 2006 concerning the Government of Aceh regulates:

- (1) In the case of jinayat acts carried out by two or more people jointly including non-Islamic religion, non-Muslim religious practitioners can elect or subject themselves to voluntary law.
- (2) Every person who is a non-Muslim religion do jinayat actions which are not regulated in the Criminal Code or criminal provisions outside the Criminal Code apply Jinayat law.

Article 129 above, indicates that the Jinayat Qanun imposed in Aceh does not adhere to the principle of pure personality, but also seems to strongly adhere to the principle of false territoriality. Because this article provides a big hole for the en-

actment of the Islamic Jinayat Qanun against the non-Muslim minority. The first hole, if criminal offenses are committed together, one of which is non-Muslim, then on the basis of willingness he can submit himself to the imposition of punishment on him according to the Islamic Shari'ah. Because psycho-socially the non-Muslim minority groups find it rather difficult to declare that they are not willing and not submit to the Islamic Shari'a law in the middle of the majority of the Muslim community. The second hole is even more gaping, where everyone including non-Muslims if they commit criminal offenses that are not regulated in the National Criminal Code or legislation outside the National Criminal Code, then penalties based on Jinayat Qanun.²⁴

Based on Aceh Qanun No. 6 of 2014 concerning Jinayat Law regulates the existence of non-Muslims two things²⁵:

1. Non-Muslims who commit criminal acts (jarimah) together with Acehnese

²⁴Syamsul Bahri. "Inkonsistensi Hukum Penerapan Hukuman Cambuk terhadap Non-Muslim di Aceh". *2nd Proceeding: Annual Conference for Muslim Scholars*, April 21 – 22, 2018, p. 872

²⁵Hukum Online. (2015). *Dua Kategori Non-Muslim yang Bisa Terjerat Qanun Jinayat*. Available from: <https://www.hukumonline.com/berita/baca/lt54da9dfa18fc9/dua-kategori-non-muslim-yang-bisa-terjerat-qanun-jinayat> (Accessed December 25, 2018)

who are Muslim. In cases like this the non-Muslim chooses and declares voluntary submission to the Jinayat Qanun. This voluntary submission is also known in the criminal act of storing and trading liquor (*khamar*). One example is L Liu aka YM. This Buddhist Sigli City resident is accused of storing and trading *khamar*. Liu was finally tried at the Syar'iyah Sigli Court.

2. Every non-Muslim religious person who commits *fingerprinting* in Aceh that is not regulated in the Criminal Code or criminal provisions outside the Criminal Code, but is regulated in the Jinayat Qanun.

The application of Jinayat Qanun to non-Muslims as a form of implementation of interfaith law is certainly non-Muslim likes or dislikes is entangled in regulations that were previously only made for Muslim communities. Therefore, the Aceh Government is considered not to see the diversity of religions in Aceh.

Non-Muslim citizens who conduct jarimah in Aceh (together with Muslim citizens) will be punished according to the Jinayat Qanun if only the non-Muslims choose voluntarily to be punished by jinayat law. And non-Muslims who do jarimah will also be punished based on Jinayat Qanun if only the fingerprint is not

listed in the Criminal Code (KUHP). The first option is alternative choice, and the second option is a constant liability. That is what experienced three whip convicts. Although it is said that they were flogged for their own choice, they were chosen consciously and voluntarily.²⁶

Indirectly, this Qanun still contains repressive power to force non-Muslims to submit and obey the provisions of the Shari'a of other religions that are not their religion. Of course this is contrary to the Constitution of the Republic of Indonesia which guarantees religious freedom for every adherent, including freedom not to be punished with punishments based on the teachings of other religions other than the religion which he believes and adheres to.²⁷

CONCLUSION

The implementation of Islamic law in Aceh since 2003 is a follow up the enactment of Law Number 18 Year 2001 concerning Special Autonomy for the Province of Aceh Special Region as the Province of Nanggroe Aceh Darussalam. Qanun Number 6 of 2014 concerning Jinayah Law was effective on 23 October

²⁶Syamsul Bahri. "Inkonsistensi Hukum Penerapan Hukuman Cambuk... *op.cit.*, p. 874

²⁷Danial. (2012). "Syari'at Islam Dan Pluralitas Sosial (Studi tentang Minoritas Non-Muslim dalam Qanun Syari'at Islam di Aceh). *Analisis*. XII (1) : 83

2015. The Jinayat Qanun in its application has heeded the principle of equality before the law because Jinan Qanun applies only to certain jarimah. There are ten prohibited acts (jarimah) in accordance with Islamic Shari'a in the qanun. The clause is khalwat, maisir, and gambling, adultery, the practice of homosexuals (*liwath*), lesbians (*musahaqah*) and marital bonding (*ikhtilat*). In addition, it has not protected women victims of crime, and also discriminates against non-Muslims.

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