



Sharia Political Pathology and the Instrumentalisation of Islamic Financial and Philanthropic Institutions in Aceh

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Abstract

*The misuse of Islamic financial and philanthropic institutions in Aceh demonstrates that the existing legal framework has not yet been capable of adequately addressing economic crimes concealed behind the legitimacy of Sharia, thereby creating opportunities for the instrumentalisation of Sharia institutions for political interests and the abuse of authority. This study aims to analyse the forms and characteristics of such instrumentalisation and to formulate a model of governance reform and the reconstruction of Sharia law grounded in *fiqh jināyah siyāsah* and *maqāṣid al-syarī'ah*. The study employs a normative legal research method with a prescriptive research design, utilising legislative, conceptual, and legal-historical approaches. It relies upon secondary data comprising primary, secondary, and tertiary legal materials collected through a literature review and analysed qualitatively by means of interpretation, systematisation, and legal argumentation. The findings indicate that regulatory gaps within the *Qanun Jinayat* create structural vulnerabilities that facilitate the misuse of Sharia institutions through practices of political patronage, abuse of trust, and the concealment of financial flows, which, from a normative perspective, may be classified as *ghulul*, *risywah*, and *fasād fī al-arḍ*. The novelty of this research lies in the development of the concept of Sharia political pathology as an analytical framework for explaining the relationship between religious legitimacy, weaknesses in governance, and economic crimes involving Sharia-based institutions. This study contributes by proposing a model of legal reconstruction through the strengthening of Sharia economic offences within the *Qanun Jinayat*, as well as institutional governance reforms focused on the protection of trust, accountability, and justice.*

Keyword :

Islamic Philanthropy,
Instrumentalisation,
Political Crime, Sharia
Political Pathology

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Introduction

The formalisation of Islamic Sharia in the financial sector and public philanthropy in Aceh represents one of the most systematic expressions of the project to integrate religious norms into the legal architecture and governance of the state in Indonesia. The application of Sharia principles across all financial entities and the institutional framework of the Baitul Mal as a religious authority has established Aceh as the region with the most comprehensive formalisation of Sharia. This institutional configuration is based on the assumption that the internalisation of transcendental values within the governance structure will result in stronger resistance to the abuse of power compared to a system that relies solely on positive law mechanisms (Rahajeng, 2025). However, behind the strengthening of Sharia formalisation lies a paradox that warrants critical examination. Religious legitimisation does not automatically eliminate institutional vulnerabilities; rather, under certain conditions, it has the potential to become a tool for camouflaging pathological institutional practices involving the accumulation of power, conflicts of interest, and the instrumentalisation of public resources for purposes that deviate from their fundamental mission. *Fiat justitia ruat caelum*, Let justice be done, though the heavens fall.

When piety becomes a cloak and scrutiny becomes taboo, the community's assets are the first to fall victim. Between 2017 and 2025, four regencies in Aceh were recorded as having committed alleged irregularities in the management of Zakat, Infak and Sedekah (ZIS) funds, involving public officials. Two officials in Central Aceh have been named as suspects in connection with the alleged diversion of Zakat and Infaq funds totalling Rp20 billion to a balancing account via PT Bank Aceh Syariah, which were subsequently used to fund activities outside the scope of eligible Zakat recipients (Dialeksis.Com, 2026b; RRI Banda Aceh, 2024). Similar cases have been uncovered in South Aceh, North Aceh and Aceh Singkil, following a structurally identical pattern: the diversion of religious funds through financial mechanisms that appear administratively legitimate but, in substance, deviate from Sharia objectives (Dialeksis.Com, 2026a; Redaksi, 2025; Zonamerdeka.com, 2026). This phenomenon is not confined to Aceh. The Financial Transaction Reports and Analysis Centre (PPATK) recorded that between 2013 and 2022, the value of embezzled Islamic philanthropic funds in Indonesia reached approximately Rp1.7 trillion, with 176 institutions identified as problematic. The persistence of these irregularities reflects the pathology of Sharia politics reaching its most dangerous form when political actors exploit religious legitimacy and public trust in Sharia institutions as a shield to conceal the abuse of authority in areas not yet adequately regulated by the law.

The issue becomes even more complex when examined from a regulatory perspective. Various cases of misuse of Baitul Mal funds in Aceh have been prosecuted solely under the Corruption Eradication Act, without invoking anti-money laundering legislation, even though the patterns of diversion and concealment of fund flows exhibit characteristics relevant to the Anti-Money Laundering Act (Sutedi, 2008). On the one hand, Aceh Qanun No. 6 of 2014 on Criminal Law has not yet regulated economic offences or the misuse of sharia-based public funds (Maryam, 2021). At the same time, the Anti-Money Laundering Act is not sensitive to the specific characteristics of Islamic philanthropic institutions; Baitul Mal and zakat institutions have not been explicitly categorised as mandatory reporting entities to the Financial Transaction Reports and Analysis Centre (PPATK), meaning that suspicious transactions are not systematically

detected (Setiawan, 2024). Consequently, the Qanun on Criminal Law has yet to regulate the misuse of Sharia-based public funds, whilst the anti-money laundering regime has not fully accounted for the characteristics of Islamic financial and philanthropic institutions. This situation reflects a pathology within Sharia politics, namely the shift in the function of religious legitimacy from a foundation of integrity to an instrument for justifying power. Any tolerance of the misuse of Sharia institutions by public officials essentially not only undermines the law but also diminishes the moral authority of Sharia in the public sphere.

Ironically, whilst the misuse of funds through Sharia institutions is becoming increasingly complex, academic studies have instead sought to separate the issues of Baitul Mal governance, *fiqh jināyah* and anti-money laundering regimes into distinct spheres of analysis. Azzuhra, Desiana, and Fitria (2025), through their research, “*Measuring the Performance of Zakat Management Baitul Mal Aceh Based on Maqashid Sharia Indeks*”, found that the performance of Baitul Mal Aceh only reached 58% placing it in the ‘poor’ category, during the period 2021–2023, however, their analysis was limited to governance aspects and did not extend to the criminal law dimension (Alfia Azzahra, Rina Desiana, 2025). Furthermore, Mubarok (2025), in “*Penegakan Qanun Jinayat di Aceh Kaitannya dengan Pluralisme Hukum*”, examined the relationship between the Qanun Jinayat and national criminal law, but did not highlight the absence of Sharia economic offences (Mubarok, 2025). Meanwhile, the study by Saptono and his research colleagues, entitled “*Analisis Yuridis Perkembangan Tindak Pidana Pencucian Uang Saat Ini Sebagai Upaya Pencegahannya di Indonesia*”, focuses on the prevention of money laundering in the banking sector without taking into account the characteristics of Islamic philanthropic institutions (Saptono, Alwan Hadiyanto, 2024). The existing literature has not yet been able to establish a connection between the weaknesses in the governance of the Baitul Mal, the limitations of the regulation of economic offences in the Qanun Jinayat, and the anti-money laundering regime as a single, coherent legal issue.

This research focuses on two main issues, namely: 1) How does religious legitimacy in the governance of Islamic financial institutions and philanthropy in Aceh shape the pathology of Sharia politics? and 2) How do the Aceh Qanun Jinayat and the anti-money laundering regime address the vulnerability of Islamic financial institutions and philanthropy in Aceh to abuse? The novelty of this research lies in the use of the concept of Sharia political pathology as an analytical framework, a concept that has not been operationalised in previous studies as well as in the attempt to dissect the intersection between *jināyah siyāsah*, the governance of Islamic philanthropy, and the anti-money laundering regime within a single integrated legal-normative framework. This research extends the study of ‘*jināyah siyāsah*’ into the context of modern economic crime and contributes to promoting the expansion of Sharia economic offence provisions within the Aceh Criminal Code (Qanun Jinayat Aceh), as well as clarifying the status of Islamic financial and philanthropic institutions within the Anti-Money Laundering Act (UU TPPU), so that the misuse of Sharia institutions no longer falls within a regulatory grey area. The criticism raised is not intended to weaken the Aceh Qanun, but rather to strengthen it so that it becomes a legal instrument capable of adapting to the complexity of contemporary crime.

Literature Review / Theoretical Framework

This study is based on several key concepts that form the foundation of the analysis, namely the pathology of Sharia politics, Sharia financial institutions, Islamic philanthropy, public trust, and Sharia economic offences. Political pathology, as conceptualised by Heidenheimer, Johnston and LeVine, refers to systemic dysfunction in the exercise of power that arises not merely from individual failings, but from structural flaws in institutional design and regulation (Arnold J. Heidenheimer, Michael Johnston, 1989). This concept is not intended to criticise Sharia as a doctrine, but rather to criticise political practices that instrumentalise Sharia institutions for specific interests. In the context of Aceh, this pathology is evident in the potential for the misuse of Islamic financial institutions and philanthropy, which enjoy a high level of public trust because they operate in the name of religious trust.

Islamic financial institutions are organisations that conduct financial activities in accordance with Sharia principles, such as the prohibition of *riba*, *gharar* and *maisir*, and are oriented towards justice and the public good (Alif Endy Pamuji, Ach Faqih Supandi, 2022). According to Dusuki and Abdullah, the Islamic financial system not only emphasises compliance with formal rules but also integrates ethical and social responsibility dimensions into every economic activity (Asyraf Wajdi Dusuki, 2007). Consequently, the abuse of authority within Islamic financial institutions not only causes economic losses but also undermines the moral legitimacy upon which their existence is founded. Islamic philanthropy encompasses the management of *zakat*, *infaq*, *sadaqah* and *waqf* as instruments for the redistribution of wealth to achieve social welfare. In *fiqh muamalah*, the management of Islamic philanthropic funds must be based on the principles of *amanah*, transparency and justice, as these funds constitute the rights of the *mustahiq* that have been entrusted to the administrators (Roby Abdullah, Abd Wahab Abd Muhaimin, 2025).

Conceptually, public trust refers to the obligation of a trustee to exercise the authority and resources entrusted to them responsibly, in accordance with Sharia objectives and the interests of society (Moza Indah Febryani, Dewi Sartika, Sasqiasalsabilla, Raditio, Aldy Saputra, Muhammad Ghiffan Arrony, 2025). The concept of trust in the Islamic tradition is a normative principle governing the relationship between those in power and the community that grants them their mandate. As a normative foundation, the Qur'an emphasises the prohibition against acquiring wealth through unlawful means, as Allah the Almighty states:

الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ

“O believers! Do not devour one another's wealth illegally, but rather trade by mutual consent. And do not kill each other or yourselves. Surely Allah is ever Merciful to you.” (Q.S. An-Nisā' [4]: 29)

The analysis in this study is based on four complementary theoretical frameworks, namely the theories of *maqāṣid al-syarī'ah*, *maṣlaḥah*, *jināyah siyāsah*, and regulation. These four theories are operationalised in an integrated manner to analyse the phenomenon of the instrumentalisation of Islamic financial and philanthropic institutions in Aceh, particularly in relation to the misuse of public trust that has gained religious legitimacy. The theory of *maqāṣid al-syarī'ah* is used as the primary evaluative framework in this study to assess the extent to which sharia-based public fund management practices align

with the fundamental objectives of Islamic law. Al-Ghazālī, in *Al-Mustasfā*, emphasises that the objectives of sharia regarding humanity centre on the protection of five fundamental elements, as stated in the following quotation: (Al-Ghazālī, n.d.)

لكننا نعني بالمصلحة: المحافظة على مقصود الشرع. ومقصود الشرع من الخلق خمسة: وهو أن يحفظ عليهم دينهم، ونفسهم، وعقلهم، ونسلهم، ومالهم. فكل ما يتضمن حفظ هذه الأصول الخمسة، فهو مصلحة. وكل ما يفوت هذه الأصول، فهو مفسدة، ودفعها مصلحة

“What we mean by *maṣlaḥah* is the preservation of the objectives of the Sharia. The objectives of the Sharia with regard to humankind are five: the preservation of their religion, their lives, their intellect, their lineage, and their property”

Al-Ghazālī emphasises that the purpose of Sharia is focused on the protection of five fundamental elements, namely religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), reason (*ḥifẓ al-‘aql*), lineage (*ḥifẓ al-nasl*), and wealth (*ḥifẓ al-māl*). In the context of this study, the misuse of funds from zakat, *infaq*, *sadaqah* and *waqf* not only undermines *ḥifẓ al-māl* through the unlawful diversion of the community’s wealth, but also has the potential to undermine *ḥifẓ al-dīn* by eroding public trust in Sharia institutions as the custodians of religious trust.

In this normative legal study, *maqāṣid al-syarī‘ah* is not positioned as a source of authority for the creation of criminal offences, but rather as a basis for legal interpretation, *ratio legis*, and legislative philosophy. As an interpretative framework, *maqāṣid al-syarī‘ah* is employed to elucidate the objectives of legal norms concerning the protection of property, trust (*amānah*), and the public interest. As *ratio legis*, it provides the normative justification for why the misuse of zakat, *infaq*, *sadaqah*, *waqf*, and other religiously endowed assets requires effective legal protection. Meanwhile, as a legislative philosophy, *maqāṣid al-syarī‘ah* provides the normative foundation for directing legal reconstruction so that the formulation of Sharia economic offences does not merely entail the addition of criminal provisions, but is oriented towards the protection of *ḥifẓ al-māl*, justice, public interest, and public trust. Accordingly, *maqāṣid al-syarī‘ah* serves as an evaluative and argumentative framework in this study, whilst the authority to establish criminal norms remains grounded in the Constitution, the Aceh Governance Law (UUPA), and the applicable laws and regulations.

The theory of *maṣlaḥah* complements this framework by emphasising that every legal provision must be directed towards the substantive protection of the public interest. Al-Ghazālī viewed *maṣlaḥah* as an effort to safeguard the objectives of Sharia (Al-Ghazālī, n.d.); thus, the provisions on Sharia economic offences in the Qanun Jinayat can be understood as instruments for protecting the public interest, particularly in safeguarding the trust placed in the management of the community’s funds. Consequently, the formulation of legal norms is assessed not only in terms of the formal aspects of legislation, but also in terms of its ability to prevent *maḥsadah* arising from the abuse of authority.

The perspective of *jināyah siyāsah* is used to provide a normative categorisation of the abuse of authority in the management of Sharia institutions. Al-Māwardī, in *Al-Aḥkām al-Sulṭāniyyah*, emphasises that the management of public assets is a state trust that must be carried out fairly and responsibly. Consequently, the misuse of public assets by officials can be categorised as *ghulūl*, that is, a breach of the trust entrusted to them. This perspective is relevant for assessing that the misuse of zakat, *infaq*, *sadaqah* and *waqf* funds constitutes not only an administrative offence or a criminal act of corruption, but also a breach of public trust within the framework of Islamic criminal law.

Furthermore, this study employs regulatory theory to explain that the effectiveness of a legal system is determined not only by the existence of norms, but also by the coherence between legal regimes, enforcement capacity, and oversight mechanisms that

support its implementation. In the context of Aceh, this theory is used to analyse the relationship between the Qanun Jinayat, the criminal regime for corruption, and the criminal regime for money laundering in shaping legal protection for Islamic financial institutions and philanthropic organisations. Thus, regulatory theory provides an analytical basis for assessing whether these three legal regimes have operated complementarily or, conversely, have created regulatory gaps that allow for the misuse of public trust based on Sharia law to remain beyond the optimal reach of the legal system (A. A. Ismailov, M. A. Zhumadilova, S. B. Sautbayeva, 2026).

Research into Baitul Mal, the Qanun Jinayat and the criminal offence of money laundering has been carried out on a limited basis. Azzuhra, Desiana and Fitria (2025) found that the performance of Baitul Mal Aceh's zakat management remains in the 'poor' category; however, their study was limited to managerial aspects. Mubarok (2025) examined legal pluralism in the enforcement of the Qanun Jinayat, but did not analyse the absence of sharia economic offences within it. Meanwhile, Saptono's (2024) study discussed developments in money laundering offences, but its focus remained limited to the conventional banking sector.

Overall, previous studies have not succeeded in establishing an analytical framework that fully integrates three issues which are, in fact, interrelated: weaknesses in the governance of the Baitul Mal, the absence of sharia economic offences in the Qanun Jinayat, and the insensitivity of the anti-money laundering regime to the specific characteristics of Islamic philanthropic institutions. This analytical fragmentation results in a partial understanding and fails to capture the systemic dimensions of the issues at hand. The novelty of this research lies in the construction of the concept of 'Sharia political pathology' as a distinctive analytical category, moving beyond the conventional approach to corruption that has hitherto dominated, to explain how religious legitimacy can be structurally instrumentalised in the management of Islamic financial and philanthropic institutions in Aceh. Furthermore, this study offers an integrated analysis of *jināyah siyāsah*, the governance of Islamic philanthropy, and the anti-money laundering regime within a single coherent legal-normative framework.

Research Methodology

This study is a qualitative study employing a normative legal methodology and two principal approaches. First, the statutory approach is utilised to analyse the legal norms contained in the Aceh Qanun and relevant national positive law instruments concerning Islamic financial institutions, Islamic philanthropy, corruption, and anti-money laundering. Secondly, the conceptual approach is employed to examine the doctrines of *fiqh jināyah siyāsah*, *maqāṣid al-syarī'ah*, and Islamic governance as normative frameworks for assessing the institutional pathologies identified in the administration of Sharia-based institutions in Aceh. The data used in this research consists of secondary data, comprising primary legal materials such as the Aceh Qanun, national legislation, judicial decisions, and other binding legal instruments; secondary legal materials such as academic literature, scholarly journal articles, BPK audit reports, PPATK documents, and classical as well as contemporary fiqh studies; and tertiary legal materials such as legal dictionaries, encyclopaedias, and other supporting reference works. Data collection was conducted

through comprehensive library research of all relevant legal materials and academic sources.

The data were analysed qualitatively using a prescriptive-analytical method. This method involved interpreting and evaluating the applicable legal norms, systematising the relevant legal materials, and constructing legal arguments in order to formulate legal propositions concerning regulatory gaps, institutional vulnerabilities, and the instrumentalisation of Islamic financial and philanthropic institutions in Aceh. Through this analytical framework, the study seeks to provide normative recommendations for the reconstruction of the Qanun Jinayat and the reform of institutional governance based on the principles of accountability, justice, and the protection of public trust in accordance with *fiqh jināyah siyāsah* and *maqāṣid al-syarī'ah*.

Results and Discussion

Regulatory Gaps in the Legal Protection of Sharia-Based Public Trusts

The formalisation of Islamic Sharia law in Aceh is a legal consequence of the granting of special powers rooted in the Helsinki Memorandum of Understanding, which was subsequently enshrined in Law No. 11 of 2006 on the Government of Aceh. The powers granted to the Government of Aceh not only paved the way for the enactment of qanuns as Sharia-based legal instruments, but also enabled the emergence of a system of public governance that integrates Islamic principles into the administration of government. In the economic sector, this integration is realised through Aceh Qanun No. 11 of 2018 on Sharia Financial Institutions, which requires all financial institutions to operate in accordance with Sharia principles (Qanun Aceh Nomor 11 Tahun 2018 Tentang Lembaga Keuangan Syariah, 2018), whilst in the philanthropy sector it is realised through Aceh Qanun No. 10 of 2018 on the Baitul Mal, which grants the Baitul Mal the authority to collect, manage, develop and distribute zakat, *infaq*, *sadaqah*, *waqf* and other religious assets as a representation of the collective trust of the Muslim community (Qanun Aceh Nomor 10 Tahun 2018 Tentang Baitul Mal, 2018).

The legal ideal established through the framework of Sharia regulations in Aceh reflects a strong commitment to the realisation of governance characterised by integrity. The principles of trust (*al-amānah*), justice (*al-'adl*), transparency (*al-syafāfiyyah*) and accountability (*al-mas'ūliyyah*) are fundamental principles inherent in the concept of Islamic financial governance (Andi Muh Nur Hidayat, 2026). Consequently, the broader the scope of Sharia institutionalisation, the higher the expectations placed on institutions that derive religious legitimacy to demonstrate standards of integrity that exceed those of public institutions in general. The essence of good governance demands that religious legitimacy be translated not only into moral compliance, but also into transparent, accountable and effective legal oversight mechanisms (Salsabila, 2025).

The institutional capacity-building established through the Baitul Mal Qanun has not, however, been accompanied by the strengthening of adequate accountability mechanisms. The Baitul Mal Qanun comprehensively regulates the authority to collect, manage, develop and distribute zakat, *infaq*, *sadaqah*, *waqf* and other religious assets. However, provisions regarding oversight, transparency and criminal liability have not developed proportionally. The Qanun has not explicitly regulated the separation between management and oversight functions, nor has it established information disclosure as an imperative legal obligation,

nor has it established an adequate sanctions regime against the abuse of authority (Fatya Pramesta Cahyani, 2023). These normative limitations have resulted in the formation of an oversight system that places greater emphasis on compliance with administrative procedures than on strengthening preventive functions to avert irregularities in the management of community funds.

It is here that the most critical shortcoming is revealed: the Aceh Qanun No. 6 of 2014 on Jinayat Law which has been updated by Aceh Qanun No. 12 of 2025 as the most authoritative instrument of Sharia criminal law in Aceh fails to address Sharia economic offences. As a specialised criminal law in Aceh, the Qanun on Criminal Law has regulated various offences relating to public morality, such as alcohol, gambling, *khalwat*, adultery, sexual harassment, rape, *qadzaf*, *liwath* and *musahaqah* (Qanun Aceh Nomor 6 Tahun 2014 Tentang Hukum Jinayat, 2014). However, this Qanun has not yet addressed Sharia economic offences, including the breach of trust in the management of *zakat*, *infaq*, *sadaqah*, *waqf*, or other religious social funds. Consequently, the misuse of Sharia institutions cannot be prosecuted under Islamic criminal law, but is instead entirely subject to the national criminal law regime, specifically the Law on the Eradication of Corruption Offences.

Another equally crucial gap in the framework of Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering is the lack of specific attention paid to the characteristics of Islamic financial and philanthropic institutions. Yet, various cases of misuse of Baitul Mal funds in Aceh indicate the existence of patterns that conceptually fulfil the characteristics of the stages of money laundering, ranging from the transfer of funds through bank accounts (placement), the concealment of the intended use of funds through layered transactions (layering), to the integration of funds into government expenditure items that appear legitimate (integration) (Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang, 2010). This situation confirms the existence of a twofold regulatory gap: on the one hand, the Qanun Jinayat has not yet recognised Sharia economic offences as part of Aceh's special criminal law; whilst on the other hand, the Anti-Money Laundering Act has not explicitly designated Islamic financial and philanthropic institutions as high-risk entities requiring a stricter and more differentiated regime for the prevention and supervision of financial transactions.

The absence of a coherent link between the Qanun Jinayat, the Anti-Corruption Act and the Anti-Money Laundering Act ultimately creates a systemic regulatory gap a situation in which the misuse of Islamic financial institutions and philanthropic organisations is not fully covered by any of the applicable legal regimes. The fundamental problem lies not in the quantity of available regulations, but in the fragmentation of the regulatory framework, which results in each legal regime operating in isolation rather than complementing one another. In this context, the reform of the Qanun Jinayat through the recognition of Sharia economic offences is a normative imperative that cannot be postponed; this is not intended to duplicate criminal offences of corruption or money laundering within a different framework. Rather, the intended reform is aimed at providing substantive criminal protection for public trusts managed through Sharia institutions as legal entities with distinctive normative characteristics. At the same time, the anti-money laundering regime needs to explicitly affirm the status of Islamic financial and philanthropic institutions as reporting entities within the financial transaction monitoring

system, so that the religious legitimacy inherent in Sharia institutions always runs in tandem with, and does not conflict with, the prevailing imperatives of legal accountability.

The intellectual heritage of *jināyah siyāsah* offers a deeper perspective on interpreting this lacuna. It is not merely a matter of legislation, but rather the state's failure to fulfil its fundamental duty to protect the public trust. Al-Māwardī regards the management of the Bayt al-Māl as a trust of authority that must be safeguarded for the public good (Al-Māwardī, 1058), whilst Ibn Taymiyyah emphasises that the legitimacy of government stems from justice, not merely from its Islamic identity (Taymiyyah, 1429). Meanwhile, Ibn Qayyim asserts that any deviation that undermines justice remains contrary to Sharia, even if carried out through procedures that appear lawful (I. A. 'Abd A. M. ibn A. B. ibn A. ibn Q. Al-Jawziyyah, 1428). Thus, the absence of Sharia economic offences in the Qanun Jinayat actually reflects the suboptimal functioning of Islamic criminal law in safeguarding the trust of authority.

The framework of *maqāsid al-sharī'ah* reveals that the misuse of zakat, *infaq*, *sadaqah* and *waqf* funds causes harm that extends beyond the purely financial dimension (Fakhruddin, Sudirman Hasan, Dwi Hidayatul Hasan, 2024). Such misuse not only undermines *hifẓ al-māl* through the misappropriation of the community's assets, but simultaneously erodes *hifẓ al-dīn* by undermining public trust in Sharia institutions, harms *hifẓ al-'aql* through the normalisation of the exploitation of as instruments of deviance, and hinders *hifẓ al-nafs* by cutting off the *mustahiq*'s access to the rights they are entitled to. The resulting harm is thus multidimensional, affecting simultaneously the material foundations, institutional legitimacy, and the integrity of Sharia as the basis for governance in Aceh.

On that basis, the amendment of the Qanun Jinayat through the recognition of Sharia economic offences is a normative necessity that can no longer be postponed. These offences are not intended to duplicate the Anti-Corruption Act or the Anti-Money Laundering Act, but rather to fill a gap in criminal protection regarding public trusts managed through Sharia institutions as legal entities with distinctive normative characteristics that are not yet adequately covered by the existing legal regime. Through such a framework, these three legal regimes will fulfil complementary functions without overlapping: the Qanun Jinayat as an instrument for the protection of Sharia values and trusts, the Anti-Corruption Act as a regime for combating corruption in the exercise of public power, and the Anti-Money Laundering Act as a mechanism for tracing and recovering the proceeds of crime. The synergy between these three will close the loopholes that have long served as hiding places for actors who use religious legitimacy as a cover for the abuse of authority, whilst ensuring that formal piety can no longer function as a shield from the reach of the law.

The Political Pathology of Sharia in the Instrumentalisation of Islamic Financial and Philanthropic Institutions in Aceh

The fundamental issue in the implementation of Islamic Sharia law in Aceh is not merely a matter of regulatory design, but also concerns the relationship between religion, power and governance. When religious legitimacy is not balanced by effective accountability mechanisms, Sharia institutions are vulnerable to being instrumentalised for political or economic interests (Khasanah, 2025). This situation reflects a pathology of Sharia politics, namely a deviation from institutional functions whereby religious authority is exploited as a means of legitimising the abuse of power.

The regulatory gap in question not only limits the effectiveness of law enforcement but also creates space for the emergence of *sharia political pathology*, namely legal and institutional dysfunction arising when religious legitimacy becomes intertwined with political power and interests without being accompanied by adequate mechanisms of accountability. Conceptually, *sharia political pathology* in this study is understood through the intersection of legal theory, legal politics, criminology, and sociology of law. From the perspective of legal theory, the concept refers to the gap between *das sollen* and *das sein*, whereby norms established to uphold *amānah*, justice, and public interest may, in practice, create opportunities for the abuse of authority. From the perspective of legal politics, such pathology concerns the direction of law-making and implementation, which grants particular legitimacy to Sharia institutions but has not been fully accompanied by adequate mechanisms of oversight and accountability.

From a criminological perspective, such misuse may be understood as a form of *white-collar crime* rooted in positions of office and trust, facilitated by strategic institutional positions, access to resources, and weak institutional controls. From the perspective of the sociology of law, religious legitimacy constitutes a form of social capital that may strengthen compliance, but may simultaneously generate an *accountability deficit* when religious identities and symbols are employed to diminish critical scrutiny of the exercise of power. Accordingly, *sharia political pathology* does not refer to any inherent weakness in *sharia* as a normative system, but rather to legal and institutional dysfunction arising when Sharia legitimacy becomes intertwined with political power and interests without being accompanied by effective mechanisms of accountability.

The root of the identified pathology lies in the inherent characteristics of Sharia institutions, which operate on the basis of a high level of public trust. Unlike public institutions in general, Baitul Mal and Sharia financial institutions derive their moral legitimacy from managing funds that are perceived as a religious trust (Sukmawati, 2024). This high level of legitimacy creates a strong presumption of integrity in the public mind, so that external oversight tends to weaken, as if questioning Sharia institutions were tantamount to questioning Sharia itself. Under such circumstances, religious legitimacy has the potential to become a symbolic shield that reduces the intensity of oversight and renders Sharia institutions entities that are socio-politically shielded from public scrutiny. When public trust is not balanced by an effective system of controls, the space that emerges is not one of piety, but rather a space of vulnerability that is wide open to political instrumentalisation.

These structural vulnerabilities, in turn, operate through several interrelated and mutually reinforcing modes of instrumentalisation. Firstly, the use of zakat and *sadaqah* distribution networks as instruments of political patronage, whereby the channelling of funds to *mustahiq* is coordinated according to the logic of mobilising electoral support rather than the eligibility criteria for recipients as stipulated by Sharia. Secondly, the placement of political affiliates within the management structures of Sharia institutions, which enables the use of institutional resources including funds, networks and moral legitimacy to support specific political interests without being subject to intervention by existing oversight mechanisms. Thirdly, the use of Sharia contracts as a means of disguising the flow of funds from sources that cannot be legally accounted for, thereby using religious procedures as a cover for transactions that are substantively contrary to the principles on which they are based.

Al-Māwardī, in *Al-Aḥkām al-Sultāniyyah*, asserts that the misuse of public funds by officials constitutes a form of *ghulūl*, as it betrays the trust entrusted by the state to those in charge of its administration (Al-Māwardī, 1058). Furthermore, Al-Māwardī also explains the distinction between bribes and gifts in the administration of public funds; *risywah* is a gift that is requested or demanded (*mā ukhidhat ṭalaban*), whilst a gift is one given voluntarily (*mā budhilat ‘afwan*); indeed, even officials responsible for administering zakat (*‘āmil*) are prohibited from accepting either from those under their care, as gifts to rulers or officials are still categorised as *ghulūl* (Al-Māwardī, 1058). This argument is reinforced by Ibn Qayyim al-Jawziyyah, who emphasises that Islamic law aims to block all avenues leading to corruption (*sadd al-dharā’i’*), whilst the use of subterfuge (*hiyal*) to legitimise deviant acts actually paves the way for corruption to occur (S. al-D. A. ‘Abd A. M. ibn A. B. al-M. bi I. Q. Al-Jawziyyah, 1996). Therefore, the use of zakat funds or Islamic philanthropy for political purposes, patronage, or personal gain even if carried out through procedures that appear legitimate remains a form of breach of trust that contradicts the objectives of Sharia and the principle of justice.

This interpretation is consistent with the general view in *fiqh siyāsah* that any gift intended to influence policy or secure personal gain is invalid and falls under the category of *risywah*, as also emphasised in Ibn Qayyim al-Jawziyyah’s tradition of thought on *siyāsah syar’iyyah*. Based on this interpretation, the use of zakat funds or Islamic philanthropy for political purposes, patronage, or personal gain not only undermines *hifẓ al-māl*, but also erodes the principles of trust and justice that form the foundation of Sharia governance. Allah Swt. emphasises the prohibition against exploiting seemingly legitimate means to acquire wealth unlawfully, as Allah says:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْخِلُوا بِهَا إِلَى الْخُكَّامِ لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

“Do not consume one another’s wealth unjustly, nor deliberately bribe authorities in order to devour a portion of others’ property, knowing that it is a sin.” (QS. Al-Baqarah [2]: 188)

This verse emphasises that any abuse of mechanisms that have gained legal or religious legitimacy to unlawfully seize assets constitutes a form of betrayal on two fronts: against Allah and His Messenger as the source of the trust, and against the community that has entrusted the management of those assets. Consequently, the instrumentalisation of Sharia institutions not only constitutes an abuse of power from the perspective of positive law, but also represents a serious breach of religious trust. As a result, the harm caused is not limited to the loss of the material rights of the *mustahiq*, but also undermines the integrity and moral legitimacy of Sharia institutions as manifestations of Islamic values in the public sphere (Zaki Mahmed Omar Channak, 2026).

At the most fundamental level, the instrumentalisation of Islamic financial institutions and philanthropy represents *fasād fī al-arḍ*, that is, systemic and multidimensional corruption. This corruption encompasses three dimensions. Firstly, material corruption in the form of the misuse of funds that should have been distributed to the *mustahiq*. Secondly, institutional corruption in the form of a decline in the integrity of, and public trust in, Sharia institutions as instruments of governance based on Islamic values. Thirdly, normative corruption in the form of the degradation of the meaning of Sharia in public consciousness, which ultimately has the potential to foster scepticism towards the project of formalising Islamic Sharia in the public sphere. It is in this context that Allah Swt. warns of the danger of *fasād fī al-arḍ*, as Allah states:

وَإِذَا تَوَلَّى سَعَى فِي الْأَرْضِ لِيُفْسِدَ فِيهَا وَيُهْلِكَ الْحَرْثَ وَالنَّسْلَ ۗ وَاللَّهُ لَا يُحِبُّ الْفَاسَادَ

“And when they leave you, they strive throughout the land to spread mischief in it and destroy crops and cattle. Allah does not like mischief.” (QS. Al-Baqarah [2]: 205)

Thus, the political pathology of Sharia is an inevitable consequence of the convergence of three structural conditions: high religious legitimacy that is not balanced by accountability; a weak institutional oversight framework that leaves room for instrumentalisation; and the inadequacy of legal instruments in addressing economic crimes that hide behind Sharia formalities. As long as these three conditions persist simultaneously, the formalisation of Sharia will continue to face the most ironic paradox: institutions established to safeguard public trust have the potential to become the most socially protected and legally inaccessible spaces for the abuse of power.

A Model for Governance Reform and the Reconstruction of Sharia Law in Aceh

This fatalistic paradox can and must be resolved through systemic reform. On that basis, the reform of the Qanun Jinayat through the recognition of Sharia economic offences is a normative necessity that can no longer be postponed. These offences are not designed to duplicate the Anti-Corruption Act or the Anti-Money Laundering Act, but rather to fill the gap in criminal protection for public trusts managed through Sharia institutions as legal entities with distinctive normative characteristics that are not yet adequately accommodated by the existing legal regime. Through such a framework, these three legal regimes will fulfil complementary functions without overlapping: the Qanun Jinayat as an instrument for the protection of Sharia values and trusts; the Anti-Corruption Act as a regime for combating corruption in the exercise of public power; and the Anti-Money Laundering Act as a mechanism for tracing and recovering the proceeds of crime. The synergy between these three will close the loopholes that have long served as a hiding place for actors who use religious legitimacy as a cover for the abuse of authority, whilst ensuring that formal piety can no longer function as a shield from the reach of the law.

The proposed reconstruction of the Qanun Jinayat must first be situated within Aceh's constitutional authority as a region endowed with special status. Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia recognises regions with special or distinctive status, which is further elaborated through Law No. 11 of 2006 on the Governance of Aceh (UUPA). Article 125 of the UUPA provides that the implementation of Islamic law in Aceh encompasses *ahwal al-syakhsyah*, *muamalah*, and *jinayah*, the implementation of which is stipulated through *qanun*. This provision establishes the legal basis for Aceh to formulate criminal norms reflecting its special authority to implement Islamic law; however, such authority is not unlimited. The enactment and application of the Qanun Jinayat remain situated within the national legal system and are subject to the rule of law, the hierarchy of legislation, and the substantive limits of authority prescribed by the UUPA. Accordingly, expanding the regulation of Sharia economic offences should be construed as an exercise of Aceh's special authority in the field of *jinayah*, rather than as the establishment of a criminal-law regime operating outside the national legal system.

Legal reform will not be effective unless it is accompanied by a transformation of institutional governance (Muhammad Azam, Naji Mohammad Alwreikat, Burhan Alsyouf, Abdel Salam Atwa Ali Al Fandi, 2026). The management of Islamic financial and philanthropic institutions needs to be reoriented from mere formal compliance towards substantive compliance that reflects the principles of *maqāṣid al-syarī'ah*, particularly

trustworthiness, transparency and accountability (Intan A'thirah Binti Mohd A'kashalf, Nur 'Izzati Athirah Binti Mohamad Rosli, Nur Arina Nadiyah Binti Yusri, Tuan Nurizzul Najian Binti Tuan Ismail, Wan Nur Fathiah Nabihah Binti Wan Razali, 2024). Within this framework, there are at least two strategic priorities. Firstly, revising the Qanun Baitul Mal by clarifying the separation of management and supervisory functions, making the disclosure of financial reports a legal obligation, and strengthening accountability mechanisms and sanctions for any irregularities. Secondly, strengthening the Sharia governance system by optimising the role of the Aceh Ulama Consultative Council (MPU) as an independent Sharia compliance supervisory authority, thereby ensuring that the management of the community's funds not only complies with administrative regulations but is also in line with Sharia principles.

At a more fundamental level, the success of legal reform depends not only on regulatory and institutional renewal, but also on the internalisation of the values of *fiqh jināyah siyāsah* in the administration of government. A proper understanding of *ghulul*, *risywah* and *fasād fī al-arḍ* must become part of the legal culture of those managing Sharia institutions, supervisory bodies and society at large, so that trust is not merely understood as a moral imperative, but as a standard of public accountability. Without this foundation, regulations risk becoming mere formal instruments that lose their transformative power in realising Sharia governance with integrity. Allah Swt. says:

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ ۚ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ ۗ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا

“Indeed, Allah commands you to return trusts to their rightful owners; and when you judge between people, judge with fairness. What a noble commandment from Allah to you! Surely Allah is All-Hearing, All-Seeing.”

This verse perfectly articulates two fundamental principles that should serve as both the foundation and the benchmark for all reform efforts: integrity in governance and justice in decision-making. It is these two principles that have long been neglected in the instrumentalisation of Sharia institutions, and it is these two principles that must form the normative basis for every step towards renewal, ensuring that the formalisation of Sharia in Aceh does not merely become a symbolic project vulnerable to exploitation, but truly functions as a system that substantively protects the rights of the people, consistently upholds justice, and safeguards the honour of Sharia from all forms of instrumentalisation carried out in the name of piety.

Conclusion

The research findings confirm that the instrumentalisation of Islamic financial institutions and philanthropy in Aceh is a manifestation of the pathology of Sharia politics, stemming from weak institutional governance, a regulatory vacuum regarding Sharia-based economic crimes, and the sub-optimal integration of the values of *fiqh jināyah siyāsah* and *maqāṣid al-syarī‘ah* into the construction of positive law. These conditions have led to practices such as the abuse of trust, political patronage and institutional manipulation gaining formal legitimacy without being counterbalanced by adequate accountability mechanisms. Based on these findings, this study proposes a reform model through the reconstruction of the Qanun Jinayat by strengthening Sharia economic offences, integrating the principles of *ghulul*, *risywah*, and *fasād fī al-arḍ* as a normative foundation, and establishing a governance system that is transparent, accountable, and

oriented towards the protection of the public interest. These findings imply the need to reorient Sharia legal policy from a symbolic approach towards a governance paradigm that prioritises institutional integrity as a key prerequisite for the enforcement of Sharia. This study is limited to a normative analysis of the Acehese context and has therefore not yet tested the implementation of the proposed model within institutional practices in other regions. Therefore, further research should develop empirical and comparative studies to test the effectiveness of this reform model in strengthening the accountability of Sharia institutions and preventing the instrumentalisation of the law for political ends.

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