

COOPERATIVE LEGAL PLURALISM IN RESOLVING JARIMAH KHALWAT CASES IN ACEH

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Abstract: The study of the settlement of *jarimah khalwat* in Aceh generally separates the study of customary and formal sharia courts, so that cooperative interaction between systems is still poorly explored. This research is here to fill this gap through the framework of cooperative legal pluralism. This research is a type of normative legal research with a conceptual study approach. The analysis of the synchronization of norms between Qanun Jinayat and Qanun Pembinaan Kehidupan Adat shows the functional relationship between the Syar'iyah Court in ensuring legal certainty and the Gampong Court in maintaining social harmony. The main findings of the study offer a reconstruction model that prioritizes customary justice as an instrument of restorative justice. If the customary court fails, the settlement of the case is continued to the formal realm with customary decisions remaining a legal consideration in the Syar'iyah Court. This reconstruction contributes to normative integration that guarantees legal certainty, prevents double punishment, and still respects local wisdom of Aceh.

Studi penyelesaian jarimah khalwat di Aceh umumnya memisahkan kajian peradilan adat dan syariat formal, sehingga interaksi kooperatif antar-sistem masih kurang tereksplorasi. Penelitian ini hadir untuk mengisi kekosongan tersebut melalui kerangka cooperative legal pluralism. Penelitian ini berjenis penelitian hukum normatif dengan pendekatan studi konseptual. Analisis sinkronisasi norma antara Qanun Jinayat dan Qanun Pembinaan Kehidupan Adat menunjukkan hubungan fungsional antara Mahkamah Syar'iyah dalam menjamin kepastian hukum dan Peradilan Gampong dalam menjaga harmoni sosial. Temuan utama penelitian menawarkan model rekonstruksi yang memprioritaskan peradilan adat sebagai instrumen keadilan restoratif. Jika peradilan adat gagal, penyelesaian perkara dilanjutkan ke ranah formal dengan keputusan adat tetap menjadi pertimbangan hukum di

Mahkamah Syar'iyah. Rekonstruksi ini berkontribusi pada integrasi normatif yang menjamin kepastian hukum, mencegah hukuman ganda (double punishment), dan tetap menghargai kearifan lokal Aceh.

Keywords: Legal Pluralism; Jarimah Khalwat; Aceh.

INTRODUCTION

Historically, the integration of Islamic customs and principles in Aceh has been firmly rooted through philosophy *Hi Madhyde.*, which views sharia and customs as an inseparable unit, like substances with their properties (Badri and Fatmawati 2018). This diversity of ethnicity and the internalization of Islamic values triggered the birth of a non-positive legal system in the form of customary law and Islamic law as *Living Law* Respected in communal interactions (Jamhir 2020). However, in the modern post-independence constitutional system, the existence of this informal law often creates a complex dynamic of legal pluralism when dealing with formal state regulations.

One of the manifestations of this complexity is evident in the completion *Jarimah Khalwat*. The handling of this case involves two legal regimes, namely the national judicial system through the Syar'iyah Court which applies Qanun Jinayat, and the customary justice mechanism at the Gampong level which refers to the Qanun Pembinaan Kehidupan Adat dan Adat Istiadat (Ikhsan 2019). Formal courts offer legal certainty through punitive whipping, fines, or imprisonment. On the other hand, the Gampong community sociologically relies more on customary routes because of its restorative nature such as fines for white cloth or forced marriages which are considered more effective in restoring social harmony and avoiding stigma (Marliza 2020).

Although customary mechanisms are very dominant, this reality leaves a crucial *legal gap*. There is a sharp ambiguity of authority between law enforcement officials (Wilayatul Hisbah/Police) and the Gampong apparatus. Juridically, Article 13 of Qanun Number 9 Of 2008 regarding the Development of Traditional Life and Customs requires customary settlement for 18 types of minor disputes including *khalwat*, but Qanun Number 6 Of 2014 about Jinayat Law still categorizes *khalwat* as a criminal act (*jinayat*) that must be processed by litigation. This dualism creates serious legal uncertainty, namely that perpetrators who have undergone customary sanctions are still at risk of facing formal prosecution (*double punishment*), which doctrinally harms the principle of justice.

A number of previous studies have provided an overview of case settlement practices in Aceh with diverse focuses. Mustafa in his study in Aceh Tamiang showed that the settlement mechanism through the Rapat Adat Gampong (RAG) has a much higher level of community compliance than formal litigation routes. This is due to the restorative nature of customary sanctions, such as the obligation to pay a fine of white cloth to social sanctions in the form of "bathing" in public, which are considered more effective in

restoring communal balance (Mustafa et al. 2023). In line with that, Husna in her research in Jeumpa District, Bireuen, emphasized a similar pattern where the community prioritizes coaching and marriage for perpetrators who are proven to have marital relations outside of marriage as a concrete solution that is accepted sociologically (Husna 2026). On the other hand, Mubarok's study focuses more on the juridical-formal aspects of the enforcement of Qanun Jinayat through the authority of the Syar'iyah Court and the role of Wilayatul Hisbah as a sharia police (Mubarok 2024).

Although these studies have made important contributions, there are academic vacancies that need to be filled. Previous studies have examined customary justice or formal sharia enforcement separately, but attention paid to the interaction and dynamics of cooperation between these systems has been limited. Most of the literature still places these two authorities in overlapping or competitive positions, often ignoring the potential synergies that can be built. This research is here to fill this gap by offering a cooperative *legal pluralism* model as a framework for reconstructing the relationship between state law and customary law. Through this model, this paper will analyze how normative integration can be carried out so that legal pluralism in Aceh does not lead to legal uncertainty or *double punishment*, but rather becomes a harmonious and assured conflict resolution system.

Based on this background, this study aims to answer the question How to reconstruct the relationship between state law and customary law in the *cooperative legal pluralism* model in the settlement of *jarimah khalwat disputes* in Aceh? By dissecting the normative tension between Qanun Jinayat and Qanun Pembinaan Kehidupan Adat, this study seeks to offer integrative solutions to overcome the dualism of authority. The results of this reconstruction are expected to be able to make a theoretical contribution to the discourse of legal pluralism while ensuring legal certainty that remains based on the value of local wisdom in Gampong.

RESEARCH METHOD

This research is a type of normative legal research with a conceptual study approach regarding legal pluralism. This study evaluates the synchronization between Qanun Aceh Number 6 Of 2014 concerning Jinayat Law and Qanun Aceh Number 9 Of 2008 concerning the Development of Customary Life and Customs in the settlement of *jarimah khalwat*.

The data used are sourced from primary legal materials (laws and regulations and qanun), secondary (books, legal journals, and research reports), and tertiary (legal dictionaries and encyclopedias) obtained through literature studies. Data analysis uses qualitative legal analysis techniques that focus on the interaction of norms, institutional overlap, and dispute resolution patterns to produce a comprehensive reconstruction of the *cooperative legal pluralism* model.

RESULT AND DISCUSSION

The Existence and Construction of the Jarimah Khalwat Law in Aceh

In the discourse of Islamic law in Aceh, *Khalwat* occupy a unique position as an act that is at the intersection between individual morality and public order. Conceptually, *Khalwat* refers to a condition in which two individuals of different sexes who are not mahrams are in a location isolated from the range of public vision. This extreme privacy condition is seen as having a high risk because it is an entrance (*Dzari'ah*) for a more serious moral offense, namely adultery. (Dahlan 1996) Al-Yasa' Abu Bakar emphasized that the criminal essence of this act lies in the factor of localization in a closed space by two mukalaf, which was then juridically formally adopted into Pasal 1 angka 23 Qanun Aceh Number 6 Of 2014 about Jinayat Law (Habibullah 2021).

Doctrinally, categorization *Khalwat As Finger* (criminal acts) are rooted in the principle of *Sadd adz-Dzari'ah* or efforts to close the gap for harm (Muslich 2004). The basis for this prohibition is not only textual in reference to Surah Al-Isra' verse 32, but more broadly includes the protection of *Maqasid Ash-Syar'iyah*, especially in the *Hifzh al-nasl* (take care of the offspring) and *Hifzh al'irdh* (Keeping Honor) (Muksalmina et al. 2023a). Here, Islamic law views that the prevention of perverted behavior is a crucial instrument to ensure the benefit and dignity of the ummah, as well as to ensure the creation of harmonious social order (Muchlis S et al. 2023).

However, the significance of *jarimah khalwat* in the context of legal pluralism in Aceh arises when this delicacy has to deal with a dual settlement mechanism. As an act that is considered to tarnish communal dignity, *khalwat* is the territory of the customary law jurisdiction of Gampong which prioritizes reconciliation and the restoration of social harmony through restorative sanctions. On the other hand, as a product of sharia regional law, *khalwat* is also the formal jurisdiction of the Syar'iyah Court which is punitive. It is this "semi-private" characteristic of *khalwat* that creates an overlap of authority, where the line between the sociological justice of indigenous peoples and the formal legal certainty of the state often becomes blurred. This dynamic requires reconstruction through *the framework of cooperative legal pluralism* to bridge the clash of norms that occur.

The Construction of Legal Formalism in the Syar'iyah Court

In Indonesia's constitutional architecture, the Syar'iyah Court in Aceh is a unique judicial entity and has no equivalent in other provinces. This institution is not merely an extension of the religious judiciary, but a manifestation of the rule of law (*Legal Sovereignty*) which was born from the mandate of Law Number 11 of 2006 concerning the Government of Aceh (UUPA). The absolute competence of the Syar'iyah Court which covers the field of *Squirt* (Islamic crime) marks a paradigm shift from Islamic law as an ethical-private norm to a binding public-positive legal norm. However, the integration of sharia values into the

formal justice system has fuelled a discourse on the "formalization of morality" that often clashes with sociological realities at the grassroots level (Adami 2023).

The legitimacy of the Syar'iyah Court is strengthened by the existence of supporting structures such as the Islamic Sharia Office and the Wilayatul Hisbah (WH). Wilayatul Hisbah, as a supervisory institution, occupies a crucial and controversial position in enforcement *Khalwat*. Dogmatically speaking, the presence of the WH reflects the doctrine *Amar Ma'ruf is A Man Who Is Unhappy* institutionalized by the state. However, fundamental criticism often arises regarding the limits of authority between WH and the Indonesian National Police in terms of investigations. This ambiguity of demarcation often creates procedural ambiguity that has an impact on legal certainty for the defendant (Soraya et al. 2023). The state, through the Government of Aceh, has constructed the Qanun as a material legal instrument to provide legal certainty, but this formalization indirectly creates a rigid barrier between formal legal justice and restorative justice that lives in society.

One of the absolute competencies that is most often in the spotlight is case examination *Khalwat*. Based on Qanun Aceh Number 6 Of 2014 about Jinayat Law, *Khalwat* is classified as a criminal act that threatens public moral order. Juridical-dogmatic, this categorization places *Khalwat* It is no longer just a question of individual sin, but rather a question of individual sin. *Finger* that are detrimental to the public interest (Bustami 2017). This is a logical consequence of Aceh's special autonomy status, but theoretically it also creates a heavy burden of proof for the formal justice system in dealing with the private space of citizens

An analysis of Pasal 23 Qanun Aceh Number 6 Of 2014 about Jinayat Law reveals the punitive essence of this judicial system. The article stipulates that anyone who deliberately commits *jarimah khalwat* is threatened with '*Uqubat Ta'zir* in the form of a maximum of 10 lashes, a fine of pure gold, or imprisonment. Critically, this choice of sanctions reflects the very strong nature of *retributive justice*. Although Qanun provides the option of fines or imprisonment, in practice, caning remains the main "face" of sharia enforcement in Aceh. This sparked a debate about the purpose of punishment, namely whether to provide a *deterrent* effect or simply to carry out physical punishment that is a public spectacle.

Law enforcement procedures in the Syar'iyah Court follow a very formalistic litigation flow, starting from the reporting stage to execution. The first stage, namely Crime Reports, often stemming from community unrest. Critically, however, this stage is vulnerable to the practice of vigilantism or "vigilantism" by the masses before the authorities arrive (Ritonga and Harahap 2026). Although Qanun requires reports to be forwarded to official investigators, the reality on the ground shows that social stigma often precedes formal legal proceedings. Investigators, both from the National Police and WH, must verify the element of "alone in a quiet place". The fundamental problem at this stage is the

definition of a "quiet place" which is multi-interpreted, so that the investigator's subjectivity plays a big role in determining whether an act is worthy of processing or not.

At the stage Research and Prosecution, the public prosecutor plays a central role in handing over the file to the Syar'iyah Court. This is where functional tensions lie in Acehnese legal pluralism (Muksalmina et al. 2023b). When a case has entered the realm of formal prosecution, the customary settlement mechanism at the Gampong level will automatically be marginalized. The national judicial system does not recognize the concept of "cessation of prosecution for the sake of customary peace" for cases *Squirt* explicitly, unless provided for in the *restorative justice* which is very limited. As a result, there is a rigidity of the law where perpetrators who may have been forgiven by indigenous communities still have to undergo a long and tiring judicial process.

Process Examination in the Syar'iyah Court serves as a forum for material proof. Syar'iyah Court judges are required not only to master positive law, but also to understand the spirit of sharia (Musfirah Chairani 2026). However, the formalistic nature of the trial often ignores the sociological background of the perpetrator. Criticism of this stage is often addressed at the fulfillment of the rights of the accused, especially for those who cannot afford to hire legal counsel who understands the intricacies of Qanun Jinayat in depth. Self-defense is often only administrative in nature without touching the substance of substantive justice.

The final stage, namely Implementation of 'Uqubat Whipping, is the culmination of a formal litigation process. Based on Pasal 31 sampai dengan Pasal 35 Qanun Aceh Number 6 Of 2014 about Jinayat Law, the execution is carried out by the executioner under the supervision of the Prosecutor. Technically, rattan whipping tools are already standardized, but the psychological and social implications of this punishment far outweigh the physical pain. Public executions in front of the masses create a "perpetual stigma" that often hinders the social reintegration of perpetrators. This is where the contradiction lies with the spirit of customary justice that prioritizes restoration (*Recovery*) (Musfirah Chairani 2026). Syar'iyah courts guarantee legal certainty, but often fail to repair the rifts in social relations caused by such acts.

Overall, the settlement through the Syar'iyah Court shows the dominance of the state in regulating morality through rigid legal instruments. This path provides legality and certainty, but normatively creates a "wall of separation" with the customary justice system. This dualism becomes a fundamental problem when the state requires a formal process, while society longs for a communal-conciliatory solution.

Authenticity and Hegemony of the Customary Court

The existence of the customary court in Aceh is not just a manifestation of traditional romanticism, but a constitutionally recognized "legal enclave". Through Pasal 1 angka 8 Undang-Undang Number 44 Of 1999, the state provides legitimacy for Aceh to manage the customary order as one of the pillars of privilege (Nugroho 2023). However, this

recognition creates a complex dualism. On the one hand, it strengthens local identity, but on the other hand, it challenges the principle of unification of national law. The customary courts in Aceh operate not only as a complement, but often as a major competitor to the formal justice system in winning public trust (*Public Trust*).

Conceptually, the customary courts in Gampong represent *Living Law* (living law) that goes beyond the texts of positive law. If the state judiciary is often caught up in rigid proceduralism, the customary courts instead emphasize the "spirit of communal justice" (Fitriani 2020). The combination of structured system elements, authoritative judicial systems and repetitive customary norms creates an organic conflict resolution mechanism. However, the flexibility of the customary courts carries the risk of the absence of uniform operational standards throughout Aceh, which can trigger a sharp disparity in verdicts between Gampongs (Mahdi 2022).

The juridical basis of customary justice, starting from UU Pemerintahan Aceh (UUPA) to Qanun Number 5 Of 2003 regarding Village Government in the Province of Nangroe Aceh Darussalam, has actually constructed a clear hierarchy of authority. The emergence of Surat Keputusan Bersama (SKB) Of 2011 between Gubernur, Polda, dan Majelis Adat Aceh (MAA) is a pragmatic recognition of the state's pragmatic recognition of the inability of the formal system to handle all social turmoil at the grassroots level. This SKB instructs the apparatus to prioritize customary routes (Saraswati et al. 2021). However, these instructions often create a temporary "legal vacuum", where the protection of the individual rights of the perpetrator is often defeated by the interests of "community harmony".

In context *Jarimah Khalwat*, the mandate of Pasal 24 of the Qanun Jinayat provides broad discretion for customary courts. The provision that *Khalwat* can be resolved at the Gampong level if the perpetrator is a local resident, thus reflecting the principle of "proximity-based justice" (Bancin 2018). However, there is a jurisdictional paradox here, namely why is population status a determinant of the type of judiciary? If one of the perpetrators is a migrant, the case must be brought to the Syar'iyah Court. This distinction is dogmatically weak because the object of action is the same (*Khalwat*), but the settlement mechanism differs only based on administrative status. This shows that customary courts are still viewed as "domestic courts" that are not yet fully considered equivalent to the state justice system for cases involving cross-territorial subjects.

There are five fundamental reasons why customary courts continue to dominate settlement *Khalwat*. Sociologically, the people of Aceh see *Khalwat* as a "communal disgrace" that must be cleaned up immediately, not just a violation of the law that must be punished. Approach *Consensus deliberation* is considered more solutive than the litigation process which takes time and cost (Jannah 2025). Doctrinally, because *Khalwat* Included in the category *ta'zir* whose sanctions are not definitively determined in *Nash*, the state has the flexibility to leave it to local wisdom. However, criticism arises at the point of

bureaucratic efficiency, is this delegation really for the sake of substantive justice, or is it just an attempt by the state to "wash its hands" of the pile of cases in the Syar'iyah Court?

The implementation of Qanun Number 9 Of 2008 affirmed this legitimacy, but at the same time opened a gap in criticism related to human rights protection standards. When *Khalwat* Included in customary jurisdiction, the perpetrators are confronted with a very dominant local power structure, namely Keuchik, Imeum Meunasah, and Tuha Peut. In this structure, the bargaining position of the perpetrators, especially women, is often very weak. The adjudication process in Meunasah or Mosque often resembles moral judgment rather than fact-checking. Although the output is reconciliation, the path to peace is often colored by massive social pressures (Muntazar et al. 2017).

A settlement model that "resembles" a formal trial from the persuasive stage to the verdict shows customary efforts to appear professional. However, the main focus remains on *Restorative Justice* (Restorative Justice) symbolic. The obligation to give alms to the meunasah or to hold a feast together (eat together) is not just a material punishment, but a ritual of "village cleansing"(Amalia et al. 2018). From the perspective of legal pluralism, this is a mechanism *Social Reset* which is not owned by the Syar'iyah Court (Rahmatillah 2022). Public whipping creates stigma and alienation, while traditional feasts create reintegration. This is the reason why customary courts continue to win the "hearts" of the people of Aceh, because they offer social healing, not just physical suffering.

However, the diversity of practices in various districts in Aceh poses a serious challenge to the unification of Islamic law in Aceh. In one area, the sanction of forced marriage is considered a solution, while in another, material fines or expulsion are preferred (Fahlian 2021). Without quality control from central authorities, customary courts risk being trapped in local subjectivity that can violate basic human rights. Criticism of "public bathing" sanctions, for example, may be sociologically acceptable, but in human rights law, it can be categorized as treatment that degrades human dignity.

Overall, the customary courts are at the heart of legal pluralism in Aceh which works independently but intersects with the state. He dominates because he lives in the breath of society, but he is fragile because of the absence of clear normative boundaries with formal systems (Afriani et al. 2024). This is the starting point of a conflict of authority, when the same act is claimed by two different rulers of the law. Adat demands restoration, while the state through the Syar'iyah Court demands punishment. Without a clear reconstruction, this dualism is no longer a legal treasure, but a trap of uncertainty for the people of Aceh who are in the midst of it.

Dualism and Clash of Norms in the Labyrinth of Aceh Sharia Enforcement Jurisdiction

Legal dualism in the settlement of *jarimah khalwat* in Aceh is not just a phenomenon of the coexistence of two systems, but a clash of norms that is frontal. On the one hand, the Syar'iyah Court stands as a representation of state formalism with a *punitive-retributive* (punitive) character. On the other hand, the Gampong Customary Court operates as a

sociological institution with a *restorative-communal* character. This tension creates a jurisdictional "gray zone" where the boundaries between state authority and customary authority become blurred and mutually assertive.

Legal uncertainty that occurs in law enforcement in Aceh is basically rooted in the condition of institutional ambiguity. Normatively, there is a sharp disharmony between the two main regulations that regulate the social behavior of the community. On the one hand, Qanun Number 9 of 2008 regarding the Development of Traditional Life and Customs gives a mandate of authority to gampong customary institutions to resolve disputes *Khalwat* light through the kinship mechanism. But on the other hand, Qanun Number 6 of 2014 about Jinayat Law actually pulls the act into the realm of pure crime which is the absolute domain of prosecutors and judges of the Syar'iyah Court. The fundamental problem lies in the absence of an "exit" clause (*exit clause*) clearly in the Qanun Jinayat to recognize the legality of customary decisions as the basis for the termination of formal prosecutions. This condition puts the legal position of the perpetrator in a very vulnerable situation due to being trapped in the overlap of the regulation (Berutu 2017).

As explained in theory *Legal Pluralism* by Brian Tamanaha, when two legal systems claim authority over the same act without synchronous hierarchical coordination, what is created is not justice but legal friction (*Legal friction*) (Stuart 2021). In Aceh, this friction is manifested in the form of uncertainty experienced by the community. Perpetrators are often in legal confusion about whether their case has been resolved after fulfilling customary sanctions, or whether the legal process has just begun at the state level. The most serious implication of this dualism is the emergence of the threat of double punishment (*Double Punishment*) which dogmatically injures universal principles *ne bis in ditto*, which is protection so that a person is not tried twice for the same act.

In practice, the principle of legal protection is often ignored because the formal justice system tends to reduce customary sanctions only as a local social norm or ethics without a strong juridical binding force before the state. This phenomenon creates layered injustice for perpetrators who have borne material and social burdens at the gampong level, such as paying fines or undergoing forced marriage processes that have implications for long-term maintenance obligations. However, even though customary obligations have been fulfilled, formal law enforcement officials still have a legal loophole to appeal the same case to the Syar'iyah Court to execute the caning sentence. This shows that this legal dualism imposes a double burden on citizens without being accompanied by a guarantee of equal legal protection.

Critically, this dual enforcement of the law also negates the purpose of customary restorative sanctions. In fact, settlement through customary channels aims to reintegrate the perpetrators into the social structure of their community through the restoration of harmony. However, when the state intervenes with humiliating whipping sanctions (*Shaming Punishment*), the integration effort has been futile. Perpetrators who have been

sociologically "cleansed" through customary mechanisms again receive social stigma through public executions carried out by the state. This condition reveals a paradox of justice, in which the state seeks to create order through physical suffering, while society is actually more in need of harmony through social recovery (Berutu 2017).

In the end, the issue of double punishment is not just a technical issue of regulation, but has touched on the dimension of Human Rights. Refers to perspective *Strong Pluralism* stated by John Griffiths, state law should not dominate if customary law is able to resolve conflicts effectively at the local level (Griffiths 1986). However, authorities in Aceh still seem reluctant to give up strict control over the private morality of citizens. As a result, customary courts are often positioned only as an initial stage or administrative filter, rather than a final legal solution (Joeni Arianto Kurniawan 2014). In the absence of a legal reconstruction that gives final and binding status (*Final and binding*) on customary rulings, legal pluralism in Aceh will continue to be an instrument of oppression in society, where the people are forced to obey two authorities but are not really protected by one.

Cooperative Legal Pluralism Model in the Settlement of *Jarimah Khalwat*

Legal pluralism in Aceh should no longer be seen as two competing paths or merely passive coexistence. As stated by Geoffrey Swenson, cooperative legal pluralism (*Cooperative Legal Pluralism*) occurs when state law and non-state law are not only recognized for their existence, but are also functionally integrated to achieve broader justice goals (Swenson 2018). In the context of the solution *Jarimah Khalwat*, this study proposes a relationship reconstruction model that synergizes the Gampong Courts and the Syar'iyah Court through five integrative pillars.

First, the priority of customary settlement (Frontline Justice). The first principle in this model is to put the Gampong Court at the forefront in the settlement of matters *Khalwat*. This is in line with the mandate of Pasal 24 of Qanun Aceh Number 6 of 2014 about Jinayat Law, which provides space for community-level settlement (Yuswalina 2016). Sociologically, prioritizing customary justice means providing opportunities for communities to restore the "magical balance" and social harmony that has been disrupted by perverted acts. By prioritizing deliberation in the meunasah, conflicts can be resolved before social escalation spreads, while respecting local wisdom that places Keuchik and Imeum Meunasah as authoritative mediators (W. Aditya et al. 2020).

Second, Conditional Transfer to Formal Justice (*Ultimate Remedium*). In a cooperative framework, the Syar'iyah Court must be positioned as a *Ultimum Remedium* (last remedy). The transfer of the case to the formal channel is only carried out if certain conditions are met: (a) *Jarimah Khalwat* categorized as severe or accompanied by other criminal acts; (b) no common ground was reached in the customary deliberations; or (c) one of the parties is uncooperative with the customary decision. This conditional transfer model aims to prevent the accumulation of cases in the Syar'iyah Court and ensure that

the country's judicial system only handles cases that cannot be resolved through restorative justice mechanisms at the local level (Munajat 2025).

Third, Juridical Recognition of Customary Decisions. One of the weaknesses of legal pluralism today is the absence of binding juridical recognition of customary decisions in formal case files (Azimi 2026). The cooperative model proposes that every decision of the Gampong Court, whether in the form of a goat fine, gampong feast, or the sanction of getting married, has a position as proof of the fulfillment of the community's sense of justice. Practically, if the *Khalwat* forced to proceed to the Syar'iyah Court, the judge is obliged to consider the customary sanctions that have been undergone as an abortion factor or at least a factor that mitigates the punishment (*mitigating factors*) significantly. Without this recognition, the customary courts will only be an administrative complement without legal binding.

Fourth, the Institutional Coordination Mechanism (Synergy of WH and Customary Apparatus). Tension in the field often occurs due to the overlap between the duties of Wilayatul Hisbah (WH) and the Gampong apparatus (Z. F. Aditya 2015). The reconstruction of the cooperative model requires structured institutional coordination. WH must no longer act as a "moral police" who simply forcibly attract perpetrators to the formal realm, but must play the role of a facilitator who ensures that the Gampong Court runs according to the sharia corridor. This coordination ensures that the supervision of public morality remains based on state law, but its technical implementation provides ample space for the participation of indigenous leaders and local scholars (Najmudin et al. 2026).

Fifth, the prevention of double punishment (*ne bis in idem* adaptif). The last and most crucial pillar is the guarantee of the protection of the human rights of perpetrators through the prevention of double punishment. In the cooperative legal pluralism model, settlement at the Gampong level must be seen as a complete restorative justice process. If customary sanctions have been implemented, then the principle *ne bis in idem* must be applied adaptively, namely that the state can no longer prosecute the same act. This aims to eliminate the risk where the perpetrator has been socially whipped through customary fines, but still has to face physical whipping on the formal stage. This model ensures that even though the legal system is plural, the justice received by the legal subject remains singular and based on the principle of fair legal certainty.

The application of this cooperative legal pluralism model provides dual benefits for the legal system in Aceh. It not only secures legal certainty through state recognition, but also revives the spirit of customary law that is oriented towards the restoration of human relations. Thus, synchronization between the Qanun law Jinayat and Qanun Development of Traditional Life and Customs is no longer an impossibility, but a necessity to realize harmonious and dignified legal governance.

CONCLUSION

This study concludes that legal pluralism in the settlement of *jarimah khalwat* in Aceh is currently still in a problematic, not integrative, competitive stage. There is a sharp dualism of authority between the Syar'iyah Court which prioritizes the retributive paradigm (physical punishment through whipping) and the Gampong Customary Court which prioritizes the restorative paradigm (restoration of social harmony). The insynchronization between Qanun Hukum Jinayat and Qanun Development of Traditional Life and Customs has created jurisdictional ambiguity which leads to legal uncertainty for the community. The main findings of this study show that the risk of double punishment is a real threat that harms the principle of *ne bis in idem* and the human rights of the perpetrator. Practice on the ground shows that customary sanctions are often not considered a factor in the abortion of prosecution by the formal justice system, so perpetrators bear the burden of multiple sentences. This proves that the state's recognition of customary law in Aceh is still half-hearted, having not touched the substance of the final and binding recognition of the decision.

As a solution, this study offers a reconstruction of relationships through the Cooperative Legal Pluralism model. This model demands a synchronization of regulations where the Gampong Court is positioned as the frontline justice, while the Syar'iyah Court functions as the *ultimate remedium*. This normative integration requires the state to recognize customary judgments as part of the settlement of disputes outside of the legitimate courts. Thus, legal dualism in Aceh is no longer a source of conflict of authority, but rather a harmonious conflict resolution system, with legal certainty, and still based on the value of local wisdom without ignoring the standards of protection of citizens' rights. [W]

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