

**IMPLEMENTATION OF SANCTION ARTICLE 23
PARAGRAPH 2 QANUN ACEH NUMBER 6 OF 2014
CONCERNING KHALWAT FACILITY PROVIDER
IN ACEH PROVINCE
(CASE STUDY IN SOUTH ACEH)**



THESIS

Submitted as a Condition of Obtaining a Bachelor of Law (S.H)

Degree in Islamic Criminal Law

By:

**YUNI FAUZIAH PUTRI
NIM. 2010700009**

ISLAMIC CRIMINAL LAW STUDY PROGRAM

**FACULTY OF SHARIA AND LAW
STATE ISLAMIC UNIVERSITY
SYEKH ALI HASAN AHMAD ADDARY
PADANGSIDIMPUAN**

2024

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ISLAMIC CRIMINAL LAW STUDY PROGRAM

**FACULTY OF SHARIA AND LAW
STATE ISLAMIC UNIVERSITY
SYEKH ALI HASAN AHMAD ADDARY
PADANGSIDIMPUAN**

2024



KEMENTERIAN AGAMA REPUBLIK INDONESIA
UNIVERSITAS ISLAM NEGERI
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In-
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Assalamu'alaikum Wr. Wb.

After reading, analyzing, and providing suggestions for necessary improvements to YUNI FAUZIAH PUTRI thesis entitled "**Implementiton Of Sanction of Article 23 paraghraph 2 Qanun Aceh Number 6 of 2014 Concerning Khalwat Facility Provider In Aceh Province (Case study in South Aceh)**". So we think that this thesis can be accepted to complete the tasks and requirements to achieve the degree of Bachelor of Law (S.H.) in the field of Islamic Criminal Law at the Faculty of Sharia and Legal Sciences UIN SYAHADA Padangsidimpuan.

Along with the above, the brother can undergo a munaqasyah session to take responsibility for this thesis. Thus we convey, hopefully, it can be understood and for your attention, thank you.

Wassalamu'alaikum Wr. Wb.

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Hereby declare that the thesis that the researcher submits is really the work of the researcher himself. To the best of the researcher's knowledge, there are no works or opinions written or published by other people in this researcher's thesis except as references or quotations by following the procedures for writing scientific papers that have been prevalent.

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Faculty : Sharia and Legal Sciences

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concerning Khalwat facility Provider in Aceh
Province (Case Study in South Aceh).

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ABSTRAK

YUNI FAUZIAH PUTRI : *Implementasi Of Stipulation Article 23 Paragraph 2 Qanun Aceh Number 6 of 2014 Concerning Khalwat Facility Provider In Aceh Provinse (Case Study in South Aceh)*

Providing facilities for jarimah khalwat is one of the violations of the Shari'ah violates shari'a. In Aceh Qanun Number 6 of 2014 article 23 paragraph 2, khalwat facility providers are every person, business entity, and government apparatus who intentionally provide facilities, facilities, and government officials who intentionally provide facilities, facilities to protect and promote jarimah khalwat. protect and promote jarimah khalwat. In this case it is not a place, house, or room only as a facility, but including offering oneself or services to serve masher men or services to serve masher men or commonly called prostitution. Women as a provider of facilities for jarimah khalwat is an act punishable by ta'zir. which is punishable by ta'zir, this is an effort so that Islamic Shari'a in the province of Nanggroe Aceh Darussalam can be implemented. Nanggroe Aceh Darussalam Province can be enforced.

The purpose of this research is first, to know the legal considerations of judges in deciding cases for providers of jarimah khalwat facilities. in deciding cases for providers of jarimah khalwat facilities in the verdict of the decision of the syariah court of Banda Aceh.

The problem in this study is how the system of determining the legal sanctions of flogging for the perpetrators of the criminal act of khalwat (mesum) in the Syar'iyah Court of Langsa and why the judge imposes flogging on the criminal act of khalwat (mesum). The sanctions for the perpetrators of the crime of pervert (khalwat) are regulated in Qanun Jinayat Law Number 6 of 2014, namely: Article 23 paragraph (2) which jarimah provider khalwat facility , threatened with Uqubat tak'zir whipping at most 15 (fifteen) times or a maximum fine of 150 (one hundred fifty) grams of pure gold or imprisonment for a maximum of 15 (fifty) months ". The type of research used by the author is field research. This type of research is directly plunged into the location to be studied. In this case the author will look for data related to Whipping Sanctions for Perpetrators of Mesum Crimes at the Langsa Syar'iyah Court (Study of the Analysis of the Decision of the Langsa Syar'iyah Court), as the object of research. As for what the author concludes from this research, the system of giving whipping for the perpetrators of the crime of khalwat (mesum) in the Tapaktuan syar'iyah Court is based on existing legal rules and the agreement of the judges of the Tapaktuan syar'iyah Court. The reason for the judge to impose flogging is quite effective in deterring the perpetrators of jarimah ta'zir. Flogging punishment is said to be effective because it has several features compared to other punishments.

Keywords: Facility Provider, *Jarimah Khalwat*, *Ta'zir*, Qanun Aceh

KATA PENGANTAR



Thanks be to Allah Subhanahu Wata'ala who has given time and health to the author to conduct research and pour it into a thesis. Sholawat and greetings to the Prophet Muhammad Saw who has guided his people from the age of darkness to the brightly lit age as it is today.

This thesis entitled **“Implementation of Sunction Article 23 Paragraph 2 Qanun Number 6 of 2014 Concerning Khalwat Facility Provider In Aceh Province (Case Study in South Aceh)”** is prepared to complete the tasks and fulfill the requirements to achieve the Bachelor of Laws (S.H) degree at the Islamic Family Law Study Program of Sheikh Ali Hasan Ahmad Ad-Dary Padangsidimpuan State Islamic University.

The author is well aware that the writing of this thesis still has many shortcomings and is far from perfect, as well as many obstacles faced by the author due to limited knowledge. However, thanks to the guidance and suggestions of the supervisor, this thesis was finally able to be completed.

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far from perfection. For this reason, the researcher with all humility accepts criticism and suggestions that are constructive in nature for the perfection of this thesis writing. May Allah SWT protect us all, and may this thesis be useful for all parties, Aamiin.

Padangsidempuan, 2024

Author

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ARABIC-LATIN TRANSLITERATION GUIDELINES

1. Consonants

Arabic consonant phonemes which in the Arabic writing system are symbolized by letters in this transliteration are partly symbolized by letters, partly symbolized by signs and some are symbolized by letters and signs at once. The following is a list of Arabic letters and their transliteration with Latin letters, namely:

Arabic letters	Latin Letter Name	Latin Letter	Name
ا	Alif	not symbolized	not symbolized
ب	Ba	B	Be
ت	Ta	T	Te
ث	ša	š	es ()
ج	Jim	J	Je
ح	ħa	ħ	ha (with a dot on top)
خ	Kha	Kh	Ka dan ha
د	Dal	D	De
ذ	Žal	Ž	zet (with a dot on carry)
ر	Ra	R	Er
ز	Zai	Z	Zet
س	Sin	S	Es
ش	Syin	Sy	Es dan ye
ص	šad	š	es (with a dot on carry)
ض	ḍad	ḍ	de (with a dot on carry)
ط	ṭa	ṭ	te (with a dot on carry)
ظ	ẓa	ẓ	zet (with a dot on carry)
ع	‘ain	‘.	inverted comma above
غ	Gain	G	Ge

ف	Fa	F	Ef
ق	Qaf	Q	Ki
ك	Kaf	K	Ka
ل	Lam	L	El
م	Mim	M	Em
ن	Nun	N	En
و	Wau	W	We
ه	Ha	H	Ha
ء	Hamzah	..’..	Apostrof
ي	Ya	Y	Ye

2. Vowels

Arabic vowels, like Indonesian vowels, consist of single vowels or monoftongs, double vowels or diphthongs and long vowels.

- a. Single Vowels are single Arabic vowels whose symbols are signs or harkat, the transliteration is as follows:

sign	Latin Letter Name	Latin Letter	Name
—	fathah	A	A
—	Kasrah	I	I
و	ḍommah	U	U

- b. Double Vowels are Arabic double vowels whose symbols are a combination of characters and letters, the transliteration is as follows:

Sign and letter	Latin Letter Name	Latin letter	Name
ي ... —	fathah and ya	Ai	a and i
و ... —	fathah and wau	Au	a and u

- c. Long vowels are long Arabic vowels whose symbols are characters, letters and signs, the transliteration is as follows:

sign	Latin Letter Name	Latin letter	Name
ا /	fathāh and alif	A	A
ي /	kasrah and ya	I	I
و °	ḍommah and wau	U	U

2. Ta Marbutah

There are two transliterations for Ta Marbutah.

- Living Ta Marbutah is a Ta Marbutah that is alive or received the harakat fathāh, kasrah and ḍommah, the transliteration is /t/.
- Dead Ta Marbutah, which is a Ta Marbutah that is dead or received the harakat sukun, is transliterated as /h/.

If a word ending in Ta Marbutah is followed by a word that uses the article al, and the two words are read separately, the Ta Marbutah is transliterated with ha (h).

3. Syaddah (Tasydid)

Syaddah or tasydid in the Arabic writing system is symbolized by a sign, syaddah sign or tasydid sign. In this transliteration, the syaddah sign is symbolized by a letter, which is the same letter as the letter marked with the syaddah sign.

4. Emphasizes

The article in the Arabic writing system is symbolized by letters, namely: ا . However, in its transliteration, the article is distinguished

between the article followed by the letters shamsiah and the article followed by the letters qamariah.

- a. The article followed by a shamsiah letter is an article followed by a shamsiah letter transliterated according to its sound, namely the letter /l/ is replaced with the same letter as the letter directly followed by the article.
- b. The article followed by a qamariah letter is an article followed by a qamariah letter transliterated according to the rules outlined in front and in accordance with its sound.

5. Hamzah

It is stated at the beginning of the Arabic-Latin Transliteration List that the hamzah is transliterated with an apostrophe. However, it is only located in the middle and at the end of the word. When the hamzah is placed at the beginning of the word, it is not symbolized, because in Arabic writing it is alif.

6. Word Writing

Basically every word, whether fi'il, isim, or letter is written separately. For certain words whose writing in Arabic letters is commonly combined with other words because there are letters or harakat that are omitted, then in this transliteration the writing of the word can be done in two ways: it can be separated per word and can also be combined.

7. Capital Letters

Although in the article system followed by Arabic letters capital letters are not known, in this transliteration these letters are also used.

The use of capital letters is like what applies in EYD, including capital letters used to write initial letters, names, and sentence beginnings. If the self is followed by an article, then what is written with a capital letter is still the initial letter of the personal name, not the initial letter of the article.

The use of initial capital letters for Allah only applies in Arabic writing that is complete and if the writing is combined with other words so that there are letters or harakat that are omitted, capital letters are not used.

8. Tajweed

For those who want fluency in reading, these transliteration guidelines are an inseparable part of the science of tajweed. Therefore, the officiality of these transliteration guidelines needs to be accompanied by tajweed guidelines.

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CHAPTER I

INTRODUCTION

A. Background

Islamic *Shari'a* is the law of God that makes a person a Muslim, as it covers all aspects of daily life. Islamic Shari'a is the heart of life that is inseparable from the lives of Muslims all over the world. The source of Islamic Shari'a is the *Qur'an* and *al-Hadith*. Aceh is a province on the peninsula of Sumatra island. Aceh is the only province in Indonesia that runs and implements Islamic Shari'at¹. The implementation of Islamic Shari'a in Aceh is regulated legally formal in Law. No. 44 of 1999 concerning the implementation of the privileges of the Province of the Special Region of Aceh and Law No. 11 of 2006 concerning the Government of Aceh. These two laws become a strong basis for Aceh to implement Islamic Shari'a in a *Kaffah* (comprehensive) manner. *Kaffah* means that all dimensions of community life are regulated by Shari'a law.²

This includes politics, governance, law, economics, education, health, socio-cultural and other dimensions. Therefore, the law enacted in Aceh is a law that originates from religious teachings, namely Islamic Shari'at. The dimensions of this Shari'at are some that require the power of the State in its implementation and some that do not require the power of the State, in the

¹ Syahrizal, etc., *Dimensi Pemikiran Hukum Dalam Implementasi Syariat Islam Di Aceh*, (Banda Aceh: Dinas Syariat Islam NAD, 2007), p. 2

² T Dahlan Purna Yudha, *Dilematika Tumpang Tindih Definisi Dalam Qanun NO. 6 Tahun 2014 Tentang Qanun Jinayat (Analisis Terhadap Jarimah Khalwat dan Ikhtilat)*, Jurnal Perundang Undangan dan Hukum Pidana Islam, (Volume I. No.01. Januari – Juni, 2016). Accessed 05/12/2023.

field of creed and the practice of worship certainly does not require the power of the State, while in the criminal midwife (*jinayat*) really requires the power of the State for its enforcement.³

Basically, Aceh Qanun No. 6/2014 on *jinayah* law regulates three (3) things, namely the criminal perpetrator, criminal act (*jarimah*), and criminal punishment (*'uqubat*). The perpetrator of the crime is *mukallaf*. *Mukallaf* is a person who is burdened with the law or *mahkum 'alaihi*, namely a person to whom the law applies. *Jarimah* is an act prohibited by Islamic Shari'a which is punishable by hudud and/or ta'zir. Criminal acts or *jarimah* regulated in the Aceh *jinayat qanun* include; *zina*, *qadzaf*, rape, sexual harassment, *khamar*, *maisir*, *khalwat*, *ikhtilath*, *liwath* and *musahaqah*. *Uqubat* is the punishment imposed by the judge on the behavior of *jarimah hudud* and *ta'zir*. The number and types of criminal acts formulated in this Aceh *Qanun* are refinements and additions to the number and types of criminal acts previously regulated in Qanuns No. 12, 13, 14 of 2003 concerning alcohol and the like, *maisir*, *khalwat* (pervert).

Socialization is a process of interaction carried out by individuals with individuals and also by individuals with groups. Association is also a need of every living being, especially humans as social beings who need each other, so association will occur every day between fellow living beings. Because scientifically humans are social creatures who cannot live alone without other creatures. However, with the development of human social life, there are

³ Syahrizal Abbas, *Syariat Islam Di Aceh*, (Banda Aceh: Dinas Syariat Islam NAD, 2009), p. 19

many deviations, such as associations that cross the boundaries of Islamic Shari'a, for example, the association of men and women who are not *muhrim* together in a quiet or quiet place. This also happened in South Aceh Regency, even after the enactment of Qanun Number 6 of 2014 concerning *Jinayat* Law.

South Aceh Regency is one of the regencies in Aceh Province, Indonesia. Before standing alone as an autonomous regency, the prospective area of South Aceh Regency was part of West Aceh Regency. The formation of South Aceh Regency was marked by the passing of Emergency Law Number 7 of 1956 on November 4, 1956. South Aceh Regency on April 10, 2002 was officially divided in accordance with Indonesian Law Number 4 of 2002 into three districts, namely: Southwest Aceh Regency, Aceh Singkil Regency and South Aceh Regency. The sub-district with the largest population is Labuhan Haji sub-district, followed by Kluet Utara. Sawang sub-district has the smallest population. Most of the population is concentrated along coastal highways and river banks.⁴

The application of the article on *khalwat* facility providers is very important in preventing evil, one of which is preventing *khalwat*. This study the author will discuss the scope of the act of *jarimah khalwat* and the act of providing facilities for *jarimah khalwat*, this is in accordance with the title and the problems that occur within the scope of South Aceh Regency. People who commit *khalwat* must be able to prove the truth so that it is not just in

⁴ Abdul Aziz Dahlan, *Ensiklopedi Hukum Islam, cet. 1*, (Jakarta: Ictiar Baru Van Hoeve, 1996) p. 898.

sentencing the perpetrator. The judge must be able to decide the case from any point of view and not only fixate on the evidence. Evidence is one of the series that has an important role in justice. This is because proof is a process to determine whether someone is guilty or not. In the court process, when the evidence presented is insufficient and does not match the actions he has committed, the defendant cannot be convicted and must be acquitted. However, if the evidence presented is sufficient and very accurate, then the defendant can be found guilty. In terms of evidence, the system is also very different from one country to another. This is because the understanding or culture adopted by a country is very different.

Every country has an evidentiary system, which can be distinguished based on countries that adhere to civil law and common law. In addition, the theory of the evidentiary system is divided into several parts, namely the evidentiary system of positive legal theory, based on the judge's belief, and based on the judge's belief supported by logical reasons. In Islamic law the theories of proof are different in general, because Islamic law is not a law based on common law or civil law. However, the evidence is based on the newspaper, *hadith*, *as-sunnah* and *ar-ra'yu* or ordinary thoughts in the form of opinions of *fuqaha* or scholars.⁵

Deciding the case of criminal offense of providing facilities for *jarimah khalwat* according to *qanun jinayat* is appropriate. Because the territory of Nanggroe Aceh Darussalam uses *qanun jinayat* as a PERDA. However, in

⁵ Ali Geno Berutu, *Penerapan Qanun Aceh Nomor 14 Tahun 2003 Tentang Khalwat(mesum)*, (Jurnal Hukum Islam, Vol. 15, No 2, Desember 2017), Accessed 23/11/2023

this case the judge was less careful in deciding the case committed by the defendant as a provider of *khalwat jarimah* facilities, the judge did not consider the existence of evidence to the confession of the defendant who had previously *committed jarimah zina* many times and the sentence imposed by the judge was still relatively light.⁶

However, the facts in the field, especially in South Aceh Regency, are still found phenomena of association that violate Shari'a between men and women who are not *muhrim* (without marriage ties), being alone together in a quiet place. And also occurs in cafes, stalls, tourist lodges and hotels in South Aceh Regency, where this *khalwat* act can lead someone to adultery, indeed adultery is an abominable act, and a bad way. And from the many cases about facility providers, *khalwat* facilities are things that often happen and are found in the South Aceh area. From this background, the author wants to research the problem of **"Implementation of Article 23 paragraph 2 of Aceh Qanun Number 6 of 2014 concerning Khalwat Facility Providers in Aceh Province (Case study of South Aceh Regency).**

B. Focus the Problem

Based on the research background described above, the research questions that must be asked, namely: "How is the level of implementation in accordance with the application of article 23 paragraph 2 Qanun number 6 of 2014 based on the process in the shariyah court and in the community

⁶ M Siddiq dan Chairul Fahmi, *Problematika Qanun Khalwat – Analisis Terhadap Perspektif Mahasiswa Aceh*, (Banda Aceh: Aceh Justine Resource Center, 2009), p. 33-34

C. Limitation of terms

Based on the research background described above, the research questions that must be asked, namely: "How is the level of implementation in accordance with the application of article 23 paragraph 2 Qanun number 6 of 2014 based on the process in the shariah court and in the community.

D. Limitation of terms

In this case, to make it easier for readers to understand the discussion and avoid misunderstanding and confusion in this study, it is necessary to briefly describe the terms contained in this study so that it makes it easier for readers to know the terms in this study:

1. Implementation

According to the Big Indonesian Dictionary, implementation is the application or implementation. Where the purpose of the implementation is to achieve a certain goal.⁷

2. *Jarimah khalwat*

Jarimah khalwat are acts prohibited by shara' which are punishable by hadd or ta'zir. While *khahwat* itself is defined as the presence of a man and a woman (there is no kinship between the two), so it is halal to marry them) in a quiet place, and there is no muhrim on the part of the man or woman."⁸

⁷ Kamus Besar Bahasa Indonesia, *Pusat Bahasa*,(Kementerian Pendidikan, Jakarta, 2008) p. 67

⁸ Ahmad Al Faruqy, *Qanun Khalwat dalam Pengakuan Hakim Mahkamah Syari'iah*,(Banda Aceh: Tanpa Penerbit, 2011), p. 39.

In this sense, seclusion is withdrawing from the crowd and being alone to get closer to Allah. In this sense, *khalwat* is withdrawing from the crowd and secluding oneself to get closer to Allah. In this sense, *khalwat* has a positive meaning. As for the negative meaning, *khalwat* means the act of being alone in a quiet place or in a secluded place, out of sight of others between a man and a woman who are not bound in a marriage bond and both are not *mahrams*.⁹

In the terminology of Islamic law, *khalwat* is defined as the presence of a man and a woman who do not have a halal relationship to be married, in a quiet place, in a lonely place without being accompanied by a *mahram* from the male or female side.¹⁰

3. Sanctions

Sanctions are punitive measures imposed by the state or certain groups because of violations committed by a person or group. or sanctions are defined as dependents, actions, punishments to force people to keep agreements or obey the provisions of the law."¹¹

4. Qanun

The origin of the word Al-Qanun is from the Greek language (*qanun*) and is absorbed into Arabic through the Greek language, the origin of this word is in the form of a measuring tool, then develops

⁹ Rusjdi Ali Muhammad, *Revitalisasi Syariat Islam di Aceh, Print 1*, (Jakarta: Logos, 2003), p. 102.

¹⁰ M. Nur Kholis Setiawan Soetepa, *Metode Penelitian Hukum Dan Asas-asas Hukum*, (Jakarta: Gunung Mulia, 2010) p.278

¹¹ Syahrial Abbas, *Hukum Jinayah dan Hukum Acara Jinayat*, (Banda Aceh : Naskah Aceh, 2014). p.6

into rules, norms of laws and regulations such as provincial or district regulations which are called *Qanun*.¹²

E. Problem Formulation

The problem formulations of this research are:

- a. How is the implementation of sanctions for *khalwat* facility providers in South Aceh district?
- b. What are the supporting and inhibiting factors for the implementation of sanctions for *khalwat* facility providers in South Aceh District?
- c. How is the effectiveness of the regulation of sanctions for *khalwat* facility providers in South Aceh District?

F. Research Objective

- a. To find out the form of implementation of sanctions for *khalwat* facility providers in South Aceh district.
- b. To find out the supporting and inhibiting factors for the implementation of sanctions for *khalwat* facility providers in South Aceh District.
- c. To determine the effectiveness of the regulation of sanctions for *khalwat* facility providers in South Aceh District.

G. Benefit of Research

The benefits of research on the implementation of sanctions for *khalwat* facility providers in South Aceh Regency include the following:

¹² Hasanuddin Yusuf Adan, *Refleksi Implementasi Syari'at Islam di Aceh, ed 1, Cet, 1*, (Banda Aceh: Foundation Plubisher & PeNA Banda Aceh, 2009), p. 29.

- a. Theoretically, this research will be able to add to the scientific treasury that can be used as a reference for further research and can make a positive contribution to the development of science for the community and for universities as further research material on the same object.
- b. Practically, it is hoped that the results of this study will be able to provide input for the Aceh Government and the people of South Aceh in general.

H. Systematization of Discussion

This thesis research consists of five chapters, where each chapter contains a continuous discussion as follows:

Chapter One, contains an introduction that is closely related to the issues to be discussed. Problem identification, listing and identifying problems related to the research theme. Limitation and formulation of problems, which are intended to be more focused on the problem, so that there is no overlap with other problems that have nothing to do with the research. Problem formulation, which contains a description of the problem to be studied, namely a firm statement of what will be the theme of the research. Research objectives, which are formulations of what researchers actually want to know so that they answer all research questions. The benefits of research, it is expected that the results of the research conducted will produce research use value. Research methods, explaining the workings and procedures for conducting research, in the sense of what methods will be used in carrying out this research. Review

of previous research, explaining previous studies related to the research theme. Systematics of writing, explaining the systematics of writing which contains a description of the writing process per chapter, the description describes the flow of the thesis material to be explained.

Second chapter, the author discusses the definition of *khalwat* in the view of Islam, then the prohibition of *khalwat* and 'uqubat given to the perpetrators of *khalwat* to the perpetrators of *khalwat*.

The third chapter describes the implementation of Islamic sharia in Aceh by describing Islamic legislation in Aceh, Islamic sharia in Aceh, regulations on *khalwat* namely *qanun* No. 14 of 2003, and a little discussion about *the syar'iyah* court or Islamic sharia regulations.

Chapter Four, is the core chapter which is the main discussion in this thesis. It analyzes how the decision of the *syar'iyah* court on the violation of *qanun* in the field of *khalwat*, then compares the decision with *qanun khalwat* and *fiqh*.

Chapter Five, is the last chapter in this research, consisting of a closing that contains conclusions and suggestions that are constructive for the improvement of this research.

CHAPTER II

LITERATURE REVIEW

A. Theoretical Overview

1. Defenition of *Khalwat*

Khalwat in the Popular Scientific Dictionary is seclusion. The Dewan Dictionary defines *khalwat* as the act of being alone together in a secluded or hidden place, by men and women who are not mahram and not husband and wife so that it can be considered as a discordant act. According to the *Kamus Besar Bahasa Melayu*, *khalwat* means the act of secluding and isolating oneself, sitting alone and alone in a discordant state in a secluded place between men and women who are not married.¹³

In the terminology of Islamic law, *khalwat* is defined as "the presence of a man and woman (a woman who is not related to the man so that it is lawful to marry her), in a lonely place without being accompanied by a *mahram* from either the man or the woman's side".

Khalwat can also be defined as being alone with another woman or being alone with a woman who is not *a mahram*. In the Qur'an surah An-Nisa' verse 23 that is included in the category of mahrams are mothers, daughters, sisters, father's sisters, mother's sisters, daughters of brothers, daughters of sisters, nursing mothers, sisters in law, stepdaughters whose

¹³ Faisal, Efektifitas *Penerapan Qanun Nomor 14 Tahun 2003 Tentang Khalwat diKabupaten Aceh Besar*, *Jurnal Ilmiah ISLAM FUTURA* (vol. 13. No. 1, Agustus 2013), Accessed 13/11/2023

mothers have been married, daughters-in-law (wives of biological children), and siblings of wives.

The text of Surah An-Nisa' verse 23 is as follows:¹⁴

حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَبَنَاتُكُمْ وَأَخَوَاتُكُمْ وَعُمَّاتُكُمْ وَخَالَاتُكُمْ وَبَنَاتُ الْأَخِ وَبَنَاتُ الْأَخْتِ وَأُمَّهَاتُ الْمَنِيِّ وَأَخَوَاتُكُمْ مِمَّنْ رَضَعْتُمْ وَأُمَّهَاتُ نِسَائِكُمْ وَرَبَائِبُكُمُ الَّتِي فِي حُجُورِكُمْ مِمَّنْ نَسَبَكُمُ الَّتِي دَخَلْتُمْ بِهِنَّ فَمِنْ قَبْلُ لَمْ تَكُونُوا دَخَلْتُمْ بِهِنَّ فَلَا جُنَاحَ عَلَيْكُمْ وَحَلَائِلُ أَبْنَائِكُمُ الَّذِينَ مِنْ أَصْلَابِكُمْ وَأَنْ تَجْمَعُوا بَيْنَ الْأُخْتَيْنِ إِلَّا مَا قَدْ سَلَفَتْ
إِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا

Meaning:

"Forbidden to you (to marry) your mothers, your daughters, your sisters, your father's sisters, your mother's sisters, your brother's daughters, your sister's daughters, your nursing mothers, your sisters-in-law, your wives' mothers (in-laws), daughters of your wives (stepdaughters) under your care from wives with whom you have had intercourse, but if you have not mixed with them (and you have divorced them), there is no sin on you (in marrying them), (and forbidden to you) the wives of your children's children (sons-in-law), and (also forbidden) to bring together (in marriage) two women who are sisters, except (in the past). Verily, Allah is the Most Forgiving, the Most Merciful."

Surah An-Nisa' verse 23 above has mentioned who are considered *mahrams*, so it is forbidden to marry and it is permissible to marry other than *mahrams*. So it is forbidden to do *khalwat* with non-*mahram* women or men before there is a marriage contract between the two that changes the status of non-muhrim to the status of muhrim In Qanun No. 14/2003 on *khalwat*, *khalwat* is defined as an act committed by two or more people

¹⁴ Departemen Agama RI, *Al-Qur'an dan Terjemahan*, (Diponegoro: CV di ponegoro, 2008), Q.S, An-Nisa' Ayat 23, p. 82

of the opposite sex, without marriage or *non-muhrim* in a certain quiet place that allows sexual immorality or the possibility of adultery.¹⁵

2. Types of *Khalwat* Facilities

a. People

Economic needs that are increasing day by day have resulted in many violations that are crimes and violate the norms of decency where here is one example of social inequality that occurs in society, especially in the Aceh area, where the Aceh area is predominantly Muslim so that things that approach violations of norms that occur often occur. Here the violation takes the form of decency where a woman is willing to give everything to others and is paid after she gives satisfaction to a masher.

Therefore many cases occur causing humans to be one of the providers of *berkhalwat* facilities. And this is also caused by a low economy, human resources that are lacking in religious and moral education, thus legalizing all means to get money.¹⁶

b. Buildings (Huts)

The building referred to in the provision of *khalwat* facilities is a place intentionally built to provide a place for unmarried couples to make out so as to cause *khalwat*.

¹⁵ Ahmad Al Faruqy, *Qanun Khalwat dalam Pengakuan Hakim Mahkamah Syari'iah*, p. 45

¹⁶ Dinas Syariat Aceh, *Hukum Jinayah dan Hukum Acara Jinayah*, (Banda Aceh : Naskah Aceh , 2015) p.6

This building is built like closed or half-closed huts that are far from the crowd, funds are built in a quiet place, this place is usually accompanied by selling bottled drinks, juices and various types of food such as noodles and fried rice, so it is not obvious that it is a place of *khalwat*.

Many cases have also been caught that this building was made behind a restaurant and behind a karaoke place. So it is not obvious that the huts contain people who are doing *khalwat*.¹⁷

c. Social Media

There are also many cases on social media that embrace the elements of *khalwat* facility providers, many circulating in the news both from the police and the prosecutor's office which officially announces that it is prohibited to promote *khalwat* facilities through social media.

Many cases after being raided they met through social media and ended up meeting and being intimate, this resulted in that social media also provided a way for suspects who wanted to commit adultery or approach adultery with others, and not many of the social media openly promoted through websites or posters, some through messages both on Facebook and Instagram.

¹⁷ Himpunan Peraturan , Peraturan Daerah Qanun Inteksi Gubernur Surat Edaran : Berkaitan Dengan Pelaksanaan Syariat Islam,p.293

And in addition there are also those who offer directly through social media to pair men with women who are not *muhrim* to meet in hotels or predetermined places to commit adultery or *khalwat*.¹⁸

3. Legal bases of *Khalwat* Facility Providers

Islam prohibits *khalwat* because this act can lead people to *zina*, which is intimate relations outside of legal marriage. The prohibition of *zina* is found in Surah Al-Isra' verse 32.

As the Word of Allah:¹⁹

وَلَا تَقْرَبُوا الزَّوْجَ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا

In the view of *fiqh*, being in a closed place between two *mukallaf* (male and female) who are not *muhrim* is already a criminal act. So being in a closed place is the main element of *khalwat*. More than that, the act of kissing and hugging or sitting close together between a man and a woman who are not *muhrim* in such a way, which is done in a public place or in front of other people, is also an act of *khalwat* because it is a sinful act (an act that the Islamic Shari'ah prohibits doing, because it can lead to adultery).

From the limitations of the *sunnah* above, it can be seen that the permissibility of Islam in terms of relationships between men and women is very minimal. Contact in the sense that there is no need. In the view of *fiqh*, being in a closed place between two *mukallaf* (men and

¹⁸ <https://ms-aceh.go.id> , Accessed 17/2/2024

¹⁹ Departemen Agama RI, *Al-Qur'an dan Terjemahan*, (di Ponegoro: CV di Ponegoro, 2008), Q.SAl-'Isra', ayat 32, p. 28

women) who are not *mahrams* is already a criminal act. So being in a closed place is the main element of *khalwat*.

The Prophet has shown the limits of association between men and women who are not *muhrim*, such as :

لا يخلون رجل بامرأة إلا مع ذي محرم فقام رجل فقال يا رسول الله امرأتي خرجت حاجة واكتنبت في غزوة كذا وكذا قال ارجع فحج مع امرأتك

Meaning : "*Ibn 'Abbas reported that the Messenger of Allah (peace and blessings of Allaah be upon him) said: 'A man should not keep company with a woman unless he is with her mahrom.' Then a man stood up and said: 'O Messenger of Allah, my wife has gone out for Hajj, and I have enlisted myself for Jihad in such and such a war,' so the Messenger of Allah (peace and blessings of Allaah be upon him) said: 'Go back and perform Hajj with your wife.'*" (Al-Bukhari 5233 and Muslim 2/975).²⁰

More than that, the act of kissing and hugging or sitting close together between a man and a woman who are not *mahrams* in such a way, which is done in a public place or in front of other people, is also an act of *khalwat* because it is a sinful act (an act that is prohibited by Shari'ah from being done, because it can lead or lead to adultery).

So there are two types of actions that can be classified as *khalwat*: first, being alone in a sheltered or closed place, even though they are not doing anything; and second, doing actions that can lead to adultery,

²⁰ Ahmad bin Hanbal, *Musnad Ahmad, Kitab Wa Min Musnad Bani Hasyim*. p., 1833

whether in a crowded or quiet place. The category of *khalwat* is when it is committed by two *mukallaf* people of different sexes (male and female), not husband and wife and *halal* marriage, (meaning not people who have a *muhrim* relationship).²¹

Two people are considered to be in *khalwat* if they are in a certain place that allows for sexual immorality and the possibility of adultery. The general elucidation states that sexual immorality and moreover acts that can lead to adultery are usually only done in quiet (closed) places that are far (protected) from people's sight. However, it is also possible that such sexual acts can occur in relatively crowded places, such as restaurants, waiting rooms of hotels and recreational areas, or on the streets such as in public transportation or other places.

4. The Provision of *Uqubat* (Punishment) Against Perpetrators of *Khalwat* Facility Providers

Punishment in Islamic criminal law is called '*uqubat*, which covers both harmful things and criminal acts. Shari'a emphasizes the fulfillment of the rights of individuals and society in general. Laws that provide opportunities for healing to the community are criminal matters, and if they are aimed at individuals, they are detrimental.

The form of flogging punishment for the perpetrator of the *khalwat* crime is intended as an effort to give awareness to the perpetrator and at the same time be a warning to other potential offenders not to commit the

²¹ Ahmad Al Faruqy, *Qanun Khalwat dalam Pengakuan Hakim Mahkamah Syari'yah*, p. 46.

khalwatters criminal act. In addition, flogging punishment will be more effective by giving shame and does not pose a risk to the family. This type of flogging punishment also has an impact on the costs that must be borne by the government to be cheaper than other types of punishment as known in the current Criminal Code (KUHP).²²

Regarding the provisions of 'uqubat against the perpetrators of violations of the *khalwat qanun*, it is regulated as follows:

- a. Qanun number 6 of 2014 on Jinayat Law coincides with Article 23 paragraph 2 which stipulates: Every person who intentionally organizes, provides or promotes *Jarimah Khalwat*, shall be punished with *ta'zir* flogging for a maximum of 15 times and/or a fine of a maximum of 150 grams of pure gold and/or imprisonment for a maximum of 15 months.
- b. Article 6 of Qanun No. 14/2003 on *Khalwat* states: Every person or group of people, or government officials and business entities are prohibited from providing facilities and protecting people from committing *khalwat*. Anyone who violates this provision is threatened with '*uqubat Ta'zir*' in the form of imprisonment for a maximum of 6 (six) months, a minimum of 2 (two) months and a maximum fine of Rp. 15,000,000;- (Fifteen million Rupiah), a minimum of Rp. 5,000,000;- (Five million Rupiah).²³

²² Faisal, Efektifitas *Penerapan Qanun Nomor 14 Tahun 2003 Tentang Khalwat di Kabupaten Aceh Besar*, *Jurnal Ilmiah ISLAM FUTURA* (vol. 13. No. 1, August 2013), Accessed 13/11/2023.

²³ Qanun Number 6 of 2014 About Hukum Jinayat

The proceeds of the fines imposed on violators of the law belong to the local government and are deposited directly into the Baitul Mal treasury. Any party who repeats the offense stipulated in article 22 may have his/her punishment increased by 1/3 (one third) of the maximum punishment.

To determine that the act of *khalwat* is a crime within the scope of *ta'zīr*, it must be known matters relating to its elements. In Islamic criminal law, it can be broadly divided into two, namely the basic elements (general) and special elements. The basic elements include the following:

- a. *Al-Rukn al-syar'ī* (legal element), which is a clear provision to prohibit an act that is a crime and determine the law on it.
- b. *Al-Rukn al-Mahdi* (material element or essential element), which is in the form of an act, either an active (commission) or passive (omission) act.
- c. *Al-Rukn al-Adabi* (cultural/moral/cultural element) which includes maturity, responsibility and culpability of the perpetrator.

Regarding the provision of '*uqūbah* against the perpetrator of *Khalwat* is regulated in *Qanun Jinayat* No. 6 of 2014, Article 23 which basically states:

- (1) Every person who intentionally commits the *jarīmah* of *Khalwat* shall be punished with '*uqūbah ta'zīr* flogging for a maximum of 10 (ten) times or a maximum fine of

100 (one hundred) grams of pure gold or imprisonment for a maximum of 10 (ten) months.

- (2) For organizers and providers of facilities or promoting *jarimah khalwat* shall be punished with '*uqūbah ta'zīr* flogging for a maximum of 15 (fifteen) times and/or a maximum fine of 150 (one hundred fifty) grams of pure gold and/or imprisonment for a maximum of 15 (fifteen) months In this *Qanun of jinayat* law, only the maximum punishment is stated, which is flogging for a maximum of 10 (ten) times or a maximum fine of 100 (one hundred) grams of pure gold or imprisonment for a maximum of 10 (ten) months. This is different from Qanun Number 14 Year 2013 on *Khalwat* which contains maximum and minimum punishment, namely "a maximum of 9 (nine) times, a minimum of 3 (three) times and/or a maximum fine of Rp. 10,000,000,- (Ten million rupiah), a minimum of Rp. 2,500,000,- (two million five hundred thousand rupiah).

5. Procedure for the Implementation of 'uqubat for *Khalwat* Facility Providers

The implementation of '*uqubat* against Provincial Qanun 14 Year 2003 on *Khalwat* article 26 to article 30 with similar wording and content. 'Uqubat whipping is carried out by an officer appointed by the

Public Prosecutor. In carrying out this task, the Public Prosecutor must be guided by the provisions stipulated in this *qanun* and the provisions that will be regulated in the qanun on formal law.

The implementation of 'uqubat shall be carried out immediately after the verdict of the judge has permanent legal force, the postponement of the implementation of '*uqubat* can only be carried out based on the determination of the Chief Prosecutor if there are things that endanger the convicted person after obtaining a certificate from an authorized doctor.

'*Uqubat* flogging is carried out in a place that can be witnessed by the public in the presence of the Public Prosecutor and the appointed doctor. The flogging is carried out with a rattan with a diameter between 0.7 cm and 1.00 cm, 1 (one) meter long and has no double ends or is not split.

The flogging shall be carried out with a level of blows or lashes that do not cause injury. Male convicts are flogged in a standing position without support, without being tied up, and wearing thin clothes that cover the *aurat*. While women are in a sitting position and covered by their top cloth, flogging of pregnant women is carried out after 60 (Sixty Days) the person concerned gives birth.

If during the flogging there are things that endanger the punished person based on the opinion of the appointed doctor, then the remaining lashes are postponed until a possible time. The execution of

the 'uqubat of confinement shall be carried out in accordance with the applicable laws and regulations on parts of the body except the head, face, neck, chest and private parts.

B. Previous Study

Previous research is a reference for the author to conduct further research.

1. Anita Rahayu's Research Results (2018) Research by Anita Rahayu (2018) entitled "Judges' Considerations in Determining Whipping as a Punishment for Perpetrators of *Jarimah Khalwat*" (Case Study at Sigli Shari'ah Court and Banda Aceh Shari'ah Court)." This research uses qualitative-descriptive-analysis method. This study aims to determine the background of the Sigli Shari'ah Court and Banda Aceh Shari'ah Court Judges who tend to impose flogging punishment on the perpetrators of jarimah khalwat. As well as the impact of the application of flogging punishment on the level of violation of qanun jinayah norms, especially Jarimah Khalwat.²⁴

The conclusion of the research is that the consideration of the Sigli Shari'ah Court Judges and the Banda Aceh Shari'ah Court tends to impose flogging punishment on the perpetrators of Jarimah khalwat by looking at the previous judge's decision (Jurisprudence), the prosecutor's demands, and considering the situation and conditions of the defendant. The status of the defendant is one of the considerations

²⁴ Anita Rahayu, *Pertimbangan Hakim dalam Menetapkan Cambuk Sebagai Hukuman Terhadap Pelaku Jarimah Khalwat* "(Studi Kasus pada Mahkamah Syari'ah Sigli dan Mahkamah Syari'ah Banda Aceh)", Skripsi, Universitas Islam Negeri Ar-Raniry Darussalam Banda aceh, 2021.

of the judge so as to condition the appropriate and better punishment for the defendant.

2. Maulana's Research (2020) Ismuha Maulana's research is entitled "Criminal Responsibility for Providers of Jarimah Khalwat Places (A Study in the Legal Area of the Banda Aceh Shari'ah Court)". This research uses a quantitative method in which researchers take a sample of the entire population to respondents, perpetrators / place providers, investigators of PPNS WH / Satpol PP Banda Aceh city, investigators, judges of the Banda Aceh Shari'iyah Court and the head of the Banda Aceh city Islamic Shari'at office. This study aims to explain the criminal responsibility of the khalwat jarimah place providers, and efforts to overcome the occurrence of *khalwat* place providers in the city of Banda Aceh.²⁵

The conclusion of this research is that criminal liability for providers of *khalwat jarimah* places has not been effective, because the application of punishment is in the form of *uqubat ta'zir*. The whipping imposed by the judge is still too light, namely 8 lashes to 15 lashes. The obstacles are due to unfavorable understanding and perception of the execution, *qanun* number 6 of 2014 does not describe in detail the alternatives to law enforcement, lack of coordination of apparatus and law enforcers with the Banda Aceh city government and lack of public awareness of the law. Efforts to prevent the occurrence

²⁵ Ismuha Maulana, *Pertanggung Jawaban Pidana Terhadap Penyedia Tempat Jarimah Khalwat (suatu Penelitian di Wilayah Hukum Mahkamah Syar'iyah Banda Aceh)*, Skripsi Universitas Muhammadiyah Aceh, 2022.

of *khalwat jarimah* providers in the city of Banda Aceh are by making preventive efforts, namely preaching in collaboration with village leaders, conducting legal counseling and civil recovery while repressive efforts are handling criminal acts that have occurred, conducting continuous operations, forming coordination posts for monitoring violators of Islamic law.

3. Agus Salim's research entitled "*Jarimah Khalwat in Aceh Territory (Analysis of the Application of the Criminal Code and Qanun Jinayah Aceh number 6 of 2014)*". This research uses the Library research method. The nature of this research is descriptive-analytical-applicative, statue approach and qualitative analysis approach. This research aims to find out what is updated in the codification of the Aceh qanun jinayah and how the principle of "territorial" which means that Muslims from local or outside Aceh can also be tried if they have committed *khalwat*. besides Muslims whether non-Muslims in Aceh can also be applied punishment.²⁶

The conclusion of this research is that the updating of Aceh's qanun jinayah on *khalwat* is concluded to have differences in legal orientation. From the quantity of punishment for *jarimah khalwat* is different from that in the previous qanun, qanun number 14 of 2003 increased to 10 times. While the quality is also different in terms of the addition of the type of prison sentence.

²⁶ Agus Salim, *Jarimah Khalwat dalam Teritorial Aceh (Analisis Penerapan KUHP dan Qanun Jinayah Aceh Nomor 6 tahun 2014)*, Skripsi, Universitas Islam Negeri Ar-Raniry Darussalam-Banda Aceh, 2017.

The thesis that has been discussed and reviewed above, has several similarities with the researcher, namely both discussing about jarimah khalwat in the Aceh qanun. But the problem is of course much different. In this thesis the author will discuss the implementation of sanctions in Article 23 paragraph 2 of Qanun Number 6 of 2014 concerning *Khalwat Facility* Providers and people who participate in organizing, organizing and promoting *khalwat*.

CHAPTER III

RESEARCH METHODS

A. Research Time and Location

The time in this research is in November 2023, or at least until the completion of the research, and the location of this research is in Tapak Tuan, South Aceh Regency.

B. Type of Research

In this study, two types of research were used in collecting, namely field research. Where Field Research is a researcher directly conducting research by going directly to the field and identifying the object of discussion in the field, namely collecting data from the field.

C. Research Subject

The research subjects are all parties involved in Qanun law enforcement in Aceh Province. As for the targets in this study: Chairman of the Syar'iyah Court of Tapak Tuan, Head of Jorong and the Community.

D. Data Source

The data sources that researchers use as research sources are:

1. Primary data is the original data collected by the researchers themselves, namely those obtained by researchers directly from respondents conducted directly to the field, namely by interview techniques related to "Implementation of the Determination of Article 23 paragraph 2 of Aceh *Qanun* Number 6 of 2016 concerning paragraph 2 of Aceh *Qanun* Number 6 of 2016

concerning Providers of *Jarimah Khalwat* Facilities in Aceh Province (Case Study of the Tapak Tuan Sya'iyah Court)".

2. Secondary Data Secondary data is data obtained and stored by others which is usually past/historical data, such as data from journals, articles that also discuss "Implementation of Article 23 paragraph 2 of Qanun Aceh Number 6 of 2016 concerning Jarimah Khalwat Against Providers of Jarimah Khalwat Facilities and Infrastructure in Aceh Province (Case Study of the Tapak Tuan Sya'iyah Court)".²⁷

E. Data Collection Technice

1. Interview

Interview is a form of activity to obtain information by conducting a question and answer process between the questioner and the source between the questioner and the source / source of information, namely where the researcher directly interviews the village officials and Law Enforcement Officials.

²⁷ Mestiks Zed , *Metode Penelitian Kualitatif* ,(Jakarta : Yayasan Obor Indonesia, 2008), p.23

Table. III.1

List of informant interviewed by researchers

NO	NAME	POSITION
1	Sakim Effendi	Hakim
2	Ervy Sukmarwati	Ketua Hakim
3	Misbah	Panitera
4	Rudi Subrita	Khuecik / kepala Desa
5	Lernawati	Jurusita
6	Efrisyah Nisa	Masyarakat
7	Endi Santoso	Masyarakat

2. Observation

Observation or observation is a daily human activity with using the five senses of the eye as the main tool (plunge directly into the field to see directly). Observation is a data collection technique field to see directly). Observation is a data collection technique data collection techniques that are carried out systematically and deliberately through the process of observing and approachin the symptoms being investigated approach to the symptoms being investigated.

In this observation, the author made observations in the Tapak Tuan sub-district, South Aceh Regency South. In this thesis the author will discuss the implementation of sanctions in Article 23 paragraph 2 of

Qanun Number 6 of 2014 concerning *Khalwat Facility* Providers and people who participate in organizing, organizing and promoting *khalwat*.

3. Documentation

Documentation is looking for data about things or variables in the form of notes, transcripts, newspapers magazines, and photographs, which aim to add info about the research subject.

F. Data Validity Checking Techniques

1. Objectivity

Ensuring that the phenomena in the field notes, and interview transcriptions, really come from the field and information from informants.

2. Data validity

Data validity is defined as, every situation must fulfill several intended aspects;

- a. Shows the right thing.
- b. Preparing the basics of data so that it can be applied.
- c. Seeking neutrality in the findings in order to conclude things that are concrete and directed.

G. Data Analysis Technique

Data analysis technique is the most important stage in the research process. The stages in analyzing data in this thesis are recording data contained in the field, collecting data from interviews, from several samples, and collecting supporting data. After the data is collected, it is

sorted out to be analyzed at a later stage. After the data is analyzed, a conclusion is drawn which is then reported in the form of research.

Based on the explanation above, the process carried out in this research is:²⁸

1. Reviewing all available data and various sources, namely from interviews, observations that have been written in field notes, personal documents, official documents and so on.
2. Data reduction is done by abstraction. Abstraction is an attempt to summarize the core of the process and statements that need to be maintained so that they remain in it.
3. Arrange the data in units. These units are categorized in the next step.
4. Checking the validity of the data at this stage is the final stage and data analysis.

²⁸ Bungaran Antonius Simanjuntak and Soedjito Sosrodiharjo, *Metode Penelitian Sosial*, (Jakarta: Yayasan Pustaka Obor Indonesia) p.12

CHAPTER IV

RESEARCH RESULT AND DISCUSSION

A. Overview of The Research Object

The location of the research conducted is in South Aceh Regency, precisely at the Tapak Tuan Syar'iyah Court Office which is located at Jln. T. Ben Mahmud, Air Berudang Village, Tapak Tuan District Tel / Fax. (0656) 2312200 Tapaktuan 23717. The Tapak Tuan Syar'iyah Court is the main source for obtaining research data and researchers also get information from community leaders in Tapak Tuan to supplement the data obtained by researchers.

1. History of the Birth of the Tapak Tuanyar'iyah Court

In the reform era, the spirit and desire to implement Islamic shari'a reverberated among the people of Aceh, in addition to the demands for a referendum which were also voiced by some of the younger generation at that time.

Muslim clerics and scholars were increasingly incentivized to demand from the central government that, in order to fulfill Aceh's privileges and restore the dignity of the Acehnese people, they be allowed to implement Islamic Shari'a in all aspects of life. The struggle finally paid off with the birth of 2 (two) very important and fundanmental laws, namely:

- a. Law No. 44/1999 on the implementation of the privileges of the Special Region of Aceh.

- b. Law No. 18/2001 on Special Autonomy for the Special Province of Aceh as the Province of Nanggroe Aceh Darussalam.

In 2001 the central government again granted the wishes of the people of Aceh to obtain Special Autonomy through Law No. 18/2001 on Special Autonomy for the Special Province of Aceh as the Province of Nanggroe Aceh Darussalam. The law was promulgated in the official gazette on August 9, 2001. The birth of the law was closely related to Law No. 44/1999 on the Implementation of the Aceh Specialty, in an effort to pave the way for the implementation of Islamic Shari'a in the community life in Serambi Mekah.²⁹

One of the mandates of Law No. 18/2001 was to provide opportunities and rights for the Province of Nanggroe Aceh Darussalam to establish an Islamic Shari'a Court, implemented by the Syar'iyah Court as part of the national judicial system (Article 25 paragraph (1) of Law No. 18/2001).

In other fields, in order to respond to the birth of the Law as a whole, the Regional Government through the Decree of the Governor of Nanggroe Aceh Darussalam has formed several teams to immediately draft Qanuns (around 27 Qanuns) to implement Law No. 18 of 2001. One of them is the team of Islamic Shari'at Qanun Compilation led by the

²⁹ <https://ms-tapaktuan.go.id> , Accessed 17/2/2024

Chairman of the Indonesian Ulema Council (MUI) of Aceh Special Region Province (not yet changed to MPU), Dr. Muslim Ibrahim, M.A..

Furthermore, on October 23, 2002, the Aceh Regional Government Team led by the Governor of Nanggroe Aceh Darussalam, Ir. H. Abdullah Puteh, M. Si., held a consultation meeting with the Indonesian Supreme Court and related departments. The consultation meeting took place in the Hall of the Supreme Court of the Republic of Indonesia led by the Chief Justice of the Supreme Court of the Republic of Indonesia Prof. Dr. H. Bagir Manan, SH, accompanied by the Vice-Chairman Drs. H. Taufiq, SH in the meeting several things were agreed upon:

- a. The Supreme Court hopes that the Syar'iyah Court in Aceh will soon be realized and can be inaugurated on 1 Muharram 1424 H;
- b. The establishment of the Syar'iyah Court is an executive task, therefore it is hoped that the Minister of Home Affairs can coordinate meetings with the relevant departments and the Regional Government of Nanggroe Aceh Darussalam.³⁰

Following up on the meeting on October 23, 2002, the Central Government Team coordinated by the Ministry of Home Affairs held a meeting with the Aceh Local Government Team on January 27, 2003. The meeting was chaired by the Secretary General of the Ministry of Home Affairs, Dr. Ir. Siti Nurbaya.

³⁰ <https://ms-tapaktuan.go.id>

During the meeting, the central government team consisting of relevant departments/institutions, such as the Ministry of Religious Affairs, the Ministry of Justice and Human Rights, the Indonesian National Police, the Attorney General's Office, Defense and Security, etc., managed to formulate several agreements, including that the inauguration of the Syar'iyah Court will be held in Banda Aceh on Tuesday, 1 Muharram 1424 H/ 4 March 2003 AD; each department/institution prepares itself in accordance with its field of authority for the inauguration of the Syar'iyah Court (institutional authority, human resources development, etc.

1. Vision and Mission of the Syar'iyah Court of Tapak Tuan

Vision

"The establishment of a clean and dignified Tapak Tuan Syar'iyah Court towards the Supreme Court"

Mission

- Improving the Professionalism of the Tapak Tuan Syar'iyah Court Apparatus
- Realizing Excellent Service with Justice
- Realizing Modern Management of the Tapak Tuan Syar'iyah Court
- Increase Credibility, Transparency and Accountability of the Tapak Tuanyar'iyah Court.³¹

³¹ Documentation from the Office of the Tapak Tuan Sharia Court in South Aceh Regency, on 03/12/2023.

2. Data on employees of the syariah Court on Tapak Tuan

Table. 4.1 List of employees at the Syar'iyah Court Tapak Tuan

No	Name	Totally
1	Ketua	1
2	Wakil Ketua	1
3	Hakim	5
4	Panitera	1
5	Sekretaris	1
6	Panmud Gugatan	1
7	Panmud Permohonan	1
8	Panmud Hukum	1
9	Panmud Jinayah	1
10	Kasubbag Umum dan Keuangan	1
11	Kasubbag, organisasi dan tata laksana	1
12	Panitera Pengganti	4
13	Jurusita	1
14	Jurusita Pengganti	-
15	Staf	3
16	Satpam	2
	Jumlah	25
	Pegawai Pemerintah Non Pegawai Negeri (PPNPN)	8

Source : Take a document in Mahkamah Sya'iyah Tapak Tuan

B. Implementation Sanctions for Providers of *khalwat* Facilities in South Aceh District

From the results of the research, using the methods of observation, interviews and documentation related to Mahkamah Syariah impementation in preventing *khalwat* in South Aceh Regency, the researchers managed to sanction for providers of *khalwat* facilities in South Aceh :

1. Flogging

The implementation of Flogging is based on the Tapaktuan Syar`iyah Court Decision which has permanent legal force. The flogging was carried out by the Tapaktuan District Attorney's Office in collaboration with the South Aceh District Islamic Sharia Office.

In 2022 there were two cases of *khalwat* facility providers who were sentenced to flogging on behalf of nurhasimi aged 43 years on April 12, 2022 caught in his shop in samadua sub-district had built a hut for non-muhrim couples and he was sentenced to 25 lashes , located at Darul Ihsan Mosque, Kasik Putih Village, Samadua District, South Aceh Regency at 2:00 pm and flogged by the executioner sent from the aceh sharia office.

While Ahmadi rajof as a facility provider by promoting on social media with posts promoting jarimah *khalwat* on October 5, 2022 was subject to 25 lashes in the South Aceh prosecutor's office

and the whip was the executioner of the South Aceh Prosecutor's Office.

Whereas in 2023 there was 1 case of khalwat facility providers in the form of flogging sanctions, namely Ahmad Dahlan was subject to 20 lashes in the South Aceh prosecutor's office, and was arrested on June 5, 2023 by the South Aceh Satpol PP raid.

The identity of the executioner is kept secret so as not to trigger revenge outside the area or working hours.

The flogging punishment for khalwat perpetrators is stipulated in the Qanun of Aceh Province No. 2003 concerning khalwat/mesum Article 22 paragraphs 1 and 2 which are hidden as follows:

- a. Every person who violates the provisions as referred to in Article 5, shall be punished with 'uqubat ta'zir in the form of flogging for a maximum of 9 (nine) times, a minimum of 3 (three) and/or a fine of a maximum of Rp. 10,000,000,- (Ten Million Rupiah), a minimum of Rp. 2,500,000,- (Two Million Five Hundred Thousand Rupiah).
- b. Any person who violates the provisions as referred to in Article 6, shall be punished with uqubat ta zir in the form of confinement for a maximum of 6 (six) months, a minimum of 2 (two) months, and/or a fine of a maximum of Rp.

15,000,000,- (Fifteen Million Rupiah), a minimum of Rp. 5,000,000,- (Five Million Rupiah).¹⁶

2. Fine Penalty

There are several cases that are sanctioned in the form of fines, where most of the sanctions that are fined are facility providers who are aids or errands from the original owner, from the case of fines in the hands of the Tapak Tuan Sharia Court there are 2 people on behalf of Syukron and Basri who are both fined Rp. 2,000,000 for working in cafes in Kluet East , South Aceh that provide *khalwat* facilities, and there are also several similar cases but did not reach the Tapak Tuan Sharia Court, only up to the Aceh Sharia Office. The amount of fines imposed on all penalties included in the jinayah law is considered in accordance with the economic capacity of the defendant and the importance of peace.

The amount of the fine that must be paid by the convicted person is in accordance with the level of the offense committed. This is in accordance with the provisions of Aceh Qanun No. 14/2003 on *khalwat/mesum* Article 22 paragraphs (1) and (2) as follows:³²

- a. Every person who violates the provisions as referred to in Article 5 shall be punished with *uqubat ta'zir* in the form of flogging for a maximum of 9 (nine) times, a minimum of 3

³² Qanun Number 6 of 2014 about Jarimah Khalwat

(three) times and/or a fine of a maximum of Rp.10,000,000,- (Ten Million Rupiah), a minimum of Rp. 2,500,000,- (Two Million Five Hundred Thousand Rupiah).

- b. Any person who violates the provisions as referred to in Article 5, shall be punished with *uqubat ta'zir* in the form of curtailment for a maximum of 6 (six) months, a minimum of 2 (two) months, and/or a fine of a maximum of Rp. 15,000,000,- (Fifteen Million Rupiah), a minimum of Rp. 5,000,000,- (Five Million Rupiah).

3. Customary Sanctions

Customary institutions, indeed, have the authority to realize a welfare for the people of Aceh to maintain each other's dignity from disgrace, as there are provisions that regulate the extent to which customary institutions can take a policy to resolve *khalwat/mesum* cases that are resolved in a family manner.

Aceh Qanun No. 9/2008 on the Development of Customary Life and Customs also provides an alternative solution to eliminate difficulties in case settlement, namely through the Gampong customary law court. This kind of settlement is colloquially referred to as customary settlement.³³

The birth of the qanun is based on the consideration that Adat and Adat Istiadat that have developed in the life of the

³³ Qanun Number 9 of 2008 About Pembinaan Kehidupan Adat dan Adat Istiadat

Acehnese people from the past until now have given birth to cultural values, customary norms and rules that are in line with Islamic Shari'a which are cultural wealth that needs to be fostered, developed and preserved. These efforts need to be carried out continuously from generation to generation so that they can understand the customary and cultural values that develop in the life of the Acehnese people.

The types of sanctions that can be imposed in the settlement of customary disputes according to Article 16 of the *Qanun* on the Development of Acehnese Customary Life are in the form of advice; reprimand; apology; sayam; diyat; fine; compensation; ostracized by the gampong community or other names; expelled from the gampong community.

There were 6 people who violated and were subject to customary sanctions, namely Affandi was subject to customary sanctions in the form of advice on March 2, 2023, Rahman was subject to customary sanctions in the form of a warning on April 13, 2023, Sulistyono was subject to customary sanctions in the form of a warning on February 7, 2023, Afwani was subject to sanctions in the form of fines on June 18, 2023, Mualli was subject to customary sanctions in the form of a warning on July 24, 2023 and Gibron was subject to customary sanctions advice on November

10, 2023. They were subjected to customary sanctions at the village head's office and returned to their original villages.

Providing facilities for *jarimah khalwat* is one of the acts of violating Shari'a. In Qanun Aceh Number 6 of 2014 article 23 paragraph 2, the facility provider of *jarimah khalwat* is every person, business entity, and government apparatus who intentionally provides facilities, facilities to protect and promote *jarimah khalwat*. In this case, it is not just a place, house, or room as a facility, but includes offering oneself or services to serve masher men or commonly called prostitution. Comfort women (PSK) as a provider of facilities for *jarimah khalwat* is an act that is punishable by *ta'zir*, it is an effort so that Islamic Shari'a in the Province of Nanggroe Aceh Darussalam can be enforced.

Tabel. 4.2 Number of violations of Islamic law regarding khalwat facility providers in South Aceh district in 2022

Month	Number of cases	Law	Custom	Coaching
Jan – Feb	2	-	-	Coaching
March -April	1	-	Fine	-
May - June	-	-	-	-
July - August	2	Flogging	-	-
Sept - Oct	1	-	Fine	-
Nov - Dec	1	-	Custom	-

Data Source : Documentatitpon from the Mahkamah Syar'iyah Tapak Tuan of 2022

From the table above, it can be seen that there were 8 cases of khalwat in South Aceh District in 2016. 2 people were flogged and 1 person was fined. Resolved by adat, 1 person was resolved by adat, 1 person became a customary fine and 1 person followed the customary decision of 1 person. And 2 people were coached.

Tabel. 4.3 Number of violations of Islamic law regarding khalwat facility providers in South Aceh district in 2023

Month	Number of cases	Law	Custom	Coaching
Jan – Feb	1	Flogging	-	-
March -April	1	-	-	Coaching
May - June	-	-	-	-
July - August	1	Flogging	-	-
Sept - Oct	-	-	-	-
Nov - Dec	5	-	Custom	-

Data Source : Documentation of office Mahkamah Syar'iyah Tapak Tuan of 2023

From the table above, it can be seen that the number of cases of khalwat facility providers in South Aceh District in 2023 was 9 people. Resolved by law as many as 6 people and with guidance as many as 3 people.

Table.4.3 Number of Jarimah and Uqubat Khalwat Facility Providers in South Aceh

No	Jarimah and Uqubat	Article
1	Every person who intentionally commits the <i>jarimah</i> of <i>Khalwat</i> shall be punished with ' <i>uqūbah ta'zīr</i> flogging for a maximum of 10 (ten) times or a maximum fine of 100 (one hundred) grams of pure gold or imprisonment for a maximum of 10 (ten) months.	23 (1)
2	For organizers and providers of facilities or promoting <i>jarimah khalwat</i> shall be punished with ' <i>uqūbah ta'zīr</i> flogging for a maximum of 15 (fifteen) times and/or a maximum fine of 150 (one hundred fifty) grams of pure gold and/or imprisonment for a maximum of 15 (fifteen) months In this <i>Qanun of jinayat</i> law, only the maximum punishment is stated, which is flogging for a maximum of 10 (ten) times or a maximum fine of 100 (one hundred) grams of pure gold or imprisonment for a maximum of 10 (ten) months. This is different from Qanun Number 14 Year 2013 on <i>Khalwat</i> which contains maximum and minimum punishment, namely "a maximum of 9 (nine) times, a minimum of 3 (three) times and/or a maximum fine of Rp. 10,000,000,- (Ten million rupiah), a minimum of Rp. 2,500,000,- (two million five hundred thousand rupiah).	23 (2)

Data source : Documentatiton of office kantor Mahkamah Syar'iyah Tapak Tuan 2024

From the table above, it can be seen that those who deliberately commit *khalwat* will be punished with Ta'zir flogging <10 times or a fine of <100 grams of pure gold or imprisonment of <10 months, and those

who provide facilities will be punished with *Ta'zir* flogging <15 times and/or a fine of <150 grams of pure gold and/or imprisonment of <15 months, and all of these penalties are in accordance with the provisions of Aceh Qanun, customs and laws.

Based on the observations that the researchers found that the Syariah Court plays an important role in the implementation of the application of sanctions in preventing *khalwat*, very prominent, especially in terms of guidance. If the Syariah Court finds the perpetrator of the offense, the Syariah Court brings him to the office to be questioned by the perpetrator of the offense, if the case is mild then he will be given guidance, advice to the perpetrator of the offense so that the perpetrator of the offense does not repeat the mistakes he has made and is given a letter to sign and the letter contains that he will not repeat the violations that have been committed if he is caught again, his parents and Mr. Keuchik will be called. And if the offense committed by the perpetrator is serious then it will not be given more guidance but will be processed and brought to the law.

C. The Supporting and Inhibiting Factors in Preventing Khalwat Facility in South Aceh

In carrying out various tasks, there must be several important points that must be considered, such as supporting factors and inhibiting factors. of the problem itself, as well as in terms of preventing *khalwat* carried out by Mahkamah Syariah so far. The data that researchers get about supporting

and inhibiting factors of Wilayatul Hisbah in preventing khalwat in South Aceh Regency as follows South Aceh Regency as follows:

1. Supportting Factors

a. Socialization

Socialization is a form of support in order to reduce the level of crime jarimah facility providers, for example, socializing to the community so that we see a place that smells towards adultery can work together to menengur or expel the facility provider, and can also socialize to school children at the high school level so as not to do things that smell like two in a quiet place.

For socialization carried out regularly and is an agenda, the Sharia Court conducts socialization to schools and to the community in order to better introduce the jarimah jarimah in the Qanun rules.

1) Socialization to the community

The purpose of the activity is to provide an understanding of legal sanctions so that people avoid acts that violate Islamic law. So as to realize a society that obeys and complies with the rules of Islamic law in Aceh Province.

Sakim Effendi said, if the socialization of Qanun Aceh Number 6 of 2014 concerning Jinayat Law can be carried out continuously so that students really understand and prevent violations in society. He hopes that the socialization

participants can become mouthpieces or agents about the enactment of Islamic law qanuns that have been promulgated in the regional gazette to provide information to the entire community.³⁴

The goal is to disseminate information on Islamic shari'a law to the public and the realization of the perfect application of Islamic shari'a law in Aceh Province, as well as the realization of the vision and perception of Islamic shari'a law from this socialization." Socialization is carried out to the community in the jurisdiction of the Tapaktuan sharia court, for example at the time of the research the researcher was brought by a judge at the sharia court for socialization in the Sub-District Office ,East Bakongan District of South Aceh here the material in the socialization was entitled "Community Participation in reducing Jarimah Khalwat in the South Aceh environment" whose speaker was Mr. Sakim Effendi on February 11, 2024 with socialization participants being the East Bakongan Community.

2) Socialization With Teenagers

This socialization activity was attended by students from the school. The socialization was opened by the Head of Inter-Agency Relations of Mahkamah Syariah Tapak

³⁴ Obsevation in Sub-District Office Bakongan District on date 11 Februay 2024

Tuan , She said with the enactment of Aceh qanun NO. 14 of 2016 concerning the establishment of the composition and regional apparatus of Aceh and gubernatorial regulation 139 of 2016 concerning the position, organizational structure, duties, and functions. The main tasks and functions of satpol pp and wh Aceh are to carry out government and development affairs in the field of enforcement of local regulations / Qanun, community protection, public order and public peace and tranquility.

Based on the above tasks we socialize Qanun Aceh Number 6 of 2014 concerning jinayat law, in an effort to provide guidance and supervision of all activities related to the implementation of Qanun Aceh. One of the coaching efforts is to protect the community, especially the younger generation and school-age children in violation of Qanun Jinayat. The event was continued by speakers from the Aceh Tamiang District Islamic Sharia Office, namely the Head of Legal Development and Resources, Mrs. Eryy Sukmarwati.

Socialization with teenagers in high school is one of the supporting factors because children at this age are vulnerable to new things and are prone to getting carried away. The socialization carried out by the sharia court was

at SMK N 1 Tapak Tuan which is located at Jl.Cenp. Lhok Bengkuang, Tapak Tuan South Aceh. The socialization was carried out on March 6, 2024 by the Chief Judge of the Tapak Tuan Sharia Court.

b. Support from law enforcement officials

Reni Kasim said that the supporting factors for Mahkamah Syariah in preventing *khalwat* have been preventing *khalwat* so far, there is assistance and cooperation from the Police, TNI, Prosecutors' Office and Provos Kodim Selatan to conduct raids. Police, TNI, Prosecutor's Office and Provos of South Aceh Kodim conducting joint raids.

Support from the TNI in the *Jarimah* execution process in South Aceh Regency is a form of responsibility or is the main task of the TNI where the TNI when there is a flogging process and TNI raids participate in the process as a security and ensure that nothing deviates from the provisions, such as during the flogging process of *jarimah Khalwat* on February 10, 2024 at the South Aceh District A Office, there were two TNI people sent from the 0107 / South Aceh Kodim office to secure and witness the flogging process, namely Sus Korem Staff Bukhari and Faruk. To secure and oversee how the flogging process is carried out.

Support from the POLRI is very confining in the form of security, such as when there was a flogging process at the South

Aceh Prosecutor's Office on February 23, 2024, on behalf Polri secured and provided directions so that there would be no riots.

While the support of the Police or the police in the southern aja jurisdiction is to participate in the process of rajia or netting places of immorality or people who violate the rules in the southern aja jurisdiction so here the police participate in conducting raids together with Wilayatul Hisbah or satpolPP so as to make it easier for satpolPP and help, at the time of the raid on Mount Kerambil the South Aceh police sent Briptu Hamid wasab to participate in the raid as a form of support and cooperation on March 24, 2024.³⁵

c. Support from Wilayahtulhisbah and the community

The Wilayatul Hisbah and Civil Service Police Unit (Satpol PP) together Gunung Kerambil area on Thursday, February 22, 2024. This operation was carried out in one of the inns or inns on Jalan H. Misbah, South Aceh District.

This operation is part of the local government's efforts to maintain community conduciveness and order. In this operation, officers found several lodgers who were not married couples. After approximately one hour of checking, the officers brought all the inn guests to the Social Service for assessment and agreement.

³⁵ Interview result with Mr. Yasin Yusuf Abdillah selaku Hakim di Mahkamah Syairiyah Tapaktuan Kabupaten Aceh Selatan, on date 19/02/2024

The assessment was conducted to find out the background and social condition of the lodgers, while the agreement aims to prevent them from committing the same act in the future. In this agreement, the lodgers are expected to understand and respect the norms and rules that apply in society.

The Pekat raid operation is carried out as a form of local government responsibility in maintaining order and community welfare. With this operation, it is hoped that it can prevent actions that can disrupt order and community conduciveness, especially in the inn area.

Satpol PP and the Wilayatul Hisbah South Aceh Regency Social Service are committed to continuing to conduct similar operations in the future. They hope that this operation can provide a deterrent effect for those who violate the rules.

He also said that the supporting factors in preventing khalwat is by cooperating with community leaders in terms of supervising violations of Shari'a in the field of khalwat, and community leaders also notify the Wilayatul Hisbah institution if in a place there is a violation in the field of khalwat.³⁶

From some of the answers to the results of interviews with several sources above about the supporting factors of Wilayatul Hisbah in preventing khalwat in South Aceh Regency, the

³⁶ Interview result with Mrs. Reni Kasim selaku Hakim di Mahkamah Syairiyah Tapaktuan Kabupaten Aceh Selatan, on date 19/02/2024

researcher can conclude between South Aceh Regency, the researcher can conclude that Pamong others, there is cooperation from the Police, TNI, Prosecutor's Office and Provos of the South Aceh Kodim to conduct joint raids. And also received full support from community leaders, by cooperating in terms of supervising Islamic Shari'a.

And for WH / Satpol PP, assistance is needed in conducting raids because those in charge of conducting raids on places of immorality are Satpol PP, where specifically the case of Khalwat facility providers Satpol pp raided a place to sit back and relax in the Gunung Kerambil area, Samadua District, South Aceh, Satpol PP found a hut that covered the body provided for people who were making out or two on March 10, 2024 and immediately interrogated the initials stall provider (A.S) for allegedly violating article 23 paragraph 2 of Qanun Aceh Numor 6 of 2014.

2. Inhibiting Factors

a. Limited Budget

Ervy Sukmarwati argues that the inhibiting factor in preventing khalwat, lack of funds, funds are the main requirement to help Mahkamah Syarriyah run smoothly in carrying out its duties such as patrols / raids, the need for funds is for food and drink when Mahkamah Syarriyah conducts patrols and socialization, if the funds are lacking, it will hamper Wilayatul

Hisbah in carrying out its duties such as patrols / raids. then will be hampered in carrying out its duties. And the funds are used to pay Wilayatul Hisbah's honorary salary in carrying running raids/patrols.³⁷

b. Limited facilities and infrastructure

Sakim Effendi argues that the inhibiting factor of Wilayatul Hisbah in preventing *khalwat* is the lack of facilities and infrastructure in preventing *khalwat*, namely the lack of facilities and infrastructure such as vehicles for patrols is still lacking, such as the Wilayatul Hisbah patrol car there is only one unit and previously there was a motorcycle for patrols unit only and previously there was a motorbike for patrols but now there is no more again. Actually, these facilities and infrastructure are the most important things for Wilayatul Hisbah and the most important thing for Wilayatul Hisbah, in order to run smoothly in carrying out its duties such as routine patrols in terms of routine patrols carry out its duties such as routine patrols in terms of preventing the occurrence of violations of Islamic Shari'a in the field of *khalwat*.³⁸

³⁷ Interview result with Mrs. Ervy sukmarwati As a Judge in Mahkamah Syairiyah Tapaktuan , South Aceh, on date 12/02/2024

³⁸ Interview result with Mr. Sakim Effendi As a Judge in Mahkamah Syairiyah Tapaktuan , South Aceh, on date 7/02/2024

D. The Effectiveness of Regulation Sanction for Khalwat Facility Providers In South Aceh.

In the form of Implementation *khalwat* facility providers, there are several levels of effectiveness of binding regulations on *khalwat* facility providers as follows:

Mr. Sakim Effendi, explained that Mahkamah Syariah s in preventing *khalwat* is to conduct supervision, namely supervision of the implementation and violators of laws and regulations in the field of Islamic Sharia, especially regarding *khalwat* in the South Aceh District. Mahkamah Syariah conducts surveillance during the day and at night to prevent violations in the field of *khalwat*.³⁹

Mrs. Ervi Sukmarwati, SH, explained that the effectiveness of *khalwat* facilities provider of Mahkamah Syariah in preventing *khalwat*, socialization by means of lectures targeting socialization in schools, especially in junior high school children, high school, socialization to stalls and cafes where *khalwat* is prone to occur, sending letters containing qanun about the prohibition of *khalwat* so that the owners of stalls and cafes always monitor customers who are together who are not muhrim, so that *khalwat* behavior does not occur in the stalls and cafes. And also the next socialization target is to the general public, so that people know the importance of upholding and implementing Islamic Shari'a. If the community finds a violation of the

³⁹ Interview result with Mr. Sakim Effendi selaku Hakim di Mahkamah Syairiyah Tapaktuan ,Aceh Selatan, on date 7/02/2024

provisions of Islamic Shari'a, namely khalwat, then the community must report to Wilayatul Hisbah so that they can be given guidance, advice, etc.⁴⁰

Misbah said that, for 2022 Mahkamah Syariah has played an active role in Gampong Ujung Tanah because when compared to previous years there are still violations. And according to him Wilayatul Hisbah has also conducted socialization such as circulating letters about Islamic Shari'a regulations to places where violations are indicated such as cafes, stalls located in Gampong Ujung Tanah, Samadua District.⁴¹

Rudi Subrita, S. Ag, said that the strategy that must be carried out by Controlling is to carry out routine patrols, both during the day and at night, at least three times a week, from west labuhan haji to East Trumun, not directly to the village but in places that are considered prone to violations of Islamic Shari'a related to khalwat, namely on the edges of the beach where there are huts and dimly lit cafes, in hotels that are considered prone to khalwat, the area that Wilayatul Hisbah often patrols is in Kec. Tapak Tuan and Samadua because the two sub-districts are the cities of South Aceh Regency which are considered prone to khalwat.⁴²

Lernawati argues that the strategy carried out by Wilayatul Hisbah is by means of routine patrols in places that are considered prone to violations

⁴⁰Interview result with Mrs. Ervy sukmarwati selaku Ketua di Mahkamah Syairiyah Tapaktuan Kabupaten Aceh Selatan, on date 12/02/2024

⁴¹ Interview result with Mrs., Agustoina Rum selaku Panitera Muda Jinayah di Mahkamah Syairiyah Tapaktuan Kabupaten Aceh Selatan, on date 15/02/2024

⁴²Interview result with Mr. Yasin Yusuf Abdillah selaku Hakim di Mahkamah Syairiyah Tapaktuan Kabupaten Aceh Selatan, on date 19/02/2024

such as in Samadua where there are cafes, coffee shops, and huts on the beach.⁴³

Based on the observations that the researchers found that Effectiveness in preventing *khalwat* is by patrolling, Wilayatul Hisbah and Satpol PP members patrol in the morning around 10.30 WIB with a patrol car located at the South Aceh Regency Pamong Praja Police Unit office led by Danton Wilayatul Hisbah South Aceh Regency. Wilayatul Hisbah conducts patrols in Tapak Tuan Subdistrict, precisely in Gampong Air Berudang.

In South Aceh from 2021 to 2023 there have been 12 recorded *Khalwat* Facility cases that have occurred. In 2021 there were 5 cases, in 2022 there was 5 and in 2023 there were 2 cases.

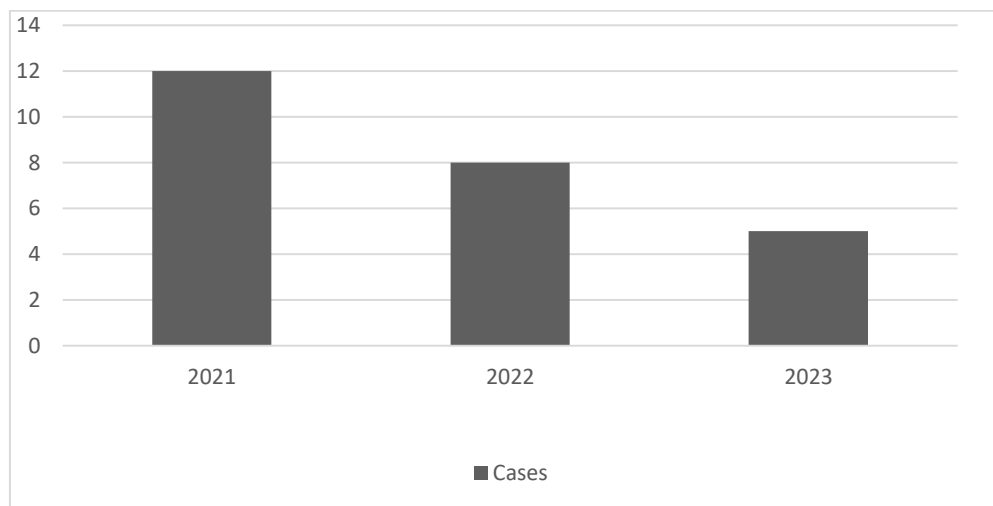
Based on these data, it can be said that the *Qanun Jinayat Khalwat* Facility in South Aceh has been effective, this is because not too many cases occurred during this period. because not too many cases have occurred over the past 5 years and the curve of the case recent years and the curve of these cases, although from year to year had experienced ups and downs but more likely to decline. With the enactment of *Qanun Jinayat* on *Khalwat* Facility in South Aceh, it really makes everyone afraid to commit rape. the enactment of *Qanun Jinayat* on rape in South Aceh really makes everyone afraid to commit the crime of rape because considering the the punishment that has been determined by *Qanun*.⁴⁴

⁴³ Interview result with Bapak Juwarki Selaku Kuchiek/ Kepala dusun Kecamatan Tapaktuan Kabupaten Aceh Selatan, on date 19/02/2024

⁴⁴ Interview result with Mr. Yasin Yusuf Abdillah selaku Hakim di Mahkamah Syairiyah Tapaktuan Kabupaten Aceh Selatan, on date 19/02/2024

Mrs. Reni Kasim argues The existence of Aceh Provincial Qanun Number 6 Year 2014 on Khalwat/Mesum in Runding Subdistrict has not been implemented effectively so that it is difficult to achieve the expected goal of effective so that it is difficult to achieve the expected target, namely decreasing cases of khalwat/mesum in the midst of community life society. Whereas the behavior of khalwat/mesum is the path to adultery, while adultery itself is a despicable act and a chronic disease of the community that can be and a chronic disease of society that can lead to various other negative impacts.⁴⁵

Graph.4.1 Graph of the decrease in the number of khalwat cases in South Aceh 2021-2023



In this explanation, cases regarding khalwat facility providers in South Aceh district in the last three years have decreased, where in 2021 the number of cases handled by the tapak tuan sharia court amounted to 12 cases, in 2022

⁴⁵ Interview result with Mrs. Reni Kasim selaku Hakim di Mahkamah Syairiyah Tapaktuan Kabupaten Aceh Selatan, on date 19/02/2024

there were 8 cases, while in 2023 the number of cases amounted to 5 cases, so we can see in the diagram above that the effectiveness of handling cases of khalwat facility providers has increased and the government and law enforcement officials can optimize the effectiveness of handling cases.

Therefore, the level of effectiveness of the regulation regarding the jarimah khalwat facility providers in South Aceh is running properly and the regulations are also carried out in accordance with the rules so that it can have many positive impacts to reduce the khalwat facility providers who are still hanging around in the South Aceh area. And judging from the level of cases that the effectiveness of the regulation on konon number 6 of 2014 and reduce the presentation of khalwat cases from year to year. Therefore it can be concluded that the results of observations or interviews researchers say the level of effectiveness is successful.

CHAPTER V

CLOSING

A. Conclusion

Based on the research that the researchers have done and reinforced with the data obtained, the researchers concluded that:

1. The implementation of Sunction Qanun Number 6 Year 2014 actually for the successful implementation of this qanun in the field, such as having a strong legal basis, And there are several sanctions in the implementation of jarimah khalwat such as flogging there are 2 people in 2022 and one person in 2023, fines as many as 3 people and customary punishment as many as 6 people.
2. In addition to the supporting factors, it turns out that the implementation of Qanun No. 6/2014 also encountered obstacles that became obstacles in carrying it out namely Socialization, Support from TNI/POLRI ,and Support from Wilayatul Hisbah and the Inhibithing Factors are Limited Budget and Limited Facilities and Insfratructure caused by the implementatiton processs of Qanun Aceh Number 6 of 2014 especialy on *khalwat*.
3. The level of effectiveness of the regulation regarding the jarimah khalwat facility providers in South Aceh is running properly and the regulations are also carried out in accordance with the rules so that it can have many positive impacts to reduce the khalwat facility providers who are still hanging around in the South Aceh area. The

number of cases of khalwat facility providers has decreased from the calculation of the last 3 years, in 2021 the number of cases of khalwat facility providers amounted to 12 people, while in 2022 there were 8 people and in 2023 there were 5 people, it can be concluded that the effectiveness of qanun number 6 of 2014 is running well. And judging from the level of cases that the effectiveness of the regulation on konon number 6 of 2014 and reduce the presentation of khalwat cases from year to year. Therefore it can be concluded that the results of observations or interviews researchers say the level of effectiveness is successful.

B. Implication of Research Result

The implementation of article 23 paragraph 2 found in Qanun number 6 of 2014 can strengthen local identity and maintain a distinctive cultural heritage in the context of village communities. And strengthen the existing Islamic law in Aceh Province so that the parties involved in providing khalwat places.

The results of this research can serve as a foundation to unite the norms of Islamic law and local values, reduce disputes and increase harmony between customary law and Islamic law. And the local government can use the results of this study as a basis for developing local policies that support harmonization between Islamic law and Qanun that have been given to the Aceh province to ensure justice and the implementation of Article 23 paragraph 2 has provided more or less what is the reason behind the many

cases of khalwat facility providers even though the Qanu regulation number 6 of 2014 has been in effect.

C. ADVICE

In order to make the implementation of Qanun No. 6/2014 more effective in terms of preventing promiscuity in Runding Sub-district, the author suggests the following:

1. Mahkamah Syariah Tapaktuan to further optimize the handling and impose penalties in accordance with the provisions and think about the impact of the deterrent effect on the defendants so that the defendants are more considering if they commit jarimah, especially the khalwat facility provider.
2. To law enforcement officials such as the Police, the TNI and the prosecutor's office in order to better support and help facilitate and conduct checks on suspected places, in order to maintain optimization.
3. Wilayatul Hisbah / SATPOL PP to be more helpful in conducting raids and checking for the existence of jarimah khalwat and khalwat facility providers and more checking places that are far from community predictions and have land to be used as a place of immorality, and to optimize the raid process and better organize a routine raid schedule in order to curate the occurrence of khalwat / pervert.

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15/02/2024

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Lampiran : -
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Penyelesaian Skripsi**

30 Januari 2024

Yth. Kepala Satpol PP dan WH Aceh Selatan

Assalamu'alaikum Wr.Wb.

Dengan hormat, Dekan Fakultas Syariah dan Ilmu Hukum Universitas Islam Negeri Syekh Ali Hasan Ahmad Addary Padangsidimpuan menerangkan bahwa:

Nama : Yuni Fauziah Putri
NIM : 2010700009
Fakultas/Jurusan : Syariah dan Ilmu Hukum / Hukum Pidana Islam
Alamat : Lingkungan IV Pargarutan Baru
No Telpn/ HP : 081269837479

adalah benar mahasiswa Fakultas Syariah dan Ilmu Hukum Universitas Islam Negeri Syekh Ali Hasan Ahmad Addary Padangsidimpuan yang sedang menyelesaikan penulisan Skripsi mahasiswa dengan judul **"Implementation Of Stipulation Of Article 23 Paragraph 2 Qanun Aceh Number 6 Of 2014 Concerning Khalwat Facility Provider In Aceh Province"**.

Sehubungan dengan itu, dimohon bantuan Bapak untuk memberikan data dan informasi sesuai dengan maksud judul Skripsi di atas.

Demikian kami sampaikan, atas kerjasamanya kami ucapkan terima kasih.



Dekan
Bag Tata Usaha,

Wan Rofikin, S.Ag

NIP 197202212000031004



**MAHKAMAH AGUNG REPUBLIK INDONESIA
DIREKTORAT JENDERAL BADAN PERADILAN AGAMA
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SURAT KETERANGAN TELAH MELAKSANAKAN PENELITIAN

Nomor :555/KMS.W1-A8/HM.1.1.1/III/2024

Yang bertanda tangan di bawah ini, Ketua Mahkamah Syar'iyah Tapaktuan dengan ini menerangkan bahwa :

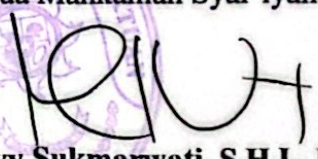
Nama/NIM : Yuni Fauziah Putri/2010700009;
Universitas : UIN Syekh Ali Hasan Ahmad Addary Padang Sidempuan;
Fakultas/Jurusan : Syariah dan Ilmu Hukum/Hukum Pidana Islam;
Judul : "Implementation Of Stipulation Of Article 23 Paragraph 2
Qanun Of 2014 Concerning Khalwat Facility Provider In
Aceh Province";

Bahwa benar nama tersebut di atas telah selesai melakukan Penelitian Ilmiah, wawancara dengan Hakim pada Mahkamah Syar'iyah Tapaktuan, dan juga telah diberikan data yang diperlukan untuk kepentingan penelitian;

Demikian surat keterangan ini dibuat untuk dipergunakan seperlunya.

Tapaktuan, 04 Maret 2024

Ketua Mahkamah Syar'iyah Tapaktuan,


Ervy Sukmarwati, S.H.I., M.H.



No : B-354/Un.28/D/PP.00.9/12 /2023
Lamp : -
Subject : *Title Endorsement and Thesis Supervisor*
Dear Mr. :

19 December 2023

1. Prof. Dr. H. Fatahuddin Aziz Siregar, M.Ag.
2. Dr. Ikhwanuddin Harahap, M.Ag.

Assala:nu'alaikum Warahmatullahi Wabarakatuh

Respectfully, it is conveyed to you that based on the results of the Thesis Title Feasibility Review Team, the Student Thesis Title has been determined below:

Name : Yuni Fauziah Putri
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Sem/T.A : VII (Seven) 2023-2024
Faculty/Department : Sharia and Law / Islamic Criminal Law
Thesis Title : **Implementation of the stipulation of article 23 paragraph 2 of Qanun Aceh Number 6 of 2014 concerning Khalwat facility provider in Aceh Province**

Along with this, we expect your willingness to become Supervisor I and Supervisor II of the student's thesis writing research.

Thus conveyed, for your willingness and good cooperation from you, we thank you.

Wa'alaikumsalam Warahmatullahi Wabarakatuh

Dean,



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IV. Life Motto:

"You don't need to be great to start something. Do it now and don't ever put off because the chance may not come twice"

"Only you that can change your life , no one can do it "

"Dan Bersabarlah , sesungguhnya janji Allah adalah Benar "
(Q.S Ar-Ruum: 60)

"Allah does not burden a person but according to his ability"
(Q.S Al-Baqarah 286)

"Selalu ada harga dalam sebuah proses. Nikmati saja lelah-lelah itu. Lebarakan lagi rasa sabar itu, Semua yg kau investasikan untuk menjadikanmu serupa seperti yang kau inginkan , Mungkin tidak akan berjalan lancar. Tapi gelombang – gelombang itu yang bisa kau ceritakan"

(Boy Candra)

"Sedari kecil dibentuk untuk menjadi mesin penghancur badai, maka tak mungkin diri ini tumbang hanya karena perkataan manusia"

(Yuni Fauziah)

Padangsidempuan, July 2024

YUNI FAUZIAH PUTRI

DOCUMENTATION

1. INTERVIEWS WITH Mrs. ERVY SUKMARWATI M.A



2. FLOGGING



3. Overview with Public Village

