

## **The Existence and Implementation of Customary Law in Acehese Society Viewed from a Juridical Perspective**

**Theodore Daniel Sebastian Manogu Sitompul<sup>1</sup>, Mohamad Haikal Rahmadia<sup>2</sup>, Raden Dzaky Muhtadi Abhista Suparba<sup>3</sup>, Muhammad Rayhan Fasya Akbar<sup>4</sup>, Muhamad Arif Fadhilah<sup>5</sup>, Fara Aulia, Mulyadi<sup>6</sup>**

Universitas Pembangunan Nasional Veteran Jakarta

---

### **Article Info**

#### **Article history:**

Accepted: 21 June 2024

Publish: 1 September 2024

---

#### **Keywords:**

Islam;

Culture;

And Acehese Society.

---

### **Abstract**

*This research examines the existence and implementation of customary law in Acehese society through a normative juridical approach. Aceh is a province whose capital is Banda Aceh, and is located at the northern tip of the island of Sumatra. Aceh has a long history as a center for the spread, culture and religion of Islam in Indonesia, so it is called the "Veranda of Mecca" which differentiates it from other provinces in Indonesia. Researchers use qualitative engineering research methods which aim to analyze the topics discussed and relate them to applicable cases or laws. Research findings reveal that customary law still has significant power and relevance in resolving conflicts, maintaining traditions, and regulating the social life of the Acehese people. However, challenges in implementing customary law were also identified, including harmonization with national legal systems and social and economic changes. Therefore, this research presents a comprehensive picture of how customary law interacts with the modern legal system in Aceh and its juridical implications for Acehese society.*

*This is an open access article under the [Lisensi Creative Commons Atribusi-BerbagiSerupa 4.0 Internasional](https://creativecommons.org/licenses/by-sa/4.0/)*



---

#### **Corresponding Author:**

Theodore Daniel Sebastian Manogu Sitompul

Email: [2210611454@mahasiswa.upnvi.ac.id](mailto:2210611454@mahasiswa.upnvi.ac.id)

---

## **1. INTRODUCTION**

As a right of the Aceh Province which is a special region, the Aceh Province has the authority to implement applicable laws. This has been in effect since December 19 2000 for the reason of preventing the separation of Aceh from the Republic of Indonesia where the turmoil of the Free Aceh Movement had reached its peak. Acehese customary law is customary law that refers to the provisions of the Koran and Hadith. However, the implementation of Islamic Sharia law in Aceh received a lot of reactions from the public. Pros and cons regarding this issue. It is also important to note that in implementing customary law in Aceh Province, the government must pay attention to the social, cultural and political context that exists in the area. This means that the government needs to adopt an approach that is sensitive to the diversity and complexity of Acehese society. In implementing customary law, the Aceh government also needs to ensure that there is a clear mechanism for resolving conflicts or differences of opinion that may arise in the process of implementing customary law. Mechanisms such as customary courts or mediation institutions can be effective means for resolving disputes fairly and transparently.

Furthermore, it is important to continue monitoring and evaluating the implementation of customary law in Aceh to ensure that no discriminatory practices or abuse of power occur. The government must be actively involved in the process of monitoring and imposing sanctions on human rights violations or practices that are inconsistent with the principles of justice. The government also needs to increase accessibility to the formal justice system for non-Muslim Acehese who may face difficulties in obtaining legal protection. This includes the provision of adequate legal aid services and the organization of judicial processes that are friendly to religious and cultural diversity.

In this way, the Aceh government can achieve its goal of implementing customary law

without social discrimination against non-Muslim communities by adopting an approach that is inclusive, sensitive to diversity, and based on the principles of human rights and universal justice. This will ensure that the existence of customary law can support harmony and mutual progress for all Acehese citizens, regardless of religion or belief. This continues to be raised by community groups who consider that this action constitutes social discrimination against the non-Muslim community in Aceh. In this discussion, we will explain how the Aceh government implements its customary laws without any acts of social discrimination.

#### 1.2 Formulation of the problem

Based on this background, several problem formulations that we will discuss are as follows:

1. What is the history of the existence of customary law in Acehese society?
2. How is the implementation or application of customary law in Acehese society?
3. Does the customary law that applies in Aceh have substance that is in accordance with the national law that applies in Indonesia?

#### 1.3 Our purposes

Based on the background and problem formulation explained above, we formulate the aim of explaining the problem to be discussed in this journal as follows:

For now what is the history of the formation of customary law in Acehese society.

1. To find out how customary law is implemented in Acehese society and when customary law will be used.
2. To find out whether the customary laws that exist in Acehese society have substance that is in accordance with the laws that apply in Indonesia.

### 3. RESEARCH METHOD

The research method used in this research is normative juridical. Normative juridical is an approach based on the main legal material by examining theories, concepts, legal principles and statutory regulations related to this research.

Data collection techniques are carried out using qualitative techniques which aim to analyze the topics discussed and relate them to cases or applicable law, where researchers carry out library legal research which is carried out by examining library materials or secondary data, such as books, scientific articles and the internet. With this method we can research this topic objectively and can describe events according to the facts in the field.

### 4. LITERATURE REVIEW

#### EXISTENCE

Existence, which is also often referred to as existence, is one of the most basic concepts in the world of human thought. Over time, the definition of existence has become the object of deep debate and intensive study by experts from various scientific disciplines, including philosophy, psychology, and sociology. Within the framework of philosophical thought, existence is the main focus for many philosophers who try to understand the meaning and purpose of human life. Meanwhile, in the field of psychology, existence forms the basis of concepts such as self-awareness and the search for the meaning of life. Apart from that, in a sociological perspective, existence is studied in the context of social structure and human interaction in society. From the point of view of various experts, existence is a complex subject in terms of definition, interpretation and implications in human life. The following are several examples of definitions of existence according to experts:

Martin Heidegger: In his famous work "Being and Time" (1927), Heidegger defines

existence as the essence of human existence. For him, existence involves understanding death and the meaning of life, as well as questions about being (Dasein) and time.

Abidin Zaenal: In his work "Philosophy of Existence" (2007), Zaenal defines existence as a dynamic process, a "becoming" or "existing". Existence is not rigid and stops, but is flexible and experiences development or decline, depending on the ability to actualize its potential.

Jean-Paul Sartre: an existentialist philosopher, Sartre defined existence as the reality of individuals who are free to create their own meaning of life through choices and actions of individual freedom and responsibility.

Carl Rogers: as a humanistic psychologist, Rogers linked existence to the concept of self-actualization or self-actualization. In his book "On Becoming a Person: A Therapist's View of Psychotherapy" (1961), he described existence as a process in which individuals pursue their full potential to become their true selves.

Viktor Frankl: Frankl was a psychiatrist and founder of logotherapy, viewing existence as a search for the meaning of life. In his work "Man's Search for Meaning" (1946), he emphasized the importance of finding meaning in life's suffering and challenges.

## IMPLEMENTATION

Implementation is a policy that refers to the actions of individuals, groups, or governments in a certain environment, in relation to certain obstacles, while looking for opportunities to achieve goals or achieve desired goals, thereby achieving goals. Implementation is the implementation of a decision or order that has been established, usually in the form of a law, order, or important executive decision or from another body of thought. Implementation refers to actions to achieve predetermined goals, which can be in the form of actions, system mechanisms, or means that lead to a result or consequence. Implementation is a process that is carried out without any restrictions in various fields, starting from education, society, politics, technology, health, information, and others. As in the Aceh regulations that apply within the community itself, these are regulations made by the Aceh government which function to enforce order within its territory. Islamic law in Aceh is stipulated through qanuns which have the status of regional regulations. The implementation of Islamic Sharia in Aceh is regulated in Law Number 18 of 2001 concerning Special Autonomy for the Special Region of Aceh Province. The people of Aceh will use national law if the problem does not originate from their culture or customary law. The sharia law in Aceh, which is regulated in the Qanun, only regulates caning, which applies to offenses such as the production, distribution and consumption of alcoholic beverages, gambling, adultery, making out outside of marriage and same-sex sex. Implementation according to experts is as follows:

Grindle (Mulyadi, 2015:47), "states that implementation is a general process of administrative action that can be researched at a specific program level".

Ekawati (Taufik and Isril, 2013: 136) states, "that implementation explicitly includes actions by private (private) and public individuals/groups that directly achieve a series of continuous goals in previously determined policy decisions.

Horn (Tahir, 2014: 55), "interprets implementation as actions carried out by either individuals/officials or government or private groups that are directed at achieving the goals outlined in the policy.

Widodo (Syahida, 2014: 10), "implementation means providing the means to implement a policy and can have an impact/consequence on something"

Gordon (Mulyadi, 2015:24) states, "implementation concerns various activities directed at program realization."

So, it can be underlined that according to experts, implementation is an important

process in developing, testing and using technology or systems. Experienced and skilled experts can help in developing, testing and implementing technology or systems that are truly beneficial to society.

## CUSTOMARY LAW

Laws are regulations that are coercive in nature, which determine human behavior in the social environment made by official authorities, violations of these regulations result in action being taken, namely certain punishments.

According to JCT Simorangkir and Woerjono Sastropranoto, law is a regulation that is coercive in nature, which determines human behavior in the social environment made by official authorities, violations of this regulation result in action being taken, namely by punishment.

According to Soerjono Soekanto, law is a branch of science that analytically and empirically analyzes or studies the reciprocal relationship between law and other phenomena.

Customs are cultural ideas consisting of cultural values, norms, habits, institutions and customary laws that are commonly practiced in an area.

According to Soekanto, customs have a strong influence and ties in society. These ties depend on and support habits in society.

According to Koen Cakraningrat, custom is a form of embodiment of culture or an image of a code of conduct. Customs are unwritten norms or rules, but their existence is binding. Someone who violates will be subject to sanctions.

Customary law is customary law or a synonym for unwritten law. Law is a convention in state legal bodies, and life is a customary rule in city and village life.

Harjito explained that customary law is unwritten law. Society considers customs to be a guide to life for justice and prosperity.

## METHOD

This writing is a perspective of the problem object that will be discussed. The approach method used is normative law. Normative legal research does not always have the connotation of juridical norm research. In general, juridical norm research is understood to only be legal research that is limited to the norms contained in statutory regulations. Meanwhile, normative legal research is broader. According to Johnny Ibrahim, normative legal research is a scientific research procedure to find the truth based on scientific logic from the normative side. The normative side here is not limited to statutory regulations only. The data collection technique is library research which is the main method.

## 5. DISCUSSION

### 3.1 HISTORY OF THE EXISTENCE OF CUSTOMARY LAW IN ACEH SOCIETY

Customary law in Aceh is like a string of sparkling pearls in the cultural mosaic of the Veranda of Mecca. Behind its luster, lies a long story about the evolution of norms and values that are embedded in the souls of the Acehnese people. Tracing the history of customary law in Aceh means delving into the journey of civilization, following in the footsteps of ancestors, and understanding the identity engraved in every rule and tradition.

Long before the era of the Samudera Pasai Sultanate, the embryo of customary law had grown and developed in the lives of the Acehnese people. At that time, traditional communities lived by a set of rules and norms that were passed down from generation

to generation. Noble values such as deliberation for consensus, mutual cooperation and respect for ancestors are the main foundations of social life.

The arrival of Islam in the 13th century was a monumental turning point in the development of customary law in Aceh. Islamic Sharia, with its universal values, was integrated with existing customary law, giving birth to "Adat Meukuta Alam". This combination resulted in a unique legal system, combining local traditions with Islamic values, and became a guide for the people of Aceh in various aspects of life.

### **The Uniqueness of Meukuta Alam Customary Law:**

Customary law in Aceh, known as Adat Meukuta Alam, has several unique features that differentiate it from customary law systems in other regions of Indonesia. These uniqueness include:

- **Integration with Islamic Sharia:**The arrival of Islam in Aceh in the 13th century had a major impact on customary law. Islamic values are integrated with existing customary law, resulting in a legal system that combines local traditions with Islamic principles. This is clearly seen in the name "Adat Meukuta Alam" which means "Law based on Allah's Guidance".
- **Role of Traditional Institutions:**Problem solving and enforcement of customary law in Aceh involve strong customary institutions. This institution consists of respected community figures, such as Teungku (ulama), Imams, and Penghulu. They act as mediators in resolving disputes and implementing customary sanctions.
- **Deliberation:**The principle of deliberation and consensus is a fundamental value in solving problems according to Acehnese customary law. Conflicting parties are encouraged to discuss and find peaceful solutions through traditional institutions.
- **Customary Sanctions:**Acehnese customary law has its own system of sanctions for violations that occur. These sanctions vary, ranging from verbal warnings, fines to ostracism from society. The selection of sanctions is considered based on the severity of the violation and the aim of restoring social harmony.

### **Functions and Important Roles of Customary Law in Aceh:**

Customary law in Aceh not only regulates the procedures for daily life, but also covers various other important aspects, such as:

- **Civil law:**regulates marriage, inheritance and property rights.
- **Criminal law:**regulates violations and sanctions.
- **Constitutional law:**regulates the structure of government and relations between traditional institutions.
- **Economic laws:**regulates trade, agriculture and fisheries.

Customary law in Aceh has an important role in various aspects of community life, including:

- **Maintaining Social Stability:** Customary law acts as a guide for society in resolving various problems and disputes, such as land, inheritance and marriage disputes. This helps maintain social stability and harmony in society.
- **Preserving culture:**Customary law is a forum for Aceh's cultural values and traditions to be preserved and transmitted between generations. Traditional rules and customs reflect the noble values of Acehnese society, such as deliberation for consensus, mutual cooperation, and respect for ancestors.
- **Strengthening Identity:**The Meukuta Alam tradition is part of the identity of the Acehnese people and differentiates them from other groups. The existence of customary law helps maintain a sense of unity and cohesiveness of the Acehnese

people.

- **Source of law:** Customary law is recognized as a source of law in Indonesia and is the basis for resolving cases in the Aceh region. This strengthens the national legal system and provides space for the application of laws that are appropriate to the culture and needs of local communities.
- **Promoting Peace:** The values of deliberation to reach consensus and peaceful conflict resolution contained in customary law help create peace in Aceh. The tradition of dialogue and negotiation in resolving disputes helps defuse tensions and re-establish harmonious relations.

### **Challenges and Efforts to Preserve Customary Law in the Modern Era**

Customary law in Aceh, although it has an important role in people's lives, is also faced with various challenges in the modern era, including:

**Globalization:** The influence of globalization can erode the values and traditions that underlie customary law. Modernization and social change can trigger a shift in values and norms in society. Lack of education and understanding of customary law among the younger generation.

### **Efforts to Preserve Customary Law:**

Efforts to preserve customary law are a shared responsibility to ensure that the noble values and cultural identity of Aceh are maintained. This effort can be done through:

- **Documentation:** Written and digital documentation of customary law.
- **Education:** Socialization and education about customary law in schools and communities.
- **Study:** Scientific study and research on customary law.
- **Young Generation Involvement:** Involving the younger generation in activities and preserving customary law.

### **Examples of Application of Customary Law:**

Customary law in Aceh is applied in various aspects of community life, such as:

- **Inheritance law:** Meukuta Alam custom regulates the distribution of inheritance which is different from national law.
- **Dispute resolution:** Disputes between individuals or groups in Acehnese society are generally resolved through consensus deliberation based on customary law.
- **Traditional ceremonies:** Various traditional ceremonies in Aceh, such as weddings and deaths, are based on customary law.
- **Natural resource management:** Customary law regulates the use and management of natural resources in a sustainable and fair manner.

## **3.2 IMPLEMENTATION OF CUSTOMARY LAW IN ACEH SOCIETY**

In Acehnese society, apart from the application of Islamic law, Acehnese society is also famous for its customs which are regulated based on Aceh Qanun Number 9 of 2008 concerning the Development of Traditional Life and Customs ("Qanun Adat Istiadat"), which also regulates the application of customary law in Aceh. Customary law can be interpreted as a set of unwritten provisions that live and develop in Acehnese society, which have sanctions if violated and whose application still takes into account Islamic values. Traditional life and customs are fostered and developed by the Traditional Council and Acehnese traditional institutions, including the granting of honorary degrees and Acehnese traditional ceremonies, all carried out under the

supervision of the Wali Nanggroe Institution. In Aceh, traditional institutions are formed from customary law communities where traditional stakeholders have positions within them and have the authority to reconcile problems that arise in society and enforce customary law. To ratify a qanun, approval is required from the Aceh People's Representative Council (DPRA) and the governor. Islamic law in Aceh is stipulated through qanuns which have the status of regional regulations. Efforts to implement Islamic law through state law have been carried out in Indonesia in stages for decades, including in Aceh. Islamic law in Aceh is in accordance with positive law in Indonesia. The legal system in Aceh is due to ethnic diversity and the application of different customary laws. The implementation of Islamic Sharia in Aceh is regulated in Law Number 18 of 2001 concerning Special Autonomy for the Special Region of Aceh Province. The people of Aceh will use national law if the problem does not originate from their culture or customary law. However, if the problem is related to customary law, the people of Aceh will use that customary law.

The resolution of customary and customary disputes is carried out in stages, that is, it is resolved amicably first, if this fails, it will be brought to customary resolution and can reach the realm of applicable law in Indonesia. The aim of the Customary Court is to foster and develop traditional life and customs according to Aceh Qanun No. 9 of 2008 aims to foster and develop traditional life and customs according to Aceh Qanun no. 9 of 2008 aims to create a harmonious social order, provide guidelines for organizing social life, foster a strong and dignified traditional community order, maintain, preserve and protect traditional treasures, culture, regional languages and traditional heritage, revitalize customs, arts and culture. a language that lives and develops in Aceh and creates creativity that can provide economic benefits for the welfare of society, this is in accordance with Allah SWT's design that world life is a test for humans, so every human soul is equipped with two life potentials. The potential to accept the truth and the potential to reject the truth and the potential to do good deeds (piety) and the potential to do evil (fujūr).

Customary law in Aceh is used in certain situations and certain problems, such as in matters that are not related to Islamic law or national law. This customary law aims to meet the diverse and culturally based needs of the Acehnese people. The application of customary law in Aceh depends on regional government decisions, which can be made through regional regulations or regional regulations. Aceh Province is the only province in Indonesia that applies sharia which refers to the provisions of Islamic criminal law, which is also called jinayat law. The regional regulation that implements it is called Aceh Qanun No. 6 of 2014 concerning Jinayat Law. Although most secular Indonesian laws continue to apply in Aceh, the provincial government can implement some additional regulations derived from Islamic criminal law. The Indonesian government officially allows each province to enact regional regulations, but Aceh gets special autonomy with additional permission to implement laws based on Islamic sharia as formal law. The sharia law in Aceh, which is regulated in the Qanun, only regulates caning, which applies to violations such as the production, distribution and consumption of alcoholic beverages, gambling, adultery, making out outside of marriage and same-sex (LGBT) sex. and so on related to other disputes that violate Islamic law and customs in Aceh. So that every perpetrator of an offense who is prosecuted under this law will be punished by caning, a fine and even imprisonment. So applying sanctions to the perpetrators must first be resolved in a friendly manner first, if this fails, it will be brought to a customary settlement and could also reach the legal realm that applies according to the laws in this country. The implementation of the caning law in Aceh is a punishment that has been determined by the Aceh government. The law of flogging

applies to citizens who violate Islamic law. Violations that result in caning include adultery or illegal intimate relations and other behavior that violates Islamic law. The famous law in Aceh, namely the execution of the caning law in Aceh, is implemented by the government and applies to someone who violates Article 33 Paragraph (1) Aceh Qanun Number 6 of 2104, such as the jinayat law, which happened to two individuals who were sentenced to 30 lashes.

In the implementation of customary law in Aceh, there are various legal enforcements imposed in various criminal cases given by the Sultanate of Aceh. The punishments imposed as a solution to problems certainly vary, especially if we look at them from the perspective of criminology or the laws that apply in Indonesia. So it can be underlined that there are several differences between the resolution of criminal acts from a customary law perspective and the law that applies in Indonesia. In Customary Law, especially in Aceh, no more attention is placed on human rights violations in the imposition of punishment for a perpetrator of a crime. However, if you use the law that applies in Indonesia, there are still human rights elements that must be taken into account when giving punishment to perpetrators of crimes. In imposing sentences, customary law relies more on customs that already exist in the area. In Aceh itself, the imposition of sentences relies on the Aceh Law Book or what is usually called Qanun. Meanwhile, from a legal perspective in force in Indonesia, it is more based on laws that have been created and approved for their implementation by state officials. However, in practice, customary law is applied more fairly because it does not look at the social status of the perpetrator of the crime. So that means, whoever the perpetrator of the crime, whether the perpetrator comes from a sultanate family, the perpetrator will receive the same punishment as other people in society. Meanwhile, in the implementation of punishment from the legal perspective in force in Indonesia, there are still criminals who receive preferential treatment from the government. In practice, customary law in Aceh in resolving criminal acts has a very strong basis in applicable history and Islamic law which also applies in Aceh. The regulations that apply within the community itself are regulations made by the Aceh government which function to enforce order within its territory. These regulations are known to be harsh and prioritize a deterrent effect for people who commit criminal acts, without paying attention to the human rights that perpetrators of these criminal acts have as human beings and so the customary law that applies in Aceh has a method of resolution that is inversely proportional to the perspective of Indonesian law. In the customary law that applies in Aceh, punishment is given priority which can have a deterrent effect on people who commit criminal acts and prevent the emergence of intentions to commit crimes. Meanwhile, from the legal perspective that applies in Indonesia, imposing punishment for perpetrators of criminal acts can have a deterrent effect and also prioritize and pay attention to the implementation of human rights. So the law in force in Indonesia in this case does not approve and justify giving punishment to perpetrators of criminal acts that disregard human rights.

### **3.3 THE SUBSTANCE OF CUSTOMARY LAW IN ACEH SOCIETY REVIEWED FROM APPLICABLE NATIONAL LAW**

Aceh is included in the territory of the Unitary State of the Republic of Indonesia, which means that Indonesia recognizes the existence of Acehnese customs, including its customary law. However, if we look at the national law that applies in Indonesia, is Aceh's customary law in harmony with or contrary to our national law? It should be noted that, in general, national law is the legal regulations that apply in a country which include principles and regulations that must be obeyed by all the people of a country.



The national legal system was formed from the process of developing, discovering and adapting a number of existing systems and this national law is very influential throughout Indonesia because it is based on Pancasila and the 1945 Constitution. To find out whether customary law in Aceh is in harmony with or contrary to national law, here we use an example of customary law that is still valid in Aceh. Based on the social and historical background and technically the deliberation process that preceded the implementation of Islamic law throughout the Nanggroe Aceh Darussalam (NAD) Province, it can be concluded that the enforcement of Islamic law in general and the application of caning do not conflict with the value of legal justice and human rights. However, due to the limitations of human capacity in mobilizing the operation of the law, there has indeed been a practice of law enforcement that is "selective logging". Thus, stopping caning is only possible if it has passed a judicial review at the Supreme Court, or a legislative review at the House of Representatives, and can also be done through an executive review.

Then, one example of customary law in Aceh that is still in force is Tiered customary law. Sanctions from this tiered law apply according to the mistakes we make or according to their level. In other words, the worse our mistake, the greater the sanctions we will receive. These sanctions take various forms, from light sanctions to heavy sanctions, from reprimands or warnings, apologizing in public, being ostracized by the local community, being expelled from the community area, and physical punishment. We already know about sanctions in the form of physical punishment and are quite well known and are also characteristic of Aceh, namely caning. To determine whether the perpetrator of this crime will be given light or heavy sanctions, depending on the decision that has been discussed together with the Gampong head or some form of traditional head.

An example of a case that has occurred is the caning punishment for perpetrators of lewd acts in Langsa City. As we know, obscene acts are bad behavior, especially in Aceh, where the majority of people are Muslim. This perverted act was carried out by a pair of men and women with the initials D and I. In accordance with the provisions of Aceh Qanun Law Number 6 of 2014 concerning Jinayat Law, they were each sentenced to 100 lashes which were carried out in public and carried out by Satpol PP and Wilayatul Hisbah Langsa City.

From this case, we assess that customary law in Aceh is in harmony with national law. With such sanctions, it will be good because it will have a deterrent effect on the perpetrators of crimes, give a deep sense of shame and regret to the perpetrators, and provide a warning to other people in society that anyone who dares to commit a disgraceful act will suffer the consequences, and that is the expected effect when this punishment is carried out. However, if viewed from a human rights perspective, this is a violation because it appears to be degrading human dignity and is not in accordance with International Human Rights and Law Number 39 of 1999 concerning Human Rights. However, in substance the law of flogging in regulations does not violate human rights because it has a basis, namely in article 18 B paragraph 2 of the 1945 Constitution. This article states that "the State recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law." The Criminal Code also contains written provisions regarding criminal cases but does not exclude customary law that applies in every region in Indonesia. Acehese customary law, especially the whipping law, is always controversial because there will be pros and cons in assessing this punishment, depending on which side we look at. If we look at it from human rights, it is clear that

this violates human rights, but according to existing regulations, it is actually legal for this caning to be carried out.

## 6. CLOSING

### CONCLUSION

The conclusion from what has been explained above is that customary law in Aceh is an inseparable part of the cultural and historical heritage of the Acehnese people. In its evolution, Acehnese customary law, which is reflected in Adat Meukuta Alam, has reflected harmonization between local traditions and Islamic teachings. This legal system is not only a normative basis, but also reflects the noble values and traditions that enrich the identity of the Acehnese people.

Customary law in Aceh has a central role in shaping and regulating various aspects of community life, including civil law, criminal law, constitutional law and economic law. Its main functions involve maintaining social stability, preserving culture, strengthening identity, serving as a source of law, and promoting peace.

Despite its important role, customary law in Aceh faces challenges in the modern era, such as the influence of globalization and a lack of understanding by the younger generation. Therefore, conservation efforts are crucial, involving documentation, education, research and involvement of the younger generation. By understanding, preserving and developing customary law, the people of Aceh can remain rooted in traditional values while facing the dynamics of changing times.

Acehnese society not only applies Islamic law as a source of law, there are also customs regulated by Qanun Aceh Number 9 of 2008. This customary law is an unwritten law that lives and develops in Acehnese society, which also has sanctions if it is violated and still pay attention to Islamic values in it. The Acehnese Traditional Council and traditional institutions, including the Wali Nanggroe Institution, are responsible for fostering and developing traditional customs. Acehnese traditional institutions were formed from customary law communities where traditional stakeholders have positions and authority to resolve problems and enforce customary law. To ratify a qanun, it must go through approval from the Aceh People's Representative Council (DRPA) and the Aceh governor.

Islamic law in Aceh is stipulated through qanuns which have the status of regional regulations. Efforts to implement Islamic law have been carried out in stages in Indonesia, including in Aceh, which is regulated in Law number 18 of 2001 concerning Special Autonomy for the Special Region of Aceh Province. National law still applies in Aceh, to deal with issues unrelated to their culture or customary laws. However, for problems that are still related to elements of their customs, the Acehnese people will use their customary laws. The resolution of Aceh's traditional disputes is carried out in stages, starting from amicable settlement, then if it fails, it will be brought to a customary settlement, until if the custom still fails it will proceed to the legal realm in force in Indonesia. The aim of creating customary justice is to foster and develop traditional life and customs in accordance with Aceh Qanun No. 09 of 2008.

Customary law in Aceh is used in certain situations that are not related to Islamic or national law, and aims to meet the diverse and culturally based needs of Acehnese society. Aceh Province implements Islamic law with Qanun Aceh no. 6 of 2014 concerning Jinayat Law, which regulates caning penalties for certain offenses. The application of customary law in Aceh is different from the law in force in Indonesia, especially in imposing penalties. Customary law prioritizes customs that already exist in the area, while national law refers to laws approved by the government. However, customary law is considered fairer because it does not look at the social status of the perpetrator of the crime, while

ational law sometimes gives preferential treatment to perpetrators of crime.

In general, Aceh is included in the territory of the Unitary State of the Republic of Indonesia, which recognizes the existence of Acehnese customs, including its customary law. However, the question is whether Acehnese customary law is in harmony with or contrary to Indonesian national law. Despite the controversy and debate regarding alignment with national law or human rights values, customary law in Aceh remains a solid foundation for society in responding to current and future challenges. By maintaining harmonization between local traditions, Islamic values and modern needs, Acehnese customary law remains relevant as a foundation that guides people in living their daily lives.

## 7. REFERENCES

Airi Syafrizal, Penerapan Sanksi Adat Dalam Penyelesaian Perkara Pidana” (Suatu Penelitian Dalam Wilayah Masyarakat Hukum Adat Aceh, Kabupaten Nagan Raya), tesis dibawah bimbingan Dr. Taqwaddin, Program Pascasarjana Ilmu Hukum, Fakultas Hukum Universitas Syiah Kuala, Banda Aceh, 2012

Bryan A. Garner, Black’s Law Dictionary (Seventh Edition), Minn - St. Paul, West Group, 1999.

Frankl, Viktor E. (1946). *Man's Search for Meaning*. New York: Washington Square Press.

Heidegger, Martin. (1927). *Being and Time*. New York: Harper & Row.

Muhammad Alim, “Perda Bernuansa Syariah Dan Hubungannya Dengan Konstitusi”, dalam Jurnal Hukum FH UII Vol. 17 No. 1 Januari 2010.

Peran Hakim Agung sebagai pembaharu Hukum untuk Mewujudkan Pengadilan yang Bersih, Jurnal Hukum dan Keadilan MEDIASI, Fakultas Hukum Universitas

Muhammadiyah Aceh, Vol 1 No. 2 Mei 2011.. Taqwaddin, Budaya Hukum Penentu Keefektifan Hukum, makalah disampaikan pada acara Sosialisasi Undang-Undang Tindak Pidana Korupsi, dilaksanakan oleh Pusat Penyuluhan Hukum BPHN, Banda Aceh, 11 Mei 2010

Rogers, Carl R. (1961). *On Becoming a Person: A Therapist's View of Psychotherapy*. Boston: Houghton Mifflin.

Sartre, Jean-Paul. (1946). *Existentialism Is a Humanism*. New York: Philosophical Library.

William J. Chamblis & Robert B. Seidman dalam Satjipto Rahardjo, Penegakan Hukum Suatu Tinjauan Sosiologis, Yogyakarta, Genta Publishing, 2009.

Zaenal, Abidin. (2007). *Filsafat Eksistensialisme*. Jakarta: Pustaka Pelajar.