

Research Article

Coaching Without Going Through the Court Against Suspected Jarimah Violators By Satpol PP and Wh Lhokseumawe

Dirmawan Suryadi ^{1*}, Mohd. Din ², and Ali Abubakar ³

¹ Faculty Of Law, Universitas Syiah Kuala; e-mail : lenterailmuinstitute@gmail.com

² Faculty Of Law, Universitas Syiah Kuala; e-mail : m_din@usk.ac.id

³ Faculty Of Law, Universitas Syiah Kuala; e-mail : aliabubakar@ar-raniry.ac.id

* Corresponding Author : Dirmawan Suryadi

Abstract:

In Aceh, the provision of guidance is regulated in Articles 5 and 6 of Gubernur Regulation Number 139 of 2016, which states that the main task and function of the Civil Service Police Unit and Wilayatul Hisbah Aceh is the guidance function. Article 1 point 14 of Qanun Number 7 Year 2013 on Jinayat Procedure Law states that the function of Wilayatul Hisbah (WH) is to socialise, supervise, enforce, and foster the implementation of Islamic Sharia. Therefore, there is a problem of interpreting the authority of coaching carried out by Satpol PP and WH of Lhokseumawe City. This study aims to determine the legal basis for the coaching of suspected jarimah violators by Satpol PP and WH of Lhokseumawe City and the legal consequences of coaching suspected jarimah violators without going through the judicial process carried out by Satpol PP and WH of Lhokseumawe City. The research method used is empirical juridical. Data sources are obtained through interviews with respondents and informants. The results of this study indicate that the coaching carried out by Satpol PP and WH of Lhokseumawe city against suspected jarimah violators does not have a clear legal basis. The coaching carried out is only based on a statement signed by the alleged jarimah violator during the investigation and the legal consequences of coaching against jarimah offenders by Satpol PP and WH of Lhokseumawe City without going through the judicial process is carried out without a legal basis which results in serious legal consequences such as the coaching is not legally valid (can be cancelled), violates human rights, and can be sued civilly or criminally prosecuted and reduces public confidence in Sharia law.

Keywords: Guidance; Jarimah Offenders; Judicial Process; Lhokseumawe.

1. Introduction

Aceh is a province that has received special privileges since the enactment of Law No. 44/1999 on the Implementation of the Specialty of the Special Province of Aceh and Law No. 11/2006 on the Government of Aceh. There are four areas of Aceh's privileges, including the practice of religious life, the practice of customary life, the practice of education, and the opinion of the ulama in forming regional policies. Since the birth of regional autonomy, Aceh has become the first province to implement Islamic Shari'a in Indonesia (Kamarusdiana, 2016). One of Aceh's privileges is the implementation and application of Islamic Shari'ah.

In order to run Islamic Shari'a in Aceh, the government formed institutions that enforce Islamic Shari'a, one of which is the Civil Service Police Unit and Wilayatul Hisbah. The scholars gave the definition of al-hisbah calling for goodness and forbidding evil (al-amr al-ma'roof an-nhiyanul-munkar) (Humaira Sartika, 2022). Al-Mawardi also provides a definition of al-Hisbah as an imam that is in terms of supporting the good openly and in terms of preventing evil openly.

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The main tasks of the Aceh Civil Service Police and Wilayatul Hisbah Unit as stated in Article 5 of Aceh Governor Regulation Number 139 of 2016 concerning the Position, Organisational Structure, Duties, Functions and Work Procedures of the Aceh Civil Service Police and Wilayatul Hisbah Unit are explained that: The Satuan Polisi Pamong Praja dan Wilayatul Hisbah Aceh is tasked with carrying out government and development affairs in the field of Perda/Qanun enforcement, Community Protection, Public Order and Community Peace and Implementation of Islamic Sharia.

Furthermore, the function of the Aceh Pamong Praja and Wilayatul Hisbah Police Unit as stated in Article 6 of Aceh Governor Regulation Number 139 of 2016 concerning Position, Organisational Structure, Duties, Functions and Work Procedures of the Aceh Pamong Praja and Wilayatul Hisbah Police Unit is explained that to carry out the duties as referred to in Article 5, the Aceh Pamong Praja and Wilayatul Hisbah Police Unit has the function:

- Preparation and implementation of the enforcement of Aceh Qanun and Islamic Sharia, public order, tranquillity and community protection.
- Implementation of enforcement policies of regional regulations and regional heads.
- Implementation of public order and tranquillity policies.
- Implementation of community protection policies.
- Coordination of Qanun and regional regulation enforcement with the police, PPNS, and related apparatus.
- Management of the Aceh PPNS secretariat.
- Guidance and supervision of PPNS.
- Guidance and supervision of local government assets.
- Supervision of the community, apparatus, and legal entities to comply with regulations and Islamic Sharia.

Based on Article 5 and Article 6 of Governor Regulation Number 139 of 2016, it can be seen that the main tasks and functions of the Aceh Pamong Praja and Wilayatul Hisbah Police Unit do have a coaching function, but the coaching is not stated that the coaching in question is given to people or perpetrators of Jarimah. In addition, Governor Regulation Number 139 of 2016 also does not regulate the regulations and mechanisms for fostering the perpetrators of Jarimah.

Article 1 number 13 of Aceh Qanun Number 7 of 2013 concerning Jinayat Procedure Law mentions that what is meant by Wilayatul Hisbah, hereinafter referred to as WH, is part of the Civil Service Police Unit. Then Article 1 number 14 of Aceh Qanun Number 7 of 2013 concerning Jinayat Procedure Law states that Wilayatul Hisbah Police, hereinafter referred to as WH Police, are WH members who function to socialise, supervise, enforce and foster the implementation of Islamic Sharia.

The explanation above shows that the enforcement of Jinayat Law is carried out by law enforcement officials through a mechanism that has been regulated in the Jinayat Procedure Law, with limited authority. The Jinayat Procedure Law is part of the national judicial system, as stipulated in Law No. 44 Year 1999 and Law No. 11 Year 2006 which recognises Islamic Sharia courts as part of the national judicial system, which is implemented by the Syar'iyah Court independently.

Aceh Qanun No. 7/2013 on Jinayat Procedure Law provides law enforcement authority in accordance with the functions of each institution, with substance that is not different from the national criminal procedure law. In terms of criminal law politics, this qanun was drafted to realise justice and legal effectiveness. The jinayat justice system in Aceh involves the police, prosecutors, yar'iyah court, Wilayatul Hisbah, and advocates. In addition, this Qanun also adheres to the principle of legality, namely that an act cannot be punished unless based on the provisions of the criminal law that has existed before.

With the establishment of the justice system in Aceh, law enforcers have begun to carry out their duties in accordance with applicable regulations to ensure justice, legal certainty, and protection of public rights. In Lhokseumawe City, law enforcement against jarimah violators is carried out by Satpol PP and WH. However, there are still problems in the field, such as arresting, detaining, and coaching suspected violators without a court decision, which potentially violates the law.

Currently, the focus of this research is the coaching process carried out by Satpol PP and WH of Lhokseumawe City which is considered unlawful because coaching is carried out without a court decision. So that there is no trial examination process that proves whether a person is guilty or not, and is immediately given guidance. This is contrary to the principle of

presumption of innocence where people cannot be punished without an inkrah court decision.

According to Article 1 point 14 of Qanun No. 7 Year 2013, WH Police functions in the socialisation, supervision, enforcement, and guidance of the implementation of Islamic Sharia. However, there are problems in interpreting the authority of coaching by Satpol PP and WH of Lhokseumawe City, especially whether the authority includes coaching of suspected jarimah violators. If done without a court decision, this may violate the principle of presumption of innocence, because a person's guilty status can only be determined through a decision of the Syar'iyah Court.

The results of preliminary research conducted at the Satpol PP and WH of Lhokseumawe City show that there are a number of alleged jarimah violators who are given guidance by the Satpol PP and WH of Lhokseumawe City without a court decision. Throughout 2023, there were 236 cases that were directly guided by the Lhokseumawe City Satpol PP and WH against suspected violators of jarimah without going through the judicial process.

Based on the explanation above, it is interesting to conduct research related to what is the legal basis for the guidance of suspected jarimah violators by Satpol PP and WH of Lhokseumawe City and what are the legal consequences of the guidance of suspected jarimah violators without going through the judicial process carried out by Satpol PP and WH of Lhokseumawe City.

2. Research Method

This type of research uses empirical juridical, namely, research on the role of law enforcers in carrying out their functions, which discusses how the law works in society. The data used are primary data and secondary data. Data collection techniques using interview techniques and reviewing documents and laws related to this research. Furthermore, the data is processed and analysed with qualitative descriptive analysis techniques (Soerjono Soekanto, 2011). Based on the background above, the problem formulation in this research focuses on Guidance Without Going Through the Judiciary Against Suspected Jarimah Violators by Satpol PP and WH Lhokseumawe.

3. Results and Discussion

3.1. Legal Basis for Coaching Suspected Jarimah Violators by Satpol PP and WH of Lhokseumawe City

Law enforcement in Aceh is part of the implementation of national criminal law policy with a special criminal policy (Mul Irawan, 2019). Law enforcement consists of two stages, namely law enforcement in abstracto which is the stage of making or formulating laws by the legislature or called the legislative stage, and law enforcement in concreto which is the stage of applying or implementing laws by law enforcement officials or called the judicial stage (Vivi Ariyanti, G, 2019).

Criminal policy is a rational and organised effort of a society in crime prevention, which is an overall policy carried out through legislation and official bodies, which aims to enforce central norms in society in accordance with circumstances and situations (Dey Ravena and Kristian, 2017).

The implementation of Islamic Shari'a in Aceh which is based on Qanun Number 6 of 2014 concerning Jinayat Law and Qanun Number 7 of 2013 concerning Jinayat Procedure Law and has its own court (Sharia Court) in resolving all cases contained in the Jinayat Qanun is a form of Aceh's speciality. The existence of the Sharia Court in Aceh is part of the national judicial system, as contained in Article 128 of Law No. 11/2006 on the Government of Aceh.

The process of resolving cases against people who violate qanun jinayat is not much different from the process of resolving cases in the Criminal Code. The process of case settlement in qanun jinayat can be divided into several stages as follows:

- **Investigation Stage**

At this stage, investigator members from Wilayatul Hisbah conduct an objective investigation into the alleged jarimah committed by community members. The investigation referred to in Article 1 point 21 of Aceh Qanun Number 7 of 2013 concerning Jinayah Procedure Law is "a series of investigator actions in terms of and according to the methods regulated in the law and/or Qanun to seek and collect evidence with which the evidence makes light of the Jarimah that occurred in order to find the Suspect.

The investigation mechanism is that the Investigator makes an official report on the implementation of the Action in accordance with the Laws and Regulations. Then the Police Investigator submits the case file to the Public Prosecutor. The PPNS Investigator submits the case file to the Public Prosecutor and submits a copy to the Police Investigator. Submission of case files is carried out: (1) in the first stage the Investigator only submits the case file; and (2) after the Investigation is declared complete, the investigator submits responsibility for the Suspect and evidence to the Public Prosecutor.

- **Prosecution Stage**

Prosecution is a public prosecutor's action to submit a jinayat case to the competent Syar'iyah Court in the terms and in the manner provided for in the Law and/or Qanun with a request that it be examined and decided by a judge at the Court session. According to Article 1 point 3 of Law No. 16/2004 on the Prosecutor's Office, prosecution is defined as a public prosecutor's action to submit a case to the competent district court with a request that it be examined and decided by a judge at a court hearing in the terms and methods regulated in the Criminal Procedure Law.

The prosecution process in Qanun No. 7/2013 is basically similar to KUHAP. The prosecutor has the authority to prosecute the perpetrators of jarimah by submitting the case to the District/City Syar'iyah Court. After receiving the file from the investigator, the prosecutor examines it within 7 days and notifies it of its completeness. If incomplete, the file is returned to the investigator for completion within 14 days. Once complete, the prosecutor assesses whether the case is suitable for prosecution. If so, the prosecutor immediately drafts an indictment. If not, the prosecutor issues a decree of discontinuation of prosecution and the suspect must be released if detained. This letter is delivered to the relevant parties. If a novum is found, the prosecution can be resumed.

If the public prosecutor receives a case file containing several offences committed by several suspects that do not fall under the provisions of Article 137 of Aceh Qanun No. 7/2013, the public prosecutor may prosecute each defendant separately. The public prosecutor submits the case to the Syar'iyah Court with a request to immediately hear the case accompanied by an indictment.

- **Trial stage**

At this stage the perpetrator of the criminal offence is sent a notice to appear at the court session which is done legally. If the summons is delivered to the defendant at the address of his residence, or if his residence is unknown, it is delivered at the place of his last residence. If the defendant is not at his/her residence or at his/her last residence, the summons shall be delivered through the village head and/or village apparatus where the defendant resides or the defendant's last residence. In the event that the defendant is detained in a state detention centre, the summons shall be delivered to him/her through an official of the state detention centre.

If the residence of the accused is unknown, the summons shall be posted on the notice board of the Syar'iyah Court. Summonses received directly or through another person must be accompanied by a receipt, and may be assisted by communication technology. Summonses to defendants and witnesses must state the day, date, time of the hearing, and type of case, and must be received at least three days before the hearing begins.

After the district/city Syar'iyah Court receives the letter of submission of the case from the public prosecutor, the chairman studies whether the case falls under the jurisdiction of the Court over which he presides. In the event that the President of the district/city Shari'iyah Court is of the opinion that the case does not fall under his/her jurisdiction, the case shall be returned to the prosecutor with a determination to be transferred to the competent district/city Shari'iyah Court or other competent court. A copy of the decision letter shall be sent to the defendant or legal counsel and the investigator.

The national criminal law system through the Criminal Code and KUHAP guarantees a fair and open trial process for every suspect. This principle is also applied in Aceh through Qanun No. 6/2014 on Jinayat and Qanun No. 7/2013 on Jinayat Procedure. Both qanuns emphasise that every suspected jarimah violator must undergo a legal process, as stipulated in Article 5 of Qanun No. 6/2014.

In Qanun No. 7 Year 2013, Satpol PP and WH act as law enforcers and PPNS investigators. However, in Lhokseumawe City, the handling of jarimah cases by Satpol PP and WH does not go through judicial stages such as investigation, prosecution, and trial. Instead, they immediately apply coaching to suspected violators to certain places or *dayah*, which in practice becomes a form of punishment. In fact, this kind of coaching mechanism is not regulated in Qanun No. 6 Year 2014, Qanun No. 7 Year 2013, or other laws and regulations.

Based on the results of interviews with Satpol PP and WH Investigators of Lhokseumawe City, it is stated that the guidance provided by Satpol PP and WH of Lhokseumawe City to alleged jarimah violators is only based on a statement letter from the alleged jarimah violators. The statement letter was obtained at the investigation stage. The statement letter obtained by the Satpol PP and WH of Lhokseumawe City was made and signed by the alleged jarimah violator and after that coaching was immediately carried out (Khairiah, 2024).

When viewed from the explanation above, the coaching carried out by Satpol PP and WH of Lhokseumawe City against suspected jarimah violators does not have a clear legal basis. Basically, to carry out guidance (imposition of punishment) against suspected violators of the jarimah cannot only be based on a statement letter, but must go through the judicial process and applicable laws and regulations.

In Islamic Criminal Law, the imposition of punishment on violators of jarimah must be based on clear legal provisions. An important rule states that there is no law on a person's actions before there is a *nash* that prohibits it. This means that people who are *mukallaf* are free to do or leave an action until there is a legal prohibition. The principle of legality also asserts that an act cannot be considered a jarimah in the absence of a clear *nash*; if there is none, then there is no charge or punishment for the act.

Constitutionally, Indonesia is a state of law as stated in Article 1 paragraph (3) of the 1945 Constitution, so all aspects of life must be subject to the law. In criminal law, one of the main principles is the principle of legality, which requires every government action and the imposition of criminal sanctions to be based on legal written regulations. According to Prof. Dr Andi Hamzah, the principle of legality is a fundamental principle that states that no act can be punished without a law that regulates it first. Thus, a person cannot be sentenced before there are clear and applicable legal rules beforehand.

3.2. Implementation of Coaching for Suspected Jarimah Violators Conducted by Satpol PP and WH of Lhokseumawe City Conducted by Satpol PP and WH of Lhokseumawe City

Development includes two main aspects, namely personality development and independence development. Personality development includes activities such as moral education, religion, and mental development, while independence development includes training in work skills, entrepreneurship, and other productive activities that support prisoners to live independently after the end of the criminal period.

The coaching of suspected violators of the jarimah carried out by the Lhokseumawe City Civil Service Police Unit and Wilayatul Hisbah (Satpol PP and WH) is not placed in a correctional institution but is placed in the Moral and Moral Rehabilitation Centre (BERAKHLAK) which has been determined by the Lhokseumawe City Civil Service Police Unit and Wilayatul Hisbah. This Moral and Moral Rehabilitation Centre (BERAKHLAK) is an initiative of the Lhokseumawe City Government through the Civil Service Police Unit and Wilayatul Hisbah (Satpol PP and WH) in providing guidance to suspected jarimah violators.

According to the PLT Kasatpol PP and WH of Lhokseumawe City, coaching for suspected jarimah violators at the Moral and Moral Rehabilitation Centre (BERAKHLAK) was formed in response to social problems such as violations of the *qanun jinayat*, juvenile delinquency, drugs, and mental disorders. BERAKHLAK offers holistic rehabilitation for the younger generation with an approach of spiritual development and mental recovery.

Since the implementation of coaching at the Moral and Moral Rehabilitation Centre (BERAKHLAK), Satpol PP and WH of Lhokseumawe City have coached dozens of suspected jarimah violators of various ages, ranging from teenagers to adults. The goal is to help them realise their mistakes, improve themselves, and be accepted back into society with a better personality. According to the PLT Kasatpol PP and WH of Lhokseumawe City, coaching of suspected jarimah violators at the Moral and Moral Rehabilitation Centre (BERAKHLAK) is carried out without distinguishing age. Coaching is divided by gender, with separate places for men and women but still in the BERAKHLAK environment. Each

place has its own teacher or *tengku*, to prevent unwanted things between fostered participants (Heri Maulana, 2024).

Coaching of suspected *jarimah* violators by Satpol PP and WH of Lhokseumawe City is only carried out at the Moral and Moral Rehabilitation Centre (BERAKHLAK), with a separate place between men and women. With this separation, each participant still gets maximum guidance from the teacher or *tengku* without being disturbed by the opposite sex. According to the Head of Investigation and Investigation Section of Satpol PP and WH of Lhokseumawe City, before coaching is carried out, investigators first make a BAP against suspected *jarimah* violators. If proven to violate Aceh Qanun Number 6 of 2014, the suspect is given the choice to be processed according to the rules or undergo coaching. If you choose to be coached, you will be immediately entrusted to the Moral and Moral Rehabilitation Centre (BERAKHLAK).

3.3. Legal Consequences of Coaching for Suspected *Jarimah* Violators without Going Through the Judicial Process by Satpol PP Dan WH of Lhokseumawe City

Law enforcement is a process to make legal norms a reality in society through the actions of law enforcement officials and public compliance with the law. Law enforcement is the main indicator of whether a country truly implements the principle of the rule of law. According to Soerjono Soekanto, law enforcement can be preventive or repressive. Law enforcement is essentially a process to realise the ideas of justice, legal certainty, and expediency into reality (Soerjono Soekanto, 2008).

Legal structure refers to the institutions that perform legal functions in society, such as courts, police, and legislative bodies. This structure determines how the law is enforced, applied and defended. The legal structure reflects how legal power is distributed and utilised in society. The effectiveness of the law often depends on the capacity and integrity of these structures.

Legal culture reflects people's attitudes, values, beliefs and expectations of the law and legal system. Without a good legal culture, structure and substance will not work effectively. It is this legal culture that distinguishes between a law-abiding society and one that is permissive of lawlessness.

It is concluded that the legal system is a combination of institutional structure, legal content, and the culture of society towards the law. A weakness in any one element can disrupt the functioning of the law as a whole. Therefore, to understand and improve a country's legal system, these three elements must be analysed comprehensively and interdependently.

Satpol PP and WH in Lhokseumawe are the enforcers of Islamic Sharia, especially in the context of *jinayat* law, which is part of the implementation of Qanun Syariat Islam in Aceh Province. Juridically, the duties and authorities of Satpol PP and WH include:

- Enforce Islamic law and monitor violations of Islamic norms in public spaces.
- Handling *jinayat* law offences such as *khalwat*, *ikhtilath*, and *khamar*.
- Conduct initial investigations and prosecutions before handing over to the Shariat Police or Sharia Court.

Particularly related to the coaching carried out by Satpol PP and WH of Lhokseumawe City which has no legal basis and is not in accordance with the coaching that has been regulated by legislation has violated the principle of presumption of innocence and specifically not in accordance with the coaching mechanism in the qanun *jinayat*, which regulates the formal stages in the form of arrest, investigation, prosecution, and verdict in the Sharia Court. Basically, deviant coaching actions in society will have the potential:

- Undermining public trust in the enforcement of sharia.
- Traumatise and humiliate the individual.
- Inviting national and international criticism of the enforcement of Islamic law in Aceh.

Satpol PP and WH of Lhokseumawe City have the authority to enforce Islamic law in Lhokseumawe City, including coaching actions against people who are suspected of violating qanun. However, when coaching is carried out without a clear legal basis, for example: not based on a valid qanun, not through the established legal process and using methods that deviate from procedural law, then such actions can be considered as a form of abuse of authority and potentially violate national positive law and qanun.

Any form of law enforcement, including coaching, must be based on the written law. If not, then the action is considered illegal. It is firmly based in accordance with Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that

Indonesia is a state of law. As a result, the coaching conducted by Satpol PP and WH Lhokseumawe can be legally removed or cancelled, and the victim can request rehabilitation.

Development that is not regulated in qanun or law can be categorised as a violation of the principle of legality in criminal law (*nullum crimen sine lege*). As a result: Officials who commit such acts may be subject to civil lawsuits for unlawful acts (PMH) in accordance with Article 1365 of the Civil Code, and/or criminal charges if torture or acts that violate Law No. 39/1999 on Human Rights are proven.

Based on Law Number 30 of 2014 concerning Government Administration, actions that deviate from authority are referred to as abuse of authority. Apparatus who abuse their authority can be subject to administrative, disciplinary, and even criminal sanctions in accordance with the Law.

Coaching without a clear legal basis damages the image of Islamic sharia itself. The public may lose confidence in the sharia system in place, and this has a long-term impact on: The legitimacy of WH and Satpol PP institutions in the implementation of other qanuns as a whole. and Potential social conflicts due to discriminatory or unfair practices.

Based on the explanation above, it can be concluded that the coaching by Satpol PP and WH of Lhokseumawe City which is carried out without legal basis has serious legal consequences, among others:

- Not legally valid (can be cancelled).
- Violating human rights.
- It can be sued civilly or prosecuted criminally.
- Decreased public trust in sharia law.

Therefore, guidance must be carried out with strict legal, accountable and humane signs, so as not to violate national law or fair sharia principles. As a state of law, it is expected that all actions of law enforcement officials or the government must be based on strong rules to avoid arbitrariness.

4. Conclusions

The implementation of Islamic Shari'a in Aceh which is based on Qanun Number 6 of 2014 concerning Jinayat Law and Qanun Number 7 of 2013 concerning Jinayat Procedure Law and has its own court (Sharia Court) in resolving all cases contained in the Qanun Jinayat is a form of Aceh's speciality.

Development includes two main aspects, namely personality development and independence development. Personality development includes activities such as moral education, religion, and mental development, while independence development includes training in work skills, entrepreneurship, and other productive activities that support prisoners to live independently after the end of the criminal period.

Coaching by Satpol PP and WH of Lhokseumawe City conducted without a legal basis results in serious legal consequences, including: not legally valid (can be cancelled), violating human rights, can be sued civilly or prosecuted criminally, reducing public confidence in sharia law.

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