

Research Article

Law Enforcement Against Companies Accused of Illicitly Providing Facilities for Jarimah in Banda Aceh City's Jurisdiction

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Abstract: The special autonomy granted to Aceh Province allows for the implementation of Islamic criminal law (jinayat), yet challenges remain in law enforcement, particularly against corporations that provide facilities for Jarimah. Despite the enactment of Qanun Number 6 of 2014 on Hukum Jinayat, prosecutions have largely focused on individuals, while companies such as hotels, boarding houses, and cafés frequently escape accountability, even when their facilities are used to commit acts such as khalwat, maisir, and zina. This study aims to examine the enforcement mechanisms targeting such corporate entities within the jurisdiction of Banda Aceh City. Employing empirical legal research methods, the study utilizes qualitative analysis based on field observations, interviews with stakeholders, and a review of legal documents. The findings indicate that law enforcement efforts are hampered by five major factors: vague and incomplete legal provisions; limited knowledge and training among investigators; inadequate human resources and supporting infrastructure; a lack of public support; and deeply rooted cultural practices that often favor informal resolutions over formal prosecution. Despite the legal possibility of corporate liability under the qanun, enforcement remains weak due to unclear definitions, particularly concerning intent and the element of facilitation. The study concludes that the effectiveness of law enforcement in this domain is critically undermined by structural and normative deficiencies. Therefore, reform is urgently needed, including amendments to legal texts, comprehensive investigator training, and public engagement strategies to ensure corporate accountability in supporting the implementation of syari'at Islam in Aceh.

Keywords: Jarimah, Corporation, Facility Provider, Law Enforcement

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1. Introduction

Aceh has set rules for the application of syari'at Islam because of its unique autonomy status [1]. But in reality, Aceh still has a lot of problems with law enforcement, especially when it comes to dealing with Jarimah-classified crimes [2]. Jarimah is the term used in Islamic criminal law to describe what is commonly regarded as criminal activity [3].

The enforcement of syari'at Islam in Aceh is seriously threatened not only by the direct perpetrators of Jarimah but also by those who offer facilities that aid or facilitate the commission of such offences [4]. The public generally believes that the law is "blunt" when it comes to powerful actors, which leads to the infrequent imposition of penalties, particularly against big businesses.

Legal enforcement should also target the companies that provide the facilities where Jarimah is held, including hotels, coffee shops, roadside cafés, boarding houses, tourist attractions, and other commercial spaces. In actuality, though, such enforcement is extremely uncommon [5], [6]. Only the specific offenders of Jarimah—such as pimps, commercial sex workers, and those engaged in maisir, khamar, khalwat, and zina—are prosecuted in almost all documented cases.

The English word "corporation," which means "legal entity" or a group of people legally permitted to act as a legal subject apart from its shareholders, is where the term "korporasi" comes from. An association, assembly, or union is referred to as a *corporatie* in Dutch [7]. A corporation is a group of people who have been given permission to act as a single entity for business purposes, according to the World Book Dictionary (1999). A corporation is also defined by the dictionary as a collection of individuals with the authority to act independently [8].

Article 46 of Law Number 1 of 2023, which governs the most recent formulation of the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana*), articulates the legal framework for determining corporate criminal liability. According to this provision, a corporation may be deemed to have committed a criminal offense when the unlawful act is perpetrated by an individual who holds a managerial or functional role within the organizational hierarchy of the corporation. Furthermore, the law extends liability to acts carried out by any individual who represents the corporation, acts on its behalf, or pursues actions for its direct or indirect benefit [9]. These actions must occur in connection with, or during the execution of, the corporation's operational or business-related activities, whether conducted individually or collectively [10]. This provision reflects the legal recognition that corporate entities, as legal persons, can bear criminal responsibility for the conduct of their agents or representatives when such conduct falls within the scope of the entity's business functions and organizational interests [11].

The Province of Aceh has formally established legal provisions concerning five categories of *Jarimah* (criminal offenses under Islamic law) through Qanun Number 6 of 2014 on *Hukum Jinayat* (Islamic Criminal Law) [12]. This regional regulation serves as a legal framework for addressing criminal acts defined under Islamic jurisprudence within the autonomous legal system of Aceh. Since the enactment of this qanun in 2015, numerous *Jarimah* cases have been recorded, including several involving corporate entities or legal persons [13].

However, despite the occurrence of such cases implicating corporate actors, the enforcement of corporate criminal liability within the context of Aceh's Islamic criminal law remains limited. According to data retrieved from the official case tracking system of the Supreme Court of Indonesia and the Banda Aceh Sharia Court's Case Tracking Information System (*Sistem Informasi Penelusuran Perkara* or *SIPP*), only one case has thus far been adjudicated with a formal recognition of corporate criminal liability. This suggests a significant gap between the legal provisions outlined in the Qanun and their practical implementation, particularly in relation to holding corporations accountable for criminal conduct under the framework of *Hukum Jinayat*.

Given the foregoing, the purpose of this study is to examine and elucidate the methods used by law enforcement to prosecute corporations involved in criminal activities involving the provision of facilities for *Jarimah* within the borders of Banda Aceh City.

2. Methods

Empirical legal research, the kind used in this study, entails a thorough analysis carried out within the borders of Banda Aceh City through direct observation and interviews. The method employed is a qualitative approach, which is a research process that produces descriptive data, specifically what informants say orally or in writing, as well as actual behaviour [14]. Both primary and secondary sources provided data for this study. Field research and a review of the literature were used to gather data. Using a descriptive-analytical approach, this study looks at and analyses respondents' written and verbal information as well as their observable behaviour as a whole [15].

3. Results and Discussion

An organization, entity, institution, or property that has been created or recognised by law and is intended to have rights, authority, obligations, assets, duties, status, and privileges distinct from those of individuals is known as a corporation. Appointed officials who act in the best interests of the legal entity and its members represent and run it. As a result, a legal entity may be the target of a criminal act as well as bring or receive legal action. According to its contemporary definition, a legal entity may even engage in criminal activity and face criminal penalties.

Criminal legislation outside of the Criminal Code (*Kitab Undang-Undang Hukum Pidana*, *KUHP*)—more especially, special criminal laws—has broadened the scope of

criminal law subjects in Indonesia, extending beyond natural persons to include corporations [16]. Business entities are legal subjects that may face criminal penalties for violations of Aceh's Islamic law, including corporate criminal liability for providing facilities that facilitate the commission of Jarimah, according to Article 5 of Aceh Qanun Number 6 of 2014 on Hukum Jinayat [17].

As the administrative and political center of Aceh Province, the city of Banda Aceh functions as a focal point for a wide range of activities, encompassing social, cultural, economic, and governmental domains. Its strategic position as the provincial capital naturally positions it as a nucleus of development and interaction, attracting both individuals and institutions engaged in various sectors. However, like many other urban centers across Indonesia, Banda Aceh faces significant challenges related to public order and security, one of which is the prevalence of criminal activity. Notably, the city continues to experience a relatively high incidence of crime, including offenses that occur within the context of corporate operations or are committed by individuals acting on behalf of business entities. This reality persists despite the enforcement of a distinctive legal framework rooted in Syari'at Islam, which governs certain aspects of criminal law in Aceh. The existence of Islamic-based legal provisions, as outlined in regional regulations such as the Qanun Jinayat, does not necessarily preclude the emergence of criminal conduct, particularly in complex corporate environments. This situation highlights the need for strengthened mechanisms in both regulatory enforcement and institutional oversight to address the evolving nature of crime in an urban Islamic legal context.

AIPDA Jamil, Head of the Women and Children Protection Subunit at the Banda Aceh Police, claims that Aceh lacks specific locations like red-light districts or special zones for gambling and prostitution, in contrast to other Indonesian regions. Rather, boarding houses, inns, lodgings, hotels, and similar establishments many of which are run by commercial organizations are the typical locations for crimes. Because of this condition, crimes frequently occur in corporate settings or on business property. However, even though Qanun Aceh Number 6 of 2014 on Hukum Jinayat was passed ten years ago, there is still a significant and unresolved problem with the law's enforcement against companies or business entities that offer Jarimah facilities.

Law enforcement, according to Soerjono Soekanto, entails balancing the relationships between values, which are subsequently expressed in accepted norms and realized through ultimate actions meant to establish, uphold, and preserve harmonious social interactions. Realizing norms and values that represent justice and truth is the core of law enforcement [18]. According to field observations, there are a number of influencing factors that make law enforcement ineffective. These elements are as follows, per Soekanto [19]:

- The actual legal content,
- law enforcement officers
- infrastructure or supporting facilities,
- The neighbourhood,
- Culture.

Based on the results of field research, the following factors are explained and analyzed:

Lawful Material

The legal content acts as a normative basis that directs the public's and law enforcement officials' behaviour. Law enforcement loses focus in the absence of equitable and transparent regulations [20]. Furthermore, injustice and public discontent may arise from regulations that are unnecessary or out of step with changing social circumstances.

Only one article—the one about zina—discusses the participation of business entities in the Qanun Jinayat provisions governing Jarimah, including khalwat, ikhtilath, khamar, maisir, and zina. This is true even though it is feasible for the other four Jarimah to include corporate involvement as well. Furthermore, even though this offence commonly entails such facilitation, the element of "providing facilities" is not specifically mentioned in the articles governing khamar.

This observation supports AIPDA Jamil's assertion that in order to prevent uncertainty and confusion for investigators, the pertinent articles in the qanun need to be more thorough [17]. However, Article 8 of the Qanun Jinayat states that the aforementioned articles also apply to business entities, according to Husni, Head of the Division of Islamic Law Development and Human Rights at the Aceh Provincial Office for Islamic Law. As a result,

those who offer the conditions and opportunities necessary for the commission of Jarimah may face the same criminal penalties as the offenders [21].

One of the Qanun's drafters, Professor Alyasa' Abubakar, a Senior Professor at the Faculty of Syari'ah and Law, Ar-Raniry State Islamic University Banda Aceh, concurs with this interpretation. According to him, the phrase "every person" (*setiap orang*) originally meant "any party," which encompassed both private citizens and corporate entities. The term was later separated during the draughting process, though, so that the zina article specifically mentioned both people and business entities, whereas the other four Jarimah articles did not include the corporate element. He claimed that this omission resulted from inconsistent editing and draughting during the Aceh House of Representatives (DPRA) deliberation process, which led to formatting problems, omitted articles, and ultimately unfinished legal texts. The Governor's Office's Legal Bureau is to blame for these draughting errors since it was supposed to have made sure that appropriate legislative draughting methods were used [22].

The insufficient wording of the pertinent articles presents serious difficulties for law enforcement, resulting in varying interpretations, uneven enforcement of the law, and eventually, no legal action—allowing crimes to thrive and eroding public confidence in law enforcement, which is seen as not taking these problems seriously. This runs counter to Professor Soerjono Soekanto's claim that laws need to be precise and unambiguous.

In addition to the problem of incomplete articles, investigators also have trouble determining and substantiating the element of intent ("with intent" / *dengan sengaja*). Because it is unclear how to interpret the element of intent in the qanun provisions, officers are reluctant to prosecute corporations or business entities suspected of providing facilities for Jarimah, according to Brigadier Alwis Zaivin, an investigator with the Banda Aceh Police Women and Children's Unit (PPA) [23].

This difficulty in interpreting "intent" is consistent with the observation made by Professor Alyasa' Abubakar that, despite the qanun's enactment in 2014 and its implementation in 2015, no scholarly or explanatory works have been produced to date to elucidate its provisions. As a result, investigators lack the doctrinal guidance and reference materials necessary to comprehend the logic behind the qanun. Only sporadic training sessions, which are not always attended by all investigators, serve as their resource. Because there is no written guidance, investigators are less confident in their ability to demonstrate the element of intent. Professor Alyasa claims that this poses a problem for the academic community: despite the qanun's ten-year validity, no scholarly work has been produced to interpret it [22].

Officials in Law Enforcement

The effectiveness of law enforcement in implementing legal provisions in a fair, consistent, and efficient manner is fundamentally contingent upon the competence and integrity of the officers entrusted with that responsibility [24]. These individuals serve as the primary agents through whom the law is operationalized and brought into effect within society. Regardless of how comprehensive, precise, or well-drafted a legal framework may be, its practical influence on society remains negligible if it is not supported by consistent and capable enforcement. In this regard, the presence of strong moral character, ethical conduct, and a high degree of professionalism among law enforcement personnel becomes indispensable. These qualities are not merely desirable but essential, as they directly influence the quality and legitimacy of the legal system as perceived by the public.

Moreover, the technical expertise, legal knowledge, and procedural understanding possessed by law enforcement officers play a critical role in ensuring that justice is administered properly. Deficiencies in training, lack of familiarity with legal mechanisms, or insufficient comprehension of procedural law can lead to mishandling of cases, procedural errors, or even failure to take appropriate legal action altogether. Consequently, investments in continuous education, institutional support, and capacity-building are necessary to enhance the quality of law enforcement and uphold the rule of law effectively.

Law enforcement officers in charge of cases involving companies or other business entities that supply Jarimah with facilities are clearly affected by these problems. According to AIPDA Jamil, there are insufficient human resources in Aceh to support the implementation of Syari'at Islam. Only one or two Wilayatul Hisbah investigators per regency or city are currently available, despite Aceh having the Wilayatul Hisbah Police, who handle Jarimah cases with authority comparable to that of police investigators. Thankfully, the

national police are also permitted to deal with Jarimah cases; otherwise, the number of infractions would be enormous. In order to actively reach all violators and guarantee that Syari'at Islam is actually enforced rather than just an ideal, Wilayatul Hisbah investigators' numbers and capabilities must be increased. Ten years into its implementation, Syari'at Islam's enforcement seems to be waning [17].

Wilayatul Hisbah of Banda Aceh City and Amri, an investigator and the head of the operations section of the Civil Service Police Unit (Satpol PP), share this concern. According to him, there are only four Wilayatul Hisbah investigators at the moment, and only three of them are working because one of them is in a managerial role. "Ideally, there should be at least seven investigators," he added. Furthermore, there aren't any female civil servant investigators working on cases involving women and children at the moment [25].

One major issue with maintaining efficient law enforcement is the shortage of investigators. Officer overwork results in poorer work quality, legal process delays, and case handling oversight when the number of officers is out of proportion to the caseload or geographic reach. Therefore, law enforcement needs enough people, both in terms of number and quality. Wilayatul Hisbah investigators in Banda Aceh currently lack adequate human resources. Khuzari claims that Wilayatul Hisbah investigators are not as skilled as the police, especially when it comes to handling Jarimah involving digital evidence like smartphones or apps, especially in cases involving online gambling. Such cases have never been handled by Wilayatul Hisbah to date; instead, the Banda Aceh Police has handled them, and Wilayatul Hisbah only administers the sanctions [26].

Infrastructure and Facilities

Sufficient infrastructure and facilities are necessary for an efficient investigation of Syari'at violations, including corporate involvement in enabling Jarimah. Field data, however, show otherwise. Amri clarified that the Wilayatul Hisbah agency, which has been in operation for more than 20 years but still does not have a detention facility, faces many difficulties. Suspects must be detained in the provincial Wilayatul Hisbah for a temporary period of time [25]. As a law enforcement organisation, Wilayatul Hisbah must strategically have its own detention facility in order to ensure legal autonomy and syari'ah-based rehabilitation in addition to custody. To guarantee that investigative practices respect human rights while adhering to Islamic principles, each regency or city should ideally have its own Wilayatul Hisbah detention facility.

Budgeting is closely related to the infrastructure and facilities issue. Only when funds are allotted can procurement and construction take place. According to field data, Wilayatul Hisbah has a budget deficit that affects both infrastructure and operating costs.

Amri confirmed this, pointing out that the volume of daily offences and the small budget—roughly three hundred million rupiah or less annually—lead to frequently inadequate law enforcement for Syari'at Islam violations. Not all cases are handled properly because this sum is not enough to support full-scale criminal enforcement for every infraction [25]. The objectives of the Qanun Jinayat, which include preserving public order, discouraging transgressors, and promoting Islamic values, are in direct opposition to this reality. Society may grow apathetic or complacent towards Islamic laws if this continues. Although regional infrastructure is crucial and government budgets are constrained, the need to improve syari'at enforcement should also take precedence.

Community Aspects

Human behaviour is greatly influenced by one's understanding of religion. Communities should ideally assist law enforcement in carrying out Syari'at, including by reporting infractions like corporate facilitation of Jarimah. However, in practice, whenever enforcement actions like raids are conducted, the public frequently criticises the Wilayatul Hisbah—for instance, on social media sites like Instagram.

Husni emphasized that there exists a notable and persistent reluctance what he metaphorically referred to as an “allergy” among various segments of society, including both the general population of Aceh and certain public officials, to matters associated with the implementation of Syari'at Islam (Islamic law). This resistance is not confined solely to local communities within Aceh but is also evident among members of the national government apparatus based in Jakarta. According to his observation, this aversion manifests in the form of skepticism, discomfort, or even opposition when discussions or policies related to Islamic law enforcement arise, regardless of the legal and cultural autonomy granted to Aceh as a

special region. This phenomenon underscores the broader socio-political tensions and misunderstandings surrounding the application of religious-based legal systems within a pluralistic national legal framework like that of Indonesia. [21].

Cultural Aspects

Traditional gampong (village) values are still highly valued by Acehnese people, including those in Banda Aceh City. Internal village discussions are frequently used to settle Syari'at violations. Wilayatul Hisbah investigators encounter challenges in these circumstances because the village authorities are hesitant to turn over criminals or supply the proof and testimony required for official legal proceedings. As a result, rather than following the Qanun Jinayat, many cases are settled through conventional mediation.

When a couple is caught committing khalwat in a village guesthouse or boarding facility, for instance, the community may refuse to turn the suspects over to the Banda Aceh Police or Wilayatul Hisbah, choosing instead to enforce marriage or impose a fine. A permissive attitude towards syari'at violations is fostered by this type of informal settlement, which also weakens legal deterrence.

4. Conclusions

The Wilayatul Hisbah and the Banda Aceh Police have not successfully carried out their law enforcement missions against companies or commercial organisations that offer Jarimah facilities within the boundaries of Banda Aceh City. This is demonstrated by the inability to meet the five essential requirements listed in Soerjono Soekanto's theory of effective law enforcement.

The lack of guidelines or explanatory texts interpreting the Qanun Jinayat, the insufficiency of human resources within the Banda Aceh Wilayatul Hisbah investigative team, and incomplete legal provisions regarding corporate liability are some of the main challenges. Since these problems impact the entire law enforcement process, starting with the investigation phase, they pose serious challenges to the government. The efficacy of the entire process is jeopardised when preliminary investigators lack adequate technical or legal expertise.

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