

Human Rights Legal Protection for Child Victims of Sexual Crimes: The Perspective of Aceh's Qanun Jinayat

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ABSTRACT

This study aims to analyze the regulation and implementation of legal protection for child victims of sexual crimes under Qanun Aceh Number 6 of 2014 on Jinayat Law, with particular emphasis on the perspective of human rights protection and Islamic law in Aceh. The study contributes to the development of constitutional and criminal law scholarship by integrating child protection principles, human rights norms, and the doctrinal application of Jinayat Law in judicial practice, particularly through the analysis of Decision Number 5/JN/2026/MS.Aceh. This research employs a normative juridical method with a case approach, relying on statutory analysis, human rights instruments, Islamic legal principles, and judicial reasoning. The findings show that the *Jinayat* framework provides formal legal protection for child victims through the criminalization of sexual harassment and rape, as well as through *ta'zir* sanctions. However, the practical application of protection remains strongly dependent on the strict interpretation of statutory elements, especially the requirement of penetration in rape cases. From a human rights perspective, such protection must not only ensure legal certainty and punishment, but also guarantee the dignity, recovery, and best interests of the child as a vulnerable rights-holder. The study concludes that legal protection for child victims in Aceh requires a more child-centered and rights-based interpretation. It recommends strengthening harmonization between the Jinayat law, the national child protection law, and international human rights standards in order to ensure more comprehensive protection for child victims of sexual crimes.

Introduction

The protection of children from sexual violence constitutes a fundamental obligation of the state, grounded in constitutional guarantees, human rights principles, and criminal law policy¹. In the Province of Aceh, this protection is normatively regulated under Qanun Aceh Number 6 of 2014 on Jinayat Law, which criminalizes sexual offenses against children and prescribes specific forms of *ta'zir*

¹ Agus Thohawi, "Legal Protection in Recovering Children from Victims of Sexual Violence," *Jurnal Hukum Dan HAM Wara Sains* 2, no. 03 (March 2023): 204–10, <https://doi.org/10.58812/jhhws.v2i03.268>.

punishment.² The relevance of this normative framework becomes particularly evident in Decision Number 5/JN/2026/MS.Aceh, an appellate judgment of the Mahkamah Syar'iyah Aceh concerning sexual violence committed against a 16-year-old child.³ In this case, the defendant was initially charged under Article 50 (attempted rape of a child), yet ultimately convicted under Article 47 for sexual harassment of a child and sentenced to 60 months' imprisonment. The appellate court affirmed that the elements of rape were not fulfilled because no penetration occurred, and therefore the proven conduct satisfied the elements of sexual harassment under Article 47.

Official data from the Ministry of Women's Empowerment and Child Protection (Kemen PPPA) show that in 2023 Aceh recorded 291 child victims of sexual violence, while the Aceh Government through the Dinas Pemberdayaan Perempuan dan Perlindungan Anak (DP3A) continued to publish violence recapitulation reports for January–May 2024 and annual child violence reports for 2024. These figures and official recapitulations indicate that sexual crimes against children remain a real and continuing problem in Aceh, thereby requiring serious attention from the legal system, especially in relation to the protection of child victims.

Normatively, protection against such crimes in Aceh is regulated under Qanun Aceh Number 6 of 2014 on *Jinayat Law*, which criminalizes sexual offenses against children and prescribes *ta'zir* sanctions. The relevance of this framework becomes particularly evident in Decision Number 5/JN/2026/MS.Aceh, an appellate decision of the *Mahkamah Syar'iyah* of Aceh concerning sexual violence against a 16-year-old child.⁴ In that case, the defendant was initially charged under Article 50 concerning the attempted rape of a child, yet the court ultimately held that the element of rape was not fulfilled because penetration did not occur, and therefore convicted the defendant under Article 47 for sexual harassment of a child. The appellate court then imposed a 60-month sentence of imprisonment.

This case demonstrates that the legal qualification of sexual offenses within the *Jinayat* system is not a merely technical issue. The distinction between attempted rape and sexual harassment directly affects the severity of punishment, the judicial framing of the victim's suffering, and the overall realization of legal protection for children. In cases involving child victims, such a distinction is especially crucial because the harm suffered is not limited to whether penetration occurred, but also

² Rusydi Mulya Sumantri and Sukiati, "Criminal Sanctions Against Perpetrators of the Commercial Sexual Exploitation of Children: A Comparative Study of Indonesian Positive Law and Islamic Criminal Law," *Al-Adalah: Jurnal Hukum Dan Politik Islam* 10, no. 2 (July 30, 2025): 350–66, <https://doi.org/10.30863/ajmpi.v10i2.10231>.

³ Wahyu Kuncoro et al., "Legislation Concept of Sexual Violence Towards A Child in the Acts and the Qanun Jinayat," *Journal of Law and Sustainable Development* 12, no. 2 (February 8, 2024): e3004, <https://doi.org/10.55908/sdgs.v12i2.3004>.

⁴ Abdul Halim, "Non-Muslims in the Qanun Jinayat and the Choice of Law in Sharia Courts in Aceh," *Human Rights Review* 23, no. 2 (June 1, 2022): 265–88, <https://doi.org/10.1007/s12142-021-00645-x>.

includes physical injury, fear, humiliation, and prolonged psychological trauma.⁵ Accordingly, legal protection must be assessed not only from the standpoint of formal fulfillment of statutory elements, but also from the perspective of the best interests of the child, substantive justice, and victim-oriented law enforcement.

This case highlights the complexity of legal qualification in sexual crimes against children within the Jinayat legal system. The differentiation between attempted rape and sexual harassment not only affects sentencing but also influences the scope of legal protection afforded to the child victim. Moreover, the case demonstrates that the victim suffered both physical injury and psychological trauma as a consequence of the perpetrator's conduct, emphasizing the urgency of ensuring that law enforcement mechanisms genuinely prioritize the best interests of the child. The significance of this issue lies in the intersection between Islamic criminal law as applied in Aceh and national child protection principles within Indonesia's pluralistic legal system.

Based on this background, the formulation of the research problems in this study is as follows: (1) How are the regulations and forms of legal protection for children as victims of sexual violence governed under Qanun Aceh Number 6 of 2014 on Jinayat Law? (2) How is the implementation of legal protection for child victims of sexual violence reflected in Decision Number 5/JN/2026/MS.Aceh, when examined in light of the Qanun on Jinayat Law and relevant national legislation? (3) What factors influence law enforcement in cases involving child victims of sexual violence as reflected in Decision Number 5/JN/2026/MS.Aceh? These research questions clearly identify the normative, practical, and structural dimensions of the problem and demonstrate its legal and social complexity.

The objective of this study is to analyze the normative regulation and practical implementation of legal protection for child victims of sexual violence under the Jinayat framework comprehensively, using Decision Number 5/JN/2026/MS.Aceh as a focal case. This research seeks to evaluate whether the judicial interpretation and sentencing in the case adequately reflect the principles of justice, legal certainty, proportionality, deterrence, and the best interests of the child. Furthermore, it aims to identify juridical and non-juridical factors that influence the enforcement of sexual offense provisions against children in the Aceh Syari'ah Judicial System.

The novelty of this research can be demonstrated by distinguishing it from previous studies. First, sexual violence against children under the *Qanun Jinayat* focuses primarily on the normative regulation of sexual offenses and the types of *uqubat* imposed, without examining the practical application of legal protection through judicial decisions. Second, child protection within the Jinayat judicial system, in general terms, emphasizes institutional roles and procedural aspects, but does not specifically analyze children as victims of sexual violence nor assess a particular court

⁵ Noemí Pereda et al., "An Exploratory Study on Mental Health, Social Problems and Spiritual Damage in Victims of Child Sexual Abuse by Catholic Clergy and Other Perpetrators," *Journal of Child Sexual Abuse* 31, no. 4 (May 19, 2022): 393–411, <https://doi.org/10.1080/10538712.2022.2080142>.

decision. Addresses legal protection for child victims of sexual harassment under the *Qanun Jinayat*, yet it remains limited to normative analysis and does not explore how such protection is interpreted and implemented in appellate judicial practice ⁶.

The urgency of this research is further reinforced by prior scholarship, which shows that sexual violence against children in Aceh continues to generate doctrinal and practical debate. First, Widiarti, Chandra, and Ramadhani examine the relevance of Qanun Jinayat in minimizing cases of sexual harassment against children in Aceh and conclude that the Qanun has not yet optimally addressed such cases; however, their study remains focused on the normative effectiveness of the regulation in general and does not analyze a concrete judicial decision.⁷ Second, Nabhani Yustisi discusses legal protection for child victims of sexual harassment through the study of Decision Number 8/JN/2021/MS.Lsm, but the study is limited to a different case and does not address the appellate requalification problem between attempted rape and sexual harassment.⁸ Third, Zuriah, Saputra, and Novriansyah analyze the effectiveness of Qanun Jinayat in preventing sexual violence against children from a psychological perspective, emphasizing deterrence and victim trauma, yet without examining judicial reasoning in a specific case.⁹

Fourth, Syarifah Khairannur studies child sexual harassment from the perspective of Qanun Jinayat with emphasis on the role of UPTD PPA Kabupaten Bireuen, and finds that the legal framework still emphasizes punishment more than victim recovery; nevertheless, the focus of that study is institutional protection and not appellate judicial interpretation.¹⁰ Fifth, Muhammad Said Harahap and Fauziah Lubis analyze Decision Number 4/JN/2022/MS.Lsm from the perspective of material truth in rape and sexual harassment cases, showing how legal qualification may obscure victim protection, but their discussion is centered on material truth and a different factual constellation involving a vulnerable victim, rather than on the legal protection of child victims in an appellate case involving Articles 47 and 50 of the Qanun Jinayat.¹¹

⁶ Fachruddin, Khalid, and Yadi Harahap, "Child Justice System in 'Uqubat Dropping of Child Sexual Abuse of Children,'" *Jurnal Mabkamah: Kajian Ilmu Hukum Dan Hukum Islam* 8, no. 1 (June 2023): 109–22, <https://doi.org/10.25217/jm.v8i1.2970>.

⁷ Wiwin Widiarti, Erika Magdalena Chandra, and Rully Herdita Ramadhani, "Relevance of Aceh's Qanun Jinayat in Minimizing Cases of Sexual Harassment against Children in Aceh," *JUSTISI* 11, no. 1 (November 2024): 48–61, <https://doi.org/10.33506/js.v11i1.3670>.

⁸ Nabhani Yustisi, "Perlindungan Hukum Bagi Anak Korban Pelecehan Seksual (Studi Putusan Nomor: 8/JN/2021/Ms.Lsm)," *Jurisprudensi: Jurnal Ilmu Hukum* 1, no. 1 (June 2024): 66–79, <https://doi.org/10.70193/jurisprudensi.v1i01.06>.

⁹ Zuriah Zuriah, Teuku Amnar Saputra, and Muhammad Novriansyah, "The Effectiveness of Qanun Jinayat in Preventing Sexual Violence Against Children from a Psychological Perspective," *An-Nisa Jurnal Kajian Perempuan Dan Keislaman* 16, no. 2 (December 2023): 183–94, <https://doi.org/10.35719/annisa.v16i2.176>.

¹⁰ S. Khairannur, S., Sulfanwandi, S., Mustaqilla, "Tindak Pidana Pelecehan Seksual Terhadap Anak Dalam Perspektif Qanun Jinayat: Kajian Perlindungan Hukum Oleh Uptd Ppa Kabupaten Bireuen," *JARIMA: Jurnal Ilmiah Mahasiswa Hukum Pidana Islam* x, no. x (2026).

¹¹ Ninda Dwi Anggraeni and Fauziah Putri Meilinda, "Analisis Yuridis Putusan Mahkamah Syar'iyah Lhokseumawe Nomor 4/JN/2022/MS.Lsm Tentang Kebeharan Materil Dalam Perkara Pemerkosaan Dan Pelecehan Seksual," *Jurnal Studi Hukum Islam* 13, no. 2 (2024): 65–69, <https://doi.org/https://doi.org/10.30651/mqsd.v15i1.30664>.

Based on those five studies, the research gap in the present study can be clearly identified. Existing studies generally fall into three categories: normative analyses of the Qanun Jinayat, institutional studies on victim assistance and law enforcement, and case studies addressing specific decisions from the perspective of legal qualification or general victim protection. However, there remains limited research that specifically integrates: (1) the normative regulation of child protection under Qanun Aceh Number 6 of 2014, (2) the practical implementation of that protection through a specific appellate judgment, and (3) the analysis of juridical and non-juridical factors affecting law enforcement where the court reclassifies the offense from attempted rape to sexual harassment. In other words, previous studies have not comprehensively examined how such judicial requalification affects the actual realization of legal protection for child victims within the *Aceh Jinayat system*.

In contrast, this research offers a distinct contribution by integrating normative analysis with an in-depth examination of a specific appellate Decision Number 5/JN/2026/MS. Aceh. It critically evaluates how the distinction between attempted rape and sexual harassment under the Jinayat framework affects the realization of legal protection for child victims in practice. By focusing on the judicial reasoning, sentencing considerations, and enforcement factors reflected in the decision, this study provides a more comprehensive and contextual understanding of child protection within the *Aceh Jinayat System*. Therefore, this research contributes both theoretically and practically to the development of child-centered law enforcement within the framework of Islamic criminal law and national legal principles.

Methods

This study employs a normative juridical research design with a case study approach, focusing on the analysis of a court decision concerning sexual violence against a child within the Aceh Jinayat judicial system. The research examines the legal regulation of child protection under Qanun Aceh Number 6 of 2014 on Jinayat Law and assesses its implementation in Decision Number 5/JN/2026/MS. Aceh. A normative approach is chosen because the central objective of this research is to analyze legal norms, doctrinal interpretations, and judicial reasoning in order to evaluate the consistency between statutory provisions and their application in practice. This design is appropriate for a decision-based study, as it enables an in-depth examination of how legal principles governing sexual offenses against children are interpreted and enforced by the *Mahkamah Syar'iyah*.

As a study of a specific judicial decision, this research does not use sampling techniques. The unit of analysis is the appellate court judgment itself, including its legal considerations, interpretation of relevant articles, assessment of evidence, and sentencing rationale. The primary legal material consists of the official text of Decision Number 5/JN/2026/MS. Aceh. Secondary legal materials include statutory regulations on Jinayat law and national child protection law, as well as scholarly writings, journal articles, and prior research on child protection and sexual offenses

within the Jinayat system. Tertiary materials, such as legal dictionaries and doctrinal commentaries, are utilized to clarify legal concepts and terminology relevant to the analysis.

Data collection is conducted through a document study method. All relevant legal documents are systematically examined, classified, and analyzed according to their relevance to the research questions. The court decision is carefully reviewed to identify the legal arguments, factual findings, and judicial interpretations applied by the appellate judges. Statutory provisions and academic literature are analyzed to establish the normative framework against which the decision is evaluated.

The data are analyzed qualitatively using doctrinal and analytical methods. The analysis begins with a statutory interpretation of the provisions governing sexual offenses against children under the Qanun Jinayat and related legislation. This is followed by a detailed examination of the judicial reasoning in the appellate decision, particularly concerning the legal qualification of the offense and the form of punishment imposed. Finally, a normative assessment is undertaken to evaluate whether the decision reflects principles of justice, proportionality, legal certainty, deterrence, and the best interests of the child. Through this structured analysis, the study provides a comprehensive evaluation of the regulation and implementation of legal protection for child victims of sexual violence within the Aceh *Jinayat* judicial framework.

Discussion

Regulation and Forms of Legal Protection for Child Victims under Aceh's Qanun Number 6 of 2014

The regulation of sexual violence against children in Aceh is explicitly governed under Qanun Aceh Number 6 of 2014 on Jinayat Law. The Qanun criminalizes sexual harassment and rape against children as *jarimah* and prescribes *ta'zir* sanctions. This reflects the formal recognition of children as legally protected subjects within the Jinayat legal framework.¹² Article 47 regulates sexual harassment against a child, while Article 50 regulates rape, including against minors. The differentiation is based primarily on penetration. This structural distinction creates a graded system of criminal liability.

From the standpoint of Islamic law, the protection of child victims of sexual crimes is closely connected to the ethical and normative objectives of the *Shari'ah*. Contemporary scholarship on *maqāṣid al-shari'ah* emphasizes that Islamic law seeks to preserve fundamental interests, including life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), lineage/progeny (*ḥifẓ al-nasl*), and human dignity or honour. Sexual violence against children clearly violates these protected interests because it endangers the child's physical safety, psychological well-being, dignity, and future development. Recent

¹² Mohd Din and Al Yasa' Abubakar, "The Position of the Qanun Jinayat as a Forum for the Implementation of Sharia in Aceh in the Indonesian Constitution," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (December 26, 2021): 689, <https://doi.org/10.22373/sjkh.v5i2.10881>.

scholarship on child protection in Islamic legal thought also explains that maqāṣid-based reasoning provides a complementary moral and juridical foundation for stronger child protection, including in cases of sexual exploitation and abuse.¹³

From the perspective of legal protection theory, legal protection involves preventive and repressive dimensions.¹⁴ Preventively, the Qanun deters potential offenders through criminalization. Repressively, it imposes sanctions after the violation occurs. The existence of specific provisions protecting children demonstrates normative recognition of their vulnerability.¹⁵

Accordingly, the human rights approach to child sexual violence emphasizes several core principles. First, the best interests of the child must be a primary consideration in all legal and institutional responses. Second, child victims are entitled to dignity-based protection, meaning that the legal process must avoid secondary victimization, stigma, and degrading treatment. Third, protection must be holistic, covering legal, medical, psychological, and social dimensions. This means that the state's obligation is not fulfilled merely by convicting the perpetrator; it must also ensure access to recovery, assistance, and a child-sensitive justice process. These principles are firmly reflected in the CRC framework, especially in the combined reading of Articles 19, 34, and 39.

Within the Indonesian context, these international human rights obligations are highly relevant because Indonesia has ratified the CRC, and child protection has consequently become part of the national legal commitment. Therefore, in cases involving child victims of sexual violence in Aceh, the interpretation and application of the Qanun Jinayat should not be assessed solely on the basis of formal criminal elements, but also on whether the process and outcome fulfill the child's right to protection, dignity, recovery, and substantive justice. In this perspective, legal protection must be victim-oriented and child-centered, rather than focused exclusively on doctrinal classification.¹⁶

The Qanun provides alternative forms of *ta'zir* punishment, such as caning, fines, or imprisonment.¹⁷ This flexibility allows the judiciary to tailor sanctions according to the severity of the offense and the impact on the victim. Such flexibility

¹³ Khairil Akbar and Sumardi Efendi, "Criminal Law and Human Rights: A Study on the Principle of Human Rights Protection in Aceh Qanun No. 6 of 2014 on Jinayat Law," *Dusturiyah: Jurnal Hukum Islam, Perundang-Undangan Dan Pranata Sosial* 14, no. 2 (December 3, 2024): 197, <https://doi.org/10.22373/dusturiyah.v14i2.25541>.

¹⁴ Christoph Keller and Tobias Rekel, *Streifendienst in Nordrhein-Westfalen* (Richard Boorberg Verlag GmbH & Co KG, 2023), <https://doi.org/10.5771/9783415073784>.

¹⁵ Agustini Hanapi and Heri Fuadhi, "Perlindungan Terhadap Anak Dalam Analisis Undang-Undang Perlindungan Anak Dan Qanun Jinayat," *MAQASIDI: Jurnal Syariah Dan Hukum*, December 2023, 95–107, <https://doi.org/10.47498/maqasidi.v3i2.2123>.

¹⁶ Amanah Nurish, "Religious and Cultural Embodiment in the Land of Osing: A Portrait of Hadrami Community in Banyuwangi, East Java," *Islamica: Jurnal Studi Keislaman* 18, no. 2 (March 2024): 1–24, <https://doi.org/10.15642/islamica.2024.18.2.1-24>.

¹⁷ Faisal A Rani, Fikri Fikri, and Mahfud Mahfud, "Islam and National Law: A Formal Legal Review on Sharia Laws in Aceh," *Al-Risalah* 20, no. 1 (May 28, 2020): 47, <https://doi.org/10.30631/al-risalah.v20i1.521>.

aligns with protective legal frameworks that safeguard victims.¹⁸ The severity of sanctions for offenses against children demonstrates that the Qanun recognizes children as a special category requiring heightened protection. This corresponds to the principle that the state must provide enhanced safeguards to vulnerable groups.¹⁹

However, the regulatory structure remains element-based. The distinction between rape and sexual harassment is strictly tied to penetration. While this promotes legal certainty, it may narrow the scope of classification in cases involving severe coercion without penetration. Under Justice Theory, particularly distributive and corrective justice, legal norms must respond proportionally to the harm suffered by victims.²⁰ The Qanun attempts to ensure proportionality through graded sanctions, but the reliance on formal elements may affect substantive justice outcomes. From the standpoint of law enforcement theory, regulation alone does not guarantee protection. The effectiveness of child protection depends on how law enforcement institutions interpret and implement these provisions. Thus, the regulatory framework serves as a foundation, but its impact is shaped by judicial interpretation.²¹

The normative structure of the Qanun demonstrates a strong commitment to criminalizing sexual misconduct against children, which reflects both moral and legal condemnation of such acts within Aceh's Islamic legal system.²² Therefore, it can be concluded that the regulatory framework provides structured legal protection for child victims through criminalization, sanction gradation, and judicial discretion. However, its effectiveness depends on interpretative practice and enforcement mechanisms.

Implementation of Legal Protection in Decision Number 5/JN/2026/MS.Aceh

In Decision Number 5/JN/2026/MS.Aceh, the appellate court examined whether the defendant's conduct fulfilled the elements of rape under Article 50 or sexual harassment under Article 47. The court ultimately affirmed the application of Article 47. The court reasoned that the element of penetration was not proven. Therefore, the offense could not be classified as rape. This strict interpretation reflects adherence to the principle of legality.

¹⁸ Paul Atagamen Aidonojie et al., "The Increase of Child Labour in Nigeria: Legal Custody of Victim by the Nigerian Government as a Panacea," *Journal of Indonesian Constitutional Law* 1, no. 3 (December 15, 2024): 151–75, <https://doi.org/10.71239/jicl.v1i3.26>.

¹⁹ Hudzaifah Achmad Qotadah, Ali Abdul Wakhid, and Is Susanto, "Problems With the Implementation of Qanun Aceh Number 6 of 2014 Concerning Jinayat Law," *Analisis: Jurnal Studi Keislaman* 22, no. 1 (June 30, 2022): 111–32, <https://doi.org/10.24042/ajsk.v22i1.6556>.

²⁰ Adam Slavny, *Wrongs, Harms, and Compensation* (Oxford University Press Oxford, 2023), <https://doi.org/10.1093/oso/9780192864567.001.0001>.

²¹ Nigel Parton, ed., *Critical Child Protection Studies* (MDPI, 2022), <https://doi.org/10.3390/books978-3-0365-5687-1>.

²² Dicky Armanda, Yusrizal Hasbi, and Romi Asmara, "Strategi Penerapan Qanun No. 6 Tahun 2014 Tentang Hukum Jinayah Di Aceh," *Asia-Pacific Journal of Public Policy* 7, no. 1 (April 1, 2021): 18–28, <https://doi.org/10.52137/apjpp.v7i1.59>.

From the perspective of legal protection theory, the court's decision still provided repressive protection by imposing a 60-month imprisonment term. Although the offense was not classified as rape, the sanction reflects recognition of the seriousness of violence against a child.²³ The court emphasized that crimes against children are severe violations that damage the dignity and future of the victim. This demonstrates a protective orientation toward minors within judicial reasoning.

Under justice theory, the sentence imposed can be viewed as an effort to achieve corrective justice. The punishment aims to restore moral balance and ensure proportional accountability for the perpetrator. The limitation arises from doctrinal interpretation.²⁴ Because the offense did not meet the formal elements of rape, the court was constrained in applying heavier sanctions. This demonstrates how doctrinal structure shapes substantive outcomes.

From the standpoint of law enforcement theory, the decision reflects institutional consistency. The appellate court upheld the lower court's judgment, demonstrating procedural stability and predictability in the *Jinayat* system.²⁵ The court's rejection of the prosecutor's argument regarding attempted rape further shows that *Jinayat* law operates autonomously from the national Criminal Code's concept of attempt. This illustrates the influence of legal pluralism in shaping enforcement.

The choice of imprisonment instead of caning or fines indicates a prioritization of deterrence and protection.²⁶ The court aimed to prevent recidivism and protect society, particularly children. Therefore, the implementation of legal protection in this case reflects a balance between doctrinal legality and protective sentencing. While constrained by statutory elements, the court still imposed a sanction intended to safeguard child victims and deter future offenses.

Factors Influencing Law Enforcement against Sexual Violence toward Children

Doctrinal factors significantly influenced law enforcement in this case. The strict requirement of penetration as an element of rape determined the legal qualification of the offense. Interpretative methodology shaped the outcome. The judges adopted a textual and element-based interpretation, prioritizing legal certainty over expansive interpretation.

²³ Zainul Fuad, Surya Darma, and Muhibbuthabry Muhibbuthabry, "Wither Qanun Jinayat? The Legal and Social Developments of Islamic Criminal Law in Indonesia," *Cogent Social Sciences* 8, no. 1 (December 31, 2022), <https://doi.org/10.1080/23311886.2022.2053269>.

²⁴ Youngjae Lee, "Proportionality in Punishment," in *The Palgrave Handbook of Applied Ethics and the Criminal Law* (Cham: Springer International Publishing, 2019), 549–69, https://doi.org/10.1007/978-3-030-22811-8_23.

²⁵ Joo-Won Rhee, "The Principle of Appeals on Points of Law," *Kyung Hee Law Journal* 59, no. 4 (December 2024): 115–48, <https://doi.org/10.15539/KHLJ.59.4.4>.

²⁶ Dian Andi Nur Aziz et al., "Examining Qanun in Aceh from a Human Rights Perspective: Status, Substance and Impact on Vulnerable Groups and Minorities," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (June 5, 2023): 37–56, <https://doi.org/10.18326/ijtihad.v23i1.37-56>.

From the perspective of law enforcement theory, enforcement is influenced by legal substance, legal structure, and legal culture. In this case, the legal substance (statutory definition) directly limited classification.²⁷ Structural factors also played a role. Aceh's Jinayat system operates within Indonesia's plural legal order.²⁸ The court maintained doctrinal autonomy by rejecting the broader national concept of attempt.

Evidentiary factors affected the decision. Judicial conclusions were based strictly on proven facts presented during trial proceedings. From the standpoint of Legal Protection Theory, effective protection requires not only regulation but also interpretative approaches that prioritize victim vulnerability. When interpretation is strictly formal, protection may appear limited.

Under Justice Theory, justice requires proportionality between wrongdoing and punishment. The court sought to maintain this proportionality within statutory limits. Judicial discretion within the *ta'zir* system allowed flexibility in sentencing. This discretion enabled the court to select imprisonment as the most appropriate sanction.²⁹

The interaction between doctrinal rigidity and discretionary flexibility illustrates the dual character of Jinayat enforcement: rigid in offense classification but flexible in sanction selection.³⁰ Therefore, law enforcement in this case was shaped by doctrinal interpretation, evidentiary standards, structural legal pluralism, and judicial discretion. These factors collectively explain why the offense was classified under Article 47 and why imprisonment was deemed the appropriate form of legal protection.

Conclusion

This study examined the regulation, implementation, and enforcement factors concerning legal protection for child victims of sexual violence under Qanun Aceh Number 6 of 2014 on Jinayat Law, with particular reference to Decision Number 5/JN/2026/MS.Aceh. The findings demonstrate that the Jinayat Qanun provides a structured normative framework for protecting children from sexual violence through the criminalization of sexual harassment and rape, accompanied by graded *ta'zir* sanctions in the form of caning, fines, or imprisonment. The differentiation between Article 47 and Article 50 is fundamentally based on the presence of penetration as a constitutive legal element. From the perspective of Legal Protection Theory, this framework reflects both preventive protection, through clear

²⁷ Mukhlis Mukhlis et al., "The Legal Culture to Prevent Radical Islamism by a Pesantren in Madura," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (June 24, 2024): 58–87, <https://doi.org/10.18860/j-fsh.v16i1.26216>.

²⁸ Umarani Azkha, Syahrizal Abbas, and Mohd. Din, "Analisis Yuridis Terhadap Rumusan Jarimah Pemerksaan Dalam Qanun Aceh Nomor 6 Tahun 2014 Tentang Hukum Jinayat," *Al-Istinbath: Jurnal Hukum Islam* 5, no. 2 (November 30, 2020): 191, <https://doi.org/10.29240/jhi.v5i2.1784>.

²⁹ Mukhlis Mukhlis et al., "Regional Regulation Problems in the Field of Salt Industry Development Perspective of Farmers in Sampang Regency," *Trunojoyo Law Review* 6, no. 1 (February 29, 2024): 78–95, <https://doi.org/10.21107/tlr.v6i1.23321>.

³⁰ Bastiar Bastiar et al., "Syariat in Action: Assessing the Impact of Jinayat Law on Social Order in Aceh," *Justicia Islamica* 22, no. 1 (June 4, 2025): 159–84, <https://doi.org/10.21154/justicia.v22i1.9913>.

prohibition of sexual misconduct, and repressive protection, through the imposition of criminal sanctions. Nevertheless, the element-based structure of the offenses shows that legal classification is strictly dependent on formal statutory requirements, which may affect the breadth of offense qualification in concrete cases.

In its implementation, the appellate court in Decision Number 5/JN/2026/MS.Aceh applied Article 47 after determining that the element of penetration required under Article 50 was not proven. The imposition of 60 months' imprisonment indicates the court's acknowledgment of the seriousness of sexual violence against children and its intention to ensure deterrence and societal protection. Viewed through Justice Theory, the sentence reflects an effort to achieve proportional and corrective justice within the limits of statutory provisions. Although doctrinal constraints prevented the application of the rape provision, the sentencing decision demonstrates a protective stance toward the child victim. The judgment, therefore, illustrates a balance between strict adherence to the principle of legality and the necessity of ensuring accountability and deterrence in cases involving minors.

The study further finds that law enforcement in cases of sexual violence against children is shaped by several interrelated factors, including doctrinal interpretation of statutory elements, evidentiary standards in court proceedings, the structural context of legal pluralism in Indonesia, and judicial discretion in determining *ta'zir* sanctions. From the perspective of Law Enforcement Theory, the effectiveness of child protection depends on the interaction between legal substance, legal structure, and legal culture. In the examined case, offense classification was rigidly determined by statutory elements, while sentencing reflected discretionary flexibility aimed at deterrence and prevention.

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None

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