



**LEGAL PLURALISM AND RESPONSIVE LEGAL DEVELOPMENT:
THE ROLE OF *PAGEU GAMPONG* IN STRENGTHENING SHARIA
IMPLEMENTATION IN ACEH**

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Abstract

The implementation of Islamic law (Sharia) in Aceh has led to a dual legal system, but its effectiveness is often challenged by a disconnect between the formal legal framework and the community's legal culture. This article argues that a purely legal-positivist approach, which relies heavily on state-enforced *qanuns*, is insufficient. A more effective strategy requires a responsive legal development model that integrates Sharia with deeply rooted local wisdom. This study, utilizing a descriptive-qualitative approach based on a literature review, examines the potential of the *pageu gampong* system—a traditional village-level institution for social and moral harmony—as a strategic solution. Our analysis shows that revitalizing *pageu gampong* can bridge the gap between formal law and community practice by functioning as both a preventive and repressive mechanism. By fostering community participation and leveraging the legitimacy of customary leaders, this system not only addresses the challenges of enforcement but also strengthens public trust and combats the rise of individualism, thereby making Sharia implementation more sustainable and effective.

Keywords: *Local Wisdom, Law Enforcement, Sharia Law, Pageu Gampong, Legal Pluralism*

A. Introduction

The implementation of Islamic law (Sharia) in Aceh is a direct result of the province's special status in religious affairs, a mandate formalized by Law No. 44 of 1999 on the Implementation of Aceh's Special Privileges and Law No. 18 of 2001 on Special Autonomy for the Special Region of Aceh. Historically, the relationship between Islamic law and local custom has been deeply embedded in Acehnese society, a dynamic reflected in the popular maxim "*adat ngon hukom lagee zat ngon sifeut*" (custom and law are inseparable, like substance and attribute) (Ismail, 2019; Utriza NWAY, 2008). These legal mandates provided the formal framework for the Aceh Government to formulate regulations in accordance with Islamic law, marking a significant shift from the national legal system to one based on Sharia (Abubakar, 2020). This policy grants broad authority

to regulate and implement religious life across various aspects of public life, including worship, social transactions (*muamalah*), and criminal law, all of which are governed by a series of regional regulations known as *qanuns*.

The success of Sharia implementation, however, is not merely a matter of legal enactment but hinges on the effective integration of Islamic legal principles with the region's socio-cultural context. The traditional institutions and local wisdom that have long defined Acehnese communities are critical in ensuring that Sharia law is not only legitimate but also deeply accepted and practiced by the populace (Nurhayati, 2022). Nevertheless, the practical application of Sharia in Aceh has faced persistent challenges. Previous studies have highlighted issues such as limited personnel for enforcement bodies like the *Wilayatul Hisbah*, weak inter-institutional coordination, and a growing disconnect between formal state institutions and the informal, yet powerful, customary legal systems (M. Yunus et al., 2023). These shortcomings have often led to public perceptions of "selective law enforcement" and a subsequent "crisis of trust" toward the legal system, thereby hindering the full realization of Sharia's objectives (Ichwan, 2011; Amdani, 2014).

This article argues that a purely legalistic-positivist approach, which relies solely on state-enforced *qanuns*, is insufficient to address these deep-seated challenges (Jagalus, 2011; Otto et al., 2012). A more effective strategy requires a shift towards a responsive legal development model that recognizes and revitalizes local wisdom-based institutions to serve as a bridge between formal Sharia law and community practice. In this context, the *pageu gampong* system, a traditional village-level institution for maintaining social, moral, and religious harmony, emerges as a strategic solution (Priyotomo, 2010; T. Alamsyah et al., 2020). Its community-based, preventive, and repressive functions align with the need for a more decentralized and participatory approach to law enforcement, thereby offering a viable path to enhance the legal system's effectiveness and public acceptance (Zuriah & Iskandar, 2022).

Therefore, this study aims to fill the research gap by exploring how the revitalization of the *pageu gampong* system can strengthen the oversight and implementation of Sharia law. By examining the potential of this traditional institution as a community-based mechanism for enhancing legal effectiveness, this article will provide a deeper understanding of how a responsive legal development model, rooted in local wisdom, can overcome the implementation challenges faced by Aceh's unique legal system. This research contributes to the discourse on legal pluralism and offers a model for integrating traditional governance systems with modern legal frameworks to achieve more sustainable social justice and order (Abdurrahman, 2009; Salim, 2008).

B. Method

This study employs a descriptive-qualitative research approach to provide an in-depth and nuanced analysis of the complex interplay between Sharia law, local wisdom, and traditional institutions in Aceh. The methodology is primarily based on a comprehensive literature review, also known as library research, which involves

systematically identifying, collecting, and analyzing a wide range of secondary sources. These sources include primary legal documents such as Law No. 44 of 1999, Law No. 18 of 2001, Law No. 11 of 2006, and various *Qanuns* from the Aceh Government, as well as academic publications like scholarly books, peer-reviewed journal articles, and seminar papers. Additionally, grey literature, including reports from institutions like the *Majelis Adat Aceh* and other organizations, is utilized to gain practical insights into the implementation of Sharia and customary law. The data analysis is conducted using a qualitative content analysis framework, where the collected literature is meticulously examined to identify key themes and arguments. The analysis focuses on three core areas: first, mapping the legal frameworks of Sharia in Aceh, informed by Friedman's theory of legal systems; second, exploring the challenges and contradictions in the enforcement and public perception of Sharia law as documented in previous research; and third, deconstructing the concept and potential of the *pageu gampong* system as a community-based solution. By synthesizing these findings, this study aims to provide a critical and theory-driven understanding of how local wisdom can serve as a catalyst for a more effective and responsive Sharia legal system in Aceh.

C. Results and Discussion

1. The Legal System of Sharia's Implementation in Aceh

Law is established to create order within society; therefore, the formulation of legal rules must consider both societal needs and the function of the law itself. According to Lawrence M. Friedman, law serves four main functions: first, as a system of social control that regulates human behavior ; second, as a means of dispute resolution ; third, as a tool of social engineering, meaning that law functions as an instrument for social transformation ; and fourth, as social maintenance, which emphasizes law's role in preserving the status quo. To effectively perform these functions, a comprehensive legal system is required in order to fulfill the ideals envisioned by lawmakers. Friedman identifies three key elements that determine the effectiveness of a legal system: *legal structure*, *legal substance*, and *legal culture*. Legal structure refers to institutions authorized to create and implement laws. Legal substance relates to the content or form of legal rules and regulations. Meanwhile, legal culture pertains to people's attitudes toward the law, including beliefs, values, and expectations regarding legal norms and practices (Friedman, 2015).

In Aceh's Islamic legal system, the legal structure is represented not only by the general law enforcement institutions but also by specific agencies dedicated to the enforcement of Sharia, such as: a) the Office of Islamic Sharia (at both provincial and district/city levels) , b) the *Wilayatul Hisbah* (Sharia Police), which operates in parallel with the police and prosecution offices , and c) the *Mahkamah Syar'iyah* (Sharia Courts), which serve as judicial institutions replacing the functions of general and religious courts. The legal substance comprises legal products generated by actors within the Islamic legal system, including *qanun*, both written and unwritten norms (*customary law*), and court rulings. Meanwhile, legal culture refers to the opinions, attitudes, and behaviors of

Acehnese society and legal authorities in implementing Islamic law, supported by the local government's goodwill to provide the best for its people (Isa, 2013).

A robust legal system cannot operate effectively without a solid legal substance. Similarly, good legal substance will be of little benefit without strong legal structures. Both components will only be effective if supported by a sound legal culture and public legal awareness. The legal system will function properly if all three of Friedman's elements, structure, substance, and culture are ideally aligned. If any legal subsystem fails to function optimally, problems will arise in the effort to utilize law as a means of social reform and development (Friedman, 1975).

The development of Aceh's Islamic legal system is mandated by the Law on the Governance of Aceh, specifically Law No. 11 of 2006. According to Nonet and Selznick, there are two models of legal development: first, as *Orthodox legal development*, which results in repressive law. This model views law primarily as a tool of power to maintain the status quo and resist public demands for change. It seeks to suppress the flow of public aspirations deemed threatening to authority. Its dominant characteristic is the state's control over legal institutions. In this model, law becomes an instrument to enforce state ideology and suppress social dynamism. Legal formation processes are often manipulated to appear as though they reflect the people's will. Second, as

Responsive legal development, where law serves to legitimize the values and desires that arise and develop within society. In this model, the community plays a dominant role while the state acts as a facilitator. In many developing countries, however, law is still treated as a means to fulfill governmental programs, leading to a lack of legal proportionality and supremacy. Nonet and Selznick argue that most developing countries adopt this orthodox legal politics, using law to legitimize the interests of political elites or certain groups (Otto et al., 2012). Although Indonesia's broader legal development has leaned toward the orthodox approach, which grants the state a dominant political role. In Aceh, the development of the Islamic legal system leans more toward responsive law. This approach bases the development of legal components on values and norms already practiced by society, as well as on Islamic jurisprudence (*fiqh*) that has long been embedded in local tradition. Nonetheless, the Islamic legal system in Aceh still faces challenges due to a lack of effective integration between the state's role and the legal implementation process.

To overcome this legal stagnation, a shift in legal policy is necessary moving away from rigid legal positivism. A legalistic-positivist approach that relies solely on written rules cannot fully capture the essence of justice, as such laws often neglect broader societal values (Jagalus, 2011). In relation to living law within society, a fundamental idea is the necessity of legal autonomy, meaning that the law must reflect and legitimize the living values and norms of the community while upholding the three fundamental pillars of law: justice, utility, and certainty. A legal system can maintain its independence over time and serve social functions effectively as long as the balance of competing interests favors justice for the people. Legal autonomy should be rooted in the ways all legal institutions, reasoning patterns, decision-making principles, and legal doctrines are

directed toward justice. An ideal law is one that satisfies all parties. After a long process of development, the Islamic legal system in Aceh has undergone a meaningful dialectic and has reached a more mature stage. It has incorporated the diverse concerns and perspectives of various segments of society, culminating in the formulation of the *Qanun Jinayat*—a comprehensive piece of legislation that embodies the core elements of a legal system. This *qanun* represents the ultimate goal of law: to create order and protect all members of society in the pursuit of the noble ideal of implementing comprehensive Islamic law, despite some remaining gaps that may still allow legal inconsistencies to occur.

2. The Role of Local Wisdom in Sharia Law Enforcement

The existence of customary law as a form of local wisdom is increasingly marginalized. Once functioning as a living law that provided effective solutions to various social issues within communities, customary law is now gradually fading in relevance. Empirically, indigenous communities often face challenges when customary law comes into conflict with state law. A common example is when traditional rights are confronted by the interests of investors operating through formal legal mechanisms of the state (M. Syamsudin, 2008). The development of Indonesia's legal system, which tends to favor civil law and common law traditions, along with legal policies oriented toward the codification and unification of law, has further accelerated the erosion of customary legal institutions.

On the other hand, in both conceptual and contemporary realities, customary law cannot be separated from its interconnections with other legal systems, such as state law, religious law, customary practices, and even international law. The relationships among these legal systems are complex, involving interaction, interrelation, and mutual influence, which may take the form of competition, rejection, or reciprocal reinforcement. This complexity is recognized in modern legal anthropology as the concept of legal pluralism. The international encounters brought about by globalization and trade liberalization have generated numerous cross-border transactions, economic, financial, political, and legal, in both bilateral and multilateral contexts. Simultaneously, there has been a widespread dissemination of universal values such as human rights, social justice, and gender equality. The rapid advancement of information technology has accelerated the dissemination of these global ideas, allowing international, national, and local legal norms to transcend geographic boundaries and penetrate social spaces down to the smallest community units (Irianto, 2004). Nevertheless, efforts to preserve the distinctive character of local legal systems remain essential. This can be achieved through intervention and reinforcement by authorized institutions. One such example is the implementation of Islamic law in Aceh, which highlights the importance of protecting local values amid the dynamics of global legal pluralism.

Legal development grounded in Sharia and customary law, as practiced in Aceh, possesses unique characteristics. The life of a community, such as the Acehnese society, will be sustained as long as it upholds virtuous behavior. When such behavior is lost, the

community itself risks vanishing. A society that has lost its moral compass or behavioral standards will inevitably head toward its own collapse. This reality applies not only at the collective level but also at the individual level.

To foster the development of a Sharia-oriented character within Acehnese society, at least two key strategies can be employed. First, by revitalizing local wisdom traditions, which are rich in ethical teachings and behavioral guidance. Second, by re-functionalizing the mosque as a central institution for shaping the moral and religious character of the community (Syarkawi, 2011). Character can be understood from two perspectives: given character and willed character. Given character refers to inherent traits and dispositions that a person is born with, while willed character refers to traits and behaviors that are consciously developed and cultivated through intentional effort and habituation of good conduct. While inherent character cannot be changed, since it is intrinsically embedded within the individual. It can be positively directed through customary practices and cultural education, allowing for a constructive fusion between innate and developed character traits. The development of positive and virtuous character is closely linked to customary behavior and the process of customary guidance. As mentioned earlier, virtuous conduct is a fundamental determinant of human survival, both collectively and individually (Syarkawi, 2011).

According to Hakim Nyak Pha, custom and customary law are often viewed with skepticism by certain segments of society, particularly by those who identify themselves as part of the modern world. This attitude stems from the perception that customary law is no longer relevant in regulating the complexities of contemporary social life. This view is further reinforced by the reality that state positive law has developed significantly and gained broad legitimacy within society, thereby diminishing the appeal and prestige of customary law. However, in truth, wherever people live, custom and customary law, whether consciously or not continue to accompany and shape the social life of communities. For many Indonesians, modern law alone has yet to fully regulate all dimensions of social interaction (Nyak Pha, 1990). This situation is also evident in Aceh, where customary law has gradually been abandoned and has reached a critical point, as it is no longer effectively applied in community life. Such a condition serves as the backdrop for the ongoing efforts of the Aceh Customary Assembly (*Majelis Adat Aceh*) to integrate the customary legal system into the region's *qanuns*. These efforts aim to revitalize the role of customary law in community governance. Nonetheless, numerous issues remain unresolved, particularly in relation to the technical implementation of customary law and the determination of legal sanctions in addressing emerging social problems.

Following the enactment of Law No. 11 of 2006, the existence and status of customary institutions (*lembaga adat*) are more specifically regulated in various articles of the Law on the Governance of Aceh (UUPA), which identifies thirteen (13) customary institutions recognized as channels for public participation in governance, down to the grassroots level. This legal recognition creates opportunities to transform community knowledge and lived experience into legal norms that are applicable in daily social life.

The presence of these customary institutions, whose status has been strengthened through regional Qanun regulations, is a highly positive development in structuring the community's legal order. Each customary institution holds its own distinct status and function, tailored to the different sectors of community life, and plays a role in regulating and resolving legal issues that arise among citizens. Customary justice serves as an effective "compass" in guiding attitudes and behavior within the boundaries permitted by customary law. One *Hadih Maja* (traditional Acehnese proverb) states: "*Lampoh meu pageu, umong meu ateueng; Nanggroe meu syara', maseng-maseng na Raja*" ("A garden has a fence, a rice field has a boundary; A country has its laws, and each domain has its ruler"). This implies that every matter has its corresponding customary institution, and each field of work has specific rules governing it (Nyak Pha, 1990). Thus, custom and customary law serve as powerful tools of social control. In fact, for many Acehnese, particularly those residing in remote rural areas far from formal judicial institutions, customary justice remains the primary means for resolving disputes and legal conflicts among community members. There is a strong tendency within such communities to comply with the law out of a fear of negative sanctions that may result from violations.

Customary sanctions reflect the socio-cultural values of a community and represent a system of thought with a distinct direction and purpose within the framework of customary law. The response to violations of customary norms is not intended to impose physical punishment. Rather, customary sanctions are primarily aimed at restoring cosmic balance that has been disrupted by the violation of *adat* (customary) norms. The underlying legal reasoning of customary law embodies general characteristics such as communalism, religious-magical orientation, concreteness, and visual representation. Customary communities consistently seek balance and harmony in all aspects of life as a foundation for achieving both physical and spiritual well-being. These ideals form the basis of the customary legal system. As such, customary societies aspire to maintain equilibrium between the physical and spiritual realms of life.

The consequence of this worldview is that any action causing imbalance must be avoided; and if such an action occurs, the perpetrator is obligated to restore the disrupted harmony, in accordance with the established rules of the customary community. This deeply institutionalized mode of thinking has given rise to a belief that unresolved violations of customary norms, if not settled according to traditional legal procedures, may result in disruptions or misfortune for the entire community. Therefore, such cases require restorative steps, often in the form of ritual obligations imposed on the offender to return conditions to their original state. Failure to fulfill these obligations may lead to further imbalances or adverse consequences for the functioning of governance, the community, or even the individual concerned. In cases requiring the imposition of customary obligations, legal practitioners often encounter difficulties when dealing with Article 10 of the Indonesian Penal Code (KUHP), which does not recognize the fulfillment of customary obligations as a formal category of punishment. One negative effect of this legal gap is that the law may be disobeyed unless its enforcement is strictly monitored, thereby opening opportunities for circumvention (Amdani, 2014). One of the

pressing issues in the application of customary law is its lack of coercive power when confronted with state law.

Despite ongoing efforts to positivize customary law through *qanuns* (regional Sharia-based legislation), justice has not been fully realized in resolving disputes through traditional mechanisms. This is due to both the absence of adequate customary *qanuns* and the limited understanding among customary court officials regarding the procedural rules and sanctions appropriate to various cases. Nevertheless, customary institutions continue to play an active role in resolving legal disputes, even amid ongoing debates among legal scholars regarding the validity and effectiveness of such practices.

3. Revitalization *Pageu Gampong* as Local Wisdom in Strengthening Sharia' Law

The implementation of Sharia law in Aceh has transformed the legal enforcement system, accompanied by the establishment of new law enforcement institutions, changes in institutional nomenclature, and the delegation of authority in law enforcement processes. These structural reforms have been regulated through legislation that defines the duties, functions, and authorities of each law enforcement institution in the application of legal provisions. However, the formulation of regulations regarding the implementation of tasks and functions of these institutions has not progressed as expected in line with the objectives of legal formation and implementation policies. For instance, the establishment of the *Wilayatul Hisbah* as a unit within the municipal police was intended to enforce *qanun* based on Sharia provisions. Yet, the effectiveness of this unit has been limited, and there seems to be a deliberate effort to restrict its operational scope. Initially formed in 2005, *Wilayatul Hisbah* played a vital role in enforcing Islamic law, particularly during the rehabilitation and reconstruction period following the tsunami disaster. At that time, the institution was able to monitor and curtail immoral behavior and activities committed by both foreign nationals and local residents involved in humanitarian and reconstruction agencies operating in Aceh.

Wilayatul Hisbah, as one of the key components of law enforcement at the forefront of monitoring the implementation of sharia law, has not yet succeeded in becoming the main actor in enforcing Sharia, particularly in supervising and prosecuting *jinayat* (criminal) violations in the field due to limited personnel. This limitation has led to a public perception of "selective law enforcement", which in turn has triggered a crisis of trust toward the overall performance of legal enforcement institutions. Therefore, strengthening the legal system and the oversight of sharia law enforcement can be pursued by revitalizing local wisdom within community-based structures, particularly through the activation of *pageu gampong*, a traditional village-based supervisory institution that plays a role in maintaining moral and legal order within the community.

Pageu Gampong in Acehese society carries a broader and symbolic meaning, referring to a system of social, cultural, and moral defense within village life. *Pageu Gampong* represents a communal way of life that is protective in nature, aimed at anticipating and resolving societal problems (Zuriah & Iskandar, 2022). The implementation of *pageu gampong* seeks to foster solidarity, create a sense of belonging,

and restore balance and harmony among community members. It can be understood as a traditional mechanism intended to shield the village from negative influences, whether internal or external. According to Abdurrahman, *pageu gampong* is a collective and protective system of managing communal life, designed to anticipate and provide solutions to various social issues within the community (Abdurrahman, 2009). The concept of *pageu gampong* is rich with local wisdom deeply rooted in Acehnese tradition and customary law. Its existence holds significant relevance in the development of *sharia law*, particularly in the socio-religious domain at the local level.

The implementation of *pageu gampong* takes two forms: first, as a preventive system to avert problems, and second, as a conflict resolution mechanism. The preventive aspect is realized through efforts to build solidarity and foster a sense of communal belonging among community members, while the repressive aspect functions through the restoration of social balance and harmony by creating a safe, comfortable, and peaceful environment. This system is administered by traditional leaders, *imam meunasah* (mosque leaders), and other gampong officials, and it functions as an early detection mechanism for social and religious deviations. Its primary aim is to safeguard the continuity of local customs and traditions within the gampong territory (Priyotomo, 2010).

The research conducted by Alamsyah indicates that the *pageu gampong system* can serve as an effective method for protecting villages from the illegal circulation of narcotics. According to his findings, the community has attempted various strategies to address drug-related issues, but the outcomes have been suboptimal due to the predominantly individualistic nature of the efforts. Therefore, a collective movement involving active participation from all layers of society is needed. Such participation and collaboration can be realized through the *pageu gampong system* (T. Alamsyah et al., 2020). In society, the *pageu gampong system* functions not only within cultural contexts but also in socio-economic dimensions. Its implementation is reflected through community-based mutual cooperation (*gotong royong*), such as through acts of charity, and broader social protection initiatives including zakat, waqf, and land use rights (Priyotomo, 2010).

Nowadays, individualistic attitudes are increasingly prevalent in society, not only in urban areas but also in rural communities. As a result, people have become indifferent toward one another, focusing solely on their nuclear families while neglecting others outside their immediate circle. Many are now reluctant to reprimand community members who behave contrary to established customs and traditions. The spirit of communal solidarity that once characterized Acehnese society must be revitalized. This collective spirit is reflected in the traditional *hadih maja* said: "*tulong meunolong sabei keudroe droe, tapeukong nanggroe sabei syedara*" (community members must help each other in order to collectively strengthen the nation). The revitalization of the *pageu gampong system* can be achieved through: a) the presence of respected and charismatic village leaders, and b) comprehensive socialization, education, and internalization of the importance of the *pageu gampong system* within the community (Ilham et al., 2022).

Therefore, the *pageu gampong system* can only function effectively if all community elements are willing to act and commit to safeguarding the village from undesirable influences. The key lies in strengthening human resources and engaging all community sectors, including religious leaders, scholars (*ulama*), women, and youth.

D. Conclusion

The implementation of Sharia law in Aceh has brought about significant legal and structural changes, including the establishment of new enforcement institutions. However, the effectiveness of this legal system continues to face various challenges, primarily due to a disconnect between the formal legal framework (*qanun*) and the living, customary legal culture of the community. This study argues that a purely legalistic-positivist approach, which relies solely on state-enforced rules, is insufficient to address the deep-seated issues of limited resources, lack of public trust, and weak inter-institutional coordination.

To overcome these challenges, a strategic shift is needed toward a responsive legal development model that integrates local wisdom with Sharia implementation. The revitalization of the *pageu gampong system*, a traditional village-level institution, emerges as a viable and effective solution. This system functions as both a preventive and repressive mechanism for maintaining social and moral harmony. By leveraging community-based collective action and the authority of traditional leaders, *pageu gampong* can serve as a vital bridge between formal Sharia law and the community's daily life.

The revitalization of *pageu gampong* is not merely an act of cultural preservation but a strategic effort to strengthen the oversight and implementation of Sharia law from the grassroots level. This approach cultivates a legal culture where law enforcement is a shared responsibility, thereby enhancing the legitimacy and public acceptance of the legal system. In doing so, Aceh can move closer to achieving a more sustainable and effective legal order that is deeply rooted in both its religious values and its rich local traditions.

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