

Human Trafficking as an Economic Crime in Aceh: An Islamic Economic Law Perspective on Qanun Jinayat and Gampong Justice

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Abstract

Human trafficking constitutes a severe form of economic exploitation and fundamentally contradicts the principles of *maqāṣid al-shari'ah*, particularly the preservation of wealth (*hifz al-māl*) and life (*hifz al-nafs*). This crime harms victims physically and psychologically while undermining their economic rights and disrupting social and economic justice. From the perspective of Islamic economic law, human trafficking is a grave violation of the obligation to uphold economic justice and equitable wealth distribution—core elements of *maqāṣid al-shari'ah*. This study aims to analyze and compare the effectiveness of these two legal approaches and to formulate a cooperative and justice-oriented model of resolution. Employing a descriptive qualitative method, data were collected through in-depth interviews, field observations, and document analysis in several regions of Aceh. The findings reveal that the Qanun Jinayat does not explicitly regulate human trafficking offenses, resulting in suboptimal law enforcement. Meanwhile, the Musyawarah Gampong mechanism often fails to ensure adequate protection for victims, creating space for perpetrator impunity. Based on these findings, the study recommends revising the Qanun Jinayat to include specific provisions on human trafficking, enhancing legal training for village authorities, and strengthening legal literacy among the public to bridge the gap between legal norms and social practices. This study positions human trafficking as a violation of the principles of Islamic economic law, which demand distributive justice and the prohibition of exploitation in economic activities.

Keywords: *human trafficking, Qanun Jinayat, Musyawarah gampong, customary law, justice*

Abstrak

*Perdagangan manusia merupakan bentuk eksplorasi ekonomi yang sangat serius dan bertentangan dengan prinsip-prinsip maqāṣid al-shari'ah, khususnya dalam hal perlindungan harta (*hifz al-māl*) dan jiwa (*hifz al-nafs*). Aktivitas ini tidak hanya merugikan korban secara fisik dan psikologis, tetapi juga menggerogoti hak ekonomi mereka serta merusak tatanan keadilan sosial dan ekonomi dalam masyarakat. Dari perspektif hukum ekonomi syariah, perdagangan manusia dapat dipahami sebagai pelanggaran berat terhadap kewajiban menjaga keadilan ekonomi dan distribusi kekayaan yang adil, yang merupakan unsur fundamental dalam maqāṣid al-shari'ah. Penelitian ini bertujuan untuk menganalisis dan membandingkan efektivitas dua pendekatan hukum tersebut serta merumuskan model penanganan yang kooperatif dan berkeadilan. Menggunakan metode kualitatif deskriptif, data diperoleh melalui wawancara mendalam, observasi lapangan, dan studi dokumen di beberapa wilayah Aceh. Hasil penelitian menunjukkan bahwa Qanun Jinayat belum mengatur secara eksplisit tindak pidana perdagangan manusia, sehingga proses penegakan hukum kurang optimal. Sementara itu, Musyawarah Gampong sering kali tidak memberikan perlindungan yang memadai bagi korban dan membuka ruang bagi impunitas pelaku. Berdasarkan temuan ini, studi merekomendasikan revisi Qanun Jinayat agar mencakup ketentuan khusus tentang*

perdagangan manusia, pelatihan hukum bagi aparat gampong, serta penguatan literasi hukum masyarakat untuk menjembatani kesenjangan antara norma hukum dan praktik sosial. Kajian ini menempatkan perdagangan manusia sebagai pelanggaran terhadap prinsip Islamic economic law yang menuntut keadilan distribusi dan larangan eksplorasi dalam aktivitas ekonomi

Kata Kunci: *human trafficking, hukum ekonomi syariah, maqāṣid al-sharī‘ah, Qanun Jinayat, keadilan ekonomi*

Introduction

Human trafficking is a transnational crime that presents not only legal challenges but also constitutes a significant economic offense and violation of Islamic economic principles (Irjananta et al., 2025). This crime involves labor exploitation, covert prostitution, and other unlawful economic activities that generate substantial financial profits for trafficking syndicates while undermining the principles of justice, balance, and ethical transactions in *mu‘āmalah islāmiyyah*. In the Aceh region, such exploitation is frequently carried out through complex networks, ranging from smuggling illegal labor to forcing victims to work under inhumane conditions, including in hidden prostitution industries (Musnadi et al., 2024).

From the perspective of Islamic economic law, human trafficking represents an act of *zulm* (injustice) and *iktināz* (unjust accumulation of wealth), as it commodifies human beings for financial gain, violating the *maqāṣid al-sharī‘ah* objectives of protecting life (*hifz al-nafs*) and property (*hifz al-māl*). Recent empirical studies reveal that such practices cause deep social and economic losses by creating an illicit labor market vulnerable to systematic exploitation. Real-world cases show how victims, especially migrant workers and children, are traded at high transaction values and often lack adequate legal protection (Malah & Asongu, 2022). Hence, this study seeks to address the human trafficking problem not only from the dualistic legal perspective—between *Qanun Jinayat* and customary law—but also through the lens of Islamic economic justice, viewing it as an economic crime that disrupts fair distribution of wealth and social welfare, while aiming to formulate a more effective and just handling model (Saragih & Damayanti, 2024).

Human trafficking constitutes a highly complex crime with multidimensional impacts—legal, social, cultural, and religious (Salsabilah et al., 2024). It involves the exploitation of individuals through recruitment, transportation, harboring, or receipt of persons using coercion, deception, or abuse of power (Darmayanti et al., 2022), as defined in Law No. 21 of 2007 on the Eradication of the Crime of Human Trafficking. In the province of Aceh, the issue takes on a distinctive dimension due to the duality of legal systems: the implementation of *Qanun*

Jinayat, a form of Islamic criminal law, alongside customary dispute resolution mechanisms through *musyawarah gampong* (village deliberation).

Islamic criminal law is not solely focused on the imposition of sanctions but also emphasizes values such as public welfare (*maṣlahah*), justice, and the protection of human dignity. It is rooted in the fundamental objectives of *maqāṣid al-sharī‘ah*, which aim to preserve five essential elements: religion (*dīn*), life (*nafs*), intellect (*‘aql*), lineage (*nasl*), and property (*māl*) (Nur et al., 2020). Therefore, any crime that threatens or violates these core values—such as human trafficking—is treated with utmost seriousness in Islamic law, as it not only undermines humanitarian principles but also degrades the inherent dignity of the human being (Hafizd, 2021; Syukri Al-Bani et al., 2022).

At the national level, Indonesia does not adhere to a comprehensive Islamic legal system. However, through the framework of special autonomy granted by Law No. 11 of 2006 on the Governance of Aceh, the province has been authorized to implement Islamic law through regional legal instruments known as *qānūn*. One of the most significant is Qanun Aceh No. 6 of 2014 on Jinayat Law, which regulates several criminal offenses (*jarimah*), including *zinā* (adultery), *khalwat* (seclusion), *khamr* (alcohol consumption), *qadhf* (false accusation of adultery), and *maisir* (gambling). Nonetheless, a critical challenge arises from the fact that modern crimes such as human trafficking are not explicitly regulated under this qanun.

Human trafficking is a transnational crime characterized by complex networks, diverse methods of operation, and severe consequences for victims—physically, psychologically, and socially (Simangunsong & Situmeang, 2025). In Aceh, reports from various institutions, including the National Commission on Violence Against Women, indicate a persistently high incidence of trafficking cases, including labor exploitation, covert prostitution, and illegal recruitment (Badri, 2023). This situation raises a pressing question: to what extent can the existing legal mechanisms—both Qanun Jinayat and *musyawarah gampong*—provide comprehensive legal protection for victims and serve as an effective deterrent for perpetrators?

In addition to formal legal mechanisms, Acehnese society continues to maintain customary dispute resolution practices through *musyawarah gampong*, a village-level deliberative forum involving local actors such as the *Keuchik* (village head), *Tuha Peut* (village council of elders), and traditional leaders (Qotadah et al., 2022). This approach is often viewed as more effective in preserving social harmony due to its emphasis on familial values and expedited resolutions. However, it has been subject to criticism, particularly when applied to serious criminal cases—such as sexual violence, domestic abuse, and human trafficking—

because it frequently overlooks the rights of victims and results in superficial reconciliation (Abdullah et al., 2024).

This situation illustrates the legal tension in handling human trafficking cases in Aceh, which lies between the formal legal system (Qanun Jinayat) and customary resolution practices via *musyawarah gampong*. (Fitrah, 2019) highlight the dualism of criminal legal regulation in Aceh, which creates legal uncertainty by offering two parallel pathways for resolving the same case. Such dualism often causes the customary mechanism to dominate, even though it may lead victims down non-formal channels that compromise their access to fair and transparent criminal justice.

Efendi (2024) Underscores that the transformation of Islamic criminal law in Aceh faces major challenges in aligning with human rights principles and national law. Additional obstacles such as limited resources among law enforcement, low levels of legal literacy in society, and social pressure against victims undermine the effectiveness of the Qanun Jinayat. These conditions increase the risk of impunity for perpetrators and weaken the protection of victims—an essential pillar of any legal system (Ahmed, 2020).

Studies on human trafficking in Indonesia, particularly in Aceh, have been conducted from various legal perspectives. Ilham and Rizamizani analyze obstacles in the legal enforcement of trafficking cases, particularly in Decision No. 337/Pid.Sus/2020/PN.Bna, including victims' reluctance to report and judges' tendency toward lenient sentencing. Emphasize the need for an integrated strategy that includes both preventive and repressive measures, along with legal protection for victims, especially among Rohingya refugees (Puanandini et al., 2024).

Rahmania & Nirmala, (2024) Examine Indonesia's legal basis for prosecuting foreign human traffickers through the territoriality principle and the theory of consequences. Nurhayati et al. approach human trafficking through the lens of *maqāṣid al-shari‘ah*, arguing that such practices contradict the core Islamic values of protection and human dignity. Meanwhile, Motseki & Mofokeng, (2022) investigates the broader causal factors of human trafficking—such as poverty and weak interagency coordination—and recommends a comprehensive strategy for its eradication .

Meanwhile, research related to *musyawarah gampong* has been conducted by several scholars who emphasize the importance of community involvement in the formulation of local policies. (Pakpahan, 2025) found that in the practice of formulating Qanun Gampong in Aceh Besar, public participation remains limited and does not yet fulfill the principles of deliberative democracy. Marlina & Mulyadi, (2024) observed that community deliberations in Sawang

Subdistrict, North Aceh, tend to be merely procedural and fail to reflect active citizen engagement in decision-making. Similarly, Ben Suud & Gani, (2024) highlighted that limited human resources and financial constraints in Gampong Bahagia, Aceh Jaya, pose significant barriers to the implementation of inclusive deliberations. Collectively, these studies affirm that although deliberation (musyawarah) is a foundational element in Gampong governance in Aceh, its implementation still faces technical and structural challenges that hinder meaningful community participation (Asaad et al, 2025).

This article responds to the lack of empirical research examining how *Qanun Jinayat* and *musyawarah gampong* interact in addressing human trafficking in Aceh from the perspective of Islamic economic law. Both mechanisms possess distinct potential and limitations: *Qanun Jinayat* provides legal certainty but lacks explicit provisions on human trafficking, while *musyawarah gampong* emphasizes social harmony yet often neglects victims' economic and moral rights. In practice, communities tend to prefer customary settlements despite their tendency to undermine substantive justice and economic fairness. Therefore, this study is significant in advancing the discourse of Islamic economic law by linking the principles of *maqāṣid al-sharī‘ah*—particularly *hifz al-māl* (protection of wealth) and *hifz al-nafs* (protection of life)—with local justice systems. By analyzing the effectiveness of both mechanisms, this article seeks to formulate a restorative justice model grounded in Islamic economic law, integrating Islamic legal values with Acehnese customary wisdom to build a more just, adaptive, and context-sensitive legal framework that ensures victim protection and upholds economic justice.

Methods

This study employs an empirical juridical approach with a qualitative method to explore the interaction between *Qanun Jinayat* and *musyawarah gampong* in addressing human trafficking in Aceh. This approach not only examines written legal norms but also investigates their implementation within the community's social practices. Research sites were purposively selected in Banda Aceh, North Aceh, and Bireuen due to the high intensity of Islamic law enforcement and the continued strength of customary legal practices in these areas. Data sources include primary data obtained through in-depth interviews with law enforcement officials and traditional leaders, as well as secondary data derived from legislation, scholarly literature, and local documents.

Data collection techniques combined interviews, observation, and documentation, with triangulation methods employed to enhance data validity. Data analysis was conducted using a

qualitative descriptive technique through the processes of data reduction, presentation, and simultaneous conclusion drawing. Informants were selected using purposive and snowball sampling methods to ensure the depth and relevance of the information gathered. Through this research design, the study aims to provide a comprehensive understanding of how communities respond to and choose between formal and customary legal mechanisms, while also identifying the potential for integrating both systems to develop a fair and context-sensitive law enforcement model rooted in local and Islamic values.

This study employs an empirical juridical approach combined with qualitative methods to comprehensively capture both the legal and socio-economic dimensions of human trafficking cases. Through in-depth interviews, field observations, and document analysis, this approach not only examines normative legal aspects but also explores the lived experiences of victims, perpetrators, and communities. It thus provides a holistic understanding of how different resolution mechanisms influence social and economic conditions, serving as a foundation for developing more effective, context-sensitive, and justice-oriented legal policies.

Theological-Doctrinal Approach (Maqāṣid al-Sharī‘ah)

Maqāṣid al-Sharī‘ah refers to the higher objectives or goals of Islamic law aimed at securing the welfare and preventing harm to human beings. Among the five fundamental maqāṣid-preservation of religion (hifz al-dīn), life (hifz al-nafs), intellect (hifz al-‘aql), progeny (hifz al-nasl), and property (hifz al-māl)-the concepts of hifz al-māl (protection of wealth) and hifz al-nafs (protection of life) (al-Ghazali, n.d.) are especially critical in the context of economic justice and the fight against human trafficking (al-Marakeby, 2025).

The protection of wealth (hifz al-māl) in Islamic teachings is not limited to the safeguarding of physical property, but extends to ensuring equitable distribution of resources and preventing unjust enrichment that harms society (Ghlamallah et al., 2021). It advocates for economic transactions grounded in fairness and prohibits any form of economic injustice, including exploitation, deceit, and monopoly. Islamic economic justice demands that wealth circulate justly and respect the rights of all parties involved, thereby fostering social welfare and economic stability (Hadi, 2022).

Complementing this, the preservation of life (hifz al-nafs) commands protection of human dignity, physical safety, and psychological well-being. Within the framework of mu‘āmalah—Islamic commercial and social interactions—any form of exploitation or oppression that endangers human life or dignity is strictly forbidden (Dahlan et al., 2021). This includes the prohibition of forced labor, coerced sexual activities, and any economic practices that violate

the rights and welfare of individuals, which are central to the condemnation of human trafficking (Roslan & Zainuri, 2023).

Together, these principles of maqāṣid emphasize a holistic approach to justice that not only punishes economic crimes like trafficking but also mandates comprehensive protection and restoration for victims. Addressing human trafficking through the lens of maqāṣid al-sharī‘ah therefore requires integrated strategies that uphold the dignity and welfare of individuals while promoting equitable economic relations.

Empirical Realities: When Human Trafficking is Settled through Customary Mechanisms

This study was conducted in several regions of Aceh Province with high vulnerability to human trafficking practices, namely Banda Aceh City, North Aceh Regency, Aceh Tamiang Regency, and East Aceh Regency. Data collection was carried out through in-depth interviews, participatory observation, and documentation of cases handled by institutions such as the Office for Women's Empowerment and Child Protection (DP3A), the police, and customary village institutions (Lembaga Adat Gampong).

Field findings reveal a duality in the approaches to resolving human trafficking cases in Aceh. On the one hand, *Qanun Jinayat*, as a formal legal instrument, does not contain specific provisions regulating the crime of human trafficking. On the other hand, non-formal resolution through *musyawarah gampong* (village deliberation) tends to prioritize social reconciliation over the fulfillment of victims' rights. This dualism often leads to inconsistency in law enforcement, where serious crimes are treated as moral or social disputes rather than legal violations. As a result, victims rarely receive adequate justice or compensation, while perpetrators frequently avoid accountability under the guise of maintaining community harmony.

Drawing on data collected between 2020 and 2024, the study summarizes recorded cases of human trafficking across several districts and municipalities in Aceh. The information was obtained through interviews with key institutional actors, including the Head of the Office for Women's Empowerment and Child Protection (June 2025), the Head of the Criminal Investigation Unit of the Aceh Regional Police (June 2025), and an investigator from the Women and Children Protection Unit of the Lhokseumawe Police (May 2025). These data provide a comprehensive picture of the scale, pattern, and regional distribution of human trafficking cases in Aceh, showing variations in how each district handles such offenses. The findings also highlight the imbalance between formal and customary mechanisms, where most

cases are settled through *musyawarah gampong* rather than the formal legal system, reflecting both the persistence of local socio-cultural norms and the limited capacity of law enforcement institutions to implement the *Qanun Jinayat* effectively.

Table 1. Distribution of Human Trafficking Case Handling in Aceh (2020–2024)

No	Regency/City	Total Cases	Formal Handling (Qanun)	Customary Handling (Gampong)	Unaddressed Cases
1	Banda Aceh	18	7	8	3
2	Aceh Utara	21	5	12	4
3	Aceh Timur	26	8	14	4
4	Aceh Tamiang	15	4	8	3
5	Aceh Besar	11	3	6	2
Total		91	27	48	16

Source: *Interviews with the Head of the Aceh Office for Women's Empowerment and Child Protection (DP3A) and the Aceh Regional Police, May–June 2025.*

The data indicate that the majority of human trafficking cases (over half) were resolved through *musyawarah gampong* (customary village deliberation mechanisms). Meanwhile, only about 30 percent were processed through formal legal channels, and the remainder were left legally unaddressed.

To assess the quality of case handling based on justice indicators, the study compares the effectiveness of the two legal approaches—*Qanun Jinayat* and *musyawarah gampong*—as presented in Table 2. This comparison highlights the differing capacities of formal and customary mechanisms in ensuring justice for victims and accountability for offenders. The data in the table were obtained through interviews with Syamsul Bahri (Lecturer in Islamic Criminal Law, UIN Ar-Raniry Banda Aceh, May 2025) and Tgk. Mustafa Ali (Chair of Tuha Peut, Gampong Pulo Nasi, Aceh Besar, May 2025).

Table 2. Comparative Effectiveness of Legal Approaches Based on Justice Indicators

Indicator	Qanun Jinayat	Gampong Deliberation
Legal Certainty	High	Low
Deterrent Effect on Offender	Medium–High	Low
Restoration for Victims	Low	Medium
Community Participation	Low	High
Speed of Legal Process	Slow	Fast
Transparency	High	Low

Source: *Interviews with an Islamic law scholar and an Acehnese customary leader, 2025.*

Table 2 illustrates that the *Qanun Jinayat* mechanism demonstrates strengths in terms of legal certainty and transparency. However, it tends to be relatively slow and lacks community participation. In contrast, the *gampong* deliberation process is more expedient and fosters

stronger community involvement, yet it falls short in ensuring substantive justice, particularly for victims.

Interviews with law enforcement officers at the East Aceh Police Department revealed that they often struggle to bring human trafficking cases to court because the community prefers to resolve them within the *gampong* through customary mechanisms. This situation reflects a prevailing social resistance toward formal legal processes and a stronger inclination toward community-based settlements that prioritize social harmony over legal prosecution. A similar view was shared by the Chair of the *Tuha Peut* (village consultative council) in North Aceh (Yusuf, Interview, 2025, who admitted that local communities generally value reconciliation and family reputation more highly than pursuing justice through formal legal channels.

Interviews with several stakeholders revealed that community leaders in Aceh generally prefer resolving human trafficking cases through village deliberations to preserve social harmony and family honor rather than pursuing formal legal channels. Law enforcement officers at the East Aceh Police Department explained that this tendency often makes it difficult to bring cases to court, as communities resist formal proceedings and prioritize local reconciliation. A similar view was expressed by Yusuf, Chair of the *Tuha Peut* in North Aceh (Interview, 2025), who noted that families often avoid legal prosecution to protect their reputation. This approach frequently results in minimal compensation for victims, such as the case of a 19-year-old female victim (Rahayu, Interview, 2025) who received only Rp1 million through a village settlement—illustrating how serious harm is reduced to monetary exchange without adequate legal or psychological recovery.

Interviews with local figures, including Yusuf and representatives from the DP3A, indicate that customary institutions continue to play an active role in coordinating with the police to prevent trafficking through *peusijuek* and *musyarakah gampong* practices that strengthen community vigilance. However, according to Kadir (Interview, 2025), the human trafficking problem in Aceh is worsened by the presence of Rohingya refugees, whose humanitarian vulnerability has been exploited by criminal networks along the coastal areas.

Further interviews at the Aceh Tamiang Police Headquarters with Ipda Dewi Karunia, Investigator of the PPA Unit (Interview, May 20, 2025), revealed persistent obstacles in law enforcement, including weak inter-agency coordination, limited victim protection, and difficulties in collecting evidence. Many victims and their families remain reluctant to report cases due to fear of social stigma, indicating that the combination of cultural resistance and institutional weakness continues to hinder the effective prosecution of human trafficking crimes in Aceh.

Based on data triangulation, several key findings emerged from the field analysis. Approximately 72% of *gampong* officials interviewed showed limited understanding of the substantive content of the *Qanun Jinayat*, weakening the integration of formal legal mechanisms at the local level. Patriarchal cultural norms continue to dominate community practices, causing cases involving female victims to be resolved informally to avoid family shame. Resolutions through *musyawarah gampong* typically result in mild sanctions such as verbal apologies or small fines, which fail to deter offenders or reflect the seriousness of the crime. Moreover, *Qanun Aceh No. 6 of 2014* does not explicitly regulate human trafficking, creating further obstacles in categorizing and prosecuting such offenses. These conditions illustrate the legal dualism in Aceh, where state law, Islamic law, and customary law coexist but often lead to fragmented and inconsistent responses in handling serious crimes like human trafficking.

Cases of human trafficking in Aceh are frequently diverted toward customary resolution mechanisms. This tendency is driven by the public perception that *musyawarah gampong* (village deliberation) offers a more practical, expedient, and cost-effective alternative compared to the formal legal process. However, the effectiveness of this approach in ensuring substantive justice is highly questionable, especially for vulnerable groups such as women and children. A statement by M. Nasir, an expert in Islamic criminal law, underscores this issue: “If human trafficking is not explicitly regulated under the *Qanun Jinayat*, society will continue to seek solutions outside the formal legal system—ultimately expanding the space for impunity.”

This observation highlights the absence of explicit legal provisions as a root cause of the problem. The lack of clear normative regulation within the *Qanun Jinayat* concerning human trafficking leads both law enforcement officials and community members to rely on customary mechanisms, which are structurally unfit to address complex transnational crimes like human trafficking.

Field observations conducted in several *gampong* (villages) that served as research sites reinforce the findings outlined above. In one case in Gampong Meunasah Ujong, North Aceh, a teenage girl was sexually exploited by her neighbor. However, instead of gaining access to the criminal justice system, the case was resolved through a *musyawarah gampong* (village deliberation). The village head and *tuha peut* (village elders) opted to close the case to “preserve family honor” and avoid social unrest. This decision not only disregarded the victim’s rights but also set a dangerous precedent for law enforcement in similar cases.

Furthermore, it was revealed that deliberation mechanisms are often exclusive and masculine. The decision-making structure in village deliberations is dominated by men. This

inequality results in minimal representation of women's voices, including victims', in the decision-making process. As a result, victims' perspectives are often ignored, and decisions are more focused on the perpetrator's social and family interests than on justice for the victim.

The practice of offering "hush money" (*uang tutup mulut*) was also documented in several cases. The amount of money paid by perpetrators to victims' families ranged from IDR 500,000 to IDR 2,000,000. These transactions were carried out privately as a form of "peaceful compensation," with no objective mechanism to assess the psychological and social impact experienced by the victim. Such practices reflect a transactional and pragmatic mode of resolution, in stark contrast to the principles of human rights and restorative justice (Hapsin & Nurdin, 2022).

A similar pattern was observed at the Office of the Aceh Women's Empowerment and Child Protection Agency (DP3A). Although the agency has established a complaint service unit for victims of violence, observations indicate that legal and psychosocial support remains limited. Many victims expressed reluctance to pursue formal legal proceedings due to fear of stigma, social pressure from their communities, and familial insistence on resolving matters "amicably" (Mawaddah Interview, 2025).

This weakness also reflects the lack of synergy between state institutions and civil society. The role of NGOs in providing legal and psychosocial assistance is often sporadic and project-dependent. The absence of a sustainable institutional framework has resulted in victim recovery efforts that are not well integrated with either the formal legal system or local mechanisms (Azoro & Onah, 2020). A more robust and permanent model of collaboration between the Office for Women's Empowerment and Child Protection (DP3A), advocacy organizations, and gampong structures is urgently needed to ensure long-term support for victims (Widiastuti et al., 2024).

This situation illustrates that legal dualism not only results in procedural fragmentation but also reinforces a culture of impunity. Customary law, lacking adherence to due process principles and comprehensive victim protection, often becomes a space of compromise that disadvantages victims and weakens the effectiveness of the criminal justice system in addressing human trafficking (Syamantha et al., 2025).

Critical Reflection on the Handling of Human Trafficking in Aceh: The Need for Inclusive Legal Reform

Based on interviews with three key stakeholders—namely law enforcement officials (East Aceh District Police), gampong customary leaders (Chair of Tuha Peut in North Aceh), and a

direct victim of human trafficking—a significant gap was identified between the formal legal system and the actual dispute resolution practices at the community level. These findings reaffirm that the handling of human trafficking cases in Aceh is not solely determined by written legal norms, but is also profoundly shaped by cultural constructs, social hierarchies, and the collective psychological pressures embedded within the society.

The statement made by the police officer, who noted difficulties in bringing cases to court due to the community's preference for local settlement through the *gampong*, reflects the weak implementation of positive law when confronted with complex crimes such as human trafficking. This illustrates the evident tension between the spirit of state law enforcement and the persistent dominance of customary values deeply rooted in Acehnese social life. From the perspective of legal pluralism, this situation demonstrates the parallel existence of two legal systems—formal law based on the *Qanun Jinayat* and customary law grounded in *musyawarah gampong*—each possessing different degrees of normative authority in practice (Pradhani, 2021).

On the other hand, Tuha Peut's assertion that “it is better to reconcile in the village” reflects a conflict resolution paradigm oriented toward social harmony and the preservation of family reputation. Such an approach aligns with the principles of restorative justice which emphasize social reconciliation. However, in the context of serious crimes such as human trafficking, this approach poses a high risk of marginalizing the rights of victims, particularly when implemented without accountable oversight mechanisms. Social restoration that is not grounded in victim-centered justice may amplify the risk of impunity.

This is reinforced by the testimony of a 19-year-old female victim, who stated that she received only one million rupiah (approximately USD 65) as “compensation” for the settlement of her case at the village hall. Her account illustrates the dominance of patriarchal social structures that fail to side with victims. In this context, the *musyawarah gampong* mechanism has shifted from a deliberative space into a forum for social compromise, one that negates substantive justice and the dignity of the victim. The prevailing social norm concerning “family honor” positions the female victim as the one who must sacrifice her rights for the sake of social stability.

This condition reflects the structural vulnerability experienced by female victims within a patriarchal society. Social norms and collective pressures often compel victims to remain silent in the name of preserving communal harmony. In many cases, victims not only lose access to justice but also face social isolation, stigmatization, and prolonged psychological

distress. This indicates that the *musyawarah gampong* mechanism has yet to effectively address the unequal power relations between actors involved in conflict resolution.

Conceptually, this study focuses on analyzing and comparing the effectiveness of human trafficking responses through the Qanun Jinayat and *musyawarah gampong* (village deliberations), with the aim of formulating a cooperative and justice-oriented model of intervention. Preliminary analysis indicates that the Qanun Jinayat offers strengths in terms of legal legitimacy, legal certainty, and accountability. However, due to the absence of specific provisions addressing the crime of human trafficking, its implementation remains suboptimal, both in terms of prevention and victim protection. In contrast, Law No. 21 of 2007 on the Eradication of Human Trafficking and the 2000 Palermo Protocol explicitly define trafficking, outline its constitutive elements, and impose comprehensive state obligations, including victim protection. The omission of these elements from the Qanun Jinayat reflects a normative gap between local legal instruments and more advanced national and international legal frameworks in responding to the complex nature of trafficking. On the other hand, *musyawarah gampong* provides swift conflict resolution and helps avoid open social tensions, yet it is prone to misuse, often enabling perpetrators to evade legal responsibility while marginalizing victims' rights.

This situation illustrates that both mechanisms possess their respective strengths and limitations. Therefore, a hybrid model of intervention is needed—one that combines the normative authority of the Qanun Jinayat with the local values embedded in *musyawarah gampong*, while ensuring substantive justice and the protection of victims' fundamental rights. From a more critical restorative justice perspective, genuine justice is realized not merely through social reconciliation, but through the restoration of victims' dignity and the fulfillment of their rights. An approach that overemphasizes social harmony without a victim-centered justice framework risks leading to pseudo-restoration—a superficial form of reconciliation that benefits perpetrators or dominant community actors at the expense of victims' interests.

This model could be implemented through several strategic steps as follows: First, reformulate the Qanun Jinayat by adding a clause that explicitly bans non-formal settlements in cases of human trafficking and establishes specific sanctions aligned with national and international standards (e.g., Law No. 21 of 2007 and the Palermo Protocol of 2000). Second, strengthen the legal capacity of gampong officials through ongoing training on criminal law, human rights, and victim protection to ensure that customary resolutions do not go beyond legal authority. Third, ensure active participation of women leaders and religious figures in customary deliberations so that victims' voices—especially those from vulnerable groups—are heard and respected fairly. Fourth, improve legal literacy among community members, enabling

victims and their families to understand and feel empowered to pursue formal legal channels for justice and rights protection. Fifth, incorporate psychosocial and legal support at the gampong level by creating victim protection units in collaboration with the DP3A (Aceh's Women's Empowerment and Child Protection Agency), NGOs, and community leaders.

Through this approach, the findings from interviews and field observations not only reflect empirical realities but also serve as a foundation for creating more fair, context-aware, and victim-focused policies. This study makes a meaningful contribution to strengthening the idea that justice is not just about resolving conflicts but also about restoring human dignity and preventing the recurrence of serious crimes.

When analyzed through the lens of structural violence, *musyawarah gampong* practices that suppress victims' rights can be understood as a form of indirect violence institutionalized through social norms and structures. When existing resolution mechanisms fail to accommodate substantive justice and instead reinforce the dominance of particular groups, such systems contribute to the perpetuation of structural injustice—with consequences that are far more profound and pervasive than mere procedural irregularities.

Economic Perspective on Compensation in Village Deliberations

Findings from the case tables and interviews reveal that the cash compensation ranging from IDR 500,000 to IDR 2,000,000 given through the village deliberation mechanism represents a commodification of justice. This compensation seemingly treats justice and victim restoration as economic commodities that can be traded. Such practice directly contradicts the principles of *mu'amalah Islamiyah*, which emphasize justice, the respect for human dignity, and prohibition of exploitation in economic transactions and social problem resolution.

Beyond justice, the minimal compensation fails to cover the full economic losses suffered by victims and their families. Victims face significant income loss due to impaired work capacity and productivity, costs of physical and psychological rehabilitation, and social burdens that impact the family's economic condition sustainably. Therefore, minimal compensation in village deliberation not only diminishes justice but also exacerbates economic inequality and vulnerability among victims. This resolution approach requires reform to prioritize substantive justice principles and economic protection for victims in line with the *maqāṣid al-sharī'ah* goals and international protection standards.

Human trafficking is a complex criminal phenomenon that involves not only physical exploitation but also deep social and structural dimensions. According to,⁸ structural violence, which includes the unjust distribution of resources and power, creates conditions that allow

exploitation of vulnerable groups, including human trafficking victims (Chrobak, 2022). In Aceh, the role of customary institutions and local wisdom is crucial in efforts to prevent child trafficking (Sapitri et al., 2023). Emphasize that the restorative mechanisms developed by customary institutions can provide effective protection and maintain social harmony, although challenges remain in aligning these mechanisms with national law.

Furthermore, research by Balfour et al., (2020) shows that holistic support and social interventions play a vital role in improving the satisfaction and performance of human trafficking victims in their daily activities, ultimately aiding their psychosocial recovery process. The Islamic perspective provides a strong normative framework for combating human trafficking, where *Maqāṣid al-Sharī'ah* places the protection of life, honor, and well-being as primary principles (Fajri, 2022). The interpretations of Al-Azhar and Al-Misbah, as explained by (Faliech Saiful Khawash et al., 2024), reject all forms of exploitation and promote respect for human dignity as a fundamental value in Islam.

The strategy to eradicate human trafficking from an Islamic standpoint also emphasizes the enforcement of preventive and repressive criminal law in accordance with *maqāṣid al-sharī'ah* (Hufron & Hadi, 2023). Protection of victims is a moral and legal obligation, especially taking into account the principle of *hifz al-nafs* in policy and regulatory development (Adiyatma, 2023). In a socio-economic context, underscore that human trafficking is a violation of economic justice because it causes inequality and exploitation of labor, deviating from the principles of public welfare (Rambe & Rahmi, 2024)

This multidimensional understanding is reinforced by other studies highlighting the need for cross-institutional collaboration and the empowerment of women as key actors in fighting human trafficking practices (Siregar et al., 2024). The Islamic legal framework provides a strong ethical and legal foundation to address these contemporary challenges and formulate anti-human trafficking policies that prioritize social justice and victim protection (H. Ahmed, 2025).

From the perspective of Islamic economic law, the practice of granting minimal cash compensation through *musyawarah gampong* represents a serious deviation from the ethical and legal principles of *mu'amalah islāmiyyah*. Justice and victim restitution cannot be reduced to material transactions because Islam views economic relations as instruments to uphold human dignity, fairness, and social welfare. The commodification of justice in trafficking settlements violates the *maqāṣid al-sharī'ah* objectives of protecting life (*hifz al-nafs*) and property (*hifz al-māl*), as it perpetuates exploitation and deepens economic inequality. Islamic economic law emphasizes *al-'adl al-iqtisādī* (economic justice) and *tadāwul al-māl bayn al-*

nās (fair distribution of wealth among people), ensuring that wealth and power do not concentrate in the hands of the unjust. Therefore, reforming the compensation mechanism in such cases is not merely a procedural necessity but a moral and legal obligation to restore the victims' economic rights and re-establish a just social order grounded in the *maqāṣid* framework.

Conclusion

The handling of human trafficking in Aceh reflects a persistent tension between the formal legal system (Qanun Jinayat) and customary dispute resolution mechanisms (*Musyawarah gampong*). While the community's preference for local, conciliatory settlements may offer practical and expedient resolutions, it often overlooks the rights of victims and creates space for impunity. Although Qanun Jinayat holds formal legal legitimacy, it lacks explicit provisions addressing human trafficking, thereby limiting its effectiveness. Conversely, *Musyawarah gampong* tends to marginalize victims, particularly in cases involving violence and exploitation. Human trafficking must be recognized as an economic crime that not only violates human rights but also undermines the economic justice system within the framework of Islamic law. The trafficking practice severely impacts the protection of victims' economic rights and the equitable distribution of wealth. Therefore, a revision of the Qanun is necessary, grounded in Islamic economic law principles, emphasizing the protection of victims' economic rights and the obligation to provide fair compensation as part of restitution. Strengthening legal literacy among the community is also crucial for the effective and just implementation of the Qanun.

This study recommends policy reform through a revision of the Qanun Jinayat to prohibit the customary settlement of human trafficking cases and to strengthen victim protection mechanisms. Legal training for village officials and broader legal literacy initiatives for the public are identified as strategic steps toward a more inclusive justice system. Academically, this research contributes to the discourse on legal pluralism within autonomous regions by highlighting the necessity of normative integration between Islamic law and customary practices to develop a context-sensitive yet victim-centered response model.

Bibliography

Abdullah, M. A., Mansur, T. M., Sulaiman, & Usman, M. Bin. (2024). Robbery, Bullying: Protection Through Pageu Gampong Customary Law and Islamic Law. *Samarah*, 8(3), 1691–1711. <https://doi.org/10.22373/sjhk.v8i3.22713>

Adiyatma, S. E. (2023). Legal Paradox: Protection of Victims Taking the Law into Vigilantism. *Ius Poenale*, 4(2), 95–112. <https://doi.org/10.25041/ip.v4i2.3004>

Ahmed, H. (2025). Islamic Normative Legal Theory: Framework and Applications. *Journal of Law and Religion*, 1–31. <https://doi.org/DOI: 10.1017/jlr.2025.10056>

Ahmed, S., & Université D'oran, K. (2020). *The Empirical Gap: The Reason to Replicate Research - Clevious Discourse*. <https://doi.org/10.13140/RG.2.2.33452.08326>

Al Hadi, M. Q. (2022). Fiqh Mu'āmalah in Theory and Practice: an Overview of Islamic Economics. *Al Hurriyah : Jurnal Hukum Islam*, 6(2), 16. <https://doi.org/10.30983/alhurriyah.v6i2.5010>

al-Ghazali. (n.d.). *al-Mustashfa min 'Ilm al-Ushul*. Dar al-Fikr.

al-Marakeby, M. (2025). Regrounding Maqāṣid al-Sharī'ā, the Quranic Semantics and Foundation of Human Common Good, written by Mohamed El-Tahir El-Mesawi. *Journal of Islamic Ethics*, 1–5. <https://doi.org/https://doi.org/10.1163/24685542-20240016>

Azoro, C., & Onah, A. C. (2020). *Weak Institutions and Poor Governance in Nigeria: A Socio-Legal Perspective*. <https://doi.org/10.52589/AJLPRA5IUFPFRU>

Balfour, G., Callands, T., Okech, D., & Kombian, G. (2020). Lifeline: A Qualitative Analysis of the Post Intervention Experiences of Human Trafficking Survivors and At-risk Women in Ghana. *Journal of Evidence-Based Social Work*, 17(3), 332–346. <https://doi.org/10.1080/26408066.2020.1729920>

Ben Suud, S., & Gani, I. A. (2024). *The establishment of "Qanun Gampong" based on laws and regulations (A study in Bahagia Village, Krueng Sabe Subdistrict, Aceh Jaya District)*. www.lawjournals.org

Chrobak, K. (2022). Structural Violence. *Horyzonty Polityki*, 13(42), 171–186. <https://doi.org/10.35765/hp.2207>

Dahlan, M., Bustami, M. R., Makmur, & Mas'ulah, S. (2021). The Islamic principle of `ḥifẓ al-nafs` (protection of life) and COVID-19 in Indonesia: A case study of nurul iman mosque of Bengkulu city. *Heliyon*, 7(7). <https://doi.org/10.1016/j.heliyon.2021.e07541>

Fajri, P. C. (2022). Pendekatan Maqashid Al-Syari'ah sebagai Pisau Analisis dalam Penelitian Hukum Islam. *Jurnal Penelitian Agama* –, 23(2), 247–262.

Faliech Saiful Khawash, Muslihudin, Abid Nurhuda, Anas Assajad, & Dewi Sinta. (2024). Penafsiran Ayat-Ayat Toleransi Dalam Tafsir Al-Azhar dan Al-Misbah Serta Implementasinya Terhadap Masyarakat Indonesia. *Al-Fahmu: Jurnal Ilmu Al-Qur'an Dan Tafsir*, 3(1), 1–15. <https://doi.org/10.58363/alfahmu.v3i1.74>

Fitrah, N. (2019). Problematika Pelaksanaan Musyawarah Rencana Pembangunan Desa (Musrenbang Desa) Studi Kasus Desa Rumpa Kecamatan Mapilli. *MITZAL (Demokrasi, Komunikasi Dan Budaya): Jurnal Ilmu Pemerintahan Dan Ilmu Komunikasi*, 2(2).

Ghalmallah, E., Alexakis, C., Dowling, M., & Piepenbrink, A. (2021). The topics of Islamic economics and finance research. *International Review of Economics & Finance*, 75, 145–160. <https://doi.org/https://doi.org/10.1016/j.iref.2021.04.006>

Hafizd, J. Z. (2021). Sejarah Hukum Islam di Indonesia: Dari Masa Kerajaan Islam Sampai Indonesia Modern. *Jurnal Tamaddun : Jurnal Sejarah Dan Kebudayaan Islam*, 9(1). <https://doi.org/10.24235/tamaddun.v9i1.8087>

Hapsin, A., & Nurdin, N. (2022). Diat and Peace Money in the Crime of Culpable Homicide. *Al-Ahkam*, 32(2), 189–210. <https://doi.org/10.21580/ahkam.2022.32.2.12413>

Hufron, & Syofyan Hadi. (2023). Legal Protection for Victims of Human Trafficking Crimes. *Journal of Law and Sustainable Development*, 11(12), e1513. <https://doi.org/10.55908/sdgs.v11i12.1513>

Irjananta, R. K., Anshari, F. A., & Sahida, Z. Z. (2025). *The Transnational Crime of Human Trafficking: A Human Security Approach: By Maria O'Neill*, New York: Routledge, Published 2023, 182 p., £ 35.99 (eBook), ISBN: 9781003429791. Taylor & Francis.

Khairil Badri. (2023). *FGD Kebijakan Pencegahan dan Penanganan Tindak Pidana Perdagangan Orang (TPPO)*, DPPPA Aceh,. DPPPA Aceh.

Malah, Y. F. K., & Asongu, S. (2022). An empirical analysis of human trafficking in an era of globalization. *Journal of Economic Studies*, 49(7), 1269–1283. <https://doi.org/10.1108/JES-06-2021-0288>

Marlina, & Mulyadi, M. (2024). Building restorative justice in Gampong as a bottom-up legitimisation of the protection of children in conflict with the law in Indonesia: case study in Aceh. *Cogent Social Sciences*, 10(1). <https://doi.org/10.1080/23311886.2024.2347410>

Motseki, M. M., & Mofokeng, J. T. (2022). An analysis of the causes and contributing factors to human trafficking: A South African perspective. *Cogent Social Sciences*, 8(1). <https://doi.org/10.1080/23311886.2022.2047259>

Musnadi, S., Ibrahim, R., Zuraida, Z., Agustina, M., & Ibrahim, M. (2024). Black gold, dark realities: Unpacking the socioeconomic and environmental fallout of unauthorized oil extraction (Investigation in East Aceh, Indonesia). *Environmental Economics*, 15(2), 64–76. [https://doi.org/10.21511/ee.15\(2\).2024.05](https://doi.org/10.21511/ee.15(2).2024.05)

Novi Darmayanti, K., Febrinayanti Dantes, K., Ngurah Ardhya, S., Jodi Setianto, M., kunci, K., Orang, P., & Transnasional, K. (2022). *TINDAK PIDANA PERDAGANGAN ORANG (HUMAN TRAFFICKING) SEBAGAI TRANSNATIONAL CRIME* (Vol. 4). <https://m.liputan6.com/global/read/4015941/unodc-majoritas-korban-perdagangan-manusia-di->

Nur, I., Wakhid, A. A., & Handayani, L. (2020). A Genealogical Analysis of the Concept and Development of Maqashid Syarī‘ah. *Al-'Adalah*, 17(1), 1–30. <https://doi.org/10.24042/adalah.v17i1.6211>

Pakpahan, Z. A. (2025). Zainal Abidin Pakpahan JUSTICE AND LEGAL CERTAINTY AS A MANIFESTATION IN THE CONTEXT OF CONSTITUTIONAL LAW. *Jurnal Ilmiah "Advokasi*, 13(01). <https://ejournal2.undiksha.ac.id/index.php/JMPPPKn/a>

Pradhani, S. I. (2021). Pendekatan Pluralisme Hukum dalam Studi Hukum Adat: Interaksi Hukum Adat dengan Hukum Nasional dan Internasional. *Undang: Jurnal Hukum*, 4(1), 81–124. <https://doi.org/10.22437/ujh.4.1.81-124>

Puanandini, D. A., Turyadi, L. D., & Saputra, M. A. (2024). PERAN LEMBAGA PENEGAK HUKUM DALAM PEMBERANTASAN TINDAK PIDANA PERDAGANGAN ORANG DI INDONESIA. *Public Sphere: Jurnal Sosial Politik, Pemerintahan Dan Hukum*, 3(1). <https://doi.org/10.59818/jps.v3i3.1096>

Qotadah, H. A., Wakhid, A. A., & Susanto, I. (2022). Problems With the Implementation of Qanun Aceh Number 6 of 2014 Concerning Jinayat Law. *Analisis: Jurnal Studi Keislaman*, 22(1), 111–132. <https://doi.org/10.24042/ajsk.v22i1.6556>

Rahmania, N., & Nirmala, A. Z. (2024). Jurisdiksi Indonesia Atas Tindak Pidana Perdagangan Orang Terhadap Pengungsi Rohingya. *Jurnal Risalah Kenotariatan*, 5(1), 114–126. <https://doi.org/10.29303/risalahkenotariatan.v5i1.227>

Rambe, M. S. I., & Rahmi, A. (2024). PERLINDUNGAN ANAK KORBAN KEKERASAN SEKSUAL (Studi Komparatif: Hukum Nasional Dan Hukum Thailand). *Law Jurnal*, 5(1), 20–30.

Roslan, M. M., & Zainuri, A. O. (2023). Teori hifz al-nafs dalam maqasid syariah: Analisis pendalilan: The theory of hifz al-nafs in maqasid syariah: Argumentation analysis. *Journal of Muwafaqat*, 6(1), 1–13.

Salsabilah, P. A., Nurillah, I., & Banjarani, D. R. (2024). The Syndicate Pattern Of The Human Trafficking From The Criminological Perspective In Indonesia. *Simbur Cahaya*, 230–242. <https://doi.org/10.28946/sc.v30i2.3142>

Sapitri, R. G., Febrianto, R., Hadiwinata, C., Elfayet, D., Otnil, S., & Hukum, F. (2023). Pelaksanaan Hukum Adat Aceh dalam Menyelesaikan Permasalahan Masyarakat di Aceh. *Action Research Literate*, 7(10). <https://arl.ridwaninstitute.co.id/index.php/arl>

Saragih, B. M., & Damayanti, A. (2024). Refugee Handling Policy in Indonesia: Case Study of Rohingya in Aceh. *International Journal of Humanities Social Science and Management(IJHSSM)*, 4(2), 279–292.

Simangunsong, R. T., & Situmeang, D. M. (2025). Juridical Review of Human Trafficking as a Transnational Crime. *Journal of Law and Economics*, 4(1), 1–9. <https://doi.org/10.56347/jle.v4i1.230>

Siregar, D., Harahap, F. S., Na'im, K., Sitepu, K., Br gingting, A., Aulia, R., & Purba, K. F. (2024). Perlindungan Hukum dan Pencegahan Perdagangan Perempuan dan Anak. *BANTENESE : JURNAL PENGABDIAN MASYARAKAT*, 6(1), 29–38. <https://doi.org/10.30656/ps2pm.v6i1.7818>

Syamantha, T., Syahputra, D. H., & . Z. (2025). The Subject of Customary Law and the Relevance of Customary Law in the Indonesian Legal System. *International Journal of Research and Review*, 12(4), 298–301. <https://doi.org/10.52403/ijrr.20250436>

Syukri Al-Bani, M., Ria Armayani Hasibuan, R., Efendi, H., Syukri Albani Nasution, M., & Afendi Kolej Islam Teknologi Antar Bangsa, H. (2022). Trafficking In The Perspective of Maqāṣid Al-Shariāh. *Jurnal Ilmiah ISLAM FUTURA*, 22(2), 150–163. <https://doi.org/10.22373/jiif.v22v2.12304>

Transformation of Islamic Criminal Law in Modern Society in Aceh. (2024). <https://jurnal.uinsu.ac.id/index.php/alqanun>

Widiastuti, T., Al-shami, S. A., Mawardi, I., Zulaikha, S., Haron, R., Kasri, R. A., Mustofa, M. U. Al, & Dewi, E. P. (2024). Capturing the barriers and strategic solutions for women empowerment: Delphy analytical network process. *Journal of Open Innovation: Technology, Market, and Complexity*, 10(3). <https://doi.org/10.1016/j.joitmc.2024.100345>