



Jinayah Regulations and Local Wisdom of the Acehese People Against Child Offenders

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Abstract

The Provincial Government of Aceh received several special authorities to regulate their territory, one of which is the application of Islamic Sharia values to the local community which is regulated by Qanun, namely legal provisions similar to regional arrangements that regulate government and society. Life from Aceh. The Qanun in Aceh also regulates several provisions of the criminal code, in this case it regulates criminal provisions related to children as perpetrators of crimes. In Aceh the community system uses a pluralist legal system in which provisions in Islamic Sharia and Customary Law become one as a unified whole and are practiced in daily life. This legal research is a normative legal research that uses a statute approach and conceptual approach to answer legal questions in research as a legal issue. The main topics of this research is to knowing the harmonization arrangements between Customary Law (local wisdom) and the Jinayah Regulations in the Qanun based on Islamic Sharia that apply to children as perpetrators of crimes

Keywords: Jinayah, *Child Crime*, Aceh.

1. Introduction

Criminal law in its development always raises debates among criminal law experts, especially regarding the purpose of punishment and criminal sanctions. This debate is inseparable from the existence of globalization which has an extraordinary impact and influences all aspects of human life, especially people's views regarding criminal law. Opinion Marlina, it means the embodiment and operation of criminal law in society. According to this point of view, criminal law can be seen in 3 (three) phases as follows: Criminal threats to (disliked) actions by legislators. Criminal imposition of a person or corporation by a judge for the actions committed by that person or corporation. Execution of punishment by criminal execution apparatus (eg. penitentiary) for the person who was sentenced to the crime. Legal reform in essence must be pursued with *policyoriented approach* at a time *valueoriented approach*. The meaning and essence of criminal law reform can be summarized as follows:

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a. *Seen in terms of Policy Oriented Approach.*

- 1) *As part of social policy, it is essentially part of efforts to address social problems (including humanitarian problems) to achieve or support national goals, such as: community welfare, etc.*
- 2) *As criminal policy, in essentially part of an effort to protect society.*
- 3) *As part of policing the policy, it is essentially part of an effort to improve the content of the law (legal substance) to make policing more effective.*

b. *About Value Oriented Approach; Criminal law reform is essentially an attempt to review and re-evaluate the socio-political, philosophical-social and socio-cultural values as the basis and provide content for normative content and the content of the criminal law that the criminal law desires. [1]*

Based on this, related to the regulation of criminal law against children who are in conflict with the law, criminal justice for children continues to be perfected marked by the issuance of Law Number 11 of 2012 concerning the Criminal Justice System, hereinafter referred to as. As for Law 11/2012, it is an advancement in the framework of updating the handling of criminal cases against children in conflict with the law as an amendment to Law Number 3 of 1997 concerning Juvenile Courts. The change from Law 3/1997 to Law 11/2012 resulted in a fundamental change, namely the strengthening of the protection of children with the concept *Restorative Justice*, where deprivation of liberty (imprisonment) for children who commit crimes is a last resort.

The philosophical basis for the enactment of Law 11/2012 is based on the opinion of the Indonesian people about the country and the state, namely Pancasila. Pancasila's construction of values in reflects the justice, order and prosperity that the Indonesian people desire. While the legal basis is based on Article 28 paragraph (2) of 1945 which stipulates that every child has the right to survive, grow and develop, and has the right to protection and discrimination. Where children's rights are an essential part of human rights. The application of new criminal sanctions against children can be applied as a last step after other sanctions have not been effective. Law 11/2012 is also aims to protect children who break the law, in this case children as perpetrators of crimes. With the publication of Law 11/2012, juvenile justice procedures and other procedures related to children's legal ability, it is mandatory to refer to this Law 11/2012.

The concept of child protection of the law can be understood as an attempt to protect the law against the various freedoms and human rights of children as well as various interests related to the welfare of children. Therefore, child protection is a development agenda that a country should pursue to build its future by preparing the nation's generation through its efforts to protect children's future. There is a synergy between human rights and the development agenda in a country, as Christophe Golay stated in his research that human rights have a synergy with the development agenda. [2]

Based on Aceh Special Zone Privilege Law No. 44 of 1999, the people of Aceh have policies related to local wisdom to solve problems that exist in society and

also to organize their people's lives. The Qanun Jinayat is a Sharia criminal law unit that applies to the people of Aceh and is based on the values of Islamic Sharia. The word jinayah in legal terminology is often referred to as a felony or felony. An appreciation of Islamic teachings gave rise to Aceh's culture, which was reflected in traditional life based on reflections by scholars and then practiced. Pursuant to Article 3, Clause (2) of Law 44/1999 stipulating that Aceh has the right to regulate the conduct of religious life, regulate the implementation of traditional lifestyles, regulate education and the role of clergy in religious life. establish. regional policy.

Customary law is in the hands of the government and Sharia is in the hands of the ulema." There are three factors, namely legal structure, legal nature and legal cultural factors. legal culture concepts explain the variety of ideas about law that exist in different societies and their place These ideas explain legal practice, citizens' attitudes toward the law, their willingness and unwillingness to appeal, as well as the relative importance of the law, in explaining thinking and behavior broader than the practices and forms of discourse associated with legal institutions physical. As such, differences in legal culture can explain much of the variation in how seemingly similar legal institutions can operate in different societies.[3]

In the Acehnese Malay literature, Qanun has long been used and understood as a rule of Islamic law that has become customary. qanun is a term to explain the rules that apply in society, which are adjustments to local conditions or further explain the fiqh regulations set forth by the monarch. Currently, Qanun is used as a term for "regional regulations" or more specifically, regional regulations are direct law enforcement regulations. This is confirmed in Article 1 No. 21 "General Regulations" of the Aceh Government Act No. 11 of 2006 which states that Aceh Qanun is a statutory regulation similar to the provincial regional regulations governing the governance and community life. Based on Article 132 paragraph (2) Law 11/2006 stipulates that before the Aceh Qanun regarding the procedural law in paragraph (1) was formed, the procedural law that applies to the Sharia Court insofar as it concerns jinayah is the procedural law as applicable to courts within the general court environment except those regulated specifically in this law. Decision of the Chief Justice of the Supreme Court Number KMA/070/SK/X/2004, regarding the delegation of some of the authorities from the General Court to the Sharia Court in the Province of Nanggroe Aceh Darussalam.

Under Law 11/2012, the people of Aceh also have the principles of peaceful dispute resolution and can also be considered not only for civil cases but also for criminal cases. On the one hand, it is important to limit the fact that not all criminal cases can be resolved by peaceful agreement. Peaceful settlement of criminal cases using working principles of forgiveness and reparation leads to a dignified settlement. Because in such an arrangement, the victim feels valued and respected as a human being who does not deserve to be stripped of their rights as a human being.

The local intellectual value of the people of Aceh through Islamic education plays a very important role in filtering out bad influences from the media. The people of Aceh have local policies or wisdom that continue to be passed on to lower generations. The people of Aceh can use their local wisdom to solve the problems that exist in the society and also to organize the lives of their people. Part of Aceh's

culture is local wisdom and plays an important role in the development of public education, religion, language, technology development, arts, and more.[4]

2. Problems

In Aceh society, as an integral part of Indonesian society, there are separate regulations regarding the application of legal sanctions against children who are perpetrators of crimes. still within the child protection corridor of the law. In the context of legal sociology and anthropology in Aceh, legal pluralism is applied, Islamic Sharia on the one hand and customary law (local wisdom) on the other.[5] The law that applies in Aceh is Sharia, which is customarily applied in exactly the same way as a substance has properties. Based on the description above, the legal issues addressed by the questions in this study relate to the following questions regarding the philosophy of criminal settlement against children who perpetrators of crimes are. in the context of children being rehabilitated and aligning criminal law with customary law (local wisdom) against children who are perpetrators of crimes in Acehese society

3. Method

The method used in this legal research is a normative legal research method supplemented by empirical legal research. This study focuses on how a legal decision is made, fills in gaps in legal gaps, explains norms, how to apply a rule of law to a particular event including including the discovery of a new rule (rechtsvindng).[6] The study of normative law is conceptualized as what is written in legal regulations (law in books) or as a rule or norm that is a standard of human behavior that is considered appropriate, following that is complemented by empirical legal research which is a type of sociological research. legal research and can be addressed by field research examining the legal provisions that are current and have occurred in people's lives (law in action).[7]

This legal research uses several approaches, namely the statutory approach, namely the approach adopted by examining all the laws and regulations relevant to the research,[8] this study also uses a conceptual approach, namely the approach adopted by studying perspectives and theories. developed in the science of law accompanied by a systematic legal analysis.

4. Discussion

4.1. Philosophy of Criminal Arrangements Against Children as Offenders of Crimes in the Concept Restorative Justice.

In the social contract theory, a state is essentially founded to become a common home fairly for all its members. Likewise with the community which is the result of the struggle of various elements in a community and ends in a social contract to live

together in a mutually agreed system. They bind themselves in an agreement with the aim of achieving the goals of mutual welfare by dividing the roles between them fairly. In the existence of a social contract there are several relationships, both direct and indirect, between obligations with rights of every citizen[9]. For this reason, a law is needed which becomes a standard, according to human behavior which is formed into certain patterns. Law is part of the social control system (*social control*). As a mean *social engineering*, then, among other things, law is a means aimed at changing the behavior of community members so that it is in accordance with the goals that have been determined later.

After starting from the theoretical basis regarding criminal law, which in general is a form of judging a person, we will then present several introductions regarding the theories that apply in the punishment of a person. The imposition of punishment and its pattern is a very important thing, especially in the judicial process. A judge has enormous authority in determining a person's fate, in the sense of determining his life and freedom. The reasonable application of this authority is the hope of all parties in society. Regarding the purpose of punishment, it can be classified into three types of theories, namely the theory of retaliation (absolute theory), the theory of objectives (relative theory) and the combined theory.[10]

It is very interesting to study further regarding the combined theory of punishment. The development of the objectives of punishment is directly influenced by modern trends. In contrast to the classical school, this school is oriented towards perpetrators of criminal acts and requires individualism in punishment, meaning that in punishment the characteristics and circumstances of the perpetrators of criminal acts must be taken into account. This flow is also called the positive flow because in searching for the causes of crime it uses natural science methods and aims to directly approach and influence criminals positively (influence perpetrators of criminal acts in a positive direction/in a better direction) as long as they can still be improved. With this orientation, the modern school is often said to have an orientation towards the future.

Muladi and Barda Nawawi Arief stated that the policy of determining a type of criminal sanction is not the beginning of strategic planning. The main step in criminal politics is precisely to determine the goals to be achieved. The stated objectives of punishment can be a reference for determining the methods, means or actions that will be used. The policy of determining what punishment best achieves a goal, at least close to the goal, is inseparable from the problem of selecting various alternatives. Selecting various alternatives to obtain which punishment is considered the most appropriate, best, or most effective is a problem that is not easy. From a criminal political perspective, the failure to overcome crime can actually be caused by the inappropriate type of criminal sanctions determined.[11] Nowadays the tendency to use alternative resolution forums (outside standard courts) is not only a typical phenomenon in simple societies, but also in developed societies.

The Juvenile Criminal Justice System must utilize a balance approach which can meet the needs of the community, for children as perpetrators of criminal acts who after going through a restorative process are expected to be able to integrate with society than before and the value of community protection because the restorative

justice system is responsible for protecting society from criminal acts of children through peaceful means (*peacefully resolved*).[12]

Responsive law reveals the characteristic that law exists not for the sake of the law itself, not for the benefit of legal practitioners, nor for making the government happy, but law exists for the benefit of the people in society. The Juvenile Criminal Justice System by definition is regulated in Article 1 point 1 of Law 11/2012 namely "Children's Criminal Justice System is the entire process of resolving cases of children who are in conflict with the law from the investigation stage to the guidance stage after serving a crime". The background to the issuance of Law 11/2012 is stated in the preamble considering Law 11/2012 as follows:

- a. Children are a mandate and a gift from God Almighty who has dignity and worth as a whole human being.
- b. To maintain his dignity, children are entitled to special protection, especially legal protection in the justice system.
- c. Indonesia as a state party to the Convention on the Rights of the Child (Convention on the Rights of the Child) which regulates the principle of legal protection for children has an obligation to provide special protection for children who face the law.
- d. Law 3/1997 is no longer appropriate with developments and the legal needs of society because it has not comprehensively provided protection for children in conflict with the law, so it needs to be replaced with a new law.

Regarding the regulation of a person being categorized as a child, it is regulated in Article 1 point 3 of Law 11/2012 which states that a child in conflict with the law, hereinafter referred to as a child, is a child who is 12 (twelve) years old but not yet 18 (eighteen) years old who suspected of committing a crime. The age of 12 (twelve) years is regulated after the Constitutional Court Decision Number 1/PUU-VIII/2010 which states that "The phrase 8 (eight) years in Article 1 number 1 Law 3/1997 is contrary to the 1945 Constitution of the Republic of Indonesia and does not have conditionally binding legal force, unless interpreted as 12 (twelve) years as the minimum limit of criminal liability". The Constitutional Court in its considerations needs to set an age limit for children to protect children's constitutional rights, especially the right to protection and the right to grow and develop. Relatively 12 (twelve) years old have stable emotional, mental and intellectual intelligence.[1]

Furthermore, based on Article 1 number 2, number 3, number 4, and number 5 of Law 11/2012 it is divided regarding several criteria for children in Law 11/2012 as follows:

- a. Children in conflict with the Law; are children in conflict with the law, children who are victims of criminal acts and children who are witnesses to criminal acts.
- b. Children in Conflict with the Law; is a child who is 12 (twelve) years old but not yet 18 (eighteen) years old who is suspected of committing a crime.

- c. Children Who Become Victims of Crime; is a child under the age of 18 (eighteen) years who suffers physical, mental and/or economic losses caused by a crime.
- d. Children Who Become Witnesses of Criminal Acts; is a child under the age of 18 (eighteen) years who can provide information for the purposes of investigation, prosecution and examination in court regarding a criminal case that he has heard, seen and/or experienced himself.

Actually Law 11/2012 promotes restorative justice which is reflected in the diversion arrangement as stated in Article 1 number 7 Law 11/2012 namely as a transfer of settlement of child cases from the criminal justice process to processes outside the criminal court. This regulation regulates the obligation of law enforcers to seek diversion at all stages of the legal process. About *restorative justice* this meaning is explained by Tony Marshall as a process in which all parties with an interest in a particular violation come together to resolve collectively how to deal with the consequences of the violation and its implications for the future[13].

Based on this, as the opinion expressed by Lilik Mulyadi which states that restorative justice or deliberative-based justice is a process of diversion, that is, all parties involved in a particular crime jointly overcome problems and create an obligation to make things better by involving victims, children and society in finding a solution to repair, reconciliation, and reassurance that is not based on revenge[14].

Furthermore Howard Zehr holds the view that restorative justice is a process to involve using all possibilities, all related parties and certain violations and to identify and classify threats, needs and obligations in order to heal and place these things as appropriate as possible. Agree with this Jonkers submit actions that can be given to children who have committed criminal acts after being examined and tried and then returned to their parents or guardians, providing guided education, placing in a mental hospital for those who are unable to take responsibility or placing children in an educational institution or in certain detainees[15].

Law 11/2012 does not stand alone in criminal arrangements against children, there is also Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. Based on Article 64 of Law 35/2014 it regulates several matters intended to provide legal protection to children as follows:

- a. Freedom from torture, punishment or other cruel, inhuman and degrading treatment;
- b. Avoidance of imposition of death penalty and/or life imprisonment; and
- c. Avoidance of arrest, detention or imprisonment except as a last resort and for the shortest time.

The detailed rights of children are regulated based on the provisions of Law 35/2014 as follows:

- a. The child's right to receive treatment *non* discrimination, the best interests of the child, the right to life, survival, development and respect for children's opinions (*Vide*: Article 2, Article 4 of Law 35/2014);

- b. The child's right to get a name, as identity and citizenship (*Vide*: Article 5 of Law 35/2014);
- c. The right of children to worship according to their religion, to think and express according to their age and intelligence through the guidance of their parents or guardians (*Vide*: Article 6 of Law 35/2014);
- d. The right of children to know their parents and to be raised and cared for by their parents (*Vide*: Article 7 paragraph (1) Law 35/2014);
- e. The right of neglected children to get care or adopted children in accordance with statutory regulations (*Vide*: Article 7 paragraph (2) Law 35/2014);
- f. The child's right to obtain health services and social security with the fulfillment of physical, mental and spiritual and social needs (*Vide*: Article 8 of Law 35/2014);
- g. The right of children to get education and teaching according to their interests and talents, get protection from sexual crimes and violence from anyone, children with disabilities have the right to get special education and special education (*Vide*: Article 9 paragraph (1) Law 35/2014);
- h. The right of children to have their opinions heard, seek, receive and provide information based on their intelligence and age according to the values of decency and decency.;
- i. The right of the child to take advantage of rest time, mingle, play and have recreation with peers according to their talents and interests and level of intelligence to develop themselves (*Vide*: Article 11 of Law 35/2014);
- j. The right of disabled children to get rehabilitation, social assistance and maintenance of welfare (*Vide*: Article 12 of Law 35/2014);
- k. The right of children to get protection from discrimination, exploitation (both economic and sexual), neglect, cruelty, violence and abuse and other treatment from their parents or other people (Article 13 paragraph (1) Law 35/2014);
- l. The child's right to be cared for by their parents unless there is a legal reason stating that separation is in the best interests of the child (Article 14 of Law 35/2014);
- m. The right of children to get protection from abuse of political action, involvement in armed conflicts, social unrest, events that contain elements of violence, war and sexual crimes (Article 15 of Law 35/2014);
- n. The right of children to get protection from targets of persecution, torture and inhumane law, freedom according to law, arrest, detention, imprisonment according to law is imposed as a last resort (Article 16 paragraph (1), paragraph (2), and paragraph (3)) Law 35/2014);
- o. The rights of children who are deprived of their liberty to receive humane treatment separately from adults, to receive legal aid effectively, to defend themselves and to obtain justice before a court objectively, the right to secrecy

for child victims of sexual violence or children who are in conflict with the law (Article 17 paragraph (1), and paragraph (2) of Law 35/2014); and

- p. The rights of children of victims or perpetrators of criminal acts to obtain legal assistance and other assistance (Article 18 of Law 35/2014)

4.2. Criminal Law and Customary Law Arrangements Against Children as Perpetrators of Criminal Actions in Acehese Society

Jinayah Law already provides certain limits on determining whether an act can be classified as a criminal act or not. There are 2 (two) groups of criminal acts that have been banned from the start, namely Jarimah Hudud and Qishash (Diyat). Outside of both, the determination of criminal acts can continue to develop and be regulated by the state according to the benefit. It is difficult for a judge to make a decision if the law does not expressly regulate. In jinayah law, although it is recognized that there is a principle of legality with the determination of certain offenses as hudud finger and qishash/diyat, the judge may not refuse a case on the grounds that the law does not exist. according to the rule of jinayah law, if a criminal act cannot be included in the formulation of hudud or qishash/diyat, the judge can still convict based on the formulation of the ta'zir crime. Jinayat Law (Islamic Criminal) is one of the discussions in Islamic jurisprudence, the description of Jinayat occupies the last position after worship, muamalah, and munakahah. Even so, it does not mean that it is neglected and unimportant, but it has its own philosophy as mentioned in various Fiqh literature. This philosophy is that if someone has been able to fulfill the needs of their body and lust, they tend to commit Jinayat acts.[16]

During the reform of the government system in Indonesia, policies in the field of Islamic criminal law or Jinayah have developed, especially since there is a separation of powers between the central government and the central government. regional government in Indonesia under Regional Autonomy (Otda). So, since then, the initial centralized management of power has led to the decentralized model. There are several areas in Indonesia that are classified as "Special Areas" with special status that can manage their own area in accordance with the characteristics, values and needs of the people of that area, a among them is the Special Regional Province of Indonesia.

As for the application of the Jinayah law based on Qanun, it does not violate human rights, because the basis of the application of the Jinayah law is justice, interest, legal certainty, and the application of the rules is consistent with the origin of national law, namely under Article 18 of the 1945 Constitution of the Republic of Indonesia where Aceh has its own unique character. Areas under Law 44/1999 have been legalized by the State and given the right to adjust the population. The establishment of Aceh Qanun No. 6 in 2014 related to Jinayat law (Qanun 6/2014) based on local conditions (customs) and needs of the people of Aceh in particular and the Indonesian-Malay world in general. In addition, Qanun No. 9, 2008 concerning the development of life and customs (Qanun 9/2008) also supports public awareness of the adoption of Islamic Sharia which has become an inherent habit. of the people of

Aceh. Obedience to customary laws in society is sometimes caused by "sanctions" in the form of supernatural powers that will punish anyone who violates them.

Based on Article 11 of the Provincial Regulation of the Special Region of Aceh Number 7 of 2000 concerning Implementation of Traditional Life (Perda DI Aceh 7/2000). It provides opportunities for Customary Institutions in Aceh to resolve disputes and disputes as well as problems within the family, between families and social problems that can arise in society, including regarding problems in the Jinayah case. It is regulated in the DI Aceh Regional Regulation 7/2000 if there is a dispute or legal issue in a village, the settlement will be carried out at the Gampong level within 2 (two) months. If this is not successful (finding an agreement) then it will be continued at the Mukim level which will be held within a period of 1 (one) month. If at the Mukim level it does not produce an agreement, then the ordinary legal process (national law) can be applied. The customary institution can also impose customary sanctions on the guilty party.

The Qanun Jinayat procedure or the Jinayat procedural law is Aceh Qanun that prescribes the application of the Jinayat or Qanun Jinayat law, specifically the Qanun whose content regulates the material truth of the Jinayat case. Jinayat itself is the plural form of the word Jinayah meaning a sinful act, an evil or evil act, Islamic criminal law is often referred to in jurisprudence as Jinayah or Jarimah.[17] Jinayat in the language is the name of a person's bad deeds. For by this term is the name of an action forbidden by the Shari'a. These two actions are related to souls and goods and are different from souls and goods.

Aceh Qanun has the authority to prescribe the spanking of Jinayah offenders. The wording of spanking prescribed in the Qanun was the result of the Ijtihad and became active national law (as Qanun's position was equated with regional regulations) its application needed has state power through law enforcement officials i.e., police, prosecutor's office, Sharia courts and lawyers and other related elements. In Aceh, Sharia courts have absolute power in dispensing justice to minors in cases where children who commit crimes (children who are perpetrators of crimes) are banned in Qanun Hukum Jinayat.[18]

According to the provisions of Clause 1, Clause 3 of Law 11/2012 on the age of children. Qanun Jinayah Issue 7 of 2013 explains that the definition of a child is someone who is under 18 (eighteen) years of age and unmarried. The Sharia Court, as a special court authorized to hear all provisions of Islamic Sharia in Aceh, can enforce the Islamic law contained in Qanun Jinayah, by enforcing the law for children, Sharia courts must comply with the provisions regarding the handling of juvenile criminal cases (children breaking the law). Sharia courts dealing with children in violation of the law (children breaking the law) should be guided by Law 11/2012 where there are no specific provisions on the examination and judgment of children. Judges who hear cases for children are those who are appointed on the basis of a Supreme Court decree on the recommendation of the head of the sharia court mentioned through the head of the sharia court. by Aceh.

The urgency of the age limit in the sense of a child is due to the inconsistency of the age limit of children in some laws and regulations that will cause problems

during litigation, citing Arif Gosita as an example 17-year-old (seventeen) and married child changes legal status and thus loses the right to protection at an early age.[19] In the Preamble to the Convention on the Rights of the Child, the international commitment to the principles of the child's rights ratified in many countries to the convention is provided because in all countries of the world there are live with children. in difficult circumstances and children like this require special care and the physical and mental immaturity of children requires special protection and care, including appropriate protection of legally before and after birth, and the United Nations Universal Declaration of Human Rights states that children have the right to special care and assistance.

According to Islamic law, the child who commits a crime will not be held criminally responsible whether punished by Hudud, Qishash (Diyat) or Ta'zir. The punishment for children committing crimes in Islamic law is borne by their parents because parents have a duty to educate their children to be good people. A person must be held accountable for his actions. The meaning of criminal self-responsibility in Islamic Shariah is the imposition on a person of the results of an act they have committed voluntarily, when they know the intention and consequences of their actions. Must be examined for penal liability in 03 (three) cases where a prohibited act is performed voluntarily, and the performer knows the consequences of such act. These three things must be met, if none of them are met, they will not be criminally responsible. Children are not criminally responsible because they have not yet reached the age of majority, so it cannot be said that their understanding and choices are perfect.[20] However according, Abdul Qadir Audah states that against a child who is not yet an adult, if he commits a crime, he will only be subject to "*Discipline*", namely a kind of punishment that is instructive in nature so as not to affect the child's psyche.[21]

The formulation of Qanun in June 2014 also affected the juvenile justice system in Aceh Special Administrative Region, where in the past cases of children breaking the law were reviewed and tried by district courts, but currently children's cases in conflict with the law on Jarimah, because children have different characteristics from adults, the criminal justice system must be specifically regulated in the best interests of children.

5. Conclusion

Basically, every criminal act must be punished whoever the perpetrators is. However, in the event that a crime is committed by a child in the immature category, it is necessary to differentiate the punishment and its type from the crime committed by an adult. Punishment to the children must prioritize the side of justice which is based on the growth and development of the child. Punishment must be rehabilitative in nature and to improve the child so that he can be well received in society. In Aceh there are two laws that apply and binding on the people of Aceh. Islamic law which is normalized in the form of Qanun and customary law. The difference with other regions is that Aceh's customary law originates from Islamic Law which goes hand in hand without overlapping each other. Thus, crimes committed by children can be resolved

through customary law and Islamic Law while still aiming to provide rehabilitation for the children.

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