

## Contestation on Religious Interpretation in Contemporary Aceh *Sharīa*: Public Caning in Prison as the Case of Study

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**Abstract:** This study aimed to discuss the debate and controversy surrounding interpretations that are considered authoritative about interpreting *Sharia* proposition regarding the *ta'zir* public caning legal procession in prisons in Aceh, from what was previously held in an open space. The debate occurred and took place in various media, including social media, following the issuance of the 2018 Aceh Governor's Regulation concerning the relocation of the punishment procession. The discussion continued long enough to debate the interpretation which is considered the most valid regarding the necessity of caning for being witnessed by a group of believers (*mukmin*); the selection of the place where the punishment will be carried out; until the legal reasoning, intent and purpose of the caning punishment itself to be witnessed in public space according to *Sharia*, as explicitly stated and interpreted in the Al-Qur'an Surah An-Nur: verse 2. By using literature studies and empirical investigations as the method, this article would like to use synthesis approach for analysis by putting theory "authoritative" and "authoritarianism" as the framework. The research finding shows that certain view which has been popularized through media is supposed as an authoritative interpretation and understood as the "should be" according to *sharīa* by the public, so that must be imposed of caning and openly witnessed (not in jail) during the formalization of Islamic law in contemporary Aceh.

**Keywords:** Public Caning; Legal Reasoning; Ushul Fiqh; Maqashid; Islamic *Sharīa* Formalization; Aceh

### Introduction

The formalization of Islamic *sharīa* law which has been implemented in Aceh since March 2002, has provided a great opportunity for Aceh with a wide-ranging autonomy, in the form of authority in compiling legal material based on Islamic law. In addition, the formalization of Islamic *sharīa* law in Aceh has also allowed various other forms of punishment to be accommodated, such as whipping or caning, which is felt to be an alternative punishment outside prison, and has its relevance as a form of punishment that contributes to the process of reforming criminal law in Indonesia (Ablisar, 2014; A. Y. Abubakar, 2007). In the study of Islamic criminal law itself, the form of caning is included in the realm of *ta'zir* punishment, where the type and amount of punishment is privileged and left entirely to the authorities (*waliyyul amri*) in determining it (Audah, 2009).

During the span of two decades of formal implementation of Islamic *sharīa* law in Aceh, the enforcement of caning as a form of punishment has not yet found its form and has not been implemented in the midst of society until its third year of application, when for the first time caning punishment was witnessed in public by taking place on the lawn of Bireuen Grand Mosque on June 24, 2005 (Al-Qardhawy, 2013). Furthermore, the procession of '*uqubat* (punishment) *ta'zir* caning has become something that is routinely held after Friday prayers in various areas in Aceh, for every case of *sharīa* violation that has been promulgated in the *qanun* (regulation), by taking a place in the yard of a mosque or an open field where it

can be widely witnessed, so that it is embedded and imprinted in the memory of the public that the caning punishment should have been publicly witnessed in the open space.

This procession continued for a long time, until its time for debate came to surface when, in 2018, the Governor of Aceh at that time, Irwandi Jusuf, issued a Governor Regulation Number 5 of 2018 which changed the location of caning punishment for violators of Islamic law to be undergone in prisons. Even though previously it had been regulated in the Aceh Qanun Number 6 of 2014 concerning Jinayat Law that punishment for violators was carried out in public, without specifying the location or place (Salma et al., 2022). Inevitably, this new reality then sparked debate and fierce controversy about how the '*uqubat ta'zir* caning' should be carried out normatively in the review of Islamic law? Will the relocation of the caning procession to prison fulfill the principle of law enforcement by creating a deterrent effect for the perpetrators as well as a domino effect for those who witness it? Even the claim later emerged that the change of the procession of whipping to prison was not in line with the intent and interpretation of the Qur'an Surah An-Nur: verse 2, which requires that the punishment must be witnessed by a group of believers (*mukminun*), as explicitly stated in the verse (Din & Abubakar, 2021; Nurdin & Ridwansyah, 2020; Syarief, 2023).

The responses and interpretations that emerged at the community level were widespread and continue to be discussed in various social media (Adnan, 2018; Jailani, 2018) until it has taken over the realm of religious understanding in Acehnese society, to then assume that "the enforcement of the caning punishment was witnessed widely in the open space" is the most valid and deemed fulfilling, and in accordance with the guidance of the *Sharīa*.

This article argues that the practice of implementing Islamic *sharīa* law in Aceh has begun to mark a shift in the pendulum of religious interpretation from "authoritative" to "authoritarianism" by assuming a certain form of understanding or interpretation as the most correct and authoritative compared to other different views. To prove this argument, this article will examine the debates and controversies recorded around the procession of the '*uqubat ta'zir* caning in Aceh prisons as contained in various media over the last four years (2018-2022) as the focus of the study.

## Literature Review

The root of debate on public caning procession in contemporary Aceh could be traced back to different views and opinions about the purpose and interpretation meaning of the Qur'an Surah An-Nur: verse 2. In this regard, it could be titled as the contestation between "authoritative" and "authoritarian" in religious interpretation dealing with public caning.

According to Khaled Abou El Fadl, the Professor of Islamic Law from Kuwait at the UCLA Campus, USA, who has warned that among the problems of religious interpretation which are often seen as not representing the spirit of Islam is the imbalance of interpreters in positioning the texts religious or sacred texts (*al-nushush al-muqaddasah*) fairly (Abou El Fadl, 2001). However, every religious text (sacred text) with all its forms and variants certainly has its own historical background, and has an identity and reality in accordance with the social setting that underlies the emergence of the text (*asbab al-nuzul* or *asbab al-wurud*). From that, the meaning of religious sacred texts is not sufficient if it is interpreted literally or *letterlijk*. Because all religious texts which are a complex entity will get a narrow scope of meaning if interpreted in this way, therefore it requires the meaning of the text to be run dynamically-interactive-dialectically between the author, the text and the reader in understanding and interpreting it.

The response of Abou El Fadl's above is reasonable, because in recent times there has been an increasing proliferation of religious interpretations among Muslim communities through a number of religious fatwas based on shallow, literal interpretations, even paying little attention to the dynamics surrounding the emergence of interpreted religious texts. It is even more unfortunate then, if the literal interpretation is claimed to be the only correct and appropriate interpretation so that it dominates the existing world of religious understanding and forms an authoritarian understanding.

This authoritarian religious interpretation usually occurs as a result of restraint and domination of the text which is confined within the hegemony of the reader, so that it is far from dialectics and the interaction between the text and the existing reality. This happens due to the unconstruction of the ideal relation between the entities "author, text and reader" in a balanced manner due to methodological problems of interpretation, so that in turn openly co-opts the text in accordance with the wishes, interests, political direction of the interpreter himself which is the forerunner to the emergence of authoritarianism in religious understanding (Muhtador, 2018). In other words, authoritarianism is marked by the union between the text and the reader or interpreter so that the reading becomes an exclusive, final, fixed or absolute meaning. Interpretive authoritarianism can also be found in terms of taking legal sources that are not authoritative and not representative to be used as an argument in the consideration and determination of laws.

To prove what has been argued by El Fadl above, it is often mentioned by him in many occasions that even no one can claim to better understand the intent and meaning of the sacred text other than God himself, as can be found in the Al-Qur'an Surah Al-Mudatsir verse 31 that "Only He knows His armies (*wa ma ya'lamu junuda Rabbika illa Huwa*)". Hence, to claim a certain interpretation dealing with sacred text or religious interpretation as the correct one, is a kind of authoritarianism that has mainly emerged in various forms during the modern era.

In simple terms, authoritarianism can thus be interpreted as "an act of locking and confining God's will or the will of a text, in a determination of meaning, and then presenting that determination as something certain, absolute, and decisive". Authoritarianism is a form of arrogance towards the existence of God and co-opting Gods position in which this action will have implications for the position of text and reality which are not interconnected due to the authoritarianism of the interpreter himself (Abou El Fadl, 2001; Islam, 2016).

The attitude of authoritarian understanding is possible when the reader of the text (reader) considers that his interpretation is the single most correct understanding. It is even more naïve if such an authoritarian understanding is built without regard to the premises and logic of law formation (*ushul fiqh*) as was the case in the classical Islamic legal tradition. Therefore, it is not exaggeration to say that condition requires religious texts which are then taken and interpreted according to the wishes and interests of the interpreter.

Departing from this point, it is clear that a more authoritative reading and interpretation of religion must be sought, by placing the religious text in a proportional, autonomous and independent manner, as opposed to an attitude of authoritarianism. Because in principle, religious sacred texts are something that is always open to various interpretations, as long as they meet the qualifications and criteria that are widely known in the science of interpretation (exegesis). As necessary, efforts are also made to construct authoritative ideas in Islamic discourse as an effort to bridge 'God's will' by taking into account various matters, including: *First*, with regard to capacity and "competence" (authenticity); *Second*, with regard to meaning; and *Third*, with regard to representation (representativeness). These three results become an inseparable unit and can be attached to become the holder of authority in Islamic discourse (Syarifuddin, 2015). Authority in Islamic discourse certainly has various complexities. The abuse of authority will later have an impact on the emergence of authoritarianism.

El Fadl (2003) mentioned that there are at least five prerequisites that must be met as a research method (methodology of inquiry) in the process of reading and reinterpreting every religious text, including: 1. Honesty 2. Seriousness (diligence) 3. Overall (comprehensiveness) 4. Rationality (reasonableness) 5. Self-control (self-restraint).

Based on above explanation about the concept of religious interpretation authority, this article would like to analyses on how the debate on public caning in Aceh takes place, whether it should be performed in front of the public or in the prison by examining which is the most authoritative interpretation.

## Method

This article is a qualitative one since it relies extensively on data in the form of words and is mostly a case study, where the religious interpretation on public caning in contemporary Aceh is being the main focus. This research includes both theoretical overviews and empirical investigations. The theoretical overview done with bibliographical research through a literature review in which books, journal articles and academic theses containing the target issue that could be explored. Meanwhile observation mostly carried out through monitoring of printed as well as electronic media that cover the main issue of the article. In-depth interviews are employed for the important figures dealing with the issue through purposive sampling. For the primary data of this article is a normative review of literature regarding the interpretation of the Qur'an Surah An-Nur: verse 2 as found in various Al-Qur'an exegesis literatures (classical and contemporary), meanwhile the secondary data are the debates and opinions that spread around the debate on the interpretation of verses, and are supported by various book references, journal articles and other related documents.

In order to answer the research questions above, this article uses synthesis approach for analysis (Cooper, 2015) by putting theory authoritative and authoritarianism. This article is arguing that certain view has been supposed as an authoritative interpretation and "should be" according to *sharia*, being as the "must" view of caning imposition during the formalization of Islamic *sharia* law in contemporary Aceh. The theoretical framework (conceptual framework) to be tested for the purposes of this article is the concept of authoritative religious interpretation and authoritarianism, as well as the differences and the impacts that that have been caused. In turn, this understanding of authoritative religious interpretation and authoritarianism is examined to look at the paradigm of implementing Islamic law in modern Aceh by taking into account the debate around the interpretation of verses of the Al-Qur'an as well as elaborating more about legal reasoning and *maqashid* (*sharia* purposes) aspects, particularly on the location of the caning procession as it has developed in the media as an object of study.

## Results and Discussion

### The Debate on Public Caning in Aceh *Sharia*

The researches on public caning within Islamic *sharia* law implementation framework in Aceh have been conducted so far by scholars which are varies and many. To mention some as the literature studies for this article, could be cited here a study done by Abubakar (2012) which portrays the controversies and debates surrounding public caning implementation in the early formalization of *sharia* after the enactment of Qanun Jinayah in Aceh of 2003 which consists of prohibition of liquor (*khamar*), seclusion (*khalwat*) and gambling (*mayisir*). However, public caning has aroused a broad debate between the proponents and the opponents.

According to Abubakar, there are many reasons provided by, either the proponents or the opponents of the whipping. The proponents argue that caning is a part of *sharia* law that has mentioned in the Al-Qur'an, so that its application could be counted as the effort of *sharia* enforcement in the society. Meanwhile among the reasons proposed by the opponents are the kinds of caning punishment that perceived as inhumane and cruel as well as violating human rights. The later view is quite spread out in the wide range of broadcast sold by the media, as it has been perceived and memorized by the society in Aceh that caning is a kind of sanctions that violates human rights.

On the contrary, a recent study done by Mardiana & Rosnawati (2022) and Marpaung & Susetyo (2021) provide quite enough critiques on juridical review of the implementation of caning punishment in Aceh province from the perspective of human rights. Although it has been widely criticized by many, even by the Human Right Watch (HRW) about policing morality and the sanction of caning punishment in Aceh, but it could not be concluded that whipping in Aceh *sharia* implementation has violated human rights, because within its implementation, *sharia* enforcement in Aceh is very concern about the safety aspect for the convicts of whipping. Moreover, caning sentence has different touch and effect compared to

other sanctions such as imprisonment. In the caning sentence, it enables the convict immediately return to normal activities within society after the execution process, besides it has a deterrent effect for the perpetrators as well as a domino effect for those who witness it within community (Aziz et al., 2023).

In order to strengthen the arguments on legality of caning within Islamic law perspective, Yahya (2022) through his study tries to revisit the debate on dialectic of caning punishment in Aceh by showing and discussing the contestation between text and context. However, every sanction in Islamic law has its background and reason to be justified that could not be separated from the context of implementation. The article concludes that caning has its strong basic and proofs, either in the Qur'an or Sunnah to be implemented as more the educational way (*ta'dib*) purpose rather than a kind of sanction. It has been ever implemented during the prophet period; besides it could also be being as an alternative fast sanction for the perpetrators of crimes; hence, it is logic to be applied within current Islamic *sharia* law framework in Aceh.

In addition, other study conducted by Huda (2020) tries to provide a big portray on how Islamic *sharia* law implementation in Aceh currently has broadly influence and significant impact to other provinces in Indonesia which can create other problems, including law instruments within Indonesian legal hierarchy framework. However, *sharia* law application in Aceh (including public caning within) at the present time could not be separated as the result of and base on special autonomy of the province since the Law stipulated by the Indonesian Government in year 2001. This law gives authority to the Aceh Province to formulate policies and make regulations on the life of the people that are in line with Islamic *Sharia* or at least not in conflict with Islamic *Sharia*. So that *qanun* (*Sharia* provincial regulation) and public caning could be implemented smoothly because it has strong legal background referred to the acts of special autonomy from the legal perspective.

Regarding public caning implementation in Aceh, the serious critiques on its application in the public space (in front of public) was broadly done by Siddiq (2020) that states public caning in Aceh currently should be eliminated. Through his article, Siddiq argues that public caning does not guarantee a deterrent effect on the perpetrators and defendants. Even in some cases could be found, like gambling and drinking for instance, some of them will potentially repeat the same cases in the following years, because the law concerning gambling, seclusion and drinking so far does not accommodate rehabilitation mechanism. Furthermore, children attending the caning process will likely imitate the process in their future life based on experience what they saw. By providing some additional legal and social proofs in his article, Siddiq emphasizes that although caning could effectively reduce the number of offenders, public caning has more given an entertaining effect, instead of scaring effect.

In similar, Fadlia, et.al (2020) have the same conclusion about the public caning in contemporary Aceh that is less objected to educate people, so that it loses the main purposes of why the caning punishment enforced. Based on the field observation, this article finds that the flogging was not much different from entertainment. When the whipping is performed, the mass gathered in one place to watch the execution; they include children, street vendors, researchers, and journalists. Even there is also provided a stage, VIP seats for guests, loudspeakers, administrative arrangements, and the caning punishment procession. Therefore, the people perceived its execution more as an entertainment. Moreover, the government has used the caning sentence execution as a demonstration of power, often for a political gain, because it emphasizes its presence and existence, not only as of the guardian of *sharia* for Acehnese, but also as a devout politician who keeps his political promises. Yet, little of this punishment deterrent effect conveyed to the society due to the way it was staged and executed so far.

Meanwhile, Iskandar, et.al (2022) also criticize the change and shift of caning punishment in Aceh which was previously being held in the public open space norms to the prison, that in spite of possible to be implemented, but it could be not accepted at all for juridical, sociological and political reasons. There are some reasons to be justified dealing with this. In terms of determining the location of the caning, Islamic law requires the fulfillment of, at least, two principles, namely "open space" and "visible" to the public. Furthermore, the law that guides the implementation of *sharia* in Aceh does not regulate any details of

where the caning can be executed. However, it is a disparity between rules and practices when it is implemented which is caused, at least, by three factors, i.e.: partial-casuistic coordination, inadequate prison infrastructure as well as inadequate socialization.

### **Public Caning Witnessed: The Dialectic of Interpretation**

Public caning punishment firstly performed in Aceh following the formal implementation of Islamic sharia law in Aceh which launched on 1 Muharram 1423 H. coinciding with 23 March 2002. A number of attempts were made as part of the implementation of Islamic law comprehensively (*kaffah*), including implementing three hudud punishments and or 'uqubat ta'zir based on Islamic law (Alyasa Abubakar, 2006), respectively Qanun Number 12 of 2003 concerning liquor (*khamar*), Qanun Number 13 of 2003 concerning gambling (*maysir*), and Qanun Number 14 of 2003 concerning immoral acts (*khalwat*) (Bastiar et al., 2022; Mulizar et al., 2022). The reason for choosing the three qanuns to be promulgated firstly and being prioritized at that time because it was felt very urgent and there were rampant jinayat violations on those three forms of jarimah (Islamic criminal law) above. Later those three Qanun Jinayat were revised into Qanun Aceh Number 6 of 2014 concerning Jinayat Law (Qanun Jinayat) by including punishments for other perpetrator of crimes, such as homosexuals and lesbians .

Among the arguments for sharia law which are used as the legal basis and the legality of caning punishment are those contained in the Al-Qur'an and the Sunnah of the Prophet Muhammad's tradition. At least there are several verses and hadiths of the Prophet which explain the punishment of caning, as explicitly stated in Q. S. An-Nur: verses 2 and 4 concerning the punishment for adulterers, ghayru muhsan and qadzaf perpetrators. While in the hadith the Prophet explained the punishment for drinking khamr, all of the normative propositions of the Sharia use the term "jild" (*fajliduhum*) for the designation of caning or whipping.

Conceptually in the view of Islamic law, all forms of determination and implementation of punishment, including caning or others, have at least several purposes and objectives, namely: first, as a deterrent (preventive) in which the punishment given restrains the perpetrator and other people from doing the same jarimah and do not repeat his actions again. Second, as a form of repentance and self-improvement (*ishlah*), in which the punishment educates the perpetrator as a penance for the mistakes he has made; and third, the imposition of punishment in order to create public order and benefit. It can also be simplified, that punishment can be intended as the "revenge"; "expiation"; "detern"; and "rehabilitation of the criminal" (Ali Abubakar & Lubis, 2019; Din, 2009; Zulfikar & Anshari, 2021).

As mentioned above, the debate about the 'uqubat ta'zir caning procession in Aceh did not surface until 2018, when the then Governor of Aceh, Irwandi Jusuf, issued Governor Regulation (Pergub) Number 5 of 2018 which changed the location of the caning punishment for violators of Islamic law, from previously being held in open space to prisons. In fact, in the Aceh Qanun (Provincial Regulation) Number 6 of 2014 concerning Jinayat Law, has been stated that punishment for sharia violators is carried out in public, without specifying the location and place of execution of the intended punishment.

The initiative to move the location sparked debate and strong reactions in the community, as seen in various opinion articles in newspapers and social media. Unfortunately this debate then led to the polarization of society with the assumption that it was more motivated by the desire to downgrade and blunt the implementation of Islamic law in Aceh which was currently in its ultimate effort to be applied (Faizin, 2021; Manan & Salasiyah, 2022). Moreover, the popular reason given by the executive in Aceh for the relocation was not due to a discussion or legal debate over the interpretation of verses, but rather due to concerns over human rights issues; contains violent content that is watched by minors; to concerns about the difficulty of entering foreign investment into Aceh due to the imposition of the caning punishment.

In turn, this debate seemed to repeat the same case and experience which happened a decade ago (in 2009 exactly) when it was proposed that the stoning sentence (*rajam*) for adulterers should be included in the Aceh Jinayat Qanun Draft which was convened in parliament (House of Aceh representative/ DPR Aceh). The problem then occurred was not the legal debate and the implications of being incorporated into the stoning penalty in the draft qanun jinayat that occurred, but rather has caused the polarization in

society: “pro” for stoning means “*shari'a* enforcers”; meanwhile the “cons” of stoning punishment are counted as “opponents of the *shari'a*” (Latief & Mubarrak, 2010). The same experience felt when some *shari'a* regulations promulgated in terms of women issue in the post-conflict Aceh which perceived as a kind of effort to downgrade women in Aceh from the public sphere affairs (Mubarrak & Yahya, 2020).

From the various discussions and debates that exist regarding the relocation of caning punishment to prisons, at least it can be concluded that the debate is not on caning punishments that have been agreed upon to be accepted collectively, but on the choice of place for carrying out ‘uqubat caning. Likewise the interpretation of the mandatory punishment that must be witnessed before the believers (number of people) as stated explicitly in Q.S. An-Nur: verse 2 which states: (*wa'l yasyhad 'adzabahuma thaufatun min al-Mukminin*). Among the reasons for relocating to the prison was the fear that the procession of whipping which was previously in the open would become a public spectacle so that it would embarrass the perpetrators of the crimes, moreover it could be witnessed by all ages, including children, and could even be recorded easily for various purposes. In fact, if it could be examined further, the purpose of the punishment itself should be as a means of repentance (*lil istitabah*), as well as to maintain the good name and honor of the offender as part of the *maqashid* (purpose) of the *shari'a*.

### The Shift of Interpretation towards Authoritarianism

The debate over moving the caning procession from the open space to the prison, if it could be examined further, is inseparable from the problem of interpretation of Q.S. An-Nur: verse 2. In that verse, it is explicitly stated that flogging must be applied to male and female adulterers, and that punishment should be witnessed by a group of believers (*al-mukminun*). While the verse which requires the enforcement of the application of caning has been clearly understood as stated in the verse, but it still opening a number of interpretations and questions, including: What type of whip could be used? When and where the time and place that appropriate of the punishment? until the question about criteria and the number of believers who may witness the procession of punishment.

As the response on it, several articles of Qanun No. 7 of 2013 concerning the Jinayat Procedural Law in Aceh has attempted to detail the mechanism for implementing ‘uqubat caning’, which includes not being attended by children under the age of 18 (eighteen) years (Daipon, 2020). Likewise, the details regarding the venue for carrying out the ‘uqubat whipping on a stage measuring at least 3x3 meters; parts of the body that can be whipped (shoulder to hip); up to the size of the whip that can be used and the distance between the whipper and the punished. All the details of this procedural law, including the timing of the implementation of ‘uqubat caning and supervision in its implementation, are technical matters in the form of an interpretation of the provisions for caning punishment as being stated.

Unfortunately, when the initiative emerged to relocate the ‘uqubat caning procession to the prison, it was immediately widely understood the public as an effort to downgrade Islamic law. In addition, among the main reasons communicated by the stakeholders in various media that caning procession in the open space prevented foreign investment from coming to Aceh; considered to violate human rights and often become the sights of minors. In turn, those arguments lead no doubt further justifies the interpretation that execution in prison does not allow access to the public to witness the actual execution of the caning sentence, and of course, is not in line with the intent of the verse which requires that the punishment must actually be witnessed by the believer (*al-mukminun*) in the public sphere.

Actually, if it is traced further in a number of authoritative interpretations of scholars regarding this verse, it does not mention specifically the type and criteria for the place of execution of the caning sentence. Similarly, it does not mention about limit on the number of people who witnessed the caning and the qualifications of those who witnessed it. Some interpretations say that three witnesses (*thaufah*) are sufficient, while others require that they must be the same as witnesses for adultery, namely as many as four male witnesses. This is based on the history of Ibn Abbas which states that the word *thaufah* is not tied to a certain number, but rather to achieve aspects of the goals and intentions of the *shari'a* itself, so that it can be applied to indicate one or more people. From that, the obligation to witness the caning as stated in

the verse does not emphasize the number of people who witnessed it (Al-Jashash, 1992; Al-Qurthubiy, 2014).

Meanwhile, in terms of the strength of the verse command to “witness punishment” in various other authoritative exegesis books it is stated that this has mandatory legal force, because it is mentioned with the editorial verb present (*fi'l mudhari'*) which is preceded by the letter *lam amr* as stated in the verse (*wal yasyhad*). Hence, the status of the punishment witnessed by the believer becomes something that is also obligatory as stated explicitly in the verse (Al-Razi, 1981).

Turning from this point, a question arises that on what was the negligence in debating the Aceh Governor Regulation (Pergub) Number 5 of 2018 which changed the location of caning punishment from an open place to a prison? The authoritative religious interpretations have been fulfilled as described above, hasn't it? This debate was not only triggered more because of arguments that did not touch the substance of the law that was put forward by the executive in explaining, but also because of the public's desire to orient the formalization of Islamic law to the mere imposition of punishment, thus creating a deterrent effect and a domino effect, both for the perpetrators of the crimes as well as those who witnessed it. This in turn reflects more of an authoritarian interpretation than considerations of benefit by educating the perpetrator of the crimes. Whereas in the orientation of the aims and objectives of the implementation of sharia punishment (*maqashid*) itself is also a means of repentance for the perpetrators of crimes, in which the religious side is not exposed as the main reason for the implementation of the caning punishment itself.

## Conclusion

This article has presented and provided a wide-range discussion regarding the relocation of caning punishment to prisons in Aceh during the year 2018-2022 period in various media by examining argument as a gradual shift in the paradigm of implementing Islamic *Sharia* law in Aceh towards authoritarianism. Besides, the polarization of society which is divided into two choices: between agreeing or rejecting the procession of caning punishment in prison, the debate in various media does not touch on the debate on legal substance, for example the debate regarding the more authoritative interpretation of the verse on caning punishment as stated in the Qur'an Surah An-Nur: verse 2, but more on the background of the argument and the factor of desire to give a deterrent effect for perpetrators of crimes and a domino effect preventing people who witness it from making the same mistake.

Meanwhile among aims and objectives of imposing caning punishments are actually also a form of repentance (*tawbah* and *lil istitabah*) for perpetrators of crimes, seems not being raised, so that it is increasingly impressive that Islamic law in Aceh is more oriented towards stipulating punishment and retaliation to create a deterrent effect as well as a domino effect at the same time, only for the perpetrators and for people who witness, and less emphasis on the intent and purpose of the implementation of the sharia punishment itself (*maqashid sharia*).

The research finding shows that certain view which has been popularized through media is supposed as an authoritative interpretation and understood as the “should be” according to sharia by the public, so that must be imposed of caning and openly witnessed during the formalization of Islamic law in contemporary Aceh. Therefore, this article suggests that every determination and imposition of punishment during the process of formalizing Islamic law in Aceh should prioritize the arguments and objectives of law enforcement and public reasoning so that the imposition of a sentence is more logical, rational and can be accepted by the wider community in a more democratic manner.

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## Conflict of Interest



The authors declare that they have no conflict of interest.

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### Interview:

Interview with Alyasa Abubakar (Academician) on September 2022 in Banda Aceh.

Interview with Amir Khalis (The Judge at Mahkamah Syar'iyah) on September 2022 in Banda Aceh.

Interview with Syahrizal Abbas (Academician) on September 2022 in Banda Aceh.