

Justice at the Margins: Negotiating Criminal Liability within Legal Pluralism among the Suku Anak Dalam Indigenous Community in Indonesia

Ruslan Abdul Gani^{1*}, Ghina Nabilah Effendi¹, M. Rudi Hartono², Amirulhakim bin Ahmad Nadzri³

¹Fakultas Syariah, UIN Sulthan Thaha Saifuddin Jambi, Indonesia

²Fakultas Hukum, Universitas Batanghari, Indonesia

³Kolej Islam As Sofa, Malaysia

Corresponding Author: ruslanabdulgani@uinjambi.ac.id

|| Received: 09-06-2025 | Revised: 03-03-2026 || Accepted: 06-03-2026

Abstract: Criminal liability for murder in Indonesia is complex when perpetrators originate from indigenous communities that maintain customary legal systems. In this context, differences between the national Criminal Code (KUHP), Islamic criminal law, and indigenous norms create challenges in defining responsibility and determining appropriate punishment. A case including the Anak Dalam (Suku Anak Dalam/SAD) community in Jambi shows how marginalized groups often exist outside formal legal frameworks, leading to legal uncertainty. Previous studies tend to examine legal doctrine or indigenous culture separately, leaving limited analysis concerning the interaction of the systems. The gap reports the need for an integrated method to criminal accountability that accommodates legal pluralism. Therefore, this study used a descriptive qualitative method combined with normative legal research. Data were collected through document analysis of primary and secondary legal sources, including statutory regulations, the Criminal Code, Qur'anic principles, and relevant scholarly literature. NVivo 12 Plus software was used to conduct qualitative coding, cluster analysis, and word frequency mapping to identify key sub-factors. The results showed that criminal responsibility in cases comprising the Suku Anak Dalam (SAD) reflects the operation of legal pluralism. Formal law enforcement is limited through structural and socio-cultural barriers, namely language differences, internal solidarity, testimonial reluctance, evidentiary limitations, customary norms, and semi-nomadic residence patterns. Beyond procedural constraints, criminal accountability was shaped by the interaction between state criminal, Islamic criminal, and indigenous customary law. Each system offered distinct concepts of justice, sanction, and responsibility. These normative frameworks intersected and negotiated outcomes, producing differentiated enforcement patterns within a plural legal environment.

Keywords: Legal pluralism; Criminal liability; Indigenous communities; Customary law; Islamic criminal law; Suku Anak Dalam

Introduction

Criminal law enforcement is a fundamental mechanism through which the state upholds legal order, protects rights, and ensures justice within society (Mulyono & Marbun, 2021). In modern legal systems, criminal law is a method of maintaining social stability and safeguarding human dignity (N. Sari, 2019). However, the implementation of criminal law faces substantial challenges in socially and culturally diverse contexts (Basuki, 2020). These challenges are particularly pronounced in plural legal systems such as Indonesia's, where state law coexists with religious norms and indigenous customary practices (Muawanah et al., 2018). The enforcement of criminal law is often shaped by formal legal provisions and socio-cultural considerations that influence interpretation and decision-making.

The most complex manifestations are evident in criminal cases, including indigenous communities. In Indonesia, indigenous peoples are constitutionally recognized and socially protected but remain subject

to national criminal law. This dual position creates legal tension, especially in serious criminal cases where customary norms and state law may prescribe different method to responsibility and punishment. In recent years, several criminal cases, including the Suku Anak Dalam (SAD), an indigenous community primarily residing in Jambi Province, have drawn public attention due to controversial law enforcement outcomes (HSinulingga, R., & Sugiharto, 2020). These cases have raised fundamental questions about criminal responsibility, equality before the law, and the role of customary law in the formal justice system.

Referring to Febi Rizka Eliza (2018), Jambi's remote indigenous communities are a group of people who adhere to ancestral customs, are accustomed to a closed, nomadic, homogeneous, and backward lifestyle with limited technology to produce natural products within a community, namely the Remote Indigenous Community (KAT) (Habi & Mudzhar, 2024). According to Harnov et al. (2017), this tribe preserves, inhabits, and conserves natural forests and anthropologically originates from Wedoida with the local wisdom (Wibawa, 2017). Jambi Province has the largest population of the Kubu people in Indonesia (David et al., 2015). According to the Jambi Provincial Government, there were 28,611 Kubu Tribe people in 2013 (Rina, 2016). In 2017, the population of the Suku Anak Dalam (SAD) in Jambi Province amounted to 3,147 families, distributed across 8 sub-districts, 18 urban villages, 20 villages, and 28 districts. The distribution by regency comprised Batang Hari (454 families), Sarolangun (249 families), Tebo (415 families), Bungo (128 families), Merangin (165 families), West Tanjung Jabung Regency (100 families), and East Tanjung Jabung Regency (76 families) (Effendi & Purnomo, 2020; Mustika & Dastina, 2020). The Kubu tribe is classified as an indigenous community residing in the Jambi region and is categorized into two groups. The first group, often referred to as the settled Kubu, is characterized by having permanent dwellings, using farming tools, engaging in agricultural activities, and raising livestock. The second group, commonly known as the nomadic Kubu, exhibits opposing characteristics in inhabiting remote interior areas, maintaining a nomadic lifestyle, and retaining a more traditional method of living (Indrizal & Anwar, 2023a).

Law enforcement aims to keep citizens away from criminal acts. This is reflected in QS Al-Maidah: 32-33, Al-Baqarah: 126, Al-Isra: 33, An-Nur: 55, Saba: 18, and At-Taubah: 6, where the security of the state and the citizens is a fundamental concern according to Islamic teachings (Ratih, 2020). Intentional murder in Islamic criminal law and Criminal Code Chapter XIX articles 338-350 are similar (HSinulingga, R., & Sugiharto, 2020). A review of liability related to criminal acts needs to be considered. (Asri, 2021) explained that Criminal acts in Islamic law were governed under the provisions of *jinayat* (or *jinayah*), where offenses such as murder were subjected to *qisas* or *diyat*. In contrast, Criminal Code, specifically Article 338, primarily prescribes imprisonment for perpetrators. Provisions analogous to *qisas* are reflected in cases of premeditated murder under Article 340 of the Criminal Code. The results shift previous understandings of enforcement in Islamic and positive law. In Indonesian law enforcement, a special review is needed from the perspectives of positive and Islamic law. Evidence of responsibility can influence the perpetrators' criminal sanctions in cases (N. Sari, 2019). Empirical evidence from Jambi Province indicates that criminal cases, including SAD perpetrators, often result in different outcomes (CNN, 2019). Some homicide cases have been resolved through customary mechanisms. Meanwhile, others have led to comparatively lenient prison sentences. These practices have generated public debate and criticism from the perspective of legal certainty and non-discrimination. In criminal law, homicide is recognized as a serious offense that demands strict accountability and proportional punishment. Therefore, the apparent disparity in the treatment of SAD offenders raises concerns regarding the consistency of criminal responsibility, as well as the potential for cultural considerations to unduly influence legal outcomes.

At the core of the concerns is the principle of criminal responsibility, which shows liability in positive law and religious legal systems (Febi Rizka Eliza, 2018). Under Indonesian criminal law, criminal responsibility is closely connected to fault (*schuld*), including intention (*dolus*) and negligence (*culpa*), as well as the perpetrator's capacity to be held accountable (Harnov et al., 2017). The Criminal Code (KUHP) emphasizes that punishment may be imposed only when the perpetrator is legally and morally responsible for the actions (Wibawa, 2017). This principle is essential for ensuring justice, preventing arbitrary punishment, and maintaining public trust in the legal system. In cases including indigenous communities, assessing criminal responsibility is often complicated by arguments about cultural background, social

structure, and customary norms. Suku Anak Dalam represents a distinctive indigenous community with unique socio-cultural characteristics, such as strong adherence to ancestral customs, communal living patterns, and traditional mechanisms for resolving disputes. In SAD customary norms, certain behaviors that may appear trivial in mainstream society are interpreted as serious insults or violations of honor, potentially triggering violent responses (David et al., 2015). These cultural realities provide important context for understanding behavior but pose significant challenges for criminal law enforcement. Concerns arise regarding compatibility with the principles of legal certainty when cultural explanations are invoked to mitigate criminal responsibility or justify the use of alternative dispute resolution mechanisms.

Indonesia's legal system formally recognizes indigenous communities and the customary laws as part of pluralism (Abdullah et al., 2024). However, customary law supersedes state criminal law, particularly in cases including serious crimes. The state retains an obligation to protect fundamental human rights, including the right to life, and to ensure that criminal law is enforced consistently across all segments of society. Failure to uphold the principles risks delaying the legitimacy of the criminal justice system and reinforcing perceptions of unequal treatment under the law. In this context, the enforcement of criminal responsibility in cases including indigenous offenders must strike a delicate balance between cultural sensitivity and legal uniformity. According to the Jambi Provincial Government, Kubu Tribe population was 28,611 in 2013. There were 3,147 SAD Jambi families in 2017 across 8 sub-districts, 18 urban villages, 20 rural villages, and 28 districts. This population comprised 454, 249, 415, 128, 165, 100, and 76 families in Batang Hari, Sarolangun, Tebo, Bungo, Merangin, West Tanjab, and East Tanjab, respectively (Effendi & Purnomo, 2020). The Kubu tribe is recognized as an indigenous group residing in the Jambi region and is classified into two types. The first, the tame Kubu, are settled, possess farming tools, engage in agriculture, and raise livestock. The second, the wild Kubu, are nomadic, inhabit the interior, and maintain a more primitive lifestyle (Daulay, 2013). Misunderstandings of some people about the customs of the Suku Anak Dalam often cause conflicts and criminal acts with fatal consequences for the community. This suppresses the importance of law enforcement, especially within a traditional community unit (Tolkah Tolkah, 2021).

A criminal case that shocked the legal world in Jambi province was carried out by the Suku Anak Dalam (SAD). The case began when a resident of Kungkai Village was murdered by several members of the Anak Dalam tribe, identified by the initials AL, over a minor incident, specifically, the act of "spitting" in front of the tribe. This is because the behavior is demeaning or insulting among the residents of Kungkai village (CNN, 2019). Murder is a criminal case, and the perpetrator can be held criminally responsible. Several criminal acts by the Suku Anak Dalam have also occurred. These cases have faced various obstacles regarding criminal responsibility under the law (Asmorojati & Sulaiman, 2022; Putri Natasya & Dian Andriasari, 2023). The shooting case of the Suku Anak Dalam (Prasetya, 2022) explained the three child tribes in shooting a security guard at PT Primata Kreasi Mas in October 2021. This ended in peace due to the difficulty of legal proof. Several cases sentenced by judges have also given rise to various obstacles in terms of criminal responsibility by the indigenous Anak Dalam tribe. These include cases of abuse by Indonesian Army officers and company security guards, which ensnared four SAD residents, who were sentenced to four months and 20 days in prison (CNN, 2022).

Islamic law offers an additional normative framework for understanding criminal responsibility, particularly in cases of homicide. This law categorizes serious crimes under the concept of *jinayah* and prescribes sanctions such as *qishash* and *diyath* for intentional killing (Arief et al., 2025; Ngazizah et al., 2025). The sanctions emphasize accountability, moral responsibility, and justice for victims and families (Mutawali, 2022; Norhusairi et al., 2025; Yusdani, 2022). Philosophical foundations and sanctioning mechanisms are different, even though Islamic and Indonesian criminal law share a common recognition of homicide as a grave offense. Islamic law places strong emphasis on moral culpability and restorative justice, while positive law prioritizes imprisonment and state-imposed punishment (Abdul Gani et al., 2023; Jafar et al., 2024; Misbachul & Zumrotun, 2023). These differences provide an important comparative perspective on the conceptualization of criminal responsibility and enforcement of plural legal systems. Previous scholarly works have addressed criminal law enforcement and responsibility within Indonesian positive law, focusing on doctrinal analysis, judicial discretion, and the principle of fault (Yuliatin, Effendi, Fathoni, et al., 2025; Yuliatin, Effendi, Sibawaihi, et al., 2025). Other studies have examined Islamic criminal

law, particularly the regulation of homicide and the philosophical underpinnings of *qishash* and *diyat*. Additionally, studies on indigenous communities and legal pluralism have reported the role of customary law in maintaining social order and resolving conflicts within traditional societies (Dona et al., 2025). Despite the richness of the literature, these strands of study have largely developed in parallel, with limited engagement (Tempo.com, 2022). Therefore, there is a lack of integrated analysis examining the application of criminal responsibility when indigenous offenders are prosecuted in a legal environment shaped simultaneously by positive and Islamic law, as well as customary norms. This gap in the literature is particularly evident in empirical studies of criminal cases, including Suku Anak Dalam. Academic study has paid limited attention to the legal reasoning underlying judicial decisions and law enforcement practices in these cases, even though journalistic reports and policy documents frequently describe incidents of violence, including SAD members (CNN, 2019). The mechanisms by which criminal responsibility is assessed, mitigated, or transformed in the context of indigenous offenders remain insufficiently understood (CNN, 2022). This lack of scholarly attention limits the ability of policymakers and legal practitioners to develop coherent strategies in addressing serious crimes in indigenous contexts (Prasetya, 2022). Furthermore, the absence of comparative analysis between positive and Islamic law in cases comprising indigenous offenders obscures important normative questions. How should criminal responsibility be assessed when cultural norms influence perceptions of intent and wrongdoing? To what extent can customary considerations mitigate criminal liability without undermining justice for victims? How can Islamic legal principles contribute to a more holistic understanding of accountability and justice in plural societies? These questions remain largely unexplored in existing scholarship, despite the significance for criminal law reform and enforcement practice.

From an Islamic legal perspective, law enforcement is oriented toward punishment and comprehensive justice. Concepts such as *qisas*, *diyat*, and *ta'zir* demonstrate a balance between the perpetrator's responsibility, the victim's rights, and social welfare. Islam emphasizes morality, the protection of life, and the opportunity for reconciliation through forgiveness. In a pluralistic society, Islamic law offers a holistic understanding of accountability that integrates justice, humanity, and social harmony into law enforcement practices (Yanti et al., 2025). Responding to the gaps, this study aims to analyze the enforcement of criminal responsibility in homicide cases through a comparative socio-legal method. The conceptualization of Indonesian criminal law and the application of criminal responsibility were also analyzed. A contextualized understanding of law enforcement practices was offered by grounding the analysis in empirical cases. Theoretically, discussions on criminal responsibility and legal pluralism are stated by showing the limitations of fragmented legal methods in addressing serious crimes. Methodologically, normative legal analysis is integrated with empirical case studies, providing a more comprehensive perspective on criminal law enforcement. In practice, the results offer insights for law enforcement agencies, judicial institutions, and policymakers on how to balance cultural sensitivity with legal certainty, the proportionality of punishment, and the protection of victims' rights. This study contributes to the development of a more coherent and equitable framework for criminal law enforcement, particularly in cases including indigenous peoples and serious criminal offenses such as homicide.

Literature Review

Criminal Theory

Criminal acts and crimes are the same, both including the infliction of harm or suffering. The difference is only in the action being smaller or lighter than the suffering caused by the imposition of a criminal sentence (HSinulingga, R., & Sugiharto, 2020). A criminal act can be meaningful when there is responsibility, where defaulters are punished directly (Dedi & Roni Nurhidayat, 2022). Criminal penalties are sanctions exclusively applied under criminal law. Compared to other legal provisions, the concept represents the most severe punishments imposed on offenders (Mantowa et al., 2021). Punishment theory describes various aspects contained in criminal law, including absolute, divided into two objectives, namely 1) the objective aspect- addresses criminal acts that provoke public resentment, where the offender is subjected to sanctions for causing harm to the victim. 2) the subjective aspect- considers the offender's

behavior and intent, where minor offenses incur proportionately minor sanctions, while more serious or blameworthy conduct attracts harsher penalties (Mulyono & Marbun, 2021). The relative theory leads to the benefits of giving punishment and retaliation related to the criminal acts. The combined theory appears when the absolute and relative theories appear to be unbalanced. The imposition of punishment is to maintain legal order in society and the individual perpetrator (Jain, 2021).

Islamic Criminal Theory

The origin of Islamic law is based on Islamic teachings. Islamic criminal law refers to the Qur'an and Sunnah, with characteristics that originate from Allah SWT and the Prophet Muhammad SAW and human culture (Erindia et al., 2021). The science of Islamic jurisprudence and some related literature are better known by the term *ahkam al-jina'iyah*, referring to the law that regulates the attitudes, words, and actions of *mukallaf* related to various violations or *jinayah* crimes (Saputra et al., 2021). Islamic criminal law or theory distinguishes between various views regarding sanctions, including *hudud*, *qishas*, *diyat*, *ta'zir*,

Hudud refers to fixed punishments prescribed in Sharia law for specific offenses, with the form and severity clearly defined. Qisas refers to the principle of retributive justice in which the punishment corresponds directly to the offender's actions. Diyat refers to compensation in the form of property or payment, serving as a substitute for the victim's life under criminal law. This is applicable in cases of intentional murder where forgiveness is granted, as well as in cases of unintentional or negligent homicide. Ta'zir is a punishment for crimes determined by sharia and the judge (N. Sari, 2019).

Suku Anak Dalam (SAD) Criminal Case Resolution Model

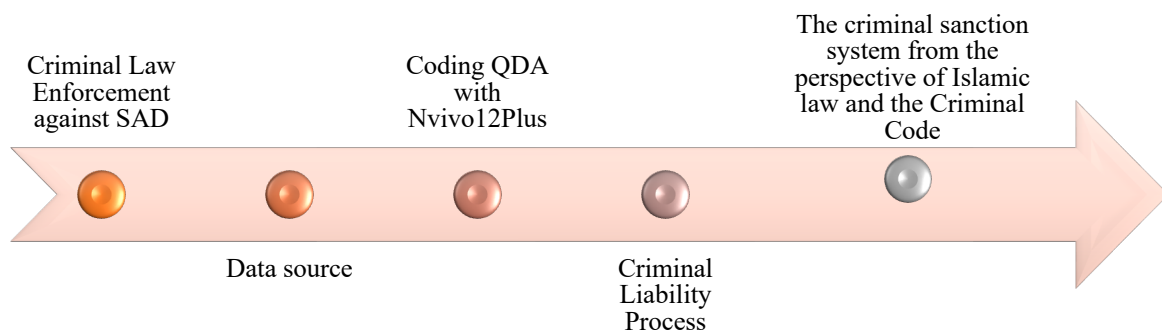
The children's tribe, abbreviated as SAD, is known as the jungle people. SAD is an ethnic group based in Indonesia (M. T. Sari, 2019). Anthropologically, this tribe originates from Wedoida with the local wisdom of preserving, inhabiting, and conserving natural forests (Indrizal & Anwar, 2023b). Oral tradition says the jungle people are the Malau Seat, who were later called Mojang Segal. Other traditions show that the people came from Pagaruyuang, reinforced by the similarity of language and customs of the Minangkabau Tribe, such as the matrilineal system (Effendi & Purnomo, 2020). Based on the oral story, the Anak Dalam tribe, or Orang Rimba Air Hitam, are descendants of village people who fled into the forest (Perawati et al., 2019). The Orang in western Jambi Province claim ancestry from the Orang Rimba of Musi Rawas, South Sumatra, sharing historical roots with Malays who obtained refuge in the forest during the colonial era. Meanwhile, the Orang Rimba residing in the Bukit Tigapuluh National Park area trace the origins to the Orang Rimba of Kuamang Kuning and Rimbo Bujang, regions in Jambi bordering West Sumatra (Takiddin, 2014).

SAD is included in the minority group that has a low social status. The influence is weak on modern life and cannot affect the social conditions of the community in an area. The activities of isolated tribes can be made into regional specialties as a form of culture (Alhusni et al., 2021; Muslimahayati & Wardani, 2019). SAD is an ethnic group whose livelihood is based on hunting and gathering that has persisted for thousands of years and continues to the present. This pre-tribal subgroup lives in close interaction with nature (Tolkah Tolkah, 2021), and the members maintain a range of values, customs, and traditions that reflect cultural identity (Harnov et al., 2017). The term SAD or jungle people has been interpreted since the ancestors used the concept to survive in the forest (Varista Sury, 2019). The Suku Anak Dalam is also identical with the faction called, where the Malay community attaches the faction to this tribe, interpreted as smelly, dirty, mystical, wild, stupid, and a very closed life (Harnov et al., 2017). This tribe is known by different terms in Jambi Province. The terminology used to describe this group has evolved toward a more respectful and humane designation. Initially referred to as an isolated tribe with a lifestyle considered atypical (Mairida et al., 2016), the group was termed a remote community and recognized as an indigenous tribe (Asra et al., 2020). The existence of SAD strengthens local institutions with customary rules in forest utilization to prevent damage (Sinaga & Rustaman, 2015). Therefore, local wisdom creates balance and order in social life with the preservation of resources. The application can be in the form of knowledge, expertise, social and ethical systems, and laws that develop across generations (Effendi & Purnomo, 2020).

A shocking case that affected the legal community in Jambi Province occurred in 2019 when a resident of Kungkai Village was murdered by members of SAD. The incident began with an act socially

considered trivial, spitting in front of SAD members. However, from the perspective of SAD customs, this act was considered a serious insult to the community's honor and dignity. The victim's family stated that the act was unintentional and not intended as an insult (CNN, 2019). The conflict escalated into physical violence, leading to the victim's death. In the law enforcement process, authorities faced various obstacles, including communication barriers due to language and dialect differences, strong internal community solidarity that affected the willingness to testify, and limited evidence that met criminal law standards. This situation sparked public debate regarding the consistency of criminal liability and the principle of equality. Another case occurred in October 2021, when three SAD members shot a security guard at PT Primata Kreasi Mas. The case was resolved amicably due to the lack of evidence in the legal process (Prasetya, 2022). Furthermore, there was an internal clash between SAD members that led to death. The perpetrator was only sentenced to approximately three months in prison, and the resolution comprised customary law mechanisms (Tempo.com, 2022). This series of cases shows that crimes comprise the complex interplay among state and customary law, as well as religious values in determining criminal liability and the type of sanctions imposed.

Theoretical Framework



Source: Author 2025

A qualitative socio-legal design was adopted to examine criminal responsibility and criminal sanctions imposed on indigenous communities, specifically Suku Anak Dalam (SAD), from the perspectives of Indonesian criminal and Islamic law. This study relied on two primary sources of data, namely field and documentary data. Field data were obtained through observations and in-depth interviews with relevant stakeholders, including law enforcement officers, legal practitioners, community representatives, and individuals familiar with criminal cases. Documentary data were collected through a systematic review of legal regulations, court decisions, academic literature, policy documents, and media reports relevant to criminal law enforcement, indigenous communities, and Islamic criminal law.

Method

This qualitative study was conducted using a normative and socio-legal method. The normative approach was used to examine legal norms governing criminal responsibility in Indonesian criminal law (KUHP) and Islamic criminal law, particularly in cases of homicide (Darmalaksana, 2020). The socio-legal approach was applied to understand the operation of legal norms in cases. The data consisted of primary and secondary legal materials. Primary data comprised statutory regulations, especially provisions in the Indonesian Criminal Code (KUHP), relevant court decisions, and official documents related to criminal cases. Secondary data were obtained from academic books, journal articles, study reports, and credible media publications discussing criminal responsibility, Islamic criminal law, legal pluralism, and indigenous justice (Hanitijo, 1990). Data were collected through systematic document review and case analysis. Legal documents and court decisions were selected based on the relevance to homicide cases. Academic and policy literature was identified through keyword searches on criminal responsibility, legal pluralism, Islamic criminal law, and indigenous peoples. Data analysis was conducted using qualitative content analysis with NVivo 12 Plus. The collected materials were organized and coded to identify key

themes related to criminal responsibility, fault attribution, sentencing patterns, and the interaction among state and Islamic law, as well as customary norms (Jackson & Bazeley, 2019; Olubiyi et al., 2019). The data were analyzed using qualitative content analysis. The materials were carefully read, categorized, and interpreted to identify patterns concerning elements of criminal responsibility, sentencing considerations, and the interaction between state and Islamic law, as well as customary norms. The analysis aims to explain the construction of criminal accountability and the application within a plural legal context. Based on the design and analytical framework, this study addresses the following the study questions.

RQ1: How is criminal responsibility attributed to indigenous offenders in criminal cases in Jambi Province?

RQ2: How are criminal sanctions for homicide involving indigenous communities constructed under Indonesian criminal law and Islamic criminal law?

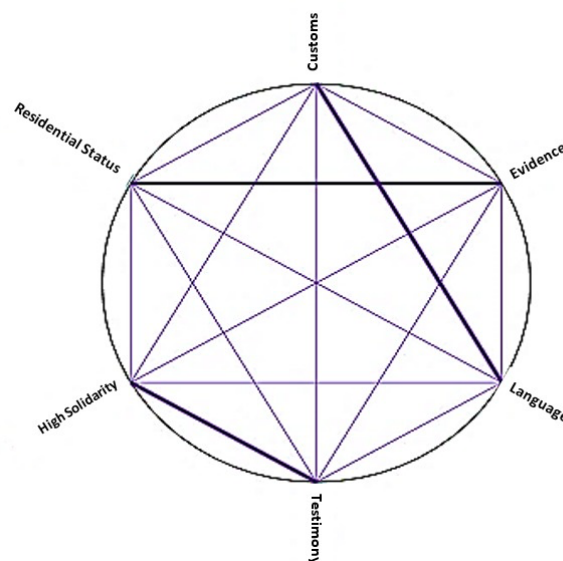
Qualitative normative and socio-legal methods were used to address the complexity of homicide cases, including indigenous communities, which could not be sufficiently understood through doctrinal legal analysis. This method enabled a comprehensive examination of legal norms while capturing the practical application and interpretation within a plural legal and socio-cultural context. Data were collected through field observations, document analysis, and systematic reduction, supported by secondary sources including primary legal materials such as the Qur'an, the Criminal Code, the Draft Criminal Code, statutory regulations, and relevant journalistic and scholarly literature. NVivo 12 Plus was used as a Qualitative Data Analysis (QDA) tool to strengthen analytical rigor, applying coding, crosstab queries, cluster analysis, and word frequency mapping to identify key patterns and study sub-factors. This integrated methodology enabled a deeper understanding of how state law, Islamic legal principles, and indigenous norms interact, ensuring a more contextual and evidence-based interpretation of criminal responsibility in marginalized indigenous settings (Hai-Jew, 2020).

Results and Discussion

Criminal Accountability by the Suku Anak Dalam in Jambi Province

The empirical results show that criminal accountability in homicide and violent crime cases is constrained by a single factor known as a cluster of interrelated socio-legal obstacles. A total of 6 empirically grounded constraints were identified to undermine the process of criminal investigation, prosecution, and adjudication using qualitative coding and cluster analysis in NVivo 12 Plus. These included language, customs, testimony, group solidarity, evidence, and residence status. The results move beyond conceptual discussions by showing the operation of the factors concretely and simultaneously in law enforcement practice.

Figure 1. Cluster Analysis of Criminal Accountability Constraints



Code A	Code B	Pearson correlation coefficient
Nodes\\Language	Nodes\\Customs	1
Nodes\\High Solidarity	Nodes\\Testimony	1
Nodes\\Residence Status	Nodes\\Evidence	1
Nodes\\Testimony	Nodes\\Customs	0.844412
Nodes\\Testimony	Nodes\\Language	0.844412
Nodes\\High Solidarity	Nodes\\Customs	0.844412
Nodes\\High Solidarity	Nodes\\Language	0.844412
Nodes\\Testimony	Nodes\\Evidence	0.506184
Nodes\\High Solidarity	Nodes\\Evidence	0.506184
Nodes\\Residence Status	Nodes\\Testimony	0.506184
Nodes\\Residence Status	Nodes\\High Solidarity	0.506184
Nodes\\Evidence	Nodes\\Customs	0.437471
Nodes\\Language	Nodes\\Evidence	0.437471
Nodes\\Residence Status	Nodes\\Customs	0.437471
Nodes\\Residence Status	Nodes\\Language	0.437471

Source: Cluster Analysis NVivo 12 Plus

Based on Cluster analysis, Figure 1 presents the results, showing statistically significant correlations among several key variables. The analysis reports three dominant clusters that structure the failure of criminal accountability in SAD-related cases. This shows that linguistic barriers are inseparable from customary norms within the Suku Anak Dalam community. Field data suggest that investigative processes are frequently impeded because communication between law enforcement officers and SAD members depends on local dialects embedded within customary meanings. Therefore, legal questioning, witness statements, and suspect examinations often fail to capture intent, chronology, and responsibility accurately. This empirical relationship shows that language functions as a technical barrier and gatekeeper of customary authority to limit the penetration of state law into indigenous legal spaces. The second dominant cluster is the perfect correlation, where high internal solidarity within SAD community restricts the availability of witness testimony. Coding results show repeated patterns in which potential witnesses refuse to cooperate with investigators or provide incomplete accounts to protect fellow community members. This result constitutes an original contribution since the study empirically reports the transformation of testimony from an evidentiary tool into a mechanism of communal defense, thereby weakening the prosecutorial process in serious criminal cases, including homicide. A third empirical pattern was developed from the strong associations between residence status and evidence, as well as moderate correlations between residence status and testimony. The nomadic lifestyle of many SAD groups creates structural difficulties in identifying crime scenes, preserving physical evidence, and locating suspects after incidents. Nvivo coding shows repeated references to unclear settlement locations, lack of permanent residences, and absence of formal identity documentation. These conditions significantly undermine the evidentiary standards required under Indonesian criminal procedure, where material evidence and stable identification are central to establishing criminal responsibility.

Empirical Implications for Criminal Responsibility under Indonesian Criminal Law

From the perspective of Indonesian positive law, the result shows a structural gap between doctrinal requirements and empirical enforcement. Criminal responsibility under the Criminal Code presupposes the availability of evidence, witness testimony, and clear attribution of fault. The empirical clusters show that the prerequisites are systematically weakened in Suku Anak Dalam. Therefore, law enforcement authorities often face evidentiary insufficiency, leading to discontinued investigations, reduced charges, or disproportionately lenient sentences. This result contributes new empirical insight by showing that disparities in criminal accountability are due to the outcome of cumulative structural constraints. These

constraints operate at the stages of investigation and proof before judicial discretion is exercised. Therefore, unequal law enforcement outcomes are obtained from the inability of the criminal justice system to penetrate culturally bounded and mobile social structures.

Comparative Reflection from the Perspective of Islamic Criminal Law

The results show critical normative tension when analyzed through the framework of Islamic criminal law, particularly *jinayah*. Islamic law emphasizes intentionality (*niyyah*), moral accountability, and justice for victims in cases of homicide. However, this law also requires clear proof and reliable testimony. The empirical obstacles identified the absence of testimony and material evidence, particularly the application of *qishash* or *diyath*. The results challenge the assumption that customary or communal resolution mechanisms are consistent with Islamic principles of justice. Islamic law recognizes social harmony, but does not justify the concealment of truth or the protection of perpetrators at the expense of victims' rights. Therefore, this study contributes a novel insight by reporting that the empirical realities of SAD criminal cases suggest a divergence from positive law and normative ideals of Islamic criminal accountability.

Criminal Sanctions System Related to Murder by Suku Anak Dalam in the Perspective of Islamic Law and the Criminal Code

This study states that punishment is the most important part of criminal law. Punishment is the culmination of the entire process of holding someone who has committed a crime accountable (Mashdurohatun et al., 2026). In the Criminal Code, murder is also called a crime against life. This crime is committed in the form of an attack on the life of another person. In this case, an act can be called a crime of murder when the victim is a human. According to Imam Malik, the crime of murder in Islamic law is only divided into intentional and unintentional murder. This is because the Qur'an only mentions two types of murder, namely intentional or unintentional.

Figure 2. Criminal Sanctions from an Islamic Law Perspective and the Criminal Code Regarding the Acts

Regulations and sanctions for the crime of premeditated murder	Regulations and sanctions for the crime of involuntary manslaughter
In the Criminal Code, intentional murder is regulated in Articles 338 to 350. Intentional murder in Islamic law is regulated in the Qur'an, Surah Al-Baqarah verses 178-179	The crime of unintentional murder is regulated in Article 359 of the Criminal Code. Murder by mistake or unintentionally is regulated in the Qur'an, Surah An-Nisaa', verse 92

Source: Author 2025

Criminal sanctions for murder under the Criminal Code are imposed for taking the life of another person, typically in the form of imprisonment for a specified period, with the duration adjusted according to the characteristics of the perpetrator, the victim, and the circumstances of the act. Under Islamic law, a *mukallaf* who intentionally and premeditatedly kills an innocent person faces the principle of *qisas*, where the punishment shows the offense committed. However, Islamic criminal law allows forgiveness by the victim's family, which can mitigate the punishment. In this context, the offender may be exempted from *qisas* and instead required to pay *diyath* (financial compensation) to the victim's family or guardian.

Deliberate criminal acts such as murder are regulated in Article 359 of the Criminal Code with a maximum prison sentence of five years or one year. From an Islamic legal perspective, unintentional murder occurs when a *mukallaf* causes the death of a person by mistake. The prescribed sanctions include paying *kifarat* by freeing a slave or fasting for two consecutive months and providing *diyath* to the victim's family. The *diyath* for unintentional murder is categorized as *mukhafaf* (light *diyath*). Islamic law and the Criminal Code prescribe lighter sanctions for unintentional murder compared to intentional homicide. Criminal sanctions for unintentional offenses range from a minimum of one to a maximum of five years. In terms of criminal liability, Islamic law and the Criminal Code differ fundamentally in relation to intentional and unintentional offenses.

Figure 3. Differences in Criminal Sanctions from the Perspective of Islamic Law and the Criminal Code Criminal Cases with Intention and Unintentional

	Islamic Law Perspective	Criminal Law Criminal Code
Criminal Acts with Intention	Islamic law recognizes "forgiveness" for the perpetrator of murder from the victim's family, which reduces the perpetrator's sentence for the crime.	There is no "forgiveness" given when the crime of intentional murder occurs.
	There is a <i>diyat</i> payment, a form of compensation for victims of criminal acts.	Criminal sanctions for murder do not require compensation.
	Sanctions in the form of <i>qishas</i> and paying <i>diyat</i> with punishment in the afterlife in the word of Allah SWT Surah An-Nisaa' verse 93	Criminal law is absolutely public law, the resolution of which is the right of the state.
	The criminal sanction for intentional murder is the punishment of <i>qishas</i> , which is the same punishment as the act of taking life. (if there is no forgiveness/payment of <i>diyat</i>)	The penalty for the perpetrator is imprisonment for a set period of time under the law.
Criminal Acts by Accident	Islamic Law Perspective	Criminal Law Criminal Code
	The sanction for paying kifarat consists of freeing a slave and paying <i>diyat</i> , which is handed over to the victim's family.	The Criminal Code sanctions are punishable by a maximum of five years' imprisonment or a maximum of one year's imprisonment.
	The impossibility of freeing a slave was replaced by fasting for two consecutive months	criminal sanctions can also be subject to criminal sanctions in the form of imprisonment or a fine

Source: Author 2025

Figure 3 shows that there are significant differences in handling criminal cases in Islamic and positive law. Regarding intentional criminal acts, sanctions are given in the form of *qishas* and *diyat*, and forgiveness is possible in Islamic law. According to the Criminal Code, intentional criminal acts are subject to imprisonment and an absolute decision by the state. Criminal sanctions for unintentional offenses generally range from one to five years, which are lighter than those for intentional crimes. Islamic law and the Criminal Code differ fundamentally in the approach to criminal liability for intentional and unintentional acts. The imposition of sanctions for unintentional murder aims to promote greater caution in preventing harm to others, particularly loss of life. Religion and the state place a high value on the sanctity of human life. Therefore, appropriate sanctions should be imposed when a life is lost due to negligence.

Regarding the criminal case including the Suku Anak Dalam in Jambi Province, positive law addressing offenses against life is stipulated in Article 338 of the Criminal Code, where anyone who intentionally takes the life of another person faces a maximum imprisonment of fifteen years for murder. From a legal perspective, the murderer should be held accountable for the actions by receiving the prison sentence outlined in the Criminal Code. In addition to serving as retaliation, this punishment rehabilitates the offender by recognizing error and comprehending the legal repercussions. The murder of a Kungkai Village resident by a member of the Suku Anak Dalam (SAD) can be categorized as a crime that requires accountability through the *qisas* mechanism as a form of proportional justice. Islamic law also permits substituting *diyat* (retribution) for *qisas* when the victim's family is forgiving, provided the requirements of proof and intent are satisfied.

This study makes an empirical contribution to the analysis of legal pluralism by showing that formal legal norms do not determine criminal accountability in cases including indigenous communities. This study concretely maps the effects of communication barriers, communal solidarity, settlement patterns, and customary resolution mechanisms on the establishment of evidence and imposition of criminal sanctions. In a pluralistic society, criminal liability is developed from the interaction and negotiation among the various legal systems. Cluster analysis indicates that cultural sensitivity can unintentionally lead to legal impunity when unpaired with adaptive evidentiary and investigative strategies. The result contributes to the literature by shifting the focus from the applicability of criminal law in indigenous communities toward enforcing the concept effectively while respecting cultural contexts. Therefore, this study positions criminal accountability as a structural challenge requiring methodological, institutional, and normative recalibration.

Conclusion

This study examines a murder case, including the Suku Anak Dalam (SAD) in Jambi Province, as a starting point for understanding the implementation of criminal accountability in the context of a society living in legal pluralism. The case shows the escalation of differences in cultural interpretation into serious conflict, leading to loss of life. In law enforcement, authorities face various obstacles, including language differences, strong communal solidarity, limited witnesses, and a tendency to resolve issues through customary mechanisms. The results show that Islamic criminal law and the Indonesian Criminal Code (KUHP) are interconnected and not mutually exclusive. KUHP provides legality and legal certainty through the threat of imprisonment for murder. Conversely, the concepts of *qisas* (retribution), *diyat* (retribution), and *ta'zir* (retribution) in Islamic criminal law emphasize the rights of victims, the responsibility of perpetrators, and the opportunity for reconciliation. In SAD case, the conflict between the state's retributive method and customary-based resolution shows the interplay between formal legal norms and socio-cultural realities that shape criminal accountability. Analysis of legal documents and court decisions shows that verdicts often reflect a compromise between demands for legal certainty and considerations of the on-the-ground context. Therefore, this study confirms the importance of implementing an integrative method to criminal law enforcement against indigenous communities to uphold the principle of equality before the law. A direct explanation of the application of legal pluralism in real life must be provided, particularly regarding murders including indigenous communities.

Acknowledgement

The author would like to thank the State Islamic University (UIN) Sulthan Thaha Saifuddin Jambi for academic support in completing the article. Appreciation is also given to teachers, colleagues, and all informants from Suku Anak Dalam community and law enforcement officers in Jambi for the assistance and information provided. Special thanks are also addressed to family and friends for the prayers and continuous support during the process of writing the article.

Conflict of Interest

The author declares that there are no financial, institutional, personal, or professional conflicts of interest affecting the results or objectivity. This study was conducted purely for academic purposes and the advancement of science, especially in the fields of criminal and Islamic law, without any intervention from government, institutions, or individuals with an interest in the issues.

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