



Judicial authority in resolving concursus

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Abstract

Article 65 of Qanun Number 6 of 2014 concerning Qanun Jinayat describes simultaneous crimes but only regulates simultaneous crimes between fellow teachers, and does not further regulate simultaneous crimes where each crime is subject to a different trial. This study aims to analyze the judicial authority in Aceh in solving crimes simultaneously. The research method used is a normative legal research method with a case approach. The data used in this study are secondary data obtained from document studies, namely court decisions and related laws and regulations. The results showed that judicial authorities in Aceh in solving crimes together tend to view each act separately and provide punishment according to each act. However, judicial authority in Aceh is not limited to Qanun Jinayat. The judicial system in Aceh also involves other legal provisions, including national law governed by the Criminal Code. In this context, Articles 63, 64 and 65 of the Criminal Code are still used as a reference in handling concurrent criminal acts in Aceh. Article 63 states that: (1) If an act falls under more than one criminal rule, then only one of those rules is subject to it; if different, the one imposed carries the most serious principal criminal threat; and (2) If an act is included in a general criminal regulation, it is also regulated in a special criminal regulation, then only the special one is applied. Article 64 states that: (1) If several acts, even though each of them is a crime or violation, are related in such a way that they must be considered as one continuous act, then only one criminal rule is applied; if different, the one applied contains the most serious principal criminal threat; (2) Likewise, only one criminal law is imposed if a person is found guilty of counterfeiting or tampering with currency, and using the counterfeited or tampered item; and (3) However, if the person who commits the crimes mentioned in articles 364, 373, 379 and 407 paragraph 1, as a continuous act and the value of the losses incurred exceeds three hundred and seventy-five rupiah, then he are subject to the criminal regulations referred to in articles 362, 372, 378 and 406. Article 65 states: (1) In the event that several acts are combined which must be considered as independent acts so as to constitute several crimes, which are punishable by the same main criminal penalty, then the punishment shall be imposed. only one crime; and (2) The maximum penalty imposed is the maximum amount of punishment punishable for the act, but it may be more than the maximum maximum penalty plus one third.

Keywords: Concurrent, judiciary, criminal act

Introduction

Pidana (*Concursus*) is a situation where someone has committed several criminal acts in terms of earlier and the perpetrator of the crime has not been criminalized, and if a crime has been imposed, the crime has not been served by the perpetrator. Concurrent is the occurrence of two or more criminal acts by one person where the first crime has not been convicted, or between the initial crime and subsequent crimes has not been limited by a judge's decision.

In the context of criminal law, concurrent criminal acts can have complex implications for determining the punishment to be given to perpetrators. In some legal systems, concurrent concurrent can influence the determination of the punishment given to the offender. For example, if a person has committed several crimes and is sentenced to one of those crimes, then the application of the sentence to other crimes can be considered in calculating the sentence period to be served by the offender. However, it is important to note that concurrent criminal offences can vary in criminal law in different jurisdictions. Therefore, the provisions governing concurrent criminal offences may differ depending on the legal system in force in a particular country or jurisdiction.

The concurrent provisions basically regulate the process of resolving cases and criminal convictions in situations where there is more than one criminal act committed by one

perpetrator, and all of these crimes have not been examined and decided by the court. The concurrent determines the procedures or systems used to try or examine these cases, as well as the manner or system of criminal prosecution of the perpetrators involved in the concurrence. This is done to ensure that the handling of cases and crimes provided is in accordance with the principles of justice and applicable law

In the concurrent context, the court must consider all criminal acts committed by the perpetrator when determining the appropriate course of resolving the case and sentencing the crime. In general, the court will consider various factors, such as criminal objections, losses caused, intentions of the perpetrator, and other relevant factors, to determine a fair and proportionate way of solving cases and crimes in concurrent cases.

Concurrent regulations may vary by jurisdiction or legal system.

Therefore, it is important to refer to the legal regulations applicable in a particular region or country to understand in more detail the provisions and procedures relating to concurrent criminal case resolution.

In the Criminal Code, concurrent criminal acts are divided into 3 (three) forms, including:

Concursus Idealist (Concursus Eendaadse Samenloop) or also called concurrent rules, occurs in the event that one person has committed an act where one act has violated

more than one criminal rule. This act is as regulated in Article 63 paragraph (1) of the Criminal Code.

Deeds continue (*Voortgezette handeling*). As stipulated in Article 64 of the Criminal Code which states that "if between several acts, although each is a crime or offense, has such a relationship that it must be regarded as one continuing act, then only one criminal rule is applied, if different are applied that make the principal criminal threat the most severe".

Concursus Realis (Meerdaadse Samenloop) or also known as concurrent acts, where a criminal commits several crimes, each of which stands alone regulated in Article 65 of the Criminal Code.

The Penal Code regulates crimes committed simultaneously, which means that district courts have jurisdiction to try all proceedings in the case. Aceh's Sharia Court has tried a number of crimes committed in the colony. However, Aceh Qanun Number 6 of 2014 concerning Jinayat Law has not fully formulated laws related to certain crimes, so the District Court remains in charge of the trial process of certain crimes. Each will be tried if there are two or more criminal offences, each under the jurisdiction of its own court.

Article 65 of Aceh Qanun Number 6 of 2014 concerning Jinayat Law only regulates one jarimah, there is no additional provision for violations committed simultaneously where each violation is tried separately. The process of solving criminal cases is also not regulated in Aceh Qanun Number 7 Jinayat Procedural Law of 2013, each case is handled with a different judicial system

As a result, the defendants, each facing a different trial, had to appear in court twice. Article 2 paragraph (4) of the Judicial Law Number 48 of 2009 stipulates that the trial must be carried out immediately and the costs are minimal, free of charge, and honest and objective. This shows that they ignore the need for fast, easy, and affordable testing. The Constitutional Court, Supreme Court and judicial institutions affiliated with the general judicial environment, religious court environment, military court environment, state administrative court environment, and judicial environment are customary places for resolving disputes in Indonesia. The Shar'iyah Court in Aceh Province was established based on Law Number 4 of 2004 concerning Judicial Power in Article 15 paragraph (2) stated that: "The Islamic Shar'iyah Court in Nanggroe Aceh Darussalam Province is a special court within the religious court environment insofar as its authority concerns the authority of the religious court and is a special court within the general court environment as long as its authority concerns the authority of the General Court.

Juridically, the position of the Shar'iyah Court in Aceh Province in the National Court system has a strong legal foundation as stipulated in Law Number 48 of 2009 concerning Judicial Power, Law Number 3 of 2006 concerning

Amendments to Law Number 7 of 1989 concerning Religious Courts and Law Number 11 of 2006 concerning the Government of Aceh. After the enactment of Law Number 11 of 2006 concerning the Government of Aceh, the authority of the District Court both in terms of examining, adjudicating civil cases and criminal cases almost all became the authority of the Shar'iyah Court.

Based on the explanation described above, the purpose of this study is to find out and explain the authority of the judiciary in Aceh in resolving criminal acts.

Research Methods

This research method uses a normative research where the stages of research are carried out through literature study or literature review. His research methods include the Law Approach, which involves examining laws and regulations known to be relevant to the issue under consideration, and the Conceptual Approach, which involves testing emerging theories and doctrines in the field of legal science to use them as a basis for developing legal arguments. Examination of data contained in laws and regulations, books, journals, research results, and other cumulative indicators is carried out in the framework of data collection techniques. The data were examined qualitatively using descriptive, analytical, and prescriptive analysis. This qualitative, descriptive, and prescriptive approach is a deviation from systematic legal analysis.

Results and Discussion

The application of Islamic sharia law in Aceh is regulated in various regional regulations (Qanun Aceh) passed by the Aceh People's Representative Council. Some areas that are above normative considerations and peculiarities of Acehese culture, the Aceh government regulates the application of sharia law in certain areas, such as marriage, inheritance, inheritance, and criminal acts that violate Islamic sharia law. The application of sharia law is carried out through sharia courts which have the authority to handle cases involving violations of sharia law.

The application of sharia law in Aceh is a form of respect for the distinctiveness of culture and religious values in the area. However, it is also important to maintain a balance between local peculiarities and universal principles of democracy, human rights, and justice.

The judicial system in Aceh involves two different jurisdictions, namely the general court and the shari'iyah court. The general judiciary has the authority to deal with criminal acts unrelated to Islamic sharia law, while the shari'iyah judiciary has the authority to adjudicate cases involving violations of sharia law. The authority of the general judiciary in resolving crimes unrelated to sharia law is very important in maintaining justice and legal certainty in Aceh.

The general judiciary in Aceh has the same structure as the general justice system in other provinces in Indonesia. The structure consists of the District Court, the High Court, and the Supreme Court. The District Court is a court of first instance authorized to adjudicate civil and criminal cases. The High Court is an appellate court that examines appeals against District Court decisions. While the Supreme Court is a cassation level court tasked with examining cassation against High Court decisions.

The general judiciary in Aceh operates based on positive laws in force in Indonesia, including the 1945 Constitution of the Republic of Indonesia and criminal law legislation. The general judiciary in Aceh also refers to national legal principles governing judicial proceedings, such as the principle of equality before the law, presumption of innocence, and the right to defense.

The general judiciary in Aceh has broad authority in dealing with criminal acts unrelated to Islamic sharia law. This

authority covers various types of criminal acts regulated in the Criminal Code (Criminal Code) and other laws and regulations. Some examples of criminal acts that fall under the jurisdiction of the general judiciary in Aceh include theft, murder, narcotics, corruption, and organized crime.

Aceh also has a special regulation, namely Qanun Aceh. Qanun Aceh is a special regulation in force in Aceh province based on special autonomy granted by the Constitution of the Republic of Indonesia in 1945. Qanun Jinayat regulates Islamic criminal law in Aceh, including various acts that are considered jarimah (crimes) in the context of Islamic law.

The disclosure of the term Islamic sharia is found in Law No. 44/1999 on the Privileges of Aceh articles 3 & 4 which clearly states that what has been obtained by Aceh is a recognition of the Central Government. Also religious life became an important part in the socialite of society. Strictly speaking, the regulation of the issue will be established through the qanun. This is a state order or law that accommodates the wishes of the community. The position of sharia in the law is a manifestation of the privileges of Aceh such as the implementation of Islamic law, education and customs.

From the very beginning of the declaration on the implementation of Islamic law, challenges and even doubts were accompanied by pessimism because there were no concrete examples of how to apply Islamic law in the context of the modern world. In this position it is understood that Islamic sharia in Aceh is an Islamic teaching that has been regulated with Qanun. The scope of implementation of Islamic sharia is clearly stated in Qanun No. 5 of 2000, namely:

Article 5: (1) To realize the privileges of Aceh in the field of religious life, every person or legal entity domiciled in the region is obliged to uphold the implementation of Islamic law in his life. (2) The implementation of Islamic Sharia as referred to in paragraph (1), includes: a. 'Aqidah; b. Worship; c.

Mua'malah; d. Morals; e. Education and Islamic da'wah/amar ma'ruf nahimungkar; f. Baitul Mal; g. Sociability; h. Shiar Islam; i. Defense of Islam; j. Qadha; k. Jinayat; l. Munakahat; and m. Heir.

The above conditions were again strengthened by the presence of Law Number 18 of 2001 concerning Special Autonomy. The law clearly states that it provides wider opportunities to regulate and manage its own household, including economic resources, explore natural and human resources, and apply Islamic law in public life. The opportunity to regulate and organize legal life with Islamic sharia as its spirit comes from a strong legal foundation. Therefore, it can be mentioned that the implementation of Islamic law in Aceh is an order of the Law.

The presence of Law Number 11 of 2006 concerning the Government of Aceh (UUPA), Aceh's authority in carrying out its privileges in the field of sharia—including jinayat (Islamic criminal law)—is increasingly firmly regulated. New developments on Islamic sharia in the life of the Acehnese people, where a formal approach is important to be realized because punishment is only the state has the right to apply otherwise chaos will occur. Therefore, the application of Islamic sharia must be regulated by the State because the state has a system and apparatus. It is wrong for the punishment of a crime to be carried out by society, for

example, by throwing stones at defendants, immersing them in sewers, and so on.

It can be clearly seen in Article 125 of the UUPA in more detail has been regulated which covers the substance of Islamic teachings (creed, sharia and morals). This is the juridical basis for the birth of Islamic criminal regulations in Aceh which is commonly called Qanun Jinayat. The pros and cons of Qanun, who was born in 2014, certainly exist. However, regardless of the controversy, Qanun Jinayat Aceh remains a legitimate legal product and is recognized in the Unitary State of the Republic of Indonesia. That is why, this article is here not to question the existence of which is clearly the problem, but to be an alternative analysis of the many existing analyses. Here, the dynamics of criminal orientation in Indonesia become the object.

Referring to a special regulation in Aceh, namely Aceh Qanun Regulation Number 6 of 2014 concerning Jinayat Law, Article 65 Qanun Jinayat explains related to the concurrent actions of Jarimah "In the event that Everyone commits more than one unsimilar act of Jarimah, it will be subject to 'Uqubat for each Jarimah."

In the context of judicial authority in Aceh related to concurrent criminal acts, Aceh Qanun Number 6 of 2014 concerning Jinayat Law plays an important role. Article 65 of the Qanun Jinayat states that if a person commits more than one act of unsimilar jarimah, he will be subject to 'Uqubat (punishment) for each of these jarimah acts. This means that each act will be treated separately and received the appropriate punishment.

All jarimah actions will be considered as criminal acts based on the Qanun Jinayat-based legal system applied in Aceh. Therefore, if a person commits several unrelated acts, each of them will be investigated and dealt with separately. This means that every jinayat case will be threatened with 'Uqubat (punishment) depending on the severity and scale of the offense. For example, the behavior of Jarimah A will be handled and given appropriate punishment, while the behavior of Jarimah B will also be handled separately and given appropriate punishment if the perpetrator also has behavior that is not similar to Jarimah.

The Jinayat legal system in Aceh is based on the idea that every action deserves justice. To ensure that the punishment given is in accordance with the severity of each jarimah's actions, each jarimah is handled independently. In accordance with Qanun Jinayat's direction, the Acehnese judiciary has the right to impose sanctions. Depending on the severity of the act committed, the Qanun Jinayat prescribes various punishments that can be used, including corporal punishment, fines, and other punishments.

In addition, the judiciary in Aceh can also adopt the principles of general criminal law applicable in Indonesia, as long as it does not conflict with the provisions of Qanun Jinayat. This means that the judiciary in Aceh can refer to the law and general criminal law regulations in resolving concurrent criminal acts, as long as they do not conflict with the provisions of Jinayat law.

Parallel criminal proceedings involving the rape of a young mother and the murder of the young mother's child. Since rape and murder are not crimes specifically mentioned in the Qanun Jinayat, Aceh's justice system can use Indonesia's common criminal law in these situations.

The Criminal Code (KUHP) is the main reference for general criminal law in Indonesia, including Aceh. The Penal Code provides for appropriate sanctions for those who

commit certain criminal acts, including rape and murder. The punishment imposed will be determined based on the general criminal law in Indonesia, which stipulates penalties according to the severity of the offense committed.

Article 63 of the Criminal Code states that if an act falls under more than one criminal rule, only one of those rules is applied. If there is a difference in criminal threats between the applicable rules, then the rules that contain the most severe principal criminal threats are applied. In addition, if an act falls within the general criminal rules as well as the specific criminal rules, then only special criminal rules are applied.

Article 64 of the Criminal Code regulates continuing acts. If there are several acts that have such a relationship that they must be regarded as one continuing act, then only one criminal rule applies. If there is a difference in criminal threats between the applicable rules, then the rules that contain the most severe principal criminal threats are applied.

Article 65 of the Criminal Code limits criminal convictions in cases of multiple concurrent acts. If these acts are to be viewed as independent and threatened with the same principal crime, then only one crime shall be imposed. The maximum penalty imposed is the maximum number of penalties threatened with the act, but may exceed the maximum of the heaviest penalty plus one-third.

Article 66 of the Criminal Code regulates criminal convictions in cases of concurrent crimes between unsimilar crimes. If there are several acts that must be regarded as independent and threatened with a non-similar principal crime, then the penalty shall be imposed on each crime, but the amount must not exceed the maximum of the heaviest crime plus one third. The penalty fine is calculated based on the maximum length of substitute confinement prescribed for the act. If a person is sentenced to death or life imprisonment, no other crime shall be imposed except the deprivation of certain rights and the announcement of the judge's verdict.

The term judicial concept of connectionity describes the court's attempt to connect or coordinate related cases that have been filed in the same or more courts. The idea aims to ensure effective and speedy resolution of various crimes committed by the perpetrators concerned at the same time.

The idea of connection justice and the application of national law regulated in the Criminal Code is related to the context of the Aceh judiciary in dealing with criminal acts committed simultaneously. Although Qanun Jinayat is the legal basis for criminal acts related to Islamic law in the Aceh justice system, Qanun Jinayat is not the only judicial authority in Aceh.

In dealing with concurrent criminal acts in Aceh, courts in Aceh may refer to the provisions of national law regulated by the Criminal Code, especially Articles 63, 64, and 65 of the Criminal Code. The three articles relate to criminal acts committed by one or more people in one act or in the context of implementing a joint plan. In this case, courts in Aceh can use the concept of connection courts to link related cases that may involve the same perpetrators or related acts.

By applying the concept of connection court, courts in Aceh can examine and consider the relationship between acts committed by perpetrators in the concurrent settlement of criminal acts. The court may consider the evidence, arguments, and facts associated with each act and the effects

arising from the act. This can assist the court in giving a fair and lawful decision, taking into account the overall context of the criminal act that occurred.

Applying the legal notion of connectedness in Aceh's justice system to address concurrent crimes helps ensure that those responsible for related crimes receive consistent and consistent care. Therefore, given the complexity and interconnectedness between criminal acts committed by perpetrators, this approach can offer a more effective and efficient solution to criminal acts committed simultaneously in Aceh. These sections provide the rules by which courts take criminal conviction decisions related to various criminal offences. The guiding idea is to consider the most serious criminal threats, the relationship between those measures and the most severe sanctions.

Thus, the judicial authority in Aceh in resolving concurrent criminal acts is based on Article 65 Qanun Jinayat states that if a person commits more than one act of jarimah that is not of the same kind, it will be subject to 'Uqubat (punishment) for each of these jarimah acts. That is, each act will be treated separately and get the appropriate punishment, and also refers to Article 63 of the Criminal Code states that if an act falls under more than one criminal rule, only one of those rules is applied. If there is a difference in criminal threats between the applicable rules, then the rules that contain the most severe principal criminal threats are applied.

This shows that courts in Aceh tend to view each act separately and impose appropriate punishments for each act. However, it should be noted that judicial authority in Aceh is not limited to Qanun Jinayat. The judicial system in Aceh also involves other legal provisions, including national law regulated by the Criminal Code. In this context, Articles 63, 64, 65 of the Criminal Code are still a reference in dealing with concurrent criminal acts in Aceh. Thus, the judicial authority in Aceh in resolving concurrent criminal acts involves Qanun Jinayat as the main foundation, but also takes into account the principles of national law applicable in Indonesia.

Cover

Conclusion

The justice system in Aceh has the authority to resolve criminal acts separately by treating each act separately and imposing appropriate penalties for each act. However, judicial authority in Aceh is not limited to Qanun Jinayat. The judicial system in Aceh also includes other legal provisions, including national law governed by the Criminal Code. In this context, Articles 63, 64, and 65 of the Criminal Code are still used as a reference in handling concurrent criminal acts in Aceh.

Advice

It is recommended that the Aceh government continue to monitor developments related to criminal regulations in order to achieve the principle of justice in the judiciary, while also appealing to law enforcement to maintain security and order in the Aceh region, so as to avoid the occurrence of criminal acts and concurrent criminal acts. Then the Aceh government should be able to review the rule of law related to concurrent criminal acts, in order to achieve a judicial process that is in accordance with judicial principles.

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