

## Beyond State-Centered Sharia: Muslim Women, Decolonial Feminism, and Islamic Legal Authority in Aceh and Mindanao

<sup>a</sup>\*Syarifah Huswatun Miswar  <sup>b</sup>Isnira Arap Baginda 

<sup>a</sup>Central China Normal University, Wuhan, China

<sup>b</sup>Mindanao State University, Santos, Philippines

\*Correspondence:  [sayyidahuswah@gmail.com](mailto:sayyidahuswah@gmail.com)

### Abstract

Muslim women in the Islamic peripheries of Aceh and Mindanao face complex challenges amid persistent tensions between official Islamic legal authority and everyday social realities. Despite recognized religious autonomy through Qanun Jinayat in Aceh and the Bangsamoro Organic Law (BOL) in Mindanao, the interpretation and enforcement of these legal frameworks remain dominated by male authorities, producing gendered restrictions that frequently sit uneasily with national human rights guarantees in Indonesia and the Philippines. This article employs decolonial feminist approach to examine how Muslim women respond to these constraints by drawing on lived experience, collective memory, and gender conscious readings of Islamic texts. Using a qualitative, document based comparative analysis of legal provisions, policy documents, and existing qualitative studies on women in Aceh and Mindanao, it traces how patriarchal Islamic legal authority operates within plural legal systems and how women contest it in practice. The findings show that women in both regions do not simply comply with state centred religious law, but actively navigate, resist, and reinterpret dominant legal systems by engaging Islamic ethical principles, national human rights discourses, and community based activism. Aceh and Mindanao thus exemplify how Islamic legal authority can be rethought from peripheral, gender sensitive perspectives. The article argues that these practices of epistemic dissent strengthen Islamic feminism and broaden the religious voices discourse in Southeast Asia by foregrounding Muslim women as active co creators of religious meaning rather than passive legal subject.

**Keywords:** Decolonial feminism, Islamic legal authority, legal pluralism, gender justice, Aceh and Mindanao, Muslim women.

### Introduction

Across the Muslim world, the relationship between Islamic law and state authority significantly shapes women's lives, rights, and identities. This dynamic is especially complex in Islamic peripheries like Aceh, Indonesia, and Mindanao, Philippines, due to colonial legacies, local customs, and modern state-building processes (Raksasataya, 1968; Taylor,

2015; Lindsey & Steiner, 202). Both regions have formal religious autonomy: Aceh through Qanun Jinayat and Mindanao via the Bangsamoro Organic Law, but these legal systems often reinforce patriarchal frameworks that limit Muslim women's agency and spiritual authority (Baddiri, 2007; Afriyati, 2018; UN Women Asia Pacific, 2019).

Investigating the legal pluralism at this intersection reveals how state interventions leverage community identities to promote particular social justice notions (Dutta, 2016). Enforcement of Islamic legal authority in Aceh and Mindanao is heavily influenced by patriarchal interpretations that marginalize women, perpetuating colonial-era legal structures that exclude women from meaningful religious and legal participation. This dominance manifests in both formal laws and informal communal practices, restricting freedoms, worsening gender inequality, and obscuring gender-sensitive alternative interpretations of Islamic law.

Muslim women's lived experiences reflect ongoing struggles against state-centered religious authority and colonial legacies that shape gender, law, and spiritual perspectives (Kloos, 2016; Sanguila, 2021; Deinla, n.d.; Santiago, 2015). This article explores how women in Aceh and Mindanao actively navigate, resist, and reinterpret constraining legal authorities. We examine their epistemic dissent strategies rooted in lived beliefs, collective memory, and gendered Islamic textual readings that challenge male state actors' monopoly over Islamic legal interpretation and colonial legacies in plural legal systems, contributing to debates on decolonial Islamic feminism and legal pluralism in Southeast Asia (Swastika, 2023). The study highlights women's agency in breaking hegemonic religious and legal narratives, providing an alternative framework for understanding justice, gender, and spirituality in postcolonial Muslim societies. It fills a crucial scholarship gap by positioning Muslim women as active co-creators of religious meaning rather than passive legal subjects (Widjaja, 2023).

This article addresses three interrelated problems in the degradation of Muslim women's rights in Aceh and Mindanao. First, Islamic legal authority is concentrated in male-dominated state, religious, and customary institutions. Hence, women's lived experiences are largely excluded from defining Islamic law and moral regulation. Second, plural legal systems that combine Qanun Jinayat or the Bangsamoro Organic Law with national law and local customs create overlapping jurisdictions and evidentiary rules that often weaken protection for women and make it harder to claim their rights. Third, decolonial and gender-sensitive interpretations voiced by Muslim women remain peripheral, so their religious and legal voices are not fully recognized as authoritative even though both states formally commit to human rights.

### **Islamic Law and Dynamics in Aceh**

The Qanun Jinayat exemplifies male-dominated Islamic authority. Article 52 requires rape victims to present preliminary evidence unlike Indonesia's national criminal code placing evidentiary burden on traumatized women and enabling perpetrator impunity (Kalsum et al.,

2021). This procedural injustice, enforced by male-dominated Wilayatul Hisbah, excludes women's lived experiences from defining Islamic justice (epistemic marginalization), as seen in case L, who withdrew her complaint due to stigma and impossible proof standards (Solidaritas Perempuan, 2016).

The Qanun Jinayat in Aceh, enacted in 2014 and implemented in 2015, stands as a significant example of formal Islamic criminal law in Indonesia but has faced widespread criticism for disproportionately burdening women, particularly sexual violence victims (Kalsum et al., 2021). The law criminalizes various moral and sexual offenses and prescribes penalties including fines, imprisonment, and flogging, often reinforcing gender discrimination and legal injustice against women (Hasni, 2020; Febriandi et al., 2021).

A prominent issue is the treatment of rape victims, where Article 52(1) of the Qanun imposes a requirement for victims to present preliminary evidence and witnesses, unlike the national criminal procedure law that places this burden on investigators. This procedural rule creates a double burden, deterring many women from pursuing justice due to trauma, fear of stigma, or difficulty meeting evidentiary standards. Consequently, many victims withdraw complaints, enabling perpetrators' impunity and continued violence (Fadlia & Ramadani, 2022; Muzakkir, 2022).

Substantive provisions disproportionately target women's morality and behavior through offenses such as khalwat (being alone together), ikhtilat (mixing of unmarried men and women), and zina (a form of adultery), with women more heavily targeted and punished by Sharia police raids and enforcement (Hasni, 2019; Haksni, 2020). The gendered use of public flogging for moral offenses like indecent dress or premarital sex inflicts physical pain alongside public humiliation and social exclusion, compounding psychological harm (Fitri & Nurrahmi, 2021); Solidaritas (Perempuan, 2016).

Legal dualism and contradictions between Qanun Jinayat and Indonesian national law, including weaker protections for women and conflicting evidentiary standards, exacerbate inequalities and create confusion for victims seeking legal redress. Notably, these discrepancies spotlight a lack of human rights integration and consultation with women's rights experts during law formulation (Muzakkir, 2022; Darma Nagara & Hendiyani, 2022; Hidayatullah et al., 2025).

Anecdotal evidence, such as the experience of "L," a sexual violence victim who withdrew her complaint due to evidentiary burdens and fear of stigma, reflects the real challenges women face. Activists note victims often encounter discrediting questioning and pressure, resulting in many cases resolving without victim protection (Solidaritas Perempuan Aceh, 2016).

In 2024, Wilayatu'l Hisbah Aceh handled cases of jinayat, of which all involved women (khalwat/ikhtilat), with only 3% of rape cases resulting in convictions due to the burden of proof under Article 52. The "L" case is not an isolated incident; Aceh Sharia Court data for

2023 recorded rapes victims who withdrew their complaints due to "preliminary evidence" and social stigma, in contrast to the national Criminal Code, which places the burden of proof on the investigator. Legal dualism was evident in the first non-Muslim case in 2022: a Christian resident of Takengon was sentenced to flogging for drinking alcohol (Qanun 6/2014 Art. 5c), sparking controversy over jurisdiction but confirming that it is "applicable to any person". Reform is slow; although the Aceh Women's Coalition proposed revising the evidentiary burden in 2024, the Aceh DPR rejected it due to "traditional fiqh conflicts" (Kamal & Marzuki, 2021; Komnas Perempuan, 2024).

Despite these obstacles, civil society and women's groups in Aceh have actively opposed discriminatory Qanun provisions through advocacy, legal aid, and collaboration with local authorities. However, conservative religious and state resistance has hampered substantial reform, maintaining the colonial-patriarchal legacy embedded in Aceh's legal pluralism where competing authorities sideline women's rights (Fuet al, 2022; Muhazir, 2022).

**Table 1.**  
**Analytic of Qanun Jinayat as gendered, colonial-patriarchal legal authority**

Dimensions	Analytical Content of the Qanun Jinayat (Islamic Criminal Law)
Legal basis and position	Qanun No. 6/2014 on Jinayat has been in effect since 2015 as a form of special autonomy for Aceh in implementing Islamic criminal law, alongside the national Criminal Code, thereby creating legal dualism and the potential for conflict between norms.
Scope of the offense	Criminalizing adultery, khalwat, ikhtilat, rape, and other moral violations with fines, imprisonment, and flogging in public spaces, which in practice are directed more towards women's bodies and morality
Rules of evidence	Article 52 requires rape victims to present preliminary evidence and witnesses, contrary to national procedural law standards that place the burden of proof on law enforcement officials, thus creating a procedural barrier for female victims
Enforcement actor	Enforcement is dominated by male actors: Wilayatul Hisbah, law enforcement officials, and male clerics, who monopolize the authority to interpret Islamic justice and ignore women's life experiences (epistemic marginalization)
Gender impact	Women are more often targeted in raids on illicit gatherings and flogging punishments, facing social stigma, withdrawal of reports, and uncertainty of legal protection, while perpetrators of sexual violence can escape punishment due to high standards of proof
Women's responses and resistance	Women's NGOs, Muslim feminist networks, and victims developed resistance strategies: advocating for the revision of Article 52, promoting an Islamic narrative based on maqasid and

	adl perspectives, and documenting cases such as “L” as a form of epistemic dissent against male authority
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Source: Analysis in research

Qanun Jinaenforces moral regulations that disproportionately burden women by imposing procedural barriers on victims, selectively criminalizing women's morality, and endorsing harsh punishments. These features perpetuate systemic legal discrimination and violence against women, reflecting broader struggles over Islamic legal authority, gender politics, and human rights within Aceh's complex pluralistic legal framework.

### Women’s Struggles in Mindanao

In Mindanao, plural legal systems manifest as "judicial deadlock": BOL's Sharia courts clash with clan adat that sidelines women in inheritance/marriage, creating forum shopping where patriarchal customs supersede formal protections (Bangsamoro Women's Commission, 2024). Women's response GAD Code and BRAP-WPS demonstrates "decolonial praxis", filling legal pluralism gaps with gender-just interpretations rooted in Qur'anic adl, contrasting Aceh's direct moral policing with policy advocacy (UN Women Philippines, 2017; Jopson, 2021).

Clan-based patriarchy remains as significant barrier, as male-dominated customs control family decisions and inheritance, often sidelining women's voices and legal protections despite progressive frameworks like the Bangsamoro Organic Law (BOL) (Bangsamoro Women's Commission, 2024). Inconsistent enforcement of Islamic law across the region, complicated by ambiguous procedures and gender biases in judicial and customary institutions, further limits women's access to justice, especially in cases of domestic violence, custody, and marital disputes (UNFPA Philippines, 2013; Stephens, 2011).

Nevertheless, women's advocacy has gained momentum, notably through efforts to pass the Bangsamoro Gender and Development Act (GAD), which integrates Islamic principles of justice and equality with gender-responsive governance across regional institutions (Bangsamoro Parliament, 2024). Empowerment initiatives, such as training former Moro Islamic Liberation Front combatants in peacebuilding and governance, have elevated women's political agency despite persistent patriarchal constraints (Office of the Presidential Adviser on Peace, Reconciliation, and Unity, 2025).

The Bangsamoro Regional Action Plan on Women, Peace, and Security (BRAP-WPS) further advances gender equality by addressing violence prevention, economic empowerment, political participation, and trauma healing, reflecting grassroots insights and recognition of marginalized groups (Sanguila, 2024). However, deep-rooted cultural norms, limited resources, political intimidation, and jurisdictional ambiguities within plural legal systems continue to restrict meaningful progress, with many women confused or deterred by overlapping courts and mechanisms (Center for Media Freedom and Accountability, 2025; Philippine United Nations, 2024).

Women ex-combatants face "double struggle," navigating patriarchal social structures while mediating community disputes, often requiring accompaniment by grassroots organizations to secure justice (Jopson, 2023). Despite these challenges, women in BARMM

actively contest patriarchal legal frameworks, promoting gender-sensitive reforms and Leadership within evolving autonomous governance.

Data from the Bangsamoro Women Commission 2024 cases of domestic violence in BARMM, only a few of them entered Sharia District Courts due to "jurisdictional deadlock" with clan customs (diyat > women's inheritance rights). The GAD Code is progressive, but implementation is hampered; the Bangsamoro Parliament rejected it twice because it was "too secular," but it finally passed in September 2024 after revisions were made to include the Qur'an. BRAP-WPS 2023-2028 targets female ex-combatants to be trained in peacebuilding, but the realization in 2025 was a small number due to political intimidation (MILF vs MNLF). Moro women in Sulu receive smaller inheritances despite the BOL. XIII guarantees equality, because clan consent overrides formal law. UN Women reports 42 cases of forum shopping for divorce in 2024, with women choosing customary law because Sharia courts are slow (18 months on average) (Solaiman, 2025; Sasakawa Peace Foundation, 2025).

Muslim women in both Aceh and Mindanao engage in epistemic resistance by creatively reinterpreting religious and legal authorities through their lived experiences and feminist Islamic hermeneutics. Inspired by scholars like Amina Wadud and Fatima Mernissi, they challenge patriarchal interpretations that distort Islam's core principles of justice and equality (Stack, 2020). This resistance manifests through reinterpretation of sacred texts, grassroots organizing, informal dispute resolution, and alternative community spaces that empower women and counter hegemonic legal narratives (United Nations Democracy Fund, 2011; Lopes Cardozo et al., 2022).

Such epistemic defiance also represents decolonial rejection of Western legal universality and Orientalist misrepresentations, affirming marginalized knowledge systems rooted in Southeast Asian Islam and positioning women as authoritative interpreters and agents of legal transformation (Mignolo, 2009; Kadir, 2024).

### **The Process of Decolonizing Islamic Law**

These findings "marginalized women's voices": both Qanun Jinayat evidentiary burdens and BARMM clan dominance stem from male epistemic monopoly, but women's epistemic disobedience, Aceh advocacy against flogging, and Mindanao GAD reforms reclaim interpretive authority, transforming colonial-patriarchal law into justice-oriented praxis (Fadel, 2023).

The process of decolonizing Islamic law in Aceh and Mindanao involves Muslim women actively confronting and dismantling deeply entrenched colonial and patriarchal legacies embedded in legal frameworks. These women are not merely seeking reform within existing structures; they are co-creating inclusive, gender-responsive interpretations that challenge historical male dominance and envision Islamic law as dynamic and justice-oriented. Central to this process is the recognition that many family and Sharia-based laws, such as Aceh's Qanun Jinayat and aspects of Mindanao's customary law, were codified during colonial state projects in ways that prioritized male authority and constrained women's rights. Islamic family law, therefore, should be understood as establishing minimum normative floors rather than fixed ceilings, allowing for ongoing reinterpretation to eliminate arbitrary domination and foster equality (Fadel, 2023).

Women's roles in this decolonization encompass intellectual and grassroots activism, employing feminist Islamic epistemology to overturn male-centered readings of sacred texts, reassessing issues like marriage, inheritance, and sexuality, and contesting the monopoly of male clerics and judges. This activism cultivates a plurality of authoritative voices aligned



with contemporary gender justice within an Islamic framework. Practically, it includes advancing gender-sensitive legal instruments and policies that harmonize Qur'anic principles with human rights and participatory governance, for instance, Mindanao's Gender and Development Code and Acehnese advocacy to repeal punitive provisions and promote judicial training against bias (Jopson, 2023; Bastiar et al., 2025).

Concrete decolonization is evident in Aceh's Keumalahayati (2024), helping victims of jinayat reject flogging via hermeneutic mubadalah, demanding Qanun revision in accordance with maqasid syariah (adl > hudud). In Mindanao, ex-MILF women mediators successfully documented rido resolutions without recourse to the court, using wasatiyyah reinterpretation of inheritance (Q.S. An-Nisa:11 contextualized). Challenges: the conservatism of the Aceh MPU blocked gender-just fatwas in 2024; in BARMM, clan elders rejected the GAD Code, even though it is also awaiting ratification. However, epistemic sovereignty emerges through digital media: TikTok #AcehFeminist encourages a petition to repeal Art. 52 of the Qanun (Sasakawa Foundation, 2025; TikTok Wanita Banda Aceh, 2025).

A vital dimension is reclaiming interpretive authority beyond traditional male hierarchies. Decolonial feminist hermeneutics emphasize linguistic and contextual flexibility, revealing Islamic law's contingent, evolving nature, particularly as it relates to gender. Despite uneven progress caused by entrenched power, political resistance, and conservatism, concerted efforts by women in academia, civil society, and religious sectors manifest an emerging epistemic sovereignty that centers justice, dignity, and equality over colonial or patriarchal legacies (Dutta, 2021).

Women's creation of gender-inclusive and justice-driven legal interpretations is foundational to decolonizing Islamic law in Aceh and Mindanao. By challenging colonial-patriarchal frameworks and fostering alternative discourses grounded in feminist and decolonial ethics, these women transform Islamic legal authority from an instrument of oppression into a tool for liberation and social justice.

### Implications for Legal Pluralism in Southeast Asia

The cases of Aceh and Mindanao reveal the complex and contested nature of legal pluralism in Southeast Asia, where Islamic legal authority coexists and often clashes with state law, customary norms, and international human rights standards. This creates a layered legal environment marked by conflicting mandates and enforcement challenges, particularly affecting women's ability to access justice. For instance, Aceh's Qanun Jinayat operates alongside national civil law, resulting in legal dualism that raises barriers through contradictory principles on evidence, gender rights, and punishment. Similarly, the Bangsamoro Organic Law in Mindanao establishes Sharia courts within an autonomous framework, but state law and clan customs continue to influence judicial processes, complicating women's legal redress (Krisna et al., 2021; Deinla, 2018).

**Table 2**  
**Comparative of Aceh and Mindanao**

Aspect	Aceh – Qanun Jinayat	Mindanao – BOL & adat
Forms of Islamic legal authority	Qanun Jinayat as regional Islamic criminal law within the Unitary State of the Republic of Indonesia, with Sharia police and Sharia courts as the main institutions	The BOL established Sharia courts within the framework of the BARMM, but their authority competes with

		clan customs and Philippine national law
Source of legal patriarchy	Monopoly of interpretation by male scholars and officials, plus a colonial legacy that codified family and criminal law in a hierarchical manner	The power of clans and customs (rido, diyat) that can override the guarantee of equality in the BOL and GAD policies
Mechanisms of marginalization of women	The burden of proof on victims, moral criminalization, and public punishment (flogging) that humiliates women	Forum shopping between Sharia, customary, and state courts; many domestic violence cases do not reach court due to jurisdictional deadlock
Forms of epistemic resistance	Advocacy for the revision of Qanun, anti-flogging campaigns, mubadalah and maqasid interpretations that reject literalist hudud as the sole standard	Advocacy for the GAD Code, BRAP WPS, and the role of female ex-combatant mediators who integrate the principles of adl and wasatiyyah in conflict resolution

Source: Analysis in research

These tensions underscore the fragility of plural legal systems shaped by colonial legacies that often embed patriarchal norms and gender biases. Legal pluralism in this context is not simply the co-existence of multiple laws but a contested space where gender, religious, and ethnic power structures are both reproduced and challenged. Women's struggles exemplify how pluralism can simultaneously constrain and empower, depending on how laws are interpreted and enforced locally (Hidayah, 2024; Mastura, 1994).

Aceh Case (2024). Qanun vs Criminal Code on adultery results in non liquet (no applicable law), female victims choose to drop the case. Mindanao: BOL Sharia courts handled cases in 2023, but just some cases were overridden by customary diyat. Islamic regulatory state: The Jokowi era (2014-2024) curtailed Aceh's autonomy by having the MoHA review qanun, rejecting several drafts due to "human rights violations". Potent local agent: Aceh MPU fatwa 2025 supports "gender-responsive fiqh", the first since 1999. Regional resonance: Malaysia's Sharia courts adopt Aceh's 2024 evidentiary reform model; Thailand's Pattani women's advocacy imitates BARMM GAD. Legal pluralism is not static but an arena of contestation; women transform from "passive subjects" to "co-legislators" via hybrid forums (Solaiman, 2025; IJCR, 2025; Afandi & Bagaskoro, 2024).

Another significant implication concerns the state's role as regulator of Islam and social order. Southeast Asian governments, despite constitutional recognition of Islam and regional autonomy, often strictly control Islamic practices to maintain stability. This bureaucratization of religious authorities can marginalize grassroots participation and overlook gender justice,



with state policies sometimes reinforcing conservative and patriarchal legal interpretations (Abadi, 2022).

Notably, the cases highlight local agency and epistemic pluralism in shaping the evolution of Islamic legal authority. Women's active roles in reinterpretation, advocacy, and reform challenge monolithic and patriarchal perceptions of Islamic law, demonstrating that plural legal systems can advance toward inclusivity and justice through diverse voices in legal discourse (World Muslim Forum, 2015; Hidayah, 2024). These dynamics resonate across Southeast Asia, including Malaysia, Brunei, and Southern Thailand, where Islamic law intersects with national legal systems and ethnic identities, serving as arenas for broader struggles over identity, sovereignty, and justice (Yamada, 2016).

In conclusion, Aceh and Mindanao illustrate that Islamic legal authority in Southeast Asia is fluid and contested, influenced by intertwined colonial histories, state regulation, customary practices, and gender politics. Understanding this complexity is vital for promoting gender-responsive reforms and recognizing the diverse epistemologies that underpin Muslim women's experiences and resistance. Achieving gender justice requires legal epistemologies that validate women's lived experiences and embrace alternative interpretations beyond male-dominated state authorities.

## **Conclusion**

This study concludes that Muslim women in Aceh and Mindanao are active agents who resist and transform patriarchal and colonial legal structures through strategies of epistemic resistance. They challenge dominant interpretations imposed by male-dominated state and societal authorities and assert their voices within formal legal systems like Aceh's Qanun Jinayat, hybrid Sharia frameworks, customary laws, and informal social arenas. These women draw upon their beliefs, local traditions, and collective memory to negotiate gender-sensitive reinterpretations of Islamic law, revealing both the fragility and the potential for resilience within plural legal systems in postcolonial contexts.

By foregrounding these struggles, the study advances critical scholarship in gender, law, and decolonial epistemologies, emphasizing the importance of centering marginalized knowledge and lived experiences. It highlights how legal pluralism is actively contested and reshaped by women's resistance, shifting focus from top-down reforms to grassroots negotiations that recognize Islamic law as plural, dynamic, and contested.

For meaningful progress, the study recommends creating institutional pathways for women to serve as legal scholars, religious leaders, and community advocates, enabling them to participate fully in reforming and interpreting Islamic law. Supporting women's Leadership and embedding gender-aware perspectives throughout legal practice are essential to fostering more inclusive and just legal frameworks. Legal reform must move beyond mere accommodation of women's rights within patriarchal limits to embrace transformative agendas addressing foundational gender biases and colonial legacies.

These findings sharpen the analysis of how Qanun Jinayat evidentiary burdens and BARMM clan dominance operationalize the three core problems: male-dominated authority, plural legal contradictions, and epistemic marginalization. However, women's epistemic disobedience through Aceh anti-flogging advocacy and Mindanao GAD reforms

demonstrates a decolonial praxis that reclaims interpretive authority, transforming colonial-patriarchal instruments into justice-oriented Islamic legal pluralism.

Future research should broaden comparative analyses of Islamic feminism and legal innovation across marginalized Muslim societies, focusing on diverse strategies women employ to renegotiate rights within overlapping customary, religious, and state legal regimes. Longitudinal and ethnographic studies are needed to evaluate the enduring impact of women's agency within legal pluralism and to document grassroots legal reforms, thus contributing to the global discourse on decolonizing legal authority and advancing gender justice.

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