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Reconstructing Penal Sanctions in Regional Regulations of Asymmetrically Decentralised Regions After the Enactment of Indonesia's National Criminal Code

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Abstract: Indonesia delegates a limited penal authority to local governments while simultaneously recognising asymmetric decentralisation for Aceh, Papua, and the Special Region of Yogyakarta. This study analyses how penal sanctions in regional regulations are regulated, how they are implemented, and how they should be reformulated after Law Number 1 of 2023 on the Criminal Code and Law Number 1 of 2026 on Penal Adjustment. Combining normative and empirical legal research, the study applies statutory, philosophical, comparative, and futuristic approaches, supported by semi-structured interviews with regional enforcement officials in South Sumatra, Jakarta, Aceh, and Papua. The findings show that local penal authority is attributive yet bounded, and that asymmetry materially widens punishment only in Aceh through the jinayah regime, whereas Papua and Yogyakarta concentrate their specificity on distributive and cultural affairs. Empirically, administrative sanctions dominate enforcement because penal processes are slow, costly, and institutionally constrained, leaving criminal provisions to function as a deterrent reserve. The abolition of confinement and the adoption of a fine-category system now compel systematic revision. This study proposes an omnibus regional regulation model grounded in ultimum remedium, proportionality, and the recognition of living law.

Keywords: Asymmetric decentralization, Regional regulation, Penal sanction, Ultimum remedium, Living law.

INTRODUCTION

The Unitary State of the Republic of Indonesia distributes governmental power between the central government and local governments. Regional autonomy allows local governments to regulate and administer affairs that are internal to their territories, including education, health, and regional infrastructure, and the regional regulation (peraturan daerah) is the principal legal instrument through which that autonomy is exercised. Formed jointly by the regional house of representatives and the regional head, a regional regulation binds every

person within the relevant administrative area and functions as the legal umbrella for the maintenance of public order. Its position at the bottom of the national hierarchy of legislation means that the substance of every regional regulation must remain consistent with higher norms, a requirement that has become the central axis of the debate concerning the validity of local legal products (Astariyani et al., 2024).

Article 15 paragraph (2) of Law Number 12 of 2011 on the Formation of Legislation, read together with Article 238 of Law Number 23 of 2014 on Regional Government, authorises local governments to attach penal provisions to their regulations, subject to a maximum of six months of confinement or a fine of fifty million rupiah. This authority is attributive rather than sovereign; it is a delegated fragment of the state's *ius puniendi* designed to secure compliance with administrative norms rather than to build a parallel criminal law system. The quantitative ceiling is deliberately restrictive because an unbounded local penal competence would fragment the national criminal justice system and expose citizens to widely divergent treatment for identical conduct (Al-Fatih et al., 2023). The hierarchy therefore performs a protective as much as an organisational function, and non-compliance with it is one of the principal reasons why a large number of regional regulations have historically been annulled or revoked (Jaelani & Hayat, 2022).

Modern penal theory places criminal sanctions as a last resort. The principles of subsidiarity and *ultimum remedium* require that administrative instruments — warnings, licence revocation, sealing, and administrative fines — be exhausted before the state resorts to punishment. In practice, however, many local legislatures still attach threats of confinement prematurely, producing a persistent gap between criminal law doctrine and local legislative practice. The problem is aggravated by the tendency to treat penal provisions as a symbolic assertion of legal authority rather than as an operational enforcement instrument, so that the resulting norms are neither applied nor applicable (Astariyani et al., 2024). Where such provisions are challenged, judicial review has repeatedly confirmed that local penal competence cannot exceed the boundaries drawn by national legislation, and legislative responses to those decisions have themselves been uneven (Butt & Murharjanti, 2022).

Indonesian decentralisation is not uniform. Alongside the symmetric model applied to most provinces and regencies, the state recognises asymmetric decentralisation for regions whose history, culture, or political circumstances justify a differentiated allocation of authority. Article 18B paragraph (1) of the 1945 Constitution acknowledges special and privileged units of local government to be regulated by statute, and this recognition has been operationalised through Law Number 11 of 2006 for Aceh, Law Number 21 of 2001 as amended by Law Number 2 of 2021 for Papua, and Law Number 13 of 2012 for the Special Region of Yogyakarta. Comparative scholarship treats asymmetry as a device for managing diversity and reducing territorial tension rather than as a licence for unilateral norm-making (Khairul Muluk & Anantanatorn, 2023), and its institutional design differs markedly between regions (Allo et al., 2025). In Papua, two decades of special autonomy have delivered uneven recognition of customary rights, revealing the distance between formal devolution and substantive empowerment (Sopaheluwakan et al., 2023).

The enactment of Law Number 1 of 2023 on the Criminal Code, which came into force in January 2026, has fundamentally altered the framework within which local penal norms must be drafted. The Code replaces a colonial statute that had governed Indonesian criminal law for more than eight decades, articulates the purposes of punishment in explicitly humanistic terms, and reorients sentencing away from retribution towards correction, rehabilitation, and restoration (Faisal et al., 2024). It also formally recognises the law living in society as a source of criminal liability, a provision that has been welcomed as an act of decolonisation and criticised as a threat to legal certainty in almost equal measure (Butt, 2023; Tongat, 2022). Article 613 requires all penal provisions contained in statutes and

regional regulations to be adjusted to Book One of the Code, and Law Number 1 of 2026 on Penal Adjustment gives concrete form to that mandate by abolishing confinement as a principal punishment and converting monetary penalties into the categorised fine system.

Existing scholarship approaches these developments from separate directions. Studies of regional regulation concentrate on hierarchy, validity, and annulment; studies of asymmetric decentralisation concentrate on fiscal transfers, political representation, and welfare outcomes; and studies of the new Criminal Code concentrate on national-level doctrine, particularly the living law provision and the recognition of adat norms (Anggoro & Setia Negara, 2022; Isra & Tegnan, 2021). Very little work connects these three strands. The relationship between asymmetric decentralisation and penal policy at the local level remains largely unexamined, and the consequences of the Penal Adjustment Law for existing regional regulations have not yet been mapped. This gap constitutes the state of the art and the principal justification for the present research.

This article addresses that gap by combining constitutional analysis with empirical observation of local enforcement practice. Its novelty lies in situating the penal provisions of regional regulations within the framework of asymmetric decentralisation at the precise moment when the national penal paradigm has shifted, and in deriving from that analysis a concrete regulatory model. Three questions structure the discussion. First, how are penal sanctions regulated in the regional regulations of asymmetrically decentralised regions? Second, how are those sanctions implemented in practice? Third, how should they be formulated following the entry into force of the National Criminal Code? The contribution is intended to be both theoretical, by clarifying the limits of penal differentiation within a unitar state, and pactical, by offering local legislatures a workable path to harmonisation.

METHODS

This study combines normative and empirical legal research. The combination was chosen because the complexity of the legal problem cannot be resolved through textual analysis of legislation alone; it also requires an understanding of how the relevant norms are enforced in the field. Normative analysis provides a clear and structured framework of authority, while empirical inquiry captures the social and institutional dynamics that determine whether that framework operates as intended (Wiraguna, 2024).

Four approaches are applied simultaneously. The statute approach examines the hierarchy and coherence of penal norms in regional regulations against Law Number 12 of 2011 on the Formation of Legislation, Law Number 23 of 2014 on Regional Government, Law Number 1 of 2023 on the Criminal Code, and Law Number 1 of 2026 on Penal Adjustment, together with the three special autonomy statutes. The philosophical approach traces the ontological and axiological foundations of local penal authority. The comparative approach contrasts the pattern of penal regulation in Aceh, Papua, and the Special Region of Yogyakarta with that of ordinary autonomous regions. The futuristic approach is used to formulate a regulatory model responsive to prospective legal needs. This combination follows the design used in recent studies of regional-regulation-based sanctions, which employ statutory, conceptual, philosophical, and socio-legal approaches to establish normative limits and a regulatory model (Topan & Erniyati, 2026).

The materials consist of secondary data in the form of primary legal materials (national and regional legislation and relevant judicial decisions), secondary legal materials (books, scholarly journals, and prior research), and tertiary legal materials (legal dictionaries and encyclopaedias). These are supplemented by primary data obtained through semi-structured interviews with officials responsible for enforcing regional regulations. Informants were selected purposively on the basis of institutional role and were drawn from the Civil Service Police Unit, Civil Servant Investigators, the Public Prosecution Service, and the Legal Bureau

of regional secretariats. Interviews were conducted between February and April 2026 in Musi Rawas Regency and Palembang (South Sumatra), East Jakarta (Special Capital Region of Jakarta), Sabang (Aceh), and Jayapura (Papua). The combination of secondary and primary sources reflects established practice in contemporary research on penal provisions in regional regulations (Sofwan et al., 2023).

Legal materials were collected through bibliographic study of legislation, judicial decisions, and legal literature, and were complemented by key-informant interviews. All materials were inventoried, identified, and classified by type, then analysed qualitatively through interpretation in order to identify legal vacuums (*rechtsvacuum*), antinomies between norms, and vagueness (*vage normen*) in the regulation of local penal sanctions. Conclusions were drawn deductively, moving from the general premises constituted by national legal principles and norms to the concrete problem of implementing penal sanctions in asymmetrically decentralised regions.

Source triangulation was applied to safeguard the validity of the findings by comparing interview results across informants against legal documents and academic literature. This step is necessary because field data are contextual and may be difficult to generalise across regions; empirical approaches yield deep insight into actual legal practice but frequently face challenges of validity and reliability (Wiraguna, 2024). The combination of systematic normative analysis and empirical verification is therefore intended to produce more accurate conclusions regarding the conformity, competence, and effectiveness of penal sanctions in regional regulations within asymmetrically decentralised areas.

RESULTS AND DISCUSSION

The Regulation of Penal Sanctions in Asymmetrically Decentralised Regions

The regulation of penal sanctions in regional regulations must be understood against the structure of the unitary state. A regional regulation is a decentralised legal instrument operating within that structure; it is not a legal product of equal rank with national statutes but a functional local implementing regulation. Its existence reflects the principle of a single national legal system that nonetheless accommodates regional diversity, and its provisions bind the rights and obligations of local communities as an integral part of that system. Because Indonesian law is pluralistic and incorporates customary and religious norms alongside state law, regional regulations also perform a translating function, converting social norms into binding positive law (Isra & Tegnan, 2021). This section presents the data in concise form, data analysis, and interpretation of the findings. Results may be presented in tables or graphs to clarify the verbal explanation because an illustration can sometimes convey information more completely and clearly than a narrative. The Results and Discussion points must correspond to the research questions or objectives and must answer the research problems or hypotheses previously formulated.

The competence of regions to formulate penal sanctions originates in the attribution contained in Article 236 and Article 238 of Law Number 23 of 2014, read together with Article 15 paragraph (2) of Law Number 12 of 2011. That attribution is bounded in three ways. Quantitatively, confinement may not exceed six months and fines may not exceed fifty million rupiah. Materially, penal provisions may only be used to secure compliance with administrative norms, and regions are prohibited from criminalising conduct already comprehensively governed by national statutes. Formally, penal norms must satisfy the principle of legality, which requires that offences be defined in written, precise, and non-retroactive terms. The hierarchical model of delegated legislation makes clear that a delegated norm cannot expand the scope of the delegating norm, and the recurring failure to observe this constraint explains much of the disharmony observed at the regional level (Al-Fatih et al., 2023).

Asymmetric decentralisation modifies this picture, but less dramatically than is often assumed. Article 18B paragraph (1) of the 1945 Constitution recognises special and privileged units of local government, and each of the three asymmetric regions derives its competence from a dedicated statute that operates as *lex specialis*. The critical point is that the expansion of competence is confined to the matters expressly enumerated in that statute. Asymmetry does not create a general licence to depart from national criminal law; it creates a bounded exception whose scope is determined by the delegating statute itself. The scope of local penal authority therefore remains functional and instrumental rather than sovereign, and it does not aim at constructing a local criminal law system separate from the national one.

Aceh represents the only genuine material expansion. Law Number 11 of 2006 on the Governance of Aceh empowers the province to regulate the comprehensive implementation of Islamic law through *qanun*, including *uqubat* that do not appear in the national Code, and establishes the *Mahkamah Syar'iyah* as the forum for adjudicating *jinayah* cases. This arrangement produces a form of criminal law pluralism within the constitutional system and continues to attract scrutiny in terms of legality, proportionality, and human rights compliance (Butt, 2023). Papua presents a different model: Law Number 21 of 2001 as amended by Law Number 2 of 2021 confers competence to enact *Perdatus* and *Perdasi*, requires the involvement of the Papuan People's Assembly as a cultural representative body, and directs the asymmetry towards affirmative action for the economic, political, and customary rights of indigenous Papuans rather than towards penal differentiation (Sopaheluwakan et al., 2023). The Special Region of Yogyakarta represents a third model, in which Law Number 13 of 2012 concentrates privileged status at provincial level in matters of institutional arrangement, culture, spatial planning, and land, leaving the criminal provisions of regency and municipal regulations to operate exactly as they do elsewhere.

Table 1 sets out the comparison. Two conclusions follow. First, the maximum limits of local penal sanctions are unchanged in Papua and Yogyakarta; only Aceh departs from the general ceiling, and it does so on the basis of an express statutory mandate. Second, the difference between the three regions lies less in the type of sanction than in the depth of institutional structure and the source of enforcement legitimacy. Asymmetry, in other words, is primarily a matter of institutional design and distributive justice rather than of penal severity.

Table 1. Comparison of Penal Regulation in Asymmetrically Decentralised Regions

Aspect	Aceh (Qanun)	Papua (Perdatus & Perdasi)	Yogyakarta (Perdais)
Legal basis	Law No. 11 of 2006	Law No. 21 of 2001 jo. Law No. 2 of 2021	Law No. 13 of 2012
Focus of asymmetry	Comprehensive implementation of Islamic law	Affirmative protection of indigenous Papuans	History, culture, and institutional arrangement
Material expansion of penal authority	Yes — <i>uqubat</i> outside the Criminal Code	No	No
Adjudicating forum	<i>Mahkamah Syar'iyah</i>	General courts	General courts
Specialised enforcement body	<i>Wilayatul Hisbah</i> within Satpol PP	Satpol PP (general)	Satpol PP (general)
Level at which specificity operates	Province and regency level	Province	Province only
Dominant sanction in practice	Administrative, with functioning penal track	Administrative	Administrative

Source: processed from Law No. 11 of 2006, Law No. 21 of 2001 jo. Law No. 2 of 2021, Law No. 13 of 2012, and field data (2026).

The Implementation of Penal Sanctions in Regional Regulations

Empirical observation reveals a marked divergence between the text of regional regulations and enforcement practice. Administrative sanctions are applied far more frequently than penal sanctions. Local governments prefer warnings, reprimands, licence revocation, and the sealing of premises, and these instruments prove faster and more efficient in restoring public order. Formal criminal proceedings require substantial time and operational expenditure, and resolving a regulatory violation through court proceedings is often disproportionate to the gravity of the conduct. Penal provisions consequently operate as a passive deterrent reserve, invoked only where administrative measures have been ignored or where violations are repeated and cause serious disturbance.

Interviews confirm that enforcement typically follows a graduated escalation. The Head of the Civil Service Police Unit of Musi Rawas Regency described a sequence beginning with verbal warning, proceeding to administrative action such as sealing, closure, or licence revocation, and reaching the minor offence (tipiring) mechanism involving the police and the prosecution service only where the violation persists. A comparable pattern was reported in the Special Capital Region of Jakarta, where Regional Regulation Number 8 of 2007 on Public Order addresses guidance, control, and supervision before penal provisions become applicable, and where officials at sub-district level indicated that the penal route is rarely used. The dominance of administrative instruments is not a deviation from the design of regional regulations but a logical consequence of their character as instruments of governance and social ordering, and comparative research on how national norms filter down to the local level shows that implementation capacity, rather than normative text, is generally decisive (Kramer et al., 2023).

Institutional dynamics differ across the asymmetric regions. In Aceh, Wilayatul Hisbah operates within the structure of the Civil Service Police Unit and supervises the implementation of Islamic law; prosecutors qualify the conduct and, where a qanun has been violated, transfer the jinayah case to the Mahkamah Syar'iyah for adjudication, as confirmed by an official of the Sabang District Prosecution Office. This demonstrates that the province's distinctive norms are operationally functional and enjoy institutional and social legitimacy. In Papua, by contrast, an officer of the Jayapura Municipal Civil Service Police Unit reported that limited enforcement personnel, extensive administrative territory, and difficult terrain make administrative measures the principal instrument, with penal enforcement used selectively and conflict resolution frequently returned to customary mechanisms. In Yogyakarta, the concentration of privileged status at provincial level leaves regency and municipal enforcement following the general national pattern, with persuasive and cultural approaches preferred and penal sanctions reserved for cases in which dialogue has failed.

The obstacles to penal enforcement are structural as well as cultural. Interviews with the Secretary of the Civil Service Police Unit of Musi Rawas Regency identified the limited number and technical competence of Civil Servant Investigators as the primary constraint. Many investigators lack sufficient capacity to prepare case files, examine witnesses, and gather lawful evidence to the standard required by criminal procedure, with the result that a substantial proportion of cases cannot proceed to prosecution. Inadequate facilities, case administration systems, and operational support compound the problem. Coordination between investigators, the police, and the prosecution service is normatively prescribed but frequently ineffective in practice, and differences of perception concerning competence, weak communication, and insufficient technical supervision cause many cases to stall at an early stage.

A further difficulty arises from the drafting of the penal provisions themselves. Many regional regulations attach a threat of punishment without specifying the operational parameters required for enforcement, leaving officials without clear criteria for escalation.

Where violations relate to the economic activity of small traders or to established social practice, strict penal enforcement risks provoking social resistance, and officials therefore prefer persuasive and administrative responses. The result is a category of norms that are formally valid but practically inert — precisely the outcome that a well-designed sanction regime should avoid, and one that reinforces the argument that the validity of sanction provisions must be assessed materially as well as formally (Astariyani et al., 2024).

Formulating Penal Sanctions After the National Criminal Code

Law Number 1 of 2023 marks a fundamental reorientation of Indonesian criminal law. The retributive and repressive paradigm inherited from the colonial code is progressively abandoned in favour of an approach oriented towards rehabilitation, correction, and restoration. Punishment is directed at resolving conflict, restoring social balance, and fostering reconciliation, and Article 51 defines its purposes in explicitly humanistic terms while Article 52 stipulates that punishment must not degrade human dignity. This transition has been characterised as the pursuit of substantive justice through the alignment of legal norms with the socio-cultural values of the community (Faisal et al., 2024). Local penal philosophy must be brought into line with this reorientation, and doing so is not a matter of stylistic revision but of substantive redesign (Arifin et al., 2024).

The most immediate consequence is technical. Article 613 requires all penal provisions in statutes and regional regulations to be adjusted to Book One of the Code, and Law Number 1 of 2026 on Penal Adjustment implements that mandate. Confinement is abolished as a principal punishment, so regional regulations may no longer impose it; the sanction must instead be converted into the categorised fine system established by Article 79 of the Code. The existing ceiling of fifty million rupiah in Article 238 of Law Number 23 of 2014 corresponds, at most, to Category III. Table 2 summarises the resulting differences between the old and the new arrangements. Every regional regulation currently in force that contains a threat of confinement is therefore in a state of normative conflict with Book One and requires revision.

The second consequence is philosophical. The principles of subsidiarity and ultimum remedium are considerably strengthened. Local governments must prioritise corrective sanctions and administrative fines before formulating any penal threat, and imprisonment-based responses are progressively displaced by constructive alternatives such as social work and supervised release. Fines must be evaluated against proportionality and the economic capacity of the offender, and substitute detention for unpaid fines must not impose an additional burden on correctional institutions already affected by overcrowding. The restorative paradigm allows violations of regional regulations to be resolved without attaching a criminal label to members of the community, and comparative work on indigenous practice demonstrates that restorative mechanisms can be integrated into the state system without displacing it (Rochaeti et al., 2023; Silambi et al., 2022).

The third consequence concerns living law. Article 2 of the Code formally recognises the law living in society as a source of criminal liability, subject to conformity with the Constitution and human rights and to further regulation by legislation. This provides a firm basis for penal differentiation grounded in custom, strengthens the position of customary dispute-resolution mechanisms in asymmetric regions, and enables the fulfilment of customary obligations to be recognised as a valid additional punishment. The provision is, however, genuinely ambiguous: its conditional formulation subordinates customary norms to state law while leaving the verification of their existence undefined, and the resulting tension between substantive justice and the principle of legality has been the subject of sustained criticism (Tongat, 2022; Butt, 2023). Regional regulations are well placed to reduce that ambiguity by codifying local values into written norms, thereby giving customary sanctions

the determinacy that the principle of legality demands while preventing their marginalisation (Anggoro & Setia Negara, 2022; Topan & Erniyati, 2026).

Asymmetric regions face this task under distinctive conditions. Aceh must reconcile the uqubat regime with Book One while preserving the mandate conferred by Law Number 11 of 2006; Papua must translate the affirmative protection of indigenous rights into penal provisions that satisfy proportionality and human rights standards; Yogyakarta must ensure that provincial privileged status does not generate inconsistency at regency level. In each case the tolerance for differentiation is defined by the delegating statute and bounded by universal human rights standards, not by local preference. Prismatic legal systems of this kind, in which state, customary, and religious norms operate simultaneously, require deliberate architecture rather than incremental accommodation (Wardhani et al., 2022).

Achieving harmonisation through the sequential amendment of every affected regional regulation would be prohibitively slow. This study therefore proposes an omnibus regional regulation: a single instrument that adjusts the penal provisions of all existing regulations within a jurisdiction at once, converting confinement into the categorised fine system, restating the principle of ultimum remedium, and providing a uniform mechanism for recognising customary settlement. Omnibus legislation has been used as a tool of legislative reform in several developing jurisdictions and offers a means of addressing regulatory obesity where sequential amendment is impracticable, provided that participation and quality safeguards are observed (Hermanto & Aryani, 2021; Hermanto, 2023). Applied at regional level, the model would resolve normative conflict rapidly, reduce the risk of annulment, and secure consistency between local penal norms and the national system (Rodiyah et al., 2023). It would also allow asymmetric regions to preserve their specificity within a single, transparent framework rather than through the accumulation of ad hoc exceptions.

Table 2. Penal Provisions in Regional Regulations Under the Former and the National Criminal Code

Element	Former Criminal Code (WvS)	National Criminal Code (Law No. 1 of 2023)
Principal punishment available	Confinement up to six months	Confinement abolished; fine only
Fine system	Nominal ceiling of IDR 50,000,000	Category system under Article 79; equivalent to Category III at most
Purpose of punishment	Not expressly formulated	Expressly formulated in Article 51; humanistic and restorative
Position of penal sanction	Not expressly subordinated to administrative measures	Ultimum remedium reinforced through subsidiarity
Recognition of living law	Limited, under the 1951 Emergency Law	Expressly recognised in Article 2, subject to conditions
Obligation to adjust	None	Mandatory under Article 613 and Law No. 1 of 2026

Source: processed from Law No. 12 of 2011, Law No. 23 of 2014, Law No. 1 of 2023, and Law No. 1 of 2026.

CONCLUSION AND RECOMMENDATIONS

Conclusion

The regulation of penal sanctions in regional regulations remains permanently anchored in the national legal hierarchy. The unitary state delegates penal competence on a restricted basis, allowing local governments to employ criminal provisions as instruments of compliance rather than as an expression of independent penal sovereignty. National legislation deliberately constrains the type and maximum severity of local sanctions in order to prevent overcriminalisation at the regional tier, and local legislatures are bound by the principle of legality to define penal norms in explicit and determinate terms. Asymmetric

decentralisation introduces distinct characteristics into local policy design without subverting that hierarchy: Aceh alone displays a genuine material expansion of penal authority through the jinayah regime, while Papua and Yogyakarta direct their specificity towards distributive justice, cultural preservation, and institutional arrangement.

Empirical implementation diverges markedly from the normative text. Administrative sanctions dominate enforcement because they are faster, cheaper, and better suited to the governance character of regional regulations, while formal penal processes are encumbered by limited investigator capacity, inadequate facilities, imperfect inter-agency coordination, and the social costs of prosecuting conduct linked to small-scale economic activity. Penal provisions consequently function as a deterrent reserve rather than as an operative enforcement instrument, and this pattern holds across symmetric and asymmetric regions alike, differing only in the depth of institutional structure and the source of enforcement legitimacy.

Following the entry into force of the National Criminal Code and the Penal Adjustment Law, every penal provision in a regional regulation must be brought into conformity with Book One. Confinement can no longer be imposed and must be converted into the categorised fine system, punishment must be reoriented towards correction and restoration, and recognition of living law must be given determinate form. This study recommends that local governments adopt an omnibus regional regulation as the primary harmonisation instrument, that all future regulations position criminal sanctions as *ultimum remedium* with due regard to proportionality, legal certainty, and human rights, and that customary settlement mechanisms be integrated into standard operating procedures in regions where living law is socially operative. The principal limitation of this study is the contextual character of its field data, drawn from four jurisdictions and therefore not directly generalisable. Future research should measure quantitatively the comparative effectiveness of administrative and penal sanctions across asymmetric regions and assess the socio-economic consequences of incorporating customary norms into positive local law.

Limitations

This study is limited by its empirical coverage of four jurisdictions, which restricts the generalisability of the findings to other regions. In addition, the empirical data were primarily obtained from interviews with law-enforcement officials and did not quantitatively assess the comparative effectiveness of administrative and penal sanctions.

Recommendations

Future research should expand the empirical coverage and include broader stakeholder perspectives. Quantitative or mixed-method approaches are also recommended to assess the effectiveness of administrative and penal sanctions and the socio-economic implications of integrating customary norms into regional law.

Author Contributions

The first author took primary responsibility for the research conceptualization, data collection, data analysis, and drafting of the manuscript. The second author contributed to the formulation of the conceptual framework, the interpretation of results, and the critical review and revision of the manuscript. Both authors have read and endorsed the final version of the article submitted for publication.

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