



The Implications of *Khalwat* Offence on Youth in Brunei Darussalam

Siti Nurmunirah binti Haji Marali¹, Dr. Hafini bin Mahmud²

¹Pusat Penyelidikan Mazhab Syafi'i, ²Pensyarah Fakulti Syariah
Universiti Islam Sultan Sharif Ali (UNISSA).

e-mail: nurmhm245@gmail.com¹, hafini.mahmud@unissa.edu.bn²

Received 20-09-2024 | Revised form 25-09-2024 | Accepted 23-10-2024

Abstract

Khalwat is a moral offence and one of the Sharia criminal offences which is considered to be a '*mukaddimah zina*'. The provisions and penalties have been stated under the Perintah Kanun Hukuman Jenayah Syariah (PKHJS 2013) of Brunei Darussalam. However, if examined based on statistics, the number of *khalwat* cases seems to be increasing every year, showing that Brunei Darussalam is not immune from social problems that result in a moral crisis in society. Therefore, this article aims to explore the consequences that will be faced by the youth as a result of committing *khalwat* offence. The research method adopts a qualitative approach through case studies using interview methods and document analysis. The results of the study found that on average, this offence were committed by Muslim youths or teenagers as well as non-Muslims. In fact, the impact of committing this *khalwat* offence also has a more negative impact on the future of the youth. As a recommendation, this study suggests the need for improvement of legal agencies in providing exposure programmes to the community on an ongoing basis, and the community also plays the most important role in emphasizing the manners of association with different genders.

Keywords: Implication, *khalwat* offence, youth

Abstrak

Khalwat adalah pelanggaran moral dan salah satu tindak pidana Syariah yang dianggap sebagai '*mukaddimah zina*'. Ketentuan dan hukumannya telah tercantum dalam Perintah Kanun Hukuman Jenayah Syariah (PKHJS 2013) Brunei Darussalam. Namun, jika dilihat berdasarkan statistik, jumlah kasus *khalwat* tampaknya semakin meningkat setiap tahunnya, menunjukkan bahwa Brunei Darussalam tidak luput dari masalah sosial yang mengakibatkan krisis moral di masyarakat. Oleh karena itu, artikel ini bertujuan untuk mengeksplorasi konsekuensi yang akan dihadapi oleh para pemuda akibat melakukan pelanggaran *khalwat*. Metode penelitian menggunakan pendekatan kualitatif melalui studi kasus dengan menggunakan metode wawancara dan analisis dokumen. Hasil penelitian menemukan bahwa rata-rata pelanggaran ini dilakukan oleh pemuda atau remaja Muslim dan juga non-Muslim. Bahkan, dampak dari melakukan tindak pidana *khalwat* ini juga lebih banyak memberikan dampak negatif bagi masa depan pemuda tersebut. Sebagai rekomendasi, penelitian ini menyarankan perlunya perbaikan dari lembaga hukum dalam memberikan program penyuluhan kepada masyarakat secara berkesinambungan, dan

masyarakat juga memegang peranan yang paling penting dalam menekankan tata krama pergaulan dengan lawan jenis yang berbeda.

Kata kunci: Implikasi, tindak pidana *khalwat*, remaja

This is an open access article under the [CC BY-NC-SA](#) license.



INTRODUCTION

The current society increasingly normalizes casual relationships and pays little attention to proper etiquette in interactions. Islam strictly prohibits actions that foster close relationships between a man and a woman who are not *mahram* (non-related), such as *khalwat*, as these actions can lead to illicit acts like fornication. The act of *Khalwat* has become increasingly common and is frequently practised in today's society. Similarly, Brunei Darussalam is not exempt from social issues that lead to a moral crisis within society. Although provisions and punishments for *khalwat* offense are clearly outlined under the Syariah Penal Code Order, 2013 also known as Perintah Kanun Hukuman Jenayah Syariah (PKHJS 2013), the gazette of Brunei Darussalam, but recent statistics reveal a significant increase in such cases, especially in 2023, with 432 *khalwat* cases recorded under Section 196(1) involving Muslims, and 25 cases under Section 196(2) involving non-Muslims.¹

In general, *khalwat* has two different meanings.² The positive meaning refers to withdrawing from social interactions to engage in solitude, aiming to draw closer to Allah SWT.³ However, the negative connotation commonly used today refers to a situation where a man and a woman, without any lawful relationship, seclude themselves in a private or concealed place under suspicious circumstances.⁴ *Khalwat* is also considered a

¹ <https://borneobulletin.com.bn/rise-in-khalwat-cases-concerning-says-chief-registrar/> accessed February 01, 2024.

² Bukhari Bukhari, "KHALWAT DALAM PERSPEKTIF HUKUM ISLAM DAN HUKUM POSITIF," *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan, Ekonomi Islam* 10, no. 2 (June 28, 2019): 109–21, <https://doi.org/10.32505/jurisprudensi.v10i2.942>.

³ Nurul 'Izzati Mohamad, "Khalwat: Keperluan kepada Hukuman Sebat dan Alternatif," 2015, 1–8.

⁴ Siti Zubaidah Ismail, *Undang-Undang Kesalahan Jenayah Syariah Di Malaysia* (Kuala Lumpur: Penerbit Universiti Malaya, 2017).

moral offense and a criminal act under Sharia law, often viewed as a *mukaddimah zina*, the prelude to fornication. According to Siti Zubaidah Ismail, *mukaddimah zina* refers to acts that serve as the initial steps towards fornication, implying that one or both parties are engaging in actions that could lead to illicit sexual intercourse.⁵ Therefore, *khalwat* paves the way towards immoral behavior, specifically fornication. Any actions that provoke lust or open the door to slander, exposing men and women to the risk of fornication or making it easier to commit, are prohibited and forbidden in Islam.⁶ This is based on the words of Allah Ta'ala in the Qur'an, Surah al-Isra, verse 32.

وَلَا تَقْرُبُوا الزَّوَاجَ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا

Meaning: “And do not approach unlawful sexual intercourse. Indeed, it is ever an immorality and is evil as a way”.

It is clear that the verse explicitly forbids two things: fornication (*zina*) and all actions that may lead to it, including engaging in *khalwat* with someone who is not *mahram*. In absolute terms, the act of *khalwat* between a man and a non-*mahram* woman is *haram* under Islamic law. This act is prohibited in Islam due to its nature of fostering close relationships between a man and a non-*mahram* woman, which can lead the couple toward *mukaddimah zina*, the prelude to illicit sexual activity.

Islam prohibits certain actions for clear reasons and often holds hidden wisdom, whether in terms of what is forbidden or what is permitted. The primary aim of these prohibitions is to uphold the objectives of *Maqasid Syariah* and ensure the well-being of humanity. *Maqasid Syariah* refers to the overarching goals of Islamic law, which are designed to protect the interests of humankind.⁷ The principles of Islamic jurisprudence are in place to ensure that these objectives are fulfilled, to prevent injustice, and to deter crime. The primary objective of Islamic law in prescribing its rulings for humanity, and the

⁵ Syamil Mohd and Adriana Balqis, *Bila Zina Menjadi Budaya*, Kedua (Kuala Lumpur: Must read Sdn Bhd, 2010).

⁶ Prof. Dr. Muhammad Mustafa Al-Zuhaily, *Al-Mu'tamad Dalam Fiqh Mazhab Syafi'i*, Pertama, vol. Jilid 9 (Malaysia: Persekutuan Seruan Islam (Jam'iah) Selangor dan Wilayah Persekutuan, 2012).

⁷ Haji Abdurrahman Raden Aji Haqqi, *Maqasid Syariah Dalam Pelaksanaan Perintah Kanun Hukuman Jenayah Syariah 2013 Di Dalam Buku Kompilasi Isu-Isu Maqasid Syariah Sebagai Pemangkin Negara Makmur Di Negara Brunei Darussalam* (Brunei Darussalam: UNISSA Press, 2019).

goal of *Maqasid Syariah*, are aligned in safeguarding five essential aspects: the protection of religion, life, intellect, lineage, and property. This is also in line with the principles of *Maqasid Syariah*, which aim to ensure and protect the dignity, rights, and honor of individuals, while also preserving harmonious relationships among people.⁸

One of the key objectives of Islamic law is to protect lineage, which is why prohibitions such as *khalwat* are in place. There are undoubtedly profound wisdoms behind this prohibition that should be examined so that their benefits become evident to all. Every action has an impact, especially when it involves immoral or sinful behavior, such as criminal acts, which can darken a person's future, *khalwat* being no exception. Therefore, it is the responsibility of every individual to play a role in preventing wrongdoing and striving to avoid it. Consequently, social ills like the *khalwat* offense must be prevented and eradicated to protect the well-being of society in an Islamic context.

METHODS

This study adopts a qualitative approach, where data is collected through a case study method by analyzing documents such as reports, pamphlets, case statistics, or complaint statistics from the Sharia Courts and the Religious Enforcement Division, as well as books, journals, articles, and working papers related to the implications of *khalwat* offense. Additionally, supplementary and supporting data obtained through semi-structured interviews with several informants, including law makers and practitioners from the Religious Enforcement Division and the Islamic Legal Department, are critically analyzed to reach a concrete findings.

RESULTS AND DISCUSSION

DEFINITION OF KHALWAT

1. *Khalwat* According to Islamic Law

⁸ *Ibid.*

The word *khalwat* is derived from the Arabic term (خِلا) or *khala*, which means to be alone,⁹ isolated,¹⁰ or in a secluded place where no one else is present.¹¹ In its broader interpretation, scholars define *khalwat* as being alone or withdrawing to a quiet place to focus solely on remembering Allah SWT.¹² However, as Islamic criminal law evolved, the concept of *khalwat* took on a more specific legal context. Islamic jurists classified *khalwat* as an offense when two non-*mahram* individuals are alone together in a secluded and private setting under suspicious circumstances,¹³ which may lead to *mukaddimah zina*.¹⁴

Technically speaking according to Sharia Criminal Law, *khalwat* means “proximity which denotes a man and a woman who are neither married to each other nor mahram to each other being alone together in a place in which there is no fear of intrusion by anyone else, so that an opportunity exists for sexual intimacy such as touching, kissing, embracing, or even for sexual intercourse. With reference to a woman, a mahram is either her husband or any male relative with whom her marriage is permanently prohibited, such as her father, grandfather, son, brother, uncle or nephew.”¹⁵

Khalwat is also classified as a criminal offense subject to *ta’zir* punishment.¹⁶ The punishment of *ta’zir* is not explicitly stated in the Al-Quran or as-Sunnah. It refers to offenses other than *hudud* or *qisas*, and its sentencing is decided by the government, the legislative body, or the judge.¹⁷

⁹ Ibnu Manzur, *Lisanu Al-Arab, Maddah al-Khala*, vol. 4 (Beirut: Dar Sodik, 1414H).

¹⁰ Muhamad Idris Abdul Rauf al-Marbawi, *Qamus Idris Al-Marbawi Arab - Melayu*, Cetakan Pertama (Kuala Lumpur: Darul Nu’man, 1995).

¹¹ Butras al-Bustani, *Qatru Al-Muhit: Qamus Lughawwi Muyassar* (Beirut-Lubnan: Maktabah Lubnan, 1995).

¹² Said al-Shartibi, *Aqrab Al-Mawarid*, n.d.

¹³ Ibn Abidin Muhammad Amin ibn Umar, *Hashiyat Radd Al-Mukhtar’ala Al-Durrr Al-Mukhtar: Sharh Tanwir Al-Absar Fiqh Madhhab Al-Imam Abi Hanifah Al-Nu’man*. (Mesir: Mustafa al-Babi al-Halabi, 1966).

¹⁴ Mohd Shukri Hanafi, *Kamus Istilah Undang-Undang Jenayah Syariah (Hudud, Qisas Dan Takzir)*, Cetakan Pertama (Brunei Darussalam: UNISSA Press, 2016).

¹⁵ Prof. Dr. Anwarullah, *The Criminal Law of Islam*, 3rd Edition (Malaysia: A.S.Noordeen, 2008).

¹⁶ *Kamus Istilah Undang-Undang Jenayah Syariah (Hudud, Qisas Dan Takzir)*.

¹⁷ Yang Berhormat Pehin Dato Seri Maharaja Dato Paduka Seri Setia Dr Ustaz Haji Awang Abdul Aziz bin Juned, *Qanun Jenayah Syari’ah Satu Pengenalan*, Cetakan Kedua (Brunei Darussalam: Jabatan Mufti Kerajaan, Jabatan Perdana Menteri, 2014).

There are several evidence related to the prohibition of *khalwat* in the *hadith*. Among them, a narration from Bukhari and Muslim states that Ibn Abbas R.A reported that the Messenger of Allah SAW said:

وعن ابن عباس رضي الله عنهما أن رسول الله صلى الله عليه وسلم قال: لا يخلون أحدكم بامرأة إلا مع ذي محرم (متفق عليه).

The meaning is: “A man should not be alone with a woman unless she is accompanied by a mahram.”¹⁸

According to al-Qaradawi in his book *al-Halal Wa al-Haram*, one of the actions prohibited in Islam is *khalwat* with a woman who is not *mahram*. It is clarified that this woman is neither his wife nor a close relative with whom permanent marriage is prohibited, such as his mother, sister, or maternal aunt.¹⁹

This prohibition is not imposed due to a lack of trust in either men or women, but rather serves as a safeguard against the whispers and evil temptations that often lie within the hearts of both men and women when they are alone together. The stirring desires of men and the excitement of women can lead to inappropriate thoughts and actions when they are left alone without a third-party present.

Another *hadith* is narrated in At-Tirmidhi, which states:

لا يخلون رجل بامرأة إلا كان ثالثهما الشيطان

The meaning is: “Beware that whenever a man is alone with a woman, the third among them is the devil.”²⁰

¹⁸ An-Nawawi Abu Zakaria Yahya Bin Sharaf an-Nawawi ad-Dimasyqiy, *Riyadh As-Saleheen Min Kalam Sayyid al-Mursalin. Kitab al-Umur al-Manhi 'Anha, Bab Tahrim al-Khalwat Bil-Ajnabiyyah* (Damsyik-Beirut: Dar Ibn Kathir, 2007).

¹⁹ Dr. Yusuf Al-Qaradhawi, *Halal & Haram Dalam Islam*, Cetakan Kedua (Selangor: Darul Syakir Enterprise, 2011).

²⁰ Al-Tarmidhi al-Hafiz Abi Isa Muhammad bin Isa at-Tarmidhi, *Al-Jami' al-Kabir. Kitab Fitn*, vol. Jilid 4 (Beirut: Dar Gharb Islami, 1996).

Khalwat refers to a situation involving non-*mahram* couple, based on *hadith* of the Prophet Muhammad SAW that clearly refer to the act of *khalwat* in contexts where there is no marital bond to legalize such interactions, as indicated by the words لا تحل له (not permissible for him), as the Prophet SAW said:

لا يخلون رجل بامرأة لا تحل له، فإن ثالثها الشيطان

The meaning is: “Do not be alone with a woman who is not lawful for you, for the third among them is the devil.”²¹

From the discussion of the Islamic scholar, it is evident that *khalwat* can be literally defined as close proximity, a situation where a man and a woman who are not spouses or *mahram* are alone together in a secluded place. This condition raises suspicions that they may be engaged in immoral acts or sinful behavior. The ruling on *khalwat* is also prohibited based on the *hadiths* of the Prophet Muhammad SAW, which elucidate the prohibition of being alone with a non-*mahram* woman without a lawful bond, since the third party among them is the devil, unless the woman is accompanied by her *mahram*.

This is further supported by the *Fiqh* principle articulated by ‘Abd al-Qādr ‘Awdah, “whatever leads to the *haram* is also *haram*.”²² Since Islam prohibits fornication, anything that leads to sinful acts or fornication is ipso facto forbidden.

2. Definition of *Khalwat* According to Dictionaries

According to the Kamus Dewan Edisi Keempat, *khalwat* means to isolate or seclude oneself in a quiet place, being alone with a non-*mahram* individual in a secluded and hidden

²¹ Ibn Hibban Abu Hatim Muhammad bin Hibban bin Ahmad, *Sahih Ibn Hibban* (Beirut: Muasasah al-Risalah, 1993).

²² ‘Abd al-Qādr ‘Awdah ‘Awdah, *Al-Tashrī’ al-Jinā’ī al-Islāmī Muqāranān Bi al-Qānūni al-Wad’ī*, Cetakan Pertama, vol. Jilid 2 (Beirut: al-Maktaba al-Assrya, 2013).

location, which can lead to suspicion and is considered an immoral act.²³ This act is deemed inappropriate as it can generate negative implications. In the *Kamus Besar Bahasa Melayu*, *khalwat* refers to the act of isolating oneself and being alone, especially in a compromising situation, in a secluded place between an unmarried man and woman.²⁴

3. According to Islamic Law in Brunei, Perintah Kanun Hukuman Jenayah Syariah (PKHJS 2013)

In Brunei Darussalam, the interpretation of *khalwat* under Islamic law, specifically the Perintah Kanun Hukuman Jenayah Syariah (PKHJS 2013) is based on *hukm syarak* (Islamic law). The offense of *khalwat* is classified as a general offense under the PKHJS 2013, applicable to both Muslim and non-Muslim offenders. However, non-Muslim offenders will be subject to punishment if they commit the offense together with a Muslim.

According to the PKHJS 2013, Chapter 196 on *Khalwat*:²⁵

- 1) Any Muslim who commits *khalwat* is guilty of an offence and shall be liable on conviction to a fine not exceeding \$4,000, imprisonment for a term not exceeding one year or both.
- 2) Any non-Muslim who commits *khalwat* with a Muslim is guilty of an offence and shall be liable on conviction to a fine not exceeding \$4,000, imprisonment for a term not exceeding one year or both.
- 3) In this section, "*khalwat*" means –
 - a) living together, cohabiting, in confinement; or
 - b) isolating oneself in close proximity that can lead to suspicion that they are committing an immoral act, between one man and one woman or more who is not his wife or mahram, or between one woman and one man or more who is not her husband or mahram.

²³ Hajah Noresah bt. Baharom, *Kamus Dewan Edisi Keempat*, Cetakan Keempat (Kuala Lumpur: Dewan Bahasa dan Pustaka, 2023).

²⁴ Zainal Abidin Safarawan, *Kamus Besar Bahasa Melayu* (Kuala Lumpur: Utusan Publication & Distributors Sdn Bhd, n.d.).

²⁵ Constitution Of Brunei Darussalam (Order Made Under Article 83(3)), "Syariah Penal Code Order, 2013," No. S 69 § (2013), https://www.agc.gov.bn/AGC%20Images/LAWS/Gazette_PDF/2013/EN/s069.pdf.

The interpretation of the offense of *khalwat* is consistent with Islamic law, based on the Quran and the *hadiths* of the Prophet Muhammad SAW.

IMPLICATIONS OF KHALWAT OFFENCE

Engaging in the crime of *khalwat*, which refers to the act of being alone together between a man and a non-*mahram* woman in suspicious circumstances, has various negative consequences for society if not addressed promptly. These effects extend beyond the individuals involved, impacting families, communities, and the nation as a whole. According to Daud,²⁶ when such situations arise, the values of life as a whole deteriorate, ultimately leading to destruction and moral decline within society.

Consequently, due to the harmful implications arising from this behavior, Allah has explicitly prohibited it in His teachings to safeguard the well-being and interests of humanity.

Based on previous studies regarding the wisdom behind the prohibition of *khalwat*, several reasons emerge, including the prevention of fornication, the avoidance of illegitimate births, and the deterrence of baby abandonment.²⁷ Islamic teachings explicitly forbid fornication, as it is one of the major sins that can undermine the harmony of society if left unchecked. Fornication not only tarnishes individual dignity but also jeopardizes lineage, making it difficult to ascertain the parentage of children born from such acts.²⁸ Moreover, fornication disrupts family institutions, invites diseases, and adds social burdens to the nation, such as the emergence of illegitimate children and sexually transmitted diseases, along with various other issues.²⁹ Therefore, the prohibition of *khalwat* serves to protect society from such immoral behaviors.

²⁶ Hj Daud Bin Mohamed Salleh, *Kepentingan Memisahkan Lelaki & Wanita*, Cetakan Kedua (Malaysia: Perniagaan Jahabersa, 2001).

²⁷ Ainul Bashirah Bt Ismail, Zuliza Bt Mohd Kusrin, and Mat Noor Mat Zain, "Kesalahan Khalwat Dan Perbuatan Tidak Sopan Dan Hukumannya Menurut Islam," *Jurnal Hadhari* 4, no. 2 (2012): 65–88.

²⁸ Zaid Hussin Al-Hamid, *Dosa-Dosa Besar Dalam Islam* (Surabaya: Al-Qo'noah Surabaya, 1984).

²⁹ Pengiran Haji Mohammad Tashim Bin Pengiran Haji Hassan, *Mahkamah-Mahkamah Syariah Penubuhan, Bidang Kuasa Dan Pentadbiran*, Cetakan Pertama (Brunei Darussalam: Dewan Bahasa dan Pustaka Brunei, 2011).

This issue often arises from unrestrained interactions between non-*mahram* men and women (those permissible to marry).³⁰ Furthermore, in today's modern era, the increasing accessibility of information and technology has broadened social interactions, leading individuals to explore new experiences.³¹ This can create complex impacts on societal security.³² Contemporary societal perceptions often regard casual relationships as normal and modern lifestyles that bear no negative consequences. This is evident in the behaviors of young people who, without any legitimate ties in the eyes of Islamic law, engage in prohibited acts in Islam, such as holding hands and hugging in public, displays of affection without any sense of shame. Clearly, society is increasingly normalizing a lifestyle that contradicts moral and religious principles.

From the perspective of Sharia criminal offenses, this issue is emphasized by the Chief Sharia Judge of Brunei Darussalam, who stated that the negative consequences of engaging in *khalwat* can lead to other Sharia offenses, such as fornication, pregnant out of wedlock, the birth of illegitimate children (children born out of wedlock), and children who are not acknowledged by their fathers.³³

Based on this, it is evident that situations involving moral decay related to *khalwat* can have serious repercussions, including the potential occurrence of other Sharia offenses simultaneously, such as fornication, pregnant out of wedlock, the birth of illegitimate children, and baby abandonment. This illustrates that *khalwat* is not merely an offense in itself, but can also lead to more significant and serious social issues. It underscores the importance of understanding the implications of engaging in such behavior.

Other than that, it is also essential to understand the implications of the crime of *khalwat* from social, psychological, and moral perspectives.

i. Social Implications:

³⁰ *Ibid.*

³¹ Abdul Gafur et al., "Dinamika Hukum Islam Dan Status Sosial (Isu Keabsahan Anak Hasil Kawin Hamil Dari Berbagai Pendekatan)," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 2 (June 20, 2024): 1018–31, <https://doi.org/10.62976/ijjel.v2i2.589>.

³² Viona Francesca Purba et al., "Dampak Perubahan Teknologi Komunikasi Terhadap Peningkatan Kejahatan Sosial: Studi Kasus Penggunaan Media Sosial Di Era Digital" 1, no. 3 (2023).

³³ Salawati Haji Yahya, "Statistik Kes Jenayah Syariah Menurun," *Media Permata*, January 2, 2018.

Research indicates that social stigma can lead to psychological issues such as depression and anxiety.³⁴ The crime of *khalwat* often triggers stigma and discrimination against those involved. The community tends to view negatively those involved in *khalwat* cases, leading to social isolation and loss of support from friends and family. This stigma can result in feelings of alienation and pressure for the youth involved, adversely affecting their mental well-being.

ii. Psychological Implications:

Studies show that youth engaging in risky behaviors often have lower levels of psychological well-being.³⁵ Engaging in *khalwat* can profoundly impact an individual's identity development and self-esteem. Those involved may experience internal conflict regarding their values and morals, especially if their actions contradict religious teachings and societal norms. This conflict can lead to emotional instability and difficulties in forming healthy relationships.

iii. Moral Implications:

The act of *khalwat* is frequently viewed as a violation of the religious and ethical values upheld by society. This can lead to feelings of guilt and regret among youth, influencing their future life choices. In this context, moral and religious education becomes crucial in fostering a better understanding of the consequences of their actions and preventing similar mistakes in the future.³⁶

iv. Family Implications:

Involvement in *khalwat* can fracture family relationships. Families with members implicated in such cases may experience high levels of stress and conflict, disrupting household harmony. This situation can hinder communication and trust

³⁴ Pusat Kajian Psikologi dan Kesejahteraan Manusia, Fakulti Sains Sosial dan Kemanusiaan, Universiti Kebangsaan Malaysia et al., "Pengaruh Kawalan Kendiri, Pencarian Sensasi Dan Pengherotan Kognitif Terhadap Sikap pro-Jenayah Dalam Kalangan Belia Institusi Pengajian Tinggi Di Malaysia," *Malaysian Journal of Society and Space* 17, no. 2 (May 29, 2021), <https://doi.org/10.17576/geo-2021-1702-20>.

³⁵ Universiti Putra Malaysia and Zainal Madon, "Profil Kesejahteraan Psikologi Golongan Belia," *Asia Pacific Journal of Youth Studies* 11, no. 1 (December 30, 2014): 1–11, <https://doi.org/10.56390/apjys2024.11.2>.

³⁶ Rohana Tan and Norhasni Zainal Abiddin, "Tinjauan Permasalahan Akhlak Belia Di Institusi Pengajian Tinggi," *Mimbar Pendidikan* 1, no. 2 (September 30, 2016): 161, <https://doi.org/10.17509/mimbardik.v1i2.3939>.

among family members, affecting the emotional and social development of youth within the family.³⁷

v. Long-Term Consequences:

Moreover, the long-term effects of engaging in *khalwat* can lead to more serious issues, such as involvement in other crimes or antisocial behavior. Research indicates that youth involved in moral offenses are likely to engage in other risky behaviors, including substance abuse and violent crime.³⁸

This underscores the importance of early prevention and effective intervention to prevent individual from becoming trapped in a broader cycle of crime.

IMPLICATIONS OF KHALWAT OFFENCE ON YOUTH IN BRUNEI DARUSSALAM

After reviewing the data recorded and obtained from the Religious Enforcement Division (BPU), the Department of Syariah Affairs (JHES) of Brunei Darussalam regarding statistics on individual complaints related to *khalwat* offense under the PKHJS 2013 across Brunei Darussalam from 2018 to 2023 indicate that the majority of those involved are youth, as shown in Table 1.

Table 1: Statistics on Individual Complaints for Khalwat Offense Under the PKHJS 2013 Across Brunei Darussalam by Age Group for the Years 2018 to 2023.

STATISTIK INDIVIDU BAGI ADUAN KES JENAYAH MELIBATKAN KHALWAT DI BAWAH PERINTAH KANUN HUKUMAN JENAYAH SYARIAH, 2013
SELURUH NEGARA BRUNEI DARUSSALAM MENGIKUT PERINGKAT UMUR BAGI TAHUN 2018 HINGGA 2023

TAHUN	UMUR														JUMLAH
	<15	16-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65-69	70-74	75>	
2018	0	3	5	7	12	7	3	3	3	2	1	0	0	0	46
2019	0	10	26	7	13	18	8	4	2	0	1	0	0	0	91
2020	0	7	18	9	10	8	9	5	1	4	0	0	0	0	71
2021	1	20	48	19	23	25	12	4	6	0	1	0	0	0	159
2022	0	15	78	60	31	21	15	13	11	1	4	0	1	0	250
2023	0	9	42	32	11	7	6	3	2	2	0	0	0	0	114
JUMLAH ADUAN	1	64	219	134	100	86	53	32	25	9	7	0	1	0	731

*Tarikh Data Dikemaskini: 01 April 2024

³⁷ Rangga Saptya Mohamad Permana and Nessa Suzan, “Peran Komunikasi Dalam Konteks Hubungan Keluarga,” *Jurnal Kajian Budaya Dan Humaniora* 5, no. 1 (April 8, 2023): 43–49, <https://doi.org/10.61296/jkbh.v5i1.93>.

³⁸ Fauziah Binti Ibrahim et al., “Profiles and Experiences of Drug Use and Criminal Involvement among Malay Offenders in Malaysia,” *EDUCATUM Journal of Social Sciences* 7, no. 1 (March 2, 2021): 55–66, <https://doi.org/10.37134/ejoss.vol7.1.6.2021>.

Youth in Brunei Darussalam refers to males and females aged between 15 to 40 years.³⁹ Youth represent a valuable asset for the nation and the future of society, possessing the potential to contribute to national development. However, involvement in criminal activities can undermine their prospects and darken their future.

The following data presents the registration of individuals for complaints related to *khalwat* offense under the PKHJS 2013 across the country, categorized by occupation as shown in Table 2.

Table 2: Statistics of Individuals for Complaints Related to *Khalwat* Offense Under the PKHJS 2013 Across Brunei Darussalam by Occupation Category for the Years 2018 to 2023.

STATISTIK INDIVIDU BAGI ADUAN KES JENAYAH MELIBATKAN KHALWAT DI BAWAH PERINTAH KANUN HUKUMAN JENAYAH SYARIAH, 2013 SELURUH NEGARA BRUNEI DARUSSALAM MENGIKUT KATEGORI PEKERJAAN BAGI TAHUN 2018 HINGGA 2023

TAHUN	PEKERJAAN						JUMLAH
	KERAJAAN	SWASTA	PELAJAR	KERJA SENDIRI	PENCEN/BERSARA	TIDAK BERKERJA / DLL	
2018	5	30	1	0	0	10	46
2019	12	39	10	5	1	24	91
2020	20	27	7	5	0	12	71
2021	32	70	18	4	1	34	159
2022	66	100	38	13	4	29	250
2023	26	54	21	3	2	8	114
JUMLAH	161	320	95	30	8	117	731

*Tarikh Data Dikemaskini: 01 April 2024

Based on these two data was obtained indicates that, the majority of *khalwat* offense reported involve youth, include both Muslim and non-Muslim. Statistics indicate that offenders in Brunei Darussalam primarily consist of young people, with most being employed in the private sector, followed by the public sector, the unemployed, students, and retirees over the past six years. This finding illustrates that *khalwat* is not limited to uneducated individuals or the unemployed, but also includes those with stable incomes.

The increase in *khalwat* cases among the youth raises questions about the importance of religious education and moral guidance in addressing this issue. Despite the enforcement of Sharia law, the rising incidence of these offenses suggests that mere

³⁹ <http://belia-sukan.gov.bn/DasarDasar/Definasi%20Belia%20Negara.aspx> accessed 30 August, 2024.

punitive measures are insufficient to resolve the problem. There is a need for a more comprehensive approach that includes religious education and social awareness among the youth.

Based on interviews conducted with the Religious Enforcement Division (BPU) and the Islamic Law Department (JAPIS), it can be concluded that the implications of committing a Sharia offense are significant. If an offender is convicted, they will have a criminal record, their personal and family honor may be tarnished, and they may face disciplinary actions from relevant authorities. Additionally, it may become difficult for them to obtain scholarships and employment, as applicants are screened by the BPU. Such offenses can also jeopardize their educational and professional future, potentially leading to expulsion from school or work.

For disciplinary actions, if the offender is a civil servant, they may face immediate suspension and a 50% salary deduction during the investigation. If convicted, they may face a complete salary suspension until a disciplinary committee meeting determines the outcome, as stated in the Prime Minister's Department Circular 19/1998. Similarly, if the offender is a student, disciplinary measures will be imposed.⁴⁰

Moreover, such offenses can lead to social issues like the birth of illegitimate children and the breakdown of family institutions, especially when individuals engaged in *khalwat* are still married. This contributes to the disintegration of households in the country and can foster other social problems, such as theft, drug use, and violence. Additionally, it places financial burdens on both the individual and their family due to the need to pay fines.⁴¹

Overall, the consequences of engaging in *khalwat* among youth are complex and multi-dimensional. A holistic and integrated approach is needed to effectively address this issue. Through education, social support, and appropriate interventions can help individual

⁴⁰ Hj Zuneidy Bin Jumat, "Pemasangan Papan Tanda Mencegah Maksiat Di Kawasan Pantai Pengasing Daerah Tutong, Negara Brunei Darussalam for Executive Development Program for Middle Management Officers of Royal Brunei Police Force 03/2023," 2023.

⁴¹ *Ibid.*

avoids involvement in *khalwat* offense and build a brighter future for themselves and society.

Youth are the heirs of the nation, and the continuity of the nation relies on them. High hopes are placed on the youth as they are considered national assets. His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam emphasized in his address on January 5, 2011, that “Youth are the nation's asset. Therefore, youth development must be a primary focus. Those who are developed will reflect the leadership patterns of the future, which are full of challenges.”⁴²

Thus, it is crucial to pay special attention to youth and the community in efforts to prevent involvement in *khalwat* offense, as the progress of a nation depends on the current generation that will carry on its legacy.

RECOMMENDATIONS

It is essential for legal agencies to initiate and improve ongoing awareness programs for the community, with a focus on the importance of proper conduct in interactions between different genders.

As emphasized by the Chief Sharia Judge of Brunei Darussalam, “The role of every individual and public agency, including all legal practitioners and the Sharia Court itself, as well as related agencies, must be proactive in addressing issues of free mixing among the youth today. If we do not tackle this, we risk an increase in cases of *khalwat*, attempted adultery, and similar offenses in Brunei Darussalam, which could have detrimental effects on society and the nation.”⁴³

As a crucial aspect of society, the law also function as an instrument for regulating social behavior. Adherence to the law is closely linked to public awareness of legal matters. Sharia criminal law emphasizes prevention over punishment, grounded in the principles of

⁴² <http://www.hbk.gov.bn/Lists/Berita/NewDispForm.aspx?ID=3> accessed 30 August, 2024.

⁴³ <https://borneobulletin.com.bn/rise-in-khalwat-cases-concerning-says-chief-registrar/> accessed 01 February, 2024.

Amar Ma'ruf Nahi Munkar (commanding what is right and forbidding what is wrong).⁴⁴ This approach recognizes that actions have consequences, particularly when they involve immoral behavior or criminal acts that can darken an individual's future.

Prevention requires the involvement of multiple parties, including educational institutions, families, and the community. Educational programs that emphasize moral values, ethics, and awareness of the consequences of *khalwat* can help foster a better understanding among youth. Furthermore, support from families and the community is vital in assisting young individuals to cope with social and emotional pressures they may face.

CONCLUSIONS

The findings indicate an increase in the rate of *khalwat* cases in Brunei Darussalam, despite the existence of laws aimed at curbing this offense. The offenders typically include both Muslim and non-Muslim youth based on the statistics. Analyzing the implications and negative consequences of *khalwat* clearly shows that this offense brings significant harm and repercussions for the offenders, particularly affecting the future of those who have been blacklisted. Therefore, it is essential for legal agencies to take initiatives, and for society to uphold the responsibility of preventing immoral acts and striving to avoid them. The widespread occurrence of *khalwat* could lead to detrimental social issues if not addressed promptly, in order to protect the welfare of individuals within the community as youth are the legacy of the nation and its future.

LITERATURE

Abi Isa Muhammad bin Isa at-Tarmidhi, Al-Tarmidhi al-Hafiz. *Al-Jami' al-Kabir. Kitab Fitn*.

Vol. Jilid 4. Beirut: Dar Gharb Islami, 1996.

Abu Hatim Muhammad bin Hibban bin Ahmad, Ibn Hibban. *Sahih Ibn Hibban*. Beirut:

⁴⁴ Ahmad Syahir, Ahmadi Hasan, and Masyithah Umar, "Kepatuhan Terhadap Hukum (Sebuah Perspektif Filsafat Hukum)," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 1, no. 4 (December 20, 2023): 930–44, <https://doi.org/10.62976/ijjel.v1i4.246>.

Muasasah al-Risalah, 1993.

Abu Zakaria Yahya Bin Sharaf an-Nawawi ad-Dimasyqiy, An-Nawawi. *Riyadh As-Saleheen Min Kalam Sayyid al-Mursalin. Kitab al-Umur al-Manhi 'Anha, Bab Tahrim al-Khalwat Bil-Ajnabiyyah*. Damsyik-Beirut: Dar Ibn Kathir, 2007.

Ahmad Syahir, Ahmadi Hasan, and Masyithah Umar. "Kepatuhan Terhadap Hukum (Sebuah Perspektif Filsafat Hukum)." *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 1, no. 4 (December 20, 2023): 930–44. <https://doi.org/10.62976/ijijel.v1i4.246>.

Al-Zuhaily, Prof. Dr. Muhammad Mustafa. *Al-Mu'tamad Dalam Fiqh Mazhab Syafi'i*. Pertama. Vol. Jilid 9. Malaysia: Persekutuan Seruan Islam (Jam'iah) Selangor dan Wilayah Persekutuan, 2012.

'Awdah, 'Abd al-Qādr 'Awdah. *Al-Tashrī' al-Jinā'ī al-Islāmī Muqāranān Bi al-Qānūni al-Wad'ī*. Cetakan Pertama. Vol. Jilid 2. Beirut: al-Maktaba al-Assrya, 2013.

Baharom, Hajah Noresah bt. *Kamus Dewan Edisi Keempat*. Cetakan Keempat. Kuala Lumpur: Dewan Bahasa dan Pustaka, 2023.

Bukhari, Bukhari. "Khalwat Dalam Perspektif Hukum Islam Dan Hukum Positif." *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan, Ekonomi Islam* 10, no. 2 (June 28, 2019): 109–21. <https://doi.org/10.32505/jurisprudensi.v10i2.942>.

Bustani, Butras al-. *Qatru Al-Muhit: Qamus Lughawwi Muyassar*. Beirut-Lubnan: Maktabah Lubnan, 1995.

Constitution Of Brunei Darussalam (Order Made Under Article 83(3)). Syariah Penal Code Order, 2013, No. S 69 § (2013). https://www.agc.gov.bn/AGC%20Images/LAWS/Gazette_PDF/2013/EN/so69.pdf.

Dr. Yusuf Al-Qaradhawi. *Halal & Haram Dalam Islam*. Cetakan Kedua. Selangor: Darul Syakir Enterprise, 2011.

Fauziah Binti Ibrahim, Ezarina Binti Zakaria, Nazirah Binti Hassan, Mohammad Rahim Bin Kamaluddin, Wan Shahrazad Binti Wan Sulaiman, and Nurul Atiqah Binti Yunos. "Profiles and Experiences of Drug Use and Criminal Involvement among Malay Offenders in Malaysia." *EDUCATUM Journal of Social Sciences* 7, no. 1 (March 2, 2021): 55–66. <https://doi.org/10.37134/ejoss.vol7.1.6.2021>.

Gafur, Abdul, Prof. Dr. H. Jalaluddin, M.Hum, Prof. Dr. H. Fathurahman Azhari, M.H.I, and

Dr. H. Fahmi Hamdi, Lc, M.A. “Dinamika Hukum Islam Dan Status Sosial (Isu Keabsahan Anak Hasil Kawin Hamil Dari Berbagai Pendekatan).” *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 2 (June 20, 2024): 1018–31. <https://doi.org/10.62976/ijjel.v2i2.589>.

Haji Abdurrahman Raden Aji Haqqi. *Maqasid Syariah Dalam Pelaksanaan Perintah Kanun Hukuman Jenayah Syariah 2013 Di Dalam Buku Kompilasi Isu-Isu Maqasid Syariah Sebagai Pemangkin Negara Makmur Di Negara Brunei Darussalam*. Brunei Darussalam: UNISSA Press, 2019.

Haji Yahya, Salawati. “Statistik Kes Jenayah Syariah Menurun.” *Media Permata*, January 2, 2018.

Hj Daud Bin Mohamed Salleh. *Kepentingan Memisahkan Lelaki & Wanita*. Cetakan Kedua. Malaysia: Perniagaan Jahabersa, 2001.

Hj Zuneidy Bin Jumat. “Pemasangan Papan Tanda Mencegah Maksiat Di Kawasan Pantai Pengasing Daerah Tutong, Negara Brunei Darussalam for Executive Development Program for Middle Management Officers of Royal Brunei Police Force 03/2023,” 2023.

<https://borneobulletin.com.bn/rise-in-khalwat-cases-concerning-says-chief-registrar/> accessed February 01, 2024.

<http://belia-sukan.gov.bn/DasarDasar/Definasi%20Belia%20Negara.aspx> accessed 30 August, 2024.

<http://www.hbk.gov.bn/Lists/Berita/NewDispForm.aspx?ID=3> accessed 30 August, 2024.

Ibnu Manzur. *Lisanu Al-Arab, Maddah al-Khala*. Vol. 4. Beirut: Dar Sodik, 1414H.

Interview with Religious Enforcement Division (Bahagian Penguatkuasa Ugama), the Department of Syariah Affairs (Jabatan Hal Ehwal Syariah), Brunei Darussalam on 19 July, 2024.

Interview with and the Islamic Law Department (Jabatan Perundangan Islam), Brunei Darussalam on 01 August, 2024.

- Ismail, Ainul Bashirah Bt, Zuliza Bt Mohd Kusrin, and Mat Noor Mat Zain. “Kesalahan Khalwat Dan Perbuatan Tidak Sopan Dan Hukumannya Menurut Islam.” *Jurnal Hadhari* 4, no. 2 (2012): 65–88.
- Ismail, Siti Zubaidah. *Undang-Undang Kesalahan Jenayah Syariah Di Malaysia*. Kuala Lumpur: Penerbit Universiti Malaya, 2017.
- Marbawi, Muhamad Idris Abdul Rauf al-. *Qamus Idris Al-Marbawi Arab - Melayu*. Cetakan Pertama. Kuala Lumpur: Darul Nu'man, 1995.
- Mohamad, Nurul 'Izzati. “Khalwat: Keperluan kepada Hukuman Sebat dan Alternatif,” 2015, 1–8.
- Mohamad Permana, Rangga Saptya, and Nessa Suzan. “Peran Komunikasi Dalam Konteks Hubungan Keluarga.” *Jurnal Kajian Budaya Dan Humaniora* 5, no. 1 (April 8, 2023): 43–49. <https://doi.org/10.61296/jkbh.v5i1.93>.
- Mohd Shukri Hanafi. *Kamus Istilah Undang-Undang Jenayah Syariah (Hudud, Qisas Dan Takzir)*. Cetakan Pertama. Brunei Darussalam: UNISSA Press, 2016.
- Mohd, Syamil, and Adriana Balqis. *Bila Zina Menjadi Budaya*. Kedua. Kuala Lumpur: Must read Sdn Bhd, 2010.
- Muhammad Amin ibn Umar, Ibn Abidin. *Hashiyat Radd Al-Mukhtar'ala Al-Durrr Al-Mukhtar: Sharh Tanwir Al-Absar Fiqh Madhhab Al-Imam Abi Hanifah Al-Nu'man*. Mesir: Mustafa al-Babi al-Halabi, 1966.
- Pengiran Haji Mohammad Tashim Bin Pengiran Haji Hassan. *Mahkamah-Mahkamah Syariah Penubuhan, Bidang Kuasa Dan Pentadbiran*. Cetakan Pertama. Brunei Darussalam: Dewan Bahasa dan Pustaka Brunei, 2011.
- Prof. Dr. Anwarullah. *The Criminal Law of Islam*. 3rd Edition. Malaysia: A.S.Noordeen, 2008.
- Purba, Viona Francesca, Rouli Br Lumban Batu, Reh Bungana Beru Perangin-Angin, and Maulana Ibrahim. “Dampak Perubahan Teknologi Komunikasi Terhadap Peningkatan Kejahatan Sosial: Studi Kasus Penggunaan Media Sosial Di Era Digital” 1, no. 3 (2023).
- Pusat Kajian Psikologi dan Kesejahteraan Manusia, Fakulti Sains Sosial dan Kemanusiaan, Universiti Kebangsaan Malaysia, Ang Shu Yen, Mohammad Rahim Kamaluddin, Pusat Kajian Psikologi dan Kesejahteraan Manusia, Fakulti Sains Sosial dan

Kemanusiaan, Universiti Kebangsaan Malaysia, Norruzeyati Che Mohd Nasir, Pusat Pengajian Psikologi dan Gunaan, Dasar dan Kerja Sosial, Kolej Sastera dan Sains, Universiti Utara Malaysia, Roseliza-Murni AbRahman, Pusat Kajian Psikologi dan Kesejahteraan Manusia, Fakulti Sains Sosial dan Kemanusiaan, Universiti Kebangsaan Malaysia, Balan Rathakrishnan, and Fakulti Psikologi dan Pendidikan, Universiti Malaysia Sabah. "Pengaruh Kawalan Kendiri, Pencarian Sensasi Dan Pengherotan Kognitif Terhadap Sikap pro-Jenayah Dalam Kalangan Belia Institusi Pengajian Tinggi Di Malaysia." *Malaysian Journal of Society and Space* 17, no. 2 (May 29, 2021). <https://doi.org/10.17576/geo-2021-1702-20>.

Said al-Shartibi. *Aqrab Al-Mawarid*, n.d.

Tan, Rohana, and Norhasni Zainal Abiddin. "Tinjauan Permasalahan Akhlak Belia Di Institusi Pengajian Tinggi." *Mimbar Pendidikan* 1, no. 2 (September 30, 2016): 161. <https://doi.org/10.17509/mimbardik.v1i2.3939>.

Universiti Putra Malaysia, and Zainal Madon. "Profil Kesejahteraan Psikologi Golongan Belia." *Asia Pacific Journal of Youth Studies* 11, no. 1 (December 30, 2014): 1–11. <https://doi.org/10.56390/apjys2024.11.2>.

Yang Berhormat Pehin Dato Seri Maharaja Dato Paduka Seri Setia Dr Ustaz Haji Awang Abdul Aziz bin Juned. *Qanun Jenayah Syari'ah Satu Pengenalan*. Cetakan Kedua. Brunei Darussalam: Jabatan Mufti Kerajaan, Jabatan Perdana Menteri, 2014.

Zaid Hussin Al-Hamid. *Dosa-Dosa Besar Dalam Islam*. Surabaya: Al-Qo'noah Surabaya, 1984.

Zainal Abidin Safarawan. *Kamus Besar Bahasa Melayu*. Kuala Lumpur: Utusan Publication & Distributors Sdn Bhd, n.d.