



## Implementation of Islamic Jurisprudence in Criminal Cases in Indonesia: Case Study of Robbery Crime

<sup>1</sup>Kasya Aulia, <sup>2</sup>Muhammad Taqi Naufal Rambe, <sup>3</sup>Tiyo Amanda

<sup>1,2,3</sup>Universitas Islam Negeri Sumatera Utara

E-mail:: <sup>1</sup>[kasyaaulia65@gmail.com](mailto:kasyaaulia65@gmail.com), <sup>2</sup>[taqinaufal05@gmail.com](mailto:taqinaufal05@gmail.com), <sup>3</sup>[tiyoamanda1@gmail.com](mailto:tiyoamanda1@gmail.com)

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<b>Article History</b> Received : 2024-11-01 Revised: 2024-11-15 Published: 2024-12-30  <b>Keywords:</b> <i>Criminal Jurisprudence, Crime, Robbery</i>	Robbery, in Islamic law, is a type of hirabah crime. That is, causing chaos and damage is divided into several forms of crime, and the sanctions or punishments imposed are also different. The Qur'an's punishment for those who fight Allah and His Messenger, causing damage on earth, is the death penalty (by being killed or crucified). This study uses a qualitative descriptive research type with a literature study method. Theses, journals, ebooks, theses and written printed books are all used in the data collection process for this study. Islamic criminal law in dealing with the crime of robbery is like carrying out exile, cutting off hands and feet crosswise, namely cutting off the right hand and left foot and being sentenced to death without being crucified. The provisions for the punishment for the act of killing a robber because of self-defense in Islamic law are mubah (permissible) and there is no punishment as long as the act is a last resort and does not cross the line.

### I. INTRODUCTION

The realization of a sense of security for human life is an emergency. Therefore, there are many verses of the Qur'an and the Sunnah that show Islam's attention to maintaining security and how it can be realized in life. The science of Islamic jurisprudence in Islamic law covers a broad meaning, and of course all of them are sourced from the Qur'an and the Sunnah including commands and prohibitions, since the time of the Prophet Muhammad SAW until now and continue to develop, because the teachings of Islam brought by the Prophet Muhammad SAW apply until the end of time. Religion plays an important role in human life. Only with religion, a person will be able to restrain himself from any act that is detrimental to himself, others and society (Hamzah H. 2014).

One form of crime that is very disturbing to society is the crime of mugging. This crime in Islamic criminal law is known as al-hirabah, the Criminal Code (KUHP) does not contain the definition of mugging in its general provisions. The Criminal Code (KUHP) in classifying the crime of mugging is identified with violent theft or taking goods that are not their right, either in part or in whole, which is preceded, followed or accompanied by violence or threats of violence against people with the intention of preparing and facilitating the crime. The current trend shows

that muggings or other crimes are increasingly rampant. The perpetrators are mostly young, between 17-20 years old. This kind of crime has actually been well-known for a long time, recorded since the early 2000s, there have been crimes like this. At that time, muggings were identical to fast 2 (two) stroke motorbikes. The targets were people, especially women who were carrying side bags. Usually, the perpetrators pulled the bag, sometimes the victim fell and was dragged several meters, causing the victim to be injured and even die. This type of crime is also known as snatching (Rahmat 2000).

Islamic Criminal Law, in general, divides crimes into hudud crimes, kisas crimes and takzir crimes. Hudud crimes include 7 types of crimes; namely adultery, qazaf, theft, drinking alcohol, robbery (al-Hirabah), rebellion and apostasy. If seen from the other side, then crimes are divided into several types, namely personal crimes, interpersonal crimes and social crimes. According to national criminal law, there are several examples of criminal behavior; Murder, rape, theft, robbery, assault, substance abuse and drugs, and many other types of crimes (R. Soenarto Soerodibroto 2011).

In addition, behavior that is referred to as a crime when viewed from a moral perspective, namely there are 2 (two) elements of actus reus or essential elements of the crime (physical element)

and mens rea (mental element), namely the state of mental attitude or the intention to commit criminal behavior (HA Djazuli 2010).

## II. RESEARCH METHODS

The study of this research uses a qualitative descriptive research type with a literature study method. Theses, journals, ebooks, theses and written printed books are all used in the data collection process of this research. Inductive analysis, which is taking things related to the subject matter, is a data analysis method used in this study.

## III. RESULTS AND DISCUSSION

The increasingly rampant phenomenon of mugging in various regions has caused deep unrest among the community. This crime is not only a robbery of property, but is also often accompanied by brutal violence that threatens the lives of victims. Public fear is increasing because muggings do not only occur at night, but also during the day when people are doing their activities. Incidents such as those experienced by the victim in PERUMNAS Antang from Bulukumba, who was stabbed from behind to death, show how this crime is a real threat to public safety (Sugandhi, R 1980). Mugging crimes not only target valuables such as motorbikes, but also lead to abuse and even murder of victims without mercy. As a result, people are reluctant to leave their homes, even to carry out their daily activities (Widiyanti, Ninik 1980).

From the perspective of Islamic law, robbery is included in the category of hirabah crimes, namely actions that cause chaos and fear in society. Hirabah crime is categorized as a very serious act because it creates instability in social life. Therefore, sanctions for this crime are strictly regulated in the Koran. As explained in Islamic law, punishment for hirabah perpetrators varies depending on the level of the crime committed. If the perpetrator only makes threats without taking the victim's property and without killing him, the punishment applied is lighter than if the perpetrator has reached the stage of taking property or even killing the victim. The Qur'an stipulates that those who cause damage to the earth with actions like this must receive appropriate punishment, either in the form of the death penalty, crucifixion, cutting off their hands and feet crosswise, or exile from their homes (Sabri Samin 2008).

This distinction in punishment reflects the principle of justice in Islam which takes into

account the severity of the perpetrator's actions. If a mugger only commits theft without any murder, then the punishment is the amputation of the hands and feet in a crisscross manner, that is, if the hand that is cut off is the right hand, then the foot that is cut off is the left foot. However, if the mugging results in the death of the victim, then the perpetrator can be sentenced to death as a form of qisas (equivalent retaliation). This punishment aims to provide a deterrent effect on society and prevent the spread of similar crimes in the future.

Although Islamic law regulates very strict punishments for perpetrators of robbery, the execution of the perpetrators must not be carried out by the community carelessly. In Islam, the implementation of punishment against perpetrators of criminal acts is the authority of the government or legitimate rulers (ulil amri). Therefore, the act of taking the law into their own hands by the community against perpetrators of robbery actually shows ignorance of the actual procedures of Islamic law (Zainuddin Ali 2007). In the Islamic legal system, punishment must be carried out based on a fair court decision and through a legitimate process in accordance with applicable law. If the community acts alone without going through the correct procedure, it will actually create new chaos that has the potential to cause other violations of the law.

In addition to punishment for the perpetrators, Islam also regulates self-defense for victims of robbery. In the Qur'an, the rules regarding self-defense are mentioned in QS. Al-Baqarah verse 194:

الشَّهْرُ الْحَرَامُ بِالشَّهْرِ الْحَرَامِ وَالْحُرُمَتُ قِصَاصٌ فَمَنْ اَعْتَدَى عَلَيْكُمْ فَاعْتَدُوا عَلَيْهِ بِمِثْلِ مَا اَعْتَدَى عَلَيْكُمْ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ مَعَ الْمُتَّقِينَ

*"The month is haram and the month is haram, and (against) something that is respected applies (the law of) qisas. Therefore whoever attacks you, then attack him according to his attack on you. Fear Allah and know that Allah is with those who fear Him."*

This verse is the legal basis for self-defense in Islam. Based on this verse, Islam allows a person to defend himself when attacked, provided that the defense is carried out proportionally and does not exceed the necessary limits. This means that if someone is forced to kill a mugger in an effort to defend himself, then the action is permitted and is not considered a crime (Abdul Qadir 2012). However, this self-defense must be in a truly emergency situation and is carried out as a last resort after there is no other way to save oneself.

In the perspective of Islamic law, the punishment for muggers also depends on the level of crime committed. Several different categories of mugging crimes also determine the punishment that will be given. For example, if someone goes with the intention of taking someone else's property openly but does not steal or kill, then the punishment given is lighter compared to cases where someone has taken the victim's property and committed murder. The sanctions against muggers can be described as follows:

1. If someone goes out with the intention of openly taking other people's property and carrying out intimidation but does not take property and does not kill, then the punishment is exile.
2. If someone goes out with the intention of taking property and actually succeeds in taking it without killing the victim, then the punishment is the cutting off of the hands and feet in a crisscross pattern.
3. If someone goes out with the intention of committing robbery and then kills the victim but does not take any property, then the penalty falls into the qisas category, namely the death penalty.
4. If someone commits robbery, takes property, and kills the victim, then the perpetrator can be sentenced to death or crucified (R. Soenarto Soerodibroto 2011).

From the various provisions of Islamic law regarding mugging, it can be concluded that Islam pays very serious attention to this crime. In addition, the application of strict laws aims to provide protection for society from disturbing and dangerous criminal acts. On the other hand, an understanding of the correct law is also very important so that society does not take the law into their own hands which has the potential to violate the law.

In order to overcome the crime of mugging, an active role is needed from various parties, including law enforcement officers, the government, and the community. Strict law enforcement must be balanced with preventive efforts such as moral education, strengthening religious values, and coaching for the younger generation so that they do not fall into criminal acts. In addition, regulations on the media also need to be tightened so as not to have a negative influence that can trigger an increase in crime rates. With joint efforts from various elements of society, it is hoped that mugging crimes can be

suppressed and social order can be better maintained.

#### IV. CONCLUSION AND SUGGESTIONS

##### A. Conclusion

The crime of mugging is more dominantly influenced by the desire to imitate after watching a scene or event via electronic media TV which indirectly presents news or violent events that occur in various regions in the country. The results of this viewing become negative education for the development of children who, through such education, will try to do and practice what they see. In sociology, it is called "Society is imitation. Society is always in the process of imitating. When people are fed violent and rude values every day, society eventually imitates.

Islamic criminal law in dealing with the crime of robbery is like carrying out exile, cutting off hands and feet in a crisscross manner, namely cutting off the right hand and left foot and being sentenced to death without being crucified. The provisions of the punishment for the act of killing a robber because of self-defense in Islamic law are permissible (permitted) and there is no punishment as long as the act is a last resort and does not cross the line. The victim may fight them in the easiest way possible. If the robbers do not want to stop except by fighting them, then the victim may fight them. If the victim is killed, then he dies a martyr. If the victim kills the robbers, then the victim may not be prosecuted.

##### B. Suggestion

In dealing with the rampant crime of mugging, a comprehensive approach is needed, both in terms of law and social. The influence of media in shaping people's behavior must be a serious concern, so that there needs to be supervision of content that has the potential to encourage violent acts. In addition, strict enforcement of Islamic criminal law can be a solution in providing a deterrent effect for mugging perpetrators. However, preventive efforts such as moral and religious education must also be strengthened so that the community has better legal awareness. With a combination of legal and social strategies, it is hoped that mugging crimes can be minimized in order to create a safer environment.

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