



Extra-Judicial Killing in the Perspective of Islamic Criminal Law

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Abstract

Extra-judicial killing or extrajudicial killings outside legal procedures has become a phenomenon that causes controversy in the realm of law, ethics, and human rights because these actions are carried out without a legitimate judicial mechanism. This practice raises a dilemma between the interests of public security and the protection of individual rights. This study aims to analyze the legitimacy, social and moral impact, and comparison of Islamic criminal law norms with contemporary practices related to extra-judicial killing. The research uses a normative or normative juridical approach by analyzing primary sources in the form of the Qur'an, Hadith, classical fiqh, and the principles of maqashid al-sharia, as well as secondary sources in the form of academic literature, journals, and national regulations related to the taking of life and law enforcement. The analysis was carried out descriptively-analytically and comparatively to assess the suitability of empirical practices with sharia norms. The results of the study show that Islamic criminal law places human life as a fundamental right that can only be taken through formal procedures such as qisas and diyat with court supervision, so that unilateral actions by the authorities have no legal legitimacy and give rise to moral and spiritual responsibilities. The social impact of this practice includes psychological trauma of victims and families, public distrust of the authorities, social instability, and the potential for the emergence of a culture of violence. A comparison of Islamic legal norms with contemporary practices highlights the tension between public security and the principle of justice, where sharia norms emphasize accountability, transparency, and protection of individual rights. In conclusion, fair and ethical legal procedures in accordance with the principles of maqashid al-sharia are important instruments to prevent extra-judicial killings, maintain social stability, and strengthen the legitimacy and morality of law enforcement officials.

I. INTRODUCTION

Extra-judicial killing or extrajudicial killing is a phenomenon that causes controversy in the realm of law, human rights, and ethics. This practice occurs when law enforcement officials or certain parties take actions that take a person's life without going through legitimate judicial procedures. Such cases often arise in the context of law enforcement against terrorism, serious crime, or armed criminal groups, but raise serious questions about the legitimacy of such actions (Musafa et al., 2024).

Islamic criminal law places the protection of human life as a fundamental principle. Life is a mandate from God that must be guarded and protected. In the Qur'an, it is emphasized that the arbitrary taking of life is a great sin, except under certain conditions that have been determined by the Shari'a. The execution of the death penalty in Islam is legalistic and must go

through a fair judicial process, not a unilateral decision or extrajudicial action (Alam, 2019).

The implementation of extra-judicial killings is often justified in the name of state security or the prevention of criminal acts. This argument raises a dilemma between collective interests and individual rights. The perspective of Islamic criminal law emphasizes the balance between the need to maintain public safety and the principle of justice that should not disregard individual rights. Violations of this principle can result in moral, social, and spiritual damage (Anisah & what happened during the Order regime, 2020).

Cases of extrajudicial killings are often not officially recorded, making it difficult to monitor and hold accountable. The social impact of this practice includes fear, community trauma, and decreased trust in law enforcement officials. Islamic criminal law

views such acts as a violation of the sharia maqashid, especially hifdz al-nafs, which is the protection of human life (Supriyanto, 2016).

Islamic criminal law's analysis of this phenomenon demands an understanding of the principles of qisas and diyat, as well as fair court procedures. Any taking of life must go through a clear and open mechanism, and provide an opportunity for the defendant to defend himself. Actions outside the mechanism are contrary to the principles of justice and cause sin to the perpetrators (Wulandari & Ariyani, 2022).

Historical studies show that in classical Islamic governance practices, law enforcement actions always emphasize formal procedures and court approval. Unilateral executions are almost never justified except in conditions of war or a tightly regulated emergency defense. This model provides a normative basis for modern analysis of the phenomenon of extra-judicial killing.

The legal implications of this action do not only concern the perpetrator, but also the state as an institution. The state has a responsibility to ensure that the law is enforced fairly and procedurally. The perspective of Islamic criminal law emphasizes that the legitimacy of the state depends on adherence to the principles of sharia in safeguarding life and justice, not on purely pragmatic outcomes.

This research focuses on the understanding and interpretation of Islamic criminal law on extra-judicial killing. The purpose is to analyze relevant sharia norms, consider the social and moral impacts, and provide recommendations for law enforcement that is in line with Islamic principles of justice. This approach is expected to make an academic contribution in bridging the debate between public safety and the protection of human rights.

II. RESEARCH METHODS

This research uses a normative or normative juridical approach, which focuses on the analysis of laws and regulations, legal doctrines, and principles of Islamic criminal law (Sonata, 2014). This approach was chosen because the focus of the research is not on empirical field practice, but on a normative understanding of the legitimacy and legal limitations related to extra-judicial killing from a sharia perspective.

The legal sources used consist of two main categories, namely primary sources and secondary sources. Primary sources include the Qur'an, Hadith, classical fiqh, and the principles of maqashid al-sharia which are a reference in the enforcement of Islamic criminal law. Primary sources are also equipped with relevant national laws and regulations, such as the Criminal Code (KUHP) and regulations related to law enforcement that contain clauses on the legitimacy of the use of force by the authorities.

Secondary sources include academic literature, journal articles, Islamic law reference books, reports of human rights organizations, and previous research that discusses the phenomenon of extrajudicial killings. Analysis of secondary sources is carried out to provide a critical and comparative perspective between Islamic criminal law and contemporary legal practice.

The analysis method used is descriptive-analytical. The research describes the relevant legal provisions and examines the principles of fiqh related to the taking of life, qisas, diyat, and the limitations of the law in emergency or conflict conditions. A critical approach is taken to assess the suitability of extra-judicial killing practices with sharia norms and the principles of maqashid al-sharia, especially hifdz al-nafs (protection of life).

A comparative approach is also applied by reviewing international legal practices and human rights principles related to the use of force by the authorities. This comparison aims to identify the gap between empirical practice and Islamic legal norms, as well as provide normative recommendations for policymakers and law enforcers.

The results of the research are expected to provide a deep understanding of the position of Islamic criminal law on actions outside the legal process, as well as become a theoretical basis to strengthen the legitimacy of fair and procedural law enforcement. This research emphasizes the importance of compliance with sharia principles as an instrument for controlling the apparatus and protecting human rights.

III. RESULTS AND DISCUSSION

A. The Legitimacy of Taking Lives in Islamic Criminal Law

Islamic criminal law places human life as a fundamental right that must be protected absolutely. The Qur'an affirms that the arbitrary taking of life is a great sin that threatens the moral and spiritual responsibility of the perpetrator. This principle is a normative reference in assessing the practice of extra-judicial killing in various contexts of modern law enforcement (Wulandari & Ariyani, 2022).

Qisas and diyat are the main instruments in the regulation of criminal punishments related to life. Qisas stipulates a commensurate retribution for the perpetrators of the murder, while the diyat compensates the victim's family. This mechanism emphasizes that the taking of life must go through a formal legal process, not a unilateral decision (Heler, 2021).

Actions outside of legal procedures, such as extra-judicial killing, violate the principles of maqashid al-sharia, especially hifdz al-nafs or the protection of life. The non-compliance of the authorities with this procedure causes legal and moral sins. This norm emphasizes the importance of legal order, accountability, and protection of individual rights (Puspitasari, 2023).

The execution of the death penalty in Islam requires strict procedures, including witness cross-examination, the defense of the accused, and the consent of the court. Any execution without this mechanism is contrary to the principle of justice. This norm emphasizes that the legitimacy of legal action should not depend solely on the final result (Calvin & Azizah, 2024).

Islamic criminal law distinguishes emergency from illegal acts. In wars or circumstances that threaten collective life, the taking of life is justified, but it must meet the provisions of the Shari'a. Many modern extra-judicial killing cases do not meet emergency requirements and therefore have no legitimacy.

Islamic legal norms emphasize moral and social accountability for perpetrators. Unilateral decisions pose a risk of worldly and ukhrawi sin, because it concerns the taking of Allah's trust over human life. This perspective provides a strong ethical foundation for rejecting practices outside the law.

Legal protection for victims and families is an important aspect of sharia. Transparent procedures and compensation mechanisms

guarantee the rights of victims. The authorities' non-compliance with this norm causes moral, social, and public trust damage.

The practice of the modern state that justifies extrajudicial executions is contrary to the principles of sharia. Compliance with fair laws is the benchmark of state legitimacy. The normative approach of Islam emphasizes that the actions of the apparatus must always be within the corridor of formal law.

The study of contemporary fiqh shows the relevance of classical norms in the modern context. Qisas, diyat, and court procedures remain normative guidelines. Extra-judicial killing without trial violates the standards that have been set in fiqh and the principles of maqashid al-sharia (Erniyati, 2018).

This normative foundation affirms that taking a life outside of legal procedures has no legitimacy in Islamic criminal law. Law enforcement officials are obliged to enforce fair procedures, respect individual rights, and maintain the principle of justice as a moral and legal foothold.

B. The Social and Moral Impact of Extra-Judicial Killing

The practice of killing outside the legal process has a significant social impact. Fear and anxiety arise from the public towards the apparatus that is supposed to be the protector. The loss of public trust in law enforcement can cause social instability and weaken public order (Erniyati, 2018).

Islamic criminal law norms emphasize the protection of life as the foundation of social stability. Violations of this principle have a negative impact on the morals and ethics of society, because actions outside the law cause injustice that is felt collectively (Puspitasari, 2023).

Psychological trauma for the victim's family is a real consequence. Islam emphasizes the need for restorative justice, including the victim's right to redress and due process. Extra-judicial killing ignores these rights normatively and practically (Wulandari & Ariyani, 2022).

Legal uncertainty due to the unilateral actions of the authorities can cause a culture of violence. Sharia norms view unregulated violence as a serious offense. The people who witnessed this practice experienced ongoing moral and social conflicts.

Extra-judicial killing undermines the value of justice and law enforcement ethics. Islamic criminal law emphasizes a balance between the public interest and the rights of the individual. This imbalance creates social dysfunction and weakens the legitimacy of the state as a protector of justice (Salasmita et al., 2022).

Islamic law teaches the importance of accountability and transparency in law enforcement. The unilateral actions of the authorities violate this norm and create a gap between formal law and empirical practice. Compliance with sharia procedures is a moral instrument to prevent abuse of power.

Moral impacts also appear on law enforcement officials. Acts outside the law pose a risk of sin and spiritual accountability. The principles of maqashid al-syariah demand ethical consideration in every decision that affects human life (Erniyati, 2018).

People who witness or know about this practice tend to develop a deep sense of injustice. This injustice causes spiritual and social damage, which must be prevented through fair and procedural legal procedures. Juridical studies show that Islamic criminal law norms have an internal control mechanism. This mechanism ensures that the taking of lives is only carried out according to legitimate procedures and purposes, thus rejecting the practice of extra-judicial killing (Erniyati, 2018).

The social and moral impact of murder outside the legal procedure strengthens the normative argument of the sharia. The protection of life and social justice are the main principles that must be upheld by the state and law enforcement officials.

C. Comparison of Islamic Legal Norms with Contemporary Practice

Islamic criminal law emphasizes formal procedure and justice in any act that threatens life. Contemporary practices, including extra-judicial killing, often violate this principle on the grounds of efficiency or public safety. This comparison highlights the tension between norms and empirical practice (Innocenti et al., 2022).

Qisas, diyat, and Islamic court procedures provide a clear normative framework. Actions outside of this mechanism have no legal legitimacy. Modern states that allow executions outside the legal process violate the principles of

maqashid al-sharia, especially the protection of human life (Innocenti et al., 2022).

Normative analysis shows that the legitimacy of the state depends on compliance with the sharia. The use of force by the authorities without legitimate legal procedures lowers the moral and legal legitimacy of the government. Unilateral action is not in line with the principles of justice and accountability (Wulandari & Ariyani, 2022).

Comparison with national law shows a fundamental difference. The Criminal Code provides protection for the right to life, but the practice of extra-judicial killing still appears. The perspective of Islamic criminal law provides a more strict standard regarding the legality of taking a life. The principle of restorative justice demands a fair legal process for victims and families. Unilateral execution does not provide an opportunity for defense, examination of witnesses, or compensation, so it is contrary to the applicable fiqh norms (Lisma, 2021).

Islamic law emphasizes collective and moral accountability for the authorities. The state is responsible for every takeover of life, both socially and spiritually. Contemporary practices that ignore legal procedures undermine this responsibility. Comparative studies show that Islamic legal norms remain relevant in the modern context. Qisas and diyat provide normative guidelines, while extra-judicial killings create uncertainty and human rights violations (Sayaf'i, 2014).

This comparison emphasizes the need to harmonize national law with sharia principles. Compliance with Islamic legal norms can strengthen the legitimacy of law enforcement and the morality of the authorities, while protecting individual rights. The normative analysis also highlights the need for oversight and accountability of the apparatus. The internal mechanism of fiqh demands that every act of violence be carried out according to procedures, preventing abuse of power and violations of the law.

The difference between Islamic criminal law norms and contemporary practice shows the urgency of legal reform. The sharia-based approach ensures that the taking of life is carried out in a fair, procedural, and ethical manner, while maintaining individual rights and social stability.

CONCLUSION AND SUGGESTIONS

A. Conclusion

Extra-judicial killing raises serious problems from the perspective of Islamic criminal law because it ignores the fundamental principle of protecting human life (hifdz al-nafs). Sharia norms affirm that the taking of life is only allowed through formal legal procedures, such as the qisas and diyat mechanisms, taking into account the examination of witnesses, the defense of the defendant, and the approval of the court. Actions outside of this mechanism not only violate the law, but also incur moral and spiritual responsibility for the perpetrator. The social and moral impacts of such practices include public distrust of the authorities, social instability, psychological trauma for victims and families, and the potential for the emergence of a culture of violence. A comparison of Islamic legal norms with contemporary practices shows a tension between security needs and the principle of justice, where the modern state tends to ignore normative procedures. The normative study emphasizes the relevance of Islamic criminal law as a guideline for upholding justice, legitimacy, and accountability of the apparatus. This foundation of sharia emphasizes the need for fair, transparent, and ethical legal procedures so that the taking of life is carried out in accordance with maqashid al-sharia, while protecting individual rights and maintaining social stability.

B. Suggestions

The government and law enforcement officials need to adjust law enforcement practices to sharia principles, especially regarding the protection of life and qisas-diyat procedures. Internal oversight mechanisms must be strengthened to prevent abuse of power, while ensuring transparency and accountability. Law enforcement should prioritize restorative justice for victims and families, so that the actions of the authorities do not cause social and moral damage. National law reform that is harmonious with the principles of Islamic criminal law can be a guideline to suppress the practice of extra-judicial killing. Legal education and training of officials on sharia norms and law enforcement ethics are important instruments to increase legal legitimacy and public trust.

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