



Application of Criminal Sanctions to Murder Cases According to Islamic Criminal Law

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Abstract

The application of criminal sanctions in murder cases according to Islamic criminal law is a form of justice that balances the rights of the victim, the perpetrator, and the community. Islamic criminal law divides murder into three main categories: intentional murder (qatl 'amd), semi-intentional murder (qatl syibh 'amd), and unintentional murder (qatl khath'). Each type of murder has different legal consequences, with the main sanctions being qiyhas (retribution) for intentional murder, and diyat (financial compensation) and kaffarah (atonement) for semi-intentional and unintentional murder. This article aims to analyze the application of criminal sanctions in various murder cases from an Islamic legal perspective, and to explore the principles of justice, forgiveness, and the opportunity for peaceful resolution accommodated by the diyat mechanism. This study then compares sanctions in Islamic criminal law with those in modern criminal law systems, highlighting the uniqueness of the Islamic approach that prioritizes the balance between punishment and forgiveness. In conclusion, Islamic criminal law offers a flexible yet firm model of law enforcement, where justice does not only involve revenge, but also provides opportunities for reconciliation and peace.

I. INTRODUCTION

Islamic criminal law, known as Fiqh Jinayah, is an important branch of Islamic law which regulates actions that are categorized as criminal acts and the sanctions that must be applied. In Islamic law, applying criminal sanctions aims to maintain public order, protect individual rights, and prevent criminal acts, as well as uphold justice in accordance with sharia principles. Sanctions in Islamic law are divided into three main categories: hudud, qisas-diyat, and ta'zir. Hudud is a sanction that has been determined by the Koran and Hadith, covering criminal acts that are considered the most serious, such as adultery, theft, robbery and rebellion. Qisas is an appropriate punishment for physical crimes, such as murder or abuse, while diyat is financial compensation in lieu of qisas (Darussamin, 2014). Ta'zir is a punishment that is not specifically regulated in sharia, so it is left to the judge's discretion based on considerations and the context of the case. (Jumali, 2014).

The application of criminal sanctions in Islam is not solely for punishment but also to provide a

deterrent effect and improve the behavior of perpetrators, as well as to uphold social justice. This aligns with the maqasid al-Sariah, namely the goal of sharia to safeguard religion, life, intellect, descendants, and property. In the contemporary context, the application of criminal sanctions according to Islamic law remains a matter of debate in various countries that adhere to Islamic legal systems, either partially or completely. Some countries apply Islamic criminal law in full, while others combine it with conventional criminal law. This discussion will examine the application of criminal sanctions in several cases within the framework of Islamic criminal law, as well as the challenges faced in its implementation in the modern era. (M. Yusuf, 2018) This study aims to analyze the concept of applying criminal sanctions according to Islamic law in several actual cases, as well as how Islamic criminal law adapts to modern justice systems in various Muslim countries.

The ultimate goal of law is to achieve prosperity and social justice. Justice is the most fundamental human right. Upholding justice is an

eternal and universal demand of every human being throughout the world. Therefore, upholding justice is one of the obligations of humans in carrying out their role as caliphs. Justice will create peace, therefore the purpose of law in the context of social life is to create social justice. Conflicting opinions regarding the imposition of the death penalty on murderers have long been a polemic in Indonesia. In fact, when Indonesia firmly rejected the UN resolution that did not approve the death penalty, this debate was very interesting, with many legal experts arguing for and against Indonesia's stance. The long debate over the imposition of the death penalty actually stems from issues of justice, a sense of humanity, and the prevention of further crime. Experts who oppose the imposition of the death penalty for murderers cite humanitarian reasons, while those who support the imposition of the death penalty in Indonesia argue solely for the sense of justice and peace within society.(Calvin & Azizah, 2024).

Society demands justice, and a murderer deserves to be killed. This is evident in the prevailing belief that the law guarantees a life for murderers, while the victim's family suffers deep bitterness because the law fails to provide a sense of justice and peace.

The lack of peace and justice felt by society due to the absence of severe criminal penalties or the death penalty for murderers can even give rise to deep resentment, which could lead to new crimes against them. Therefore, some legal experts, and even the majority of Muslims, want the values of Islamic criminal law to become national law. Islamic law places the crime of murder on a par with the seven major sins. Taking a person's life without a valid religious reason is equivalent to taking the life of all humanity. Islamic law places the soul after religion, as a basic right to be defended, protected, and respected. To appreciate and respect the importance of the right to life, Islamic law provides the death penalty for murder. The punishment for murder (murder) is known as qishas. Murder is one of the seven major sins, and the sin of murder is second only to the sin of infidelity. Other legal experts argue that national criminal law already adopts the death penalty, as stipulated in Article 340 of the Criminal Code (KUHP), if the perpetrator has premeditated the murder. There are norms that regulate the death penalty, the problem is the investigator's ability to reveal the facts of the murder and what kind of murder is subject to the death penalty.(Calvin & Azizah, 2024).

II. RESEARCH METHODS

This research is a type of normative legal research or doctrinal legal research, using descriptive research specifications.(Mahmud Marzuki, 2005). The type of data used is secondary data using primary legal materials in the form of the Koran, the Criminal Code, Law No. 8 of 1981 concerning Criminal Procedure Law, the Draft Criminal Code, and other laws and regulations related to the material for writing this law. Secondary legal materials consist of laws or research results related to the crime of murder. As well as tertiary legal materials that provide guidance and explanations of primary and secondary legal materials consisting of: Legal Dictionary, Big Indonesian Dictionary, Newspapers or magazines and Indonesian encyclopedias. Data collection techniques through library and document studies. Data analysis used in this study is qualitative analysis.

III. RESULTS AND DISCUSSION

A. The Criminal Sanction System for Murder Crimes Between the Criminal Code and Islamic Law

Murder in the Criminal Code is also referred to as a crime against life. A crime against life is a crime committed in the form of an attack on another person's life. The object of this crime is human life. Therefore, an act can be considered murder if the victim is a human, not an animal or something similar. Meanwhile, according to Imam Malik, murder in Islamic law is only divided into two types: intentional murder and unintentional murder. This is because the Quran only mentions two types of murder: intentional and unintentional.(I. Yusuf, 2013).

1. Regulations and sanctions for the crime of intentional homicide

The definition of deliberate murder in Islamic law is that a mukallaf intentionally and premeditatedly kills a person whose blood is protected (innocent), with a strong will that he must be killed by him. The definition of deliberate murder is similar to that regulated in Indonesian criminal law, namely that the perpetrator desires the consequences that will occur from the deliberate act regulated in Articles 338 to 350. In general, the criminal sanction for deliberate murder regulated in the Criminal Code is in the form of imprisonment for a certain period of time, the length of which depends on the subject of the

perpetrator, the object / victim, the form, and whether or not there was prior planning.(Darussamin, 2014).

Intentional murder in Islamic law is regulated in the Koran Surah Al-Baqarah verses 178-179, which means:

"O you who believe, qishash is obligatory upon you regarding those who are killed; free man and free man, slave and slave, and woman and woman. So whoever gets forgiveness from his brother, let (the one who forgives) follow it in a good way, and let (the one who is forgiven) pay (diyat) to the one who forgives in a good way (also). This is a relief from your Lord and a mercy. Whoever transgresses the limit after that, then for him will be a very severe punishment. painful. And in that qishash there is (guarantee of) life for you, for people of understanding, so that you may be pious."

Islamic criminal law provides a criminal sanction for intentional murder in the form of qisas, namely the same punishment as the act that was committed, because the act was murder, the perpetrator will also receive a criminal sanction in retaliation in the form of being killed or sentenced to death.(Darussamin, 2014).

However, Islamic criminal law recognizes the existence of forgiveness for the perpetrator's actions by the victim's family. This forgiveness can mitigate the perpetrator's sentence, where the perpetrator should have received a qisas punishment. However, because of the forgiveness from the victim's family, the perpetrator can be freed from the qisas punishment and replaced by paying diyat (reparation) to the victim's family or guardian. The guardian is the person who has the right to demand retribution, namely the victim's heir. This guardian has the right to demand that the perpetrator be punished, not the authorities (government). The government's task is only to arrest the killer. Therefore, the decision is entirely left to the victim's guardian.(Kusuma & Diani, 2022).

Regarding the amount of diyat, it is explained in the Hadith of the Prophet Muhammad SAW, which means: "Whoever kills (an innocent person) intentionally (and planned), then the matter is with the family of the murdered person, if they want, to demand the law of revenge for killing; and if they want, they demand diyat, namely (paying) thirty hiqqah (three-year-old female camels entering their fourth year) and thirty jadza'ah (camel entering their fifth year) and forty khalifah (pregnant camels) and,

whatever they demand from the murderer in return for peace, then it (the reward) is for them, and that is to emphasize him."

Payment of diyat should be requested properly, for example by not pressuring the person who kills if they are not yet able to pay it, and the person who killed should also pay well, for example by not delaying the payment if they are already able to pay it. Apart from that, you are also not allowed to demand payment of diyat that exceeds the limit of the amount determined as mentioned above(Nur, 2021).

Under the Criminal Code (KUHP), the victim's family is not permitted to offer forgiveness for intentional murder. While Islamic law allows the perpetrator to be spared qisas and diyat punishment, under Indonesian criminal law, forgiveness from the victim's family does not affect the potential punishment, as the decision rests solely with the judge, who examines and adjudicates based on the available evidence.

The Criminal Code for murder does not require compensation to the victim's family, such as paying diyat (trading money) as in Islamic law. This is because criminal law, as regulated in the Criminal Code, is an absolute public law, where the settlement is entirely the right of the state. However, if we pay attention, the party that is most harmed when a murder occurs is the victim's family. This is because the victim's family will certainly feel the loss of a family member and may lose their source of income if the victim is the breadwinner who works to provide for their family. Therefore, the prison sentence regulated in the Criminal Code may only provide justice from the spiritual aspect of the victim's family because the perpetrator has received an appropriate criminal sanction in the form of a prison sentence for a certain period. However, from a material aspect, the victim's family does not receive any recompense or material compensation from the perpetrator for killing one of the victim's family members who is a source of income for their family.(Eddyono et al., 2015).

In Islamic criminal punishment, apart from receiving criminal sanctions in the form of qishas or paying diyat, the perpetrator of murder will also receive punishment in the afterlife, as Allah SWT says in Surah An-Nisaa' Verse 93, which means: "And whoever kills a believer intentionally, the reward will be Jahannam, he will remain eternal in it and Allah will be angry with him, and will curse him and prepare a great punishment for him."

2. Regulations and Sanctions for the Crime of Involuntary Murder

Unintentional homicide is a murder that occurs because the perpetrator did not intend the consequences of his actions. Regarding the crime of unintentional homicide, it is regulated in Article 359 of the Criminal Code. According to the Criminal Code, anyone who negligently causes the death of another person is subject to a maximum prison sentence of five years or a maximum imprisonment of one year. This form of negligence can be either passive or active. An example of a passive act is a railroad crossing guard who, because he fell asleep when a train was passing, did not close the crossing, resulting in being hit by a passing car. This form of negligence by the gate guard is a passive act because he did nothing. Meanwhile, an example of an active act is a person who was cutting down a tree and it fell on another person, resulting in the death of that person because the tree fell. The form of negligence by the tree cutter is an active act. (Teduh et al., 2023).

Islamic law defines unintentional homicide as a Muslim who commits murder through mistake. Murder by mistake is regulated in the Qur'an, Surah An-Nisa', verse 92, which reads:

"And it is not proper for a believer to kill a believer (another), except because of guilt (accidentally), and whoever kills a believer because of guilt (let) free a believing servant and pay the diyat given to his (killed) family, unless they (the killed's family) give alms. If he (the killed) is from a people who are hostile to you, but he is a believer, then (let the murderer) free his slave believer. And if he (the murdered) is from a people (unbelievers) with whom there is a treaty (peace) between them and you, then (let the murderer) pay the diyat given to his (killed) family and set free his believing servants, then let him (the murderer) fast for two consecutive months for acceptance of repentance from Allah.

In the paragraph above there are the following provisions:

- a. A believer who accidentally kills another believer is only obliged to pay kifarati in the form of freeing a believer's slave and paying diyat which is handed over to the victim's family;
- b. A believer who kills another believer from a group that is hostile to him by accident, is only obliged to pay kifarati in the form of freeing a slave of the believer;
- c. A believer who accidentally kills an infidel with whom there is a peace agreement, is

obliged to pay kifarati in the form of freeing a believer's servant and paying diyat which is handed over to the victim's family;

- d. If it is impossible to free a slave, it can be replaced by fasting for two consecutive months.

For unintentional murder, the amount of diyat that must be paid to the victim's family is the same as for intentional murder, namely 100 camels. But the type/classification of camels is different. Absullah Ibn Mas'ud ra has narrated the following Hadith, that Rasulullah SAW has said, which means: "The punishment for killing due to wrongdoing is twenty hiqqah camels. Twenty jaza'ah camels, twenty bintu makhad camels, twenty bintu labun camels, twenty female bani makhad camels."

Accidental murder, the diyat is mukhafafah (light diyat), this diyat payment is not only borne by the victim, but can also be paid to his family, apart from that the payment can also be paid in installments over three years. Imposing mukhafafah diyat on the perpetrator's family with the consideration that the perpetrator is experiencing a disaster because he accidentally caused the death of another person so he is obliged to pay diyat and kifarati (Nur, 2021). Therefore, his family should help his family who are experiencing a disaster. However, if the perpetrator or his family really cannot afford to pay it, then the state will pay the diyat which is taken from Baitul Mal (State treasury). This is based on the Hadith of the Prophet SAW which teaches, which means: "I am a guardian for people who have no guardian at all".

According to Islamic law and the Indonesian Criminal Code, unintentional manslaughter carries a lighter penalty than intentional homicide. The Indonesian Criminal Code only provides a maximum prison sentence of five years, or even a maximum of one year. This is certainly much lighter than intentional homicide, as regulated in Article 338 of the Indonesian Criminal Code, which carries a maximum penalty of fifteen years in prison. According to Islamic law, the penalty for unintentional homicide is also lighter than that for intentional homicide. Unintentional homicide is not subject to the punishment of qisas.

Under the Criminal Code, perpetrators of unintentional homicide are subject to both prison and detainment penalties. Detainment penalties are generally less severe than imprisonment, for example, they can be replaced with a fine,

eliminating the need for detainment if the fine has already been paid. The purpose of imposing detainment penalties for unintentional homicide is to encourage people to be more cautious in their actions to avoid harming others, especially those that result in death. Religion and the state highly respect the right to life, and therefore, it is impossible to allow the loss of life due to negligence to go unpunished.

B. The Criminal Sanction System for Murder in Islamic Criminal Law that Can Contribute to Criminal Law Reform (KUHP)

Islamic criminal law encompasses three main areas: qisas, hudud, and takzir. Some authors also divide it into two main areas: hudud and takzir. This second division is based on the assumption that hudud encompasses all types of crimes expressly regulated in the Qur'an and Hadith, both in terms of the nature of the crime and its legal sanctions. Therefore, qisas falls within the realm of hudud. Meanwhile, all types of crimes that do not fall within the realm of hudud fall within the realm of takzir. (Sari, 2022).

"The criminal law in force in Indonesia is a legacy of the Dutch colonial era which was ratified by Law No. 1 of 1946 with several changes to become the Criminal Code (KUHP)". Article 1 paragraph (1) of the Criminal Code then emphasizes that other than the criminal provisions contained in the Criminal Code and special criminal provisions that have been enacted by the government are not applicable in Indonesia, including Islamic criminal law. However, the province of Nanggroe Aceh Darussalam applies Islamic criminal law, especially in the category of ta'zir crimes, as part of the implementation of special autonomy granted by the central government. The legal basis for the application of Islamic law in the province of NAD is Law No. 44 of 1999 concerning special autonomy for Aceh and Law No. 18 of 2001 concerning the expansion of Aceh's autonomy to Nanggroe Aceh Darussalam.

1. The Criminal Sanction System in Islamic Law

The basis or principles of Islamic criminal law are contained in the Qur'an and the Hadith of the Prophet Muhammad, both explicitly and implicitly. Some principles of Islamic criminal law that have been put forward by Islamic legal experts, including Ahmad Hanafi and Mohammad Daud Ali, include the principle of legality, the principle of prohibiting the transfer of blame to

others, and the principle of presumption of innocence. Jimly Asshiddiqie added the principle of repentance and the principle of conditionality. Muhammad Tahir Azhary put forward the principle of equality, but he did not mention the legal basis for equality. (Sari & Rambe, 2020).

2. The Basis of Justice

Based on Surah An-Nisaa' verse 58 and verse 105, that: "Indeed, Allah orders you to convey a message to those who are entitled to receive it, and (orders you) when you determine a law between people, so that you determine it fairly. Indeed, Allah gives you the best teaching." "Indeed, Allah is All-Hearing, All-Seeing. Indeed, We have sent down the Book of Allah to you bringing the truth, so that you judge between people and what Allah has revealed to you, and do not become challengers (innocent people), because (defending) those who are treacherous."

3. Basic benefits

Surah Al-Maidah verse 119: "This is the time (day) for those who are righteous (in their words and deeds) to benefit from their righteousness. They will obtain paradise beneath which rivers flow, they will abide therein forever. Allah is pleased with them, and they are pleased with Him. That is a great victory."

Humans either qat'i or through ta'zir institutions. Nothing makes humans happy, apart from Allah's pleasure. Surah Yunus verse 49, that "Say, I have no power to bring harm or benefit to myself, but what Allah wills." The legal provisions determined by Allah are certain for the benefit of every human being. Likewise, the legal provisions for criminal acts, whether qat'i or those submitted through ta'zir institutions, certainly contain Allah's secrets for the benefit and benefit of humans, apart from avoiding and eliminating harm faced or experienced by humans. Indeed, Allah is All-Knowing of the circumstances that befell and will befall humans.

4. The basis of balance

The principle of balance is based on the letter Al-Baqarah verse 178, verse 179, letter An-Nisaa' verse 92, verse 93. Letter An-Nisaa' verse 92 and 93, as stated in letter b, contains the principle of benefit, but in addition to containing the principle of benefit, letter An-Nisaa' verse 92 and 93 also contains the principle of balance. In letter An-Nisaa' verse 92 and verse 93, the types and forms of sanctions or punishments that are balanced between the crime of "accidental murder" and the condition of the perpetrator and the condition of the victim's family (murdered) are determined. In

addition, these verses also contain the conditional principle explained in subsection number 12.

5. The basis of legal certainty

The principle of legal certainty is based, among other things, on Surah Al-Isra verse 15 that "...We will not punish before We send an Apostle. In this verse it is expressly stated that Allah will not punish anyone before Allah, the Most Just, sends an Apostle to convey Allah's revelation to humanity, among other things regarding provisions in the field of law, both qat'i and zanni. This means that a person or anyone else will not be sentenced before the legal provisions are determined definitely or zanni, both the type of criminal act and the form the punishment.

6. The Basis of the Presumption of Innocence

The legal basis for this principle is in the hadiths of the Prophet Muhammad SAW, namely regarding the punishment for the crime of adultery, including the hadith about Ma'iz bin Malik and Gamadiyah, and other hadiths.

"La hukma li'af ali-l'uqala i qabla wurndin-nassi" there is no law for the actions of a rational person before there is a nas (provision).

The following hadith is "al-aslu fil-asyya' i wal-if alil-ibahah", as long as all things and all actions are worship or permissible (except cases and actions that are definitely determined by law).

7. Basic Principles of Legality

Surah An-Nisaa' verses 58, 59, and 105. Surah An-Nisaa' verse 58, as has been stated in the discussion on the principles of justice, is to determine the obligation to uphold trust and act fairly in enacting laws. Meanwhile, Surah An-Nisaa' verse 59 determines the obligation of every believer to obey Allah and obey the Messenger, as well as to the ulil amri (rulers or law makers) who carry out Allah's commands and stay away from His prohibitions, as well as returning to Islamic sharia (the Qur'an and Hadith) if there is a disagreement between people about something.

8. The Basic Principles of Forgiveness

Islamic criminal law recognizes the principle of forgiveness, particularly in cases of murder, both intentional and unintentional, and injuries. Murder embodies God's rights (public law) and human rights (civil law).

9. Basic Principles of Deliberation

Determining the amount of diyat (reparation) to be paid by the perpetrator of a crime must be preceded by a discussion to discuss the rights and obligations of each party to avoid any potential harm. If the perpetrator is financially disadvantaged, or conversely, if the victim's

family or the victim in question is in dire need of diyat, then deliberation is certainly necessary. The Prophet Muhammad (peace be upon him) set limits on diyat in his hadiths. However, this does not preclude deliberation for the parties to reach an agreement.

10. The Contribution of Criminal Sanctions for Murder in Islamic Law to Criminal Law Reform

Punishment is the most important part of criminal law, as it is the culmination of the entire process of holding someone guilty of committing a crime accountable. Criminal law without punishment means declaring someone guilty without any definite consequences for that crime. Thus, the concept of guilt has a significant influence on the imposition of punishment and the process of its implementation. If guilt is understood as 'blameable,' then punishment is the 'embodiment of that blame.'

The purpose of imposing criminal penalties is not explicitly stated in the Criminal Code. However, the Draft Criminal Code is the opposite. The purpose of imposing criminal penalties, whether retaliatory or preventive, is formulated more clearly. The purpose of prevention is explicitly stated. This is clearly stated in Article 51 Paragraph (1) letters a and b. The purpose of criminal penalties is to 'prevent the commission of criminal acts by enforcing legal norms for the protection of society'. This formulation of the purpose emphasizes the importance of general prevention as a measure of the success of criminal enforcement.

The purpose of retribution is formulated more implicitly. "Resolving conflicts caused by criminal acts, restoring balance, and bringing peace to society" are the goals of imposing punishment or punishment, which can be achieved through retribution.

With criminal punishment, it is hoped that the conflict between the perpetrator and the victim can be resolved. The resolution of the conflict that arises as a result of a crime brings society back to a state of balance, which was shaken by the crime committed by the perpetrator. This balance will in turn bring peace to society. In addition, the imposition of criminal punishment is carried out in order to 'free the convict from guilt'. This is a form of retribution that is empirical in nature. The formulation of the purpose of imposing criminal punishment or retribution is placed in the provisions of Article 51 Paragraph (1) letters c and d of the Draft Criminal Code.

The draft Criminal Code is more advanced than the current one, namely, it clearly defines the objectives of imposing criminal penalties or punishment, but it does not easily connect these objectives to wrongdoing, either as a "reason that justifies the imposition of criminal penalties" or as "the limits of the imposition and implementation of criminal penalties."

The purpose of criminal punishment is simply stated as "punishment is a process," and the judge determines the purpose of that process. Whether this process is related to the perpetrator's guilt is not clearly stated. The draft Criminal Code also does not provide an adequate explanation of the relationship between these purposes.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on the results of the research that has been conducted, the following conclusions can be presented:

1. The crime of murder is a crime committed in the form of an attack on the life of another person. The crime of murder committed intentionally in the Criminal Code is regulated in Book Two Chapter XIX Articles 338 to Article 350 concerning Crimes Against Life. While the crime of unintentional murder is regulated in Book Two Chapter XXI of the Criminal Code Article 359. The legal basis for the crime of murder in Islamic law is regulated in several verses in the Qur'an, including: Surah Al-Maaidah verses 27-31, Surah Al-An'aam verse 151, Surah Al-Israa' verses 31 and 33, and is also regulated in the Hadith of the Prophet Muhammad SAW. The criminal sanctions for murder regulated in the Criminal Code can be the death penalty, imprisonment, imprisonment and additional penalties. While in Islamic criminal law the criminal sanctions for murder can be in the form of qisas punishment, diyat punishment, kifarati, and ta'zir punishment. In Islamic criminal law, if a murder occurs, the victim's family or heirs have the authority to determine the criminal sanction. This determines whether the perpetrator will be punished, pardoned by paying a diyat (traditional Islamic retribution), or pardoned for free. This free pardon allows the perpetrator to avoid any criminal sanctions. However, in Indonesian criminal law, even if the perpetrator of a

murder has received forgiveness from the victim's family, the legal process continues because the state determines the punishment.

2. The criminal sanction system for murder in Islamic criminal law can be contributed to the reform of the criminal law (KUHP). Article 1 paragraph (1) of the Criminal Code states that other than the criminal provisions contained in the Criminal Code and special criminal provisions that have been enacted by the government are not applicable in Indonesia, including Islamic criminal law. However, the Province of Nanggroe Aceh Darussalam applies Islamic criminal law, especially in the category of ta'zir crimes, as part of the implementation of special autonomy granted by the central government. The legal basis for the application of Islamic law in the province of NAD is Law No. 44 of 1999 concerning special autonomy for Aceh and Law No. 18 of 2001 concerning the expansion of Aceh's autonomy to Nanggroe Aceh Darussalam. Since then, a number of regulations related to Islamic law have been issued by the regional government of NAD. The basis for the implementation of Islamic criminal punishment includes the basis of justice, the basis of benefit, the basis of balance, the basis of legal certainty, the basis of the presumption of innocence, the principle of legality, the basis of forgiveness, the basis/principle of deliberation. All the principles used in implementing Islamic criminal penalties align with the objectives of punishment under the Criminal Code. Although the purpose of imposing punishment is not explicitly stated in the Criminal Code, the Draft Criminal Code clearly defines the purpose of imposing punishment, both retaliatory and preventive. The purpose of punishment is to prevent criminal acts by enforcing legal norms for the protection of society. Through punishment, it is hoped that conflicts between perpetrators and victims can be resolved.

B. Suggestion

- a. It is fitting that perpetrators of murder, especially those who are intentional and

premeditated, receive the harshest punishment possible, considering the crimes they have committed. Furthermore, murder violates human rights, which are protected by law. The perpetrator should apologize to the victim's family and be prepared to accept the consequences of their actions.

- b. To law enforcement officials, provide the fairest possible justice to perpetrators of crimes. Providing appropriate punishment and rewards according to what he has done so that it can deter the perpetrator so that he does not do it again.

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