



The Combination of Criminal Acts (Ta'addud Al-Jara'im) in the Perspective of Fiqh Jinayah

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Abstract

A combined criminal act is a situation when a person commits more than one criminal act before there is a legal decision with permanent force. In Islamic criminal law, this concept is known as *ta'addud al-jarā'im*. This research aims to examine the definition, legal basis, elements, forms, criminal system, and application of punishment to a combination of criminal acts in the perspective of fiqh jinayah and positive criminal law in Indonesia. The method used is *library research* with a descriptive-analytical approach through the study of the Qur'an, hadith, fiqh jinayah literature, and relevant laws and regulations. The results of the study show that the combined criminal acts have a strong legal basis in Islam that emphasizes the principles of justice, accountability, and benefit. The combined forms of criminal acts include *idealistic concursus*, *realist concursus*, and continuing acts. In the application of Islamic criminal law, punishment can be in the form of hudud, qishash and diyat, as well as ta'zir by considering the rights of Allah, human rights, and the benefit of society. The difference in the views of scholars regarding the application of punishment shows the flexibility of Islamic law in dealing with various forms of crime. Thus, the rules regarding combined criminal acts reflect the perfection of the Islamic legal system which is oriented towards justice, protection of the community, and the prevention of repeat crimes. must be written with

I. INTRODUCTIONS

Islam is a religion that not only regulates human relations with Allah SWT, but also regulates human relations in social life. One form of such regulation is the existence of a legal system that aims to create order, security, and justice. In the study of Islamic law, criminal law is known as fiqh jinayah, which is a branch of science that discusses various forms of criminal acts (jarimah), elements of criminal acts, and types of punishments that can be imposed on the perpetrator. The main purpose of Islamic criminal law is not only to sanction the perpetrators of crimes, but also to protect the interests of society, protect the rights of individuals, and prevent future crimes.

The development of increasingly complex social life has led to the emergence of various forms of criminal acts. In practice,

it is often found that a person commits more than one criminal act before being sentenced to a law with permanent force. For example, a perpetrator commits theft accompanied by persecution or commits several different criminal acts within a certain period of time. In general criminal law, this situation is known as a combination of criminal acts (*concurus*), while in Islamic criminal law it is known as *ta'addud al-jarā'im*, which is the multiple criminal acts committed by one perpetrator.

The problem of combined criminal acts is important to study because it is related to criminal accountability and the determination of fair punishment. When a person commits several criminal acts at once, it is necessary to have clear provisions regarding whether the entire sentence is imposed cumulatively or is sufficient to

impose the punishment that is considered the most severe. The determination must consider the principles of justice, victims' rights, perpetrators' rights, and the benefit of the community as the main goal of law enforcement.

Islamic criminal law pays great attention to the principle of justice in the application of sanctions. The Qur'an and hadith affirm that every human deed will be accounted for according to the level of his deeds. Therefore, the application of punishment to a combination of criminal acts must be carried out proportionately by considering the type of criminal act, the consequences caused, and the purpose of Islamic sharia (*maqashid sharia*). In addition, Islamic law also shows flexibility in resolving various legal issues through the *ijtihad* of scholars and the judge's consideration in determining the most appropriate form of punishment.

Based on this description, this study aims to analyze the combined concept of criminal acts from the perspective of *fiqh jinayah*, including the definition, legal basis, forms, penal system, and the application of punishment to perpetrators who commit more than one criminal act. This study is expected to provide a more comprehensive understanding of the concept of *ta'addud al-jarā'im* and its relevance in realizing justice and benefits in the Islamic legal system.

II. RESEARCH METHODS

This research uses a normative legal research method with a library research approach. The data used is in the form of secondary data obtained from the Qur'an, hadith, *fiqh jinayah* books, Islamic criminal law literature, laws and regulations, and other scientific sources related to combined criminal acts. Data collection techniques are carried out through documentation studies of various primary, secondary, and tertiary legal materials. Furthermore, the data were

analyzed descriptively-analytically to obtain a comprehensive understanding of the combined concept of criminal acts in the perspective of *fiqh jinayah* and Indonesian criminal law.

III. RESULTS AND DISCUSSION

A. Definition and Legal Basis of Joint Criminal Acts

A combined criminal act is a situation when a person commits more than one criminal act before there is a legal decision that has permanent legal force. In general criminal law, this concept is known as *concurso*, while in Islamic criminal law it is called *ta'addud al-jarā'im*. Etymologically, *ta'addud* means many or repeated, while *jarā'im* is the plural form of *jarimah* which means criminal acts or acts that are prohibited by the Shari'a. Thus, *ta'addud al-jarā'im* can be interpreted as the number of criminal acts committed by one perpetrator.

In *fiqh jinayah*, the discussion of combined criminal acts is closely related to the concept of criminal responsibility. Each individual is responsible for all the deeds he or she does. Therefore, a person who commits several criminal acts at the same time has responsibility for all of these acts. However, the application of punishment must still pay attention to the principles of justice and the benefit of the community.

The legal basis for a combined criminal act can be found in the Qur'an, hadith, and the opinions of scholars. The Qur'an Surah Az-Zalzalah verses 7-8 affirm that every human deed, good or bad, will be rewarded accordingly. In addition, Surah An-Nisa verse 58 and Surah Al-Maidah verse 8 emphasize the importance of upholding justice in every legal decision. The hadith of the Prophet

(saw) which states that every human being will be held accountable for his actions is also the basis that the perpetrator must be responsible for all criminal acts committed. Thus, the concept of combined criminal acts in Islam is based on the principles of accountability, justice, and benefit.

B. Combined Forms of Criminal Acts

A combination of criminal acts can occur in several forms. First, the combination of assumptions (*concursum idealis*), which is a situation when one act violates several legal provisions at once. In this condition, the most severe punishment is usually applied because one act causes several legal consequences. Second, the real combination (*concursum realis*), which is a state when a person commits several different criminal acts in a certain time. Each criminal act has its own legal consequences, but its implementation still considers the principles of justice and benefit.

The third form is continuous acts, which are criminal acts that are committed continuously and have a relationship between one act and another. In some scholars' opinions, the series of acts can be seen as a single criminal act so that the punishment can be imposed as a whole.

In Indonesian criminal law, the regulation regarding combined criminal acts is contained in the Criminal Code (KUHP). Article 63 of the Criminal Code regulates idealistic *concursum*, Article 64 of the Criminal Code regulates continuing acts, while Articles 65 to 71 of the Criminal Code regulate realist *concursum*. The regulation shows that both Islamic law and positive law pay attention to the problem of joint criminal acts.

C. Penal System and Application of Punishment in Fiqh Jinayah

In criminal theory, several systems are known to be used to determine the punishment of the perpetrators of joint criminal acts. The absorption system stipulates that only the most severe punishment is imposed on the perpetrator. The cumulation system imposes all penalties for every criminal act committed. In addition, there is a weighted absorption system and a limited accumulation system that combines both approaches with certain limitations.

In *fiqh jinayah*, punishment for a combination of criminal acts can be in the form of *hudud*, *qishash* and *diyat*, as well as *ta'zir*. *Hudud* is a punishment that has been determined in its form and degree by the *sharia*. *Qishash* and *diyat* are related to crimes against the soul and limbs, while *ta'zir* is a punishment whose determination is left to the judge or the government.

The scholars have different views on the application of punishment to combined criminal acts. Some scholars argue that each criminal act must be punished separately because each has different responsibilities. Meanwhile, some other scholars are of the opinion that if a heavier punishment has covered the purpose of punishment, then it is enough to impose only one punishment. These differences of views show the flexibility of Islamic law in adjusting the application of law to the conditions faced.

D. Wisdom of Joint Arrangement of Criminal Acts in Islam

The regulation of combined criminal acts has various important lessons in people's lives. The regulation serves to uphold justice, provide protection to

victims, provide a deterrent effect to perpetrators, and prevent the occurrence of repeated criminal acts. In addition, the regulation also shows that Islamic law has a comprehensive system in regulating various forms of crime that develop in society.

The existence of rules regarding combined criminal acts also supports the achievement of the goals of Islamic sharia (maqashid sharia), namely to protect religion, soul, intellect, descendants, and property. Thus, the application of punishment to combined criminal acts not only serves as a means of retribution, but also as an instrument to maintain order and the benefit of society as a whole.

IV. CONCLUSIONS AND SUGGESTIONS

A. Conclusion

Combined criminal acts in the perspective of fiqh jinayah are circumstances when a person commits more than one criminal act before the existence of a legal decision with permanent force. This concept is known as *ta'addud al-jarā'im* and has a legal basis derived from the Qur'an, hadith, and the opinions of scholars. The combined forms of criminal acts include *concursum idealis*, *concursum realis*, and continuing acts. In the application of punishment, Islamic criminal law not only considers the type and number of criminal acts committed, but also pays attention to the principles of justice, victims' rights, perpetrators' rights, and the benefit of society. Therefore, the penal system in fiqh jinayah shows that Islamic law has a comprehensive, fair, and flexible character in resolving

various criminal problems that develop in society.

B. Suggestions

This research suggests that the study of combined criminal acts in fiqh jinayah continues to be developed, especially in relation to the application of criminal law in the modern era. In addition, more in-depth research is needed on the relevance of the concept of *ta'addud al-jarā'im* to the national criminal law system in order to enrich the scientific treasures of Islamic law and support the realization of just law enforcement.

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