



Hudud Jarimah From A Criminal Law Perspective Islam: Analysis Of Legal Basis Forms Of Criminal Acts and Evidence System

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Article Info	Abstract
Article History Received: 2024-09-05 Revised: 2024-09-11 Published: 2024-09-30 Keywords <i>Hudud Crimes, Fiqh Criminal Law, Islamic Criminal Law, Maqashid Syariah, Law Enforcement.</i>	Hudud crimes are a category of criminal offenses in Islamic criminal law that have special characteristics because the types of prohibited acts and their sanctions have been firmly established based on the Qur'an and Sunnah. The position of hudud in the Islamic legal system indicates its role as a legal instrument aimed at maintaining public order, protecting public interests, and preventing the emergence of various forms of crime. This study aims to examine the concept of hudud crimes, the normative basis for their application, various forms of criminal offenses included in the hudud category, and their relevance in the development of contemporary legal systems. The method used is normative legal research with a library approach, through a review of Islamic legal sources, such as the Qur'an, hadith, fiqh jinayah literature, and various other Islamic legal references. As a means of imposing sanctions, hudud also has a preventive dimension that aims to suppress the potential for crime through a preventative effect and increasing legal awareness in society. Furthermore, the application of hudud punishments requires stringent evidentiary requirements to minimize the possibility of error in sentencing. Therefore, a comprehensive study of hudud requires attention to normative, philosophical, and sociological aspects to ensure its understanding remains proportionate and relevant to the dynamics of modern legal developments. The concept of hudud itself is part of the study of Islamic jurisprudence (fiqh jinayah), which regulates criminal acts and their sanctions in Islamic law.

I. INTRODUCTION

Known as fiqh jinayah, it is a branch of Islamic law that teaches several forms of criminal punishment that can be applied to individuals. In the Islamic legal system, criminal acts are divided into three main categories: hudud crimes, qisas-diyat crimes, and ta'zir crimes. Different characteristics depend on the type of legal basis, the type of violation, or the type of punishment applied. Among the three categories mentioned above, hudud crimes have a very important position because all types of criminal acts, including their sanctions, have been taught directly by Allah SWT through the Qur'an and the Sunnah of the Prophet Muhammad. Hudud crimes have a very important position because all types of criminal acts, including their sanctions, have been taught directly by Allah SWT through the

Qur'an and the Sunnah of the Prophet Muhammad. (Ahmad, W, C., 2016)

Technically, hudud can be seen as a set of laws strictly enforced by the government and therefore cannot be changed or modified by humans. From an Islamic legal perspective, the provisions of hudud violations are seen not only as actions that affect the individual concerned, but also as developments that have the potential to reduce social obligations and uphold moral principles in society. Therefore, the imposition of direct hudud sanctions is used not only to punish the perpetrator, but also to raise public awareness and prevent broader social impacts. (Zainuddin, A., 2015)

The development of modern legal systems has given rise to numerous discussions regarding the relevance and existence of hudud in the current legal context. In contrast to existing concepts of punishment, some

argue that hudud sanctions are quite in line with the evolution of the times. Many argue that the principles underpinning hudud remain relevant because they focus on safeguarding safety, morality, and public order. The differing views mentioned above demonstrate that the study of hudud still holds sufficient academic significance to warrant continued, candid discussion. (Asmuni., 2021)

Numerous studies on hudud punishments have been conducted by academics with great attention to detail. These include definitions, legal principles, and types of hudud punishments in criminal jurisprudence. Much of this research has focused on the normative dimension and has not adequately examined the relationship between the concept of hudud and the objectives of modern criminal law or its contribution to contemporary legal systems.

II. RESEARCH METHOD

This study employs a normative legal research method with a library research approach. This method focuses on examining legal norms derived from statutory regulations, legal doctrine, rulings, and numerous other summaries related to the research object. This study focuses on the concept of hudud crimes in Islamic law, its legal basis, the various forms of crime included in the hudud category, and their relevance to the development of contemporary legal systems.

Used to analyze and understand the fundamental concepts related to hudud crimes from the perspective of Islamic jurisprudence. It is used to discuss legal principles derived from the Qur'an, hadith, and the opinions of scholars regarding hudud. Therefore, philosophical analysis is used to analyze the objectives and principles of hudud implementation within the framework of *maqashid ash-syari'ah* and determine its relevance to the development of modern legal systems.

The data used in this research consists of primary, secondary and tertiary law. The main sources of Islamic law. Secondary legal materials

are taken from various relevant literature, such as relevant literature books, books on *jinayah fiqh*, writings in the field of Islamic law, journal articles, research findings, and other academic materials related to the research subject matter. On the other hand, such as books on *jinayah fiqh*, writings in the field of Islamic law, journal articles, research findings, and other academic materials related to the research subject. Tertiary legal materials consist of Islamic law, an encyclopedia of Islamic law, and various supporting references which function to clarify the terms and concepts discussed in the research. law, Islamic law encyclopedia, and various supporting references that serve to clarify the terms and concepts discussed in the research.

Data collection was conducted using document analysis methods through the examination of various data sets related to the topic of hudud crimes. The collected data were then analyzed using descriptive-qualitative methods, which included the process of analyzing, interpreting, and examining the relationships between legal concepts found in various sources. This was conducted methodically and comprehensively to gain insight into the study object and produce conclusions that can address the issues raised.

Deeds are an essential component of Islamic law, encompassing several forms of conduct based on specific legal principles applicable to individuals. Deeds are used to support any action that complies with sharia provisions and complies with relevant sanctions. Forms of disobedience to Islamic law include those related to individual rights and those that violate the general welfare of society.

III. RESULTS AND DISCUSSION

A. Research Results

Research results show that hudud crimes are criminal offenses under Islamic law, the types of violations and their sanctions of which are explicitly stipulated in the Qur'an and Sunnah. The implementation of hudud aims to safeguard the five main objectives of sharia (*maqasid*

ash-syari'ah): religion, life, intellect, posterity, and property.

This study found that the forms of hudud crimes include adultery, qadzaf (fornication), theft (sariqah), robbery (hirabah), drinking alcohol, apostasy (riddah), and rebellion (bughat). In addition to serving as a sanction, hudud also has a preventive function to prevent crime and maintain public order. Furthermore, the implementation of hudud requires a very strict evidentiary process and prioritizes the principle of prudence to avoid errors in sentencing. Thus, hudud is not only oriented towards punishment, but also towards protecting rights, justice, and the welfare of society.

B. Discussion

The Concept of Hudud Crimes in Islamic Criminal Law

Linguistically, the term hudud is the plural of hadd, meaning limits, prohibitions, or established regulations. In this terminology, hudud is understood as a type of law that has been clearly established by Allah SWT and cannot be changed, replaced, or modified by humans. The characteristics mentioned above are derived from ta'zir crimes, which give judges the opportunity to determine the form and severity of punishment based on the welfare of the situation at hand. (Ahmad, H., 2005)

According to Islamic scholars, hudud crimes are a type of punishment strictly regulated by sharia because they are closely related to the general values and principles of human life. According to Ahmad Wardi Muslich, hudud is a law that falls within the will of Allah SWT, and therefore, its implementation is necessary to uphold and improve the welfare of society as a whole. (Ahmad, W, M., 2016)

From an Islamic legal perspective, the concept of hudud is closely related to the maqashid asy-syari'ah as the main objective of sharia. It concerns two human needs (al-dharuriyyat al-khamsah), namely religion (hifzh al-din), soul (jiwaal-nafs), reason (akal-'aql),

descendants (turunal-nasl), and wealth (hifzh al-mal). Therefore, several forms of hudud jarimah are used in essence to protect and preserve the aspects mentioned above, creating a safe, orderly, and prosperous society. (Jasser, A., 2008)

It has a significant preventive function in addition to its role as a repressive tool through the use of sanctions against those involved in crime. Therefore, the primary goal of implementing hudud is not solely focused on punishment but also on crime prevention and maintaining social stability in society. (Topo. S., 2016)

The law requires very strict requirements for proof before a crime can be classified as a hudud crime. Several findings indicate that hudud implementation must be guided because there is still an element of doubt (syubhat) in the production process. Based on the principles mentioned above, Islamic law emphasizes individual rights and obligations as a crucial factor, so any potential problems in the application of Islamic law must be addressed. minimized. (Ahmad, A, R, & Ahmad, M., 2022)

Legal Basis and Purpose of Implementing Hudud Crimes

The Qur'an and the Sunnah of the Prophet Muhammad (peace be upon him) are the two primary sources of Islamic law concerning Hudud crimes. These two sources serve as the normative basis for determining the types of hudud crimes and their sanctions. Unlike ta'zir punishments, which grant judges or authorities the authority to determine the form and severity of punishment based on considerations of public interest, hudud provisions are established by sharia and cannot be changed, reduced, or added to by humans. (Ahmad, W, M., 2016)

There is a wealth of information that clearly explains hudud crimes and their sanctions. For example, Surah An-Nur verse 2 explains the punishment for unmarried adulterers, while Surah Al-Maidah verse 38 explains theft. However, Surah Al-Maidah verse 33 explains the crime of hirabah. The verses

mentioned above show that hudud is part of the Islamic legal system with a clear and strong legal basis. In addition to the Qur'an, the Sunnah of the Prophet Muhammad (peace be upon him) also serves as a source of law that provides a more detailed explanation of the mechanisms of hudud, the requirements of proof, and various other technical aspects. The Qur'an and Sunnah of the Prophet Muhammad (peace be upon him) serve as sources of law that provide a more detailed explanation of the mechanisms of hudud, the requirements of proof, and various other technical aspects. that the Prophet Muhammad (peace be upon him) upheld the highest principles of justice and implemented hudud with great care. In addition, it should be noted that hudud punishment is not strictly adhered to because there are still problems during the production process. It is stated that hudud punishment is not strictly adhered to because there are still problems during the production process. the principle is already known as the principle of dar'u al -hudud bi al dar'usyubuhat, which means preventing hudud activities when there are still elements of syubhat or doubt. al -hudud bi alsyubuhat, namely preventing hudud activities when there are still elements of syubhat or doubt.(Wahbah, Al-Z., 2011)

For Islamic jurists, the primary purpose of implementing hudud is not merely to punish those who commit crimes, but also to uphold the general welfare of society. This principle is expected to support the use of various forms of harm in human life. Therefore, hudud must be understood as a legal instrument that serves to enforce social obligations and establish moral principles in the daily lives of society. (Jasser, A., 2008) One of the main objectives of implementing hudud.

Furthermore, hudud also aims to safeguard the soul (hifzh al-nafs). In this context, Islamic law enforces several regulations aimed at preserving human existence and religious beliefs. This aspect is crucial because religion is the moral foundation that strengthens human bonds with Allah SWT

and even with other human beings. While the concepts of qisas and diyat primarily address the protection of the soul, the existence of hudud still contributes to the creation of social security that can protect society from various threats. It is hoped that strict sanctions can increase both the level of criminal activity and public compliance with the law.

The next goal is to safeguard reason (hifzh al-'aql). The teachings of reason are that reason is a gift that distinguishes humans from other cultures and serves as a means to understand and develop religion. Therefore, any type of production that has the potential to fulfill the function of reason, such as consuming alcoholic beverages or intoxicating substances, is strictly enforced. The purpose of the aforementioned prohibition is not only to protect individuals but also society as a whole, because various crimes often occur due to the influence of intoxicants. (Topo, S., 2016)

In this sample example, hudud serves to prevent offspring (hifzh al -nasl) through by (hifzh means through adultery prohibition | various actions that can disrupt the family institution. and various actions that can disrupt the family institution. In Islam, the family is considered the main foundations of social life, therefore protection of social honor and offspring receives great attention. And Therefore, offspring receives a lot of attention. Attention The legal provisions of this aspect are aimed at advancing lineage clarity, family honor, and social stability. for this aspects aim for the purpose of lineage clarity, family honor, and social stability. to advance lineage clarity, family honor, and social stability. (Zainuddin, A., (2015)

Form Crime Hudud And The Sanctions

In the context of Islamic jurisprudence (fiqh jinayah), scholars typically classify several criminal offenses into the category of hudud crimes. This category has unique characteristics because its legal basis is derived directly from the Qur'an and Sunnah, while its form has been determined by Islamic law. While there are

differences in the exact number of crimes included in hudud, most scholars agree that this category includes zina (adultery), qadzaf (adultery), sariqah (theft), hirabah (robbery), syurb al-khamr (consumption of intoxicating beverages), riddah (apostasy), and bughat (apostasy). (Ahmad, W, M., 2016)

1. Crime of Adultery

One type of hudud crime that has received considerable attention in Islamic law. In this context, zina is defined as sexual intercourse between children and women outside of a marriage bond in accordance with sharia. Because of its potential to affect individual hormones, offspring, family stability, and social life, it is considered a serious threat. It is mentioned in the Qur'an, specifically in Surah Al-Isra' verse 32, which states that zina is a bad and heinous act. The above provisions indicate that Islam prohibits not only the act of zina itself, but also any action that could be a means or path to it. Therefore, Islamic law enforces various regulations aimed at promoting love and harmony between men and women. Various regulations aimed at promoting love and harmony between men and women. (Ahmad, W, M., 2016).

According to Islamic law, a person's status as a person determines their purity. As stated in Surah An-Nur, verse 2, unmarried adulterers (ghairu muhsan) are known to be punished by multiple lashes. Even those who have completed their studies (muhsan), according to the majority of scholars, are known to be subject to judicial stoning based on the teachings of the Prophet Muhammad SAW and practices during the time of the Prophet Muhammad SAW and his Companions. (muhsan), according to the majority of scholars, are known to be judicial stoning based on the teachings of the Prophet Muhammad SAW and practices during the time of the Prophet Muhammad SAW and his Companions. It can only be carried out by the perpetrator confessing or narrating four witnesses who clearly describe the events in question. Implementing the punishment for adultery is a very difficult process. Islamic law

strongly emphasizes the principles of caution and justice in handling individual matters.

2. Crime of azaf

The act of encouraging someone to commit adultery without the assistance of four witnesses, which violates the requirements of proof, must be respected in Islamic law. Damaging someone's reputation and social standing is considered a serious offense. Surah An-Nur verse 4 contains the legal basis for qadzaf, which explains that the party who accuses someone of adultery without presenting four witnesses is known to be punished with twenty lashes. known as the punishment of twenty lashes. classified as wicked and their opinions are no longer considered. (Zainuddin, A., 2025)

The provisions mentioned above indicate that there are strong restrictions on individual rights in the Islamic legal system. This principle is relevant to the concepts of good name and forbidden name, which are also recognized in various contemporary legal systems. 3. Jarimah Sariah (Theft)

The process of secretly collecting another person's property is free from rights. In Islamic teachings, the teaching of ownership of a person's rights is strongly protected, therefore, any form of opposition to this right is considered a crime. The concept of ownership of a person's rights is strongly protected, therefore any form of opposition to this right is considered a crime. The concept of theft is explained in Surah Al-Maidah verse 38, which states that a thief, male or female, can be punished by having their hand amputated as retribution for their actions. The law does not automatically apply to all cases of theft. The number of conditions that must be complied with is determined by scholars. Among them, the stolen item must have a value that has reached a certain minimum limit (nisab), the item was taken from a safe storage location, and there is no doubt about theft.

(doubtful) about the events that occurred.

The above-mentioned requirements indicate that the purpose of Islamic law is not only to impose punishment, but also to ensure

that sanctions are only imposed on those who comply with the Shari'a. (Asmuni., 2021)

3. Crime of Hirabah (Robbery)

A crime involving minor acts, or crimes committed using violence to instill fear and endanger public safety. In its context, hirabah is often associated with crimes or armed actions that violate general norms. The provisions above specify several types of sanctions that can be applied according to the severity of the crime, such as the death penalty, crucifixion, amputations, or verification. It protects public safety and protects society from various threats that could undermine social stability. Of all these types of hudud, hirabah is often considered the type of hudud jarimah that has the strongest social impact compared to other types. (Zainuddin, A., 2015)

4. Crime of Syurb al-Khamr

The practice of consuming potentially harmful beverages or substances. The prohibition of Khamr is based on the idea that reason is one of the main gifts that Allah SWT has given to humans and that it must be respected. While there are differences in the amount of miracle that must be provided, the majority of scholars believe that those who practice syurb al-khamr can be considered a punishment for the practice. In the hadith of the Prophet Muhammad SAW, it is explained that every substance that falls into the category of khamr is considered haram. There are differences in the amount that must be provided, the majority of scholars believe that those who practice syurb al-khamr can be considered a punishment for the practice.

Drinking has a strong relevance in contemporary life. Studies show that the use of alcohol and alcoholic beverages is often a contributing factor to increased criminal activity, crime, and various social problems. Therefore, the purpose of this provision is not only to protect individuals but also to ensure the safety and well-being of society as a whole.. (Topo, S., 2016)

5. Crime of Riddah (Apostasy)

Riddah, also known as apostasy, is a method of abiding by Islam after first articulating its tenets. Islam, after first expounding its tenets, is a form of religious observance. In the literature, riddah is classified as a type of hudud jarimah (penal punishment) because it is not only considered an individual matter but also has social and political implications for the life of the Muslim community. Throughout the early stages of Islam's development, apostasy was often associated with national sovereignty and betrayal of the Muslim community, potentially undermining social stability and public security.

One of the most widely discussed topics in contemporary Islamic legal discussions is that the concept of riddah must be understood within the historical and social context of the Prophet Muhammad's time, while others continue to emphasize the classical jurisprudence of riddah. From a modern legal perspective, the concept of riddah is often linked to the principle of religious freedom, recognized in several international human rights instruments. Therefore, the study of riddah requires a comprehensive approach that combines normative, historical, sociological, and philosophical perspectives to gain a more accurate understanding of Islamic law as it relates to the issue under discussion. (Ahmad. W, M., (2016)

6. Jarimah Bughat (Rebellion)

An act of rebellion by a group of people against a legitimate government with the aim of preventing or reducing its power. Legally, rebellion is considered a criminal offense that can promote national stability, public safety, and social cohesion. Therefore, Islamic law places special emphasis on preventing and resolving acts of rebellion. (Zainuddin, A., 2015) The obligation to reconcile the disputing parties contains the legal basis for the obligation to take the necessary steps to return the parties concerned to the correct provisions. That the main goal of handling the dispute is to reduce discomfort and strengthen social cohesion, not just to impose punishment.

Scholars, dealing with the bughat group must be done in a proper manner while adhering to the principles of strict justice, engaging in dialogue, media, and various forms of peaceful resolution before taking representative action. Based on the aforementioned approach, the law Islam prioritizes the welfare of society as the most important factor in resolving social conflict. (Topo, S., 2016)

The Relevance of Hudud Crimes in the Contemporary Legal System

Discussions regarding hudud crimes cannot be separated from legal developments and social changes occurring in modern society. Globalization, technological advances, increased awareness of human rights, and changes in the state system have given rise to diverse views on the relevance of implementing hudud in the present day. Therefore, hudud has become a crucial issue in contemporary Islamic legal studies.

Some believe that hudud sanctions are no longer appropriate for application in the modern era because they contradict human rights principles. This view is generally based on the assumption that hudud punishments are harsher than the current criminal systems in many countries. However, this criticism often focuses solely on the form of punishment, ignoring the objectives, conditions for implementation, and the stringent evidentiary procedures in Islamic law. (Ahmad, A, R, & Ahmad, M., 2022) From an Islamic legal perspective, hudud serves not only as a means of punishment but also as a deterrent against criminal acts. This concept aligns with modern criminal justice theory, which prioritizes prevention as one of the primary objectives of imposing sanctions. With the threat of strict punishment, it is hoped that the public will develop a higher level of legal awareness, thereby minimizing the potential for violations.

Furthermore, the values underlying hudud remain relevant in modern society. Protection of religion, life, intellect, descendants, and property is a fundamental need recognized

by various legal systems worldwide. While there are differences in the forms and mechanisms of sanctions, the goals are essentially the same: to create order, security, and social justice. (Topo, S., 2016)

As an illustration, protecting property through the prohibition of theft remains a crucial element of modern criminal law. Similarly, the prohibition on qadzaf, which aims to safeguard a person's honor, shares similarities with provisions regarding defamation known in various contemporary legal systems. Meanwhile, the prohibition on consuming intoxicating beverages is also relevant to various legal policies that seek to prevent the negative impacts of alcohol and other addictive substance abuse.

On the other hand, the implementation of hudud in the modern era faces a number of complex challenges. Cultural diversity, religious plurality, the development of democratic systems, and the influence of international law are factors that must be considered in discussions of Islamic criminal law. Therefore, understanding hudud cannot be achieved solely through a textual approach; it must also take into account the social context and the objectives of the sharia underlying its formation. Within the framework of the maqasid ash-sharia, hudud is understood as a legal instrument aimed at realizing the public good and preventing various forms of harm in human life. This approach allows the study of hudud to contribute to the development of a legal system that emphasizes not only legal certainty but also justice, benefit, and the protection of community rights.

Thus, the relevance of hudud in contemporary legal systems lies not only in the form of its sanctions, but also in the philosophical values underlying its existence. Therefore, a comprehensive understanding of the concept of hudud is essential for discourse on Islamic criminal law to develop objectively, scientifically, and in harmony with the dynamics of modern society. (Ahmad, H., 2005)

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on the results of this study, it can be concluded that hudud crimes serve not only as instruments of punishment in Islam, but also as social protection mechanisms aimed at realizing welfare, justice, and order in society. A thorough understanding of their goals and underlying values will allow hudud to be studied more proportionately as part of the ever-evolving body of Islamic legal thought and capable of contributing to the dynamics of law in the modern era.

B. Suggestions

It is hoped that when studying Islamic law, students can understand the concept of hudud crimes more comprehensively and gain a better understanding of the relevance of hudud crimes in the development of Islamic law and society so that their understanding of Islamic law becomes clearer and more objective when studying.

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