

Jarimah Al-Riddah from the Perspective of Islamic Law and its Relevance in the Legal System in Indonesia

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Info Artikel	Abstract
Article History Received : 2022-07-05 Revised: 2022-07-12 Published: 2022-07-30	This study aims to analyze the concept of jarimah al-riddah from the perspective of Islamic criminal law and examine its relevance in the Indonesian legal system. Jarimah al-riddah is understood as an act of leaving the Islamic religion which in classical Islamic criminal law is categorized as a criminal act with certain sanction consequences. This study uses a normative legal research method with a statutory and conceptual approach, through a study of Islamic legal sources and applicable laws and regulations in Indonesia. The results of the study indicate that there are differences of opinion among scholars regarding the application of sanctions against perpetrators of riddah, especially in the context of modern society. On the other hand, the Indonesian legal system does not explicitly regulate jarimah al-riddah as a criminal offense, but rather emphasizes the protection of religious freedom as guaranteed in the constitution. Therefore, the application of the concept of jarimah al-riddah in the Indonesian context requires a contextual approach that takes into account human rights values and the principle of legal pluralism.
Keywords: <i>Jarimah Al-Riddah, Islamic Criminal Law, Religious Freedom, Human Rights, Indonesian Legal System</i>	

I. INTRODUCTION

Islamic criminal law, as part of the Islamic legal system, has distinctive characteristics, particularly in regulating acts categorized as jarimah (criminal offenses). One form of jarimah that has become an important topic of discussion in the study of Islamic jurisprudence (fiqh jinayah) is jarimah al-riddah, namely the act of leaving Islam, which is classically viewed as a serious violation of religious norms (Ali, 2021; Mardani, 2019). Within the construction of Islamic criminal law, jarimah al-riddah is not only understood as a theological issue but also has legal implications related to social order and the stability of the community (Muslich, 2018; Saebani, 2020).

Along with the development of modern society, the meaning of the crime of riddah has undergone significant dynamics. Differing views among scholars regarding the elements, proof, and sanctions for perpetrators of riddah demonstrate that this concept is not singular and absolute (Jamaludin et al., 2024; Mardika, 2021). Some scholars maintain the classical view that places

riddah as a criminal offense subject to severe sanctions, while others attempt to reinterpret it by considering the social context and contemporary principles of justice.

On the other hand, in the context of a modern state like Indonesia, the regulation of religious freedom is one of the fundamental principles guaranteed by the constitution. This freedom encompasses the right of every individual to embrace, practice, or change their religion without coercion (Ashiddiqie, 2019; Crouch, 2018). In practice, the national legal system does not explicitly criminalize the crime of riddah, but rather emphasizes the protection of human rights and religious freedom (Butt, 2020; Hosen, 2019).

The differences in approach between Islamic criminal law and national law create an interesting discourse space for further study. On the one hand, there is a demand to maintain the purity of religious teachings as understood in the Islamic legal tradition, while on the other, there is a need to adapt to modern legal principles that uphold human rights and pluralism (Arifin, 2021; Wahid & Irfan, 2018). Therefore, a study of the

crime of riddah (jarimah al-riddah) is crucial for understanding how the concept can be positioned proportionally within the context of the Indonesian legal system.

II. RESEARCH METHODS

This research employs a normative legal or juridical-normative approach, focusing on the study of legal norms contained in legislation, legal literature, and other legal sources relevant to the research object (Mikarzuki, 2021; Ishaq, 2021). This approach was chosen because it aims to analyze the concept of jarimah al-riddah from an Islamic criminal law perspective and examine its relevance to the Indonesian legal system based on applicable normative provisions.

The approaches used in this research include several approaches. First, the statute approach, which examines various laws and regulations related to religious freedom and criminal law in Indonesia. Second, the conceptual approach, which examines the doctrines, theories, and views of legal experts, particularly those related to Islamic criminal law and the concept of the crime of riddah (Ali, 2021; Johnny, 2021). Third, the Islamic approach, which draws from the Qur'an and Hadith as the primary foundation for understanding the concept of riddah in Islamic law.

The sources of legal materials in this study consist of primary legal materials and secondary legal materials. Primary legal materials include the Qur'an, especially several verses related to riddah, including QS> Al-Baqarah verse 217, QS. An-Nahl verse 106, QS. Ali Ilran verse 90, and QS. Al-Maidah verse 54. Meanwhile, secondary legal materials were obtained from various literature, such as books and scientific journals relevant to the research topic, both those discussing Islamic criminal law and national law in Indonesia (Jamaludin et al., 2024; Hosen, 2019).

The legal material analysis technique used in this study is descriptive-analytical analysis, which systematically describes the concept of jarimah al-riddah in Islamic criminal law and then analyzes it to gain a comprehensive understanding of its application within the context of the Indonesian legal system. This technique is expected to yield objective and argumentative conclusions regarding the issues under study.

III. RESULTS AND DISCUSSION

A. Research result

The results of this study indicate that the concept of al-riddah crime in Islamic criminal law has a strong normative basis, derived from the Qur'an, hadith, and the consensus of Islamic scholars. Riddah is understood as an act of departing from Islam, which can occur through speech, action, or belief, provided it is done consciously, without coercion, and with intention.

Furthermore, this study found that, from a classical fiqh perspective, the majority of scholars impose the death penalty on those who engage in purdah (ridah), while still providing an opportunity for repentance through the process of *istitābah* (repentance). However, there are differences of opinion among scholars, particularly regarding the interpretation of the context and application of these sanctions.

In the context of Indonesian law, research shows that the act of pursuance of religious freedom is not criminalized under positive law. The state places greater emphasis on protecting religious freedom, as guaranteed by the constitution. Nevertheless, pursuance of religious freedom still has implications in the realm of family law, such as in marriage and other civil relations.

B. Discussion

1. Definition and Legal Basis of Al-Riddah Crime

Etymologically, the term "riddah" comes from the Arabic "radda-yaruddu," meaning to return or turn back. In a religious context, "riddah" is defined as a person's return from Islam to disbelief or departure from the Islamic teachings previously adhered to (Saebani, 2020; Muslich, 2018). Terminologically, scholars define "riddah" as the act of a Muslim consciously and intentionally abandoning Islam, whether through words, actions, or beliefs that contradict the basic principles of Islamic teachings (Ali, 2021; Mardani, 2019).

In Islamic criminal law, riddah is categorized as a form of crime related to violations of religion. This act is viewed not

only as a matter of faith but also has a social dimension because it has the potential to disrupt stability and order in Muslim society (Madani, 2019; Santoso, 2020). Therefore, discussions of riddah cannot be separated from the context of protecting religion, one of the primary objectives of Islamic law.

Forms of riddah can be classified into three main categories. First, riddah through speech, namely statements that explicitly indicate rejection of Islamic teachings, such as insulting Allah, the Prophet, or religious teachings. Second, riddah through actions, namely actions that clearly contradict Islamic principles, such as worshipping someone other than Allah or performing other religious rituals that contradict monotheism. Third, riddah through belief, namely a change of heart that leads to rejection of Islamic teachings, although not always expressed openly (Jamaludin et al., 2024; Mardika, 2021).

The legal basis for seeking forgiveness in Islam can be found in several verses of the Quran. One such verse is Surah Al-Baqarah, verse 217, which explains that those who apostatize and die as infidels will have their deeds wasted and will face consequences in the afterlife. This verse emphasizes the serious consequences of seeking forgiveness from a faith perspective. Furthermore, Surah An-Nahl, verse 106, provides an exception: someone who is forced to declare disbelief is not considered an apostate as long as their heart remains faithful, thus indicating the existence of an element of coercion that can eliminate accountability (Muslich, 2018).

Furthermore, Surah Ali Imran, verse 90, emphasizes that those who return to disbelief after believing and whose disbelief continues to increase will not be accepted, demonstrating the theological consequences of seeking forgiveness. Meanwhile, Surah Al-Maidah, verse 54, describes the phenomenon of a group leaving the religion, but Allah will replace them with a more faithful group. This verse demonstrates that seeking forgiveness has been a phenomenon since the early days of Islam and is part of the dynamics of the Muslim community (Saebani, 2020; Ali, 2021).

In addition to the Quran, the legal basis for riddah is also found in the hadith of the Prophet Muhammad (peace be upon him), including the hadith stating that "whoever changes his religion, kill him." This hadith serves as the primary basis for some scholars in determining sanctions for those who engage in riddah. Based on this hadith, the majority of classical scholars agree (ijma) that riddah is an act that is subject to severe sanctions under Islamic criminal law (Mardani, 2019; Mardika, 2021).

However, over time, there have been differing interpretations between classical and contemporary scholars regarding the application of sanctions to those who engage in pursuance of the law. Classical scholars generally understand pursuance of the law as a criminal offense closely related to political and social stability, thus considering the imposition of sanctions as an effort to maintain public order. Meanwhile, some modern scholars tend to reinterpret the concept of pursuance by emphasizing aspects of religious freedom and a social context distinct from those of early Islam (Arifin, 2021; Nasution, 2021).

These differing views demonstrate that the concept of the crime of riddah is not static, but rather evolves with changing social conditions and legal thought. Therefore, a comprehensive understanding of riddah requires considering normative, historical, and contemporary contexts to avoid oversimplification in the interpretation of Islamic law.

2. Elements of the Crime of Al-Riddah

In Islamic criminal law, an act can be categorized as a crime if it meets certain established elements. Similarly, the crime of riddah (revenge), which requires several essential elements for an act to be declared a crime of riddah (revenge). These elements serve as boundaries to prevent errors in determining the law against an individual (Ali, 2021; Nasution, 2021).

The first element is that the perpetrator is a Muslim. Riddah can only occur in individuals who have previously legally embraced Islam.

Therefore, someone who was not originally Muslim cannot be categorized as having committed riddah. This element is crucial because it relates to a person's religious status prior to the act of leaving Islam (Saebani, 2020; Muslich, 2018).

The second element is the act of departing from Islam. This act can be a statement, action, or belief that clearly demonstrates rejection of Islamic teachings. In this case, the act must be demonstrably proven and not based solely on conjecture or suspicion. Therefore, assessing an act as "riddah" requires caution to avoid misinterpretation (Jamaludin et al., 2024; Mardika, 2021).

The third element is that the act was committed consciously and without coercion. In this regard, Surah An-Nahl verse 106 affirms that someone forced to profess disbelief cannot be considered an apostate as long as their heart remains faithful. This demonstrates that the element of free will is a crucial factor in determining the crime of riddah (repentance). Thus, coercion can eliminate criminal liability from an Islamic legal perspective (Muslich, 2018; Ali, 2021).

The fourth element is intention, or *qasd*. In Islamic criminal law, intention is a subjective factor that is crucial in assessing an act. A person cannot be considered to have committed a crime of repudiation if they lack the will or intention to leave Islam. In other words, the element of intent is a crucial requirement in determining the crime of repudiation (Nasution, 2021; Santoso, 2020).

The fifth element is clear and convincing evidence. In Islamic law, proof of a crime must be based on strong evidence, such as a confession from the perpetrator or qualified testimony. This aims to ensure justice and avoid errors in imposing sanctions. This principle of prudence in the provision of evidence also reflects that determining a crime of riddah cannot be done haphazardly but must go through a rigorous and objective process (Saebani, 2020; Madani, 2019).

3. Sanctions Against Perpetrators of the Al-Riddah Crime

From a classical Islamic jurisprudence perspective, the majority of scholars believe that perpetrators of the crime of riddah (religious disobedience) are subject to the death penalty. This view is based on the hadith of the Prophet Muhammad (peace be upon him), which states, "Whoever changes his religion, kill him." This hadith serves as the primary basis for determining sanctions for perpetrators of riddah, further strengthened by the consensus of classical scholars (Mardani, 2019; Mardika, 2021). In this context, riddah is viewed not only as a violation of faith but also as a threat to social and political stability in early Islamic society (Ali, 2021; Saebani, 2020).

However, these sanctions are not imposed immediately. Islamic law recognizes the process of *istitābah*, which provides an opportunity for the perpetrator of the *purdah* to repent and return to Islamic teachings. This process demonstrates that Islamic law inherently allows for self-improvement before imposing more severe sanctions. Scholars generally believe that the perpetrator of the *purdah* should be given a certain amount of time to reconsider their decision, and if they return to Islam, sanctions are not imposed (Muslich, 2018; Madani, 2019).

On the other hand, there are differences of opinion among Islamic scholars regarding the application of sanctions to those who commit *purdah*. Some scholars argue that the death penalty is absolute for any *purdah* that meets the requirements, while others impose certain limitations, such as distinguishing between individual *purdah* and *purdah* accompanied by acts of hostility toward the state or Muslims (Jamaludin et al., 2024; Mardika, 2021). These differences indicate that the application of the law to *purdah* is not a single principle, but rather is influenced by the context and interpretation of each individual scholar.

From a modern perspective, the understanding of sanctions for the crime of riddah has undergone significant development. Several contemporary thinkers

argue that the death penalty for perpetrators of riddah needs to be viewed in a historical context, particularly the political conditions in the early days of Islam, which were characterized by threats to the very existence of the Muslim community. In this context, riddah was often associated with acts of rebellion or treason against the state, making the sanctions imposed more political than purely theological (Arifin, 2021; Hosen, 2019).

Furthermore, a growing view emphasizes the importance of respecting religious freedom as part of human rights. From this perspective, every individual has the right to choose and believe in a religion without coercion, including the right to change their religion. Therefore, the imposition of sanctions against perpetrators of religious persecution is deemed necessary to align with universally recognized human rights principles (Wahid & Irfan, 2018; Crouch, 2018).

4. Al-Riddah Crime in Indonesian Legal Perspective

In the Indonesian legal system, freedom of religion is a fundamental right guaranteed by the constitution. This is reflected in the 1945 Constitution of the Republic of Indonesia, specifically Article 28E, which states that everyone has the right to embrace and worship according to their religion, and has the freedom to believe in their faith according to their conscience. This provision affirms that the state protects individual freedom to determine and practice their faith without coercion (Asshiddiqie, 2019; Crouch, 2018).

In line with this principle, positive law in Indonesia does not explicitly criminalize the act of seeking riddah (contempt) or leaving Islam. The Criminal Code (KUHP) does not contain provisions that criminalize riddah, making it inadmissible under the national legal system (Butt, 2020). This demonstrates a fundamental difference between classical Islamic criminal law, which categorizes riddah as a crime, and Indonesian national law, which places greater emphasis on protecting human rights.

This difference reflects the dual approach between Islamic law and state law in viewing "riddah" (consent). In Islamic criminal law, "riddah" is positioned as a violation of religion that carries specific legal consequences, whereas in Indonesian law, the issue is viewed more as part of private religious freedom. Therefore, the state does not intervene in individual beliefs as long as it does not disrupt public order (Mahfud MD, 2020; Arifin, 2021).

Although not criminalized, the phenomenon of riddah still has legal implications in certain areas, particularly in Islamic family law. Changing a person's religion can impact marital status, such as the possibility of a marriage breaking up due to religious differences, and can also impact other aspects such as inheritance rights and guardianship. In this context, riddah is not positioned as a criminal offense, but rather as a legal event that has legal consequences in civil relations (Afriansyah & Harahap, 2025; Hosen, 2019).

Furthermore, the Indonesian legal system prioritizes tolerance and pluralism. The state strives to maintain a balance between religious values and human rights principles in a pluralistic society. This approach demands mutual respect between religious communities and recognition of religious diversity as part of Indonesia's social reality (Wahid & Irfan, 2018; Topo, 2021).

Thus, it is understandable that the concept of the crime of riddah in Islamic law has not been fully adopted in the Indonesian legal system. This difference demonstrates that the application of a legal concept is heavily influenced by a country's social, political, and constitutional context. Therefore, a comprehensive and contextual understanding of the position of riddah in the Indonesian legal system is necessary to avoid conflicts between religious values and national legal principles.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on the discussion above, several conclusions can be drawn. First, the crime of al-riddah in Islamic criminal law is the act of

departing from the Islamic faith, understood as a serious violation, both theologically and socially, with a legal basis derived from the Qur'an, Hadith, and the consensus of Islamic scholars. Second, an act can be categorized as a crime of al-riddah if it meets certain elements, such as the perpetrator being a Muslim, the act of departing from Islam, being done consciously without coercion, having intent, and being supported by clear evidence.

Third, from a classical Islamic jurisprudence perspective, the majority of scholars impose the death penalty on those who commit purdah (ridah), but still incorporate the *istitābah* mechanism as a way to provide an opportunity for repentance. However, there are differing views among scholars, particularly in the modern context, which places greater emphasis on religious freedom and human rights. Fourth, in the Indonesian legal system, purdah is not criminalized and is viewed as part of the constitutionally guaranteed religious freedom, although it still has implications for family law.

B. Suggestion

Based on these conclusions, it is necessary to develop a more comprehensive and adaptive study of Islamic law to address the dynamics of modern society, particularly in understanding the concept of jarimah al-riddah (the crime of wrongdoing). Furthermore, a contextual approach is essential to ensure that the interpretation of Islamic law is inseparable from the principles of justice, humanity, and human rights.

Furthermore, further, more in-depth research is needed with an interdisciplinary approach, from both legal, social and religious aspects, in order to obtain a more complete understanding of the relevance of the concept of jarimah al-riddah in the contemporary legal system, especially in Indonesia.

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