

## Analysis of the Hadith on the Crime of Sariqah From the Perspective Of Criminal Law (Hudud)

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Info Articles	Abstract
<b>Article History</b> Received : 2021-09-02 Revised: 2021-09-10 Published: 2021-09-30	This study aims to analyze hadiths related to the crime of sariqah (theft) from the perspective of jinayah law, specifically in the category of hudud. Sariqah is a criminal act in Islamic law that has strict sanctions, as regulated in the Qur'an and clarified through the hadith of the Prophet Muhammad SAW. The research method used is qualitative research with a normative approach, namely through a literature study of hadith sources and jinayah fiqh literature. The results of the study indicate that the application of hudud punishment to perpetrators of sariqah cannot be done immediately, but must meet certain conditions, such as fulfilling the nisab, the presence of an element of intent, and the absence of doubts. The hadiths that discuss sariqah provide detailed explanations regarding the limitations, criteria, and conditions that influence the determination of punishment. Thus, hudud law in the case of sariqah is not only repressive, but also reflects the principles of justice, prudence, and protection of individual rights in society. This research is expected to provide a more comprehensive understanding of the concept of sariqah in the hadith and its relevance in the study of Islamic criminal law.
<b>Keywords:</b> Hadith, Sariqah, Jinayah, Hudud, Islamic Law	

### I. INTRODUCTION

Islamic criminal law, known as fiqh jinayah, is an integral part of the Islamic legal system that regulates acts categorized as criminal acts and their sanctions. In fiqh jinayah, criminal acts are divided into several main classifications, namely hudud, qisas-diyat, and ta'zir. Hudud crimes are categories of crimes that have sanctions that have been determined precisely in the Qur'an and hadith, so that they cannot be changed either in type or degree (Audah, n.d.). One of the forms of hudud crimes that is most often discussed is sariqah (theft), which has significant legal and social implications in the life of society.

Sariqah in Islamic law is not simply defined as the act of taking another person's property, but must fulfill certain elements, such as stealth, unlawful intent, and the object taken must be property of a certain value (nisab) (Az-Zuhaili, 1989). Therefore, not all acts of taking property can be categorized as sariqah, which is subject to hudud punishment. This concept demonstrates that Islamic law has clear boundaries and does not simply impose sanctions without considering the underlying elements of an act.

The provisions regarding the punishment of hudud are explicitly stated in the Qur'an, specifically in Surah Al-Ma'idah verse 38, which stipulates the punishment of amputation for theft. However, understanding this verse cannot be

separated from the explanation of the hadith of the Prophet Muhammad SAW. The hadith serves as an interpreter and explanation of general verses of the Qur'an (Al-Khatib, 2001). In the context of hudud, the hadith provides details regarding the conditions for implementing hudud punishments, such as the minimum value of the stolen goods (nisab), the security conditions of the storage place (hirz), and the condition of the perpetrator.

Furthermore, the hadith also emphasizes the importance of the principle of caution in the application of hudud laws. One of the important principles in Islamic criminal law is that

Hudud punishments should be avoided if there is an element of doubt (syubhat). This principle demonstrates that the primary goal of Islamic law is not merely to impose punishment, but also to maintain justice and prevent errors in law enforcement (Santoso, 2003). Therefore, the application of sariqah punishments is not rigid, but rather takes into account various surrounding aspects.

Furthermore, Islamic jurisprudence scholars have also made significant contributions to the formulation of the concept of sariqah through their ijtihad (intelligible texts). Differences of opinion among schools of thought demonstrate the dynamic nature of understanding hadith texts related to sariqah. For example, there are

differences in determining the nisab (obligatory threshold) and other requirements that must be met before hudud punishments can be imposed. This reflects the flexibility of Islamic law in its methodological framework, while adhering to established basic principles (Az-Zuhaili, 1989).

In the modern context, discussions on sariqah have become increasingly relevant due to the challenges of integrating Islamic criminal law with national legal systems in various countries. Debates often arise regarding the application of hudud punishments, which are considered inconsistent with human rights principles. However, upon closer examination, the concept of sariqah in the hadith actually embodies universal values of justice, protection of property rights, and crime prevention (Santoso, 2003).

Therefore, studying the hadiths related to the crime of theft is crucial for a comprehensive understanding of the legal concepts contained therein. This research focuses on analyzing the hadiths on the crime of theft from the perspective of criminal law (hudud), with the aim of in-depth examining the elements, conditions, and principles underlying the application of these punishments. This approach is expected to provide a more comprehensive understanding of how Islamic law regulates the crime of theft and its relevance in the context of modern life.

## II. RESEARCH METHODS

This research is a qualitative study with a normative approach or library research, focusing on the analysis of Islamic legal sources in the form of hadith and fiqh jinayah literature. This approach is used to examine the norms and legal provisions related to jarimah sariqah from a hudud perspective (Soekanto & Mamudji, 2001).

The data sources in this research consist of primary legal materials, namely the hadith of the Prophet Muhammad SAW and verses of the Koran relating to theft, as well as secondary legal materials in the form of relevant jurisprudence books, books and scientific journals (Az-Zuhaili, 1989). Data collection was carried out through documentation studies by searching and reviewing literature appropriate to the research topic.

Data analysis used a descriptive-analytical method, namely by describing the contents of the hadith related to sariqah and analyzing its

meaning and legal content. An interpretive approach was also used to understand the context of the hadith to obtain a comprehensive understanding (Santoso, 2003).

## III. RESULTS AND DISCUSSION

### A. Research result

Based on the results of a study of the hadiths related to the crime of theft, it was found that the concept of theft in Islamic law has very strict limits before it can be subject to hudud punishment. The hadiths of the Prophet Muhammad SAW explain that not every act of taking another person's property is automatically categorized as a crime of theft, which is punishable by amputation. Several conditions must be met, including the element of stealing secretly, the assets taken reaching a minimum limit (nisab), and the assets being stored in a safe place (hirz) (Az-Zuhaili, 1989).

Furthermore, the hadith also indicates that the perpetrator's intention and condition are important considerations in determining punishment. If there is an element of coercion, urgent need, or emergency, then hudud punishment cannot be applied. This principle aligns with the principles of Islamic law.

Islam states that hudud punishments should be avoided if there is doubt (Santoso, 2003). Therefore, the application of sariqah punishments is not rigid, but rather takes into account aspects of justice and public interest.

The research also shows that the hadith plays a crucial role in providing detailed explanations of general Quranic provisions. The hadith not only outline the conditions for imposing punishments but also provide concrete examples of law enforcement practices during the time of the Prophet Muhammad (peace be upon him). This demonstrates that Islamic criminal law has a systematic mechanism based on the principle of prudence (Al-Khatib, 2001).

Furthermore, there are differing views among scholars regarding several aspects of the sariqah, such as the nisab (the threshold) and certain conditions that influence the application of punishment. These differences demonstrate the dynamics in the interpretation of Islamic law and

also emphasize that understanding the hadith requires a comprehensive and contextual approach (Az-Zuhaili, 1989).

## **B. Discussion**

### **1. The Concept of Sariqah in the Perspective of Hadith and Jinayah Law**

In Islamic criminal law, sariqah is a form of hudud crime that has special characteristics compared to other types of crimes. Terminologically, sariqah is defined as the act of secretly taking another person's property from a safe place (hirz) with the intention of unlawfully possessing it (Az-Zuhaili, 1989). This definition shows that not all forms of property taking can be categorized as sariqah; rather, they must fulfill certain elements stipulated in sharia.

The hadith of the Prophet Muhammad (peace be upon him) play a crucial role in formulating these limits. In several narrations, the Prophet (peace be upon him) emphasized that the punishment of amputation is not imposed unless the value of the stolen item reaches a certain threshold (nisab). This demonstrates that Islamic law is not merely repressive, but rather considers the value of the loss incurred (Al-Khatib, 2001). Thus, the hadith serve as an explanation (bayān) of the general provisions of the Quran.

### **2. Elements and Conditions for Applying Hudud Punishments in Sariqah**

Based on a study of relevant hadiths, there are several main elements that must be fulfilled in order for an act to be categorized as sariqah which is subject to hudud punishment. First, there is the secret taking of property. This element is the main difference between sariqah and other forms of crime such as robbery (hirabah) which is carried out openly.

Second, the assets taken must reach a certain minimum threshold (nisab). Scholars differ on the amount of the nisab, but it generally refers to a value considered significant in society. Third, the assets must be kept in a safe place (hirz), indicating that the owner has taken steps to protect their assets (Az-Zuhaili, 1989).

Furthermore, the hadith also emphasizes that the perpetrator must have deliberate intent to

commit theft. If the act is committed through negligence, ignorance, or coercion, hudud punishments cannot be applied. This demonstrates that Islamic law places great emphasis on the subjective aspects of the perpetrator when determining sanctions (Santoso, 2003).

### **3. The Principle of Syubhat and Caution in Law Enforcement**

One important principle in the application of hudud punishments is the principle of "avoid hudud punishments due to doubt." The Prophet's hadith explicitly states that if there is doubt in a case, the hudud punishment must be canceled or replaced with a lighter punishment (ta'zir). This principle reflects the values of justice and prudence in Islamic law (Al-Khatib, 2001).

The application of the principle of syubhat demonstrates that Islamic criminal law does not aim to punish as many perpetrators as possible, but rather to ensure that punishment is only imposed on those who truly meet all the elements of guilt beyond a reasonable doubt. Thus, this legal system provides protection against potential errors in law enforcement.

### **4. The Role of Hadith in Explaining and Contextualizing Law**

Hadith plays a central role in explaining the Quranic provisions relating to sariqah. Without hadith, understanding verses about theft would be general and potentially lead to misunderstandings in their application. Hadith detail the conditions, requirements, and exceptions that must be considered before imposing hudud punishments (Al-Khatib, 2001).

Furthermore, the hadith also provides examples of law enforcement practices during the time of the Prophet Muhammad (peace be upon him), demonstrating that punishments were not imposed haphazardly. In some cases, the Prophet Muhammad (peace be upon him) even delayed or did not implement hudud punishments due to specific considerations. This demonstrates that

Islamic law is contextual and takes into account the social conditions of society.

### **5. The Relevance of the Concept of Sariqah in a Modern Context**

In the modern context, the application of hudud laws, particularly in cases of sariqah, is often debated. Some argue that these punishments are inconsistent with human rights principles, while others view them as part of a legal system that possesses its own inherent value of justice. However, upon closer examination, the concept of sariqah in the hadith actually embodies the principles of property protection, crime prevention, and social justice (Santoso, 2003).

Furthermore, the strict requirements for implementing hudud punishments indicate that these laws are not easily enforced without careful consideration. Therefore, a comprehensive understanding of the hadiths concerning sariqah is crucial to avoid misunderstandings in assessing Islamic criminal law.

### **6. Critical Analysis of the Implementation of the Sariqah Law**

Critically, it can be argued that the concept of sariqah in the hadith reflects a balance between legal rigor and humanitarian values. On the one hand, hudud laws provide a strong deterrent effect on perpetrators. On the other hand, the strict conditions and the principle of doubt demonstrate that these laws are not arbitrary.

Differences of opinion among scholars also demonstrate that the interpretation of hadith is dynamic and open to developments over time. Therefore, a contextual approach is crucial in understanding and applying the law of sariqah in the modern era, without neglecting the basic principles established in sharia (Az-Zuhaili, 1989).

### **7. Classification of Sariqah in Jinayah Fiqh**

In the study of jinayah fiqh, scholars not only discuss sariqah in general, but also classify it into several forms. Broadly speaking, sariqahs are divided into sariqahs that meet hudud requirements and sariqahs that do not fulfill

hudud requirements and are therefore subject to the punishment of ta'zir. Sariqah hudud is theft that meets all the specified elements and conditions, while sariqah ta'zir includes the act of taking property that does not meet the hudud criteria, such as the value of goods not reaching the nisab or carried out in a place that is not included in the hirz (Az-Zuhaili, 1989).

This classification demonstrates that Islamic law does not treat all forms of theft equally. Instead, there are clear distinctions based on the seriousness of the act and its consequences. Thus, the criminal law system has flexibility in determining the type of sanction proportionate to the perpetrator's actions.

## **IV. CONCLUSION AND SUGGESTIONS**

### **A. Conclusion**

Based on the results of the research and discussion that has been conducted, it can be concluded that sariqah (theft) from the perspective of the hadith as part of the hudud crimes is a legal concept that has a strong normative basis and very strict regulations in Islamic law. Determining an act as sariqah is not done simply, but must fulfill various elements and conditions that have been determined, such as the existence of an element of secret taking, meeting the minimum limit of asset value (nisab), the existence of assets in a safe storage place (hirz), and the existence of an element of intent from the perpetrator.

The hadith of the Prophet Muhammad (peace be upon him) play a crucial role in explaining and detailing the provisions of the Quran regarding sariqah. The hadith serve not only as a supplement but also as a primary source for understanding the limitations, requirements, and conditions that influence the application of hudud punishments. The analysis reveals that the application of punishment in sariqah cases is not rigid and absolute, but rather takes into account various aspects, including the perpetrator's condition, social situation, and the possibility of doubt (syubhat).

The principle of doubt (syubhat) is a key indicator that Islamic law upholds the values of prudence and justice. Hudud punishments are not applied when there is doubt, demonstrating

that the primary purpose of law is not simply to impose sanctions but also to protect individuals from potential errors in law enforcement. This reflects the balance between strictness and humanitarian values in the Islamic criminal law system.

Furthermore, the existence of differences of opinion among scholars regarding several aspects of sariqah demonstrates that Islamic law is dynamic and open to various interpretations. These differences are not weaknesses, but rather intellectual richness that allows Islamic law to remain relevant in various contexts and changing times.

In the modern context, although the application of hudud laws is often debated, the values embodied in the concept of sariqah remain relevant, such as protection of property rights, social justice, and crime prevention. Therefore, a comprehensive, contextual, and non-partial understanding of the hadiths on sariqah is essential to provide a complete picture of the purpose and essence of these laws.

### B. Suggestion

Based on the results of this research, there are several suggestions that can be put forward. First, academics and researchers are expected to continue to develop studies on Islamic criminal law, especially in the field of fiqh jinayah, with a more comprehensive and interdisciplinary approach. Research does not only focus on normative texts, but also needs to consider positive social, cultural and legal aspects that develop in society.

Second, further studies are needed that compare the concept of sariqah in Islamic law with modern criminal law systems, both in national and international contexts. This aims to determine the relevance and potential integration of Islamic legal values into current legal systems, particularly in terms of protecting property rights and upholding justice.

Third, for legal practitioners and policymakers, it is important to understand that Islamic law on sariqah is not solely oriented toward sanctions but also contains preventive and educational values. Therefore, the application of these values can be achieved through a more humanistic and contextual approach without neglecting the fundamental principles established in sharia.

Fourth, the general public needs a deeper understanding of Islamic criminal law to avoid misunderstandings, particularly regarding hudud punishments, which are often perceived as harsh without understanding the conditions and principles behind them. Proper education will help foster a more objective and fair perception of Islamic law.

Finally, this research is expected to serve as a reference for the development of Islamic legal science, particularly in understanding hadiths related to the crime of sacrilege. The author also acknowledges that this study has limitations, and therefore, further, more in-depth and comprehensive research is expected to complement this study in the future.

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