

Limitations of the Application of Hadd in Jarimah: Textual Integration, Maqāṣid al-Syarī'ah, and Substantive Justice

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Abstract:

This research is motivated by the tendency of understanding Islamic criminal law which often focuses on textual aspects in the application of *the hadd* punishment without paying proportionate attention to the limits of *shari'i*, the purpose of *maqāṣid al-shari'ah*, and the principle of substantive justice. In fact, in the construction of Islamic criminal law, the application of *hadd* in *jarimah* is not absolute, but is limited by strict conditions such as the perfect fulfillment of the elements of delicacy, the certainty of proof, and the absence of *syubhat*. This study aims to analyze the limitations of the application of *hadd* in the perspective of the integration of normative texts, *maqāṣid al-shari'ah*, and substantive justice. The method used is normative legal research with a conceptual, philosophical, and comparative approach through the study of literature on the Qur'an, hadith, classical jurisprudence, and contemporary Islamic legal literature. The results of the study show that the application of *hadd* must be understood integratively between the text, the purpose of the sharia, and substantive justice, where the rule of *idrā'ū al-ḥudūd bi al-syubuhāt* is an important instrument in limiting its implementation so as not to cause injustice. Thus, Islamic criminal law is not only oriented to the repressive aspect, but also to the protection of human rights, benefits, and proportionate justice.

Kata Kunci: Hadd, Jarimah, Maqāṣid Al-Syarī'ah, Substantive Justice, Islamic Criminal Law.

Abstrak:

Penelitian ini dilatarbelakangi oleh kecenderungan pemahaman hukum pidana Islam yang sering menitikberatkan pada aspek tekstual dalam penerapan hukuman *hadd* tanpa memberikan perhatian yang proporsional terhadap batasan-batasan syar'i, tujuan *maqāṣid al-syarī'ah*, dan prinsip keadilan substantif. Padahal, dalam konstruksi hukum pidana Islam, penerapan *hadd* dalam *jarimah* tidak bersifat mutlak, melainkan dibatasi oleh syarat-syarat ketat seperti terpenuhinya unsur delik secara sempurna, adanya kepastian pembuktian, serta ketiadaan *syubhat*. Penelitian ini bertujuan untuk menganalisis batasan penerapan *hadd* dalam perspektif integrasi teks normatif, *maqāṣid al-syarī'ah*, dan keadilan substantif. Metode yang digunakan adalah penelitian hukum normatif dengan pendekatan konseptual, filosofis, dan komparatif melalui studi kepustakaan terhadap Al-Qur'an, hadis, kitab fikih klasik, serta literatur hukum Islam kontemporer. Hasil penelitian menunjukkan bahwa penerapan *hadd* harus dipahami secara integratif antara teks, tujuan syariat, dan keadilan substantif, di mana kaidah *idrā'ū al-ḥudūd bi al-syubuhāt* menjadi instrumen penting dalam membatasi pelaksanaannya agar tidak menimbulkan ketidakadilan. Dengan demikian, hukum pidana Islam tidak hanya berorientasi pada aspek represif, tetapi juga pada perlindungan manusia, kemaslahatan, dan keadilan yang proporsional.

Introduction

Islamic criminal law is one of the fields of law that has distinctive characteristics because it comes directly from revelation, namely the Qur'an and hadith, and is developed through the *ijtihad* of scholars. One of the important aspects of Islamic criminal law is the concept of *ḥadd*, which is a type of sanction that has been expressly determined by the shari'a against certain *jarīmah* such as adultery, theft, *qadzaf*, and drinking *khamar*. In its development, the concept of *ḥadd* is often understood textually without regard to the contextual dimension and purpose of the shari'a (*maqāṣid al-shari'ah*), thus giving rise to a disproportionate understanding in some contemporary Islamic legal practices and discourses. In fact, in the construction of Islamic criminal law, the application of *ḥadd* is not absolute, but is limited by very strict conditions that show that the principles of prudence and justice are integral parts of the law.¹

Normatively, the legal basis of *ḥadd* comes from the Qur'an which provides explicit provisions regarding several forms of *jarīmah*. For example, in the case of theft, the Qur'an affirms the sanction of cutting off the hand as a form of punishment for the perpetrator who meets certain elements. Similarly, in the case of adultery and *qadzaf*, the Qur'an provides for permanent sanctions.² The hadith of the Prophet Muhammad PBUH then provides further explanation about the mechanism for the application of the punishment, including the requirements of proof and prudence in imposing the sentence. In addition, the scholars through the *ijtihad* process also formulate various important rules that serve as guidelines in the implementation of *the law of ḥadd*, such as the rule of *idrā'ū al-ḥ udūd bi al-syubuhāt* which means "avoid the application of *the punishment of ḥadd* if there is *syubhat* or doubt".³

This rule shows that Islamic criminal law is not only oriented towards the aspect of punishment, but also prioritizes the protection of human rights and prudence in the judicial process. Thus, the existence of *syubhat* is an important factor that can abort the application of *ḥadd*, so that not every alleged criminal act automatically leads to permanent sanctions. This shows that Islamic criminal law has a strict control mechanism to ensure that justice is truly realized in every law enforcement process.⁴

Juridically, although the national legal system in Indonesia does not formally apply *ḥadd* punishment, the values contained in Islamic criminal law have relevance

¹ Nurul Irfan, *Hukum Pidana Islam* (Amzah, 2022).

² Syuhada Syuhada and Zulkiram Zulkiram, "Ibnu Taimiyyah on Repentance as Eliminating the Punishment for Adultery [Taubat Sebagai Penghapus Had Zina Menurut Ibnu Taimiyyah]," *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum* 10, no. 2 (2021): 189–216.

³ Nurvillia Papatungan and Mukran H Usman, "Penerapan Had Zina Pada Muḥṣan Dan Gairu Muḥṣan Menurut Mazhab Syafii Dan Hambali: The Implementation of Ḥad Punishment for Adultery on Muḥṣan and Ghayr Muḥṣan According to the Shafi 'i and Hambali Schools of Thought," *AL-MABSUTH: Jurnal Studi Islam Dan Bahasa Arab* 1, no. 2 (2025): 565–84.

⁴ Mohhammad Ali Al Harozim and Desti Nurmala Cantika Putri, "Hadis Hukuman Zina Dalam Hukum Pidana Islam," *Diterbitkan Oleh*, n.d., 50.

to the principles of modern law, especially related to justice, legal certainty, and the protection of human rights. In certain contexts, such as the application of Qanun Jinayat in Aceh, the concept of *ḥadd* is accommodated in the regional legal system while remaining within the national legal framework. This shows that there are efforts to harmonize Islamic legal values with the positive legal system that applies in Indonesia.⁵

In addition, in the development of modern criminal law, there is a similarity in principles between Islamic law and positive law in terms of prudence in imposing criminal penalties. The principle of presumption of innocence in modern law is in line with the principle of *idrā'ū al-ḥ udūd bi al-syubuhāt* in Islamic law. Both of these principles emphasize that a person cannot be convicted without strong and convincing evidence. Thus, it can be seen that there is a common ground between Islamic criminal law and modern law in terms of the protection of individual rights and the enforcement of substantive justice.⁶

In the contemporary social context, the application of *the ḥadd* concept faces various challenges, especially related to social change, technological developments, and the complexity of modern society's life. Crime is no longer simple, but has evolved into more complex forms, including digital crime and economic crime that involve complex systems. This requires a more comprehensive understanding of the concept of *ḥadd*, not only from the textual aspect, but also from the aspect of the legal objective (*maqāṣid al-syarī'ah*).⁷

The urgency of the study on the limitations of the application of *ḥadd* is very important in this context. An understanding that focuses only on the literal aspect of the text has the potential to ignore the main purpose of the sharia, which is to realize justice and human benefit. In fact, from the perspective of *maqāṣid al-sharī'ah*, all provisions of Islamic law aim to protect five main things, namely religion, soul, intellect, property, and heredity. Therefore, the implementation of *ḥadd* must always be associated with these objectives so that there are no deviations in their implementation.

Furthermore, an integrative approach between text, context, and *maqāṣid al-syarī'ah* is very important in understanding Islamic criminal law in its entirety. The text provides a normative foundation that is fixed, the context provides an understanding of the changing social reality, while *the maqāṣid al-syarī'ah* provides the

⁵ A Zaeini Misbaahuddin Asyuari, "Sanksi Tindak Pidana Anak Perspektif Fiqh Jinayah Dan UU No. 11 Tahun 2012: Analisis Maṣlaḥah Terhadap Sistem Peradilan Pidana Anak," *Prosiding* 1, no. 1 (2025): 1-14.

⁶ habibi Siregar Awaluddin, Rinaldi Deby, and Lubis Fauziah, "Pengertian Kebijakan Hukum Pidana Alasan Dan Pola Kebijakan Hukum Pidana," *YUSTISI Yūpedumeau: LPPM Universitas Ibn Khaldun Bogor* 11, no. 3 (2024): 225-34.

⁷ Fikriya Aniqā Fitri et al., "Tinjauan Teoritis Tentang Asas Legalitas Dalam Hukum Pidana Indonesia," *Jimmi: Jurnal Ilmiah Mahasiswa Multidisiplin* 1, no. 2 (2024): 202-9.

direction and purpose of all the legal provisions. These three aspects cannot be separated from each other in order to realize substantive justice.

Substantive justice itself is a concept of justice that is not only oriented towards formal compliance with the rule of law, but also considers moral, social, and humanitarian aspects in its application. In the context of Islamic criminal law, substantive justice is reflected in various principles, such as prudence in proof, the prohibition of punishing in circumstances of syubhat, and the emphasis on the public good. Thus, Islamic criminal law is not rigid, but it has flexibility in order to achieve the main goals of the sharia.

The history of the application of Islamic law also shows that the previous caliphs and scholars always considered the social aspect in the application of *the law ḥadd*. For example, during the time of Caliph Umar bin Khattab, the punishment of cutting off hands was not applied during the famine because it was considered that there was syubhat related to the economic condition of the community. This shows that the application of Islamic criminal law always takes into account the social context and does not simply adhere to the text literally.⁸

Therefore, to emphasize the position of this research, the following are described a number of previous studies as follows: Research on Adzanah Mariska Salsabila⁹ entitled "*The Convergence of Maqāṣid al-Syarī'ah and International Humanitarian Principles towards Jarīmah al-Ḥ arbiyyah*" shows that the purpose of the Shari'ah in the protection of the soul (*ḥifẓ al-naḥs*) is in harmony with the principles of international humanitarian law, such as humanity, distinction, and proportionality, which emphasize the protection of human dignity in situations of war. In the context of *jarīmah al-ḥ arbiyyah*, violations of such norms, such as the killing of civilians or disproportionate attacks, are seen as a form of failure in the application of the corresponding moral and ethical principles. The novelty of this research lies in the use of *the maqāṣidiyyah* approach to build an epistemological bridge between Islamic law and international humanitarian law, while offering an integrative paradigm for the development of more inclusive global law.

Furthermore, the research of Muhammad Taufan Djafri et al¹⁰ entitled "*Islamic Law and the Deterrent Effect of Criminalization in Indonesia*" shows that the concept of deterrent effect in Islamic law is reflected in the application of *the sanctions of ḥudūd, qiṣās, kaffārah, and ta'zīr*. Meanwhile, in the Indonesian criminal law system, the deterrent effect is manifested through the death penalty, imprisonment,

⁸ Hani Sholihah et al., *Hukum Islam: Teori, Perkembangan Dan Penerapan Hukum Islam Di Indonesia* (PT. Sonpedia Publishing Indonesia, 2025).

⁹ Adzanah Mariska Salsabila, "Konvergensi Maqāṣid Al-Syarī 'ah Dan Prinsip Humaniter Internasional Terhadap Jarimah Al-Harbiyyah," *Jurnal Al-Jina'i Al-Islami* 2, no. 2 (2025): 95–107.

¹⁰ Muhammad Taufan Djafri et al., "Hukum Islam Dan Efek Jera Pidana Di Indonesia: Islamic Law and the Determining Effect of Crimination in Indonesia," *BUSTANUL FUQAH: Jurnal Bidang Hukum Islam* 4, no. 1 (2023): 166–85.

imprisonment, fine, and the revocation of certain rights. The effectiveness of the deterrent effect in Islamic law is directed to realize benefits, uphold the rule of law and justice, and prevent harm that can harm oneself and others.

Finally, research by Izza Rayyan and Zebada Darell Frijatuluah¹¹ entitled "*Maqāṣid al-Syarī'ah (The Purpose of the Shari'ah of Islamic Law) and Its Application in the Fiqh Thought of Fiqh Scholars*" shows that the concept of *maqāṣid al-syarī'ah* through the division of *darūriyyāt*, *ḥājiyyāt*, and *taḥsīniyyāt*. It is the main foundation in maintaining the five main principles of human life, namely religion, soul, intellect, descent, and property. The *maqāṣid* approach makes fiqh law more flexible, contextual, and adaptive without abandoning the basic principles of sharia. Thus, *maqāṣid al-syarī'ah* has a strategic role in making Islamic law relevant and just in the modern era.

The three studies have similarities in terms of using *the maqāṣid al-shari'ah approach* as the main framework for understanding and developing Islamic law to be more relevant to contemporary developments. In addition, the three both emphasized the importance of integrating the values of justice, benefit, and protection of human beings as the main goal of the law. The main focus also lies in strengthening the dimension of legal purpose which is not only normative, but also ethical and social.

The difference can be seen in the focus of the study of each study. The first research focuses on the integration of Islamic law with international humanitarian law in the context of *jarimah al-ḥ arbiyyah*. The second research focuses more on the concept of deterrent effect in the penal system by comparing Islamic law and Indonesian criminal law. The third research is more theoretical and conceptual, which discusses the classification of *maqāṣid al-syarī'ah* and its application in fiqh thought in general without specifying a specific type of *jarimah*.

In terms of novelty, these studies show the development of an integrative approach in Islamic law, both through dialogue with international law, national positive law, and the strengthening of *the maqāṣidiyyah* methodology. However, there has been no study that comprehensively integrates all of these approaches into one integrated analysis framework for specific criminal problems in a more operational and applicable manner.

The urgency of this study lies in the need to present Islamic law that is more responsive to social change, the development of modern crime, and the demands of substantive justice. This is important so that Islamic law is not only understood normatively, but also able to provide relevant, adaptive, and humanist solutions in the context of contemporary society.

¹¹ Izza Rayyan and Zebada Darell Frijatuluah, "Maqāṣid Al-Syarī 'Ah (Tujuan Disyariatkannya Hukum Islam) Dan Aplikasinya Dalam Pemikiran Fiqh Para Ahli Fiqh," *Dirosah Islamiyah: Jurnal Studi Islam* 1, no. 1 (2026): 41-53.

Based on this description, it can be understood that the limitation of the application of *ḥadd* in Islamic criminal law is an important part of the legal system that aims to realize justice and benefits. The application of *ḥadd* cannot be done haphazardly, but must meet strict conditions and consider the objectives of sharia as a whole. Therefore, an integrative approach is needed between normative texts, social contexts, and *maqāṣid al-syarī'ah* so that Islamic criminal law remains relevant and able to respond to the challenges of the times.

Method

This research is a normative legal research that examines the limitations of the application of *the ḥadd punishment* in Islamic criminal law with an integrative approach between normative texts, *maqāṣid al-syarī'ah*, and substantive justice.¹² The approaches used include a conceptual approach to understand the concept of *ḥadd*, *jarīmah*, and the conditions of its application in jurisprudence; a philosophical approach to examine the purpose of sharia (*maqāṣid al-syarī'ah*) in safeguarding religion, soul, intellect, property, and lineage; and a historical approach to look at the practice of *applying ḥadd* in the history of Islamic law as a reflection on the contemporary context.¹³ The source of research data consists of primary legal materials in the form of the Qur'an and hadith, as well as secondary legal materials that include classical fiqh books, contemporary Islamic legal literature, and relevant previous research results. The data collection technique is carried out through library *research* by searching, studying, and grouping various sources related to the object of study.¹⁴ Furthermore, data analysis is carried out qualitatively by descriptive-analytical method, which is to systematically decipher and interpret data to obtain a complete understanding of the limitations of the application of *the ḥadd punishment* in contemporary Islamic criminal law.¹⁵

Result and Discussion

The Concept and Normative Basis of Punishment in Islamic Criminal Law

The punishment of *ḥadd* is one of the most important elements in the Islamic criminal law system which has distinctive characteristics because its types, forms, and conditions have been expressly established in the Qur'an and hadith. Etymologically, the word *ḥadd* means limit or limit, which in the legal context is interpreted as a sanction that has been determined by the sharia without giving a wide discretion to the judge to change the form or degree of punishment. In the construction of Islamic

¹² Muhammad Zainuddin and Aisyah Dinda Karina, "Penggunaan Metode Yuridis Normatif Dalam Membuktikan Kebenaran Pada Penelitian Hukum," *Smart Law Journal* 2, no. 2 (2023): 114–23.

¹³ Nur Aini Rakhmawati et al., "Konsep Perlindungan Hukum Atas Kasus Pelanggaran Privasi Dengan Pendekatan Perundang-Undangan Dan Pendekatan Konseptual," *Justitia Jurnal Hukum* 3, no. 2 (2019).

¹⁴ S H I Kristiawanto, *Memahami Penelitian Hukum Normatif* (Prenada Media, 2022).

¹⁵ Ahmad Rosidi, Muhammad Zainuddin, and Ismi Arifiana, "Metode Dalam Penelitian Hukum Normatif Dan Sosiologis (Field Research)," *Journal Law and Government* 2, no. 1 (2024).

criminal law, *ḥadd* is positioned as an instrument of protection for the public interest and the protection of the five main purposes of sharia (*maqāṣid al-syarī'ah*), namely the protection of religion, soul, intellect, property, and posterity. Therefore, *the punishment ḥadd* not only serves as a form of retribution, but also as a means of prevention, education, and the maintenance of social order.¹⁶

Conceptually, *ḥadd* differs from other forms of sanctions in Islamic criminal law such as *qīṣā ṣ -diyāt* and *ta'zīr*. If *qīṣā ṣ -diyāt* provides room for the victim or heir to forgive or compensate for compensation, and *ta'zīr* gives broad authority to the judge or ruler to determine the form of punishment, then *ḥadd* is rigid and textually determined. However, this rigidity does not mean that its application is done haphazardly. On the contrary, Islamic criminal law sets very strict conditions to ensure that the punishment is only imposed when all the elements are perfectly fulfilled.¹⁷

The normative basis of *the punishment of ḥadd* comes directly from the Qur'an and the hadith of the Prophet Muhammad PBUH. In the Qur'an, there are several verses that explicitly mention the types of *ḥadd*, such as in the case of theft contained in surah Al-Mā'idah verse 38, adultery in surah An-Nur verse 2, and qadzaf in surah An-Nur verse 4. These verses give normative legitimacy to the existence of *ḥadd* punishment in Islamic criminal law. Meanwhile, the hadith of the Prophet clarifies the mechanism for the application of the punishment, including the requirements of proof, the minimum value of stolen goods (*niṣāb*), and the principle of prudence in law enforcement.

From the perspective of *jiyah* jurisprudence, the scholars of the four main sects—Hanafi, Maliki, Shafi'i, and Hanbali—agree on the existence of *the punishment ḥadd*, although there are differences in the technical details of its application. These differences include the definition of the element of delicacy, the standard of proof, and the conditions that can abort the sentence. For example, in the case of *sariqah*, there are differences of opinion regarding the limits of *niṣāb* and the types of property that can be punished *ḥadd*. This difference shows that Islamic criminal law has a fairly wide scope for *ijtihad* in the realm of implementation, although normatively it still relies on *nash*.¹⁸

One of the fundamental principles in the application of *ḥadd* punishment is the rule of *idrā'ū al-ḥ udūd bi al-syubuhāt*, which is to avoid the application of *ḥadd* punishment if there is doubt. This rule is one of the important foundations that shows that Islamic criminal law is not rigid or authoritarian, but strongly upholds the

¹⁶ Muhammad Mawardi Djalaluddin et al., "The Implementation of Ta'zīr Punishment as an Educational Reinforcement in Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 399–417.

¹⁷ Syuhada and Zulkiram, "Ibnu Taimiyyah on Repentance as Eliminating the Punishment for Adultery [Taubat Sebagai Penghapus Had Zina Menurut Ibnu Taimiyyah]."

¹⁸ Fatihatul Qori'ah and Mad Sa'i, "Hirabah Dalam Perspektif Ulama Mazhab Dari Definisi Hingga Sanksi Yang Diterapkan," *Journal of Education and Contemporary Linguistics* 2, no. 01 (2025): 24–33.

principle of prudence and protection of human rights. In practice, the existence of syubhat can abort the application of *ḥadd*, so the judge is required to ensure that there is not the slightest doubt in the evidence before imposing a sentence.¹⁹

In addition, the concept of *ḥadd* is also inseparable from the purpose of sharia (*maqāṣid al-syarī'ah*). In this perspective, *the punishment of ḥadd* is not the ultimate goal, but rather a means to realize the greater benefit. The protection of religion, soul, intellect, property, and posterity is the main orientation that the sharia wants to achieve. Therefore, any application of *the ḥadd punishment* must always be associated with the extent to which it is able to maintain the five elements. If the application of punishment actually causes greater injustice or damage, then the principle of *maqāṣid* requires a reinterpretation in its implementation.²⁰

In the history of Islam, there have been various practices that show flexibility in the application of *the law ḥadd*. One of the most famous examples is the policy of Caliph Umar bin Khattab which suspended the punishment of cutting off hands during times of famine. This decision was taken because the social conditions at that time did not allow for the application of punishment fairly, considering that many people were forced to commit theft due to the factor of basic needs. This event shows that Islamic criminal law has a strong contextual dimension and cannot be separated from the social conditions of society.²¹

From the perspective of *ushul fiqh*, the existence of *ḥadd* also shows a balance between the rights of Allah (*ḥuqūq Allāh*) and the rights of man (*ḥuqūq al-'ibād*). In many cases *ḥadd*, the offense is not only considered a violation of the individual, but also a violation of public order and divine values. Therefore, the state or legal authorities have an important role in enforcing these punishments in order to maintain social stability. However, the involvement of the state must not ignore the principles of fairness and prudence in the evidentiary process.²²

From a philosophical perspective, *the punishment of ḥadd* contains three main dimensions, namely the retributive, preventive, and educational dimensions. The retributive dimension shows that punishment is a retribution for the deeds that have been done. The preventive dimension shows that punishment serves as a deterrent to prevent others from doing the same act. Meanwhile, the educational dimension shows

¹⁹ Kiki Reski Amalia DT et al., "The Principle of Al-Ḥudūd Tasqūṭ Bisyy-Syubuhāt: An Analysis of the Concept, Arguments, and Implications in Contemporary Islamic Criminal Law," *Al-Rasikh: Jurnal Hukum Islam* 14, no. 2 (2025): 299–314.

²⁰ Ita Musarrofa and Holilur Rohman, "'Urf of Cyberspace: Solutions to the Problems of Islamic Law in the Digital Age," *Al-Ahkam* 33, no. 1 (2023): 63–88.

²¹ Gebby Chyntia Detta Kaunang and Safarni Husain, "Fleksibilitas Hukum Islam Dalam Menjawab Tantangan Hukum Keluarga, HAM Dan Ekonomi Modern: Tinjauan Maqashid Syariah," *Tasyri': Journal of Islamic Law* 4, no. 2 (2025): 1131–62.

²² M Luthfi Afif Al Azhari, "Moderasi Islam Dalam Dimensi Berbangsa, Bernegara Dan Beragama Perspektif Maqashid Asy-Syari'ah," *Intelektual: Jurnal Pendidikan Dan Studi Keislaman* 10, no. 1 (2020): 27–45.

that punishment aims to provide moral lessons to the perpetrator and society. These three dimensions show that the *punishment of ḥadd* has a complex orientation and is not solely repressive.²³

In the context of modern criminal law, the concept of *ḥadd* is often the subject of discussion because it is considered rigid and inflexible. However, if examined more deeply, the Islamic criminal law system actually has very strict internal mechanisms to prevent arbitrariness. The strict evidentiary requirements, the principle of prudence, and the space for *ijtihād* under certain conditions show that Islamic law has a balance between legal certainty and substantive justice. Therefore, the notion that *ḥadd* punishment is rigid needs to be viewed more critically and proportionately.²⁴

In contemporary developments, the discourse on *ḥadd* is also inseparable from the issue of human rights and the national legal system. Some Muslim countries have adopted or adapted Islamic criminal law principles into their national legal systems, as happened in Aceh through the *Qanun Jinayat*. This implementation shows that there are efforts to harmonize sharia values and the modern legal system, although there are still challenges in terms of implementation and social acceptance.²⁵

Based on this description, it can be understood that the concept and normative basis of *ḥadd* punishment in Islamic criminal law is a complex, multidimensional system, and based on a balance between text, rationality, and sharia goals. The punishment *ḥadd* not only serves as a penal instrument, but also as a moral and social mechanism to maintain social order. Therefore, a comprehensive understanding of *ḥadd* must always involve the integration of normative sources, the principles of *maqāṣid al-shari'ah*, and the social context that surrounds them, so that Islamic criminal law remains relevant and able to respond to the challenges of the times without losing the essence of justice.

Juridical Limitations and Conditions for Application Ḥadd: The Principle of Prudence in Fiqh Jinayah

The application of *ḥadd punishment* in Islamic criminal law cannot be separated from the principle of prudence which is the main character in *jiyah* jurisprudence. Although *ḥadd* has a strict normative basis in the Qur'an and hadith, its implementation is not automatic, but is limited by a number of strict juridical requirements. This shows that Islamic criminal law is not only oriented towards the aspect of punishment, but also pays great attention to the protection of individual rights, procedural justice, and the prevention of errors in criminal sentencing.²⁶

²³ Kritik kontruksi hukum pidana Islam, "Kritik Kontruksi Hukum Pidana Islam," n.d.

²⁴ Ahmad Ibnu Aqil Assaidi, "Konvergensi Hukum Jinayah Islam Dan Hukum Pidana Modern: Telaah Normatif Dan Praktis," *Jurnal Al-Nadhair* 4, no. 01 (2025): 42–54.

²⁵ Yandi Maryandi, "Hukuman Mati Bagi Terpidana Narkoba Menurut Hukum Positif Dan Hukum Pidana Islam," *Tahkim* 3, no. 2 (2020): 131–54.

²⁶ Muhammad Shidqi Wafa and Muhamad Saiq Hanani, "Implementasi Ḥudūd Di Indonesia Menurut Abdullāh Bin Bayyah," *Syariah: Journal of Fiqh Studies* 2, no. 1 (2024): 21–40.

Juridically from the perspective of jurisprudence, a new act can be sanctioned *ḥadd* if all the elements of the delik have been fully fulfilled (*tamam al-arkān*). These elements include the existence of acts that are prohibited by shari'i, the existence of perpetrators who are mukallaf, the existence of clear objects, and the existence of intentionality (*qaṣd al-jināyah*). Without the fulfillment of one of these elements, the application of *ḥadd* becomes null and void and can be transferred to other sanctions such as *ta'zīr*. Thus, this juridical construction shows that Islamic criminal law has a standard of proof that is not light and is very careful in imposing a fixed sentence.²⁷

One of the most important juridical limitations in the application of *ḥadd* is the existence of syubhat. The principle of *idrā' ū al-ḥ udūd bi al-syubuhāt* is a fundamental rule that affirms that any doubt in the evidence must preclude the imposition of the sentence *ḥadd*. Syubhat can be in the form of doubts in evidence, doubts in the intention of the perpetrator, or doubts in the legal status of an act. This rule shows that Islamic criminal law strongly upholds the principle of the presumption of innocence before there is a strong legal certainty.²⁸

In addition, the proof aspect in *ḥadd* also has very strict standards. In certain cases, proof must be made through testimony that meets certain conditions, a valid confession, or other evidence recognized in fiqh. Testimony cannot be accepted arbitrarily, but must meet the requirements of justice (*'adālah*), maturity, and honesty. In some cases, the number of witnesses is also specified specifically, such as four witnesses in a case of adultery. This provision shows that Islamic criminal law is very careful so that there is no error in the imposition of sentences that are severe and irreversible.²⁹

Another juridical limitation lies in the aspect of the social and situational conditions of the perpetrator. The fuqaha give room for consideration of external factors that can affect a person's actions, such as compulsion (*ikrah*), urgent need (*darūrah*), or certain social conditions that can cause syubhat. In some cases of Islamic history, such as during the time of Caliph Umar bin Khattab, the application of *ḥadd* punishment was suspended due to widespread famine. This shows that Islamic criminal law is not rigid, but considers social realities as part of juridical considerations.³⁰

²⁷ Sumardi Efendi, "Tinjauan Yuridis Terhadap Jarīmah Zina Oleh Anak Di Bawah Umur Menurut Hukum Positif Danfiqh Jinayah," *Syarah: Jurnal Hukum Islam Dan Ekonomi* 8, no. 1 (2019).

²⁸ Muchammad Nizar Bahaauddin, "Tinjauan Hukum Islam Terhadap Anak Syubhat Dan Penerapannya Dalam Hukum Positif Indonesia" (Universitas Islam Sultan Agung, 2023).

²⁹ Muhammad Faqih Asyiddiqie, Khaerul Aqbar, and Awal Rifai, "Ketentuan Pidanaan Kasus Pencurian Berdasarkan Nilai Barang Perspektif Fikih Jinayah Dan Hukum Positif: Criminal Sentencing Provisions in Theft Cases Based on the Value of Stolen Property: A Comparative Study of Islamic Criminal Jurisprudence (Fiqh Jinayah) and Positive Law," *AL-MUNTAQA: Jurnal Studi Islam Dan Bahasa Arab* 2, no. 1 (2026): 1-22.

³⁰ Daniel Mari Hot Nababan et al., "Analisis Yuridis Tugas Dan Kewenangan Polri Dalam Menangani Tidak Kejahatan Pencurian Dengan Kekerasan," *Law and Communication Journal* 2, no. 1 (2026).

In the perspective of jiyah fiqh, the judge also has an important role in ensuring that all legal procedures have been fulfilled before imposing *sentences hadd*. Judges not only act as executors of the law, but also as guardians of justice who must ensure that there is no element of uncertainty in the case being handled. Therefore, the role of judges in Islamic criminal law is closely related to the principles of prudence and moral responsibility in enforcing the law.³¹

In addition to substantive conditions, there are also formal conditions that must be met in the application of *hadd*. These formal requirements include case examination procedures, the validity of evidence, and a fair trial mechanism. In the fiqh tradition, the judicial process must be carried out openly, provide opportunities for the defendant to defend themselves, and avoid any form of pressure that can affect the honesty of the confession. This shows that the principle of due process of law in modern law is in harmony with juridical principles in Islamic criminal law.³²

The principle of prudence in the application of *hadd* is also reflected in the attitude of the scholars who are very careful in giving fatwas regarding this punishment. Many scholars emphasize that the application of *hadd* should be avoided as much as possible if there is still room for legal interpretation that can avoid such punishment. This orientation shows that the main purpose of Islamic criminal law is not to increase punishments, but to ensure that justice is truly realized without any errors in the judicial process.³³

In the context of ushul fiqh, this principle of prudence is in line with the rule of *al-yaqīn lā yazūlu bi al-syak* (belief is not lost due to doubt). This means that a person cannot be sentenced to severe punishment based solely on suspicion or doubt. There must be a strong and irrefutable legal conviction before *hadd* can be applied. This principle is an important foundation in maintaining the integrity of the Islamic criminal law system so that it does not turn into a repressive instrument without justice.³⁴

From the perspective of modern criminal law, the juridical limitations in *hadd* have similarities with the principles of criminal procedural law, such as the principle of presumption of innocence, the principle of legality, and the principle of valid and convincing proof. This similarity shows that Islamic criminal law has a normative

³¹ Ema Dusti Tatri et al., "Bukti Dan Prosedur Dalam Kasus Zina Menurut Fiqih Jinayah Dalam Perspektif Pendidikan Agama Islam," *Al-Munawwarah: Jurnal Pendidikan Islam* 17, no. 2 (2025): 112–24.

³² Izasollah Izasollah, "Kedudukan Dan Perlindungan Hukum Terhadap Justice Collaborator Perspektif Hukum Positif Dan Hukum Islam Di Indonesia" (UIN Fatmawati Sukarno Bengkulu, 2024).

³³ Nihayatul Jannah, Akhmad Hafi, and Siti Rahmah, "Jarimah Sariqah Dalam Hukum Pidana Islam: Analisis Unsur, Syarat, Perbandingan Mazhab, Dan Relevansinya Dengan KUHP Indonesia," *Ahsan: Jurnal Ilmiah Keislaman Dan Kemasyarakatan*, 2025, 233–45.

³⁴ Mia Amalia et al., *Hukum Pidana: Asas-Asas, Teori, Dan Kasus* (PT. Sonpedia Publishing Indonesia, 2025).

structure that is in line with the principles of universal justice, albeit from different sources. This also confirms that Islamic law is not a closed legal system, but has universal values that can dialogue with the modern legal system.³⁵

Thus, it can be understood that the juridical limitations and conditions for the application of *ḥadd* in the jurisprudence are a manifestation of the very strong principle of prudence in Islamic criminal law. These conditions not only serve as a limiting mechanism, but also as an instrument of protection against substantive justice. Through a rigorous approach to proof, recognition of *shubhat*, and consideration of social conditions, Islamic criminal law shows that the application of *ḥadd* must always be within the corridor of justice, benefit, and protection of human rights.

Integration of Texts, Maqāṣid al-Syari'ah, and the Principle of Substantive Justice in the Application of Ḥadd

The application of *the ḥadd* punishment in Islamic criminal law is one of the most sensitive and fundamental aspects of the *jiyah fiqh* discourse. This sensitivity arises because *ḥadd* has the characteristic of being a sanction that has been determined textually in the Qur'an and hadith, so normatively it does not give a wide discretion to the judge. However, in the development of contemporary Islamic legal thought, there is a realization that the understanding of *ḥadd* is not enough to rely solely on the text, but must be integrated with *maqāṣid al-syari'ah* and the principle of substantive justice in order to remain relevant, humanistic, and contextual. The integration of these three elements is important to avoid reducing Islamic criminal law to a mere repressive system, but rather as a legal system that aims to realize the benefits of humanity as a whole.³⁶

Textually, the legal basis of *ḥadd* is derived from the Qur'an and hadith that provide explicit provisions regarding certain types of *jarimah*. For example, in the case of theft, the Qur'an stipulates the sanction of cutting off the hand for the perpetrator who meets certain conditions, while in the case of *zina* and *qadzaf* there are also provisions for permanent sanctions. The hadith of the Prophet Muhammad PBUH strengthens this provision by providing an explanation of the implementation mechanism, including the standard of proof and prudence in imposing punishment. In a textual perspective, this provision is often understood as a law that is *qat'i* and cannot be changed.³⁷

However, in the tradition of *ushul fiqh*, texts never stand alone without context and purpose. Scholars have since the beginning developed an interpretive approach that considers *aspects of maqāṣid al-shari'ah* as the main purpose of the descent of Islamic

³⁵ Amalia et al.

³⁶ DT et al., "The Principle of Al-Ḥudūd Tasqut Bisyy-Syubuhāt: An Analysis of the Concept, Arguments, and Implications in Contemporary Islamic Criminal Law."

³⁷ Mujahid Imaduddin, "The Existence of Islamic Law in Indonesia and Its Implementation in the Crime of Adultery," *Community: Jurnal Hasil Penelitian Dan Pengabdian Masyarakat* 5, no. 1 (2026): 772–94.

law. *Maqāṣid al-syarī'ah* affirms that all provisions of Islamic law aim to protect the five fundamental aspects of human life, namely religion, soul, intellect, property, and heredity. Thus, any application of the law, including *ḥadd*, must always be associated with the extent to which it is capable of realizing the protection of these five aspects.

In this context, the text and *the maqāṣid al-syarī'ah* are inseparable. The text provides normative boundaries that are structural, while *the maqāṣid* provides a substantial philosophical direction. Without the text, the law loses its normative legitimacy, but without *maqāṣid*, the law has the potential to lose its spirit of justice. Therefore, the integration of the two is very important in building a balanced understanding of Islamic criminal law.³⁸

In addition to the text and *maqāṣid al-syarī'ah*, the principle of substantive justice is also an important element in the application of *ḥadd*. Substantive justice refers to an understanding of justice that is not only oriented towards formal compliance with the rule of law, but also considers the social context, the condition of the perpetrator, the social impact, as well as the ultimate goal of law enforcement itself. In this perspective, law is not solely seen as a rule that must be enforced literally, but as an instrument to realize human welfare and benefit.³⁹

In Islamic criminal law, the principle of substantive justice is reflected in various strict juridical mechanisms in the application of *ḥadd*. For example, there is a condition of *niṣāb* in theft, the condition of four witnesses in adultery, and the rule of *idrā'ū al-ḥudūd bi al-syubuhāt* which affirms that *the punishment of ḥadd* must be avoided if there is doubt. All of these mechanisms show that Islamic law is very careful in imposing punishments that are permanent and irreversible. This prudence is a manifestation of substantive justice which is the main goal of the Shari'a.⁴⁰

In the author's view, the integration between texts, *maqāṣid al-syarī'ah*, and substantive justice is a methodological necessity in understanding and applying Islamic criminal law. An approach that relies solely on text has the potential to result in a rigid and literalistic understanding, while an approach that relies solely on a context without a text has the potential to lose normative legitimacy. Therefore, an integrative approach is needed that is able to bridge the two proportionally.

³⁸ Ani Rohmatun Magfiroh, Asnawati Patuti, and Rosmita Rosmita, "Transplantasi Gigi Sebagai Alternatif Hukuman Kisas Dalam Kasus Cedera Gigi Perspektif Fikih Jinayah Dan Maqāṣid Al-Syarī'ah: Tooth Transplantation as an Alternative to Kisas Punishment in Cases of Dental Injury Perspective of Jinayah Jurisprudence and Maqāṣid Al-Syarī'ah," *AL-FIKRAH: Jurnal Kajian Islam* 2, no. 2 (2025): 471-95.

³⁹ isti Muryani, "Pertimbangan Hakim Dalam Menjatuhkan Pidana Antara Keadilan Formal Dan Keadilan Moral Terhadap Pelaku Tindak Pidana Pencurian (Studi Putusan Nomor: 107/PID. B/2024/PN PML)" (Universitas Islam Sultan Agung, 2025).

⁴⁰ Moch Ridwan Al Murtaqi, "Keadilan Sebagai Tujuan Hukum Islam: Telaah Filsafat Maqāṣid Al-Syarī 'Ah Dalam Konteks Hukum Kontemporer," *Jurnal Penelitian Ilmiah Multidisipliner* 3, no. 01 (2026).

The author argues that one of the main problems in contemporary discourse on *ḥadd* is the tendency of some understandings to separate the text from the purpose of the shari'a. This separation can lead to tension between the normative and humanitarian aspects of Islamic law. In fact, if examined in depth, Islamic criminal law has since its inception contained the principle of balance between the two. This can be seen from the various strict conditions set in the implementation of *ḥadd*, which basically serves as a protection mechanism so that the law is not applied haphazardly.

Furthermore, the author sees that *maqāṣid al-syarī'ah* has a strategic role in providing a reinterpretation of the application of *ḥadd* in the modern context. Social change, technological developments, and the complexity of modern crime demand a more dynamic understanding of Islamic law. For example, in the context of digital crime, the concept of theft is no longer limited to the taking of physical objects, but also includes data, information, and digital assets that have economic value. In such a situation, the *maqāṣid approach* becomes important to ensure that the purpose of property protection is maintained even if the form of the crime changes.

In the perspective of substantive justice, the application of *ḥadd* must also consider the social and humanitarian aspects of the perpetrator. Islam does not ignore external factors that can influence a person's actions, such as extreme poverty, compulsion, or emergency conditions. In Islamic history, Caliph Umar bin Khattab once suspended the punishment of amputation during a period of famine because he considered the social conditions of the community. This shows that justice in Islamic criminal law is not rigid, but adaptive to the social conditions that surround it.

The author also assesses that the integration of these three elements can strengthen the position of Islamic criminal law in dialogue with the modern legal system. The principle of prudence in proof, the principle of presumption of innocence, and the protection of individual rights in modern law have substantial similarities with the principles in Islamic law. This shows that Islamic criminal law has the potential to be developed as a universal legal system that is relevant to the times.

Within this framework, the text serves as a source of legitimacy, *maqāṣid al-syarī'ah* as a philosophical direction, and substantive justice as an operational goal. All three must work simultaneously in every law enforcement process. If one of the elements is ignored, then the balance of the legal system will be disturbed. For example, the dominance of texts without *maqāṣid* can result in rigid legal formalities, while the dominance of contexts without text can lead to legal relativism that lacks clear normative boundaries.

The author also emphasizes that this integrative approach does not mean changing the terms of *ḥadd*, but rather understanding more comprehensively how the provisions should be applied in different social realities. Thus, this integration is more methodological and epistemological than substantive changes to the law itself. This

approach actually strengthens the authority of Islamic law by showing that it has flexibility without losing its basic principles.

In the end, it can be concluded that the integration between text, *maqāṣid al-syarī'ah*, and substantive justice is an important foundation in understanding and applying *ḥadd* punishment in Islamic criminal law. This approach not only provides a balance between normative and contextual aspects, but also ensures that Islamic law remains relevant, adaptive, and human-oriented. Thus, Islamic criminal law is not only understood as a system of sanctions, but as a moral and social system that aims to realize holistic justice in human life.

The Transformation of the Application of Ḥadd in the Contemporary Era: Value Integration, Social Context, and Legal Reformulation

The transformation of the application *of the ḥadd punishment* in Islamic criminal law in the contemporary era is an increasingly important issue in the discourse of modern Islamic law. Changes in social structure, technological developments, globalization, and the complexity of human social relations have had a significant impact on forms of crime and the way society views the law. In this context, Islamic criminal law is faced with the challenge of maintaining its normative authority without losing its social relevance. Therefore, the transformation of the application *of ḥadd* cannot be understood as a change to the legal text, but as an effort to reinterpret and reformulate methodological in reading the text, understanding the context, and integrating the basic values of sharia more comprehensively.⁴¹

Normatively, *ḥadd* is a type of sanction that has been expressly stipulated in the Qur'an and hadith. This provision covers several *jarīmah* such as adultery, theft, *qadzaf*, and the consumption of *khamar*. In these texts, *the punishment ḥadd* is positioned as a form of protection against the moral and social order of society. However, in the classical *fiqh* tradition, scholars do not understand *ḥadd* rigidly, but always place it within the framework of strict conditions that must be met before punishment is imposed. This shows that from the beginning, Islamic criminal law had a very strong dimension of prudence in its application.⁴²

In contemporary developments, the understanding of *ḥadd* begins to expand perspectives. This is influenced by the development of legal science, social changes, and the interaction of Islamic law with the modern legal system. One of the important aspects of this transformation is the emergence of an awareness that the text is inseparable from the social context that surrounds it. In other words, the interpretation

⁴¹ Makhruh Munajat, "Transformasi Hukum Pidana Islam Dalam Tata Hukum Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 13, no. 1 (2019): 1–13.

⁴² Rahmat Sholihin, "Hukum Pidana Dalam Perspektif Qur'ani," *Journal Of Islamic And Law Studies* 5, no. 2 (2021).

of *ḥadd* must take into account the social, economic, cultural, and political conditions of modern society in order for Islamic law to remain responsive to reality.⁴³

Within the framework of *maqāṣid al-shari'ah*, this transformation has a strong foundation. *Maqāṣid al-syarī'ah* emphasizes that all provisions of Islamic law aim to realize human benefits and prevent damage. The five main objectives of sharia, namely the protection of religion, soul, intellect, property, and posterity, are the main parameters in assessing the validity and effectiveness of a law. Therefore, the application of *ḥadd* in the modern context must always be attributed to the extent to which it is able to maintain the five aspects proportionately.⁴⁴

The author argues that the transformation of the application of *ḥadd* in the contemporary era cannot be separated from three main elements, namely value integration, understanding of social context, and legal reformulation. Value integration refers to the internalization of basic sharia principles such as justice, mercy, and benefit in every law enforcement process. Understanding the social context refers to the ability to read the reality of modern society which is very complex and dynamic. Meanwhile, legal reformulation refers to methodological efforts in adapting the legal approach without changing the substance of the text.

In the perspective of values, Islamic criminal law functions not only as a system of sanctions, but also as a moral system that aims to shape better human behavior. Therefore, any application of *ḥadd* must always take into account the moral and spiritual dimensions of the law. Punishment should not be understood only as a means of retribution, but also as a means of education and prevention. In this case, the value of justice is at the center of the entire legal process.

Meanwhile, the social context plays a very important role in determining the relevance of the implementation of *ḥadd*. In modern society, forms of crime have undergone significant transformation. Crime is no longer just physical and simple, but has evolved into highly complex digital, economic, and transnational crimes. In such a situation, the application of Islamic criminal law requires a broader understanding of the object of the law and the character of the crime itself. For example, theft is no longer limited to physically retrieving goods, but also includes the theft of data, digital identities, and virtual assets.

In this context, legal reformulation is an unavoidable necessity. Reformulation does not mean changing the text of the Qur'an or hadith, but making a methodological reinterpretation of how the text is understood and applied in the new reality. Contemporary scholars have used the *ijtihād maqāṣidi* approach to answer this

⁴³ Samsudin Aziz, "Kanunisasi Fikih Jinayat Kontemporer Studi Materi Muatan Qānūn Jināyat Aceh Dan Brunei Darussalam," *Al-Ahkam*, 2014, 173-94.

⁴⁴ Kurdi Kurdi, "Epistemologi Maqāṣid Dalam Pembaruan Pemikiran Tafsir Hassan Hanafi Dan Abdullah Saeed" (Universitas PTIQ Jakarta, 2025).

challenge. This approach emphasizes that the purpose of sharia should be the primary basis in the law-making process.

The authors see that one of the main challenges in the transformation of the application of *hadd* is the tendency of some thoughts to still be trapped in the literality of the text without considering changes in the social context. This literalist approach has the potential to produce injustice if applied without considering the conditions of society. Conversely, an overly contextual approach without a textual basis can also deprive the legitimacy of Islamic law itself. Therefore, a balance is needed between the two.

In the history of Islam, the flexibility of the application of *hadd* has been seen in various practices. Caliph Umar bin Khattab, for example, suspended the execution of the hand during the economic crisis because it took into account the social conditions of the community. This policy shows that Islamic criminal law has a very strong room to adapt to emergency conditions. It also shows that justice in Islam is not formalistic, but substantive and contextual.

In the perspective of modern law, the transformation of the application of *hadd* can also be seen as a process of harmonization between Islamic law and the principles of universal law. Many principles in Islamic criminal law are in line with the principles of modern law, such as the principle of presumption of innocence, the principle of prudence in proof, and the protection of human rights. These similarities show that Islamic law has great potential to contribute to the global legal system.

The authors argue that the reformulation of the law in the context of *hadd* should be based on three main principles. First, the principle of textual continuity, which is that text remains the main source of legal legitimacy. Second, the principle of contextual flexibility, which is that the application of the law must take into account social changes. Third, the principle of benefit-orientation, namely that the ultimate goal of law is to realize justice and human welfare.

In this framework, the transformation of the application of *hadd* cannot be understood as a relativization of Islamic law, but rather as a form of strengthening the relevance of the law in modern life. Thus, Islamic criminal law is not only a historical legal system, but also a legal system that lives and develops according to the dynamics of the times. The authors also emphasize the importance of a multidisciplinary approach in understanding this transformation. The study of Islamic criminal law cannot be carried out partially, but must involve sociological, philosophical, and normative approaches at the same time. This approach allows for a more comprehensive understanding of how Islamic law works in modern society.

In addition, the role of judicial institutions and legal authorities has also become very important in this transformation process. Judges not only function as executors of the law, but also as interpreters who must be able to integrate the text, context, and

values of sharia in each decision. Therefore, the intellectual and moral competence of judges is a key factor in ensuring justice in the application of *ḥadd*.

In the end, the transformation of the application of *ḥadd* in the contemporary era shows that Islamic criminal law has a high adaptive ability without losing its normative identity. The integration of values, understanding the social context, and legal reformulation are the three main pillars that must continue to be developed in order to maintain the relevance of Islamic law in the midst of changing times. With this approach, Islamic criminal law can continue to function as a legal system that not only upholds formal justice, but also embodies substantive justice that is oriented towards the overall benefit of humanity.

Conclusion

In conclusion, the application of *ḥadd* punishment in *jarīmah* cannot be understood textually alone, but must be integrated between normative texts, *maqāṣid al-syarī'ah*, and the principle of substantive justice. Normatively, *ḥadd* has a strong basis in the Qur'an and hadith, but its application is limited by strict conditions such as the perfect fulfillment of the elements of delicacy, the existence of convincing evidentiary standards, and the absence of syubhat, which indicates the existence of the principle of prudence in Islamic criminal law. In the perspective of *maqāṣid al-sharī'ah*, the main purpose of the application of *ḥadd* is to protect religion, soul, intellect, property, and posterity, so that punishment is not positioned as the final goal, but rather as a means لتحقيق of benefit and prevention of harm. Meanwhile, substantive justice requires that every law enforcement consider the social context, the condition of the perpetrator, and the impact caused, so that it is not rigid and formalistic. Thus, the integration between text, *maqāṣid al-syarī'ah*, and substantive justice becomes an important foundation in ensuring that the application of *ḥadd* remains proportionate, humanistic, and relevant to the dynamics of contemporary society without neglecting the essence of justice in Islamic criminal law.

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