

Between Text and Context: A Critical Study of Theft (*Sariqah*) in Contemporary Islamic Criminal Law

Solehuddin Harahap¹

¹Indonesia Institut Agama Islam Edi Haryono Madani Riau, Indonesia

¹solehuddinsh85@gmail.com

Keywords: <i>Sariqah</i>, contemporary Islamic criminal law, text and context, justice, benefit.	Abstract: This study examines the concept of theft (<i>sariqah</i>) as one of the <i>jarimah</i> that is expressly regulated in Islamic criminal law through the provisions of <i>hadd</i> sanctions which aim to protect property (<i>hifz al-māl</i>) and maintain social order. The development of modern society, which is characterized by the complexity of economic, social, and technological factors, requires a re-examination of the concept of <i>sariqah</i> so that it remains relevant to the dynamics of contemporary law. This research aims to critically analyze the concept of theft (<i>sariqah</i>) in Islamic criminal law by paying attention to the relationship between normative texts and the social context that surrounds them. The research uses normative legal methods with conceptual, historical, and philosophical approaches. Data was obtained through literature studies of the Qur'an, hadith, classical fiqh books, and relevant contemporary Islamic legal literature. The results of the study show that the application of the provisions of <i>sariqah</i> cannot be separated from the fulfillment of strict conditions, the principle of justice, and consideration of benefits. In the perspective of contemporary Islamic criminal law, sanctions are not solely understood as an instrument of retribution, but also as a means of protecting property rights, preventing crime, and embodying substantive justice. The novelty of this research lies in an integrative analysis that connects normative texts with contemporary social contexts in understanding and actualizing the concept of <i>jarimah sariqah</i>.
Kata Kunci: <i>Sariqah</i>, Hukum Pidana Islam Kontemporer, Teks Dan Konteks, Keadilan, Kemaslahatan.	Abstrak: Penelitian ini mengkaji konsep pencurian (<i>sariqah</i>) sebagai salah satu <i>jarimah</i> yang secara tegas diatur dalam hukum pidana Islam melalui ketentuan sanksi <i>hadd</i> yang bertujuan melindungi harta (<i>hifz al-māl</i>) dan menjaga ketertiban sosial. Perkembangan masyarakat modern yang ditandai oleh kompleksitas faktor ekonomi, sosial, dan teknologi menuntut adanya penelaahan kembali terhadap konsep <i>sariqah</i> agar tetap relevan dengan dinamika hukum kontemporer. Penelitian ini bertujuan menganalisis secara kritis konsep pencurian (<i>sariqah</i>) dalam hukum pidana Islam dengan memperhatikan relasi antara teks normatif dan konteks sosial yang melingkupinya. Penelitian menggunakan metode hukum normatif dengan pendekatan konseptual, historis, dan filosofis. Data diperoleh melalui studi kepustakaan terhadap Al-Qur'an, hadis, kitab-kitab fikih klasik, serta literatur hukum Islam kontemporer yang relevan. Hasil penelitian menunjukkan bahwa penerapan ketentuan <i>sariqah</i> tidak dapat dilepaskan dari pemenuhan syarat-syarat yang ketat, prinsip keadilan, dan pertimbangan kemaslahatan. Dalam perspektif hukum pidana Islam kontemporer, sanksi tidak semata-mata dipahami sebagai instrumen pembalasan, melainkan juga sebagai sarana perlindungan hak milik, pencegahan kejahatan, dan perwujudan keadilan substantif. Kebaruan penelitian ini terletak pada analisis integratif yang menghubungkan teks normatif dengan konteks sosial kontemporer dalam memahami dan mengaktualisasikan konsep <i>jarimah sariqah</i>.

Introduction

Theft (*sariqah*) is one of the *jarimah* that has received serious attention in Islamic criminal law because it is related to the protection of property (*hifz al-māl*) as one of the main purposes of the sharia (*maqāṣid al-syarī'ah*). The prohibition against such acts is explicitly affirmed in the Qur'an surah al-Mā'idah verse 38 which states that men and women who steal are punished with amputation of their hands as a reward for their

actions and as a means of prevention (*zajr*) for the community. This provision is strengthened by various hadiths of the Prophet Muhammad (saw) and further developed by the jurists through the study of jihadic fiqh which stipulates certain conditions, such as the existence of an element of clandestine taking, the fulfillment of the minimum value of stolen goods (*niṣāb*), the existence of a safe storage place (*hirz*), and the absence of an element of syubhat that can abort the application of sanctions *ḥadd*. Thus, the regulation of *sariqah* is not only based on normative texts, but is also built on the principles of justice and benefit.¹

In Indonesia's positive legal perspective, the crime of theft is regulated in the Criminal Code (KUHP) and has been updated through Law Number 1 of 2023 concerning the Criminal Code. Article 476 of the New Criminal Code defines theft as the act of taking goods that belong in whole or in part to another person with the intention of unlawful possession. In addition to regulating ordinary theft, the New Criminal Code also regulates various forms of theft accompanied by aggravation, violence, and certain circumstances that affect the severity of the crime. The establishment of these norms aims to protect property rights, ensure legal certainty, maintain public order, and realize the goals of punishment oriented towards justice, community protection, perpetrator development, conflict resolution, and restoration of social balance.²

From the perspective of Islamic criminal law and positive law, Indonesia wants the creation of protection of property rights and the maintenance of social order through fair law enforcement. The concept of *sariqah* in fiqh jinayah and the crime of theft in the Criminal Code basically both function as instruments to prevent crime and provide protection to the community. This ideality shows that the law is not solely intended as a means of retribution against the perpetrators, but also as an instrument to realize public benefit and order.³

However, social realities show that the phenomenon of theft is experiencing an increasingly complex development along with changes in the structure of modern society. Economic disparities, urbanization, information technology developments, and transformation of people's life patterns have given birth to various forms of theft that are increasingly diverse, ranging from conventional theft, motor vehicle theft, violent theft, to theft of data and digital identity. The high rate of crimes against property shows that the threat of crime alone has not been fully able to overcome the social, economic, and cultural factors behind the occurrence of theft. On the other

¹ Hafiz Irhamsyah Hafiz et al., "Penerapan Hukum Sariqah Dalam Negara Islam," *PESHUM: Jurnal Pendidikan, Sosial Dan Humaniora* 4, no. 4 (2025): 6027–33. <https://doi.org/10.56799/peshum.v4i4.7995>

² Parningotan Malau, "Tinjauan Kitab Undang-Undang Hukum Pidana (KUHP) Baru 2023," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (2023): 837–44. <https://doi.org/10.37680/almanhaj.v5i1.2815>

³ Achmad Hasan Alfarisi, "Kontribusi Hukum Islam Dalam Bidang Hukum Pidana Di Indonesia," *Jurnal Penelitian Ilmiah Multidisipliner* 2, no. 03 (2026): 1038–45.

hand, the provisions regarding *sariqah* in Islamic criminal law are often understood textually without considering the social context and the purpose of the sharia on which it is based.⁴

Academically, the study of *sariqah* is still dominated by a normative approach oriented towards the elements of criminal acts and *sanctions* as formulated in classical fiqh. Meanwhile, positive legal studies focus more on juridical-formal aspects and criminal policy. Research that seeks to dialogue the concept of *sariqah* with the development of contemporary criminal law and the social dynamics of modern society is still relatively limited. As a result, there is a gap between the ideal of law (*das sollen*) and empirical reality (*das sein*) in understanding theft as a legal and social phenomenon.⁵

This condition shows that there is an academic problem regarding how the concept of *sariqah* can be understood more comprehensively through an approach that not only relies on normative texts, but also pays attention to the social context, the purpose of sharia, and the development of contemporary criminal law. The tension between the textual approach and the contextual approach demands a critical analysis that is able to bridge the two so that Islamic criminal law remains relevant in answering the problems of modern society without losing its normative foundation.⁶

To affirm the position of this research, it is considered necessary to elaborate on a number of relevant previous studies, including: Research of Nihayatul Jannah et al⁷ entitled "*Jarimah Sariqah in Islamic Criminal Law: An Analysis of Elements, Conditions, Comparison of Madhabs, and Their Relevance to the Indonesian Criminal Code*" concludes that Islamic criminal law strongly emphasizes preventive aspects, protection of property rights, and the maintenance of the five main objectives of sharia (*maqāṣid al-syarī'ah*). Strict enforcement of punishment not only serves to provide a deterrent effect to the perpetrator, but also contains moral and spiritual dimensions in order to maintain public order and security in a sustainable manner.

Furthermore, Adzira Aulia Kamila's research⁸ entitled "*Criminal Policy: Criminal Policy in Handling Theft Cases (Jarimah Sariqah) Based on Islamic Criminal Law*" shows that

⁴ Tomi Arianto, *Realitas Budaya Masyarakat Urban* (Yayasan Tri Edukasi Ilmiah, 2024).

⁵ Ayu Fifi Sonia, Moch Fahmi Firmansyah, and Ibnu Ubaidillah, "Analisis Yuridis Tindak Pidana Pencurian Dalam Perspektif Hukum Pidana Dan Hukum Pidana Islam: Studi Kasus Putusan Nomor 87/Pid. B/2023/PN. Sbr," *Edulaw: Journal of Islamic Law and Jurisprudence* 7, no. 2 (2025): 119–33. <https://doi.org/10.47453/edulaw.v7i2.2066>

⁶ Menyuruh Melakukan Tindak Pidana Pencurian And A Y U Lestari, "Tinjauan Fiqh Jinayah Terhadap Sanksi Pelaku Yang," n.d.

⁷ 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. <https://doi.org/10.5281/jurnalilmiahkeagamaandankemasyarakatan.vi.67>

⁸ Adzira Aulia Kamila, "Criminal, Policy Kebijakan Kriminal Dalam Penanganan Kasus Pencurian (Jarimah Sariqah) Berdasarkan Hukum Pidana Islam," *DELICTUM: Jurnal Hukum Pidana Islam* 3, no. 2 (2025): 113–25. <https://doi.org/10.35905/delictum.v3i2.11738>

criminal policy in handling theft cases from the perspective of Islamic criminal law places *sariqah* as a serious criminal act that can disrupt social stability and violate individual property rights. Therefore, Islamic law sets strict conditions in the application of *hudūd sanctions*, including legal certainty and the minimum value of stolen goods. This approach reflects the purpose of sharia in upholding justice and preventing crime, while providing a deterrent effect to perpetrators without ignoring the principles of justice. In addition, the study also highlights the application of *the ta'zīr* approach as an alternative when *the conditions of hudūd* are not met, where the determination of the punishment is left to the authority of the judge or ruler. In the modern context, the implementation of criminal policies faces challenges in a pluralistic society, so adaptation is needed that takes into account social and cultural aspects without ignoring the basic principles of Islamic law.

Finally, the research of Try Sa'adurrahman HM Kafrawi et al⁹ entitled "*Corruption as an Extraordinary Crime: A Study of Maqāṣid al-Syari'ah and the Implementation of Ta'zīr Sanctions in Islamic Law*" concludes that in the Islamic perspective, corruption is not only seen as a violation of positive law, but also as a form of betrayal of trust and destruction of the goals of the Shari'ah (*maqāṣid al-syari'ah*). Although not explicitly mentioned in the Qur'an and Sunnah, the substance of corruption is reflected in the prohibition of the acts of *ghulūl*, *risywah*, *khiyānah*, *ghaṣab*, *sariqah*, and *hirābah*. Corrupt practices undermine the five main aspects of *maqāṣid al-shari'ah*, namely the protection of religion (*ḥifẓ al-dīn*), soul (*ḥifẓ al-naḥs*), property (*ḥifẓ al-māl*), intellect (*ḥifẓ al-'aql*), and posterity (*ḥifẓ al-Nasl*), thus placing corruption as a *jarimah* that requires strict and extraordinary legal handling. In addition, *ta'zīr sanctions* are seen as the most relevant in dealing with modern corruption because they are flexible, proportionate, and contextual. Its application not only functions repressively, but also preventive and restorative in order to maintain the public interest and strengthen the moral integrity of state administration.

Third, the research places *jarimah sariqah* and property-related crimes within the framework of Islamic criminal law by emphasizing the principle of *maqāṣid al-syari'ah*, especially the protection of property (*ḥifẓ al-māl*). In addition, everything shows that Islamic criminal law is not only oriented towards repressive aspects, but also has preventive, moral, and social dimensions in order to maintain public order. Another similarity lies in the recognition that the application of sanctions in Islamic law, both *hudūd* and *ta'zīr*, has the primary purpose of creating justice and the common good.

⁹ Try Sa'adurrahman H M Kafrawi, Muh Ilham Azis, and Mursyid Fikri, "Korupsi Sebagai Extraordinary Crime: Telaah Maqāṣid Al-Syari 'Ah Dan Implementasi Sanksi Ta 'Zīr Dalam Hukum Islam," *Jurnal Tana Mana* 6, no. 3 (2025): 226-34. <https://doi.org/10.33648/jtm.v6i3.1386>

The main difference lies in the focus of the study of each study. Some of the research focuses on the analysis of the elements, conditions, and comparisons of *madhhab* and its relevance to positive Indonesian law, while other research focuses more on criminal policies in handling *sariqah*, including the application of *ta'zīr* in the context of modern society. There is also research that expands the study on corruption as an *extraordinary crime* with the approach of *maqāṣid al-shari'ah* and emphasizes the implementation of *ta'zīr* sanctions in the context of the state. Thus, the difference lies in the object of study, namely between *classical sariqah*, criminal policy, and the expansion of the concept of property crime in the form of corruption.

The novelty of this study lies in the comprehensive integration of *classical sariqah* concepts, modern criminal policy, and the *maqāṣid al-shari'ah* approach in a more systematic analysis. If previous research tended to be partial in both normative, policy, and crime expansion aspects, then this study offers an approach that simultaneously connects normative texts, social contexts, and sharia goals. In addition, this study also emphasizes the transformation of the meaning of *sariqah* in the context of modern crime which has not been studied in an integrated manner.

The urgency of this study lies in the increasing complexity of theft crimes in the modern era that can no longer be solved with just a classical normative approach. Social changes, technological developments, and economic dynamics require a reinterpretation of the concept of *sariqah* to remain relevant to contemporary legal needs. In addition, the gap between the classical Islamic criminal law approach and the Indonesian national legal system shows the need for a conceptual bridge that is able to integrate sharia values with the modern legal system. Thus, this study is important to make an academic contribution to the development of Islamic criminal law that is more adaptive, contextual, and oriented towards substantive justice.

Method

The analysis method used in this study is qualitative descriptive analysis. The data obtained were analyzed by decomposing, connecting, and interpreting various data related to the principle of justice in the imposition of criminal sentences.¹⁰ Furthermore, the data is associated with Islamic criminal law theories and positive legal provisions so that systematic conclusions are obtained regarding the application of the principle of justice when imposing criminal sentences in Padangsidempuan City.¹¹

This research is a normative legal research using conceptual approaches, *historical* approaches, and philosophical approaches to analyze the concept of theft

¹⁰M. Yusuf Harahap, "Islamic Justice Values in the Criminal Justice System," *Ius Islamica Journal*, Vol. 7, No. 2, 2022, p. 99. <https://doi.org/10.55281/iusislamica.v7i2.5147>.

¹¹Syarifuddin, "Analisis Data Kualitatif dalam Penelitian Hukum," *Jurnal Hukum dan Peradilan*, Vol. 11, No. 3, 2021, hlm. 121. <https://doi.org/10.25216/jhp.v11i3.5412>

(*sariqah*) in the perspective of contemporary Islamic criminal law.¹² The data used are in the form of secondary data obtained through literature studies on primary legal materials, including the Qur'an, hadith, classical fiqh books, as well as laws and regulations related to theft, and secondary legal materials in the form of books, journal articles, and relevant research results.¹³ Data collection is carried out through documentation techniques, while data analysis uses qualitative methods with descriptive-analytical patterns through the interpretation of normative texts and their association with contemporary social contexts.¹⁴ This approach is used to gain a comprehensive understanding of the concept of *sariqah*, the purpose of punishment, and the relevance between the normative provisions of Islamic criminal law and the dynamics of modern society in order to realize justice and benefits.¹⁵

Result and Discussion

The Concept and Normative Construction of *Jarimah Sariqah* in Islamic Criminal Law

Theft (*sariqah*) is a form of *jarimah* that receives special attention in Islamic criminal law because it is related to the protection of property (*hifz al-māl*) as one of the main purposes of the shari'ah (*maqāṣid al-shari'ah*). In linguistic terminology, *sariqah* comes from the word *saraqa-yasriqu-sariqatan* which means to take something secretly. Terminologically, the jurists define *sariqah* as the act of secretly taking another person's property from a proper storage place (*hīrz*) with the aim of unlawfully possessing and fulfilling certain conditions that have been set by the Shari'a. Thus, not every taking of another person's property can be categorized as *jarimah sariqah*, but must meet certain elements and conditions that have been strictly formulated in the fiqh of jinayah.¹⁶

The normative basis regarding the prohibition of theft is affirmed in the Qur'an surah al-Mā'idah verse 38:

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جَزَاءُ بِمَا كَسَبَا نَكَالًا مِّنَ اللَّهِ وَاللَّهُ عَزِيزٌ حَكِيمٌ

Meaning: Men and women who steal, cut off their hands as a reward for their deeds and as a punishment from Allah. Allah is Mighty, Wise.

This verse is the main basis in the formation of the law regarding *sariqah* and the determination of *sanctions ḥadd*. In addition to the Qur'an, various hadiths of the Prophet Muhammad (saw) also provide explanations about the conditions for the

¹² Suhaimi Suhaimi, "Problem Hukum Dan Pendekatan Dalam Penelitian Hukum Normatif," *Jurnal Yustitia* 19, no. 2 (2018).

¹³ Jonaedi Efendi, "Metode Penelitian Hukum Normatif Dan Empiris Edisi 1," 2020.

¹⁴ S H Masidin, *Penelitian Hukum Normatif: Analisis Putusan Hakim* (Prenada Media, 2023).

¹⁵ Jonaedi Efendi and Prasetijo Rijadi, "Metode Penelitian Hukum Normatif Dan Empiris: Edisi Kedua," 2022.

¹⁶ Junaidi Abdillah, "Diskursus Hudūd Dalam Studi Hukum Islam (Melacak Evolusi Rumusan Hudūd)," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 2 (2018): 334–63. <https://doi.org/10.19105/al-lhkam.v13i2.1881>

application of punishment to the perpetrators of theft. One of the hadiths narrated by al-Bukhari and Muslim states that the Prophet (peace and blessings of Allaah be upon him) prescribed the punishment of cutting off his hands for theft that has reached a certain limit (*niṣāb*). These hadiths show that the application of punishment is not carried out absolutely, but is limited by strict requirements to avoid arbitrariness in imposing penalties.

In the study of *jiyah fiqh*, *sariqah* is included in the category of *jarimah hudūd*, which is a criminal act whose type and sanction have been expressly determined by the sharia. In contrast to *jarimah qiṣāṣ -diyāt* and *jarimah ta'zīr*, the judge's authority in the case of *hudūd* is relatively limited because the form of sanction has been determined directly by the nash. Nevertheless, the jurists pay great attention to the proof and conditions for the application of *ḥadd*, so that its implementation is not carried out haphazardly and still pays attention to the principles of justice and benefit.¹⁷

Scholars from various sects basically agree on the prohibition of theft, but have differences in some technical aspects. The Hanafi school defines *sariqah* as the clandestine taking of property from a proper storage place without the element of *syubhat*. The Maliki school added that the property taken must have economic value and be in the legal possession of its owner. The Shafi'i school emphasizes the element of stealth taking of property that reaches the value of *niṣāb*, while the Hanbali school emphasizes the importance of the element of intentionality and the protection of the property. These differences in views show the existence of *ijtihad* dynamics in formulating the concept of *sariqah* in accordance with the social context and needs of the community.

Normatively, there are several elements that must be fulfilled in order for an act to be categorized as *jarimah sariqah*. First, there is the act of stealing property. Second, the property belongs to someone else that is legally acquired. Third, the property taken has a certain value that meets the minimum limit (*niṣāb*). Fourth, the treasure is in a safe storage place (*ḥirz*). Fifth, there is no element of *syubhat* or doubt that can abort the application of the punishment *ḥadd*. Sixth, the perpetrator committed his act deliberately and had the ability to be legally responsible.

The concepts of *niṣāb* and *ḥirz* became an important part of the normative construction of *sariqah*. The determination of the minimum value of stolen goods shows that Islamic criminal law does not require the application of excessive sanctions against theft of very small value. Similarly, the existence of *ḥirz* shows that the protection of property is not only the responsibility of the state, but also requires the

¹⁷ Muhammad Faqih Asyiddiqie, Khaerul Aqbar, and Awal Rifai, "Ketentuan Pemidanaan 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. <https://doi.org/10.36701/muntaqa.v2i1.2491>

prudence of the owner in maintaining his property. Thus, Islamic criminal law prioritizes the principles of proportionality and prudence in the application of sanctions.

In addition, the jurists also stipulate various circumstances that can abort the application of *the ḥadd* penalty. Among them are the existence of certain kinship relationships between the perpetrator and the owner of the property, emergencies, life-threatening famine, and doubts about the status of property ownership. The rule of "*idrā'ū al-ḥ udūd bi al-syubuhāt*" (avoid the execution of *ḥudūd* punishment due to doubt) shows that Islamic criminal law prioritizes prudence rather than hasty sanctions. This principle reflects the character of Islamic law which is oriented towards substantive justice and the protection of individual rights.¹⁸

In the perspective of *maqāṣid al-syarī'ah*, the arrangement regarding *sariqah* aims to maintain property (*ḥifẓ al-māl*) as one of the primary needs of human beings (*al-d arūriyyāt al-khams*). The protection of property is closely related to the protection of life, intellect, religion, and posterity, because the stability of social and economic life is highly dependent on the security of property rights. Therefore, sanctions against theft are not solely understood as an instrument of *retributive justice*, but also as a means of prevention (*zajr*), education (*ta'dīb*), and the maintenance of the public interest.¹⁹

The normative construction of *sariqah* in Islamic criminal law also shows that the sharia not only emphasizes the repressive aspect, but also emphasizes the importance of social justice. In Islamic history, Caliph Umar bin Khattab once suspended the execution of the execution of the execution of the cutting off of hands during times of famine because it considered the social and economic conditions of the community. The policy shows that the application of the law cannot be separated from the purpose of sharia and the social reality that surrounds it. Thus, normative texts must be understood integrally by considering aspects of justice and benefit.²⁰

Based on this description, it can be understood that the concept and normative construction of *jarimah sariqah* in Islamic criminal law is built on the foundation of the Qur'an, hadith, *ijma'*, and *ijtihad* of the fuqaha who place the protection of property as the main goal. The provisions regarding *sariqah* not only regulate prohibitions and sanctions, but also contain various conditions, principles of prudence, and interest

¹⁸ 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. <https://doi.org/10.61570/syariah.v2i1.48>

¹⁹ Imroatul Azizah, "Formulasi Kebijakan Antipencurian Berbasis Persepsi Komunitas Dan Prinsip Ta'zīr," *Al Maqashidi: Jurnal Hukum Islam Nusantara* 8, no. 2 (2025): 108–21. <https://doi.org/10.32665/almaqashidi.v8i2.5733>

²⁰ Lathifah Ahadiyah, Hijrayanti Sari, and Nabilah Al Azizah, "Pengembalian Barang Curian Yang Berubah Sifatnya Perspektif Hukum Islam: The Return of Stolen Property That Has Changed in Nature: An Islamic Law Perspective," *AL-MUNTAQA: Jurnal Studi Islam Dan Bahasa Arab* 1, no. 2 (2025): 448–65. <https://doi.org/10.36701/muntaqa.v1i2.2437>

orientation that show that Islamic criminal law has a comprehensive, proportional, and just character.

The Problem of Theft (*Sariqah*) in Indonesia: Between Norm and Reality

Theft (*sariqah*) is a form of crime against property that has a high level of complexity in the lives of Indonesian people. Although Islamic criminal law and positive Indonesian law have provided clear provisions regarding the prohibition and sanction of the crime of theft, reality shows that such crimes remain a phenomenon that continues to develop and undergo transformation. Theft is no longer understood simply as the act of taking other people's property illegally, but has developed into a social, economic, cultural, and technological problem that affects the stability of people's lives. This condition shows that there is a distance between ideal legal norms and empirical realities faced by contemporary society.²¹

In the Indonesian context, the increase in theft crimes cannot be separated from the problems of economic inequality and social welfare. Poverty, unemployment, urbanization, and low access to education and employment are factors that contribute to the emergence of various forms of property crime. Theft is ultimately not always born from the criminal disposition of the perpetrator, but is often a manifestation of the structural pressures faced by some of the society. The *strain* theory put forward by Robert K. Merton explains that the imbalance between the goals to be achieved and the limitations of available means can encourage individuals to commit deviations, including theft. In this context, theft is not solely understood as a violation of individual law, but also as a reflection of the failure of the social system to create a just distribution of welfare.²²

The development of information technology and the digitization of people's lives has also changed the character of theft crimes. If in classical fiqh literature *sariqah* is understood as the clandestine taking of property from a safe place of storage (*hīrz*), then technological developments have given birth to new forms of crimes against property that cannot be fully explained through the classical construction. Personal data theft, digital identity theft, account break-ins through *phishing*, electronic-based fraud, and misuse of information system access show that the object of legal protection is no longer limited to physical assets, but also includes digital assets and electronic information. This transformation requires an expansion of the meaning of the concept of property protection (*hifz al-māl*) so that it remains relevant in facing the development of modern society.²³

²¹ Samsul Bahri, Anggara Sasmita, and Haryadi Hamzah, "Perbandingan Sistem Pemidanaan Antara Hukum Islam Dan Hukum Positif Indonesia Dalam Penanganan Tindak Pidana Pencurian," *Legal Note* 1, no. 2 (2025): 42–46. <https://doi.org/10.70716/legalnote.v1i2.102>

²² Tigor Medhyka Jilianto, "Penerapan Keadilan Restoratif Pada Tindak Pidana Pencurian Di Kepolisian Daerah Jawa Tengah Berbasis Kepastian Hukum" (Universitas Islam Sultan Agung Semarang, 2024).

²³ Dzatan Najma, "Tekstualitas vs Kontekstualitas:: Studi Kritis Terhadap Penafsiran Ayat-Ayat Sariqah Dan Zina Dalam The Message of The Qur'an," *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 28, no. 1 (2025): 15–26. <https://doi.org/10.15642/alqanun.2025.28.1.15-26>

Another problem that is no less important is the tendency to understand the provisions regarding *sariqah* textually by focusing on the aspect of *sanctions and add only*. Such an approach often ignores the historical and sociological dimensions behind the formation of Islamic criminal law. In fact, the classical jurists have formulated various very strict conditions in the application of *the ḥadd penalty*, such as the fulfillment of the minimum limit of the value of stolen goods (*niṣāb*), the existence of a proper storage place (*hirz*), the absence of *syubhat*, and the fulfillment of the element of intentionality. In fact, the rule of *idrā'ū al-ḥ udūd bi al-syubuhāt* shows that Islamic criminal law prioritizes the principle of prudence rather than imposing sanctions in a hurry. This shows that the orientation of Islamic criminal law is not just retribution, but the protection of the community and the maintenance of benefits.²⁴

In the context of Indonesia, which is characterized by a pluralistic society and adheres to the national legal system, the application of *the concept of sariqah* also faces challenges in the form of legal pluralism and changes in social values. The presence of the New Criminal Code through Law Number 1 of 2023 emphasizes that the purpose of punishment is no longer solely oriented towards retaliation, but also includes community protection, perpetrator development, conflict resolution, and restoration of social balance. This paradigm shows a shift from a retributive approach to a corrective and restorative approach. In a certain perspective, this orientation has a meeting point with the goal of sharia (*maqāṣid al-shari'ah*) which requires the realization of justice and the common good. However, the paradigm difference between classical Islamic criminal law and the modern legal system often gives rise to debates about the relevance of the concept of *sariqah* in contemporary society.²⁵

In addition, the effectiveness of the penal system against the perpetrators of theft is still a problem that has not been fully resolved. The high recidivism rate shows that prison sentences have not been able to provide a deterrent effect while rehabilitating perpetrators optimally. Punishment-oriented criminalization tends to ignore the structural factors that are the main causes of crime. As a result, correctional institutions have the potential to become a space for crime reproduction and increase the likelihood of perpetrators returning to commit criminal acts after serving their sentences. This condition shows that countering theft requires a more comprehensive approach through strengthening preventive, rehabilitative, and reintegrative aspects.²⁶

²⁴ David Rizaldi, "Tinjauan Yuridis Pemidanaan Terhadap Pencurian Dengan Pemberatan Berdasarkan Nilai Keadilan" (Universitas Islam Sultan Agung, 2025).

²⁵ Yonathan Parlinggoman Wicaksono and Mahipal Mahipal, "Eksistensi Hukum Islam Dalam Sistem Hukum Nasional Indonesia: Peluang Dan Tantangan," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 3, no. 3 (2025): 2138–51. <https://doi.org/10.62976/ijjel.v3i3.1238>

²⁶ Sumartini Dewi et al., "Efektivitas Pemidanaan Penjara Dalam Mencegah Tindak Pidana Berulang Di Indonesia," *Jurnal Kolaboratif Sains* 7, no. 12 (2024): 4568–73. <https://doi.org/10.56338/jks.v7i12.6567>

Another problem is the emergence of disparities between legal protection against conventional crimes and economic crimes that have a wide impact on society. It is not uncommon for theft committed by the lower class to receive a firm legal response, while various forms of economic and corporate crimes that harm the state and society at large face more complex law enforcement processes. This phenomenon raises questions about the substance of justice in the criminal system and shows that the law cannot be separated from the social, political, and economic dimensions that surround it.

Thus, the problem of theft (*sariqah*) in Indonesia cannot be understood solely as a violation of legal norms, but must also be seen as a multidimensional phenomenon influenced by economic, social, cultural, technological, and legal factors themselves. This complexity shows that understanding *sariqah* requires a more integrative approach between normative texts and evolving social realities. Therefore, a rereading of the concept of *sariqah* is important so that the values of justice, property protection, and welfare that are the main goals of Islamic criminal law can still be realized in contemporary Indonesian society.

Reactualization of the Concept of *Sariqah* in Contemporary Islamic Criminal Law: Integration of Texts, Contexts, and Maqāṣid al-Syarī'ah

The development of modern society, characterized by technological advances, changes in economic structures, and the complexity of social relations, has presented various forms of crimes against property that cannot be fully explained through the construction of classical fiqh. This condition encourages the need to reactualize the concept of *sariqah* in Islamic criminal law so that it remains relevant in answering contemporary problems. The reactualization is not intended to alter or deny normative provisions derived from the Qur'an and hadith, but rather to present a more comprehensive understanding through the integration of the text, context, and purpose of the shari'a (*maqāṣid al-shari'ah*). Thus, Islamic criminal law can maintain its normative character while having adaptive capabilities to the dynamics of a society that continues to evolve.²⁷

Normatively, the concept of *sariqah* derives its main foundation from the Qur'an surah al-Mā'idah verse 38 which stipulates the sanction of cutting off the hands of men and women who commit theft. The verse was then explained through various hadiths of the Prophet Muhammad (peace be upon him) and developed by the jurists through ijtihad which resulted in strict conditions in the application of *the punishment ḥadd*. In the classical fiqh construction, theft is defined as the stealthy taking of another person's property from a proper place of storage (*ḥirz*) with a certain value (*niṣāb*) and without

²⁷ Saripa Haribulan Nasution, Faradiza Ariska Sitorus, and Heni Winda Siregar, "Perkembangan Masyarakat Indonesia Tradisional, Transisi, Modern Pedesaan Dan Perkotaan," *AMI: Jurnal Pendidikan Dan Riset* 1, no. 1 (2023): 47-53.

the element of syubhat. This provision shows that Islamic criminal law does not place sanctions as the main goal, but as an instrument of protection of property and social order.²⁸

However, reading Nash literally without regard to the social context has the potential to give birth to a rigid and reductionist understanding. The tendency to understand *sariqah* only within the framework of the execution of the punishment of cutting off hands often ignores the fact that the fuqaha themselves have established various mechanisms of restriction on the application of *hadd*. The rule of *idrā'ū al-ḥudūd bi al-syubuhāt* (avoid the application of the punishment of *hudūd* due to doubt) shows that Islamic criminal law strongly upholds the principles of prudence and the protection of human rights. In this context, normative texts cannot be separated from the purpose of the sharia that underlies them.²⁹

According to the author, the fundamental problem in the discourse of contemporary Islamic criminal law does not lie in the relevance or irrelevance of the concept of *sariqah*, but in the way of understanding and actualizing the concept. A mistake that often occurs is to place Islamic law exclusively at the textual level so as to ignore the philosophical and sociological dimensions that are the spirit of the sharia. In fact, the existence of the law is not solely aimed at providing retribution to the perpetrators, but to realize justice and the benefit of the community at large.

In the perspective of *maqāṣid al-syarī'ah*, the arrangement regarding *sariqah* aims to preserve property (*ḥifẓ al-māl*) as one of the five primary human needs (*al-ḍ arūriyyāt al-khams*). The protection of property cannot be understood narrowly as the protection of physical objects, but also includes all forms of wealth and economic rights that sustain human life. Therefore, the development of technology that gives birth to digital assets, electronic data, and various modern economic instruments requires an expansion of the meaning of legal protection objects. In this context, personal data theft, electronic account break-ins, misuse of digital access, and various other forms of cybercrime can be understood as new manifestations of crimes against property whose substance is in line with the concept of *sariqah*.

The analysis shows that the *maqāṣid al-sharī'ah*-based approach has an important role in maintaining the relevance of Islamic criminal law. The main focus of the law no longer lies in the form of sanctions alone, but on the goals to be realized, namely the protection of property rights, the prevention of crime, and the creation of social order.

²⁸ Berlian Puji Pangastuti, "Kontekstualisasi Qs Al-Ma'idah Ayat 38 Dan Kaitannya Dengan Hukum Mencuri Pada Masa Darurat Di Indonesia (Aplikasi Pendekatan Kontekstual Abdullah Saeed)" (UIN Sunan Kalijaga Yogyakarta, 2022).

²⁹ Tamrin Kamal, Sri Wahyuni, and Rosniati Hakim, "Eksplorasi Dualistik Pendekatan Dalam Pendidikan Islam: Perspektif Normatif Teks Dan Dinamika Sosial Konstekstual: Penelitian," *Jurnal Pengabdian Masyarakat Dan Riset Pendidikan* 4, no. 1 (2025): 2566-73. <https://doi.org/10.31004/jerkin.v4i1.1835>

Thus, normative texts are not understood rigidly, but are contextualized based on the purpose and values they contain.

The history of Islamic law also provides an example that the application of law is never separated from social reality. The policy of Caliph Umar bin Khattab to suspend the execution of the execution of the hand-cutting during the famine is proof that the aspects of justice and benefit are placed as the main consideration in law enforcement. The suspension does not mean rejecting the provisions of the Qur'an, but is a form of implementation of a more substantial purpose of sharia. Hunger and poor economic conditions are seen as factors that give birth to *syubhat* so the application of *hadd* is not carried out.

According to the author, this event shows that the flexibility of Islamic law has actually been inherent since the early days of Islamic development. Thus, the reactualization of the concept of *sariqah* in the contemporary era cannot be considered as a form of legal liberalization, but rather an effort to revive the *ijtihad* tradition that is oriented towards justice and benefit. This kind of approach allows Islamic law to remain responsive to social changes without losing its normative foundation.

In addition, the change in the modern criminal paradigm also shows that there is a meeting point with the goals of Islamic criminal law. In contemporary criminal law, the orientation of punishment has shifted from a retributive paradigm to a corrective, rehabilitative, and restorative paradigm. Criminalization is no longer intended solely as retaliation, but also aims to restore social balance, foster perpetrators, and protect society. The paradigm basically has similarities with the concepts of *zajr* and *ta'dīb* in Islamic criminal law which places prevention and education as part of the purpose of punishment.

This analysis shows that there is a very wide space for dialogue between Islamic criminal law and the development of modern criminal theory. Therefore, the understanding of *sariqah* should not be trapped in the dichotomy between Islamic law and modern law, but rather directed at finding a common ground that allows the realization of substantive justice. The reactualization of Islamic criminal law does not mean replacing the text with context, but integrating the two within the framework of *maqāṣid al-shari'ah*.

Furthermore, the greatest challenge of contemporary Islamic criminal law lies in its ability to respond to various forms of economic crime that are increasingly complex. Corruption, money laundering, digital financial manipulation, and large-scale cybercrime have a much broader impact than conventional theft. However, in practice, public attention is often more focused on theft committed by the lower classes. This condition shows that the orientation of protection of property in Islamic law needs to be understood more comprehensively so that it includes all forms of deprivation of economic rights that are detrimental to society.

According to the author, the *approach of maqāṣid al-syarī'ah* allows the development of Islamic criminal law that is more responsive to these issues. The protection of property should not be limited to traditional material objects, but should be extended to all forms of wealth and economic rights that are part of modern human life. Thus, the substance of *sariqah* is not only relevant in dealing with conventional theft, but is also able to answer various forms of contemporary economic crime.

Based on this description, the reactualization of the concept of *sariqah* in contemporary Islamic criminal law requires an integration between normative texts, social contexts, and sharia goals. The *maqāṣid al-sharī'ah-based* approach provides room for Islamic criminal law to maintain the authority of the nash while having flexibility in responding to the changing times. By placing justice, property protection, and welfare as the main orientation, Islamic criminal law not only shows its normative character, but also shows its capacity as a dynamic, adaptive, and relevant legal system in facing the challenges of contemporary society. The reactualization ultimately became a manifestation of the principle that the sharia was revealed not to present difficulties, but to realize justice and benefits for all mankind.

Reactualization of the Concept of *Sariqah* in Contemporary Islamic Criminal Law: Towards Substantive Justice

The reactualization of the concept of *sariqah* in contemporary Islamic criminal law is an intellectual and methodological effort to re-present the normative values of sharia in answering modern crime problems in a more contextual manner. In the development of a global society marked by technological transformation, changes in social structures, and the complexity of the digital economy, the concept of theft can no longer be understood simply as in classical fiqh literature. Therefore, an approach is needed that does not only rely on normative texts, but also takes into account social realities and the main objectives of sharia (*maqāṣid al-sharī'ah*), especially in realizing substantive justice. This reactualization is not intended to deconstruct the provisions of Islamic law, but rather to revive the spirit of *ijtihad* in order to ensure that Islamic law remains relevant, adaptive, and responsive to the dynamics of the times.³⁰

Normatively, the concept of *sariqah* in Islamic criminal law has a very strong basis in the Qur'an, hadith, and the consensus of scholars (*ijmā'*). The Qur'an surah al-Mā'idah verse 38 explicitly mentions the sanction of cutting off the hand for the perpetrator of theft as a form of punishment that is *ḥadd*. However, the verse cannot be understood in isolation from the overall principles of sharia that emphasize justice, prevention, and protection of the community. In the hadiths of the Prophet Muhammad (peace be upon him), the application of sanctions against theft is also always associated with certain conditions, such as the minimum value of stolen goods

³⁰ Abdul Pirol, "Reaktualisasi Ajaran Islam (Studi Atas Gagasan Dan Pemikiran Munawir Sjadzali)" (Sultan Amai Press IAIN Gorontalo, 2008).

(*niṣāb*), a safe place to store (*ḥirz*), and the absence of syubhat. This shows that Islamic criminal law has had a very strict mechanism of prudence in the application of sanctions since its inception.³¹

In the classical fiqh construction, *sariqah* is defined as the clandestine taking of another person's property from a proper storage place with the aim of unlawful possession. This definition contains very specific elements, so not all forms of property acquisition can be categorized as *sariqah*. The scholars of the various sects also give different elaborations on the details of these elements, although in principle they agree that theft is a strictly forbidden act. The Hanafi, Maliki, Shafi'i, and Hanbali schools each place different emphasis on the aspects of intention, the method of taking, and the type of stolen property. This difference shows that Islamic criminal law has a wide space for *ijtihād* in understanding normative texts in accordance with the evolving social context.³²

However, in contemporary reality, the character of the crime of theft has undergone a very significant change. Theft is no longer limited to physically retrieving goods from traditional storage places, but also includes various forms of digital crime such as theft of personal data, break-ins of electronic banking systems, online fraud, and misuse of information technology. This phenomenon shows that the object and mode of crime has developed far beyond the conceptual limits of classical fiqh. Therefore, an overly textual approach to understanding *sariqah* has the potential to be unable to answer the complexity of modern crime.³³

According to the author, this shift in the form of crime requires an expansion of the meaning of the concept of property (*māl*) in Islamic criminal law. Property is no longer only understood as tangible objects, but also includes digital assets, electronic data, intellectual property rights, and various other forms of modern economic value. Thus, the protection of property (*ḥifẓ al-māl*) as part of *maqāṣid al-shari'ah* must be interpreted dynamically according to the development of the times. Otherwise, then Islamic criminal law will stagnate and lose relevance in responding to contemporary challenges.

In the perspective of *maqāṣid al-syari'ah*, the main purpose of regulating *sariqah* is not merely the imposition of physical sanctions, but the protection of human welfare as a whole. Islamic sharia was revealed to realize justice, benefit, and welfare of mankind. Therefore, sanctions in Islamic law must be understood as a means to an end, not as an end in itself. The concepts of *zajr* (prevention) and *jawābir* (redemption)

³¹ Halal Dalam Penulisan and Satu Perbincangan Perspektif Pasca, "هزاوسيس اچسف نريسم," n.d.

³² Indra Hamzah, "Penyelesaian Tindak Pidana Pelanggaran Hak Cipta Karya Lagu Di Kab. Pinrang (Analisi Jarimah Hudūd Al-Sariqah)" (IAIN PAREPARE, 2023).

³³ Agus Suharsoyo, "Karakter Pelaku Tindak Pidana Pencurian Dalam Tipologi Kejahatan Pencurian Di Wilayah Sukoharjo," *Jurnal Jurisprudence* 5, no. 1 (2015): 64–74. <https://doi.org/10.23917/jurisprudence.v5i1.4222>

in Islamic penal theory show that punishment has educational, preventive, and corrective dimensions that complement each other.

In this context, substantive justice is the main orientation that must be realized in the application of Islamic criminal law. Substantive justice not only focuses on formal compliance with the legal text, but also considers the social, economic, and humanitarian conditions that underlie a criminal act. For example, in Islamic history, Caliph Umar bin Khattab once postponed the implementation of the punishment of amputation during times of famine. The decision shows that law enforcement in Islam is not rigid, but rather takes into account the broader social context. This is proof that the principle of justice in Islamic law has a flexible and contextual dimension.

According to the author, the reactualization of the concept of *sariqah* must be directed at strengthening the principle of substantive justice by integrating three main elements, namely normative texts, social contexts, and sharia goals. Normative texts provide fundamental legal limits, social contexts provide an understanding of changing reality, while *maqāṣid al-syarī'ah* provides the direction and purpose of the application of the law. These three elements must run simultaneously so that Islamic criminal law does not lose its balance.

In the perspective of modern criminal law, the orientation of punishment has also undergone a shift from a retributive approach to a restorative and rehabilitative approach. The goal of punishment is no longer solely to punish the perpetrator, but also to rehabilitate the victim, improve social relations, and prevent future crimes. In this case, there is a common point between Islamic criminal law and modern law, especially in the aspects of community protection and the restoration of justice. This shows that Islamic criminal law has the potential to engage constructively with the contemporary legal system.

However, the main challenge in the reactualization of the concept of *sariqah* lies in the tendency of some understandings to be literalistic. This approach often ignores social complexity and broader legal objectives. In fact, if law is only understood textually without considering the context, then it has the potential to lose relevance in answering modern justice problems. Therefore, a more integrative methodological approach, such as the *maqāṣidi* approach, is needed, which places the purpose of sharia at the center of the entire process of legal interpretation.

In addition, the author argues that the reactualization of the concept of *sariqah* must also pay attention to the principle of proportionality in punishment. Not all forms of theft should be treated the same way, especially in the context of modern crime that has varying levels of complexity. In this case, the role of *ijtihad* is very important to ensure that Islamic law remains able to respond to social dynamics without losing its basic principles.

Thus, the reactualization of the concept of *sariqah* in contemporary Islamic criminal law ultimately leads to efforts to realize substantive justice. Substantive

justice requires that the law not only be formally enforced, but also provide real benefits to society. The integration between texts, contexts, and *maqāṣid al-syarī'ah* is the main key in building a legal system that is just, humane, and relevant to the times. Islamic criminal law, in this case, functions not only as a normative system, but also as a moral and social instrument that aims to create a balance between the protection of individual rights and the interests of society at large. With this approach, the concept of *sariqah* can continue to live and develop as part of a dynamic legal system with substantive justice.

Conclusion

Studies of theft (*sariqah*) in contemporary Islamic criminal law show that this concept cannot be understood narrowly through textual approaches alone, but must be constructed integratively between normative texts, social contexts, and sharia goals (*maqāṣid al-syarī'ah*). Normatively, *sariqah* has a strong foundation in the Qur'an, hadith, and ijtihad of scholars who stipulate *the sanction of ḥadd* as a form of protection for property (*ḥifz al-māl*) as well as an instrument of crime prevention. However, its application is not absolute, but is limited by strict conditions such as *niṣāb*, *ḥirz*, and the absence of syubhat, which indicate that Islamic criminal law contains the principles of prudence and substantive justice. In the contemporary context, social, economic, and technological developments have given birth to new forms of crime against property that demand a reinterpretation of the concept of *sariqah* to remain relevant to modern reality. Therefore, a *maqāṣid al-sharī'ah-based* approach is important in ensuring that Islamic law not only functions in a repressive manner, but also preventive, educational, and restorative. Thus, the reactualization of the concept of *sariqah* is an effort to bridge the gap between text and context so that Islamic criminal law remains adaptive, humanistic, and able to realize substantive justice in contemporary society.

Bibliography

- Abdillah, Junaidi. "Diskursus Hudūd Dalam Studi Hukum Islam (Melacak Evolusi Rumusan Hudūd)." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 2 (2018): 334–63. <https://doi.org/10.19105/al-lhkam.v13i2.1881>
- Ahadiyah, Lathifah, Hijrayanti Sari, and Nabilah Al Azizah. "Pengembalian Barang Curian Yang Berubah Sifatnya Perspektif Hukum Islam: The Return of Stolen Property That Has Changed in Nature: An Islamic Law Perspective." *AL-MUNTAQA: Jurnal Studi Islam Dan Bahasa Arab* 1, no. 2 (2025): 448–65. <https://doi.org/10.36701/muntaqa.v1i2.2437>
- Alfarisi, Achmad Hasan. "Kontribusi Hukum Islam Dalam Bidang Hukum Pidana Di Indonesia." *Jurnal Penelitian Ilmiah Multidisipliner* 2, no. 03 (2026): 1038–45.
- Arianto, Tomi. *Realitas Budaya Masyarakat Urban*. Yayasan Tri Edukasi Ilmiah, 2024.

- Asyiddiqie, Muhammad Faqih, Khaerul Aqbar, and Awal Rifai. "Ketentuan Pemidanaan 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. <https://doi.org/10.36701/muntaqa.v2i1.2491>
- Azizah, Imroatul. "Formulasi Kebijakan Antipencurian Berbasis Persepsi Komunitas Dan Prinsip Ta'zīr." *Al Maqashidi: Jurnal Hukum Islam Nusantara* 8, no. 2 (2025): 108–21.
- Bahri, Samsul, Anggara Sasmita, and Haryadi Hamzah. "Perbandingan Sistem Pemidanaan Antara Hukum Islam Dan Hukum Positif Indonesia Dalam Penanganan Tindak Pidana Pencurian." *Legal Note* 1, no. 2 (2025): 42–46. <https://doi.org/10.70716/legalnote.v1i2.102>
- Dewi, Sumartini, Dwinanda Linchia Levi Heningdyah Nikolas Kusumawardhani, Achmad Jaelani, Stelvia W Noya, and Herry Pasrani Mendrofa. "Efektivitas Pemidanaan Penjara Dalam Mencegah Tindak Pidana Berulang Di Indonesia." *Jurnal Kolaboratif Sains* 7, no. 12 (2024): 4568–73. <https://doi.org/10.56338/jks.v7i12.6567>
- Efendi, Jonaedi. "Metode Penelitian Hukum Normatif Dan Empiris Edisi 1," 2020.
- Efendi, Jonaedi, and Prasetyo Rijadi. "Metode Penelitian Hukum Normatif Dan Empiris: Edisi Kedua," 2022.
- Hafiz, Hafiz Irhamsyah, Muskalana Qodri, Abdul Latif Harahap, M Irwansyah Nasution, and Sahyuda Pratama Sandi. "Penerapan Hukum Sariqah Dalam Negara Islam." *PESHUM: Jurnal Pendidikan, Sosial Dan Humaniora* 4, no. 4 (2025): 6027–33. <https://doi.org/10.56799/peshum.v4i4.7995>
- Hamzah, Indra. "Penyelesaian Tindak Pidana Pelanggaran Hak Cipta Karya Lagu Di Kab. Pinrang (Analisi Jarimah Hudūd Al-Sariqah)." IAIN PAREPARE, 2023.
- Jannah, Nihayatul, 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. <https://doi.org/10.5281/jurnalilmiahkeagamaandankemasyarakatan.vi.67>
- Jilianto, Tigor Medhyka. "Penerapan Keadilan Restoratif Pada Tindak Pidana Pencurian Di Kepolisian Daerah Jawa Tengah Berbasis Kepastian Hukum." Universitas Islam Sultan Agung Semarang, 2024.
- Kafrawi, Try Sa'adurrahman H M, Muh Ilham Azis, and Mursyid Fikri. "Korupsi Sebagai Extraordinary Crime: Telaah Maqāṣid Al-Syari' Ah Dan Implementasi Sanksi Ta 'Zīr Dalam Hukum Islam." *Jurnal Tana Mana* 6, no. 3 (2025): 226–34. <https://doi.org/10.33648/jtm.v6i3.1386>

- Kamal, Tamrin, Sri Wahyuni, and Rosniati Hakim. "Eksplorasi Dualistik Pendekatan Dalam Pendidikan Islam: Perspektif Normatif Teks Dan Dinamika Sosial Konstektual: Penelitian." *Jurnal Pengabdian Masyarakat Dan Riset Pendidikan* 4, no. 1 (2025): 2566–73. <https://doi.org/10.31004/jerkin.v4i1.1835>
- Kamila, Adzira Aulia. "Criminal, Policy Kebijakan Kriminal Dalam Penanganan Kasus Pencurian (Jarimah Sariqah) Berdasarkan Hukum Pidana Islam." *DELICTUM: Jurnal Hukum Pidana Islam* 3, no. 2 (2025): 113–25. <https://doi.org/10.35905/delictum.v3i2.11738>
- Malau, Parningotan. "Tinjauan Kitab Undang-Undang Hukum Pidana (KUHP) Baru 2023." *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (2023): 837–44. <https://doi.org/10.37680/almanhaj.v5i1.2815>
- Masidin, S H. *Penelitian Hukum Normatif: Analisis Putusan Hakim*. Prenada Media, 2023.
- Najma, Dzatan. "Tekstualitas vs Kontekstualitas:: Studi Kritis Terhadap Penafsiran Ayat-Ayat Sariqah Dan Zina Dalam The Message of The Qur'an." *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 28, no. 1 (2025): 15–26. <https://doi.org/10.15642/alqanun.2025.28.1.15-26>
- Nasution, Saripa Haribulan, Faradiza Ariska Sitorus, and Heni Winda Siregar. "Perkembangan Masyarakat Indonesia Tradisional, Transisi, Modern Pedesaan Dan Perkotaan." *AMI: Jurnal Pendidikan Dan Riset* 1, no. 1 (2023): 47–53.
- Pangastuti, Berlian Puji. "Kontekstualisasi Qs Al-Ma'idah Ayat 38 Dan Kaitannya Dengan Hukum Mencuri Pada Masa Darurat Di Indonesia (Aplikasi Pendekatan Kontekstual Abdullah Saeed)." UIN Sunan Kalijaga Yogyakarta, 2022.
- Pencurian, Menyuruh Melakukan Tindak Pidana, And A Y U Lestari. "Tinjauan Fiqh Jinayah Terhadap Sanksi Pelaku Yang," n.d.
- Penulisan, Halal Dalam, and Satu Perbincangan Perspektif Pasca. "هز اوسيس اچسٹ نرېسم," n.d.
- Pirol, Abdul. "Reaktualisasi Ajaran Islam (Studi Atas Gagasan Dan Pemikiran Munawir Sjadzali)." Sultan Amai Press IAIN Gorontalo, 2008.
- Rizaldi, David. "Tinjauan Yuridis Pemidanaan Terhadap Pencurian Dengan Pemberatan Berdasarkan Nilai Keadilan." Universitas Islam Sultan Agung, 2025.
- Sonia, Ayu Fifin, Moch Fahmi Firmansyah, and Ibnu Ubaidillah. "Analisis Yuridis Tindak Pidana Pencurian Dalam Perspektif Hukum Pidana Dan Hukum Pidana Islam: Studi Kasus Putusan Nomor 87/Pid. B/2023/PN. Sbr." *EduLaw: Journal of Islamic Law and Jurisprudence* 7, no. 2 (2025): 119–33. <https://doi.org/10.47453/edulaw.v7i2.2066>
- Suharsoyo, Agus. "Karakter Pelaku Tindak Pidana Pencurian Dalam Tipologi Kejahatan Pencurian Di Wilayah Sukoharjo." *Jurnal Jurisprudence* 5, no. 1 (2015): 64–74. <https://doi.org/10.23917/jurisprudence.v5i1.4222>

- Wafa, Muhammad Shidqi, and Muhamad Saiq Hanani. "Implementasi Hudūd Di Indonesia Menurut Abdullāh Bin Bayyah." *Syariah: Journal of Fiqh Studies* 2, no. 1 (2024): 21–40. <https://doi.org/10.61570/syariah.v2i1.48>
- Wicaksono, Yonathan Parlinggoman, and Mahipal Mahipal. "Eksistensi Hukum Islam Dalam Sistem Hukum Nasional Indonesia: Peluang Dan Tantangan." *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 3, no. 3 (2025): 2138–51. <https://doi.org/10.62976/ijjel.v3i3.1238>