

## Clarifying Misconceptions Understanding Hand-Cutting Punishments in the Al-Sariqah Crime Context

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### Abstract

This research aims to explore understanding and clarify potential misconceptions related to hand-cutting punishment in the context of Al-Sariqah crime (theft) within Islamic law. The research also encompasses an examination of legal approaches and justice in the implementation of this punishment. By analyzing various literary sources, particularly the opinions of scholars and Islamic legal literature, this study highlights the stringent standards and conditions that must be met for hand-cutting punishment to be applied. This research will utilize academic databases, digital libraries, and other reliable sources to gather scholarly articles, books, and conference papers discussing aspects of hand amputation punishment in the context of al-Sariqah. The research refutes the widespread misconception that it can be haphazardly applied. The stringent prerequisites, which include evidence, legal clarity, and understanding the perpetrator's circumstances, emphasize that hand amputation is not an arbitrary measure, but rather reserved for specific circumstances.

**Keywords:** Misconceptions, Hand-Cutting Punishment, Al-Sariqah Crime.

### Abstract

*Penelitian ini bertujuan untuk mengeksplorasi pemahaman dan mengklarifikasi potensi kesalahpahaman terkait hukuman potong tangan dalam konteks kejahatan Al-Sariqah (pencurian) dalam hukum Islam. Penelitian ini juga mencakup pemeriksaan pendekatan hukum dan keadilan dalam pelaksanaan hukuman ini. Dengan menganalisis berbagai sumber literatur, terutama pendapat para ulama dan literatur hukum Islam, studi ini menyoroti standar dan kondisi ketat yang harus dipenuhi agar hukuman potong tangan dapat diterapkan. Penelitian ini akan memanfaatkan basis data akademik, perpustakaan digital, dan sumber-sumber tepercaya lainnya untuk mengumpulkan artikel ilmiah, buku, dan makalah konferensi yang membahas aspek-aspek hukuman amputasi tangan dalam konteks al-Sariqah. Penelitian ini membantah keyakinan umum bahwa hukuman jarimah al-sariqah dapat diterapkan secara sembarangan. Persyaratan ketat, termasuk bukti, kejelasan hukum, dan pemahaman terhadap kondisi pelaku, menegaskan bahwa amputasi tangan bukanlah tindakan sembarangan melainkan dikhususkan untuk keadaan tertentu.*

**Kata Kunci:** Kesalahpahaman, Hukuman Potong Tangan, Kejahatan Al-Sariqah.



## INTRODUCTION

The enthusiasm to apply Islamic criminal law reflects a sense of responsibility towards moral norms and religious values within society (Maryandi 2017). However, challenges often arise when individuals or parties attempting to enforce Islamic criminal law lack a comprehensive understanding of the procedures and the essence of the law (Hejazziy 2015). A profound understanding of the principles of Islamic law hinders the desire to uphold justice within the religious context. Without adequate knowledge, the risk of injustice, legal abuse, or arbitrary actions increases, threatening the essence of justice expected from the application of Islamic criminal law (Mohamad 2015).

The lack of understanding of the procedures and substance of Islamic criminal law can jeopardize individual rights and result in inequality within the justice system (Yasir, Widodo, and Ashar 2022). Excessive law application or implementation without a strong foundation can lead to disproportionate punishment for offenses, harm human rights, and foster distrust in society towards the justice system. Therefore, it is crucial for those committed to enforcing Islamic criminal law to delve into a profound understanding of its technical and philosophical aspects. This way, the commitment to uphold justice can be balanced with wisdom and a true understanding of the principles of Islamic law (Nur 2020).

One of the cases in Islamic criminal law that is often misunderstood is the *Hudud* punishment of cutting off the hand for theft offenders (Astuti 2023). Hand amputation is a prominent penalty in the Islamic criminal system, implemented to combat economic crimes and protect property rights (Souryal, Alobied, and Potts 2005). Despite being an integral part of Islamic criminal law, there are a series of misunderstandings involving the interpretation, implementation, and social impact of this punishment (Yusoff et al. 2019). This article aims to detail and discuss misconceptions surrounding the hand amputation punishment for theft within the context of Islamic criminal law.

The punishment of cutting off the hand for theft is found in the Quran and Hadith, providing a theological foundation for its application (Hakim and Munawir 2023). However, misunderstandings often arise due to a lack of understanding of the context and purpose of this punishment. Misinterpretations also emerge regarding the conditions that must be met before this punishment is applied (Andriyadi 2022). Incorrect understanding of the required evidence and the role of the judge in assessing theft cases can lead to inequality in the implementation of this punishment.

In Islamic criminal law, particularly in the context of the *Hudud* punishment of hand amputation for theft, there are specific conditions that must be fulfilled before this punishment can be imposed on the offender (Somad 2015). Firstly, the primary condition is that the element of theft itself is fulfilled (Miswar 2018). Islamic law demands clear and convincing evidence that an action can be categorized as theft, including aspects such as taking someone else's property without permission or legitimate rights. The fulfillment of

this theft element serves as the first basis before considering the implementation of the hand amputation punishment (Hamzah 2020).

Furthermore, there is a requirement for the stolen property to reach the *nisab* (threshold). In this context, *nisab* establishes the minimum amount of property that must be stolen for the hand amputation punishment to be applicable (Safrian 2022). Islamic law emphasizes that petty theft or actions that do not cause significant harm may not meet the criteria for imposing such a severe punishment as hand amputation. This requirement aims to avoid the application of disproportionate punishment for less significant crimes (Aisyah, Nurdin, and Nadliroh 2022).

The fulfillment of these conditions must be determined through a fair judicial process. Judges play a crucial role in assessing whether the presented evidence is sufficient and whether the conditions have been met before imposing a punishment. This includes ensuring that the judicial process respects the principles of justice and guarantees the full protection of the defendant's rights. Thus, the implementation of hand amputation punishment is carefully regulated, and strict conditions must be met to maintain a balance between justice and the imposed punishment (Forte 1985).

In addition to those conditions, there are social and humanitarian aspects that are often overlooked when discussing the punishment of hand amputation. Misunderstandings may arise when not considering economic conditions, education, or other social factors that could be triggers for criminal actions. This article will delve into these misunderstandings in detail, with the aim of gaining a deeper understanding of the controversies and challenges surrounding the hand amputation punishment for theft in the context of Islamic criminal law. By comprehending the true legal resources and responding to uncertainties with better solutions, we can contribute to a constructive dialogue on the implementation of Islamic punishment and seek harmony between religious values and social justice (Husein 2020).

Several studies related to the punishment of hand amputation have been conducted, including: A study conducted by Mardani in the journal *Law IUS QUIA IUSTUM*, which discusses hand-cutting punishment as the maximum penalty for theft in Islamic criminal law (Mardani 2008). A Research conducted by Muhammad Adnan Luthfi in the *Borobudur Law and Society Journal*, this research discusses the similarities and differences between positive criminal law and Islamic criminal law. The similarity is that both impose penalties when theft is proven. The difference lies in the amount of loss that warrants punishment for committing the crime of theft (Lutfi et al. 2022). And the research conducted by Sam S. Souryal et al. in the *Journal of Criminal Justice*. This study examines whether the penalty of hand amputation may not be inconsistent with the fundamentals of natural law or Judeo-Christian doctrine. The imposition of the penalty in specific cases and under rigorous rules of evidence may indeed be justifiable and even necessary in the Islamic context to sustain a spiritual and peaceful society (Souryal, Alobied, and Potts 2005). None of these studies have delved deeply into misunderstandings regarding the hand amputation penalty in the context of *al-Sariqah* punishment. This study is a literature review that employs a systematic method

to delve into the concept and implementation of hand amputation punishment in the context of *al-Sariqah* crime. First, the identification of literary sources will be carried out through online searches using relevant keywords such as 'Islamic criminal law,' '*al-Sariqah* crime,' and 'misconceptions in hand-cutting punishment.' This research will utilize academic databases, digital libraries, and other reliable sources to gather scholarly articles, books, and conference papers discussing aspects of hand amputation punishment in the context of *al-Sariqah*. Next, in the analysis phase, the collected literary sources will be selected based on their relevance and credibility. Critical reading will be conducted to understand the arguments, perspectives, and concepts discussed in each source. This analysis will form the basis for identifying and clarifying any misunderstandings that may arise in the understanding of hand amputation punishment in the context of *al-Sariqah*.

The main objective of this research is to conduct an in-depth investigation into how hand-cutting punishment is understood and applied within the context of *al-Sariqah* (theft) crime in Islamic law. The focus is to clarify potential misconceptions that may arise among the public or legal practitioners regarding this punishment and to elucidate the procedures and conditions that must be met before such a punishment can be implemented. Thus, the research aims to provide a better understanding of the Islamic legal framework concerning hand-cutting punishment, ensuring that perspectives are based on accurate understanding and principles of justice recognized in Islamic law.

## DISCUSSION

### Hand-cutting punishment in Islamic criminal law

The punishment of hand amputation in theft within the context of Islamic law is a controversial and profound practice, reflecting a specific approach to legal violations. This practice is reflected in the concept of *al-Sariqah* punishment, which is an integral part of Islamic criminal penalties (Wardani et al. 2023). It is important to explore and understand the foundations, objectives, and implementation of hand amputation punishment in theft to provide a comprehensive perspective on the principles of Islamic law involving physical sanctions alongside considerations of justice and humanity.

The legal basis for hand amputation as a punishment of theft primarily stems from the teachings of the Quran and hadith, forming the foundation of Islamic law. The Quran, in Surah Al-Maidah (5:38), explicitly mentions hand amputation as a sanction for those proven to have committed the criminal act of theft. This verse views hand amputation as a direct retribution from Allah SWT, serving as both a preventive measure and a serious punishment for the crime of theft. The Hadith of Prophet Muhammad SAW further reinforces this legal foundation, explaining the specific implementation of hand amputation in theft cases as a manifestation of guidance and directives in Islamic teachings (Rahmi 2018).

The punishment of hand amputation in the crime of theft can be interpreted as a religious response to criminal acts that threaten societal order and security. This legal foundation reflects decisions derived from Islamic teachings to ensure justice and reinforce moral values within society. Although its implementation may sometimes generate controversy globally, this legal basis remains a crucial principle in understanding and executing penalties for theft in Islamic law (Hakim and Munawir 2023).

According to Islamic law, the purpose of hand amputation punishment in theft is preventive, educational, and justice-restoring (Ishaq and Ridwan 2023). Firstly, as a preventive measure, this punishment is intended to create a deterrent effect within society (Haq 2020a). Through the severity of hand amputation punishment, it is hoped to prevent the occurrence of criminal actions, especially theft, and instill a fear of the serious consequences of legal violations (Haq 2020b). By creating a strong psychological impact, this objective is aimed at reducing theft incidents and making society more compliant with the norms of Islamic law (Haq, Bedong, and Syatar 2018).

The educational purpose also becomes the focus of hand amputation punishment in theft under Islamic law. In addition to providing physical sanctions, this punishment is considered a learning experience for the offender (Syafiq 2014). The process of this punishment is expected to open opportunities for repentance and self-purification for the perpetrator, considering hand amputation not only as a punishment but also as an opportunity for them to reflect on and change criminal behavior. Therefore, the educational purpose of hand amputation punishment includes transforming the criminal towards goodness and compliance with the moral values recognized by the Islamic community (Aprilianto 2015).

Furthermore, the purpose of hand amputation punishment in theft is to restore justice in society. This punishment is considered a form of retribution entrusted by Islamic law as a proportional response to legal violations. By imposing a serious sanction such as hand amputation, this punishment is expected to restore the disrupted sense of justice due to criminal actions. Thus, the justice-oriented goal of hand amputation punishment is not only to retaliate against the perpetrator but also to restore order and justice in the concerned society (Souryal, Alobied, and Potts 2005).

### **Controversy of Hand-Cutting Punishment in Islamic Criminal Law**

The hand amputation punishment in Islamic criminal law often becomes a source of controversy and differences of opinion among scholars (Young 2005). In the history of Islamic law, there have been variations in interpretations regarding the implementation and relevance of this punishment (Peters 1994). This controversy reflects a deep debate about the balance between justice, effective punishment, and humanitarian principles. Some conservative scholars consider hand amputation punishment as an expression of Allah's will clearly states in the Quran and the hadiths

of Prophet Muhammad SAW. They believe that this punishment is an integral part of the Islamic legal system that ensures the enforcement of strict sanctions and serves as a deterrent to prevent crimes. This perspective tends to view hand amputation as an essential step in maintaining order and the morality of society (Salma 2013).

Differences in Quranic interpretation also cause controversy. Although there are verses that explicitly mention hand amputation punishment in the context of theft, the interpretation and emphasis on these verses can vary among scholars. Some scholars see the need for historical and cultural context to understand these verses, while others take a more literal approach. The differences among scholars regarding the interpretation of *al-Qath'u*, which refers to the hand amputation punishment in Islamic law, indicate the complexity of interpreting and understanding the relevant Quranic verses. Some scholars interpret *al-Qath'u* literally, viewing it as a concrete and unavoidable punishment in the context of theft. They argue that specific verses in the Quran explicitly mention hand amputation as a sanction that must be applied to thieves. This perspective emphasizes the validity of punishment in maintaining justice and societal order in accordance with Islamic teachings (Salma 2013).

On the other hand, there are scholars who view the interpretation of *al-Qath'u* in a more contextual and flexible manner. They argue that a literal interpretation is not always relevant in the continually changing social and economic realities. Scholars in this category tend to emphasize the importance of understanding hand amputation punishment within the framework of justice and humanity, while also taking into account the social context and conditions of the community that can influence its implementation. In other words, differences of opinion regarding the interpretation of *al-Qath'u* reflect efforts to bridge textual interpretation with real-life conditions and broader universal values (Octaviani, Kurahman, and Assyauqi 2022).

Regarding the imperative texts in the scriptural texts, there are several forms of command (*amar*) in the scriptural texts, but the forms of command in the scriptural texts that involve punishment mostly use the form of the *fi'il amar*. If we observe the scriptural texts related to punishment in Islam, all of them show the form of command, such as the following expressions:

1. “فَأَقْطَعُوا أَيْدِيَهُمَا” , Command for theft cases in Surah Al-Maidah (5):38.
2. “فَأَجْلِدُوا كُلَّ وَاحِدٍ” , Command for adultery cases in Surah An-Nur (24):2.
3. “فَأَجْلِدُوهُمْ تَمَانِينَ جَلْدَةً” , Command for *qazaf* (false accusation of adultery) cases in Surah An-Nur (24):4.

Based on the *Usul al-Fiqh* perspective on the position of these command forms, all forms of command in these punishments scriptural texts encompass the meanings of obligation, recommendation, and permissibility, depending on the contextual indications accompanying them. Thus, the legal options presented in the scriptural texts

are highly dependent on the social conditions, particularly the objective conditions of the Muslim community. They also heavily depend on the Muslim community's environment, whether in the position of a minority or majority, as well as in a state of totality. Ultimately, These scriptural texts will adapt to the conditions and strongly depend on community will and state or regional rulers' interpretations (Samin 2008).

Perspectives on human rights related to hand amputation punishment in Islamic law also serve as a complex source of debate (Yamani 2021). Some argue that this punishment contradicts the principles of human rights, especially in the context of the right to freedom from cruel, inhuman, or degrading treatment. The implementation of hand amputation punishment is considered a violation of human rights due to its extreme physical sanctions that have the potential to cause inhumane suffering (Sumardi 2011).

On the other hand, there are perspectives that attempt to reconcile the concept of hand amputation punishment with human rights. Some Islamic scholars and intellectuals seek to interpret this punishment within the framework of humanity and justice, finding ways to accommodate human rights principles in its implementation. However, the challenge lies in bridging the gap between the textual interpretation of Islamic law and modern human rights norms (Aswarudian 2020).

Despite differences of opinion, the debate regarding perspectives on human rights and hand amputation punishment reflects the need for constructive dialogue between religious communities and human rights advocates. Joint efforts to find solutions that respect religious values while ensuring the protection of human rights are key to addressing inequality and building a more holistic understanding of the balance between Islamic law and human rights.

Misunderstandings surrounding the standards and conditions for hand amputation punishment in Islamic criminal law often arise due to the complexity of interpreting Quranic verses and hadiths. The implementation standards of this punishment are based on strict rules and requirements that must be met for its application (Wardani et al. 2023). One of the main conditions is the presence of strong and convincing evidence related to the theft. Hand amputation punishment also requires quantification of the value of the stolen property to ensure compliance with a certain threshold, or *nisab* (Safrian 2022).

Some Muslims understand that all thieves must have their hands amputated as a mandatory action according to Islamic law. This understanding is often based on a literal interpretation of certain Quranic verses and hadiths that explicitly mention hand amputation as a sanction for thieves. For those who adhere to this view, the implementation of hand amputation punishment is considered an effective step to ensure justice and suppress the incidence of theft in society (Darmawan and Wahyudi 2022).

Misunderstanding the conditions set in Islamic Sharia for theft can be one of the causes of the view that all thieves must have their hands amputated. The conditions that must be met before imposing hand amputation punishment according to Islamic teachings are very strict and require the fulfillment of specific criteria. One fundamental condition is the clarity of the evidence supporting the accusation of theft, which must meet high standards and be irrefutable.

The importance of understanding the conditions for theft in Islamic Sharia emphasizes the need for education and awareness among Muslims. Through this approach, the community can better understand that the implementation of hand amputation punishment is not a hasty step but involves a careful judicial process that considers the conditions and intentions of the perpetrator. Awareness of these conditions can help alleviate misunderstandings and pave the way for constructive discussions on the implementation of punishment within the framework of Islamic law.

Another misconception related to hand amputation punishment in the context of Islamic criminal law is the perception that this sanction is applied arbitrarily and without careful consideration. Hand amputation, known in Islamic legal terminology as "*qat'ul yad*", or whipping punishment, should actually be applied very carefully and in accordance with the criteria outlined in Sharia law. Misunderstandings often arise when people do not understand the context, procedures, and limitations of this punishment. Therefore, it is necessary to deconstruct deviant views and provide a more accurate understanding of how hand amputation punishment should be applied within the framework of Islamic criminal law. Islamic criminal law imposes various limitations and conditions that must be met before this punishment is applied, including the presence of strong evidence, a balance of justice, and consideration of the socio-economic conditions of the offender. Misunderstanding these nuances can lead to oversimplified views of hand amputation as a form of cruelty without considering the complexity of Sharia law.

### **Correcting Misunderstandings Regarding Hand-Cutting Punishment in Islamic Criminal Law**

It is important to provide clear clarification regarding the conditions for hand amputation punishment to address common misunderstandings in society. One frequent misconception is the belief that hand amputation can be easily applied without considering various aspects. In reality, strict conditions must be met, such as the presence of strong evidence, clear legal provisions, and a profound understanding of the conditions and intentions of the perpetrator. This clarification is crucial so that the public can realize that hand amputation punishment is not arbitrary and is only applied in very limited circumstances.



Misunderstandings often arise when the public does not comprehend that the hand amputation punishment must be carried out through a fair judicial process. The conditions for implementing this punishment include objections or a trial that ensures the guilt of the perpetrator with strong evidence. Therefore, it needs to be emphasized that justice must be upheld at every stage of the trial process related to hand amputation punishment. This includes the right of the accused to defend themselves, thorough investigations, and ensuring that legal requirements are met before the punishment is enforced.

Some scholars have established conditions that must be fulfilled for a thief to be subject to the punishment of hand-cutting. These conditions are related to the perpetrator, the victim, the stolen property, the societal context, and others. Even Imam Taqiyuddin al-Subki, a senior scholar of the Shafi'i school, stated that in order to impose the hadd punishment on a thief, it must meet as many as 83 conditions, including: the stolen item must be taken from its storage place (*ḥirz*), it should not be war booty (*mughannam*) or from the public treasury (*baitulmal*), taken directly with one's hands, not through tools or machinery (*āla*), stolen covertly, willingly and not by coercion, the thief must be of sound mind, of sufficient age, a Muslim, free, not in a state of *ihram*, in Mecca, not in a country at war, not authorized to enter the theft location, stealing from someone other than their spouse or blood sibling, not from their spouse (if a woman), not intoxicated, not due to hunger or under duress, stealing owned property, the stolen property allowed to be sold to a Muslim, stolen from someone not violating their rights, the stolen value reaching ten (10) dirhams, pure silver, according to Mecca's weight, not meat or slaughtered animals, not food items or beverages, not of bird type, game, dogs, cats, animal feces, dung (*'adhira*), soil, red soil (*maghara*), arsenic (*zirnīkh*), small or large stones, glass, charcoal, firewood, grass (*qaṣab*), wood, fruit, donkey, herder's animal, manuscript of the Quran, a plant pulled from its roots (*min badā'īhi*), produce from a fenced garden, from a tree, from a free and independent person, or from a slave, if they can speak and are sane, never wronged the thief, before they were expelled from a place they were not allowed to enter, from a secure location, by their own hands, witnesses are brought, to all of the above, by 2 witnesses, namely, male witnesses, according to requirements and procedures conveyed in the chapter on testimony, must be in agreement or not retract their statements, the thief does not admit the stolen goods are theirs, the left hand is healthy, both feet are healthy, no part of their body is missing, the victim did not give stolen goods as a gift, the stolen item did not change ownership to the thief after they stole it, the thief did not return the stolen item to its owner, and the thief did not claim it, and the thief does not owe the person they stole from the value of the stolen item, the victim of the theft is present in court, and they claim ownership of the stolen property, they request the punishment of hand-cutting for the thief before the thief can repent, and witnesses of the theft are present, and a month has not passed since the theft occurred (Brown 2021).

In the framework of Islamic criminal law, when the conditions outlined by scholars are not met, the implementation of hand-cutting punishment becomes infeasible. Islamic scholars often emphasize that this punishment can only be imposed if the specified criteria are clearly fulfilled. Recognizing that the application of such punishment must adhere to the strict standards set by scholars, it is understood that unmet conditions can be a significant barrier to the execution of hand-cutting punishment in the context of Islamic criminal law.

Another crucial clarification regarding hand-cutting punishment is that it cannot be applied arbitrarily without considering the specific context of a case. Clarifying that hand-cutting punishment is only relevant in the context of theft that meets certain criteria, including strong objective evidence, can help the public understand that its application is not arbitrary or cruel. Through this approach, misconceptions can be corrected by conveying that this punishment is only applied as an extreme measure to uphold justice and societal order (Husein 2020; Munajat 2015).

Correcting misconceptions about hand-cutting punishment also involves emphasizing the principles of justice and the limitations inherent in its application. Islamic scholars often highlight that hand-cutting punishment should only be applied after ensuring that Sharia principles are fully met. This includes an emphasis on collecting strong evidence, fairness in the judicial process, and considering the social and economic conditions of the perpetrator. Thus, it can be understood that hand-cutting punishment is not an arbitrary action but an integrated step in the Islamic legal system that seeks to maintain balance and justice.

The story of Umar bin Khattab, one of the prominent caliphs in Islamic history, who did not cut the hand of a thief, is an example where the conditions for hand-cutting punishment were not met. This story dates back to Umar's leadership as the second caliph after the first caliph, Abu Bakar. In an incident, a man was caught stealing, and the local community brought the thief to Umar bin Khattab to enforce the hand-cutting punishment in accordance with Sharia law. Umar, known for his reputation as a just and wise leader, questioned the man about his circumstances and delved deeper into the reasons behind his actions (Ishaq and Ridwan 2023).

After hearing the man's explanation and realizing that the theft occurred due to urgent economic needs, Umar decided not to impose the hand-cutting punishment. Instead of enforcing a harsh penalty, Umar sought a more just and wise solution. He understood that in certain conditions, hand-cutting punishment might not be appropriate and that wisdom in its application was critical (Sucilawati 2020).

This story illustrates that, although Islamic law provides for hand-cutting punishment in cases of theft, only leaders like Umar bin Khattab who value context and consider external factors that may influence a person's actions. This reflects the Islamic legal approach that emphasizes not only punishment but also considers justice,

balance, and wisdom in its application. The story of Umar bin Khattab illustrates that in deciding not to enforce the hand-cutting punishment on a thief, Umar did not merely follow legal provisions literally but also took into account the social context and the circumstances of the individual involved. Umar's actions highlight the importance of understanding that Islamic law is not static or mechanistic but adheres to broad principles to achieve larger goals, namely maintaining justice and balance within society. This approach emphasizes the importance of carefully assessing each individual case in the context of hand-cutting punishment to ensure its correct application and alignment with the inherent justice principles of Islamic law.

This research makes a significant contribution to clarifying misconceptions about hand-cutting punishment in the context of *al-Sariqah* crime. This is crucial because there is a common misunderstanding that hand-cutting punishment can be easily applied without a fair process. The research demonstrates that in the context of Islamic law, such punishment is reserved for very limited cases that meet the criteria established by scholars and principles of justice in Islamic law. Thus, this study not only enhances understanding of the application of hand-cutting punishment within the context of *al-Sariqah* but also helps correct public perceptions regarding justice and order in Islamic law.

To address misunderstandings regarding hand-cutting punishment in Islamic criminal law, important steps include intensive educational efforts aimed at the general public and legal stakeholders. A comprehensive education campaign should be conducted to disseminate accurate information about the context, strict requirements, and criteria for the application of hand-cutting punishment according to Islamic law. Further research should also delve into the historical, theological, and social aspects of hand-cutting punishment, with findings published in accessible formats such as scholarly journals or online media. This approach aims to foster a better understanding of hand-cutting punishment and effectively correct any societal misconceptions.

## CONCLUSION

In summary, it is essential to provide clear clarification regarding the conditions for hand amputation punishment to dispel common misunderstandings in society. The misconception that hand amputation can be easily applied without considering various aspects must be addressed. Strict conditions, such as the presence of strong evidence, clear legal provisions, and a profound understanding of the perpetrator's conditions and intentions, must be met for this punishment. This clarification is crucial to make the public realize that hand amputation punishment is not arbitrary and is only applied in very limited circumstances. Misunderstandings often arise when the public does not comprehend that hand amputation punishment must be carried out through a fair judicial process. The conditions for implementing this punishment include objections or a trial that ensures the guilt of the perpetrator with strong evidence. Therefore, it needs to be emphasized that

justice must be upheld at every stage of the trial process related to hand amputation punishment, including the right of the accused to defend themselves, thorough investigations, and ensuring that legal requirements are met before the punishment is enforced.

This research has not fully addressed the misunderstandings surrounding the hand amputation punishment, and there are still many perspectives that can be further developed. More in-depth research is needed to explore the viewpoints of the public, scholars, and legal authorities regarding their understanding and perceptions of hand amputation punishment in the context of Islamic law.

## BIBLIOGRAPHY

- Aisyah, Faira, Nurdin Nurdin, and Tri Amanatun Nadliroh. 2022. "Taubat Sebagai Penggugur Had Terhadap Pelaku Tindak Pidana Pencurian (Jarimah Sirqah) Perspektif Imam Al Nawawi." *Jatiswara* 37 (1): 78–92.
- Andriyadi, Fauza. 2022. "Pencurian Menurut Hukum Islam." *Jurnal Al-Nadhair* 1 (2): 1–9.
- Aprilianto, Dwi. 2015. "Program Pembinaan Di Lapas Kelas II B Lamongan Perspektif Filsafat Hukum Pidana Islam." *Maraji: Jurnal Ilmu Keislaman* 2 (1): 67–91.
- Astuti, Novia Hanif Budi. 2023. "Hukuman Potong Tangan Bagi Pelaku Pencurian." *MOTEKAR: Jurnal Multidisiplin Teknologi Dan Arsitektur* 1 (1): 22–25.
- Aswarudian. 2020. "Hukuman Had Bagi Pelaku Peminum Khamr (Studi) Komparatif Pemikiran Imam Abu Hanifah Dan Imam Asy- Syafi'i)," 1–81.
- Brown, Jonathan. 2021. "Stoning and Hand Cutting—Understanding the Hudud and the Shariah in Islam." *Yaqeeninstitute*, 2021. <https://yaqeeninstitute.org/read/paper/stoning-and-hand-cutting-understanding-the-hudud-and-the-shariah-in-islam>.
- Darmawan, Rama, and Andri Wahyudi. 2022. "Tindak Pidana Pencurian Dalam Hukum Islam Dan Hukum Pidana Indonesia." *Jurnal Pendidikan Tambusai* 6 (2): 16208–15.
- Forte, David F. 1985. "Islamic Law and the Crime of Theft: An Introduction." *Clev. St. L. Rev.* 34: 47.
- Hakim, Gayuh Annisa Nuril, and Munawir Munawir. 2023. "Hukum Potong Tangan Dalam Qs. Al-Maidah Ayat 38." *Al Furqan: Jurnal Ilmu Al Quran Dan Tafsir* 6 (2): 190–207.
- Hamzah, Indra. 2020. "Menelaah Tindak Pidana Pencurian Dalam Perspektif Hukum Islam Dan Hukum Positif."
- Haq, Islamul. 2020a. *Fiqh Jinayah*. IAIN Parepare Nusantara Press.
- . 2020b. "Prison in Review of Islamic Criminal Law: Between Human and Deterrent Effects." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 4 (1): 132–50.
- Haq, Islamul, M Ali Rusdi Bedong, and Abdul Syatar. 2018. "Effect Of Young Age in Murder Felony (Comparative Study Between Islamic Jurisprudence and Indonesian

- Law).” *Al-Ahkam: Jurnal Ilmu Syariah Dan Hukum* 3 (2).
- Hejaziey, Djawahir. 2015. “Law Enforcement in Islam.” *Ahkam Journal of Sharia* 15 (1): 53445.
- Husein, Ahmad. 2020. “Memahami Al-Qur’an Kontemporer Antara Teks, Hermeneutika Dan Kontekstualisasi Terhadap Ayat Perbudakan.” *Jurnal Ulunnuha* 9 (2): 120–35.
- Ishaq, Ishaq, and Muannif Ridwan. 2023. “A Study of Umar Bin Khatab’s Ijtihad in an Effort to Formulate Islamic Law Reform.” *Cogent Social Sciences* 9 (2): 2265522.
- Lutfi, Muhammad Adnan, Yulia Kurniaty, Basri Basri, and Johnny Krisnan. 2022. “Studi Perbandingan Tentang Penetapan Sanksi Pidana Pencurian Berdasarkan Hukum Pidana Positif Indonesia Dan Hukum Pidana Islam.” *Borobudur Law and Society Journal* 1 (1): 20–30.
- Mardani, Mardani. 2008. “Sanksi Potong Tangan Bagi Pelaku Tindak Pidana Pencurian Dalam Perspektif Hukum Islam.” *Jurnal Hukum IUS QUIA IUSTUM* 15 (2).
- Maryandi, Yandi. 2017. “Wacana Pemberlakuan Hukum Pidana Islam Di Indonesia.” *Tahkim* 2 (1): 335048.
- Miswar, Dedi. 2018. “Unsur-Unsur Pencurian Menurut Hukum Pidana Dan Hukum Islam (Studi Pencurian Di Bengkel Sepeda Kawasan Pasar Tungkop Kecamatan Darussalam Kabupaten Aceh Besar Tahun 2016).” UIN Ar-Raniry Banda Aceh.
- Mohamad, Tun Abdul Hamid. 2015. “Implementation of The Islamic Criminal Law in Malaysia: Prospects And Challenges.” *ICR Journal* 6 (2): 166–74.
- Munajat, Makhrus. 2015. “Kontekstualisasi Hukum Pidana Islam Dalam Pembaruan Hukum Pidana Nasional.” *Supremasi Hukum: Jurnal Kajian Ilmu Hukum* 4 (1): 17–38.
- Nur, Muhammad Tahmid. 2020. “Urgensi Penerapan Hukum Pidana Islam (Tinjauan Filsafat Hukum).” *MADDIKA: Journal of Islamic Family Law* 1 (1): 1–16.
- Octaviani, Nur Danisia, Taufik Kurahman, and Moh Iqbal Assyauqi. 2022. “Reinterpretasi Teks Hukum Potong Tangan Perspektif Hermeneutika Khaled M. Abou El Fadl.” *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan* 16 (4): 1536–50.
- Peters, Rudolph. 1994. “The Islamization of Criminal Law: A Comparative Analysis.” *Die Welt Des Islams* 34 (2): 246–74.
- Rahmi, Nailul. 2018. “Hukuman Potong Tangan Perspektif Al-Quran Dan Hadis.” *Jurnal Ulunnuha* 7 (2): 53–70.
- Safrian, Rendy. 2022. “Batas Nisab Harta Dalam Had Pencurian Secara Berkelompok Menurut Mazhab Hanafi.” UIN Ar-Raniry Banda Aceh, Syaria’h dan Hukum.
- Salma, Salma. 2013. “Kedudukan Lafaz Qat’al-Yad Dalam Kajian Usul Dan Pengaruhnya Terhadap Hukuman Potong Tangan.” *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 13 (1).
- Samin, Sabri. 2008. *Pidana Islam Dalam Politik Hukum Indonesia: Eklektisisme Dan Pandangan Non Muslim*. Kholam Pub.
- Somad, Bukhori Abdul. 2015. “Nilai-Nilai Masalah Dalam Hukum Potong Tangan: Analisis Kritis Perspektif Hadis Ahkam.” *Madania: Jurnal Kajian Keislaman* 19 (1).

- Souryal, Sam S, Abdullah I Alobied, and Dennis W Potts. 2005. "The Penalty of Hand Amputation for Theft in Islamic Justice." *Comparative and International Criminal Justice: Traditional and Nontraditional Systems of Law and Control*, 397.
- Sucilawati, Sucilawati. 2020. "The Concept of Shura in Islamic Governance Practice of Shura during the Caliph Umar Bin Khattab." *The International Journal of Politics and Sociology Research* 8 (1): 19–32.
- Sumardi, Dedy. 2011. "Hudūd Dan HAM: Artikulasi Penggolongan Hudūd Abdullahi Ahmed An-Na'im." *MIQOT: Jurnal Ilmu-Ilmu Keislaman* 35 (2).
- Syafiq, Ahmad. 2014. "Rekonstruksi Pemidanaan Dalam Hukum Pidana Islam (Perspektif Filsafat Hukum)." *Jurnal Pembaharuan Hukum* 1 (2): 178–90.
- Wardani, Sisi, Siti Kamilah, Syifa Nur, Widiyani Agustien, and Deden Najmudin. 2023. "PERBANDINGAN HUKUMAN JARIMAH SARIQAH (PENCURIAN) DALAM HUKUM PIDANA ISLAM DENGAN HUKUM INDONESIA." *Tashdiq: Jurnal Kajian Agama Dan Dakwah* 1 (2): 71–80.
- Yamani, Gasim. 2021. "HAM Dan Hukum Islam." *Rausyan Fikr: Jurnal Ilmu Studi Ushuluddin Dan Filsafat* 17 (1): 145–58.
- Yasir, Moh, Joko Widodo, and Ali Ashar. 2022. "Islamic Law and National Law (Comparative Study of Islamic Criminal Law and Indonesian Criminal Law)." *Al Hurriyah: Jurnal Hukum Islam* 6 (2): 167–81.
- Young, Walter. 2005. "Stoning and Hand-Amputation: The Pre-Islamic Origins of the Ḥadd Penalties for Zinā and Sariqa."
- Yusoff, Zurita Mohd, Fatimah Muliana Muda, Wan Mohd Khairul Firdaus, Siti Fatimah Salleh, and Farah Amalina Mat Nawi. 2019. "Ethics of Punishment Execution against Offenders in Islamic Criminal Laws." *J. Legal Ethical & Regul. Issues* 22: 1.