

The Opportunities of the Application of Islamic Criminal Law According to Indonesian Constitution

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Abstract

Islamic Criminal Law explains criminal offence and the punishments based on Islamic Law. The aim of Islamic criminal law is to maintain peace in the societies, whether for Muslim and non-Muslim, and reform the offenders. Running the Islamic criminal law is the right of every Muslim. The Indonesian Constitution guarantees the citizen's freedom to run their own religion. In this context, running Islamic criminal law is part of Islamic religion. The objective of this paper is to know the opportunities of the application of Islamic criminal law according to Indonesian Constitution. This qualitative study will analyze the library data by referring to the books, the regulation in Indonesia and other sources that support this issue. Thus this paper is expected to generate the information about the possibility of the application of Islamic criminal law in Indonesia according to the Indonesian Constitution which is the highest law in Indonesia.

Keywords: Islamic criminal law, Indonesia, Indonesian constitution

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1. Introduction

The highest regulation in the Islamic religion is the holy Quran because the Quran is believed by Muslims as a revelation from God. The Quran mentions in Surah Al-Baqoroh chapter 2 verse 2 that *"the Book (Quran) is no doubt to him, a clue to those who fear Allah"*. Therefore, it is the right of every Muslim not to hesitate anything in the Quran and making instructions in his life.

The Quran mentions in Surah Al-Maidah chapter 5 verse 48 that

And We have revealed to you, [O Muhammad], the Book in truth, confirming that which preceded it of the Scripture and as a criterion over it. So judge between them by what Allah has revealed and do not follow their inclinations away from what has come to you of the truth.

Moreover, Qur'an also shows in the Al-Ahzab chapter 33 verse 36 that

It is not for a believing man or a believing woman, when Allah and His Messenger have decided a matter, that they should [thereafter] have any choice about their affair. And whoever disobeys Allah and His Messenger has certainly strayed into clear error.

Anwar Harjono [1] once explained that if Muslims fight for enactment of Islamic law in everyday life, then it is just a proof that Muslims in Indonesia want to be a good Muslim. As a good Muslim, we will automatically become good citizens as well. The problem is how to fill out and adopt the Islamic law. So, the willing of Muslims in Indonesia to be able to execute the laws of God is not a movement of rebellion which want to divide Indonesia. This willingness is as well as the desire of Muslims to avoid eating pork, avoid alcohol, avoid usury and etc. It also can be equated with the desire of Muslims to perform the Hajj, fasting, praying five times, pay alms and so etc.

Islamic criminal law is part of Islamic law. Islamic law is not the cruel law, causing injustice. On the contrary, Islamic law is the law that is very fair, both for Muslims as well as people who are not Muslims. This because Islamic law is not made by some people in a certain period so that it is not necessarily approved or even fit to give justice to the other people at the time of a different era. Islamic law is derived from the Quran which is a revelation from God. As for the hadith of the Prophet Muhammad, companion's statements and scholarly opinion will always lean towards Qur'an and may not be contrary to the Quran.

There are many experts from the west who support the claim that Islamic law is the fair law. Izco Insapato [2], professor of Harvard University, said that Islamic law in the discussion-discussion actually outperformed European

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law, even the law of Islam has contributed to the world legal system.

David de Santillana [3], Islamic legal scholars who lived as the Italian citizen, said that Islamic law is very adequate for the legal needs of the Muslims. Even no exaggeration if we say that Islamic law is capable to satisfy all mankind. While Sir James Dalrymple Norman Anderson [4], a lawyer from England, stated that Islamic law cannot be matched by any legal perfection.

Islamic criminal law is part of Islamic law which is derived from the Quran. There is no part of the Quran that teaches injustice. Thus automatically Islamic law does not contain things that are not fair too. As if there is a fraction of Muslims who act unjustly then it does not mean that Islamic law teaches injustice. We must differentiate between the Muslims and Islam itself. We cannot understand Islam or Islamic law by looking at the Muslims, but we must learn from the source, that is the Quran.

Lex generalist from Indonesian legal code is the Code of Penal. The Indonesian Code of Penal is a direct translation from the Dutch *Wetboek van Strafrecht*. As stated by Kansil [5], *Wetboek van Strafrecht* firstly enacted in Indonesia by the Dutch colonial government based on the sovereign king of the Netherlands on October 15, 1915 which came into effect on January 1, 1918. Therefore, the Criminal Code is no longer considered being able to provide a sense of justice for the people of Indonesia. Not only because of the rapid pace, but also the philosophy of the Indonesian nation is very different from the philosophy of the Dutch colonial government.

The Constitution is the supreme rule in a country. Sumarni [6] explained that, based on the insights of the constitutional system of government, the organization of state power and law and others should refer to the basic norms and the Constitution. The Indonesian basic norms is Pancasila and the Indonesian constitution today is the Act of 1945 that has been amended. Indonesian Constitution does not explicitly mention that Indonesia is a religious country, or even based on Islam. However, Indonesia explicitly mentioned in the Indonesian constitution article 29 paragraph 1 that the State based on the belief in almighty God and in paragraph 2 states that the State guarantees the freedom of each citizen to profess his own religion and to worship according to their religion or belief. Therefore, every religion in Indonesia, both Muslims and people of other religions, is guaranteed to run anything that has been set by the religion as long as it does not have conflict with the Indonesian Constitution and the laws underneath. If the imposition of Islamic civil law walks properly without injuring a sense of unity of the people of Indonesia and without a conflict with the constitution, then the implementation of the Islamic criminal law should able to be realized in Indonesia.

2. Overview of Islamic Criminal Law

Islamic law has been run with full starts when the time of the Prophet Muhammad until at the time of the end of

the kingdom of Turkey Usmani [7]. There are some scholars who argue that implementing Islamic law is required for a state. Among Muslim scholars are Abdul Rahman bin Khaldun as stated in his book *Muqaddimah*. Al-Mawardi in his book that the title is *Al-ahkam Al-Sultaniyah*, Dr Muhammad Abdullah Al-'Araby in his book based *Nizam Al-Hukm fi Al-Islam* and Abi o'la Muhammad bin Hussain Al-Farra' in his book *Al-Ahkam Al-Sultaniyah*. While the verse of Qur'an that specifically ordered enforcing Islamic law is the surah Nur chapter 24 verse 47 - 50, surah Al-Baqoroh chapter 2 verse 178, 85 - 86, 213, 278 - 279, surah Al-Maidah chapter 5 verse 48 - 49, Surah al-Jathiyah chapter 45 verse 18. The verse Qur'an that indirectly command is the surah Asy-Syura chapter 42 verse 10, 13,15, Surah al-Jathiyah chapter 45 verse 18, Al-Baqoroh surah chapter 2 verse 208, surah Muhammad chapter 47 verse 8 - 9, surah an-Nahl chapter 16 verse 116, surah Al-Maidah chapter 5 verse 50, surah An-Nisa chapter 4 verse 61. In addition, there is also a threat to those who are reluctant to implement Islamic law in the Qur'an namely surah Al-Maidah chapter 5 verse 4, 45, 47, surah Ali Imran chapter 3 verse 64, surah Al-An'am chapter 6 verse 148, surah An-Nahl chapter 16 verse 35, 106 and 116 and surah An-Nisa chapter 4 verse 60 [8].

The criminal law is the legal rules that define actions that should not be done as well as threats or sanctions in the form of a specific criminal for any person who violates the ban [9]. Based on the understanding of the criminal law, it can be seen that there are two main elements of the meaning of criminal law that is the act that should not be done by law and the threat of criminal sanctions for noncompliance.

The substance of Islamic law is a norm that provides regulations for livelihoods and human behavior as a whole and includes all sorts of aspects. Islamic criminal law by majority fuqoha is called *jinayah* or *ma'shiyyat* or *jarimah* which these three terms have the same meaning to the definition of criminal law except criminal law in the perspective of Islam [10]. Such as other criminal laws, criminal law of Islam also contains two basic elements is the act that should not be done by law and criminal sanctions for noncompliance. This is in accordance with the meaning of the word *jarimah* namely prohibitions *syar'i* culprit threatened by Allah with the *hadd* punishment or *ta'zir*.

In Islam, there are five main things about the man who should be protected and supported by the existence of Islamic law. The five main things are to preserve religion, nourish the soul, nourish mind, the breeding and maintaining property [11]. The Islamic penal code, which is part of Islamic law, aims to realize the goodness of human life and prevent damage by keeping the five main things.

Khalaf [12] said that at least there are more than 30 verses in Qur'an that talks about Islamic criminal law. First, the punishment of crimes against the soul that mentioned in Qur'an surah Al-An'am chapter 6 verse 151, surah Al-Israa chapter 17 verse 33 dan surah An-Nisa chapter 4 verse 92. Second, regulates about the crimes against property that mentioned in Qur'an surah Al-Maidah

chapter 5 verse 38. Third, explain about the adultery crime that mentioned in Qur'an and surah An-Nur chapter 24 verse 2. Fourth, talks about the prohibition of drink the intoxicated that mentioned in Qur'an surah Al-Maidah chapter 5 verse 90. Fifth, explain about the robbery crimes in Qur'an surah Al-Maidah chapter 5 verse 33 and many more regulation in Islamic law, either in Qur'an, Al-Hadist or opinion of Islamic scholar, that explain about the criminal law.

3. Characteristics of Islamic Criminal Law

Basically, the characteristics of Islamic criminal law are not much different to the Islamic law. Islamic criminal law must always be associated with Islamic law because the Islamic criminal law is part of Islamic law. Characteristic of Islamic criminal law is superior when compared to the criminal law than Islam. The following will explain the characteristics of Islamic criminal law [13].

The first characteristic is Islamic criminal law is God's creation, not created by human beings at a time. So it is definitely that Islamic criminal law will not be inclined to a certain group. In addition, the Islamic criminal law is also suitable for any human being anywhere and in any time. In contrast to criminal law manmade which can be only suitable for a society in certain areas but not suitable for other people or just looking for a particular period and is not suitable for any other age. Therefore, criminal law of a product outside the Islamic criminal law is proved to change frequently. While the Islamic criminal law, have undergone no changes since the fall of the religion of Islam to the Prophet Muhammad in the fifth century BC. As new things that are written by scholars because of the times should not deviate or at odds with the rules that are essentially within the Qur'an and Al-Hadith as the primary source of Islamic criminal law. In fact, Islam had triumphed criminal law that is upheld not only in Arabic, even on the plains of Europe, Spain, southern Asia in India to Pakistan, even to the far east that is in Malay consisting of Malaysia, Indonesia, Brunei and the Philippines.

The second characteristic of the Islamic criminal law is rooted in one's beliefs. Muslims are taught to always submissive and obedient to God the almighty One and Islamic criminal law is believed by Muslims comes from God. Thus the legal awareness taught by Islamic criminal law is a legal awareness born of conviction and not because of compulsion. Although the Islamic penal code also coercive, it has sanctions for violators. The obedience due to faith becomes the main thing that taught Islam to its adherents.

The third characteristic is the Islamic penal code provides penalties and sanctions world hereafter. In addition to providing criminal sanctions in the world, the Islamic penal code still threatened with punishment in the hereafter if someone has violated Islamic criminal law. This shows that the Islamic penal code wants to build awareness of the law that comes from the heart of each

believer, not merely from a sense of compulsion alone. It is not found in the other criminal law.

The fourth characteristic is the Islamic criminal law anticipate any acts *mukallaf* (Muslims who are burdened with the yoke of religion) or positive law commonly referred to people who may be legally responsible. In other words, Islamic law has provided the norms related to the problem offenses meet the legal needs of the future. Every scholar's opinion about the crime must be suitable with the norms of Qur'an an Al-Hadith as the primary source in Islam.

The fifth characteristic is set bodily actions and deeds. Islam prohibits certain inner attitude that considered bad and harmful such as envy, jealousy, revenge, and arrogant. This prohibition is a crime preventive measures. The fact is that a lot of the negative action originated from a negative mental attitude as well.

The sixth characteristic is the aspect of moral. Based on Islamic criminal law, an action that is not in accordance with good morals is considered as a criminal offense even if such action is deemed not harmful to others directly. Such fornication as they liked or porn action

The last characteristics of the Islamic criminal law is comprehensive and not partial. Islamic criminal law setting it covers all activities of human life. All activities that violate the law has been established along with the sanctions in the world and in the hereafter.

4. Principles of Islamic Criminal Law

The first principle of Islamic criminal law as described by Santoso [1] is the principle of legality. The principle of legality is the principle which states that there is no criminal act before there is provision in advance. An act may not be considered illegal by the judge if it has not been stated clearly by a criminal law and as long as the act was not done. The principle of legality in criminal law of Islam is written in the Quran surah Al-Isra chapter 17 verse 15 that means "*And never would we punish until we sent a messenger*".

The next principle is the principle of non-retroactivity. This principle prohibits the entry into force of the criminal law to the rear, to act no rules. Violation of this principle resulted in violations of human rights. Principle of non-retroactivity of the criminal law of Islam is reflected in the case of the prohibition of marrying sisters. At the same time, it is written in the Quran surah An-Nisaa chapter 4 verse 23 that means "*and that you take [in marriage] two sisters simultaneously, except for what has already occurred. Indeed, Allah is ever forgiving and Merciful*".

The third principle is the principle of presumption of innocence. Based on this principle, all actions should be considered, unless specified by the law. Furthermore, every person is presumed innocent of anything evil, unless proved guilty in a crime without any doubt. This presumption of innocence in Islamic criminal law based on the sayings of the Prophet Muhammad which contains, "*snare for Muslims the punishment prescribed penalties at*

any time you can and when you can find a way to claim. If the priest one better one in the release of the one in the judge" [14].

The fourth principle is the principle of legality which does not penalize in doubt. Islamic laws stipulate that a person must be believed to have committed a criminal offense before being sentenced. Therefore, if there is doubt in the act of doing, then the sentence should not be carried out. In the Islamic criminal law, this principle is based on the sayings of the Prophet Muhammad which reads "*snare punishment prescribed penalties for doubt*" [15].

The last principle is the principle of equality before the law. According to Islamic law, everyone is equal in front of the law. There is no difference between men and women, masters and servants, the rich and the poor, rulers or the masses. This can be known from the sayings of the Prophet Muhammad that contain "no merit for the Arabs of the stranger, nor for the stranger over the Arabs, and there is no merit for the black over the red-skinned, nor for the red-skinned over the black, except with taqwa"[16].

5. The Overview of Indonesian Constitution

Referring to Saunders [17], a constitution is more than a public contract. It is rather an expression of the nation universal motivation. It is also a replication of its history, fears, concern, aspiration, and defines the soul of the nation. Meanwhile Muna Ndulo [18] declared that the constitution of a country must be a record of the lives a nation as well as the unresolved dream. The constitution must be a national autobiography that reflects the diversity in society. It should write down the vision of the whole community and can be assured in the constitution all of dreams and goals that can be achieved throughout society.

Where [19] have explained that the constitution broadly means the whole system of government, a set of rules that shape and govern. While constitution in the narrow sense means the collection of state governance rules contained in a document. Related to the previous opinion, Perry [20] explained that the constitution is the norms of the supreme law of land.

Based on the terms of the constitution from experts, it can be concluded that the constitution is the norm of political system and the government legal formation. The Constitution contains provisions of the constitution of a government as well as the provisions outlined in government institutions, the rights of citizens, as well as the limits and responsibilities to them. Usually constitution is written in an official government document. Therefore, any activity of the government and its people must be in conformity with the constitution. All the rules of law in a country must not be contradictory and in accordance with the constitution, because the constitution is the supreme rule in a country.

The constitution of Indonesia is The Indonesian Constitution of 1945 that was amended. Within the Indonesian Constitution, there is an ideology of Indonesia namely Pancasila. Pancasila is written in the preamble of

the Indonesian Constitution at paragraph IV. Indonesian Constitution also regulates about basic rules of law in Indonesia. Basic rules of law in Indonesia is written in the torso of Indonesian Constitution. Indonesian Constitution become the highest law in Indonesia, whether for written law or unwritten law. Therefore, every law in Indonesia must be suitable with Indonesian Constitution.

6. Islam in the Indonesian Constitution

Abdullah [21] explained that the enactment of Islamic law in Indonesia has got a constitutional reasons. The first is philosophical reason. The thought of Islam are worldviews moral and legal ideals majority of Muslims in Indonesia. It is an important role for the creation of the fundamental norms of Pancasila state. The second reason is sociological reasons. The historical development of the Islamic community in Indonesia shows that the ideals of law and legal awareness based on the Islamic though have a sustainable level of topicality. A third reason is a legal ground that is written in articles 24, 25 and 29 of the Indonesia constitutions and nominally have provided a place for the enforceability of Islamic law.

Based on Faisal [22], the Islamic law is a source of national law in addition to the development of customary law and western law. In the Indonesian legal system, Islamic law has been described by constitutional opportunities. While Hazarin [22] explained that the articles in the Indonesian Constitution principles contain that might not be made legislation contrary to the rules of religion and the state is obliged to enforce Sharia Law religions anywhere in Indonesia, either Islam and the others religion.

The Indonesian constitution does not directly mention that Indonesia is a Muslim country. Indonesian Constitution also does not state that Islam is the religion of nation. But, the Indonesia country is not a country that against religious affairs. In fact, the Indonesian Constitution clearly mentioned in article 29 section 1 that the Indonesian state based on the God Almighty. This shows that Indonesia has committed to run the country with regard by the principle religion, whether Islam or other religions. Furthermore, in article 29 section 2 of the Constitution also guarantees the independence of each citizen to profess his own religion and to worship according to their religion or belief. Based on this article, the state should not prohibit Indonesian citizens to perform their religious orders, either Muslims or people of other religions, as long as their religious orders do not contradict with the Indonesia Constitution.

The Indonesian Constitution not only instructs the Indonesian state to guarantee its citizens the freedom to run their own religion, but also provides a means of religious courts. It is written in the Indonesian Constitution article 24 section 2. The religious court is one of the judicial institutions to conduct enforcement law and justice for the people who is seeking a particular justice case among Muslims (Indonesian Act number 3 year 2006). Section 1 Subsection 1 of Indonesian Act number 50 year 2009 also

explains that the Religious Courts are courts for Muslims. This indicates that Indonesia also provides medium enforcement of the Islamic religion because Islam mandates the adherents to comply with Islamic law.

7. The Opportunities of the Application of Islamic Criminal Law According to Indonesian Constitution

Based on Ichsan [23], it seems that there are no obstacles constitutional towards the implementation of Islamic law in Indonesia, even the Indonesia Constitution at the opening and torso provides the constitutional basis for the implementation of Islamic law for Muslims in Indonesia.

The Torso of Indonesian constitution found the requirements of constitutional which provides the basis for the implementation of Islamic law, Muslims in Indonesia. Article 29 section 1 of the Indonesia constitution states that Indonesia based on God Almighty. While the article 29 section 2 states that the state guarantees the freedom of every Indonesian citizen to practice their religion and to worship according to their religion. For Muslims, worship God can only be done in ways that have been established by God through the instructions. Worship cannot be released from the aspect of faith. In the Islamic law, common sense is all the rules of life ordained by God to be undertaken by humans in order to gain salvation and happiness in this world and the hereafter, covering aspects of belief, aspects of ritual, aspects of human relationships and moral aspects.

As discussed previously, Islamic criminal law is a part of Islam religion. Islam is not just about matters of worship, but also rituals, religious that govern human relationships. Islam also sets its followers about anything which is allowed to perform and other what not to do. Things that are forbidden in Islam also has provided threat that raised in the legal order. Concerning that things should not be done along with the penalties in Islam commonly is called the Islamic criminal law. Then, by consecutively the criminal law in accordance with what has been guided by Islam for Muslims is a right of Muslims which has been guaranteed by the constitution.

Practicing Islamic criminal law is not unconstitutional matter. Moreover, this would support the concept of culturally diverse nation (*Bhineka Tunggal Ika*) of Indonesia, where there are no restrictions for a religion to exercise their right as a religious community. The implementation of Islamic criminal law is not intended for all Indonesian citizens but only for Muslims. Therefore, no one is forced to follow a belief that is not their conviction. The difference among Muslims regarding Islamic criminal law can be solved if all Muslims agreed to return all the problems to the Quran as the highest legal rule in Islam.

The concept of the implementation in Islamic criminal law is not much different from the Islamic civil law. Islamic civil law in Indonesia can be run without any problems as opposed to the constitution, although it is undeniable that there are still many things that should be

addressed from implementation of Islam civil law in Indonesia. If the Islamic civil law can be executed in Indonesia, the Islamic criminal law also should be implemented in Indonesia. As we know, status of the Islamic criminal law is different with status of Islamic civil law. Islamic criminal law is a public law while Islamic civil law is a private law. However, this status should not be a reason that the implementation of Islamic criminal law is unconstitutional.

8. The Constraints in the Implementation of Islamic Criminal Law in Indonesia

If the implementation of Islamic criminal law is not an unconstitutional act, then it does not mean that the implementation of the Islamic criminal law can be applied without any obstacles. Since there are so many obstacles that must be recognized, it should also be understood that the implementation of the Islamic criminal law requires a great and a long time effort. However, it is not an impossible thing to make Muslims become apathetic to the enforcement of Islamic criminal law.

Preceding the discussion of the constraints in implementing Islamic criminal law enforcement, it is necessary to discuss the constraints in implementing Islamic law. Santoso [24] provides an explanation about the constraints of enforcing Islamic law in Indonesia. The first obstacle is there is still a number of Muslims who are anti, reluctant or fearful to the application of Islamic criminal law. Mass media activities show many descriptions of objection to the enforcement of Islamic law even derived from Muslims.

The second constraint is Muslims who support the enforcement of Islamic law are not solid yet. There is also a conflict within the supporters of Islamic law enforcement. Several different groups consider their method as the most valid one to execute Islamic law till they are dare enough to blame other Muslim groups. This is due to the malice happening among them although they have the same Quran, the real source of what they are struggling for.

After discussing about the constraints of Islamic law, now it will be discussed about the constraints in implementing Islamic criminal law. The first constraint in enforcing Islamic criminal law is sociological constraints. Sociological constraints are the constraints arising from the Muslims who still cannot accept their own law. The second constraint is thought constraint. There are some negative thoughts and views towards the Islamic criminal law as well as there is an unsure feeling about its effectiveness. The third obstacle is philosophical constraint involving accusations that Islamic criminal law is unfair, even cruel and outdated as well as contrast to the ideals of national law. The fourth obstacle is juridical obstacles reflected from the absence of criminal law provisions which are derived from Islamic law. The fifth obstacle is consolidation obstacle, i.e. the supporters towards Islamic law are not solid yet and they still hold their own arguments and application methods. The sixth obstacle is

academic constraint seen from the fact that the teaching of Islamic criminal law is not yet widely spread in schools or colleges. The seventh constraint is formulation constraint. It is clearly seen from the absence of any systematic effort to formulate any criminal law that is appropriately based on Islamic law as the preparation to replace western criminal law. The eighth obstacle is structural constraint as seen from the lack of legal structures supporting the implementation of Islamic law. The ninth obstacles is scientific obstacle, in which there is still a lack of many scientific literature reviews on Islamic criminal law. The tenth obstacle is political constraint proven from the insufficient political power to realize the establishment of Islamic law through political processes.

These constraints are some problems that must be resolved by Muslims. These should not make Muslims despair in an attempt to enforce Islamic law in general and Islamic criminal law in particular. Muslims struggle to enforce Islamic law has partly succeeded by upholding Islamic civil law in Indonesia. Therefore, this suggests that the effort to enforce Islamic law is not an impossible mission.

9. Conclusion

Quran is the most supreme rule of Islamic religion which must always be adhered by all Muslims. Quran requires every Muslim to carry out Islamic law. Considering that Islamic criminal law is part of Islamic law, so running Islamic criminal law is also an obligation of all Muslims.

The Indonesia Constitution does not mention that Indonesia is an Islamic state or a religious state. However, Indonesian Constitution clearly reject any separation between state affairs and religious affairs or so-called secular. It can be seen from Indonesian Constitution stating that Indonesia is based on the belief in one God Almighty. In addition, this unequivocally shows that although no single religion privileged by the Indonesia Constitution. Moreover, Indonesia remains grounded to the values of belief in God that is written in *Pancasila* (the five basic principles of the Republic of Indonesia) as the state ideology of Indonesia.

The Indonesia Constitution also guarantees the freedom to practice any religion for every citizen. This becomes the foundation that Indonesia gives guarantee on the freedom of Muslims to run criminal law as the teachings of Islam. The constitution has even provided rules regarding religious courts as one of comprehensive tools to run Islamic criminal law.

Running Islamic criminal law is not an unconstitutional act because it is only aimed for Muslims whose rights to do what are contained in the Quran. Furthermore, it is not forced to other religion followers. The implementation of Islamic criminal law has the same concept as Islamic civil law concept which had previously existed in Indonesia with

the establishment of legal regulation to accommodate Islamic civil law along with its comprehensive tools. Running Islamic criminal law gets a big opportunity to be enforced by the Indonesia Constitution. However, it still has many obstacles. This is the reason why Islamic criminal law still cannot be enforced until now. These obstacles are not impossibly solved, since these obstacles do not make the enforcement of Islamic criminal law be in contradiction to the Indonesia Constitution, the highest regulation in Indonesia.

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