

Adaptation of Islamic Criminal Law in Facing Digital Economic Crime in the Era of Technological Disruption

Ahmad Lutfi Rijalul Fikri

STIS Darul Falah Pagutan Mataram NTB, Indonesia

Email: luthfi2311@gmail.com

Abstract

The rapid development of digital technology has significantly impacted various aspects of life, including the economy, but it has also given rise to complex digital economic crimes. This research examines the adaptation of Islamic criminal law in facing the challenges of digital economic crimes, such as online fraud, money laundering, and skimming. The method used is qualitative with a descriptive-analytical approach, relying on literature and official documents. The research findings indicate that Islamic criminal law needs to update its definitions and classifications of crimes to include actions in the digital space and apply principles of justice, prevention, rehabilitation, legal certainty, and limitations on punishment. In addition, using technology in law enforcement and international cooperation is crucial in addressing transnational crime. With a comprehensive approach, Islamic criminal law can serve as an effective tool in creating a safer and more just society in the era of technological disruption.

Keywords: *Islamic Criminal Law; Digital Economic Crimes; Legal Adaptation; Technological Disruption.*

Abstrak

Perkembangan teknologi digital yang pesat telah membawa dampak signifikan pada berbagai aspek kehidupan, termasuk ekonomi, tetapi juga memunculkan kejahatan ekonomi digital yang kompleks. Penelitian ini bertujuan untuk mengkaji adaptasi hukum pidana Islam dalam menghadapi tantangan kejahatan ekonomi digital, seperti penipuan online, pencucian uang, dan skimming. Metode yang digunakan adalah kualitatif dengan pendekatan deskriptif-analitis, mengandalkan literatur dan dokumen resmi. Hasil penelitian menunjukkan bahwa hukum pidana Islam perlu memperbarui definisi dan klasifikasi kejahatan untuk mencakup tindakan di ruang digital, serta menerapkan prinsip-prinsip keadilan, pencegahan, rehabilitasi, kepastian hukum, dan keterbatasan hukuman. Selain itu, pemanfaatan teknologi dalam penegakan hukum dan kerjasama internasional menjadi kunci untuk menangani kejahatan lintas negara. Dengan pendekatan yang komprehensif, hukum pidana Islam dapat berfungsi sebagai alat yang efektif dalam menciptakan masyarakat yang lebih aman dan berkeadilan di era disrupsi teknologi.

Keywords: *Hukum Pidana Islam; Kejahatan Ekonomi Digital; Adaptasi Hukum; Disrupsi Teknologi.*

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Introduction

The rapid development of digital technology has significantly impacted various aspects of life, including the economic sector. According to Schwab, the Fourth Industrial Revolution, marked by advancements in digital technology, has fundamentally changed the global economic landscape. Digital technology has created new economic innovations and services like e-commerce, financial technology (fintech), and cryptocurrency. However, the development of this technology has also given rise to various forms of increasingly complex and difficult-to-overcome digital economic crimes.

Digital economic crimes, such as online fraud, money laundering, and market manipulation, have seriously threatened economic stability and security. According to an Interpol report on digital economic crimes, such as online fraud, money laundering, and market manipulation, the Federal Bureau of Investigation (FBI) reported that they received more than 300,000 cyber fraud reports in 2020, which is an increase of about 100,000 cases compared to the previous year. Perpetrators of digital economic crimes exploit legal loopholes and system vulnerabilities to carry out illegal actions that are difficult to detect,¹ causing significant financial losses to individuals, companies, and nations.

¹ Europol, "Internet Organised Crime Threat Assessment (IOCTA) 2021" (Europol, 2021).

In online fraud cases in Indonesia, perpetrators exploit digital platforms to deceive victims with various schemes, such as fictitious investment offers and payment scams.² According to data from the Indonesian Ministry of Communication and Information (2022), financial losses due to online fraud in Indonesia reached Rp 2.5 trillion in 2021, a significant increase compared to the previous year.³ In addition, digital economic crimes in Indonesia include money laundering, where perpetrators exploit the digital financial system to conceal the origins of illegal funds. According to the 2021 report from the Indonesian Financial Transaction Reports and Analysis Center (PPATK), money laundering through digital platforms has caused significant economic losses for Indonesia. The economic losses due to money laundering in Indonesia are estimated to reach Rp 308-771 trillion annually.⁴

In the context of conventional law, criminal law has long sought to address economic crimes. However, according to Benson and Simpson, conventional criminal law faces difficulties dealing with increasingly complex and sophisticated economic crimes. Jurisdictional limitations, lack of understanding of the *modus operandi*, and difficulties in proving become the main challenges for conventional criminal law in dealing with economic crimes.⁵ According to Syahdeini, conventional criminal law has several limitations in addressing digital economic crimes, including Difficulty in identifying perpetrators and establishing legal jurisdiction, Lack of understanding among law enforcement officers regarding the complexities of digital technology, and Limitations in collecting digital evidence admissible in court.⁶

In facing this challenge, conventional criminal law is often considered inadequate, necessitating efforts to adapt and develop criminal law to address the complexities of digital economic crimes. In the context of Islamic law, Islamic criminal law (*jinayah*) offers legal principles that provide protection and justice for the economic and financial

² Badan Ekonomi Kreatif, “Laporan Tahunan Badan Ekonomi Kreatif Indonesia 2021” (Badan Ekonomi Kreatif, 2021), <https://bekraf.go.id/publikasi/laporan-tahunan-bekraf-2021>.

³ Kementerian Komunikasi dan Informatika Indonesia, “Statistik Cybercrime di Indonesia 2021” (Kementerian Komunikasi dan Informatika Indonesia, 2022), https://kominfo.go.id/content/detail/34308/statistik-cybercrime-di-indonesia-2021/0/sorotan_media.

⁴ PPATK, “Laporan Tahunan PPATK 2021” (PPATK, 2021), <https://www.ppatk.go.id/publikasi/read/laporan-tahunan-ppatk-2021.html>.

⁵ Michael L. Benson dan Sally S. Simpson, *White-collar crime: An opportunity perspective* (Routledge, 2017), <https://www.taylorfrancis.com/books/mono/10.4324/9781315267609/white-collar-crime-michael-benson-sally-simpson>.

⁶ Sutan Remy Sjahdeini, “Kejahatan dan tindak pidana komputer,” *Grafiti*, 2019.

sectors. Islamic criminal law, derived from the Quran, Hadith, and the ijihad of scholars, has principles that can be adapted to address digital economic crimes in the era of technological disruption. Therefore, this research aims to examine the adaptation of Islamic criminal law to face digital economic crimes in the era of technological disruption. With a comprehensive understanding, it is hoped that an appropriate approach can be found for Islamic criminal law to provide adequate protection for the economic and financial sectors in the current digital era.

Method

This research uses qualitative methods to understand and analyze the phenomenon of digital economic crime and the adaptation of Islamic criminal law. A descriptive-analytical approach is used to describe and analyze the data obtained. Moleong⁷ states that the descriptive approach aims to provide a clear picture of a phenomenon or condition, while the analytical approach focuses on understanding the relationships and interactions between variables. In the law context, this approach allows researchers to explore and analyze how the law functions in specific situations.

Data sources are obtained from literature, research reports, and related official documents, and then the data obtained will be analyzed using thematic analysis techniques. Fereday and Muir-Cochrane⁸ explain that thematic analysis has advantages in flexibility, ease of use, and the ability to generate deep insights from qualitative data. This makes it a good choice for research focused on adapting Islamic criminal law in the context of digital economic crimes.

Result and Discussion

The Concept of Islamic Criminal Law

Islamic criminal law is defined by various scholars with an emphasis on different aspects. Abdul Wahab Kallaf explains that Islamic criminal law is a set of rules established by Sharia to regulate human behaviour, divided into three categories: hudud,

⁷ Lexy J. Moleong, "Metodologi penelitian kualitatif edisi revisi," 2007.

⁸ Jennifer Fereday dan Eimear Muir-Cochrane, "Demonstrating Rigor Using Thematic Analysis: A Hybrid Approach of Inductive and Deductive Coding and Theme Development," *International Journal of Qualitative Methods* 5, no. 1 (Maret 2006): 80–92, <https://doi.org/10.1177/160940690600500107>.

qisas, and ta'zir.⁹ M. Quraish Shihab stated that criminal law aims to maintain public security and order and protect individual rights, with justice as the main principle.¹⁰ Abdul Rahman Al-Jaziri defines Islamic criminal law as regulating criminal acts and the sanctions applied to protect society from harmful behaviour. He emphasizes the goals of prevention and rehabilitation.¹¹ Hasan Hanafi links Islamic criminal law with moral and ethical values that function to achieve social justice and the protection of human rights.¹² Meanwhile, Nashir al-Attas interprets this law as a rule that regulates external actions and internalizes moral values, thereby creating a civilized society.¹³ This combination of views provides a comprehensive understanding of the goals and functions of Islamic criminal law within a social and moral context.

Imam Ramli classified jinayah into three main categories: hudud, qisas, and tazir. Hudud are offences that have fixed penalties determined by Allah, such as adultery, theft, and alcohol consumption. In the book *Nihayat al-Muhtaj*, Imam Ramli explained that "Hudud are the limits set by Allah, and no one has the right to change them."¹⁴ Imam Ibn Hajar al-Haytamy, in his work, emphasizes that the implementation of hudud punishments must be carried out with precision and justice and based on clear evidence. The purpose of hudud laws is to protect society from crime and encourage individuals to take responsibility for their actions. Crimes that are subject to hudud punishments are: A married adulterer (muhsan) is stoned to death, while an unmarried adulterer (ghair muhsan) is punished with 100 lashes,¹⁵ Amputation of the hand for thieves who meet

⁹ Syaikh Abdul Wahhab Khallaf, *Ijtihad dalam syariat Islam* (Pustaka Al-Kautsar, 2015), [https://books.google.com/books?hl=en&lr=&id=UJjnDwAAQBAJ&oi=fnd&pg=PA68&dq=Abdul+Wahhab.+Ilmu+Al-Ushul+Al-Hukum+\(Ilmu+Dasar+Hukum\)&ots=oONoVPkzT&sig=sErc0QeWxQBmhGsaZvvYkcwA0wU](https://books.google.com/books?hl=en&lr=&id=UJjnDwAAQBAJ&oi=fnd&pg=PA68&dq=Abdul+Wahhab.+Ilmu+Al-Ushul+Al-Hukum+(Ilmu+Dasar+Hukum)&ots=oONoVPkzT&sig=sErc0QeWxQBmhGsaZvvYkcwA0wU).

¹⁰ M. Quraish Shihab, "Membumikan" *Al-Quran: fungsi dan peran wahyu dalam kehidupan masyarakat* (Mizan Pustaka, 2007).

¹¹ Wahyu Sriyono, "Sanksi Pidana Mati Bagi Pelaku Tindak Pidana Terorisme Berdasarkan Hukum Positif Di Indonesia Dan Dalam Pandangan Hukum Islam" (Master's Thesis, Universitas Islam Sultan Agung (Indonesia), 2021), <https://search.proquest.com/openview/75d81820153562e978399085c96e1e1c/1?pq-origsite=gscholar&cbl=2026366&diss=y>.

¹² Hasan Hanafi, *Islam dan Hukum Pidana* (Jakarta: Pustaka Alvabet, 2003).

¹³ Muhammad Naquib Al-Attas, *The concept of education in Islam* (Muslim Youth Movement of Malaysia Kuala Lumpur, 1980), https://www.academia.edu/download/53532036/attas-concept_of_edu_in_islam_text-final.pdf.

¹⁴ Muhammad bin Shihab Ramliyy, "Nihayat al-Muhtaj Ila Sharh al-Minhaj," *Cairo: Dar al-Fikr*, 1984.

¹⁵ Deffi Rahma, "Penggabungan Hukuman Cambuk Dan Pengasingan Bagi Pelaku Zina Ghair Muhsan (Kajian Terhadap Fikih Syāfi'ī Dan Qanun Jinayat Aceh)" (PhD Thesis, UIN AR-RANIRY, 2019), <https://repository.ar-raniry.ac.id/id/eprint/13112/>.

certain conditions, such as stealing items whose value reaches nisab,¹⁶ hard liquor with 40 to 80 lashes.¹⁷ Violations with this type of punishment are considered severe, and there is no room for negotiation regarding the penalty, reflecting the firmness in enforcing Sharia law.

The second category is qisas, which is related to crimes against the soul or body parts. In this case, the perpetrator can be punished in proportion to their actions, as in the case of murder.¹⁸ Imam Ramli stated that "in the case of murder, if someone kills, then they must be punished with an equivalent punishment unless the victim's family forgives." The concept of qisas emphasizes the principle of justice and measured retribution. This concept grants the victim or their family the right to demand an equivalent retaliation.

The third classification is tazir, which includes offenses not explicitly regulated in sharia, where the ruler or judge determines the punishment. Tazir is used to respond to actions that harm society but do not meet the criteria for hudud or qisas punishments, such as minor fraud or administrative violations.¹⁹ In *Nihayat al-Muhtaj*, Imam Ramli writes, "Tazir is a punishment with no specific provisions in the sharia. The ruler is authorized to punish according to the situation and circumstances of the offence."²⁰ This classification provides a clear framework for understanding various offences in Islamic criminal law and enables a more structured and fair application of the law.

Islamic criminal law has several fundamental principles that serve as the foundation for law enforcement, especially in addressing digital economic crimes. First is the principle of justice; Islamic criminal law must provide space for victims to express the losses they have suffered. This is in line with Al-Qaradawi's opinion, which states that justice is not only aimed at the perpetrator but also at the victim.²¹ Dr. Ali Jum'ah, former

¹⁶ Elfia Elfia, "Pidana Pencurian: Studi Terhadap Hadits Tematik dalam Pandangan Ulama Mazhab," *MADANIA Jurnal Hukum Pidana dan Ketatanegaraan Islam* 9, no. 1 (2019): 71–84.

¹⁷ Siti Nur Hayati dan Nike Ayu Ratnadillah, "Relevansi Hukum Positif, Hukum Islam, Dan Hukum Di Negara Sudan Mengenai Minuman Keras," *ULIL ALBAB: Jurnal Ilmiah Multidisiplin* 2, no. 7 (2023): 3013–22.

¹⁸ Mira Maulidar, "Hukuman Qishash Dalam Fiqh Jinayat," *Jurnal Al-Mizan* 4, no. 1 (2017): 56–81.

¹⁹ Fathir Putra Maulud dan Tajul Arifin, "PENEGAKAN HUKUM KORUPSI DALAM PERSPEKTIF HR BUKHARI MUSLIM DAN PERSPEKTIF UU NO 31 TAHUN 1999," *Causa: Jurnal Hukum dan Kewarganegaraan* 5, no. 2 (2024): 11–20.

²⁰ Ramliyy, "Nihayat al-Muhtaj Ila Sharh al-Minhaj."

²¹ S. Y. Al-Qaradawiyy, "The Lawful and the Prohibited in Islam," *Cairo: Al-Falah Foundation*, 2001.

Grand Mufti of Egypt, emphasized the importance of victims' rights in the Islamic legal system. He stated that "Islamic criminal law not only punishes the perpetrator but also provides restitution to the victim. This includes the right to compensation and acknowledgment of the suffering endured."²²

The second principle is the Principle of Deterrence (*Zajr*). Khallaf explained that Islamic criminal law aims to maintain public order and prevent crime. He argued that applying clear punishments can deter offenders and prevent others from committing crimes.²³ Abu Zahrah stated that the main objective of Islamic criminal law is to protect society from crime. With strict sanctions, it is hoped that individuals' intentions to commit acts that harm others can be reduced.²⁴

The third principle is the Principle of Rehabilitation; Qaradawi stated that rehabilitation is integral to the Islamic legal system. He argues that the primary purpose of punishment is to educate and rehabilitate the offender, not merely to punish. Rehabilitation should include moral and spiritual education so the offender can return to society with better behaviour.²⁵ Badawi argues that rehabilitation should be done with a comprehensive approach, including psychological, social, and spiritual aspects. He believes that by understanding the background and motivations of the perpetrators, rehabilitation programs can be designed more effectively to help them change.²⁶

The fourth principle is the principle of Legal Certainty (*Qat'iyyah*). Legal certainty refers to the clarity and firmness in legal rules so that individuals can understand what is considered a criminal act and the punishment they will receive if they violate that law.²⁷ Legal certainty serves as a deterrent for criminals. When society knows that specific actions will have clear consequences, they tend to refrain from those actions. This also helps uphold justice and prevent the abuse of power.²⁸

²² Imran Ahsan Khan Nyazee, *Islamic jurisprudence* (Lulu. com, 2019).

²³ Kurniasih Bahagiati, "Filsafat pemidanaan terhadap penyalah guna narkoba bagi diri sendiri dalam perspektif hukum positif dan hukum pidana islam," *Era Hukum: Jurnal Ilmiah Ilmu Hukum* 18, no. 1 (2020): 111–37.

²⁴ Abu Zahrah, *Al-Jarimah wa al-'Uqubah fi al-Islam* (Kairo: Dar al-Fikr al-Arabi, 2021).

²⁵ Al-Qaradawiyy, "The Lawful and the Prohibited in Islam."

²⁶ Badawi, Zaki, *Islamic Law and Society: The Role of the Community in Rehabilitation* (London: Routledge, 2007).

²⁷ Hanafi, Hasan, *Islamic Law: A Comparative Study* (Mesir: Dar al-Ma'arif, 2001).

²⁸ Mohammad Hashim Kamali, "Principles and Philosophy of Punishment in Islamic Law with Special Reference to Malaysia," *ICR Journal* 10, no. 1 (2019): 9–20.

The fifth principle is the Limitation of Punishment (Takhfif). The limitation of punishment means that not all criminal acts can be subjected to the same punishment, which should not be arbitrary. In Islamic criminal law, there are clear provisions regarding the punishments that can be applied, whether hudud, qisas, or ta'zir.²⁹ Islamic criminal law distinguishes between various types of offences and prescribes appropriate punishments. For example, for more serious crimes, such as murder, there is the provision of qisas, whereas, for lighter offenses, the punishment can be ta'zir determined by the judge.

Based on the above principles, Islamic criminal law aims to uphold justice and prevent crime, protect victims' rights, and provide opportunities for rehabilitating offenders. This comprehensive approach reflects an effort to create a more just and harmonious society where everyone is valued and allowed to improve themselves. In facing the challenges of digital economic crime, applying these principles becomes increasingly relevant, ensuring that the law remains responsive to social and technological dynamics while still adhering to the values of justice and humanity.

Characteristics of Digital Economic Crimes in the Era of Technological Disruption

Digital economic crimes in the era of technological disruption have unique and complex characteristics in line with technological advancements. Criminals exploit innovations to create more sophisticated fraud methods, including: first, **Phishing**, a form of cybercrime aimed at stealing sensitive information, such as usernames, passwords, and credit card data, by impersonating a trusted entity. Phishing perpetrators usually use emails, text messages, or fake websites similar to the original ones to trick victims into providing their personal information.³⁰ Second, **Ransomware** is a type of malware that encrypts data on the victim's device and demands a ransom to restore access to that data. Ransomware attacks can occur on individuals, companies, and even government institutions, and often result in significant financial losses.³¹ and Third, **skimming** is a

²⁹ Moh Khasan, "Prinsip-prinsip keadilan hukum dalam asas legalitas hukum pidana islam," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 6, no. 1 (2017): 21–36.

³⁰ Ramadhani, F, Saefudin, A, dan Oktaviani, R, "Dampak Crowdfunding Syariah terhadap Pengembangan Usaha," *Jurnal Ekonomi Islam* 9, no. 2 (2021): 152–67, <https://doi.org/10.35313/jei.v9i2.2816>.

³¹ Andi Rian Jubhari, "Tinjauan Hukum Pidana Internasional Terhadap Serangan Siber Menggunakan Virus Ransomware WannaCry di Indonesia" (PhD Thesis, Universitas Hasanuddin, 2022), <http://repository.unhas.ac.id/id/eprint/12272/>.

fraudulent method used to steal credit or debit card information by capturing data from the card without the owner's knowledge. This fraud is usually carried out with a skimmer installed on ATMs, payment terminals, or store card readers.³² With constantly evolving technology, perpetrators can easily find new ways to exploit system vulnerabilities and deceive victims.³³

In addition, the nature of anonymity is a state where a person's identity is unknown or undisclosed. In digital crime, anonymity allows perpetrators to act undetected, making it difficult to track or apprehend them. Anonymity can be achieved through various means, such as using pseudonyms, encryption technology, or networks that hide the user's location. This situation is often used to protect privacy but can also be misused to commit illegal acts. This creates a significant challenge for law enforcement, as perpetrators can reach victims in other countries without meeting face-to-face. Globalization makes it easier for perpetrators to expand their reach, making it difficult for authorities to apprehend and punish them.³⁴

Digital economic crimes also target various parties, including individuals, companies, financial institutions, and governments.³⁵ Serangan dapat berupa pencurian data, penipuan finansial, dan sabotase sistem, yang semuanya dapat menyebabkan kerugian yang signifikan. The diversity of these targets shows that digital crime is not only a threat to individuals but also to the overall economic stability.³⁶ Criminals use advanced technology to hack security systems and steal personal information. They utilize bots and algorithms to carry out cyber attacks automatically, increasing the attacks'

³² Hardyanto Wibowo, "ANALISIS YURIDIS TINDAK PIDANA CARDING ITE SEBAGAIMANA DIATUR DALAM PASAL 32 JO PASAL 48 UNDANG-UNDANG ITE (Studi Putusan Nomor 597/Pid. Sus/2018/PN. Mlg)" (PhD Thesis, Universitas Nasional, 2022), <http://repository.unas.ac.id/id/eprint/6120>.

³³ Zohra, A, "Digital Economy and Cybercrime: The New Paradigm," *Journal of Cybersecurity and Digital Forensics* 12, no. 1 (2023): 45–60; Halwa Sabilah, "Penipuan Digital: Antara Penipuan dan Privasi Data Dalam Hukum Pidana Islam," *Sharia and Law Proceedings* 1, no. 1 (2023): 101–16.

³⁴ Smith, J, "The Global Nature of Cybercrime: Challenges and Solutions," *International Journal of Cyber Law* 15, no. 2 (2023): 78–92.

³⁵ Lydia Anggun, "Perkembangan Kejahatan Tindak Pidana Pencucian Uang Dan Tindak Pidana Pendanaan Terorisme (TPPU Dan TPPT) Di Masa Pandemi Covid-19," *Technology and Economics Law Journal* 1, no. 1 (2022): 5.

³⁶ Johnson, L, "Cyber Threats in the Digital Economy: A Comprehensive Overview," *Cybersecurity Review* 10, no. 3 (2023): 102–18.

efficiency and scale. Thus, the methods used by the perpetrators are becoming increasingly sophisticated and challenging to detect by existing security systems.³⁷

Many countries struggle to develop adequate regulations to address digital economic crimes. For example, in the United States, although there are several laws, such as the Computer Fraud and Abuse Act (CFAA), regulations often cannot keep pace with the speed of technological innovation. In Europe, despite efforts through the General Data Protection Regulation (GDPR), some countries still face challenges in implementing regulations that can protect their citizens from digital crimes. Countries like France and Germany have different data protection and cybersecurity approaches, which can lead to confusion and difficulties in cross-border law enforcement. Meanwhile, countries like Indonesia and the Philippines struggle to develop effective regulations in Asia. Although there are laws such as the Electronic Information and Transactions Law (ITE) in Indonesia, there are still many challenges in implementation and law enforcement. In the Philippines, despite the existence of the Cybercrime Prevention Act, the lack of resources and training for law enforcement remains a major obstacle.³⁸ Offenders often exploit the existing legal loopholes, making law enforcement increasingly difficult. Therefore, law enforcers and policymakers must update regulations and strategies to combat this crime effectively and continuously.³⁹

Adaptation of Islamic Criminal Law in Addressing Digital Economic Crimes

Islamic criminal law, with its clear principles and categorizations, needs to adapt to face the increasingly complex challenges of digital economic crimes. Adaptation can be achieved through the Renewal of Definitions and Classifications of Crimes.⁴⁰ Digital economic crimes, such as Phishing, Ransomware, and skimming, require an update in the

³⁷ Arief Wibowo, Yehu Wangsajaya, dan Asep Surahmat, *Pemolisian Digital dengan Artificial Intelligence* (PT. RajaGrafindo Persada-Rajawali Pers, 2023); Tushar P Parikh dan Ashok R Patel, "Cyber security: Study on attack, threat, vulnerability," *Int. J. Res. Mod. Eng. Emerg. Technol* 5 (2017): 1–7.

³⁸ UNODC, "Cybercrime and the Law: Challenges and Opportunities" (UNODC, 2023), <https://www.unodc.org/unodc/en/cybercrime/index.html>; Council of Europe, "Budapest Convention on Cybercrime" (Council of Europe, 2023), <https://www.coe.int/en/web/cybercrime/the-budapest-convention>; OECD, "Cybersecurity Policy Making in the Middle East and North Africa" (OECD, 2022), <https://www.oecd.org/mena/governance/cybersecurity-policy-making.htm>.

³⁹ Maria Yeti Andrias dkk., "Hak Milik Intelektual dalam Era Globalisasi: Tantangan Hukum dan Kebijakan di Indonesia," *Jurnal Ilmu Hukum, Humaniora dan Politik* 4, no. 4 (2024): 747–61.

⁴⁰ Kamali, "Principles and Philosophy of Punishment in Islamic Law with Special Reference to Malaysia"; Guna Memperoleh Gelar Doktor, "Pemikiran hukum pidana Islam Mohammad Hashim Kamali dan relevansinya dengan pembangunan hukum pidana di Indonesia," diakses 22 Juli 2024, https://eprints.walisongo.ac.id/16757/1/Disertasi_1400039103_Moh_Khasan.pdf.

definition of crimes in Islamic criminal law. The existing categorizations—*hudud*, *qisas*, and *ta'zir*—can be expanded to include actions carried out in the digital space. For example, online fraud can be categorized as an offense requiring *ta'zir* punishment, where the ruler or judge has the authority to determine the appropriate sanction based on the impact and context of the offence.

The subsequent adaptation is that the principle of justice in Islamic criminal law must be applied with particular attention to victims of digital crimes. As stated by Al-Qaradawi and Dr. Ali Jum'ah,⁴¹ justice is intended not only for the perpetrator but also for the victim. In digital economic crimes, the legal system must accommodate the victim's right to compensation and recognition of the losses suffered. The principle of deterrence (*Zajr*) is highly relevant in the context of digital economic crimes. Implementing strict and clear sanctions can deter offenders and prevent others from committing similar acts.⁴² In addition, rehabilitating offenders is also important, where moral and spiritual education programs can be designed to educate offenders about the impact of their actions and guide them back to society with better behavior.

Legal certainty is also key in addressing digital economic crimes. With clarity in legal regulations regarding what is considered a criminal act and the sanctions that will be imposed, society can better understand the consequences of their actions.⁴³ This also helps prevent the abuse of power. The limitation of punishment (*Takhfif*) must also be considered, where the punishment should not be arbitrary and must be proportional to the type of violation.

The adaptation of Islamic criminal law also includes the use of technology in law enforcement. By utilizing digital tools to detect and prevent crime, law enforcement can more effectively address criminal activities occurring in the cyber world. Cooperation between law enforcement agencies and technology providers can help create a system more responsive to digital economic crimes; economic crimes often have a transnational nature, making international cooperation in law enforcement very important. Islamic

⁴¹ Al-Qaradawiyy, "The Lawful and the Prohibited in Islam"; Jum'ah, A, *Islamic Law and Justice: A Comparative Study* (Kairo: Dar Al-Hekma, 2015).

⁴² Guruh Tio Ihipurwo, Yusuf Adi Wibowo, dan Joko Setiawan, "Pencegahan Pengulangan Kekerasan Seksual Melalui Rehabilitasi Pelaku Dalam Perspektif Keadilan Restoratif," *Jurnal Hukum Respublica* 21, no. 2 (2022): 155–78.

⁴³ Zahermann Armandz Muabezi, "Negara Berdasarkan Hukum (Rechtsstaats) Bukan Kekuasaan (Machtsstaat)," *Jurnal Hukum dan Peradilan* 6, no. 3 (2017): 421–46.

criminal law can collaborate with other legal systems to effectively address this crime, considering that perpetrators can reach victims in various countries without having to meet face-to-face.

By adapting the principles of Islamic criminal law and updating the definitions and classifications of crimes, the legal system can be more responsive to the challenges of digital economic crime. This comprehensive approach will uphold justice and prevent crime, protect victims' rights, and provide opportunities to rehabilitate offenders. In facing the continuously evolving social and technological dynamics, Islamic criminal law must remain relevant and function as a tool to create a safer and more just society.

Conclusion

The adaptation of Islamic criminal law in addressing digital economic crimes in the era of technological disruption is crucial to maintaining the relevance and effectiveness of the legal system. With the emergence of various new forms of crime, such as Phishing, Ransomware, and skimming, it is necessary to update the definitions and classifications of crimes in Islamic criminal law. Basic principles such as justice, prevention, rehabilitation, legal certainty, and punishment limitation must be effectively applied to protect victims and prevent similar actions in the future.

In addition, using technology in law enforcement and international cooperation is crucial in addressing increasingly complex transnational crimes. With a comprehensive approach, Islamic criminal law can uphold justice, protect the rights of victims, and create a safer and more just society. Therefore, Islamic criminal law must remain responsive to the continuously evolving social and technological dynamics to address the challenges of digital economic crime effectively.

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