

**AN ANALYSIS OF FIQH JINAYAH AND CRIMINAL LAW ON THE LEGAL PROTECTION FOR CHILDREN AS VICTIMS OF OBSCENITY****Budiman**Institut Agama Islam Negeri Parepare, Indonesia  
Email : [budiman@iainpare.ac.id](mailto:budiman@iainpare.ac.id)**Wirani Aisiyah Anwar**Institut Agama Islam Negeri Parepare, Indonesia  
Email : [wiraniaisiyahanwar@iainpare.ac.id](mailto:wiraniaisiyahanwar@iainpare.ac.id)**Andi Rio Makkulau**Institut Agama Islam Negeri Parepare, Indonesia  
Email : [a.riomakkulau@iainpare.ac.id](mailto:a.riomakkulau@iainpare.ac.id)

Submitted	Accepted	Published
06 <sup>th</sup> of May 2022	14 <sup>th</sup> of November 2022	1 <sup>st</sup> of December 2022

**ABSTRACT**

*The issues raised include the concept of juvenile criminal law from the perspective of fiqh jinayah and positive law, differences in the concept of juvenile crime from the perspective of fiqh jinayah and positive law, the correlation of the concept of juvenile crime to the fiqh perspective and positive law. To study and answer the problem, a multidisciplinary approach is used, namely the normative theological approach (syar'i), juridical/legislative (statue approach), historical (historical approach), sociological (sociological approach), psychology (psychological approach). This research is classified as library research. The results of the study indicate that perpetrators of sexual abuse with child victims, in positive law and fiqh jinayah, sanctions are deterrent so that the perpetrator does not do it again. The laws governing this matter, namely the Republic of Indonesia Law Number 3 of 1997, Law Number 23 of 2002 concerning Child Protection and Law no. 4 of 1979 concerning Child Welfare. In contrast to Islamic law (fiqh), children's perceptions and forms of accountability make criminal acts of children not subject to Uqubah (punishment), but takzir (warning) and*



**An Analysis of Fiqh Jinayah and Criminal Law on the Legal Protection of...**

*ta'dibiyah (coaching) only. The correlations between the two are: (1) The principle of respect for children. (2) The process of applying punishment for a child who is a criminal act in positive law that is different from a criminal act other than a child. If viewed from the mashlahah rules, giving takzir and ta'dibiyah to children who commit crimes is mashlahah hajiyyah (secondary) and mashlahah mulgah.*

**Keywords: Obscenity, Children, Fiqh Jinayah, Criminal Law**

## INTRODUCTION

The welfare of children must be guaranteed because they are the future and successors of the nation's future. Children need to be protected from all forms of crime and violence, especially issues of sexuality. The 1945 Constitution paragraph IV reads, proving the nation and all of Indonesia's bloodshed, advancing public welfare, educating life and participating in carrying out the world. This means that children must pay attention to everything about their lives, both in education and their sociological development of the environment.<sup>1</sup>

To protect the next generation of the nation, Indonesia made a special law that regulates children, both children in conflict with the law and children faced with the law as contained in Law number 35 of 2014 concerning amendments to Law number 23 of 2002 concerning child protection. The sociological aspect of children is defined as social creatures created by Allah swt who always interact and need each other in their lives and are not able to live alone. Children need parents to protect their lives in the future, so they do not fall into acts that are against the law. In addition, their true life must be guaranteed for needs that will have an impact on their psyche.<sup>2</sup>

Obscenity is an attitude that has a bad impact and is a crime, the victims and their families suffer greatly because obscenity violates

---

<sup>1</sup>Maulana Hasan Wadang, *Advokasi Dan Hukum Perlindungan Anak* (Jakarta: Gramedia Widiasarana, 2000).

<sup>2</sup>Beni Ahmad, *Sosiologi Hukum* (Jakarta: Pustaka Setia, 2007).



human rights can also damage the dignity of the human side, especially to the soul, mind, and offspring.<sup>3</sup>

In the environment of sexual lust, obscene acts are described in Article 390 of the Criminal Code Bill which is taken from Article 289 of the Criminal Code, for example:

1. A man forcefully grab a woman's hand and touch her genital.
2. A man deliberately touches a girl's body and then unbuttons her shirt so that he can stroke her breasts and kiss her. The perpetrator does this to satisfy his sexual desires.<sup>4</sup>

R. Soesilo's opinion "Any act that violates decency (politeness) or acts that are heinous are all in terms of sexual lust, for example kissing, groping the genitals, groping the breasts, and so on. In general, the victims of this sexual abuse are children."<sup>5</sup> Sexual abuse of children and women still occurs. Regarding the threat of sexual abuse with child victims, it is regulated in Positive Law in Indonesia which is an integral part of the development and welfare of the country. Child protection is based on Pancasila and the 1945 Constitution. The concept of child protection in a broad scope means that child protection is not only about protecting all rights and interests which can guarantee normal growth and development both spiritually, physically, and socially so that it is hoped that Indonesian children will develop into adults and be able to work in order to achieve and maintain national development goals.<sup>6</sup>

KPAI said that in 2019 there were 123 cases of sexual abuse of children in the educational environment and in 2020 there were 7191 cases of abuse of women and children, more and more years after Covid-19 this sexual harassment is increasingly rampant.<sup>7</sup> The occurrence of changes and shifts in old values to new values caused by modernization. With a shift in values, psychological conflicts arise in

---

<sup>3</sup>Sulistyaningsih, in Thesis entitled *Tindak Pidana Pencabulan Terhadap Anak*, 2004, <http://fh.unsoed.ac.id/sites/default/files/bibliofile/Sulistyaningsih-E1A007183.pdf> accessed on June 10, 2021.

<sup>4</sup>Soedarso, *Kamus Hukum* (Jakarta: Rineka Cipta, 1992).

<sup>5</sup>R. Soesilo, *Kitab-Kitab Undang Hukum Pidana Serta Komentor-Komentor Lengkap Pasal Demi Pasal* (Bogor: Politea: 1996).

<sup>6</sup>Wagiati Sutedjo, *Hukum Pidana Anak* (Bandung: PT. Refika Aditama, 2006).

<sup>7</sup>Raynaldo Ghiffari Lubabah, *KemenPPPA Catat Kekerasan Seksual Tertinggi Sebanyak 7197 Kasus* (Jakarta: Merdeka, 2021).



parents, youth, and even children. As a result of psychological conflict, the behavior of the community appears in the form of deviations from sexual acts from existing rules, namely social norms, legal rules, and religious rules. Crimes occur where the target is not only adults, but even children have also become targets. The more sophisticated technology should improve civilization, it is even misused for criminal acts, one of which is sexual abuse with child victims.

Criminal acts in Islamic criminal law are referred to as *jarimah*. According to *fiqh jinayah*, criminal acts are actions that are prohibited according to *syara'*, whose perpetrators are threatened with punishment, flogging and cutting off their hands. In the Qur'an it is not explained about sexual immorality which has explained the prohibition of adultery and its punishment. In the Qur'an al-Isra 'verse 32 reads:

وَلَا تَقْرُبُوا الزَّوْجَ إِتْنَهُ كَانَ فَحِشَةً وَسَاءَ سَبِيلًا ۝٣٢

The translation:

“Do not go near adultery. It is truly a shameful deed and an evil way.”<sup>8</sup>

The punishment for adulterers who have said *ijab qabul* (married) or *muhsan* adulterers is by stoning to death, while the *ghayru muhsan* adulterer is punished with 100 lashes and exiled for one year. Prohibitions sometimes take the form of prohibiting or leaving orders. The word *syara'* means that an act is considered a crime if it is prohibited by *syara'*. Etymologically, *jinayah* is the name of things that are done by someone related to crime or everything he does. *Jinayah* is a name with a *masdar* form (infinitive) from the word *jana* which means the ugliness that befell him. Then especially for all the actions that are forbidden. This meaning comes from *jana as-samara* which means picking fruit from the tree. As for terminology, *jinayah* is a name for actions that are forbidden by Islamic law, both with regard to life, property, and others.

Getting care is the right of the child and especially the assistance of the family and the community, as the environment that influences the growth and welfare of the child. Children must receive protection

<sup>8</sup>The Holy Quran, Retrieved from <https://quran.com/17?startingVerse=32>. Accessed on June 10, 2022.



and assistance according to their needs, in order to be able to carry out their responsibilities in society. Children should receive good treatment in a happy, loving and understanding family environment.<sup>9</sup>

Children as victims of criminal acts of obscenity is a social problem that is very disturbing to the community and needs to be prevented and addressed and even abolished. Therefore, the issue of the crime of obscenity needs serious attention from all circles, especially in the view of religion and law enforcement.

## **METHOD**

The type of research chosen is the type of library research, namely research whose object of study is to use library data in the form of books as data source material. This research is usually carried out in the library by reading, and analyzing various existing literature, namely in the form of the Qur'an, Hadith, Books and laws and regulations as well as research results in order to obtain the data needed in this research.

In finding answers, the researcher used the following approaches: a) the *Syar'i* approach, namely explaining the laws relating to child molestation laws in a comparative analysis of Islamic law and child protection laws. b) The juridical approach is an approach that uses the science of law (law) as study material, if there is a discussion of the law or legal theories related to the title, it is used as a study to be described.<sup>10</sup>

## **RESULT AND DISCUSSION**

### **Obscenity in Criminal Law and Fiqh Jinayah**

Obscenity comes from the word obscene, namely all kinds of forms of action, whether done to oneself or to others related to the genitals or other body parts that can stimulate sexual desire. For example, stroking or rubbing the penis or vagina, holding the breasts, kissing a woman's mouth and so on.

---

<sup>9</sup>Abu Huraerah, *Kekerasan Terhadap Anak* (Jakarta: Nusantara, 2006).

<sup>10</sup>Maman, *Metode Penelitian Agama: Teori dan Praktik* (Jakarta: PT Raja Grafindo Persada, 2006).



The Criminal Code has not clearly defined the intent of the obscene act itself and seems to mix the meaning of the words sexual intercourse and rape. In the draft of the Criminal Code there is an addition of the word "intercourse" in addition to the word obscene act. But the notion of obscene acts itself is broader than the notion of intercourse because intercourse means the union of male and female genitalia, which requires the entry of the penis into the vaginal canal, then the penis secretes sperm as normally results in pregnancy. Meanwhile, if it does not meet one of the conditions, for example, the penis has not entered but the sperm has come out, this incident is not sexual intercourse, but an obscene act.<sup>11</sup>

The crime of obscenity is one of the crimes of morality, which is regulated in the Criminal Code Book II Chapter XIV Article 294 paragraph (1) which is punishable by a maximum imprisonment of 7 (seven) years. Although this act must always be carried out by both parties together, only an adult is punished.<sup>12</sup>

If the obscene act committed by the perpetrator does not achieve the intent, due to resistance from the victim, he is blamed for carrying out an attempted obscenity, the provisions of which are regulated in Article 53 paragraph (1) of the Criminal Code which reads: implementation, not solely due to his own will.<sup>13</sup>

Criminal sanctions regarding obscene acts against children are also regulated outside the Criminal Code, namely in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, the provisions in article 81 are as follows:<sup>14</sup>

---

<sup>11</sup>Hamzah Hazan, *Kejahatan Kesusilaan Perspektif Hukum Pidana Islam* (1<sup>st</sup> Print; Makassar: Alauddin University Press, 2012)

<sup>12</sup>Undang-Undang Perlindungan Anak, (Undang-Undang RI Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang RI Nomor 23 Tahun 2002 Tentang Perlindungan Anak) (Yogyakarta; Pusataka Mahardika, 2015)

<sup>13</sup>Undang-Undang Perlindungan Anak, (Undang-Undang RI Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang RI Nomor 23 Tahun 2002 Tentang Perlindungan Anak) (Yogyakarta; Pusataka Mahardika, 2015)

<sup>14</sup>Undang-Undang Perlindungan Anak, (Undang-Undang RI Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang RI Nomor 23 Tahun 2002 Tentang Perlindungan Anak) (Yogyakarta; Pusataka Mahardika, 2015)



- (1) Any person who violates the provisions as referred to in Article 76D shall be sentenced to a minimum imprisonment of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp. 5,000,000,000 (five billion rupiah).
- (2) The criminal provisions as referred to in paragraph (1) shall also apply to any person who intentionally commits a trick, a series of lies, or persuades a child to have intercourse with him or with another person.
- (3) In the event that the criminal act as referred to in paragraph (1) is committed by a parent, guardian, child caretaker, educator, or education staff, the penalty shall be increased by 1/3 (one third) of the criminal threat as referred to in paragraph (1).

The provisions in Article 82 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection explain that:<sup>15</sup>

- (1) Any person who violates the provisions as referred to in Article 76E shall be sentenced to a minimum imprisonment of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp. 5,000,000,000 (five billion rupiah).
- (2) In the event that the criminal act as referred to in paragraph (1) is committed by a parent, guardian, child caretaker, educator, or education staff, the penalty shall be increased by 1/3 (one third) of the criminal threat as referred to in paragraph (1).

Obscene acts according to the Oxford Advanced Learner's Dictionary are connected with sex in a way that most people find offensive. Obscenity is an act against the law in the sense that it is contrary to religious norms and the norms of Indonesian society. In the Criminal Code, it is explained that obscene acts are all heinous acts related to sexual desire.<sup>16</sup>

---

<sup>15</sup>Undang-Undang Perlindungan Anak, (Undang-Undang RI Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang RI Nomor 23 Tahun 2002 Tentang Perlindungan Anak)

<sup>16</sup>Turnbull et al (2010). *Oxford Advanced Learner's Dictionary*. International Student's Edition.



**An Analysis of Fiqh Jinayah and Criminal Law on the Legal Protection of...**

From the definition above, we can conclude that decency is an act that violates the norms of decency which are often related to sexual desire, in social life which can cause moral damage that lives in the midst of society. In practice, this crime or violation of decency does not only happen to adult women, but it has also even spread to minors.

From the above understanding, it can be understood that obscene acts are heinous and unlawful acts related to sexual desire. While pedophilia comes from the word *pais, paidos* which means child, and the word *Phileo, Philos* which means to love. So, it can be concluded that pedophilia is a mental illness in which a person has sexual deviations, namely having a sexual tendency towards children. The act of pedophilia can be in the form of first, exhibitionistic acts by showing the genitals of children. Second, caressing, kissing, hugging, proposing, and other acts of manipulation of children's bodies as well as having intercourse with children. A pedophile is usually a male aged 35-45 years.<sup>17</sup>

Their condition has mental disorders, is psychopathic, alcoholic, and behaves immorally, in Indonesia this behavior is also often a requirement to obtain a certain knowledge.

The definition of obscenity comes from the word obscene which is also linguistically interpreted:<sup>18</sup>

- a. obscene language or behaviour
- b. an obscene word or act

Meanwhile, according to the term obscenity or obscene acts in language, obscenity means actions that are out of the right path and piety that leads to obscene acts, sins, misguidance and kufr.

Obscenity can also be interpreted as acts that violate sexual decency that do not reach the form of sexual relations. For example, a man touching a woman's breasts, patting her buttocks, groping her genitals, oral sex or molesting and others.<sup>19</sup>

---

<sup>17</sup>Turnbull et al (2010). *Oxford Advanced Learner's Dictionary*. International Student's Edition.

<sup>18</sup>Ahmad Sya'bi, *Kamus Al-Qalam* (Surabaya: Halim, 1997)

<sup>19</sup>Ahmad Warson Munawwir, *Kamus Al-Munawwir* (Surabaya: Pustaka Progresif,1997)



Based on *fiqh jinayah*, Islam includes this crime of obscenity into the category of *jarimah ta'zir*. What is meant by *jarimah ta'zir* is an act or criminal act whose law is not specified in the Qur'an and hadith relating to crimes that violate the rights of Allah and the rights of servants whose function is to provide lessons for criminals so as not to repeat the same crime. Because Islamic law does not only view obscenity as a violation of individual rights but is also seen as a violation of the rights of the community.

Obscenity is an act that violates decency (politeness) or a heinous act, all of which is in the environment of sexual lust, for example kissing, groping the genitals, groping the breasts and so on. But not until intercourse so that obscenity will be subject to *jarimah ta'zir*.<sup>20</sup>

Islamic law as one of the norms adopted in society needs to be used as a basis for studying child protection issues. Islamic law is a tool to protect children from exploitation. The elasticity of Islamic law with the principle of "*Salih li kulli Zaman wa Makan*" and the principle of "*Al-Hukmu yadarru ma'al illati Sadaran wa 'adaman*" requires new analogies and interpretations to be made in accordance with the context of the phenomenon of crime that occurs in children today.<sup>21</sup>

In the norms of Islamic law, there is a transcendental value which is a distinct advantage that causes its adherents to be more convinced that if religious teachings are understood properly, they will realize how religion does not want the exploitation of fellow human beings. The values of upholding justice, preventing injustice, and the need for cooperation in overcoming social problems are humanitarian missions brought by religion.<sup>22</sup>

However, these values need to always be actualized and reinterpreted in accordance with the latest developments in the mode of crime. Thus, the act of the perpetrator against the obscene act above according to Islamic law is still classified as an attempt to commit a crime. In Islamic law, an attempt to commit adultery should not be

<sup>20</sup>Ahmad Djazuli, *Fiqh Jinayah Upaya Menanggulangi Kejahatan dalam Islam* (Jakarta: Bulan Bintang, 1996)

<sup>21</sup>Ahmad Warson Munawwir, *Kamus Al-Munawwir* (Surabaya: Pustaka Progresif, 1997)

<sup>22</sup>Rena Yulia, *Viktimologi Perlindungan Hukum Terhadap Korban Kejahatan* (Bandung: Graha Ilmu, 2009)



punished by punishment imposed for the act of adultery itself, namely volume and stoning, but rather a *ta'zir* punishment.

We do not find the theory of "attempted" *jarimah* among jurists, the term attempted with a juridical technical meaning is also unknown to them, what they are talking about is the separation between the finished *jarimah* and the unfinished *jarimah*. The absence of a specific understanding of the attempted *jarimah* is due to two things:<sup>23</sup>

- a. Attempted *jarimah* are not subject to *had* or *qisas* punishment, but to *ta'zir* punishment, regardless of the type of *jarimah*. The fuqaha pay more attention to *jarimah hudud* and *qi'as-diyat*, because the elements and conditions remain unchanged, and the punishment has also been determined in number and cannot be reduced or increased.<sup>24</sup>
- b. With the existence of rules that include from the *syara'* regarding the punishment of *jarimah ta'zir*, then special rules for trials do not need to be held, because the law of *ta'zir* is imposed on every immoral act (error) that is not subject to *had* or *kifarat* punishment.

### **Sanctions for Child Obscene Perpetrators in *Fiqh Jinayah***

- a. Obscenity Subject to *Ta'zir* Sanction

In the case of the criminal act of obscenity described above, *ta'zir* criminal sanctions are imposed, namely the crime of obscenity in which the act has not yet reached sexual intercourse, but in this case the perpetrator only makes contact with parts of the female body, such as groping breasts, etc.<sup>25</sup>

So, in this case, the perpetrator cannot be punished with *hudud* criminal sanctions, but the criminal sanctions are determined by *ulil amri*, which is the severity according to the benefit needed by the community considering that such actions can damage the child's future.

- b. Obscenity Subject to *Hudud* Sanction

---

<sup>23</sup>Rena Yulia, *Viktimologi Perlindungan Hukum Terhadap Korban Kejahatan* (Bandung: Graha Ilmu, 2009)

<sup>24</sup>Rena Yulia, *Viktimologi Perlindungan Hukum Terhadap Korban Kejahatan* (Bandung: Graha Ilmu, 2009)

<sup>25</sup>A Djazuli, *Fiqh Jinayah* (Jakarta: Kiblat Umat Press, 2002)



In the case of a criminal act of obscenity that is subject to criminal sanctions *hudud*, namely a criminal act of obscenity in which the act reaches sexual relations. So, in this case, the perpetrator gets punished with the criminal sanction of *hudud* which has been determined by the *naʿsh* because the act has been included in the category of adultery. The punishment for which is the same as adultery, which is punishable by stoning to death for those who are married and can be lashed one hundred times and exiled for one year for those who are not married.

A good punishment is as follows:<sup>26</sup>

1. Must be able to prevent someone from committing immorality or prevent the action before (preventive) and explain after the action (repressive).
2. The high and low limits of a punishment really depend on the needs of the community's benefit, if the benefit requires the severity of the punishment, the punishment will be increased. And vice versa, if the needs of the community do not want light punishment, then the punishment is commuted.

So, the existence of punishment is not measured by the severity or lightness of the form of punishment, but the extent to which punishment can deter perpetrators from creating benefits in society.

### **Forms of the Obscenity Crime Act**

1. The crime of attacking the honor of decency

This is formulated in Article 289 of the Criminal Code which reads in full: "Any person who by force or threat of violence forces a person to commit an act or allows an obscene act to be carried out, is threatened for committing an act that attacks the honor of decency, with a maximum imprisonment of nine years".<sup>27</sup>

2. Obscenity towards Fainting People

<sup>26</sup>A Djazuli, *Fiqh Jinayah* (Jakarta: Kiblat Umat Press, 2002)

<sup>27</sup>R. Sugandhi, *KUH Pidana dengan Penjelasannya* (Surabaya: Usaha Nasional, 1980)



People Not Fifteen Years Old and Others. This is formulated in Article 290 of the Criminal Code as follows: Threatened with imprisonment for a maximum of seven years:<sup>28</sup>

- a. Any person commits an obscene act with a person, knowing that the person is unconscious or incapacitated.
- b. Any person commits an obscene act with a person even though he knows or should have guessed that he is not yet fifteen years old or if his age is not clear, it is not yet time for her to get married.
- c. Any person persuades someone whom he knows or reasonably should suspect that he is not yet fifteen years old or if his age is not clear, it is not yet time for him to marry, to commit or allow obscene acts, or to have sex outside of marriage with another person.

3. Same-sex obscene acts (Homosexual)

This is formulated in Article 292 of the Criminal Code which is formulated as follows: "An adult who commits an obscene act with another person of the same sex, which he knows or should reasonably suspect is not yet an adult, is threatened with a maximum imprisonment of five years".<sup>29</sup>

4. Motivating Minors to Do Obscene Deeds. This crime is formulated in article 293, as follows:

- a. Any person, by giving or promising money or goods, abuses the agent that arises from a relationship of circumstances, or by misdirection, intentionally moves a minor and good behavior to commit or allow an obscene act to be carried out with him/her, even though he/she is not yet an adult, it is known or should be suspected, is punishable by a maximum imprisonment of five years.
- b. Prosecution is only carried out on people's complaints against him/her being committed the crime.

---

<sup>28</sup>R. Sugandhi, *KUH Pidana dengan Penjelasannya* (Surabaya: Usaha Nasional, 1980)

<sup>29</sup>R. Sugandhi, *KUH Pidana dengan Penjelasannya* (Surabaya: Usaha Nasional, 1980)



- c. The grace period referred to in Article 74 for this complaint is nine months and twelve months, respectively.
5. Obscene acts against children, stepchildren, and so on. This is formulated in article 294 which is detailed as follows:
  - a. Any person who commits an obscene act with his child, stepchild, adopted child, child under his supervision who is not yet an adult whose care, education, or custody is handed over to him or with his assistant or subordinate who is not yet an adult, shall be punished by a maximum imprisonment of seven years.
  - b. Threatened with the same punishment: 1) An official who commits an obscene act with a person who because of his position is his subordinate, or with a person whose care is entrusted or handed over to him. 2) Administrators, doctors, teachers, employees, supervisors or errands in prisons, state workplaces, educational institutions, hospitals, orphanages, mental hospitals or social institutions, who commit obscene acts with people who are admitted to them.
6. The crime of facilitating obscene acts by his children, his stepson, his adopted children, and others who are not yet adults. This is formulated in article 295, as follows:
  - a. Threatened: 1) By a maximum imprisonment of five years any person, in the case of his child, stepchild, adopted child, or child under his supervision who is not yet an adult, or a person who is not yet an adult, whose care, education or care is handed over to him, or by his assistant or subordinates who are not old enough, intentionally cause and facilitate obscene acts with them. 2) With a maximum imprisonment of four years, any person who, in the event of an obscene act by a person other than the one mentioned in point I above, who he knows or should reasonably suspect, is immature with another person, intentionally causes or facilitates the obscene act.
  - b. If the guilty commits the crime as a means of livelihood or habit, the punishment may be increased by one third.
7. Crime of Causing and Facilitating Obscene Acts



This is formulated in Article 296 which is in full as follows: "Any person intentionally causes or facilitates obscene acts by others with other people and makes it a livelihood or habit, shall be punished by a maximum imprisonment of one year and four months or a maximum fine of fifteen thousand rupiahs.

### **Types of Obscenity**

In classifying obscenity, it can be divided into several types of obscenity, which include the following:<sup>30</sup>

1. Sadistic Rape means, in this type of sexuality and aggression combine in a destructive form. Perpetrators of sexual abuse have appeared to enjoy erotic pleasures not through sexual intercourse, but through gruesome assaults or the victim's genitals and bodies.
2. Anger Rape is sexual abuse characterized by sexuality as a means to express and vent the feelings of anger and anger that are held back. Here the victim's body seems to be the object against whom the perpetrator projects a solution to his life's frustrations, weaknesses, difficulties, and disappointments.
3. Domination Rape is an obscene act that occurs when the perpetrator tries to maintain power and superiority over the victim. The goal is sexual conquest, the perpetrator hurts the victim, but still has the desire to have sex.
4. Seductive Rape is obscenity that occurs in stimulating situations, created by both parties. At first the victim decided that personal intimacy should be limited not to the extent of sexual intercourse. Perpetrators generally have the belief that they need coercion, because without it they have no guilt related to sex.
5. Victim Precipitated Rape, namely obscenity that occurs (takes place) by placing the victim as the originator.
6. Exploitation Rape is an act of obscenity that shows that at every opportunity to have sexual relations a man obtains by taking

---

<sup>30</sup>Abdul Wahid and Muhammad Irfan, *Perlindungan Terhadap Korban Kekerasan Seksual (Advokasi Atas Hak Asasi Perempuan)*, (Bandung: Refika Aditama, 2001)



advantage that is contrary to the position of women who depend on him economically and socially.

### **Sanctions for Perpetrators of Obscenity against Children in Criminal Law**

To protect children from criminal acts committed by others, in addition to the Criminal Code, there is also Law Number 23 of 2002 concerning Child Protection. This law emphasizes that parental accountability is an activity that is carried out continuously for the protection of children's rights so that it does not result in the development and growth of children being disturbed. Minors are supposed to be protected by the state based on article 13 of Law No.23 of 2002 that is:<sup>31</sup>

(1) Every child while in the care of parents, guardians, or any other party responsible for the care, has the right to receive protection from:

- a. Discrimination;
- b. Exploitation, both economic and sexual;
- c. Abandonment;
- d. Cruelty, violence and persecution;
- e. Injustice; and
- f. Another mistreatment.

(2) In the event that a parent, guardian or child caretaker performs all forms of treatment as referred to in paragraph (1), the perpetrator is subject to a heavier sentence.<sup>32</sup>

In the case of obscenity against minors, Article 294 of the Criminal Code is imposed with a maximum imprisonment of seven years and Article 82 of Law No. 23 of 2002 with a prison sentence of fifteen years. Article 294 (1) Any person commits an obscene act with his child, with his stepchild, adopted child (his foster child), child under his supervision, all minors, underage people who are handed over to him

---

<sup>31</sup>Abdul Wahid and Muhammad Irfan, *Perlindungan Terhadap Korban Kekerasan Seksual (Advokasi Atas Hak Asasi Perempuan)*, (Bandung: Refika Aditama, 2001)

<sup>32</sup>Abdul Wahid and Muhammad Irfan, *Perlindungan Terhadap Korban Kekerasan Seksual (Advokasi Atas Hak Asasi Perempuan)*, (Bandung: Refika Aditama, 2001)



to be cared for or guarded or his bachelor or people under him, both underages, shall be punished with imprisonment for seven years.

In Law No. 23 of 2002 there is an article that mentions obscene crimes, namely: Article 82 "Every person who intentionally commits violence or threats of violence, coerces, commits deception, a series of lies, or persuades a child to commit or allow obscene acts to be carried out, shall be sentenced to a maximum of 15 (fifteen) years and a minimum of 3 (three) years and a maximum fine of Rp. 300,000,000.00 (three hundred million rupiah) and a minimum of Rp. 60,000,000.00 (sixty million rupiah)."

Based on the sanctions given to the perpetrators of the criminal acts above, the author can classify obscene crimes that are threatened with the laws mentioned above, in which the punishment given is the longest sentence, namely imprisonment for fifteen years, categorized into obscene acts that are up to with sexual relations with minors. Meanwhile, obscene perpetrators who have not yet had sexual intercourse are sentenced to three years to fifteen years. While the sanctions contained in the Criminal Code are considered irrelevant to the birth of Law no. 23 of 2002 concerning child protection. This law guarantees the survival of children more than what is contained in the Criminal Code in the aim of providing a deterrent effect against the perpetrators of these obscene crimes.

Judging from the punishment to the perpetrators, justice is needed which is awaited by the victim's family and the whole community who are in their midst, it does not mean a severe punishment desired by the public but a punishment that is in accordance with the actions of the perpetrator and has a positive impact so that the perpetrators are deterrent.

Victims of obscenity are people who are unconscious or helpless, not yet 15 (fifteen) years old or not yet married, same sex, immature, stepchild, adopted child, child under his supervision. Obscenity sanctions start from 9 (nine) years (Article 289), 7 (seven) years (Article 290,294), 5 (five) years (Article 292, 293 (1), 295 (1 to 1)), 4 (four) years (Article 295 (1 to 2)), besides that, the penalty can be increased by one third, if the crime is used as a livelihood (Article 295 (2)).



From the information above, the author takes a criminal case of obscenity which has been decided by the Surabaya and Sidoarjo District Courts.

#### 1. Obscenity without Sexual Intercourse

The decision of the Surabaya District Court Judge in the case of the crime of child obscenity under the supervision of No.2101/PID.B/2004/PN.SBY on November 1, 2004, has sentenced the perpetrator of obscenity to imprisonment of 5 (five) months because of the obscenity. The perpetrator has not yet entered his gender. But the perpetrator only groped the victim's body up to the vagina.

#### 2. Obscenity with Sexual Intercourse

The decision of the Sidoarjo District Court No.189/PID.B/2009/PN.SDA decided a criminal case of obscenity against minors who had sexual relations imposed sanctions, namely imprisonment for 7 (seven) years and a fine of Rp. 60,000,000 subsidies 5 (five) months. This decision is not in accordance with what was threatened by the public prosecutor, namely the threat of a maximum sentence of 15 (fifteen) years and a maximum fine of Rp. 300,000,000. Law enforcers must be able to take a deep look at the human rights of children, especially as victims who receive suffering that they cannot forget. In law enforcement, it does not mean that the perpetrators must be punished with the most severe laws, but the appropriate punishment for the perpetrators to be able to foster the perpetrators so as not to repeat their actions in the future.

### **Efforts to Overcome the Occurrence of Obscenity in Criminal Law**

Efforts in crime prevention are part of providing protection to the community (social defense) and efforts to prosper. Crime prevention is "protection of society to achieve public welfare". The crime prevention policy is a policy of the law enforcement section. Law enforcement policies are also part of the social policy section.<sup>33</sup>

Muladi also stated that the crime prevention policy when viewed from a very broad scope because crime is essentially a human problem and a social problem. The crime of social problems is a

---

<sup>33</sup>R Wibowo, *BAB II Tinjauan Pustaka Konsep Penanggulangan Kejahatan*, <http://eprints.umm.ac.id>

symptom that changes, always develops and is interrelated with the symptoms of society and from a very complex social order and is a socio political problem.<sup>34</sup>

#### 1. Repressive or Penal Efforts

Preventing crime through repressive or penal channels is the prevention of crime after the crime has occurred. This is repressive in nature (suppressing, restraining, detaining, or oppressing), meaning that in this case every perpetrator of a crime is given a punishment in accordance with positive law. Preventing crime through the penal route involves the functioning of the law enforcement apparatus of the criminal justice system, which consists of the police, prosecutors, courts, and correctional institutions.<sup>35</sup>

According to Barda Nawawi Arief, crime prevention and control through penal facilities is a penal policy or penal law enforcement policy whose function/operationalization goes through several stages:<sup>36</sup>

- a. Formulation (legislative policy);
- b. Application (judicial/judicial policy);
- c. Execution (executive/administrative policy).

#### 2. Preventive or Non Penal Efforts

The prevention of crime through this non-penal route is the prevention of crime before the occurrence of a crime which is more of a preventive action or prevention of a crime. What is handled in this case are the factors that cause the occurrence of a crime related to changing the nation's morals that are not appropriate and can be pursued by various efforts, namely prevention, through a religious approach, counseling through community leaders, moral education in schools, including moral character building and in the family.<sup>37</sup>

---

<sup>34</sup>R Wibowo, *BAB II Tinjauan Pustaka Konsep Penanggulangan Kejahatan*, <http://eprints.umm.ac.id>

<sup>35</sup>Marlina, *Peradilan Pidana Anak di Indonesia: Pengembangan Konsep Diversi dan Restorative Justice* (PT. Refika Aditama: Medan, 2009)

<sup>36</sup>Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan* (PT. Citra Aditya Bakti: Bandung, 2001)

<sup>37</sup>Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan* (PT. Citra Aditya Bakti: Bandung, 2001)



Crime prevention efforts with a non-penal approach are a form of prevention effort without using criminal law by influencing the public's view of crime and punishment through the mass media.

### 3. Pre-emptive Countermeasures

Pre-emptive countermeasures are the initial efforts made by the police, one of which is the police to prevent crime. These efforts are in pre-emptive countermeasures, namely instilling good values and norms so that these norms are embedded in a person, even though there is still an opportunity to commit crimes, violations.<sup>38</sup>

### **Comparison of Criminal Law and Islamic Criminal Law to the Law of Child Victims of Obscenity**

Obscenity to minors can be included in the category of *jarimah ta'zir* because Islamic law does not only view it as a violation of individual rights but is also viewed as a violation of the rights of the community.

Obscenity is all kinds of acts, whether done to oneself or to others regarding and relating to the genitals or other body parts that can stimulate sexual desire of the child but not at the level of sexual intercourse but only begging and groping and not categorized as adultery unless punished with tazir. As the word of Allah swt. which is found in QS Al-Isrā': 32 which reads:<sup>39</sup>

وَلَا تَقْرُبُوا الزَّوْجَ الَّذِي إِنَّهُ كَانَ فَلَاحِشَةً وَسَاءَ سَبِيلًا ۝ ٣٢

The Translation:

“Do not go near adultery. It is truly a shameful deed and an evil way”.

According to the observations of the Scholars of the Qur'an, the verses that use the word do not approach are like verses, usually a prohibition to approach something that can stimulate the soul or lust to do so. Thus, the prohibition to approach contains the meaning of the prohibition not to fall into the appeal of something that has the potential to lead to doing it, such as obscene acts close to adultery.

<sup>38</sup>Ngawiardi, *Kajian Kriminologi Terhadap Kejahatan pencabulan Anak Di Bawah Umur Di Parigi Moutong*, <https://media.neliti.com>

<sup>39</sup>The Holy Quran, Retrieved from <https://quran.com/17?startingVerse=32>. Accessed on June 10, 2021.



**An Analysis of Fiqh Jinayah and Criminal Law on the Legal Protection of...**

In criminal law it is also very clear that obscenity is strictly prohibited with many articles that regulate it, especially regarding obscenity with child victims who are still under the age of adulthood. Strict sanctions are very clear.

According to the Criminal Code (KUHP) regarding obscenity to children, it is regulated in article 289, 290 paragraphs (2) and (3), article 292, article 293, article 294 paragraph (1) and article 295 of the Criminal Code, namely:<sup>40</sup>

- a. Article 289 of the Criminal Code reads:  
"Any person who by force or threat of violence forces a person to commit or allow an obscene act to be carried out, is threatened for committing an act that attacks honor and morality, with a maximum imprisonment of nine years."
- b. Article 290 paragraph (2) and (3) read:  
"Threatened with a maximum imprisonment of seven years, (2) Any person commits an obscene act with a person even though he knows or should have guessed that he is not yet fifteen years old or if his age is not clear, it is not yet the time for marriage; (3) Any person persuades someone to know or reasonably should suspect that he is not yet fifteen years old or if his age is not clear, it is not yet time for him to marry, to commit or allow obscene acts, or to have sex outside of marriage with another person."
- c. Article 292 reads:  
"An adult who commits an obscene act with another person of the same sex, which he knows or should reasonably suspect is a minor, is threatened with a maximum imprisonment of five years."
- d. Article 293 reads:  
(1) Any person by giving or promising money or goods, abuses a carrier arising from a relationship of circumstances, or by misdirection intentionally moves a minor and good behavior to commit or allow an obscene act to be carried out with him, whereas regarding immaturity, it is known that it

---

<sup>40</sup>Kitab Undang-Undang Hukum Acara Pidana dan Kitab Undang-Undang Hukum Pidana, (Jakarta: Bee Media Pustaka, 2014)



should be suspected, is threatened with a maximum imprisonment of five years.

- (2) Prosecution is only carried out on the complaint of the person against whom the crime was committed.
  - (3) The grace period referred to in article 74 for this complaint is nine months and twelve months, respectively.
- e. Article 294 reads:
- (1) Any person who commits an obscene act with his child, stepson, adopted child, child under his supervision who is not yet an adult whose care, education, care is handed over to him or his assistant or subordinate who is not yet an adult, is threatened with a maximum imprisonment of 7 years.
  - (2) Threatened with the same punishment:
    - a. An official who commits an obscene act with a person who because of his position is his subordinate, or with a person whose care is entrusted or handed over to him,
    - b. Administrators, doctors, teachers, employees, supervisors, or errands in prisons, state places of work, places of education, orphanages, hospitals, mental hospitals, or social institutions, who commit obscene acts with people who are admitted to them.
- f. Article 295 reads:
- (1) Threatened:
    - a. With a maximum imprisonment of 5 years, any person who, in the case of his child, stepson, adopted child or under his supervision, or an immature person whose care, education or care is handed over to him, or his assistant or subordinate who is not old enough, intentionally cause and facilitate obscene acts with him
    - b. With a maximum imprisonment of 4 years, any person who, in the event that an obscene act is committed by a person other than the one mentioned in point 1 above, who is known to be immature with another person, intentionally causes or facilitates the perpetration of the obscenity,



(2) If the guilty commits the crime as a means of livelihood or habit, the punishment may be increased by one third.

In Aceh Qanun Number 11 of 2008 concerning Child Protection Chapter X regarding the referral system in article 43 states that: (1) If the child's parents or guardians are unable to overcome the problems faced by the child, a referral system is used. (2) The referral system as referred to in paragraph (1) can direct a child or a child's case to other sources of information or services. (3) A number of institutions can work together to organize a referral system which is carried out in the form of a collaboration according to the duties and functions and operating standards of each institution. (4) The Aceh government and district/municipality governments are tasked with coordinating inter-institutional cooperation as referred to in paragraph (3).<sup>41</sup>

Article 44 The referral system as referred to in Article 43 includes the following stages: a. early identification and assistance; b. recording and service delivery; c. acceptance of referrals and determination of case referrals; d. funding agreement; e. monitoring; and f. coordination.<sup>42</sup>

Article 45 (1) The mechanism for identifying and providing services as referred to in Article 44 consists of place-based services and community-based services. (2) In place-based services as referred to in paragraph (1), the victim receives assistance and services from the agency providing assistance. (3) In community-based services as referred to in paragraph (1), victims receive assistance from institutions that place social workers or their volunteers to help victims, strengthen the community in determining steps to assist victims.<sup>43</sup>

Article 46 Services in the referral system as referred to in Article 45, include: a. medical services; b. legal services; c. psychological services; d. spiritual service; e. socio-economic services; f. education

---

<sup>41</sup>Didik M. Arief Mansur and Elisatris Gultom, *Urgensi Perlindungan Korban Kejahatan Antara Norma dan Realita* (Jakarta:PT Raja Grafindo Persada, 2008)

<sup>42</sup>Qanun Aceh Nomor 11 Tahun 2008 Tentang Perlindungan Anak, (Jakarta, 2009)

<sup>43</sup>Qanun Aceh Nomor 11 Tahun 2008 Tentang Perlindungan Anak, (Jakarta, 2009)



services; g. temporary shelter services; and h. reintegration services into the community.<sup>44</sup>

Article 47 (1) Community social workers can play a role in the referral system. (2) The role as referred to in paragraph (1) can be in the form of identification and recording of victims' needs. (3) Community social workers can directly provide needed services, according to their capacities and duties, or refer victims to other institutions.<sup>45</sup>

As for Article 48 Chapter XI concerning the Implementation of Protection, it is stated that: (1) The implementation of protection for victims is carried out in an integrated manner in the Integrated Service Center (PPT) which is coordinated by the agency/institution that is tasked and responsible for the empowerment and protection of children. (2) Aceh Province PPT may receive case referrals from districts/cities throughout Aceh Province. (3) Provisions on PPT shall be further regulated by a Governor Regulation.<sup>46</sup>

The form and mechanism of service in Article 49 states that: (1) The forms of service to victims organized by PPT are: a. medical services; b. medicolegal services; c. psychosocial services; d. legal services to assist victims in the judicial process and e. independence services in the form of economic access and skills training so that victims can be independent. (2) The service mechanism as referred to in paragraph (1) is carried out according to standard operating procedures (SOP) which will be further regulated by a governor regulation.<sup>47</sup>

The service principles are contained in article 50 which states that: 47 "Services to victims are provided with the principles: fast, responsive, safe, empathetic, and non-discriminatory, easy to reach, and guarantees confidentiality, and free of charge from the victim."

---

<sup>44</sup>Qanun Aceh Nomor 11 Tahun 2008 Tentang Perlindungan Anak, (Jakarta, 2009)

<sup>45</sup>Qanun Aceh Nomor 11 Tahun 2008 Tentang Perlindungan Anak, (Jakarta, 2009)

<sup>46</sup>Qanun Aceh Nomor 11 Tahun 2008 Tentang Perlindungan Anak, (Jakarta, 2009)

<sup>47</sup>Qanun Aceh Nomor 11 Tahun 2008 Tentang Perlindungan Anak, (Jakarta, 2009)



## An Analysis of Fiqh Jinayah and Criminal Law on the Legal Protection of...

Article 51 states that: "In carrying out assistance services to victims, PPT can cooperate with parents or institutions that have the competence to conduct counseling, therapy and advocacy."<sup>48</sup>

Thus, in Islamic law as well as criminal and qanun there is no conflict with the punishment for underage obscenity. These sanctions are intended to deter the perpetrators and for children, it is hoped that from an early age they have been given education about the importance of taking care of themselves.

### CONCLUSION

1. Review of Islamic Jinayah fiqh includes this criminal act of obscenity into the category of jarimah ta'zir. Jarimah Ta'zir is an act or criminal act whose law is not specified in the Al-Quran and Hadith relating to a crime that violates the rights of Allah and the rights of the servant which serves to teach the perpetrators of crimes not to repeat similar crimes. Because Islamic law does not only view obscenity as a violation of individual rights but is also seen as a violation of community rights. Sexual abuse cannot be called adultery because there is no sexual relationship between the perpetrator and the victim. Fornication is any act that violates decency or is a heinous act, all of that in the sphere of sexual lust, for example kissing, groping the genitals, groping the breasts and so on. But not until intercourse turns into sexual immorality, you will be subject to jarimah ta'zir.
2. The crime of obscenity is one of the crimes of decency, which is regulated in the 2<sup>nd</sup> book of KUHP Chapter XIV Article 294 paragraph (1) which carries a maximum penalty of 7 (seven) years in prison. Even though this act must always be carried out by both parties together, it is only an adult who is punished. If the obscene act committed by the perpetrator does not achieve its purpose, because of resistance from the victim, which is

---

<sup>48</sup>Qanun Aceh Nomor 11 Tahun 2008 Tentang Perlindungan Anak, (Jakarta, 2009)

blamed for attempting obscenity, the provisions of which are regulated in Article 53 paragraph (1) of the KUHP.

3. There is no conflict between Criminal Law and Islamic Law, all of which provide strict sanctions and provide a deterrent effect for perpetrators of criminal acts of sexual abuse with child victims.

## REFERENCES

- Akbar, Idhil, 'Khalifah Islamiyah: antara konsep dan realitas kenegaraan (republic islam iran dan kerajaan islam arab Saudi)', *Journal of Government and Civil Society*, 2007.  
DOI: <http://dx.doi.org/10.31000/jgcs.v1i1.265>.
- Ahid, Nur, 'Fundamentalis dan Berbagai Orientasi Gerakan Islam', *Paramedia*, 2004.
- Asayesh, Hossein, et.al, 'Political Party in Islamic Republic of Iran: A Review', *Journal of Politics and Law*, Vol. 4, No. 1; March 2011.  
[https://www.researchgate.net/publication/314426491\\_Politica\\_I\\_Party\\_in\\_Islamic\\_Republic\\_of\\_Iran\\_A\\_Review](https://www.researchgate.net/publication/314426491_Politica_I_Party_in_Islamic_Republic_of_Iran_A_Review).
- ACCORD-Austrian Centre for Country of Origin & Asylum Research and Documentation, 'Iran: Organization and Functioning of Political Parties', *Query Response [α-10095]*, 2017.  
<https://www.refworld.org/pdfid/5943a4a14.pdf>.
- BBC, 'Pilpres Iran: Sistem Pemerintahan Unik yang Gabungkan Teokrasi Islam dengan Demokrasi', *BBC News Indonesia*, 2022.  
<https://www.bbc.com/indonesia/dunia-57525647>.
- Bennett, Helena et.al. 2018. "Corruption In Iran: Experience, Perception, and Reform Efforts – A Literature Review, ResearchGate, page. 3.



**An Analysis of Fiqh Jinayah and Criminal Law on the Legal Protection of...**

Brainy Quote, 'Democracy and Socialism are Means to and End, not the End itself', Jawaharlal Nehru quoted in Brainy Quote, 2001. [https://www.brainyquote.com/quotes/jawaharlal nehru 3833 25](https://www.brainyquote.com/quotes/jawaharlal%20nehru%20383325).

BTI 2020 Country Report, page. 4.

Chehabi, H.E. (1991). Religion and Politics in Iran: How Theocratic Is the Islamic Republic? *Daedalus*, 120(3), 69–91. <http://www.jstor.org/stable/20025388>.

Cipto, Bambang, 'Dinamika Politik Iran', Yogyakarta: *Pustaka Pelajar*, 2004.

Cox, Caroline and John Marks, 'The West, Islam, & Islamism: Is Islam Compatible with Democracy', London: *Civitas*, 2003.

Dadgar, Yadollah et.al. 2018. "Difficulties of Public Sector Structures as Main Obstacle for Economic Progress In Iran". *OIDA International Journal of Sustainable Development*.

Esposito, John L. dan John O'Voll. Terjemahan Rahmani Astuti, 'Demokrasi Di Negara-Negara Muslim: Problem Dan Prospek, Bandung': *Mizan*, 1999.

Ezzati, Ahmad. Terjemahan Agung Sulistya, 'Gerakan Islam', Jakarta: *Pustaka Hidayah*, 1990.

Effendy, Bahtiar, 'Islam dan Demokrasi, dalam M. Nasir Tamana dan Elza Taher (ed.), Agama dan Dialog Antar Peradaban, Jakarta: *Paramadina*, 1996.

Fauziah, Siti, 'Revolusi Iran dan Pengaruhnya Bagi Perkembangan Syiah di Indonesia', *Tsaqofah; Jurnal Agama dan Budaya*, 2016. <http://dx.doi.org/10.32678/tsaqofah.v14i1.3386>.

Hamid Nasuhi, 'Demokrasi Tanpa Partai', *Politik Islam I*, 2006.



Hawkins, Myriam Kati Fizazi, 'Islamic Revival Movements and Revolution: The Cases of Iran and Egypt', Dissertations, Theses, and Masters Projects. Paper 1539625910: College of William & Mary Press, 1994. <https://dx.doi.org/doi:10.21220/s2-y1a4-dq96>.

Hidayat, Komarudin, 'Tiga Model Hubungan Agama dan Demokrasi', dalam Elza Peldi Taher (ed.), *Demokrasi Politik, Budaya, dan Ekonomi*, Jakarta: *Paramadina*, 1994.

Humas Kedutaan Besar Republik Indonesia di Teheran, Laporan Tahunan 1989-1990.

Humas Kedutaan Besar Republik Islam Iran; Jakarta. *Undang-Undang Dasar Republik Islam Iran*.

Hefner, Robert W., 'Remaking Muslim Politics, Pluralism, Contestation, and Democratization', Princeton dan Oxford: *Princeton University Press*, 2005.

Iraningsih, 'Republik Islam Iran: Studi atas Theo-Demokrasi Pascarevolusi 1979-2005', Jakarta: UIN Syarif Hidayatullah Press, 2008.

Jainuri, Achmad, 'Orientasi Ideologi Gerakan Islam; Konservatisme, Fundamentalisme, Sekularisme, dan Modernisme', Surabaya: *LPAM*, 2004.

Kadir, Abdul, 'Syiah Dan Politik: Studi Republik Islam Iran', *Jurnal Politik Profetik*, 2015. DOI: <https://doi.org/10.24252/profetik.v3i1a1>.

Kedutaan Besar Republik Indonesia di Teheran, 'Iran: Susunan Kabinet Republik Islam Iran', *KEMLU.ID*, 2019. <https://kemlu.go.id/tehran/id/read/iran/58/information-sheet>.

Kedutaan Besar Republik Indonesia di Taheran, Laporan Tahunan 1989-1990,



Kedutaan Besar Republik Indonesia di Teheran, Laporan Tahunan 1991-1992

Kedutaan Besar Republik Indonesia di Teheran Laporan Tahunan 2002-2003

Mo'addab, Shaban Sahidi, 'Iran Tidak Mengurangi Kebebasan Rakyatnya, *SYIAR*, 2004.

Rad, Ali Pahlevani, 'Wanita Iran 29 Tahun Pasca Revolusi Islam Iran', *Republika*, 2008.

Rahmat, M. Imdadun, 'Arus Baru Islam Radikal: Transmisi Revivalisme Islam Timur Tengah ke Indonesia', Jakarta: *Erlangga*, 2005.

Rahman, Musthafa Abdul, 'Iran Pasca Revolusi', Jakarta: *Buku Kompas*, 2003.

Rahmani, Tahmineh and Nader Mirzadeh Koohshasi, 'Introduction to Iran's Judicial System', *Journal of Law, Policy and Globalization*, 2016.

<https://www.iiste.org/Journals/index.php/JLPG/article/view/28460/29202>.

Salihu, Habeeb Abdulrauf. 2020. "Corruption and Anti-Corruption Strategies In Iran". *Journal of Money Laundering Control*. 23 (1), 77-89. <https://doi.org/10.1108/JMLC-01-2019-0001>

Samii, Abbas William, 'The Changing Landscape of Party Politics In Iran – A Case Study', *The Journal of the European Society of Iranian Studies* (I), 2005. [http://www.sssup.it/UploadDocs/4525\\_6\\_The\\_Changing\\_Landscape\\_of\\_Party\\_Politics\\_in](http://www.sssup.it/UploadDocs/4525_6_The_Changing_Landscape_of_Party_Politics_in).

Sumarno, Wisnu Fachrudin, 'Sejarah Politik Republik Islam Iran Tahun 1905-1979', *Jurnal Kajian Sosial Keagamaan*, 2020. DOI: 10.20414/sangkep.v2i2.



Sukardja, Ahmad dan Ahmad Sudirman Abbas, 'Demokrasi Dalam Perspektif Islam', Jakarta: *Pedoman Ilmu Jaya*, 2005.

Sihbudi, M. Riza, 'Tinjauan Teoritis dan Praktis atas Konsep Wilayah Faqih: Sebuah Studi Pengantar, *Ulumul Qur'an*, 1993.

Sirry, Mun'im A., 'Dilema Islam Dilema Demokrasi', Bekasi: *Gugus Press*, 2002.

Sihbudi, Riza, 'Islam, Dunia Arab, Iran: Bara Timur Tengah', Bandung: *Mizan*, 1991.

Upaya Pencegahan Sanksi Iran. Accessed at 10 Agustus 2022 di <http://www.politik.lipi.go.id/kolom/285-sanksi-baru-untuk-nuklir-iran.html>.

Yamani, 'Filsafat Politik Islam', Bandung: *Mizan*, 2002.

Zayar, 'Revolusi Iran: Sejarah dan Hari depannya, Yogyakarta: *Sumbu Yogyakarta*, 2002.

ZulKarnen, 'Budaya Struktur Pemerintahan Republik Islam Iran', *Jurnal Al Azhar Indonesia Seri Humaniora*, 2015.  
<https://jurnal.uai.ac.id/index.php/SH/article/view/194>.

