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EDUCATIONAL APPROACH TO CRIMINAL PUNISHMENT ACCORDING TO ISLAMIC CRIMINAL LAW

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ABSTRACT

Criminalization in the current legal system in its modern form is often misinterpreted as a form of retribution against violations of the law. This understanding makes criminalization a purely repressive theoretical framework, thus neglecting the development and educational aspects intended for perpetrators of crime. Conversely, in this model, criminalization in Islamic criminal law is considered more than a mere tool for enforcing justice, but rather a "transformational" educational mechanism within individuals throughout the broader social atmosphere. For example, the concepts of hudud, qisas, and ta'zir in Islamic jurisprudence (fiqh jinayah) prove that the essence of criminalization, namely prevention (zawajir) and improvement (jawabir), are aspects of activities that focus on the welfare of society. The results of this study are normative legal research with a conceptual and bibliographical approach, using the primary sources of the Qur'an and Hadith as well as classical and contemporary Islamic jurisprudence literature. As a result, this study shows that the educational approach in Islamic criminal law is reflected in the principles of proportionality, the opportunity for repentance, and the flexibility of sanctions in ta'zir which allows for the development of perpetrators. Thus, punishment in Islamic criminal law is relevant to rehabilitative and restorative justice theories in modern legal systems. This approach demonstrates that the ultimate goal of punishment is not merely retribution, but also the improvement of the perpetrator and the just protection of society.

INTRODUCTION

The development of the modern penal system demonstrates a paradigm shift from a retributive approach oriented toward a more rehabilitative and restorative approach. Criminal law reforms in various countries prioritize the rehabilitation of offenders, the protection of victims, and social reintegration as the primary objectives of punishment.

In Indonesia, the ratification of the 2022 Criminal Code (KUHP) explicitly affirms that punishment is not solely aimed at inflicting suffering, but also at preventing crime, reintegrating offenders into society, and restoring balance within society. This orientation demonstrates the increasing recognition of the educational dimension of punishment as a vital component of the contemporary criminal law system.

From the perspective of Islamic criminal law (fiqh jinayah), the educational approach is not a new concept. From the beginning, punishment in Islam has been formulated within the framework of maintaining public welfare (maslahah) and preventing harm (mafsadah) in social life. The concept of maqasid al-shari'ah places the protection of five basic principles—religion, life, intellect, lineage, and property—as the primary objective of legal formation (Auda, 2016). Thus, punishment in Islam is understood not only as a response to violations of norms, but also as an instrument of moral and social development. Punishment is aimed at correcting the perpetrator's behavior and maintaining the balance of social order.

Recent studies have shown that the ta'zir instrument in Islamic criminal law is flexible and contextual. Ta'zir provides discretion to judges or authorities to determine the form and severity of punishment based on considerations of public interest (Kamali, 2019). Ta'zir sanctions can take the form of warnings, fines, rehabilitation, counseling, and community service, thus opening up opportunities for a more proportionate educational approach. This flexible nature demonstrates Islamic criminal law's potential to adapt to social developments and the needs of modern legal systems.

However, most literature on Islamic criminal law still focuses on normative and textual discussions of hudud and qisas, resulting in a lack of comprehensive study of the educational dimension of punishment within the framework of contemporary criminal law reform (Hallaq, 2018). Furthermore, the discourse on restorative justice and the objectives of punishment in the 2022 Criminal Code has not been closely linked to the theoretical construct of maqasid al-syari'ah. This gap highlights the need for an integrative analysis that reconciles the values of Islamic criminal law with the direction of national criminal law reform.

Based on this background, this study argues that the educational approach is the philosophical essence of punishment in Islamic criminal law, particularly through the ta'zir instrument and the maqashid al-syari'ah framework.

This approach has substantive relevance to the orientation of punishment in the 2022 Criminal Code, which emphasizes social development and reintegration. Therefore, this study aims to: (1) analyze the conceptual basis of the educational approach in Islamic criminal law; (2) identify forms of punishment oriented towards development; and (3) examine its relevance in the context of reforming the Indonesian criminal system.

METHOD

This study employs a normative legal research design with conceptual and statutory approaches. This design was chosen because the research focuses on analyzing the construction of punishment in Islamic criminal law and its relevance to the national penal system as stipulated in the 2022 Criminal Code. The research aims to produce a conceptual synthesis that can be retested through a search of similar legal sources and scientific literature.

The research location is library-based. The entire research process was conducted through a systematic search of written sources available in online academic databases and university library collections. Literature access was conducted through Google Scholar, DOAJ, the Garuda portal, HeinOnline, and accredited national journal repositories. The search was conducted between January and March 2026 using the following keywords: "criminalization in Islam," "ta'zir," "maqashid al-syari'ah and criminal law," "the purpose of criminalization in the 2022 Criminal Code," and "restorative justice in Indonesia."

The research population comprises all scholarly literature discussing punishment in Islamic criminal law and reform of the Indonesian penal system. This includes contemporary Islamic jurisprudence books, Islamic criminal law journal articles, articles on the maqashid al-syari'ah (the principles of Islamic law), and academic publications reviewing the objectives of punishment in the 2022 Criminal Code. To maintain relevance and currency, this study limited the sources to publications from 2016–2025.

The research sample was determined using a purposive sampling technique with the following selection criteria: (1) the literature substantively discusses the concepts of punishment, ta'zir, or maqashid al-syari'ah; (2) the literature contains analysis relevant to the objectives of modern punishment or criminal law reform; (3) published in reputable journals or by academic publishers; and (4) available in full to allow verification of the

content. Based on these criteria, 32 primary sources were obtained, consisting of 12 academic books and 20 national and international journal articles.

The research subjects in this normative context are legal norms and conceptual constructs contained in selected literature and the provisions of the 2022 Criminal Code. The norms analyzed include the formulation of the objectives of criminal punishment, provisions on types of punishment, and principles of social development and reintegration. From an Islamic criminal law perspective, the research subjects include the concepts of hudud, qisas, and especially ta'zir as a discretionary area in criminal punishment.

Data collection methods used documentation techniques and systematic literature review. The process began with identifying literature based on keywords, followed by initial screening through abstract reading. Literature that passed the initial selection was thoroughly read to identify key arguments, conceptual frameworks, and relevance to the educational approach. Each source was recorded in an analysis matrix containing the following information: author identity, year of publication, focus of the study, key findings, and contribution to the issue of educational criminalization.

The tools used in this research include reference manager software to organize citations and prevent duplication of sources, digital spreadsheets for analysis matrices, and word processing software for manuscript preparation. Additionally, an internal similarity checker was used prior to finalizing the manuscript to ensure originality and minimize potential editorial overlap with other sources.

Data analysis was conducted using content analysis techniques with the following stages. First, data reduction, which grouped the literature based on major themes: the objectives of punishment, the concept of ta'zir, maqashid al-syari'ah, and the reform of the 2022 Criminal Code.

Second, categorization, which identified argumentation patterns that indicated an educational dimension in Islamic punishment. Third, comparison, which compared the construction of punishment in Islamic criminal law with the formulation of the objectives of punishment in the 2022 Criminal Code. Fourth, conceptual synthesis to formulate an integrative educational approach model.

This research utilized several mechanisms for control. First, source control was implemented by limiting the literature to verified academic publications and specific time periods. Second, interpretation control was implemented by comparing more than one source for each key concept to avoid bias from a single perspective. Third, consistency

control was implemented by developing the same analytical framework across the literature so that the conclusion-drawing process could be systematically traced. Fourth, originality control was implemented through a textual similarity check before the manuscript was finalized.

With this procedure, this study provides opportunities for replication for other researchers through clear steps: determining keywords, limiting the publication period, selecting literature based on specific criteria, developing an analysis matrix, and conducting content and comparative analysis. All stages are designed to be re-verified using the same sources or expanded with additional sources in subsequent periods.

RESULTS AND DISCUSSION

Results

1. Inventory of Criminal Norms in Primary Sources (Legislative Approach)

A review of primary sources shows that the norms of punishment in Islamic criminal law are contained in the Qur'an and hadith with a specific normative structure. QS. al-Mā'idah [5]:38 contains provisions for sanctions for theft with normative phrases that indicate the necessity of application after certain conditions are met. QS. al-Nūr [24]:2 contains provisions for the punishment of adultery with an explicit mention of the number of lashes. QS. al-Mā'idah [5]:33 regulates sanctions for hirabah with various forms of punishment.

QS. al-Baqarah [2]:178–179 contains qiṣāṣ norms which include options for equitable retribution as well as the possibility of forgiveness with diyat. In classical jurisprudence literature, these norms are classified into three main categories: ḥudūd, qiṣāṣ–diyāt, and taʿzīr (Az-Zuhayli, 2011).

Contemporary literature maintains this classification structure. Kamali (2019) reorganizes this division within a modern legal system, while Auda (2018) places it within the framework of the maqāṣid system.

2. Normative Elements and Application Requirements in Madhab Literature

The search results show that the school of thought literature provides details of the elements and conditions for the application of criminal law.

In the Hanafi school of thought, the application of ḥudūd requires strict proof and avoids application in conditions of doubt. The Maliki School pays attention to social stability in the application of norms. The Shafi'i and Hanbali schools emphasize consistency in textual propositions (Az-Zuhayli, 2011).

In qisāṣ, the literature notes the requirements of equality and certainty of proof. The right to forgiveness rests with the victim's heirs. Kamali (2019) notes that this right

is recognized in the normative structure of classical Islamic law.

In taʿzīr, there are no textual provisions regarding the level and form of sanctions. The literature states that the form is left to the authority of the judge or ruler according to the needs of the public interest (Auda, 2018).

3. Conceptual Construction of Criminalization in Contemporary Literature (Conceptual Approach)

A review of the literature from 2015–2024 shows the conceptual development of criminalization in Islamic law.

Rahman (2021) notes that taʿzīr allows for the development of administrative and rehabilitative sanctions. Ismail (2020) notes the discourse on the relevance of forgiveness mechanisms in qiṣāṣ to modern restorative approaches.

Kamali (2019) states that the objectives of criminal punishment in Islamic law include protecting society and correcting behavior. Auda (2018) explains that the Islamic legal system is purpose-oriented.

Contemporary literature shows that there is discussion about flexibility in the application of taʿzīr as long as it does not violate the basic principles of sharia.

4. Mapping Maqāṣid al-Sharīʿah in the Sentencing Structure (Maqāṣid Approach)

The results of the literature review on maqāṣid show a relationship between the criminal category and the five main objectives of sharia. It was found that:

Hifẓ al-dīn (religious protection) is associated with provisions that maintain moral order and social norms (Auda, 2018).

Hifẓ al-nafs (protection of the soul) is reflected in the provisions of qiṣāṣ against murder and assault (Kamali, 2019).

Hifẓ al-'aql (protection of reason) is related to the prohibition against consuming alcohol and actions that damage consciousness (Az-Zuhayli, 2011).

Hifẓ al-nasl (offspring protection) is related to the provisions of adultery and protection of the family structure (Az-Zuhayli, 2011).

Hifẓ al-māl (protection of property) is reflected in the provisions on sanctions for theft and robbery (Kamali, 2019).

The literature shows that all criminal categories are related to one or more of these maqāṣid.

The results of the study show that the maqāṣid literature places criminalization within the framework of protecting the five main objectives of sharia (al-ḍarūriyyāt al-khams).

5. Comparison Matrix of Educational Space in the Criminal Structure

The results of the literature review indicate significant differences in discretionary space between criminal categories in Islamic criminal law. For the category of ḥudūd, the norms are textual, thus severely limiting the discretionary space for judges or authorities. The literature emphasizes that the application of ḥudūd must strictly follow the text and not allow for modification or adaptation (Az-Zuhayli, 2011).

Meanwhile, in the qiṣāṣ category, the norm is alternative, allowing for moderate discretion. Contemporary literature has found that the victim's heirs have the right to choose between exacting retribution or granting forgiveness to the perpetrator. This mechanism demonstrates moderate flexibility in the application of sanctions and offers educational potential, as the perpetrator can be given the opportunity to receive forgiveness or atone for their wrongdoing through compensation (Kamali, 2019).

For the category of taʿzīr, the nature of the norm is not textually defined, thus allowing for considerable discretion. Modern literature notes that authorities or judges have the freedom to determine the type and severity of sanctions, including warnings,

counseling, or other forms of social punishment as needed for the public interest. This flexibility allows for a more educative approach to punishment, aimed at improving the perpetrator's behavior without violating basic sharia principles (Rahman, 2021).

Overall, the literature confirms that the broadest scope for discretion lies in taʿzīr, followed by qiṣāṣ, while ḥudūd has the most limited scope for application. This structure reflects the combination of legal certainty and flexibility in the Islamic criminal law system, while also providing a framework that allows for an educational approach, particularly in the taʿzīr category.

6. Inventory of Taʿzīr Forms in Literature

The results of a search of classical and modern fiqh works show the following forms of taʿzīr:

- Open advice or reprimand
- Administrative fines
- Temporary detention
- Restrictions on social activities
- Behavioral monitoring

Az-Zuhayli (2011) notes that the form of taʿzīr can be adjusted according to the degree of wrongdoing. Rahman (2021) notes that modern literature opens up the possibility of rehabilitative forms.

7. Descriptive Synthesis of Literature Findings

Based on the results of a systematic review of primary sources and literature 2015–2024, it was found:

1. The penal structure remains composed of three main categories.
2. The conditions for implementing ḥudūd are strictly explained in the school's literature.
3. Qiṣāṣ contains the right to forgiveness in textual norms.
4. Taʿzīr does not have rigid limits on form and degree.
5. Contemporary literature notes the flexibility of taʿzīr in the context of benefit.
6. The maqāṣid approach places punishment within the framework of protecting the five main objectives of the Shari'a.

All the findings above are the results of an inventory and classification of literature without the addition of normative interpretation.

8. Analysis of Proof Structure in Jinayah Fiqh Literature

The results of the literature search show that in the ḥudūd and qiṣāṣ categories, proof is a central element before sanctions can be applied. School literature requires high standards of proof, such as repeated confessions or testimony with certain qualifications (Az-Zuhayli, 2011). In cases of adultery, for example, four witnesses are required with strict criteria. In cases of theft, the literature states that there are requirements for a minimum value of assets and conditions for taking them that meet certain elements.

Kamali (2019) noted that this evidentiary standard serves as a safeguard to prevent criminal penalties from being imposed without strong legal certainty. Contemporary literature also notes that the principle of caution in the presentation of evidence is an integral part of the structure of Islamic criminal law (Rahman, 2021).

In taʿzīr, the standard of proof is not explained rigidly in the text, but the literature shows that judges still consider the evidence and the condition of the perpetrator before imposing sanctions (Auda, 2018).

9. Variations in the Forms of Taʿzīr Sanctions in Modern Literature

An inventory of the literature from 2015–2024 reveals a variety of forms of taʿzīr sanctions documented in modern academic studies. Some literature mentions

mandatory moral training, attendance at scientific assemblies, community service, or administrative supervision (Rahman, 2021).

Other literature notes that non-physical sanctions are more frequently discussed in the context of Islamic legal reform in various Muslim-majority countries (Ismail, 2020). Kamali (2019) states that such adaptations remain within the basic principles of Islamic law as long as they do not alter the textually defined criminal categories.

The search results show that modern discourse does not eliminate classical categories, but rather discusses forms of implementation within the framework of the contemporary legal system.

10. Mapping of Literature Trends 2015–2024

Based on a review of books and scientific articles in the last decade, several discussion trends were found:

1. Strengthening the discussion of maqāṣid as a basis for criminal analysis (Auda, 2018).
2. Emphasis on the flexibility of taʿzīr in the context of social change (Rahman, 2021).
3. Discussion of the mechanism of forgiveness in qiṣāṣ within the framework of restorative justice (Ismail, 2020).
4. Reaffirmation of classical structure in modern legal systematics (Kamali, 2019).

This finding shows continuity between classical and contemporary literature in discussing the structure of punishment.

11. Comparative Matrix of Schools of Thought on Discretionary Space

A literature review shows that all schools of thought recognize the existence of taʿzīr, but with varying degrees of discretion. In the Hanafi school, the determination of the form and extent of taʿzīr is left entirely to the authority, thus providing very broad discretion (Az-Zuhayli, 2011). The Maliki school emphasizes consideration of the public interest in the application of taʿzīr, which also provides broad flexibility for the ruler to adapt sanctions to social conditions (Az-Zuhayli, 2011).

Meanwhile, the Shafi'i school of thought stipulates that the application of taʿzīr remains within the limits of sharia principles, allowing for moderate to broad discretion depending on the context of the case and the judge's discretion (Kamali, 2019). The Hanbali school of thought emphasizes that discretion is based on benefit, meaning that judges have the freedom to determine the form and extent of sanctions as long as they are in accordance with the principle of benefit, allowing for broad discretion (Kamali,

2019).

Overall, the literature confirms that although all schools of thought recognize taʿzīr, the degree of flexibility and discretion varies according to each school's approach. This underscores taʿzīr's role as the most adaptive criminal category and provides the possibility of implementing an educational approach in Islamic criminal law.

12. Hierarchical Structure of Criminalization in Literature

The results of the literature inventory show the following hierarchical structure:

1. Textually determined punishment (ḥudūd).
2. Criminal penalties with alternative options (qiṣāṣ–diyāt).
3. Discretionary punishment (taʿzīr).

Auda (2018) noted that this structure demonstrates a combination of fixed and flexible norms within the Islamic legal system. Contemporary literature does not document changes to this structure, but rather adjustments to its implementation in a modern social context (Rahman, 2021).

Discussion

This section discusses the findings of the inventory and analysis of Islamic criminal law, specifically the categories of ḥudūd, qiṣāṣ, and taʿzīr, with a focus on an educational approach. The discussion is conducted systematically, starting from normative and conceptual aspects, and school of thought, to the flexibility of application in a modern context. Emphasis is placed on the meaning of discretionary space, application requirements, and educational potential in each criminal category.

1. The Meaning of Ḥudūd and Its Educational Function

The research results show that the category of ḥudūd has very strict normative characteristics, regulated textually in the Qur'an and Hadith. The limitations of application, high evidentiary requirements, and lack of flexibility indicate that ḥudūd emphasizes legal certainty as its primary value. This is in accordance with classical literature which emphasizes that ḥudūd should be applied only when all elements are met without doubt (Az-Zuhayli, 2011).

From an educational perspective, although the scope for legal discretion is limited, modern literature emphasizes that legal certainty itself has a preventive effect. Kamali (2019) asserts that the implementation of legal law is not merely repressive but also fosters public awareness of moral and social norms. In other words, education here is indirect, through the firmness of norms and definite consequences, so that

society understands the limits of permissible behavior.

Rahman (2021) added that ḥudūd punishment accompanied by transparent explanations of the conditions and procedures can increase public understanding of the principles of sharia justice. This demonstrates that an educational approach does not always have to involve rehabilitation or reprimands but can be realized through clear, consistent, and predictable implementation.

From the perspective of the maqāṣid al-sharīʿah (the principles of law), ḥudūd is related to the hifẓ al-dīn (lawful behavior) and the hifẓ al-māl (lawful behavior), meaning that in addition to protecting religion, this norm also safeguards the ownership and economic well-being of society. With this understanding, ḥudūd functions as a means of collective education that instills moral and social awareness.

2. Qiṣāṣ and Educational Potential through Forgiveness

The qiṣāṣ category exhibits greater flexibility than ḥudūd. Research shows that the victim's heirs have the right to choose between retaliation, diyat (divine compensation), or forgiveness. This creates room for moderate discretion, which modern literature views as an opportunity for an educational approach (Kamali, 2019; Ismail, 2020).

A contemporary literature review shows that a restorative approach is highly relevant here. Ismail (2020) states that the forgiveness mechanism allows victims and perpetrators to interact constructively, repairing social relationships, and fostering moral accountability. Rahman (2021) adds that the forgiveness option in qiṣāṣ fosters the perpetrator's awareness of the consequences of their actions and provides an opportunity for rehabilitation.

From the perspective of maqāṣid al-sharīʿah, qiṣāṣ is primarily concerned with the protection of the human soul (hifẓ al-nafs), as its primary goal is the protection of life and the security of society. By offering the option of forgiveness, this system prioritizes a balance between justice and the public interest, ensuring that the application of the law is not merely repressive but also educational and restorative.

Furthermore, contemporary literature emphasizes the relevance of qiṣāṣ in the context of modern law. Kamali (2019) notes that integrating forgiveness as part of restorative justice mechanisms increases the effectiveness of the law in encouraging behavioral change. In other words, qiṣāṣ serves two functions simultaneously: restoring the victim's rights and educating the perpetrator to understand the impact of their actions.

3. Taʿzīr as the Most Expansive Educational Space

Research results indicate that taʿzīr has the greatest flexibility. The norms in this category are not textually defined, allowing judges or authorities full discretion in determining the form and extent of sanctions (Auda, 2018; Rahman, 2021).

Modern literature indicates that taʿzīr can take the form of warnings, administrative fines, social restrictions, or development programs (Az-Zuhayli, 2011; Rahman, 2021).

The educational approach to taʿzīr is particularly evident because this flexibility allows for the application of corrective and developmental methods, not just physical punishment. Rahman (2021) states that the form of sanction can be tailored to the severity of the offense, the perpetrator's capacity, and the purpose of the punishment, thus providing a learning and moral development effect.

The literature of Islamic schools emphasizes the consistency of the principle of benefit in the application of taʿzīr. The Hanafi and Maliki schools emphasize consideration of the public benefit, while the Shafi'i and Hanbali schools emphasize compliance with sharia principles (Az-Zuhayli, 2011; Kamali, 2019). This flexibility allows for the application of educational sanctions that are adaptive to social conditions and the context of the case.

From the perspective of maqāṣid al-sharīʿah, taʿzīr is related to all the main objectives, especially hifẓ al-dīn, hifẓ al-nafs, and hifẓ al-'aql, because sanctions can be directed at protecting the moral values, safety of the soul and reason of the community through reprimand and guidance.

4. Comparison of Discretionary Space and Educational Potential

A comparison of the literature shows that taʿzīr > qiṣāṣ > ḥudūd in terms of discretion. This flexibility is directly related to educational potential: the broader the discretion, the more easily the law functions as a learning tool for perpetrators. Kamali (2019) and Rahman (2021) emphasize that an educational approach is not only for perpetrators but also for the wider community, as flexible norms can be applied to relevant social contexts.

Contemporary literature also emphasizes that the educational approach to taʿzīr allows for the integration of guidance, supervision, and rehabilitation programs, a practice rarely found in ḥudūd. This confirms that Islamic criminal law has adaptive elements that align with modern restorative justice principles (Ismail, 2020).

5. Analysis of Schools and Flexibility of Discretion

A review of the literature on Islamic schools of thought reveals varying degrees of discretion. Hanafi and Maliki scholars emphasize broad discretion for taʿzīr, considering social interests, while Shafi'i scholars emphasize discretion within the bounds of sharia principles. Hanbali scholars emphasize discretion based on interests, allowing judges to tailor sanctions to the actual situation (Az-Zuhayli, 2011; Kamali, 2019).

This approach demonstrates a balance between legal certainty and flexibility, which forms the basis for implementing an educational approach. Clear discretion allows judges to consider rehabilitative and corrective factors.

6. Integration of Maqāṣid al-Sharīʿah in an Educational Approach

The results of the study show that each criminal category has a relationship with maqāṣid al-sharīʿah:

a. **Hifẓ al-dīn:**Ḥudūd maintains moral norms, taʿzīr provides moral guidance
b. **Hifẓ al-nafs:**Qiṣāṣ protects life, taʿzīr supports the control of dangerous behavior.
c. **Hifẓ al-'aql:**Taʿzīr can be in the form of education and reprimand, ḥudūd prevents acts that damage the mind.
d. **Hifẓ al-nasl:**Ḥudūd and qiṣāṣ protect the family and descendants
e. **Hifẓ al-māl:**Ḥudūd and qiṣāṣ protect the property rights of the community (Auda, 2018; Kamali, 2019)

This integration of maqāṣid strengthens the argument that punishment in Islamic law is not only repressive, but also educative and restorative, providing a balance between the rights of victims, the interests of society, and the development of perpetrators.

7. Relevance of Contemporary Literature

A 2015–2024 literature review demonstrates consistency between classical findings and modern interpretations. Some key points:

1. **Classical–modern convergence:**The structures of ḥudūd, qiṣāṣ, and taʿzīr are maintained (Kamali, 2019; Az-Zuhayli, 2011).
2. **Flexibility of taʿzīr:**It is emphasized in modern literature as an educational and rehabilitative mechanism (Rahman, 2021).
3. **Forgiveness mechanisms:**Highlighted as part of restorative justice that is relevant in the modern context (Ismail, 2020).
4. **Maqāṣid approach:**Providing a normative framework that strengthens the

educational function and legal benefits (Auda, 2018).

This shows that modern literature does not eliminate classical structures, but strengthens the contextual and educational application of law.

8. Implications of Findings for Educational Approaches

Based on the findings, an educational approach can be implemented through:

a. Explanation and transparency of ḥudūd procedures for preventive effects
b. The application of forgiveness in qiṣāṣ for restorative effects
c. Guidance, reprimands, and social programs in taʿzīr for corrective and educational effects

Modern literature asserts that this combination allows Islamic criminal law to become an adaptive system, combining legal certainty with moral and social education (Rahman, 2021; Kamali, 2019).

9. Synergy of Normative and Conceptual Approaches

Research results show that the integration of textual norms and conceptual constructions strengthens the educational function. Kamali (2019) asserts that implementing laws that understand the social context and objectives of law increases the effectiveness of norms. Auda (2018) adds that the maqāṣid approach provides a philosophical framework that allows Islamic criminal law to be both adaptive and educational.

10. Substantial Conclusion of the Discussion

Overall findings indicate that Islamic criminal law has a distinct educational approach for each category of crime, with taʿzīr as the most flexible tool. The results of the 2015–2024 literature review confirm the consistency of classical principles, modern relevance, and the potential for integrating restorative justice, demonstrating that Islamic criminal law is not merely repressive, but also normative, educational, and restorative.

CONCLUSION

The educational approach to punishment under Islamic criminal law demonstrates significant differences between criminal categories.

Ḥudūd emphasizes legal certainty and textual norms, providing a preventive effect through strict rules, despite limited discretionary space. Qiṣāṣ provides moderate flexibility through forgiveness mechanisms, allowing for the implementation of restorative justice that educates offenders and fosters social relationships. Taʿzīr has

the broadest discretionary space, allowing for corrective, developmental, and educational application according to the social context and public interest.

The literature review shows that this approach aligns with the maqāṣid al-sharīʿah (the legal framework), where each criminal category serves to protect the religion, life, intellect, lineage, and property of the community. The integration of the maqāṣid strengthens the role of Islamic criminal law not only as a repressive tool but also as an educational instrument that guides perpetrators and society in understanding and complying with moral and social norms. Contemporary literature confirms that the classical structure remains relevant, but its implementation can be adapted to modern contexts.

Overall, punishment in Islamic criminal law has an adaptive, educational approach, with taʿzīr as the most effective means of rehabilitation and development. This approach not only protects the interests of victims and society but also instills moral values, provides learning opportunities, and reinforces the principles of Islamic justice. Thus, Islamic criminal law can be a legal system that is responsive to social change while supporting character development in society.

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