

PELAKSANAAN PIDANA MATI DI MUKA UMUM DALAM HUKUM ISLAM DAN RELEVANSINYA DENGAN EFEK JERA DI INDONESIA

M. Luthfie Hakim¹ _ Marsudi Triatmodjo² _ Edward OS. Hiariej³

INTISARI

Salah satu inti ajaran agama Islam adalah larangan keras melakukan tindak kejahatan pembunuhan dalam berbagai manifestasinya, karena membunuh seseorang tanpa ada alasan yang dapat dibenarkan disamakan dengan membunuh seluruh manusia. Ajaran Islam sarat dengan perlindungan atas hidup dan kehidupan bagi masyarakat luas. Tujuan penelitian ini adalah menganalisis dan mendeskripsikan pengaturan pelaksanaan pidana mati di muka umum dalam hukum Islam dan menjelaskan relevansi pelaksanaan pidana mati di muka umum itu dengan efek jera bagi masyarakat dalam rangka memberikan perlindungan atas hidup dan kehidupan bagi masyarakat. Hasil penelitian ini diharapkan dapat memberi sumbangan terhadap pelaksanaan pidana mati di Indonesia agar tingkat tindak kejahatan pembunuhan di Indonesia dapat ditekan semaksimal mungkin.

Penelitian ini berdasarkan variasi lingkup ilmu hukum menggunakan metode penelitian hukum positif yang bersifat normatif, namun berdasarkan tujuan penelitian hukum menggunakan metode penelitian hukum deskriptif, eksplikatif dan preskriptif.

Kesimpulan penelitian ini, bahwa pengaturan pelaksanaan pidana mati di muka umum dalam hukum Islam telah diatur secara *expressis verbis* berdasarkan firman Allah SWT dan Sunnah Nabi Muhammad SAW. Relevansi pelaksanaan pidana mati di muka umum untuk memberikan efek jera cukup nyata terlihat berupa statistik tingkat kejahatan berat seperti pembunuhan, perampokan, atau pemerkosaan di negara-negara yang masih menerapkan pelaksanaan pidana mati terlebih lagi pelaksanaannya dilakukan di muka umum relatif lebih rendah dibandingkan dengan negara-negara yang telah mengabolisi hukuman mati atau melaksanakan pidana mati tidak secara di muka umum. Peluang pelaksanaan pidana mati di muka umum di Indonesia dimungkinkan dilakukan berdasarkan Pasal 9 Penpres No. 2 Tahun 1964 tentang Tata Cara Pelaksanaan Pidana Mati jo. UU Nomor 5 Tahun 1969 yang memberi kewenangan kepada Presiden untuk menetapkan pelaksanaan pidana mati di muka umum. Presiden hendaknya bersedia melakukan terobosan secara selektif untuk menggunakan metode pelaksanaan pidana mati di muka umum terhadap tindak kejahatan yang sangat berat (*the most serious crimes*) menurut kondisi masyarakat Indonesia.

Kata Kunci: Pidana Mati, Eksekusi Di Muka Umum, Efek Jera.

¹ Mahasiswa Program Studi Doktor Ilmu Hukum Fakultas Hukum Universitas Gadjah Mada

² Guru Besar Fakultas Hukum Universitas Gadjah Mada

³ Guru Besar Fakultas Hukum Universitas Gadjah Mada

THE IMPLEMENTATION OF PUBLIC EXECUTIONS IN ACCORDANCE WITH ISLAMIC LAW AND ITS RELEVANCE TO THE DETERRENT EFFECT IN INDONESIA

M. Luthfie Hakim⁴ _ Marsudi Triatmodjo⁵ _ Edward OS. Hiariej⁶

ABSTRACT

One of the core in Islamic teaching is the strict prohibition to commit murder of various manifestation, because unjustified killing of a human being is construed as killing all mankind. The teachings of Islam provide the full protection for the live and the life of a greater society. The purpose of this research is to analyze and describe the regulation of the implementation of public execution of capital punishment in Islamic law and to explain the relevance of public executions with the deterrent effect for the society in order to protect the live and the life of the society. The results of this study are expected to contribute in the implementation of capital punishment in Indonesia and in turn it can reduce murder rate in Indonesia and maximize crime control.

This research within the scope variation of legal science is using positive law method with normative characteristic however, based on the purpose of this research is implementing the method of descriptive, explicative and prescriptive.

The conclusion of this study, that the regulation on the implementation of public executions in Islamic law is firm and explicit (*expressis verbis*) and is a devine law based on the word of Allah SWT and Sunnah Prophet Muhammad SAW. The relevance of the public executions shows result of deterrent effect as proof by evident in the form of statistics of serious crime such as murder, robbery or rape in countries that still retain capital punishment even more so in countries where execution of punishment are in public, either Muslim countries or non muslim countries has lower crime rates compare with those countries who had abolished death penalty and not punishing in public. There is legally an opportunity for Indonesia to implement public executions, this is possible under Article 9 of Presidential Decree no. 2 Year 1964 on the Procedures of the Implementation of the Death Penalty and Law Number 5 Year 1969 which authorizes the President to exercise public executions. The President should be willing to make a breakthroughs to selectively exercise public executions for crimes which qualify as *the most serious crimes* in accordance with condition of the people of Indonesia.

Keywords: Capital Punishment, Public Execution, Deterrent Effect.

⁴ Student of Doctoral Degree, Faculty of Law, Gadjah Mada University

⁵ Professor of the Faculty of Law, Gadjah Mada University

⁶ Professor of the Faculty of Law, Gadjah Mada University