



A RECONSTRUCTION OF PREMEDITATED MURDER IN THE PERSPECTIVE OF ISLAMIC CRIMINAL LAW AND JUDICIAL DECISIONS

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Abstract: Premeditated murder is a criminal offense that carries severe legal consequences, including the possibility of capital punishment. In the context of Indonesian judiciary practice, the legal construction of the element of planning constitutes a crucial point in the process of proof. This study aims to examine premeditated murder as reflected in the District Court Decision of Boyolali No. 118/Pid.B/2024/PN Byl and to analyze the relevance of the concept of *qatl al-ghilah* in Islamic criminal law in relation to the case. The research employs a normative juridical method with a comparative legal approach. The findings indicate that the element of planning was meticulously established by the judge, aligning with the *qatl al-ghilah* doctrine which emphasizes deceit and concealed malicious intent. The study also reveals differences in sanctions between the Indonesian Penal Code—which is determinative in nature—and Islamic criminal law, which incorporates restorative justice and the rights of victims. These findings underscore the urgency of integrating Islamic criminal law values into the national legal system to enrich the ethical and spiritual dimensions of criminal justice. The study recommends a policy reformulation based on *maqāsid al-sharī'ah* to realize a fair, proportional, and context-sensitive legal framework.

Keywords: Premeditated Murder; *Qatl al-ghilah*; Islamic Criminal Law; Court Decision; Value Integration

Abstrak: Pembunuhan berencana merupakan tindak pidana yang memiliki konsekuensi hukum berat, termasuk ancaman pidana mati. Dalam praktik peradilan Indonesia, konstruksi yuridis atas unsur perencanaan menjadi titik krusial dalam pembuktian. Penelitian ini bertujuan untuk mengkaji pembunuhan berencana dalam Putusan Pengadilan Negeri Boyolali Nomor 118/Pid.B/2024/PN Byl dan menganalisis relevansi konsep *qatl al-ghilah* dalam hukum pidana Islam terhadap kasus tersebut. Metode yang digunakan adalah yuridis normatif dengan pendekatan perbandingan hukum. Hasil penelitian menunjukkan bahwa unsur perencanaan telah dibuktikan hakim secara cermat, selaras dengan konstruksi *qatl al-ghilah* yang juga menekankan aspek tipu daya dan niat jahat tersembunyi. Terdapat perbedaan sanksi antara KUHP yang bersifat determinatif dan hukum Islam yang mengakomodasi keadilan korektif dan hak korban. Temuan ini menegaskan pentingnya integrasi nilai-nilai hukum pidana Islam ke dalam sistem hukum nasional guna memperkaya dimensi etika dan spiritual dalam penegakan hukum pidana. Penulis merekomendasikan adanya reformulasi kebijakan pidana berbasis *maqāsid al-sharī'ah* untuk mewujudkan sistem hukum yang adil, proporsional, dan kontekstual.

Kata Kunci: Pembunuhan Berencana; *Qatl al-ghilah*; Hukum Pidana Islam; Putusan Pengadilan; Integrasi Nilai

A. INTRODUCTION

Indonesia, as a state governed by the rule of law, places the supremacy of law as a fundamental principle in the life of the nation and the state. Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that “The State of Indonesia is a state based on law,” meaning that all actions of both citizens and the government must be grounded in the prevailing legal framework.¹ In the context of criminal law, this principle guarantees legal certainty for all parties and serves as the foundation for enforcing the law against any form of violation that harms society, including serious crimes such as premeditated murder.²

Premeditated murder constitutes a grave criminal offense that threatens the most fundamental human right—the right to life. Within the Indonesian criminal justice system, this offense is explicitly regulated under Article 340 of the Indonesian Penal Code (KUHP), which states: “*Anyone who deliberately and with prior planning takes the life of another person shall be subject to premeditated murder, punishable by death, life imprisonment, or a fixed-term imprisonment of up to twenty years.*” This provision underscores that the element of premeditation serves as the key factor distinguishing ordinary murder from premeditated murder. The imposition of the maximum penalty, including capital punishment, reflects the seriousness with which the state responds to crimes committed with malicious intent and careful planning.³

In judicial practice, the interpretation and proof of the premeditation element often become a subject of debate among law enforcement officers and academics alike. Several court decisions reveal variations in determining the existence of such an element, even when the modus operandi and circumstances strongly indicate that the perpetrator had prepared their actions in advance.⁴ Therefore, it is essential to further examine how the legal construction of premeditated murder is formulated and applied by panels of judges in court rulings, as exemplified in the case of premeditated murder adjudicated by the Boyolali District Court (Decision No. 118/Pid.B/2024/PN Byl).

¹ Thahir Thahir, “Kedaulatan Penegak Hukum Atas Kepentingan Hukum Dan Negara,” *JISH: Jurnal Ilmu Syariah Dan Hukum* 2, no. 2 (May 29, 2024): 92–102, <https://doi.org/10.36915/jish.v2i2.331>; Anwar Usman, “The Role of Indonesian Constitutional Court in Strengthening Welfare State and the Rule of Law,” *Lex Publica* 7, no. 1 (2020): 11–27, <https://journal.appti.org/index.php/lexpublica/article/view/103>.

² Achmad Bustomi, “The Legality Principle Application in Indonesian Criminal Law System,” *Nurani Hukum* 4, no. 2 (December 15, 2021): 29–37, <https://doi.org/10.51825/nhk.v4i2.12239>.

³ Charen Toisuta et al., “Tindak Pidana Pembunuhan Berencana Dalam Pasal 340 Kitab Undang-Undang Hukum Pidana,” *Deposisi: Jurnal Publikasi Ilmu Hukum* 1, no. 1 (March 30, 2023): 74–82, <https://doi.org/10.59581/deposisi.v1i1.680>.

⁴ Fahreza Saputro et al., “Analisis Delik Pembunuhan Berencana Dalam Putusan Pengadilan Negeri Karawang Nomor 91/Pid.B/2022/PN.Kwg,” *Jurnal Pendidikan Tambusai* 7, no. 2 (2023): 4584–4591, <https://doi.org/10.31004/jptam.v7i2.6437>.

Meanwhile, within the corpus of Islamic criminal law, murder is classified into several categories based on intent, method, and resulting consequences. These include *qatl al-‘amd* (intentional murder), *qatl shibh al-‘amd* (quasi-intentional murder), and *qatl al-khata’* (murder by mistake or negligence).⁵ One form of murder that closely corresponds to the concept of premeditated murder under the Indonesian Penal Code is *qatl al-ghilah*—murder committed through deceit, in which the victim is attacked while unprepared or incapable of defending themselves. This type of murder demonstrates a deliberate and planned effort to disable or deceive the victim prior to taking their life.⁶

In Islamic criminal law, *qatl al-ghilah* carries particularly severe legal consequences, namely the application of *qiṣās* (retributive execution), which cannot be waived through *‘afw* (pardon) by the victim’s family. This reflects the view that murder involving deceit or malicious premeditation is among the most heinous crimes, as it entails betrayal of trust or violation of the victim’s sense of safety.⁷ Thus, it is noteworthy to explore how the concept of *qatl al-ghilah* can be analytically positioned within the framework of Indonesia’s positive law, particularly in court cases where the element of premeditation is juridically significant.

Various scholarly works have examined premeditated murder from both the perspective of Indonesia’s positive criminal law and Islamic criminal law. Gunadi Ahmad et al. discuss the concept of *qatl al-ghilah* as a form of murder by deceit, emphasizing its gravity and the normative arguments for imposing the maximum penalty, including the death penalty, in both Islamic law and positive law.⁸ Similarly, Marentek analyzes the element of criminal liability in premeditated murder under Article 340 of the Penal Code, highlighting the critical importance of proving *voorbedachte raad* (premeditation) to distinguish it from ordinary murder.⁹

⁵ Yannis Mahil, “Contemporary Mechanisms to Reform Islamic Criminal Law: Between Legal Doctrine and Positive Law The Case of Morocco,” *Journal of Islamic Law* 6, no. 1 (June 30, 2025), <https://doi.org/10.53484/jil.v6.mahil>; Muhammad Hanifan Musliman Ma’as and Mohammad Syifa Amin Widigdo, “Punishments for Intellectual Actors in the Crime of Murder: Comparative Study of Islamic Law and Positive Law in Indonesia,” *Istinbath* 22, no. 2 (November 27, 2023): 267–77, <https://doi.org/10.20414/ijhi.v22i2.638>.

⁶ Gunaldi Ahmad et al., “The Death Penalty in Extraordinary Crimes: A Study on Killing Deception (Qatl Al-Ghilah),” *Hikmatuna: Journal for Integrative Islamic Studies* 9, no. 1 (June 19, 2023): 14–29, <https://doi.org/10.28918/hikmatuna.v9i1.945>.

⁷ Dayyan Moazzam and Gafi Ahmad Attirmidzi, “Analysis of the Application of Qiṣās in Murder Cases: A Normative Study of the Views of the Four Schools of Thought,” *SYARIAT: Akhwal Syaksyah, Jinayah, Siyasah and Muamalah* 2, no. 1 (April 30, 2025): 34–41, <https://doi.org/10.35335/emtjxt07>.

⁸ Gunaldi Ahmad et al., “The Death Penalty in Extraordinary Crimes: A Study on Killing Deception (Qatl Al-Ghilah).”

⁹ Junior Imanuel Marentek, “Pertanggungjawaban Pidana Pelaku Tindak Pidana Pembunuhan Berencana Ditinjau Dari Pasal 340 KUHP,” *Lex Crimen* 8, no. 11 (2019), <https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/27953>.

Rokhmadi's research addresses the concept and application of punishment for murder in modern Islamic criminal law, underscoring *qiṣāṣ* as the principal instrument for achieving retributive justice. He asserts that in cases of aggravated murder such as *qatl al-ghīlah*, *qiṣāṣ* is mandatory and cannot be annulled even with *ʿafw* from the victim's family, as the offense is deemed to undermine public security.¹⁰

Further juridical analysis is provided by Naziroh et al., who examine the proof of the premeditation element in court decisions, offering concrete insights into how judges interpret this element.¹¹ Research by Dwi and Adhari further differentiates between the elements of Articles 338 and 340 of the Penal Code and their implications for evidentiary procedures.¹² Meanwhile, Anderson provides a comprehensive conceptual framework regarding the typology of murder in Islamic law, including *qatl al-ʿamd*, *shibh al-ʿamd*, and *qatl al-khaṭaʾ*, as well as variations in interpretation among different schools of thought.¹³ Collectively, these studies reinforce the theoretical foundation for the study of premeditated murder, from both juridical and normative Islamic perspectives.

While existing studies have addressed the element of premeditation in Article 340 of the Penal Code, the typology of murder in Islamic criminal law, and general comparative analyses, few have thoroughly integrated juridical analysis of Indonesian court rulings with the framework of Islamic criminal law—particularly in the context of *qatl al-ghīlah*. This study offers novelty by reconstructing the concept of premeditated murder in the specific case of Boyolali District Court Decision No. 118/Pid.B/2024/PN Byl through a comparative approach between Indonesia's positive law and Islamic criminal law. Accordingly, this research not only fills a gap in the literature by linking judicial practice with Islamic legal theory but also provides conceptual recommendations for reforming the national penal system.

Therefore, this research occupies a strategic position in addressing the existing academic gap by offering an analytical approach that simultaneously integrates court decision analysis, national criminal law theory, and the Islamic legal system. In

¹⁰ Rokhmadi Rokhmadi, "Hukuman Pembunuhan Dalam Hukum Pidana Islam Di Era Modern," *At-Taqaddum* 8, no. 2 (2016): 150, <https://doi.org/10.21580/at.v8i2.1169>.

¹¹ Nyoman Fitriyatun Naziroh, Syarifuddin Syarifuddin, and Heriyanto Heriyanto, "Analisis Unsur Perencanaan Dalam Tindak Pidana Pembunuhan Berencana Sebagaimana Pasal 340 KUHP," *Konsensus : Jurnal Ilmu Pertahanan, Hukum Dan Ilmu Komunikasi* 1, no. 6 (December 31, 2024): 190–98, <https://doi.org/10.62383/konsensus.v1i6.682>.

¹² Niken Febriana Dwi and Ade Adhari, "Unsur Direncanakan Pada Pasal 340 Kitab Undang-Undang Hukum Pidana Dalam Putusan Pengadilan Tinggi Tanjung Karang Nomor 145/Pid/2020/PT Tjk," *Unes Law Review* 6, no. 4 (2024): 10329–37, <https://doi.org/10.31933/unesrev.v6i4>.

¹³ J. N. D. Anderson, "Homicide in Islamic Law," *Bulletin of the School of Oriental and African Studies* 13, no. 4 (February 24, 1951): 811–28, <https://doi.org/10.1017/S0041977X00124061>.

addition to contributing to the enrichment of academic literature, this study holds practical significance in promoting the formulation of a penal system that is more responsive to substantive justice, particularly in the context of serious crimes such as premeditated murder involving elements of deceit, manipulation, and moral degradation.

B. METHOD

This research employs a normative legal research design with a descriptive-analytical orientation, utilizing both the statute approach and the conceptual approach. The focus of the study is to analyze premeditated murder from the perspective of Islamic criminal law and Indonesian positive law through a normative examination of statutory regulations, jurisprudence, and legal doctrine. The data sources consist of primary data in the form of the Boyolali District Court Decision No. 118/Pid.B/2024/PN Byl, as well as secondary data comprising legal literature, *fiqh jinayah* texts, journal articles, and other relevant scholarly references. Data collection techniques include document study and literature review, while data analysis is conducted qualitatively using interpretative and comparative approaches to examine the substantive provisions of positive criminal law and Islamic criminal law.

C. RESULT AND DISCUSSION

1. The Juridical Construction of Premeditated Murder in the Boyolali District Court Decision

The Decision of the Boyolali District Court Number 118/Pid.B/2024/PN Byl is a representative case illustrating how premeditated murder is adjudicated within Indonesia's positive criminal law system. Defendant I was charged with violating Article 340 of the Indonesian Criminal Code (KUHP) concerning premeditated murder, which carries a penalty of death, life imprisonment, or a fixed-term imprisonment of up to twenty years. In this case, the panel of judges held that all elements stipulated in Article 340 KUHP were lawfully and convincingly proven based on the facts established during trial.

The principal elements of premeditated murder under Article 340 KUHP include: (a) the intent to take another person's life, (b) the existence of careful planning prior to the act, and (c) the execution of the killing in accordance with that plan. In this case, the planning process was highly structured. The defendant brought a sharp weapon, namely a sickle, from Yogyakarta to Boyolali, concealing it secretly in the victim's bathroom. This act demonstrated both intent and deliberate preparation prior to

committing the crime. Furthermore, the defendant also carried an iron hammer and prepared a rope, indicating a strong intention to commit violence leading to the victim's death.

During the execution of the crime, the defendant brutally attacked the victim with the sickle and hammer. Based on the post-mortem examination (*visum et repertum*),¹⁴ the victim sustained severe injuries to vital parts of the body, including the head, face, neck, and back. These injuries caused the victim's instantaneous death at the crime scene. This fact indicates that the killing was carried out with calculated violence, aiming to ensure the victim's death without any opportunity for escape or assistance. In addition, the defendant attempted to cover his tracks by taking the victim's belongings—such as a motorcycle and a mobile phone—and fleeing the scene.

In their juridical considerations, the panel of judges noted that the defendant acted with personal motives and had ample opportunity to reflect calmly before committing the murder. This aligns with legal doctrine, which holds that premeditation entails not only sufficient time but also the opportunity to reconsider or abandon the intent. In this case, however, the defendant proceeded with his criminal plan and executed it brutally, reflecting a high degree of intent and premeditation.

In its verdict, the panel of judges imposed a life sentence on the defendant. This decision was made by weighing the gravity of the offense and the psychological and social impacts inflicted on the victim's family and the wider community. The judges refrained from imposing the death penalty but nonetheless applied the maximum custodial sentence—life imprisonment—as a form of substantive justice, while still allowing the possibility for the defendant to express remorse and undergo rehabilitation over time.

The juridical construction in this ruling demonstrates that Indonesia's criminal law framework is sufficiently equipped to address serious crimes such as premeditated murder. Through the analysis of relevant statutory elements, the appropriate application of evidence, and a comprehensive assessment of the defendant's motives and actions, the panel of judges produced a decision that was not

¹⁴ Dian Varesa, Romi Asmara, and Husni H, "Visum et Repertum Sebagai Alat Bukti Dalam Tindak Pidana Pembunuhan Berencana (Studi Putusan Nomor:214/Pid.B/2019/PN.Bna)," *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh* 4, no. 3 (February 8, 2022), <https://doi.org/10.29103/jimfh.v4i3.6384>; Tuti Gusmawati Simanjuntak, Lili Rahmayana Harahap, and Ahmad Mulia Sembiring, "The Role of Visum Et Repertum in Proving Criminal Matters in Indonesia," *International Journal of Law, Social Science, and Humanities* 1, no. 2 (November 25, 2024): 83–90, <https://doi.org/10.70193/ijlsh.v1i2.164>.

solely punitive in orientation but also aimed at achieving justice and protecting society.¹⁵ Accordingly, this decision may serve as a significant reference for the development of jurisprudence on premeditated murder in Indonesia.

2. Analysis of the Element of Premeditation and Judicial Reasoning in Rendering the Verdict

The element of premeditation constitutes an essential determinant in classifying a killing as premeditated murder under Article 340 of the Indonesian Penal Code (KUHP).¹⁶ In the case discussed above, premeditation was established through a series of deliberate actions by the defendant, demonstrating conscious intent, meticulous preparation, and execution aligned with the initial objective of taking the victim's life.¹⁷ This element is not merely inferred from the temporal gap between the formation of intent and the commission of the act, but also from an assessment of the systematic steps orchestrated by the defendant. The fact that the defendant transported a sharp weapon from another city and concealed it in advance serves as compelling evidence that the killing was neither spontaneous nor reactive.

In addition to the sharp weapon, the defendant also carried an iron hammer and prepared a rope, indicating the existence of alternative or contingency plans for the execution of the murder. This underscores that the premeditation encompassed not only logistical but also tactical considerations to ensure the success of the criminal act. Such findings were corroborated by witness testimonies and physical evidence showing that the defendant had observed the victim's residence prior to the attack. The selection of nighttime, the isolated location, and the covert placement of weapons are additional indicators that the element of premeditation was fully satisfied.

In its legal reasoning, the panel of judges considered not only the formal elements of evidence and witness statements but also the substantive element of the

¹⁵ Inayatus Sholehah, Alivia Febriyanti, and Rindang Gici Oktavianti, "Analisis Yuridis Tindak Pidana Pembunuhan Berencana Ditinjau Dari Putusan Nomor 137/Pid.B/2021/PN Ktb.," *Jurnal Ilmiah Fenomena* 19, no. 1 (2025): 28–37, <https://doi.org/10.36841/fenomena.v19i01.6442>; Syarifah Djiwa, Mulyono Suwerto, and Moh Zakky, "Analisis Yuridis Pertimbangan Hukum Dalam Putusan Perkara Pembunuhan Berencana Berdasarkan Perspektif Keadilan (Studi Kasus Pembunuhan Berencana Ferdy Sambo Putusan Nomor 796/Pid.B/2022/Pn Jkt.Sel.)," *Jurnal Hukum Jurisdictie* 7, no. 1 (March 22, 2025): 145–64, <https://doi.org/10.34005/jhj.v6i2.177>.

¹⁶ Arifin Andiwewang, Roy Marthen Moonti, and Ibrahim Ahmad, "Restatement Terhadap Unsur Perencanaan Dalam Pasal 340 KUHP," *Amandemen: Jurnal Ilmu Pertahanan, Politik Dan Hukum Indonesia* 2, no. 3 (2025): 84–96, <https://doi.org/10.62383/amandemen.v2i3.992>.

¹⁷ Echwan Iriyanto and Halif Halif, "Unsur Rencana Dalam Tindak Pidana Pembunuhan Berencana," *Jurnal Yudisial* 14, no. 1 (April 30, 2021): 19, <https://doi.org/10.29123/jy.v14i1.402>.

defendant's *mens rea* (criminal intent).¹⁸ The court concluded that the defendant's conduct was not the result of a sudden emotional outburst or direct provocation by the victim, but rather stemmed from a motive of revenge or a calculated decision to resolve a dispute through lethal violence. Consequently, no grounds for justification (*justification*) or excuse (*excuse*) existed to negate the defendant's culpability, as set forth in the principles of criminal law.

The imposition of a life sentence by the panel was grounded in the principle of proportionality between the gravity of the offense and the harm caused. While acknowledging the defendant's right to humane treatment and the opportunity for repentance, the court underscored that a premeditated killing, executed with brutality and bearing profound consequences for the victim's family and society, cannot be tolerated. In its *dictum*, the court also emphasized the dual preventive function of the verdict—both specific prevention (deterring the individual offender) and general prevention (sending a clear message to society about the seriousness of such crimes).

Another pivotal consideration influencing the sentence was the defendant's lack of genuine remorse throughout the trial, which affected the court's assessment of the prospect for rehabilitation.¹⁹ By opting for life imprisonment instead of the death penalty, the panel appeared to adopt a balanced stance that respected human rights values while maintaining the rigor of the law. Overall, the analysis of the element of premeditation and the judicial reasoning in this case demonstrates a careful application of the law, grounded not only in normative legal provisions but also in the social and psychological contexts of the crime. This serves as a concrete example of how legal and moral considerations may be integrated to achieve substantive justice within the national criminal justice system.

3. Characteristics of *Qatl al-Ghīlah* in Islamic Criminal Law and Its Relevance to the Case

In Islamic criminal law, homicide is generally classified into three types: *qatl 'amd* (intentional homicide), *qatl khata'* (unintentional homicide), and *syibh al-'amd* (quasi-intentional homicide).²⁰ Within the category of *qatl 'amd*, there exists a subcategory known as *qatl al-ghīlah*, which refers to a killing committed through

¹⁸ Retno Hidayatun Ningsih and Ajeng Risnawati Sasmita, "Analisis Yuridis 'Mens Rea' Terhadap Tindak Pidana Pembunuhan Berencana Berdasarkan Pasal 340 KUHP," *Eksaminasi: Jurnal Hukum* 3, no. 4 (2024): 183–96, <https://doi.org/10.37729/eksaminasi.v3i4.5960>.

¹⁹ Susan A. Bandes, "Remorse and Criminal Justice," *Emotion Review* 8, no. 1 (January 23, 2016): 14–19, <https://doi.org/10.1177/1754073915601222>.

²⁰ Brian Wright, "Homicide and Islamic Criminal Law in 19th Century Muslim Jurisdictions" (McGill University, 2019), <https://escholarship.mcgill.ca/downloads/8336h399g.pdf>.

deception or by luring the victim into a vulnerable situation. The defining characteristics of *qatl al-ghīlah* include the presence of a strong intent to kill and an execution carried out covertly, suddenly, or in a manner that affords the victim no opportunity to defend themselves.²¹

Classical jurists, such as Ibn Qudāmah in *al-Mughnī*, describe *qatl al-ghīlah* as the most heinous form of homicide, as it involves the perpetrator employing deceit or stratagem to achieve their objective. In such cases, the perpetrator not only intends to take a life but also undermines the sense of safety and trust within social relations. Consequently, in certain schools of Islamic jurisprudence, *qatl al-ghīlah* is treated more severely than ordinary *qatl ‘amd*. In fact, some scholars—particularly within the Mālikī and Ḥanbalī schools—assert that the perpetrator of *qatl al-ghīlah* is not entitled to be pardoned by the victim’s heirs, and is to be subjected to *qiṣās* (retaliatory execution) or even mandatory capital punishment without the possibility of reprieve.²²

In relation to the aforementioned Case I, the killing was carried out with a clear element of deception. The defendant feigned a social visit, concealed a weapon in the bathroom, and later launched a sudden attack at night. This sequence of actions demonstrates a strong correspondence between the characteristics of *qatl al-ghīlah* and the defendant’s conduct. The victim had no opportunity to escape or even realize that they were in imminent danger, thereby fulfilling the essential elements of *qatl al-ghīlah* as formulated in Islamic legal literature.

If the framework of Islamic criminal law were applied, this case could be classified as *qatl al-ghīlah*, which would entail the imposition of the death penalty without the option of pardon by the victim’s legal heirs. However, Indonesia’s national legal system does not fully incorporate these principles. Nevertheless, recognizing the characteristics of *qatl al-ghīlah* can enrich judicial perspectives in understanding the complexity of intent and modus operandi in homicide cases, and may serve as a valuable point of reference in the discourse on criminal law reform.

Accordingly, integrating the concept of *qatl al-ghīlah* into the analysis of this case offers not only theoretical value but also reaffirms that Islamic law possesses normative mechanisms capable of addressing serious crimes with a high degree of deceit. This discussion invites a constructive dialogue between positive law and Islamic law within Indonesia’s pluralistic legal system.

²¹ Muḥammad al-Khaṭīb Al-Shirbīnī, *Mughnī Al-Muḥtāj* (Beirut: Dār Al-Kutub Al-‘Ilmiyyah, 2000), vol. VI: 55.

²² Muḥammad Ibn ‘Abdullāh Ibn Qudāmah, *Al-Mughnī* (Riyāḍ: Dār ‘Alam al-Kutub, 1997).

4. Comparative Analysis of Sanctions under the Indonesian Criminal Code and Islamic Criminal Law for Premeditated Murder

Premeditated murder constitutes one of the gravest criminal offenses in both the Indonesian positive legal system and Islamic criminal law. While both legal frameworks impose severe sanctions for such acts, they do so through distinct normative, philosophical, and juridical approaches. Under the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana*, KUHP), premeditated murder is regulated in Article 340, which prescribes the maximum penalties of capital punishment, life imprisonment, or a fixed-term imprisonment of up to twenty years. This provision emphasizes the elements of intentionality and premeditation prior to the commission of the act. The element of premeditation differentiates premeditated murder from ordinary murder (Article 338 KUHP) and serves as a key basis for judges to impose heavier penalties.

In Islamic criminal law, premeditated murder falls under the category of *qatl 'amd* (intentional killing), with one specific type being *qatl al-ghilah*—murder committed through deception or in circumstances where the victim is unsuspecting. This form of killing is considered particularly heinous and treacherous, warranting more severe sanctions. Islamic criminal law prescribes *qisās* (retributive punishment, i.e., execution of the perpetrator) while also allowing for alternative resolutions through *diyah* (blood money compensation) or a full pardon granted by the victim's family. This approach seeks to balance justice between the rights of the victim and the perpetrator, incorporating humanitarian considerations and fostering social reconciliation.

From a formal legality perspective, the KUHP adopts a positivistic framework, designating the state as the sole authority in law enforcement and sentencing.²³ Consequently, the victim's family has no legal authority to determine the perpetrator's fate, unlike in Islamic criminal law. Even if the victim's family grants forgiveness, the perpetrator under the KUHP remains liable to criminal sanctions—although such forgiveness may be considered as a mitigating factor in sentencing. In contrast, Islamic criminal law places the victim's family in a central role in deciding whether *qisās*,

²³ Bambang Ali Kusumo, "The Influence of Positivism Philosophy on Criminal Law Enforcement in Indonesia," *Yustisia Jurnal Hukum* 6, no. 1 (June 8, 2017), <https://doi.org/10.20961/yustisia.v6i1.11528>.

diyah, or complete pardon (*'afw*) will be applied, thus embedding a restorative dimension within the justice process.²⁴

Another key distinction lies in the flexibility of sentencing. Islamic criminal law provides a tripartite sanction framework—*qisās*, *diyah*, and *'afw*—each grounded in the Qur'an and Hadith.²⁵ The KUHP does not recognize such a multi-track approach. Nevertheless, the Indonesian legal system has begun to introduce elements of restorative justice, although this mechanism has yet to be fully applied in grave offenses such as premeditated murder.²⁶

From the perspective of morality and spirituality, Islamic criminal law underscores accountability not only in this world but also in the hereafter.²⁷ Sanctions are designed not solely to deter crime but also to expiate sin and cleanse the perpetrator of moral liability before Allah SWT. The KUHP, as a secular legal instrument, does not address this spiritual dimension, focusing instead on social protection, crime prevention, and the restoration of public order. This aligns with the concept of criminal policy as a form of *social defense*, as articulated by Barda Nawawi Arief (2018), and resonates with Herbert Packer's view of punishment as a primary instrument for maintaining societal order.

In the context of the premeditated murder case adjudicated by the Boyolali District Court, the perpetrator's actions could be classified under Islamic criminal law as *qatl al-ghīlah* due to the calculated use of deception and pre-arranged planning. Under a strict application of Islamic criminal law, the perpetrator could face *qisās* without the possibility of pardon or substitution with *diyah*, given that *qatl al-ghīlah* is regarded as an act of extreme treachery. This illustrates that, in certain circumstances, Islamic criminal law may impose harsher sanctions than the KUHP.²⁸

In conclusion, both legal systems possess their respective strengths and limitations. The KUHP excels in legal certainty and procedural rigor, whereas Islamic

²⁴ Yayan Muhammad Royani, "Relevance of the Position of the Victims in Indonesian Positive Law and Islamic Criminal Law," *Walisono Law Review (Walrev)* 4, no. 2 (October 31, 2022): 193–220, <https://doi.org/10.21580/walrev.2022.4.2.13244>.

²⁵ Moazzam and Attirmidzi, "Analysis of the Application of Qisās in Murder Cases: A Normative Study of the Views of the Four Schools of Thought."

²⁶ Muhaimin Muhaimin, "Restoratif Justice Dalam Penyelesaian Tindak Pidana Ringan," *Jurnal Penelitian Hukum De Jure* 19, no. 2 (June 26, 2019): 185–206, <https://doi.org/10.30641/DEJURE.2019.V19.185-206>; Tuti Susilawati, Edi Setiadi, and Yoyon Darusman, "Restorative Justice in Domestic Violence Cases: Law Implementation and Challenges in Indonesia," *Sinergi International Journal of Law* 3, no. 3 (June 13, 2025): 172–84, <https://doi.org/10.61194/law.v3i3.797>.

²⁷ Zakaria Sayafi, "Pertanggungjawaban Pidana Dalam Hukum Pidana Islam," *Al-Qalam* 31, no. 1 (June 30, 2014): 97, <https://doi.org/10.32678/alqalam.v31i1.1107>.

²⁸ Gunaldi Ahmad et al., "The Death Penalty in Extraordinary Crimes: A Study on Killing Deception (Qatl Al-Ghīlah)."

criminal law offers a more contextualized, spiritual, and humanistic form of justice. Integrating the best elements of both systems could yield a more comprehensive and equitable framework for addressing serious crimes such as premeditated murder.

5. The Urgency of Integrating Islamic Criminal Law Values into the Indonesian National Legal System

The Indonesian national legal system is built upon the principle of legal pluralism, which normatively opens space for the incorporation of Islamic values into the positive legal framework. This is consistent with Indonesia's character as a state governed by law (*rechtsstaat*) that upholds the principles of social justice, religious values, and the aspirations of a pluralistic society. In this context, the integration of Islamic criminal law values into the national legal system is not merely a normative demand of the Muslim majority, but also an effort to enrich the substance of criminal law with principles of substantive justice derived from the *sharī'ah*.²⁹

Islamic criminal law is characterized by distinctive features relevant to the needs of modern legal systems, particularly in balancing retributive, distributive, and restorative justice.³⁰ In cases such as premeditated murder, Islamic criminal law does not exclusively emphasize retribution (*qiṣāṣ*), but also provides room for alternative resolutions such as the payment of *diyāh* (monetary compensation) and pardon (*'afw*), subject to the consent of the victim's family. This approach reflects an effort to realize a more humane, contextual, and socially restorative form of justice. In Indonesia's positive law, particularly the Criminal Code (*KUHPP*), similar restorative justice principles have begun to be adopted; however, their application remains limited in serious offenses such as premeditated murder.³¹

The urgency of integration also lies in Islamic criminal law's capacity to cultivate moral and spiritual awareness in offenders. Punishments in Islamic law are not only corrective but also educational and preventive.³² Once an offender is deemed to have

²⁹ Hendra Irawan, "Dinamika Internalisasi Hukum Islam Ke Dalam Peraturan Perundang-Undangan Di Indonesia," *Istinbath: Jurnal Hukum* 18, no. 2 (December 31, 2021): 352–68, <https://doi.org/10.32332/istinbath.v18i2.4017>.

³⁰ Mutaz M. Qafisheh, "Restorative Justice in Islamic Penal Law: A Contribution to the Global System," *International Journal of Criminal Justice Science* 7, no. 1 (2012): 487–507, <https://www.ijcs.com/article-detail.php?id=107>; Najma Humayun, "The Islamic Position on Capital Punishment: A Restorative Justice Model Which Aligns with International Law, and Inspires Reasoning for Prison Industrial Complex Abolition in the U.S.," *Berkeley Journal of Middle Eastern and Islamic Law* 12, no. 9 (2021): 9–28, <https://doi.org/10.15779/Z38028PD80>.

³¹ Zainuddin Zainuddin, "Restorative Justice Concept on Jarimah Qishas in Islamic Criminal Law," *Jurnal Dinamika Hukum* 17, no. 3 (2017), <https://doi.org/10.20884/1.jdh.2017.17.3.826>.

³² Nuraisyah Nuraisyah, "Philosophical Dimensions of Punishment in Islamic Criminal Law," *Al-Hurriyah: Jurnal Hukum Islam* 6, no. 1 (August 25, 2021): 91–101, <https://doi.org/10.30983/ALHURRIYAH.V6I1.3459>.

served their prescribed punishment, they are considered, in spiritual terms, to have been absolved of liability before Allah SWT. This mechanism fosters a heightened sense of responsibility and reduces the risk of recidivism driven by vengeance or dissatisfaction with judicial outcomes. In contrast, the national penal system tends to emphasize deterrence and formal punishment, with minimal accommodation of this spiritual dimension.³³

Furthermore, the integration of Islamic criminal law values can fill normative gaps within positive law, particularly regarding morality and public ethics. Many offenses that are either insufficiently regulated or lack moral resonance in the *KUHP* are explicitly and comprehensively addressed in Islamic law. For instance, in cases of *qatl al-ghīlah* (murder by deception), Islamic law distinguishes such acts from ordinary homicide and imposes proportionately more severe sanctions. In contrast, the *KUHP* does not differentiate based on the *modus operandi*. This demonstrates that Islamic criminal law considers not only the act itself, but also the motive and method of its execution as integral to determining culpability and punishment.

In addition, the integration of Islamic criminal law values is formally justified from a juridical perspective. The 1945 Constitution of the Republic of Indonesia (*UUD NRI 1945*), particularly Article 29(1), affirms Indonesia as a state founded upon the belief in the One and Only God. Consequently, the national legal system is expected to reflect religious values, including those of Islam. Indeed, the Constitutional Court (*Mahkamah Konstitusi*), in several of its rulings, has affirmed that Islamic law may serve as a source of national law provided it does not contradict constitutional principles and human rights. This establishes a legitimate legal basis for the application of Islamic criminal law not only within special autonomous jurisdictions such as Aceh, but also as a broader national reference.

Nevertheless, this integration process must be undertaken prudently, gradually, and selectively. Not all doctrines of Islamic criminal law can be directly adopted without recontextualization to accommodate Indonesia's pluralistic society. An inclusive methodological approach grounded in *maqāṣid al-sharī'ah* (the higher objectives of Islamic law) is essential to ensure that Islamic legal values contribute positively to criminal law reform without provoking social resistance. Emphasizing universal principles such as justice, the protection of life, and public welfare will facilitate acceptance across religious and cultural boundaries.

³³ Yayan Muhammad Royani and Hee Cheol Park, "Striking a Balance: Exploring Harmony in Indonesian Criminal Law and Islamic Jurisprudence," *Walisongo Law Review (Walrev)* 5, no. 2 (October 30, 2023): 155–82, <https://doi.org/10.21580/walrev.2023.5.2.18196>.

In conclusion, the urgency of integrating Islamic criminal law values into the national legal system lies not only in preserving the identity of Islamic law itself but also in advancing legal innovation toward a more just, humane, and contextual framework. The Boyolali District Court case on premeditated murder illustrates that a rigid retributive approach is often insufficient for addressing complex crimes. A legal paradigm that incorporates spiritual, moral, social, and humanitarian dimensions—as embodied in Islamic criminal law—offers a more holistic and equitable solution.

6. The Relevance of Reconstructing Islamic Criminal Law to the Reform of the National Penal System

The reform of Indonesia's national criminal law is an inevitability that continues to unfold in tandem with the social, political, and cultural dynamics of society. One crucial aspect to be examined in this context is the urgency of integrating the values of Islamic criminal law into the national legal system, particularly in cases of serious crimes such as premeditated murder.³⁴ In the positive legal system, premeditated murder is rigidly regulated under Article 340 of the Indonesian Penal Code (KUHP), which emphasizes elements of intent and planning as the basis for aggravating punishment. However, this approach does not fully capture the moral, spiritual, and social complexities inherent in such crimes. It is here that Islamic criminal law offers a more layered and ethical normative framework through the concepts of *qatl 'amd*, *qatl shibh al-'amd*, and *qatl khatā'*, each providing differentiated assessments of intent, modus operandi, and the resulting legal consequences.

In the context of the Boyolali District Court's decision on a premeditated murder case that has attained permanent legal force, there remains ample room for discourse regarding the form and substance of the sentence imposed. While the verdict formally complies with the KUHP, from the perspective of Islamic law, it leaves normative questions concerning substantive justice. For example, under Islamic law, premeditated murder involving deceit and betrayal (*ghīlah*) carries the heaviest punishment and cannot be pardoned by the victim's heirs. In contrast, the KUHP allows for sentence reduction on mitigating grounds. This illustrates that Islamic law is not solely oriented toward legal formalism but also toward the moral integrity of the justice system.

The integration of Islamic criminal law values into the national legal system becomes increasingly relevant when connected to society's need for justice that is not

³⁴ Abdul Ghani Abdullah, "Eksistensi Hukum Pidana Islam Dalam Reformasi Hukum Nasional," in *Pidana Islam Di Indonesia, Peluang, Prospek, Dan Tantangan* (Jakarta: Pustaka Firdaus, 2001).

only legal-formal but also spiritual and sociological. In the context of Indonesia's Muslim-majority population, a legal approach grounded in Islamic values can enhance legal legitimacy while strengthening the effectiveness of punishment. For instance, the *diyat* concept in Islamic law enables conflict resolution between the victim's family and the offender in a more restorative manner, compared to relying solely on long-term imprisonment. Conversely, the principle of *qishās* guarantees the rights of the victim and their family, ensuring that justice is experienced not only by the state but also by the community directly.

Furthermore, the reconstruction of Islamic criminal law holds potential contributions to developing a national legal system that is more pluralistic and responsive to diverse values. The new KUHP, enacted in 2022, has opened space for community-based and local value-based justice approaches. Within this framework, Islamic criminal law can serve as a source of values enriching the formulation of offenses, the foundations of criminal responsibility, and the types of sanctions that are more contextually appropriate. For example, in judicial considerations, principles such as *sadd al-dharī'ah* (preventing harm), *ḥifẓ al-nafs* (protection of life), and *maṣlaḥah* (public welfare) may be employed to produce rulings that are more just and proportionate.

In the long term, reconstructing Islamic criminal law can enhance the quality of substantive justice in the criminal justice system while strengthening the identity of Indonesia's national law as religious, humanist, and pluralistic. This model does not seek to negate the positive legal system but instead offers a complementary, more holistic approach. Therefore, it is imperative for legislators, academics, and legal practitioners to initiate dialogue and integration between Islamic law and national law—not merely in the form of formalization, but as a transformation of values oriented toward justice, humanity, and the common good.

D. CONCLUSION

The Boyolali District Court's ruling in the premeditated murder case, as reflected in Decision Number 118/Pid.B/2024/PN Byl, demonstrates that the elements of Article 340 of the Indonesian Penal Code (KUHP)—particularly the element of premeditation—were proven lawfully and convincingly. From the perspective of Islamic law, this criminal act falls within the category of *qatl al-ghīlah*, namely murder committed through deception, which, in many schools of thought, is punishable by *qishās* even if pardoned by the victim's heirs. A comparison between the KUHP and Islamic criminal law reveals a divergence in orientation and approach, whereby

Islamic law emphasizes a balance between retributive and restorative justice. This underscores the urgency of integrating the values of Islamic criminal law into the national legal system to produce law enforcement that is more holistic, humane, and contextually responsive.

It is recommended that the government and policymakers begin accommodating the values of Islamic criminal law in the reform of the national legal system—particularly in the newly enacted KUHP—through a selective, inclusive approach grounded in *maqāṣid al-sharī'ah*. Such integration could begin with serious crimes such as murder, taking into account moral, spiritual, and substantive justice considerations, without disregarding the principles of legal pluralism and constitutionalism. Furthermore, legal education and training for law enforcement officials should be oriented toward understanding the construction of Islamic law as a legitimate source of law within the framework of Indonesia's legal system.

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