QISAS PUNISHMENT IMPOSED BY SURAMBI COURT IN KASUNANAN OF SURAKARTA POST PALIHAN NAGARI

Sugiarti, Reiza D. Dienaputra, Awaludin Nugraha, N. Kartika

Padjadjaran University | Raya Bandung-Sumedang St. KM 21, Sumedang, West Java | sugiartikasiran83@gmail.com, reiza.dienaputra@unpad.ac.id, awaludin.nugraha@unpad.ac.id, n.kartika@unpad.ac.id.

Abstract: Surambi Court began in the time of Sunan Paku Buwono IV ruling in 1788-1820 M. Surambi as the highest court was authorized to pass judgments over serious crimes, including murder cases in Surakarta. Back in the time, soldiers assigned to executing the punishment were established: Nirbaya, Martalulut, and Singanagara. Surakarta was the region under the Dutch colonialism, and this situation did not allow Islamic Law to be fully enforced in the region due to the interference of the invaders. This research employed historical legal approach intended to study the legal history from the perspective of the development and the origin of legal system growing in a certain society and to compare it to another different law. The research methods involved the studies of history such as heuristic, critical, interpretational, and historiographic approaches. The research found out that *qisas* punishment was not imposed as what is governed in Islamic Law. The Dutch interference in internal issues in the *keraton* (palace) took over all court decisions under its control. The Dutch could aggravate or even alleviate punishment imposed on a defendant as long as it benefitted the Dutch.

Keywords: Islamic Law, *Qisas*, Surambi Court

Introduction

Two courts—Pradata and Padu Court—were established even before Islam was introduced to the Archipelago, where the former dealt with issues of the King referring to *Pepakem* or written law book as the source of law. On the other hand, Padu court dealt with issues not within the authority of the king with unwritten law as the source of law.[1] Islamic Law has been enforced in Java Island since a long time ago. It took place for the first time in Mataram, marked with the reform of legal systems under the influence of Islam by Sultan Agung known as the pious king who gave full respect to his religion. This reform was first obvious in Pradata court, which was later changed to Surambi Court since this court was no longer positioned in Siti Inggil, but in the Porch of the Great Mosque. All criminal cases within the authority of the court are known as *qisas*.[2]

A kingdom exists with its complex issues. Political, social, economic, and cultural aspects contribute to the quality of life of Kasunanan in Surakarta. Post-Palihan Nagari (1755) (a split of a region into two) was known as the ordeal era for most kingdoms in Java. This transitional period was marked with instability of political, social, and economic issues, which further led to unrest and uprising in the region of Kasunanan Surakarta.

Back in the time, these issues grew among noble people and civilians, involving burden coming from both the kingdom and Dutch invaders the civilians had to bear. Forced labor, Dutch cultivation system, and tax burden served as the grounds for rebellion of the civilians. Similar rebellions were also obvious in several regions of the Kasunanan of Surakarta and in other parts of Java Island.

Court is an institution where legal issues are resolved and where justice is ensured. King in his highest position holds a huge responsibility for providing justice in his region. Law enforcement

[1] Ismanto and Suparman, "Sejarah Peradilan Islam di Nusantara Masa Kesultanan-Kesultanan Islam Pra-Kolonial," *Historia Madania: Jurnal Ilmu Sejarah*, Vol.3, No.2, 2019, 70.

[2] R.Tresna, *Peradilan di Indonesia dari Abad ke Abad*, (Jakarta: Pradnya Paramita, 1978), 17.

comes with imposition of sanctions for those violating the law, and this imposition is often aimed to reduce violation.

The government of Kasunanan in Surakarta as an authorized body to pass judgment had taken several measures to bring back power like what aristocrats of Keraton did by getting involved in organizations that stood against colonialism. Religious organizations also kept growing in the region of Kasunanan of Surakarta since support came from the royal family and the people.

Court of Kasunanan used to be governed in Law locally made for the scope of Kasunanan of Surakarta per se.[3] Following the invasion of the colonialists, the life of the people of Surakarta gradually shifted from what it was supposed to normally show, in which their life began to be more overshadowed by European culture that poured down missionaries into the nation to introduce its religious values, and it serves as evidence highlighting three different legal traditions that have existed: *adat* (customary) law, Islamic Law, and Dutch law.[4] The existence of these three laws has interrupted the Islamic Law enforcement. Pros and cons regarding this enforcement are, without doubt, inevitable.[5]

The encounter between culture and Islam indicates that the Islamic law is in line with and inextricable from *adat* law. The phrase *adat basandi syarak* and *syarak basandi adat* from Minangkabau show that the blend of *adat* and Islamic law is inescapable.[6]

Governor General Daendeles (1808-1811) issued an ordinance in 1808 for coastal region of north beach of Java. This ordinance implied that a *Penghulu* (Mosque Head) was only authorized as an advisor in general court when the parties involved in the case were

[3] Radjiman, *Sejarah Mataram Kartasura sampai Surakarta Hadiningrat*, (Surakarta: Krida, 1984), 180.
[4] Zaka Firma Aditya, "Romantisme Sistem Hukum di Indonesia: Kajian atas Kontribusi Hukum Adat dan hukum Islam Terhadap Pembangunan Hukum di Indonesia," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, Vol. 8, No. 1, April 2019, 38.
[5] Sarkowi and Agus Susilo, "Akar Historis Formalisasi Hukum Islam di Nusantara," *Jurnal Sejarah Citra Lekha,* Vol. 5, No. 1, April 2020, 15.
[6] Muhammad Roy Purwanto, Atmathurida dan Gianto, "Hukum Islam dan Hukum Adat Masa Kolonial: Sejarah Pergolakan Antara Hukum Islam dan Hukum Adat Masa Kolonial Belanda," *An-Nur: Jurnal studi Islam*, Vol. 1, No. 2, Februari 2005, 2.

Muslims.[7] This decision was maintained by Raffles and the following Dutch government. This decision further applied in all regions but not in Batavia, Semarang, and Surabaya. That is, a *Penghulu* only served as an advisor, not as a policy maker or a judge.[8]

Islamic law, since its arrival in Indonesia, has been deemed to be a living law in the society, not only is it because this religion is the entity followed by the majority of the locals like nowadays, but this religion has also served as a part of tradition or *adat* deemed to be sacred in the society. Aceh, West Sumatera, Minagkabau, Bengkulu, Lampung, Riau, Jambi, and Palembang are several regions laden with Islamic values.[9]

In some cases, Islam was seen with disdain, while Christian was deemed to be special although it is generally accepted that the government stood neutral towards religions as according to Dutch Constitution Paragraph 119 Year 1855. In 1859, Dutch authority issued an ordinance putting a strict rule in place to govern hajj program for Muslim pilgrims.[10]

In 1882, the government inaugurated Religious Court, allowing deeper intervention into religious matters. Reactions of Islamic parties to the intervention of the Dutch government into the issues within the area of Islamic Law were posted in books and newspapers during that time.

The policies were obvious in several matters:

a. Regulation concerning Religious Court having been made since 1882.
b. Appointment of *Penghulu* as an advisor in general court.
c. Supervision in marriage and divorce for Muslims since 1905.

[7] This ordinance is known as "Regulation concerning court Organization and Court Administration", and this regulation was applied for both civil and criminal cases.

[8] This is obvious in Article 7 of ordoninance stating that Headman or High Priest must be present in every General Court in all regions as in their position as an advisor not authorized to pass a judgement.

[9] Ibid, 6.

[10] Aqib Suminto, *Politik Islam Hindia Belanda*, (Jakarta: LP3ES, 1985), 27-30.

d. Ordinance concerning marriage in Java –Madura 1029, amended in 1931.
e. Ordinance for cases outside of Java in 1932.
f. Supervision over Islamic Education.
g. Ordinance concerning Teachers 1905 amended in 1925.
h. Supervision over Mosque's Cash since 1893.
i. Supervision over hajj Pilgrimage as mentioned. [11]

In the scope of Surakarta, Islamic law has become the core of discussion. First, Surakarta is a *vorstenlanded* region under the rule of Sunan who holds an authority to enforce law in his region. The concept of *ratu-binathara* has three *wahyus* (revelations) *wahyu nubuwuah*, *wahyu kukumah*, and *wahyu wilayah*. The first refers to the revelation that subjugated the king as the messenger of the God; the second refers to the king as the source of law with *wenang murba wasesa* or a power to control or act; *wahyu wilayah*, perfecting the two *wahyus* as mentioned, gives *pandam pangauban* or enlightening and providing protection for the people.[12]

Second, judicature and law in Kasunanan of Surakarta issued legal products as references for particular studies. Documents based on the aspects of Islamic law have served as essential studies to find out the products of Islamic law and socio-historical factors affecting those.

A Dutch expert Lodewijk Willem Christian van den Berg (1845-1927) in the theory of Receptio in Complexu asserted that Muslims were to comply with Islamic law despite some irregularities in its implementation.[13] Back in the time of Dutch colonialism, civil law of Islam (*Civiele wetten der Mohammedaansche*) was recognized in the *Resolusi der Indische Regeering* regulating marriage and inheritance in Islam on 25 May 1760. This regulatory book, also called as

[11] Aqib Suminto, *Politik Islam Hindia…* 30.
[12] B.J.O. Schrieke, *Indonesian Sociological Studies*, Part. 2. (The Hague-Bandung: W. van Hoeve Ltd, 1957), 105.
[13] Soerjono Soekanto, *Pengantar Sejarah Hukum*, (Bandung: Alumni, 1986), 3.

Compendium Freijer,[14] was in place for reference in court during colonial time for Indonesians.

However, Snouck Hurgronje and C. van Collenhoven spoke through the theory or Receptie, arguing that the recognition of Islamic law in the society was merely because *adat* law that grew in the society welcomed and internalized Islamic law. People suggested that this theory was applied in all colonialized regions.[15] Under the ruling Snouck Hurgronje, the Dutch government's policy, along with political unification and its associates, was trying to dismiss the idea of Pan Islam. The ruined reputation of Islam was intentionally created and it was stigmatized as a savage law put in place in Surakarta. This disrepute was intended to bring the existence of *adat* law to the surface.

In this case, theoretical conflict between Islamic Law and *adat* law seemed to be urged, while both should complement each other. In fact, the two were under the same system in which divine values were firmly held and Islam was deemed to perfect *adat*. Attempts were taken gradually by Dutch East Indies government to abolish the Islamic Law through the policy accepted in the judicature in Kasunanan and Indonesia.

Third, in terms of the *qisas* punishment delivered by Surambi Court and the acceptance of this punishment in the Kasunanan of Surakarta, Sharia in Islam refers to the following five points: to protect the religion (*din*), assets (*maal*), soul (*nafs*), mind (*aql*), and descendants (*nasl*). That is, protecting the religion also ensures the rights and freedom to follow a religion as a guide in life. *Qisas* is imposed when it meets a certain *nisab* (quantity). However, Most Islamic leaders believe that repenting is suggested over coming to court to accept the punishment.[16]

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[14] Arso Sastroatmodjo dan A. Wasit Aulawi, *Hukum Perkawinan di Indonesia*, (Jakarta: Bulan Bintang, 1975), 11-12.

[15] Sajuti Thalib, *Receptio A Contratio*, (Jakarta: Bina Aksara, 1985), 4.

[16] Afridawati, "Stratifikasi Al-Maqashid Al-Khamsah (Agama, Jiwa, Akal, Keturunan Dan Harta) dan Penerapannya Dalam Maslahah," *Al Qisthu: Jurnal Kajian Ilmu-ilmu Hukum*, Vol. 13, No. 1, 2015, 18.

This research employed historical methods involving heuristic, critical,[17] interpretational, historiographic.[18] and historical legal approaches.[19] Research data was obtained from library research in Radya Pustaka Library in Keraton Surakarta, Mangkunegaran, and Drs. Radjiman's Private Library. All the data was further analyzed critically and written based on facts studied based on historiographic approach regarding Surambi Court in Kasunanan of Surakarta.

This research is aimed to investigate what served as the basis of *qisas* punishment as imposed by Surambi Court in Kasunanan of Surakarta post Palihan Nagari of the 20th century? How was *qisas* punishment delivered in Surambi Court in Kasunanan Court of Surakarta following Palihan Nagari? And how did the people of Kasunanan of Surakarta react to this imposition of *qisas* punishment as delivered by Surambi Court?

Departing from the above issue, this research is mainly intended to discuss *qisas* as delivered by Surambi Court in the Kasunanan of Surakarta following Palihan Nagari. Studies on legal aspects in Indonesia would form a foundation of understanding about principles and institutions of law in the present.

Initial Exercise of Islamic Law in a Javanese Kingdom

Discussion on courts during the power of Kasunanan of Surakarta is inextricable from the changing jurisdiction in line with the growing political domain and geographical factor. The downfall of Mataram Kingdom controlling a full sovereignty took place in

[17] See also Kuntowijoyo, Pengantar Ilmu Sejarah, (Yogyakarta: Bentang, 2005), 101-102. Criticism involves external aimed to examine the authenticity of sources and internal one as to find out the credibility of sources.

[18] Louis Gottsalk, *Mengerti Sejarah*, translated by Nugroho Notosusanto, (Jakarta: UI Press, 1975), 32. See Sulasman, *Metodologi Penelitian Sejarah*, (Bandung: Pustaka Setia,2014), 147. Historiography was derived from Greece historia and grafein. Historia means physical research while grafein refers to a picture, writing, or description. Historiography is a process in composing historical facts and varied sources selected in historical writing.

[19] Sudarsono, *Pengantar Ilmu Hukum*, (Jakarta: Rineka Cipta, 2001), 261. Soedjono Dirdjosisworo argues that legal history is one of subjects of law studying the development and the origin of legal systems in a particulary society and comparing laws that are varied due to time difference.

1677, marked with the interruption of Dutch intervention into this nation. Amangkurat II (1677-1703) tried to defend against the rebellion of Trunajaya, where he set an agreement with Dutch colonials to turn Mataram into the protectorate of the Dutch. This agreement required the King to surrender part of his region to the Dutch invaders, and all non-native people inhabiting the kingdom were put under the government, the power, and the court of the Dutch colonials.

In 1755, under Giyanti Agreement, Mataram Kingdom was split into two: Kesultanan (Sultanate) of Yogyakarta and Kasunanan (Sunanate) of Surakarta, degrading the power of Surakarta due to the existence of a new kingdom. Following the concept of Javanese monarchy, keraton was assigned to becoming the center of civilization, and the new keraton definitely threatened the old one. This condition was worsened by Salatiga Agreement made in 1757, dividing Mataram further into four small kingdoms: Surakarta, Yogyakarta, Mangkunegaran, and Pakualaman (1813).

Although officially those kingdoms still hold the status of *vorstenlanden* (jurisdiction of the king, an official name given by the Dutch colonials), they are under the rule of the main Kingdom.[20] This shows that the colonials brought strong intervention into internal matters of the Keraton, and this weakened the power of the Keraton.

Post Palihan Nagari, the division of court followed the division of the territory of each kingdom. In a nutshell, judicature system either in Kasunanan of Surakarta or Kasultanan in Yogyakarta was divided into four: Pradata Court, Surambi Court, Balemangu Court, and Kadipaten Anom Court.

Judicature Structure in Kasunan of Surakarta

In reference to the history, the rebellion and seizure of power taking place in Javanese kingdoms almost stayed. When it continued to take place, this could jeopardize the power of the King

[20] Soemarsaid Moertono. *Negara dan Usaha Bina Negara di Jawa Masa Lampau: Studi tentang masa Mataram II, abad XVI sampai XIX)*, (Jakarta: Yayasan Obor Indonesia, 1985), 256-273.

and the people's welfare. Law enforcement is established to resolve any violation of law in the Kasunanan of Surakarta.

The Kasunanan of Surakarta as a traditional Kingdom under sovereignty had government system that governs all elements in the Kasunanan. To ensure safety and peace, Kasunanan of Surakarta established several government agencies including state secretariat, finance, judicature system, and so forth. Each of this body was run by officials and staff assigned to their tasks.

Generally, there were four judicature systems in the Kasunanan of Surakarta, including Balemangu Court, Kadipaten Anom Court, Pradata Court, and Surambi Court. Balemangu court dealt with criminal cases or violation of laws committed by people; the issues including *lungguh land*, *sanggan land*, and *anggadhuh right*.

Kadipati Anom Court dealt with violation committed by *sentana dalem*, the members of royal family to the fourth rank in the family such as an empresses (including the empresses of former kings), *garwa ampeyan* (concubines), *putra sentana* (offspring), *canggah* (king's great great grandchildren), wives and their husbands, *patih dalem* (official position in a Javanese kingdom equal to prime minister), *bupati nayaka* (an official position in the kingdom) and wife. *Pradata* Court dealt with criminal offenses such as murder, fight, and other issues not within the authority of Balemangu Court and Surambi Court. Surambi Court was responsible for cases related with family issues such as marriage, divorce, inheritance, will, and some others outside of the authority of the other courts (Court of Appeal).

All courts of Kasunanan of Surakarta referred to Islamic Law as the legal basis. Surambi Court as the religious court held the highest position and served as Court of Appeal for the other courts. In accordance with Islamic Law, all courts in Kasunanan of Surakarta dealt with cases on the basis of Islamic teachings, and qisas (*hudud*) punishment is one of them. Qisas was delivered by the soldier in abdi dalem such as Nirbaya soldier, Martalutut soldier, and Singanagara soldier,[21] appointed by Sunan.

[21] *Serat Nitik Kaprajan*, (Surakarta: Paheman Radya Pustaka, 1939), 157-158.

The judicature system in the Kasunanan of Surakarta was under the influence of the Dutch colonials. This intervention was aimed to maintain the existence of the colonials in the Kasunanan of Surakarta. Reorganization of courts was aimed for exploitation of the region of Kasunanan of Surakarta and was intended to control the policy made by the Kasunanan of Surakarta. However, this reorganization does not dismiss traditional court. Court authorities, however, gradually diminish, and this gradual degradation seems to be more efficient.

The degrading authorities of Surambi Court began to be apparent during the ruling period of Sunan Paku Buwana VII (1830-1858). This was obvious when Surambi Court was decided to be no longer high court. The culmination of the court reorganization took place whilst Sunan Paku Buwana X was ruling (1677-1665). This massive reorganization also affected all aspects of life of those under the Kasunanan of Surakarta. Traditional members of the society became more progressive and changed. Attempts taken by the colonials to set loose the connection between courts and foreign invaders by reorganizing the court seemed to push the king's power backwards. Since then, the fundamental characteristics of traditional courts in Java have faded away. The King is no longer respected as highly as he used to and Sunan seems to exist not more than as an ornament, but the Sunan's legitimation is maintained in the eyes of the people of the Kingdom. This reorganization sparked the birth of new systems and encouraged more exploitation all over the colonialized regions to take place.

The shift of Islamic Law as the original law in the Kasunanan of Surakarta and its replacement with Dutch Law also indicates the shift of rights and authorities of the Surambi Court, and this has brought further to dualism of law in the region of Kasunanan of Surakarta.

The shift of the existence of Islamic Law in the scope of Kasunanan Surakarta also marks the termination of all tasks assigned to Nirbaya, Martalulut, and Singanagara soldiers who were responsible for the execution of *qisas*.

The colonials saw qisas as a barbaric punishment since it involved savage executions like flagellating, beheading, and mutilating. This perspective seems inconsistent with what the colonials had done, where they tossed people away to a deserted place without any food provided. Qisas, however, was proven effective to suppress the incidence of crime because the mutilating left scar as long as the offender lived. With it, *qisas* was believed to give deterring effect and served as a lesson for others to learn.

When a government official such as a regent was appointed by patih dalem with the approval of a resident, the penghulu of Surambi Court was directly appointed by Sunan. The requirements as set forth in *Tedhakan Pranatan Dalem tuwin Serat Warna-Warni Tumrap Nagari* Surakarta involved:

- intelligence
- good performance
- good character
- hard work
- not involved in gambling
- not addicted to drugs
- not involved in a crime
- not drinking liquor
- physical and mental health

The requirements to be a part of the officials in Kasunanan of Surakarta may vary depending on the ruling king. The officials could resume work with the approval of the resident.[22]

Exercise of Qisas in Kasunanan of Surakarta

The execution in Surambi Court involves several stages. First, enquiry is made following criminal report. The following process is obtaining evidence from witnesses performed by the court. The pieces of evidence and witnesses are brought to court for the resolution stage. Punishment is imposed based on the existence of evidence and witnesses.

[22] Soemarsaid Moertono, *Negara dan Usaha Bina Negara…* 129.

In dealing with criminal cases, Surambi Court referred to Islamic books like those written by Syafi'i adapted from Al Wajis and those by Al Ghazali in addition to the primary sources of Holy books like Al-Qur'an and Hadiths.

The following are books used as reference at court:

a. Al Mukharor, translated by Ar Rafisi
b. Al Nihayah, translated by Ar Romli
c. Al Tuffah, translated by Ibnu Hajar
d. Fath, Alwahab, translated by Syah Zakaria[23]

Surambi was a religious court where case resolution still took place in places of worship like in the Porch of Great Mosque, and judgment at Surambi Court took place on Mondays and Thursdays.

During the ruling period of Sunan Paku Buwana, punishment was delivered by the soldiers of abdi dalem appointed by the Sunan:

a. Nirbaya soldier (fearless soldier) was responsible for delivering capital punishment to those found guilty by hanging.
b. Martalulut soldier (soldier of peace and justice) was responsible for delivering capital punishment with a *keris*, a sword, or a spear.
c. Singanagara (brave soldier) was assigned to capital punishment of beheading, cutting off hand or leg, slicing flesh, and tormenting an offender with *wadung* (a knife with wide but short blade).[24]

The colonials aimed to abolish qisas imposed on serious crimes, as they saw it as inhumane way of punishing that contravened the social condition of Javanese culture. Prison and fine came to replace qisas as in the following excerpt:

"*Raden Adipati saking sarupaning kunjoro sajroning nagara Surakara, penggedhening Tuwan Resident, munggah nggoning lelaran, Ingkang Sinuwun amaringi salawas-lawase sarana anganggonana kang nyangga Tuwan Resident kang bakal anglelang panggone iku ing saben-*

[23] *Pawarti Surakarta,* (Surakarta: Persatuan, 1939), 90.

[24] *Serat Nitik Kaprajan, 157-158.*

saben tahun."[25]. (Raden Adipati (the duke) from all prisons in the region of Surakarta, Resident, as the head, went to hospital, the King often provided facilities for the Resident ready to auction the venue every year).

However, the shift of the punishment did not stop the capital punishment as long as the execution was approved by Governor General. When issues sparked among the members of the royal family, officials or noble people were not allowed to be at court. This was aimed to protect the dignity of the officials, noble people, the government, and those concerned. In such a case, officials or noble people could delegate a person they trusted to act as a representative, as given in the following excerpt:

"*Sakehe ing para padu, marang Pradata atawa munggah ing Surambi, lamun putra sentananingsun, atawa nayakaningsun bupati, kaliwon sapepadhane, lamun aduwe prakara, anggugat marang Pradata, atawa munggah ing Surambi, apa dene marang Kapatihan, ora ingsun lilani yen asebad dewe, ingsun lilani yen awakil lelayang, sarta anganggo tanda cap, kagawa marang wakile wong kang dadi pitayane....*"[26] (regarding the conflict issues resolved either in Pradata or in Surambi Court, when my offspring, or the duke below me, kaliwon and so forth file a civil action in either Pradata or in Surambi, further to *Kapatihan* (the governor office), they will not be given services unless they send their representative with a stamped letter…).

The law in Surambi Court did not work for foreigners not belonging to the people of Sunan. This is in line with the following excerpt:

Prakawis kaping l3

"*Nanging tetiyang Walandi, tiyang Cina, tiyang Koja atawi saliyanipun bangsa ingkang dede abdinipun Kanjeng Susuhunan, saupami wonten kalepatanipun dateng tiyang Jawi kang sami dados abdinipun Kanjeng Susuhunan, amasrahaken dursilanipun dhateng*

[25] *Pawarti Surakarta*, 92.

[26] T. Roorda, *Wett en de Nawala Pradata, de Angger Sadasa, de Angger Ageng, de Angger Gunung, de Angger Aru Biru*, (Amsterdam: Muler, 1844). Serat Angger Nawala Pradata, 13.

Kompeni supados kaukum dadi adat paukumanipun."[27] Case number 13 (when the Dutch, Chinese, or Koja people or others not belonging to Kanjeng Susuhunan (Sunan) have conflict with Javanese people belonging to Kanjeng Susuhunan, then those non-native people are the responsibility of the colonials to be processed with *adat* law.

Qisas was imposed on murder, but for any killing without malice aforethought was punishable by fine (*diyat mugalalah*), as in line with the following excerpt:

"*Filsun fi ikhkamil jinayat ikilah pasal, anyataaken kukame mati. Utawi mateni iku tetelu: kang dhihin kang maha-maha sawecane, lan kapindho kaluputan sawecane, lan kaping telu maha-maha sawecane den kaluputan. Mangka kang den maha-maha sawecane iku, kaya pepadhane wong kang amateni wong kalawan barang kang den gawe mateni, mangka iku iya wajib den diyat kisas. Lan ahli warise kang pinaten iku wajib diyat mugalalah. Utawi wong kang kaluputan suwecane iku, kaya lamun nedya amanah ing beburon, mangka angenani manungsa, kari-kari mati. Mangka wong iku ora kena kisas, nanging wajib diyat mupakakah belaka. Utawi kang den maha-maha sarta kaluputan iku, kaya lamun wong iku amukul ing wong sawiji, kalawan barang kang ora mateni. Kaprah-kaprahe kaya lamun den pukul ing teken kang cilik, kari-kari mati, mangka wong iku ora kisas, nanging wajib diyat mugalalah belaka lawan artane sanake kang mateni*"[28] (This is an article elaborating conducts that has to face death penalty. Murder is divided into three: killing with malice aforethought, killing as if it were intentional, and killing without malice aforethought. It is intentional when a murder involves a tool, and when this is the case, so the offender is punishable by qisas, and the heir of the victim has the right to *diyat mugalalah*. When a person like a fugitive unintentionally harms a person and it causes death, qisas is not imposed but *diyat mupakakah* is. Qisas is also not imposed on the case where a person beats another with a small wooden stick that is impossible to cause death but unexpectedly the person lies

[27] *Serat Perjanjian Nata Dalem*, 67.

[28] *Kitab Khukum PB IV*, (Surakarta: Paheman Radya Pustaka), 299-300.

dead due to this act. However, *diyat mugalalah* will remain effective on behalf of the bereaved relatives).

The imposition of qisas also sees the nature of the crime. *Diyat mugalalah* is equal to 100 camels divided by three, while *diyat mupakakah* is equal to 100 camels divided by five. When the fine is not payable by camels, this fine must be replaced by cash whose value is equal to the quantity of camels as agreed. Seral Angger Sadasa of Sunan Paku Buwana IV elaborates:

Prakawis kaping 1l

"*Saupami wonten tiyang ngamuk ngantos kenging kacepeng gesang, dene anggenipun ngamuk wau sampun amejahi tetiyang punika kapatrapan paukuman ing Nagari, kawedalaken diyatipun gangsalatus reyal. Yen boten medal diyatipun, kagitika ing penjalin kaping gungsal atus lajeng kabucal sajawining Nagari*."[29] (Case number 11, If someone is killed by his own anger, he or she is subject to punishment of state law, or to five-hundred riyals. When this payment fails, flagellation should replace the fine before he/she is finally exiled).

It is clear that the legal system of Javanese tradition still held on to the system of Islamic law that also involved flagellation, *diyat*, riyal, dinar, and so forth. When Sunan Paku Buwana II was in office, covering a murder led to a huge amount of fine, as elaborated in the following excerpt:

"*Wonten dene yen sidhem pepati, iku kajaba tigang dinten salebeting sidhem, dendhane tigayuta, sinadyan ing omahe ing alas.*"[30] (on the other hand, covering a murder for as long as three days is subject to three million fine, and no one can avert this sanction even by hiding in the forest).

To deter offenders, they were often sent to places everyone never expected to visit such as in thick forest or swampy ground in Lodaya, the south part of Blitar.[31]

Another punishment ever imposed in the Kasunanan of Surakarta was to set an encounter for the offender with a beast. Serat

[29] T. Roorda, *Serat Angger Sadasa*…64.
[30] *Serat Sultan Surya Ngalam*, 2.
[31] T. Roorda, *Serat Angger Gunung*…8l.

Angger Gladag mentioned this type of punishment but without mentioning further which offense was subject to this punishment. The task of *abdi dalem gladag* is mentioned further in the following:

Munggah prakara kang kaping 9

"*Mangkono maneh yen ana karsaningsun angadu-adu angrampogan, ngukum-ukum sabarang pantine kang angladeni uga wong gladhag kang mbeneri*."[32] Case number 9 (in case of burglary, all sentences to the death of offenders are in the hand of abdi dalem gladag).

Agreement made on 1 August 1812 between Sunan Paku Buwana IV represented by Raden Adhipati Cakranegara and English colonials mentioned a plan to abolish qisas, as further stated in the following excerpt:

Prakawis kaping 9

"S*ampun temtu yen ing bawah paprentahanipun ingkang Sinuhun Ingkang Susuhunan akathah warninipun ukuman ingkang amasiyat dhateng tiyang kakethok suku tanganipun lan kaperang, kabungis, kapicis, sarta kaaben kaliyan simo, punika ing tembe malih amesthi kaicalaken pisan ukuman ingkang makaten wau punika."*[33] (Case number 9. Under the ruling of the Susuhunan the Grace, punishments like hand cutting, torment, and encounter with a beast would certainly be abolished.)

Under the ruling Sunan Paku Buwana V and Sunan Paku Buwana VI, no drastic change was found in the judicature and legal system in the Kasunanan of Surakarta, which is in line with the following excerpt: "*Candraning nagari Surakarta Hadiningrat wekdal jumeneng Dalem Ingkang Sinuhun Kanjeng Susuhunan Paku Buwana V kaping VI: Tan tan kober apapepaes mangun sinjang*."[34] (When Surakarta Hadiningrat was under Sinuhun Kangleng Susuhunan Paku Buwana V to VI: not much change was made).

The war of Diponegoro (1825-1830) might have interrupted an attempt to make some change, or it was due to short ruling term of the two Sunans. The law in the Kasunanan of Surakarta was not only

[32] T.Roorda, *Serat Angger Gladag…* 9.
[33] *Serat Perjanjian Dalem Nata*, 66.
[34] T. Roorda, *Serat Angger Gunung*, 7.

addressed to criminal offenses, but it also applied for carelessness that took victims, as elaborated further in the following:

"*Lamun ana wong ngingu kebo, sapi utawa jaran sapepadhane, yen diengon atawa dicancang ana ing pinggir dalan atawa ana ing lelurung, mangka anggudag atawa angidak bocah kangsi tatu atawa mati, yen ora narima ahli warise mulura panggugate, dene wong kang ngingu kebo, sapi, jaran iku mau kapatrapan diyat samurwate*."[35] (When a leashed buffalo or horse accidentally runs over a child and harms the child or even causes death, the owner of this animal is charged with *diyat* as much as he/she can afford following an accusation from the relative of the victim.)

This excerpt also implies that those having cattle like buffalos, cows, horses, and others were responsible for watching them while shepherding them. Any negligence that harmed others might cause the owners to be fined. The rule of law in the Kasunanan of Surakarta was enforced to fully ensure the safety and security of the people. The state allowed freedom for the people to meet all their need bodily and mentally as long as this is performed with full responsibility.

For example, the king might allow his people to hold *teledhek* party, but any fight or violence arising from this party might cause the party host to be fined as much as he/she could afford to pay. Fine was not only for the host, but it applied to whoever involved in the violence as equal to how serious the violence might be. The punishment could also involve three hundred or five hundred time flagellation before offenders were exiled in Lodaya forest when a fight took the death of a victim.[36]

Theft and burglary were the two common crimes in the Kasunanan of Surakarta. To supress the incidence of these cases, a law was made to improve safety and peace in the society.

Under the ruling period of Sunan Paku Buwana III (1749-1788) and the earlier period, Jugul Muda and Serat Sultan Surya Ngalam

[35] Ibid.
[36] Soemarsaid Moertono, *Negara dan Usaha Bina Negara*… 81.

were the two books used as references in theft cases. The article regarding this criminal offense is given as follows:

Asmaradana

"Maninge Ki Prayitneki, kapandangan tur kelangan, kencana wrat lan sakatine. Ki Prayitna lajeng mentar, marek ing Gusti Patya, matur sapratingkahipuin, ing dalu kelang-kelangan// Ki Tidarsa den timbali, prapta ngayunaning Patya, dinangu matur polahe, yen ayun atumbas griya, yata pinarentahan, Ki Tidarsa kinen asung, ngileni sakawit ira// Lawan kinen angulati, pisalek sapuluh dinar, yen ora kapanggih kinen, ngileni mas sakatya. Tidarsa sinalokan, anirbaya boganipun, tanpa bukti unisana"[37]

In other words, the person declared guilty of stealing by the court should be found and made responsible for his/her conduct, and the thief is still held responsible to pay back the lost properties even when he/she is at large. Jugul muda was authorised to declare so.

Conclusion

The Islamic law, especially regarding the imposition of qisas in the Kasunanan of Surakarta following palihan Nagari, departed from the enforcement of Islamic law in the Kasunanan even far before Sunan Pakubuwono IV took power. Under his ruling, Islamic law was put in place to resolve both criminal and civil matters of law. Islamic law was once enforced in Kasunanan of Surakarta during the ruling period of Pakubuwono IV with assistance of the members of abdi dalem: Nirbaya, Martalulut, and Singanagara. Some sanctions once imposed involved legal process, transfer of position, or dismissal of a member of abdi dalem who was proven violating religious teachings. Surambi court was declared as the highest court that also served as the court of appeal in dealing with criminal issues.

People welcomed the enforcement of Islamic law in Kasunanan of Surakarta when Pakubuwono IV took power.

[37] *Serat Jugul Muda*, 35-36.

Proceedings running at court were aimed to protect the man with power from the people. However, the implementation of Islamic law was seen to slowly fade away with time because the Sunan was in the transition period, and the coercion and intervention of the Dutch colonies were inevitable, where all decisions had to be made with the approval of the colonials. Weakening support from the native people, political and military power hampered the enforcement of the Islamic law.

The implementation of the sharia of Islam in Kasunanan of Surakarta was obvious in Surambi Court, indicating that the understanding of the government in ensuring security and social order complied with Islamic teachings. Despite the fact that Indonesia does not entirely apply the Islamic law as in Saudi Arabia, the values of Islam are still echoing in positive law. This is visible in some laws governing marriage, *zakat* (alms), *waqf*, sharia banking, and many more. The enforcement of the principles of Islamic law in the development of national law is paramount over calling for it to be implemented, which seems nothing more than to merely make it look appropriate.

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