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THE APPLICATION OF CAPITAL PUNISHMENT: An Analysis of the Social Impact in Saudi Arabia and the United States

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Abstrak: Penerapan Hukuman Mati: Suatu Analisa Dampak Sosial di Arab Saudi dan Amerika Serikat. Sampai saat ini hukuman mati telah menjadi perdebatan serius tidak hanya di kalangan ahli hukum di Barat tetapi juga di negara Islam. Persoalan yang mengemuka apakah hukuman ini masih relevan untuk menjadi faktor jera bagi pelaku kriminal, kalau tidak, lalu hukum apa yang akan dijadikan penggantinya. Makalah ini mencoba mendiskusikan sejauh mana keefektifan hukuman mati dalam memberi dampak jera bagi pelanggar hukum. Dengan merujuk kepada penerapan hukuman mati dalam konsep Islam sebagaimana diterapkan di Arab Saudi dan Amerika Serikat sebagai contoh kasus, penulis mengemukakan bahwa penerapan hukum tersebut secara konsisten telah mampu mengurangi tingkat tindak pidana secara drastis.

Abstract: Up to the present time, capital punishment has become one of the most heated debate among legal scholars of both in the Western and Islamic countries alike. The question then whether this sort of punishment yet still become a deterrent factor for the criminals, and if not what should be the alternative. This essay attempts to analyze how far capital punishment is able to affect those who go against the law. By referring to the concept of capital punishment in Islamic law as applied mainly Saudi Arabia and the United States as the case, the author argues that in the former case, it has been able to drastically reduce the rate of crime in such region.

Kata Kunci: Capital punishment, Saudi Arabia, the United States

Introduction

One of the most prominent issues faced by the modern day society has been their being having gone far remote from believing in the Almighty God which consequently lead them to disobey His Laws. In regulating all aspects of their life, they have left the Law

of Allah for their new regulations which they have considered much better than the Law of Allah. Data released by Amnesty International indicates that until January 2006 over half the countries in the world have now abolished the death penalty in law or practice. Amnesty International claims that from the total of 122 countries listed by the International institution, 86 countries and territories have abolished the death penalty for all crimes, 11 countries have abolished the death penalty for all but exceptional crimes such as wartime crimes, and 25 countries can be considered abolitionist in practice: they retain the death penalty in law but have not carried out any executions for the past 10 years or more.[1]

Conversely, the number of murders has gone in the opposite direction. In the USA for example, during the temporary suspension on capital punishment from 1972-1976, researchers gathered murder statistics across the country. In 1960, there were 56 executions in the USA and 9,140 murders. By 1964, when there were only 15 executions, the number of murders had risen to 9,250. In 1969, there were no executions and 14,590 murders, and 1975, after six more years without executions, 20,510 murders occurred rising to 23,040 in 1980 after only two executions since 1976. In summary, between 1965 and 1980, the number of annual murders in the United States skyrocketed from 9,960 to 23,040, a 131 percent increase. The murder rate—homicides per 100,000 persons—doubled from 5.1 to 10.2. So the number of murders grew as the number of executions shrank.[2]

In the last three decades, sociologists have paid greater attention to the study of the effects of the law and its potential to produce social order, rather than the study of criminals or the strategies of the police. Therefore, the questions need to answered seem to be, what is the function of the law as a moralizing and deterrent agent in society? Can the law, in itself, be an effective tool to minimize crime? This paper will examine these questions by looking at the impact of the application of the capital punishment in many countries.

This paper begins by summarizing a theoretical framework on crime-punishment relationships. The following section examines the deterrent effects of the application of capital punishment on crime in many countries, through the presentation of some statistical data. The final section presents a brief discussion and offers some generalizations, and provides a conclusion based on the experience of many countries.

Theories on Crime and Punishment Relationship

To look at the social impact of the application of the capital punishment in many countries, especially on the crime rate, it is worthwhile to summarize the theoretical framework which explains the relationship between crime and punishment. Considering

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[1] Amnesty International, "Facts and Figures on the Death Penalty," in http://www.amnesty.org, downloaded at 10 June 2007.

[2] Naci Mocan, "The Deterrent Effect of Capital Punishment," in http://www.wesleylowe.com, downloaded at 10 June 2007.

the "severity" of capital punishment, this section will summarize the previous works which examine the relationships between the sanction level and the crime rate.

In this respect, the work of social scientists can be divided into two groups. The first is the group who argue that punishment has a deterrent effect on crime. The deterrence theory suggests that the severity and certainty of punishments are additive factors. Namely, when punishments are severe and administered with certainty, maximum deterrence results. In contrast, when punishments are slight and uncertain, deterrence will be minimal. The theorists which support this hypothesis are Becker,[3] Erlich,[4] Fillips and Votey,[5] Nagin,[6] Brier and Fienberg,[7] Pratt,[8] and Naci Mocan.[9] In other words, they argue that punishment in general creates a greater balance of happiness vs. unhappiness. From this perspective, then, capital punishment is justified if it: (1) prevents the criminal from repeating his crime, or (2) deters crime by discouraging would-be offenders.

In contrast, the second group argues that an increase in the severity of the penalty has no impact on criminal behavior at equilibrium. The defenders of this hypothesis argue that there is no evidence to support the deterrence hypothesis. According to this group, the defenders of the deterrence theory have some methodological problems in their studies. In contrast to the deterrence theorists, these theorists argue that the death penalty should be abolished even if criminals deserve death for what they did. The punishment theorists who support this hypothesis, among many others, are: Cloninger,[10] Avio and Clark,[11] Reiman,[12] Davis and Reiman,[13] Tsebelis,[14] and Roger Hood.[15] In brief, these theorists support the softening of sanctions and are against the severity of punishment like in Islamic Criminal Law.

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[3] Gary Becker, "Crime and Punishment: An Economic Approach," in *Journal of Political Economy*. 1968.

[4] Isaac Erlich, "The Deterrent Effect of Capital Punishment: A Question of Life and Death," in *American Economic Review*, 65. 1979.

[5] L. Philips and Votey, H, "Crime Control in California," in *Journal of Legal Studies*, 1975.

[6] Daniel Nagin, "Crime Rates, Sanction Levels, and Constraints on Prison Population," in *Law and Society Review*, 12, 1978.

[7] S.S. Brier and S.E. Fienberg, "Recent Economic Modeling of Crime and Punishment: Support for the Deterrence Hypothesis?," in *Evaluation Review*, 4, 1980.

[8] John Pratt, "Crime, Time, Youth and Punishment," in *Contemporary Crises*, 14, 1990.

[9] Mocan, "The Deterrent Effect."

[10] Dale Cloninger, "The Deterrent Effect of Law Enforcement: An Evaluation of Recent Findings and Some New Evidence," in *American Journal of Economic and Sociology*. 1975.

[11] K. Avio and C.S. Clark, *Property Crime in Canada: An Econometric Study* (Toronto: University of Toronto Press, 1976).

[12] Jeffrey Reiman, "Justice, Civilization, and the Death Penalty: Answering van den Haag," in *Philosophy and Public Affairs*, 14, 1985.

[13] M. Davis and J. Reiman, "The Death Penalty, Civilization, and Inhumaneness," in *Social Theory and Practice,* 1990.

[14] George Tsebelis, "Penalty has no Impact on Crime: A Game-Theoretic Analysis," in *Rationality and Society*, 2, 1990.

[15] Roger Hood, *The Death Penalty: A World-wide Perspective* (Oxford: Clarendon Press, 2002).

Capital Punishment in the Islamic Criminal Law

The Holy Qur'an has clearly and repeatedly mentioned about capital punishment. In the verse 32 of al-Mâ'idah, Allah Almighty says:

> *"...If anyone kills a person - unless it be for murder or for spreading mischief in the land - it would be as if he killed all people. And if anyone saves a life, it would be as if he saved the life of all people"* (Q.S. al-Mâ'idah/5: 32).

Life is sacred, according to Islam and most other world faiths. But how can one hold life sacred, yet still support capital punishment? The Qur'an answers:

> *"...Take not life, which God has made sacred, except by way of justice and law. Thus does He command you, so that you may learn wisdom"* (Q.S. al-An'âm/6:151).

The key point is that one may take life only "by way of justice and law." In Islam, therefore, the death penalty can be applied by a court as punishment for the most serious of crimes. Ultimately, one's eternal punishment is in God's hands, but there is a place for punishment in this life as well.

The spirit of the Islamic penal code is to save lives, promote justice, and prevent corruption and tyranny. Islamic philosophy holds that a harsh punishment serves as a deterrent to serious crimes that harm individual victims, or threaten to destabilize the foundation of society. According to Islamic law (in the first verse quoted above), the following two crimes can be punishable by death: (1) Intentional murder and (2) *Fasad fî al-Ardh* (spreading mischief in the land).

Intentional Murder

The Qur'an regulates the death penalty for murder, although forgiveness and compassion are strongly encouraged. The murder victim's family is given a choice to either insist on the death penalty, or to pardon the perpetrator and accept monetary compensation for their loss (Q.S. al-Baqarah/2: 178).

Fasad fî al-Ardh

The second crime for which capital punishment can be applied is a bit more open to interpretation. "Spreading mischief in the land" can mean many different things, but is generally interpreted to mean those crimes that affect the community as a whole, and destabilize the society. Crimes that have fallen under this description have included: treason/apostasy (when one leaves the faith and joins the enemy in fighting against the Muslim community), terrorism, land, sea or air piracy, rape, adultery, and homosexuality.

Actual methods of capital punishment vary from place to place. In some Muslim countries, methods have included beheading, hanging, stoning, and firing squad. Executions are held publicly, to serve as warnings to would-be criminals.

It is important to note that there is no place for vigilantism in Islam — one must be properly convicted in an Islamic court of law before the punishment can be meted out. The severity of the punishment requires that very strict evidence standards must be met before a conviction is found. The court also has flexibility to order less than the ultimate punishment (for example, imposing fines or prison sentences), on a case-by-case basis.

In relation to murder, the Quran definitely encourages capital punishment (Q.S. al-Baqarah/2: 179) to protect the life of individual. *"The free for the free, the slave for the slave, and the female for the female"* (Q.S. al-Baqarah/2: 178). Due to human meanness and injustice, many people cannot even imagine what this Quranic law says. They refuse to accept the clear injunctions that strict equivalence must be observed - if a woman kills a man, or a man kills a woman, or a slave kills a free person, or a free person kills a slave, capital punishment cannot be applied. The Quran prefers that the murderer compensate the victim's family. Killing the murderer does not bring the victim back, nor does the family of the victim benefit from executing the murderer. The compensation, however, must be sufficient to be a deterrent for others. In Islam (Submission), the victim and/or the victim's family are the judges for all crimes; they decide what the punishment shall be under the supervision of a person who knows the Quran.

If a thief steals a thousand dollars from you, and they put him in prison, what do you get? If the thief has a wife and children, what is their crime? Why should they be deprived of their father? The Quran solves this problem, as well as the problems associated with the criminal justice systems prevalent in today's world.

According to the Quranic criminal justice, the thief who is convicted of stealing a thousand dollars from you must work for you until you are fully paid for the thousand dollars you lost, plus any other damage and inconvenience the theft may have caused you. At the same time, the thief's innocent wife and children are not deprived of their man, and the expensive prison system is eliminated. Imprisonment is a cruel and inhumane punishment that has proven useless to all concerned.

Contrary to common belief, the thief's hand shall not be cut off. Thank God for His mercy and His mathematical miracle in the Quran, we know now that the thief's hand is to be marked. Marking the hand of the thief is stated in 5: 38. The chapter and verse numbers add up to 5+38 = 43. The other place in the Quran where "the hand is cut" is found in 12: 31. This is where we see the women who admired Joseph so much they "cut" their hands. Obviously, they did not sever their hands; no one can do that. The sura and verse numbers add up to 12+31=43, the same total as in 5: 38. This gives mathematical confirmation that the Quranic law calls for marking the hand of the thief, not severing it. Additional mathematical confirmation is provided: 19 verses after 12: 31, we see the "cutting of the hand" again. Punishment in Islam (Submission) is based on equivalence and social pressure (Q.S. al-Baqarah/2: 178, Q.S. al-Mâ'idah/5: 38, Q.S. al-Nûr/24: 2).

The blasphemy called "Hadith & Sunna" has instituted stoning to death as the

punishment for married adulterers. This is not God's law. As stated in Q.S. al-Nûr/24: 2, the punishment for adultery is whipping in public; a hundred symbolic lashes. As pointed out above, the basic punishment is social pressure and scandalizing the criminal. Whipping in public achieves this goal.

Analysis of Social Impact of the Application of Syariah Law

Muslim countries in this context are defined as the countries in which most of the populations are Muslims. Since only some Muslim countries which apply *Syariah* law have availability source of data, in examining the social impact of the application of *Syariah* law this paper will mainly refer to the case of the Kingdom of Saudi Arabia and United States of America for comparison.

The application of non-*Syariah* law in many Muslim countries has a long historical background. Take Indonesia as an example. Even though Indonesia has the biggest number of Muslim citizens in the world, this country does not apply *Syariah* except in Nangroe Aceh Darussalam (NAD) which is in the beginning of its process. This is primarily due to the Western colonialism. Another factor in the case of Indonesia is the political domination by Western educated thinkers (nationalists) who have sought to secularize this country through their political authorities since the Soekarno's to Soeharto's regimes.

Muslim Middle East countries have had similar experiences. Since the Napoleonic invasion of Egypt (1798-1801), the countries of the Middle East, with exception of parts of Saudi Arabia, were directly or indirectly subjected to the force of European Imperialism.[16] Unavoidably, in the beginning of their awakening, they adopted a Western model of progress and development, and even borrowed Western law. Until the 1970s the countries of the Muslim Middle East seemed to be embarked on a program of modernization in the Western style that would inevitably lead to ever greater secularization.[17]

In the late 1970s, the process of islamization began in the Middle East countries. Two countries that have most seriously and systematically pursued islamization are Iran and Pakistan. In both countries it is clear that the official version of islamization pursued after the 1978-1979 Iranian Revolution and President Zia's assumed to power in 1977, presuppose that Islam is an ideology.[18]

Saudi Arabia is a leading country in the Middle East which has applied *Syariah*. In

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[16] Don Peretz, *The Middle East Today* (New York: Praeger, 1988); R.R. Andersen, *et al*., *Politics and Change in the Middle East: Source of Conflict and Accommodation* (New Jersey: Prentice Hall, 1990).

[17] A.E. Mayer, "Law and Religion in the Muslim Middle East," in *The American Journal of Comparative Law*, 35, 1987.

[18] Peretz, *The Middle East Today*: Rubya Mehdi, "The Offence of Rape in the Islamic Law of Pakistan," in *International Journal of the Sociology of Law*, 18, 1990.

addition to the absence of factors which constrain to the process of Islamization in other Middle East Muslim countries, that being colonialism, Saudi Arabia has another conducive factor, that is, the presence of *Ulama* (Muslim scholars). Unlike other Muslim countries in this region, in Saudi Arabia, Ulama occupies prominent positions in the state's political elite. Furthermore, Saudi Arabia was applying Islamic Law since the Prophet Muhammad era. Therefore, the Ulama's effective role in Saudi Arabia was very conducive in maintaining the continuity of the application of *Syariah* law in this Kingdom.[19] In this regard, Mayer[20] says that "Saudi Arabia has never adopted a constitution out of respect for the classical Islamic precept that all laws are contained in the Syariah sources".

Syariah is a theocratic system. It sets out Allah's commands to humanity. The *Syariah* was divine revelation, as determined by the text of the *Qur'an*, supplemented by the sayings and deeds of the Prophet preserved in tradition (*sunna*), the consensus of scholars (*ijma'*), and analogical reasoning (*qiyas*).[21]

The *Syariah*, for its part, was bounded on one side by administrative direction, namely by the directions of the ruling of Caliphs (*siyasi*) that were manifested itself in secular ordinances (the *qanun*, or the *nizam* and the *marsum* of the Hanbali school). The *Syariah* judge himself might occasionally award a discretionary punishment (*ta'zir*) instead of the foreordained sanctions of the sacred law (*hadd,* pl. *hudood*). On the other side, custom (*'urf, ada*) circumscribed the holy rules.[22]

By referring to Saudi Arabia, this part will look at the impact of the application of *Syariah* on social life, especially on crime. *Syariah* criminal code is severe in manner. In fact, the severity of its punishment has a great deterrent effect on crime. The application of *Syariah* in Saudi Arabia, for example, was able to maintain the low crime rates in this country.

Table 1 : Homicide Rate in the Kingdom of Saudi Arabia 2000-2002[23]

Year	Homicide Rate per year per 100,000 Inhabitants
2000	0.51
2001	0.78
2002	0.92

Table 1 reveals very low official homicide rates in the Kingdom of Saudi Arabia.

[19] A good discussion about this, see N.J.Coulson, *A History of Islamic Law* (Edinburgh: The University Press, 1964); Aharon Layish, "Ulama and Politics in Saudi Arabia," in Metin Heper and Raphael Israeli (ed.), *Islam and Politics in the Modern Middle East* (London: Croom Helm, 1984).

[20] Mayer, "Law and Religion," p. 135.

[21] Andersen, *et al*., *Politics and Change,* p. 52-53.

[22] Joseph Schact, *An Introduction to Islamic Law* (New York: Clarendom Press, 1964), p. 54.

[23] Adapted from http://en.wikipedia.org.

The population included in the table includes more than one-third foreign ex-patriots who are generally attributed with a higher crime rates than native Saudis. If we look at the average number of murders, under one a year in every 100,000 population is certainly very low.

Table 2: Number of Murders in the Kingdom of Saudi Arabia Compared to other Countries in the World Which Apply State Law 2002[24]

Countries	Homicide Rate per year per 10
SAUDI ARABIA	0.92
South Africa	47.80
Colombia	65.80
Mexico	13.04
United States	5.60

To strengthen the truth of the deterrent effects of the application of *Syariah* law on crime rates in Saudi Arabia, Table 2 compares the crime rates of Saudi Arabia with four countries which apply state law. Table 2 shows that the murder rate in Saudi Arabia is the lowest among the five countries. These data, clearly indicate the deterrent effects of the application *Syariah* on crime in Saudi Arabia.

The deterrent effects of the severity of *Syariah* criminal law on crime will much clearer if the crime rate of Saudi Arabia where *Syariah* law is applied compared to world rates. Table 3 shows this comparison.

Table 3: Crime Rate in the Kingdom of Saudi Arabia Compared to World Rates (per100, 000), 1975[25]

Countries	Murder	Property Crime	Sexual Offences
Saudi Arabia	1.0	1.4	5.0
World Rates	3.9	908.5	24.2

Table 3 indicates that for murder, the world rate is about four times the rate in Saudi Arabia. For property crimes, the world rate is about six hundred fifty times the rate in Saudi Arabia. And for sexual offences, the world rate is about five times the rate in Saudi Arabia. Clearly, Table 3 indicates the deterrent effects of the severity punishment of *Syariah* criminal code on crime rate in the Kingdom of Saudi Arabia. This finding strongly supports the previous study which argued that punishment has deterrent effects on crime.

[24] Adapted from http://en.wikipedia.org.

[25] S.S. Souryal, "The Religionization of Society: The Continuing Application of Syariah Law in Saudi Arabia," in *Journal for the Scientific Study of Religion*, 26, 1987, p. 434-35.

Discussion and Generalization

This paper has approached the deterrent effect of punishment in Islamic Criminal Law. It has been suggested that this study supports the deterrence theory. In most literature, crime has generally been considered as either the consequence of existing social conditions or the outcome of a traditional calculation by a predator which chooses crime as a utility-maximizing career. As a result, these approaches propose either an improvement in social conditions or an increase in penalties or punishments as a means to reduce criminal activity. Though the severity of punishment in Islamic Criminal Law which is applied in Saudi Arabia shows a deterrence affect on crime rate, I would not necessarily argue that punishment is the best or only way to control crime. But rather argue that punishment is only part of large, more complicated factors which cause the low crime rate.

The severity of punishment in Islamic Criminal Law is often misinterpreted by some scholars, especially Western scholars. To understand correctly the perception of severity of punishment in Islamic Criminal Law we must examine in its Supernatural-Social frame of the principle of *Qishash*. Such a frame, assuring the will of God, totally relieves any concern among Muslim believers concerning the severity of punishment, particularly since it ensures justice to all offenders. Unlike in the Western contemporary judicial system in which discrimination a common feature of this system, the Islamic judicial system places all offenders subject to the same treatment. Richard Quenney illustrates how the contemporary Western judicial system works:

> Obviously judicial decisions are not made uniformly. Decisions are made according to a host of extra-legal factors, including the age of the offender, his race, and social class. Perhaps the most obvious example of judicial discretion occurs in the handling of cases of persons from minority groups. Negroes, in comparison to whites, are convicted with lesser evidence and sentenced to more severe punishment.[26]

Syariah law is applied equally to all citizens. This assertion is suggested in the Qur'anic verse: "Lo! The noblest of you, in the sight of Allah, is the best in conduct (Q.S. al-Hujurât/ 49: 13)." Also the Prophet says: "The Arab is not more worthy than the Parsian, and the red is not more deserving than the black, except in godliness.[27] "The second relates to a saying by the Prophet in which he stated that if his own daughter, Fatima, committed theft, her kinship ties to him would not save her legal punishment.[28]

The equal treatment of offenders within the Islamic Judicial system is applied in both theory and practice. In 1981 for example, Saudi Arabia's Islamic Judicial Court executed

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[26] Richard Quenney (1970: 142).

[27] Imam al-Bukhârî, *Shaḥîḥ al-Bukhârî*, trans. Muhammad Mukhsin Khan, vol. VIII (Pakistan: Kazi Publication, 1979), p. 39.

[28] *Ibid.,* p. 512-513.

a Royal princess of the Kingdom with her lover who were convicted of adultery. The case was later made into the widely known movie feature, "Death of a Princess."

Islam as a system which gives an equal treatment not only to people from different race, class and color, but also to people from different religion. There is no reason for non-Muslim to fear of living under Islamic State (*Syariah* law). The non-Muslim who lives in an Islamic State and enjoys all their human rights which are enshrined in the *Syariah* are called *Ahl al-Dzimmah* or *Dzimmis*, the convicted people. The *Dzimmis* living in an Islamic State are guarantied the protection of their life, property and their honor exactly like that of a Muslim. The rights given to a *Dzimmis* are of an irrevocable nature. It becomes every Muslim's religious duty to protect life, property and honour of a non-Muslim since it forms a part and parcel of his faith.[29]

The Islamic state would not be fanatic and intolerant of minorities since Islam is the most tolerant of religions. For example, 'Umar Ibn al-Khaththab, the second caliph, had asked on his deathbed that his successor should take care to protect the *Dzimmis*. The Qur'an itself called for religious tolerant: *"You have your religion, I have mine* (Q.S. al-Kâfirûn/109: 6)."

Another factor which needs to be considered is the historical background in which Islam has been developed. Islam has descended in Saudi Arabia where its old tribes practiced causal killing of raids and counter-raids over trivial matters. In this situation, *Qishash* (the law of equality) is culturally accepted as a plausible method to prevent greater retribution against the offender or his family and tribe. In fact, history has proved the magical power of *Syariah* in deterring the continuity of causal killing in trivial matters in the Arabian tribal community. Is this prevention method not applicable in the contemporary modern world in which the machine gun and any other tools to kill other persons are within easy access and the criminal's mode operation is more sophisticated? Consider modern terrorism, or how often kidnapping occurs in our society. During October 1992, the South Australia's Police had been busy in efforts to find out who kidnapped a 12 year-old woman, Rhianna Barreau.[30] By giving this example, I am not suggesting that the government of Nangroe Aceh Darussalam must apply *Syariah* Criminal Law in the way that Saudi Arabia applies to prevent the crime wave in the region, but I am suggesting to reconsider about the movement from repressive to recitative in our criminal law.

Moreover, in terms of the Supernatural-Individual frame, which is determined by the personal conscience of believers[31] capital punishment is not perceived as a means to

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[29] Abdul-Aziz Said, "Precept and Practice of Human Rights in Islam," in *Universal Human Rights*, 1, 1979; A. Rahman I. Doi, *Non-Muslims under Syariah (Islamic Law)* (Pakistan: Kazi Publication, 1981), p. 22.

[30] Nigel Hunt, "Rhianna Mystery: Police quiz men," in *The Advertiser*, 16 October, 1992, p. 1.

[31] L. Johnson and Weigert, A.J., "Frames in Confession: The Social Construction of Sexual Sin," in *Journal for the Study of Religion*, 19, 1980.

frighten the "believers" but rather as a necessary by-product of justice mechanism ordained to deter a climate of lawlessness and social disorganization. It is also important to know that capital punishment seems to be an act of mercy to those with a strong tendency to commit crime, because when compared with long-term prison sentences which in time lose their effectiveness, the execution of "bodily penalty" (flogging and cutting the hand) offer clear advantages. It allows the criminal to resume his work almost immediately, to support himself and his family, and to serve as an act of penance and remission. More important, the execution will prevent the individual from committing the same crime in the future, serving as a stern warning to others.

Concluding Remarks

Based on the above discussion, some very general conclusion and loose trends become evident. First, Punishment in Islamic Criminal Law has been, and remained, foreign to the majority of Moslem people, more importantly to Western mind; second, in many Muslim countries including Indonesia, the position of *Syariah* law has been substituted by a set of positive laws which are based on a social contract between the ruler and the ruled, as a result of the Western colonialism; third, the continuity of the application of *Syariah* Criminal Law in Saudi Arabia has been able to keep the level of crime to a low rate, but on the other hand, in many countries which apply positive laws which are based on a social contract between the ruler and the ruled, the crime rate is high; forth, the harsh punishment in Islamic Criminal Law is mainly intended to deter crime, not to punish the criminal and Islamic criminal law puts all offenders subject to the same treatment, and punishment in Islamic Criminal Law can only be awarded to the criminals in a society where the Islamic ideal of social justice has been achieved; and most importantly, *Syariah* (Islamic Law) protects and guarantees the life, property and all human rights of non-Muslim who lives under Islamic State exactly like that of a Muslim.

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