



REPUBLIK INDONESIA  
KEMENTERIAN HUKUM DAN HAK ASASI MANUSIA

# SURAT PENCATATAN CIPTAAN

Dalam rangka perlindungan ciptaan di bidang ilmu pengetahuan, seni dan sastra berdasarkan Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta, dengan ini menerangkan:

Nomor dan tanggal permohonan : EC00201937759, 11 April 2019

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Nomor pencatatan : **000140350**

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# CONSTRUCTION OF PHILOSOPHICAL VALUES AND THE CONCEPT OF PINANCE IN ISLAMIC CRIMINAL LAW

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## ABSTRAK

This study aims to cast light on the philosophical values comprised in every criminal case, and the construction of punishment models based on the philosophical values comprised in Islamic criminal law. The primary data source of this research are the verses and traditions that contain the principles and concepts of punishment. In tracking the verses referred to, the Qur'anic Concordance of 'Ali 'Audah is particularly used in this context, while to navigate the tradition the *mu'jam* is also used as a support. Secondary data source include tafseer, hadith, Islamic penal Law literature, criminal law literature, Islamic Legal Philosophy, and relevant previous research results. All data is derived from document review and processed through some steps namely navigation, identification, construction of punishment models, and conclusions. The approach used in this research is the Islamic legal philosophy. Based on the above objectives and research methods, it is revealed that: First, the philosophical values comprised in the criminal penalization of Islam are; equilibrium, justice and humanity, reformative and restorative, marriage, preventive, preserving life, upholding moral, and repentance as a forgiving excuse. Second, the above philosophical values can be constructed into a contributory punishment model for the renewal of national criminal law. The referred punishment model is the qisas-diyat sketch. While philosophy and sketch of qisas-diyat as capital punishment contain preventive, reformative, and restorative justice principle. The latter principle contains the consequences of the birth of a new paradigm in the Indonesian criminal justice system, in particular and worldwide in general. This new paradigm places not only judges who are entitled to determine the punishment of the perpetrator, but the victim also has the right to punish or release the perpetrator from punishment.