



# Review of Islamic Criminal Law on the Crime of Blasphemy (Case Study in Tebing Tinggi City)

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**Abstract:** Freedom of religion is a human right that must be respected. In accordance with Article 28e, Paragraphs 1 and 2, of the 1945 Constitution, the Indonesian state provides freedom of religion and constitutional guarantees to its citizens. Social interaction is increasingly limitless due to the rapid development of technology and information. Currently, there are still many crimes committed through social media—also known as cyberspace—which are carried out via the internet. This includes online fraud, online prostitution, pornography, defamation, and even posting words that are hate speech in a religious context, namely blasphemy. One type of behavioral deviation and criminal act that is included in the realm of ethnicity, religion, race, and inter-group (SARA) is blasphemy. This study aims to collect reviews of Islamic criminal law regarding the violation of blasphemy in Tebing Tinggi. This study was conducted using normative legal research methods or library research. Primary and secondary data are the data sources used. In this study, the data collection used is documentation, which means facts and data contained in the text of laws or books related to the subject that has been examined by the author. This study found that, in Islamic criminal law, the crime of blasphemy can be likened to the crime of riddah and is punished according to the punishment of riddah, namely murder. On the other hand, in Indonesia, positive law also regulates blasphemy, especially Article 156a (KUHP), which stipulates that the legal sanction for perpetrators of blasphemy is a five-year prison sentence.

**Keywords:** Global, Industrial Design, Protection, Registration.

## 1. Introduction

Religion is very important for a person's life, even more than just a natural need (Sunardin, 2021),(Fitra, Hasnita, & Jalaluddin, 2021). Religious believers believe that their religion provides them with guidelines for good behavior in this world and the hereafter. They believe that they will be safe in this world and the hereafter if they obey the commands and prohibitions of their religion. Therefore, a person's religious beliefs are very significant and important. Religion makes humans honorable and dignified (Arbi, Rahman, Hikmah, & Hafizoh, 2023),(Setiawan & Soetapa, 2010).

Indonesia is not a country based on a religion.<sup>3</sup> Instead, the country recognizes the existence of six religions: Islam, Protestant Christianity, Catholicism, Hinduism, Buddhism, and Confucianism (Yudianita, Indra, & Ghafur, 2015),(Lubis, 2021). Actually, the issue of belief in a religious teaching is a matter of everyone's heart, and no one can do it any other way. everyone, and no one can be disturbed. However, changing, adding, or eliminating religious teachings that already exist in Indonesia is not a human right that must be respected and protected because it is an act of blasphemy or religious blasphemy. Something or an activity that violates the sacred teachings of a religion is called religious blasphemy (Sabon & SH, 2020),(Aslam, n.d.).

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Indonesia is one of the countries that guarantees every individual citizen in terms of religious freedom, this constitutional guarantee can be seen in article 28e paragraph 1 and 2 of the 1945 Constitution of the Republic of Indonesia (UUD 1945) which states that: "Everyone is free to embrace religion and worship according to their religion, choose education, choose work, choose citizenship, choose a place to live in the country's territory and leave it, and has the right to return and everyone has the right to freedom of belief, express thoughts and attitudes, according to their conscience" (Manulang, Firdaus, & Zulwisman, 2024),(Abubakar, 2017).

Freedom of religion is a human right that carries with it the obligation to respect it as a basic human right that is inherent in the basic obligations of other human beings (Suhaili, 2019),(Basri & Irsyad, 2024). The basic obligation to respect religious freedom must be implemented by truly respecting, protecting, and upholding these human rights. The Republic of Indonesia provides its citizens with freedom of religion and freedom to practice their respective religions. There is no difference between its citizens just because of differences in religion and belief (Muharram, 2020).(Rahmaningsih, 2022).

Technology in this modern era is developing very rapidly and is very sophisticated, both in the fields of information and science.<sup>6</sup> However, every development definitely has positive and negative impacts (Hartono, Hasbullah, & Sutomo, 2022),(Gunawan & Ritonga, 2020). Especially in using social media, where everyone is free to upload or get news easily and quickly. With the advancement of technology as a supporting facility in social media, it is increasingly facilitating interaction between people (Sulistia & Simamora, 2023),(Fatmawati, 2020).

The rapid development of technology and information has made interactions between people increasingly limitless. So that the norms of life and human morals are increasingly being displaced by the acceleration of communication media that do not recognize the territorial boundaries of a country. Currently, we still find many crimes committed through social media (cyberspace), such as online fraud, hijacking of social media accounts, online prostitution, embezzlement, pornography, defamation (Makhmudah, 2019),(Ginting et al., 2021). In fact, we often find people who intentionally or unintentionally post words that are hate speech. One form of the problem that often occurs now is in the aspect of religion, namely religious insults or blasphemy.

Blasphemy is a form of behavioral deviation and a criminal act that is included in the realm of ethnicity, religion, race and inter-group (SARA). This is very sensitive, especially in Indonesia which has various ethnicities, languages, traditions, and different religions. People who insult religion, whether through speech, writing, posting on social media or actions that are done intentionally, either directly or indirectly, can be included in the category of criminal acts of blasphemy. Whatever the cause behind the occurrence of cases of blasphemy, it can trigger emotions or behavior that can result in hostility, division and other negative impacts between religious communities in Indonesia (Oksidelfa Yanto, 2021).

The government, as a party that has an important role in law enforcement in Indonesia, has regulated crimes that occur in cyberspace or social networks through Law No. 19 of 2016, amending Law No. 11 of 2008 concerning Information and Electronic Transactions (ITE) in Article 28 paragraphs (1) and (2). (Ramadan, 2023).

In life, there are many violations of behavior that often cause public unrest. Deviations like this are often seen in religious communities in the form of religious behavior that deviates from the teachings of the religion. One of them is the case of blasphemy in Tebing Tinggi. The incident began when a man named Jannes Kilon Diaz claimed to be a prophet and wanted to disband Islam which was uploaded to social media on March 18, 2024.<sup>10</sup> In this study, the problem studied is how the Islamic criminal law reviews the crime of blasphemy (case study in Tebing Tinggi City) (Son, 2023).

This statement is a serious problem because it touches on a very sensitive aspect of the pluralistic social life of Indonesian society, where religion plays a significant role in the lives of individuals and society. Indonesia, although not a religious state, has a legal system that guarantees freedom of religion, as stated in Article 28E paragraph (1) and (2) of the 1945 Constitution, which guarantees the right of every citizen to adhere to their respective religions and freely express their religious beliefs.

However, in this case, freedom of religion does not mean that someone is free to blaspheme or degrade the religion of others. Blasphemy is considered an act that violates social and moral values that can threaten harmony between religious communities, trigger social conflict, and potentially threaten public order. In this case, Jannes Kilon Diaz's upload on social media is a problem because social media has a wide reach and a very fast impact, so that the blasphemous statement can easily spread to various levels of society. With the existence of the Electronic Information and Transactions (ITE) Law which is regulated in Article 28 paragraphs (1) and (2), Indonesia seeks to combat crimes committed through digital media and provide a legal basis for prosecuting perpetrators who use social media as a means of spreading hate speech or blasphemy (Lumenta, 2024).

This problem is also related to the aspect of Islamic criminal law, where actions such as claiming to be a prophet and insulting other religions are seen as riddah qauliyah (verbal apostasy), which in some Islamic legal views is considered a form of apostasy or serious blasphemy. From an Islamic legal perspective, such actions have certain sanctions that aim to protect the integrity of religion and prevent social damage due to attitudes and actions that insult religious values that are considered sacred. Therefore, this study attempts to analyze how Islamic criminal law and Indonesian positive law provide views and sanctions against acts of blasphemy, especially in the context of handling cases involving social media as a medium for spreading the blasphemy.

## 2. Materials and Methods

This study uses an empirical legal method with a comparative approach to analyze the crime of blasphemy from the perspective of Islamic criminal law and positive law in Indonesia, especially in the case in Tebing Tinggi City. With this method, the study seeks to understand the relationship between applicable legal provisions and social phenomena in society. A comparative approach is used to compare Islamic criminal law with positive law in providing protection for religion and imposing sanctions for violations in the realm of social media. Research data were obtained from primary and secondary sources, namely interviews with legal experts, religious figures, and law enforcement officers in Tebing Tinggi City, as well as relevant legal documents, such as the Electronic Information and Transactions Law (ITE) and provisions of Islamic criminal law regarding blasphemy. Data collection was carried out through in-depth interviews with related informants and document studies, which were then analyzed using descriptive-qualitative techniques. This technique was chosen so that the analysis could explain the meaning behind the actions and social background that influenced this blasphemy case, as well as identify how the theory of Islamic criminal law and positive law in Indonesia can be related to each other in the case. The purpose of this analysis is to reveal the effectiveness of the Islamic criminal law and positive law approaches in dealing with blasphemy in the midst of Indonesia's pluralistic society, with the hope of finding the possibility of harmonizing the two legal systems in maintaining harmony and diversity in society.

## 3. Results and Discussion

### 3.1 *Forms of Blasphemy Committed by Jannes Kilon Diaz in Tebing Tinggi City*

In Jannes Kilon Diaz is a resident from Tebing Tinggi City, North Sumatra.<sup>11</sup> The man made a video and spread it through social media containing a form of blasphemy. In the video that has been widely circulated on Facebook, he claims to be a prophet who was sent to accompany Muslims. "Today is March 18, 2024, I am Jannes Kilon Diaz, I am a prophet who was sent to accompany Muslims. I am a prophet who has a multi super telepathy miracle, namely where my sight, hearing, thoughts, feelings and voice are permanently connected to other humans," said Jannes Kilon Diaz, in starting his video recording.

Jannes continued, he had received guidance from God in the form of a word twice on November 29, 2020 and February 19, 2021. "Today, after going through a long process, the time has come for me to announce to the world to immediately dissolve the Islamic religion in accordance with the guidance from God Almighty that we have received together in two times, namely in the form of revelation or word or spiritual message that was revealed on November 29, 2020 which contained the notabene and February 19, 2021 which contained assimilation," said Jannes.

The film was allegedly recorded at the Kebun Pabatu Golf Course in Tebing Tinggi, Serdang Bedagai Regency, North Sumatra, and is one minute and 45 seconds long. I convey this information for the public interest of mankind. Almighty God, who is all-powerful, is the creator of humans who truly follow His commands. After the video ended, he said thank you.

Jannes was reportedly arrested directly by the Tebing Tinggi Police Security Intelligence Unit (Satintelkam) on Tuesday, March 19, 2024, not long after his video was widely circulated on social media. Jannes was at a motorcycle repair shop near his house at the time. The police said Jannes would undergo an examination at the hospital. used it to evaluate the man's mental health because he was likely experiencing stress.

The Tebing Tinggi Police Criminal Investigation Unit (Satreskrim) named the 35-year-old man as a suspect on Wednesday, March 20, 2024. The determination of the suspect was made by the police based on the case title and examination of witnesses and

suspects. However, there is no clear reason to consider Jannes Kilon Diaz a prophet. The authorities confiscated a lot of evidence, including a white shirt, a pulpit or podium, a telephone, a tripod, and a handsfree.

Case analysis based on the results of interviews at the Tebing Tinggi Police, namely: (a) that it is true that on Tuesday, March 19, 2024, Monday at 17:00 WIB on Jalan Musyawarah, Bulian Village, Bajenis District, Tebing Tinggi City, there was an alleged crime. (b) that the alleged crime above was reported by Fernando F. Sitepu, SH., MH, witnessed by Erric Riza Alamsyah and Erlangga Tambunan, SH (c) that the suspect who committed the alleged crime above was Janes Killndias. (d) that the reporter and witnesses were able to find out about the alleged crime committed by the suspect Janes Killndias after seeing the video post uploaded by the suspect on his FB account with the name NABI JANES.

The alleged criminal case of "any person who intentionally and without the right distributes and/or transmits electronic information and/or electronic documents that are inciting, inviting, or influencing others so as to cause hatred or hostility towards individuals and/or certain community groups based on race, nationality, ethnicity, skin color, religion, belief, gender, disability, mental or physical disability" As referred to in Law No. 1 of 2024 concerning the second amendment to Law No. 11 of 2018 concerning the second amendment to Law No. 11 of 2018 concerning electronic information and transactions which occurred on Tuesday, March 19, 2024 at around 17:00 WIB on Jalan Musyawarah, Bulian Village, Bajenis District, Tebing Tinggi City with the reporter Fernando F.Sitepu SH, MH, Victim of the Unitary State of the Republic of Indonesia, and the reported party Janes Killndias.

According to Dr. H. Muhammad Hasbie Ashsiddiqi, S.Ag,MM,M.Si,CHMQ., C.PST.C.NS. Who is the Secretary General of the Indonesian Ulema Council of Tebing Tinggi City who was appointed as an expert witness, he explained: (a) What is meant by blasphemy against religion is an action, be it an act or statement that can be categorized as insulting, blasphemous, causing multiple bad interpretations of a person's beliefs and convictions. (b) What is meant by blasphemy against religion is an action, be it an act or statement that can be categorized as insulting, blasphemous, or causing multiple bad interpretations of a person's beliefs and convictions, religious figures, to the media of a religion that is considered holy or sacred by adherents of a religion or belief. (c) Prophet Muhammad SAW is the messenger of Allah SWT and the last prophet of Muslims and the seal of the prophets of Allah Qs. Al -Ahazab (33):40. (d) Islamic teachings are teachings that cover all aspects of human life and are pure, high and perfect teachings. Qs. Al Maidah (5):

Islam is a religion of rahmatan lil alamin which regulates worship with the creator (hablumminallah) and relationships with humans (hablumminannas), both with Muslims and with other people. A person must practice the basic teachings contained in the Islamic religion after embracing it. The actions taken by Jannes Kilon Diaz are certainly very contrary to the Islamic religious creed which recognizes the Prophet Muhammad SAW as the Messenger of Allah. In accordance with the hadith of the Prophet Muhammad SAW:

مَرَّ رَضِيَ هَلَّا عَنِ ابْنِ أَنْ أَلِ إِلَهَ إِلَّا هَلَّا وَأَنْ مُمْ message شَ هَا دَقِيسَ : عَ عَلَى عَن Allah's blessings

"From Abdullah bin Umar radhiyallahu 'anhuma, he said: Rasulullah shallallahu 'alaihi wa sallam said: "Islam is built on five foundations: testifying that no one has the right to be worshiped but Allah and Muhammad is the messenger of Allah; perform prayers; pay zakat; perform the Hajj (to Baitullah); and fasting during Ramadan." (HR. Bukhari and Muslim)

It is very contradictory to the hadith above because in Islam it is believed that the Prophet Muhammad SAW was the messenger of Allah SWT and he was also the last

prophet or the final prophet. This is explained in the word of Allah SWT QS Al Ahzab verse 40 which reads:

نَمَاكَانُ مُؤْمِدًا أَبَّ أَحَدِمُنْ رَجَالِكُمْ وَلَكِنْ أَرْسُولَ اللَّهِ وَخَاتَةَ الْإِنِّ ابْنَ وَكَانَ  
 هُيْبِكُ لَشَيْءٍ عَلِيٍّ مَا لِلَّ

"Muhammad was never the father of a man among you, but he was the Messenger of Allah and the Seal of the Prophets. Allah knows all things." (QS. Al-Ahzab (33): 40)

This verse explains that the Prophet Muhammad SAW was the last prophet and apostle recorded in the Qur'an with the expression Khataman Nabiyyin. If someone claims to be a prophet after him, then he can be said to be a false prophet.

### 3.2 Review of Islamic Criminal Law on the Crime of Blasphemy Committed by James Kilon Diaz

"Islamic Criminal Law" is a translation of the term "fiqh jinayah". Jinayah Fiqh comes from the words "fiqh" and "jinayah". "Pronunciation of faqiha, yafqahu fiqhan" is an Arabic phrase that refers to the meaning of fiqh. According to Abdul Wahab Khallaf's definition, fiqh is a collection of practical Sharia laws taken from detailed postulates. In language, "jinayah" is a term used to describe the results of a person's bad deeds and their efforts to carry them out. However, the term "jinayah", proposed by Abdul Qadir Audah, refers to actions that are prohibited by sharia', whether related to life, property, or anything else. Jinayah fiqh includes all legal regulations regarding criminal acts or criminal acts committed by mukallaf (people who have legal responsibility) as a result of understanding the detailed legal arguments from the Al-Qur'an and Hadith.

Criminal acts related to religion can be divided into criminal acts of deviation from religion (heresy), criminal acts of blasphemy, criminal acts of defamation, and criminal acts of atheistic propaganda, in addition to criminal acts related to religion. Insulting God, the Prophet Muhammad SAW, the prophets mentioned in the Qur'an, and the Qur'an itself are considered religious crimes in Islam. In Arabic, religious violations are called jinayah or jarimah. Insults, harassment, defamation, damaging, or mocking religion are religious crimes.

A blind man who owned a slave girl insulted and taunted the Prophet Muhammad SAW, stabbed the slave girl, then told the story to the Prophet. Furthermore, the Prophet SAW stated, "Bear witness that the blood (of female slaves) is halal." In the book of Sunan Abu Daud, Ibn Abbas narrated this hadith with authentic sanad. The following is a quote from the hadith:

According to Ibn Abbas, there was a blind man who insulted the Prophet Muhammad SAW through his slave girl. The blind man asked the slave girl not to insult him, but she ignored him. One night, the slave girl again denounced the Prophet Muhammad SAW. Then, the blind man took a knife and covered the little child in front of him with blood. The Companions told the Messenger of Allah about what happened last night before the next day. When people gathered, the Prophet Muhammad SAW said, "I ask in the name of Allah, who is the man who killed (the female slave), and I will give him his due unless he comes to me." The blind man faced the Prophet Muhammad SAW with a trembling body, and the people made way for him. When he arrived before the Messenger of Allah, he said, "I am the owner of that slave girl, she criticized you even though I tried to prevent her." He really loves me, and I have two children with him. "It's just that last night he criticized you again, finally I took a small knife and stabbed him until he died," said the Prophet Muhammad SAW after hearing the story of the blind man and said, "Bear witness that the blood (of female slaves) is halal" (HR . Abu Daud).

In another hadith it is also stated that people who commit religious violations or insult the Prophet Muhammad SAW have the right to be killed. In the hadith narrated by Jabir, Rasulullah SAW said, "I heard Jabir bin 'Abdillah ra say that Rasulullah SAW said: who is willing to kill Ka'ab bin Asyraf because he has hurt Allah and his Apostle? Then

Rasulullah SAW stood up and asked Muhammad bin Musalamah, "Do you want me to kill him?"

In the above cases, the scholars conducted *ijtihad* in determining the law for those who insulted and blasphemed the Prophet Muhammad SAW. Insulting him is the same as blaspheming religion, because the Messenger of Allah is a representation of Islam and no one may insult him or tarnish the teachings he brought. The case of insulting the Prophet Muhammad SAW shows that the act is strictly prohibited, so that the perpetrator will receive a severe punishment, namely suicide.

Blasphemers and blasphemers, also known as blasphemers, can be subject to criminal penalties, regardless of their religion. No one was punished for apostasy during the time of the Prophet Muhammad. People who were executed at that time were for committing other crimes. A person who refused to pay *zakat* during the time of the first caliph was considered more of a rebellion against the central government than an apostate. Criminal executions of those considered apostates only occurred during the Umayyad and Abbasid governments. According to Nawawi (2007), Islam does not require someone to impose Islam by force or violence; instead, it gives people the freedom to practice whatever religion or belief system they choose.

Most scholars agree that a Muslim who insults the Qur'an consciously and realizes that he has insulted the Qur'an is an apostate and must be sentenced to death. In the Book of al-Majmu', Imam al-Nawawi, one of the great scholars of al-Syafi'iyyah, said, "The scholars agree that whoever insults the Qur'an or something from the Qur'an, or the mushaf, or throws it into a place of dirt, or denies something that comes from the Qur'an, whether it is law or information, or denies something that has been established in the Qur'an, or establishes something that has been denied (Syarif, 2023).

In Islam, the entire order of religious teachings is based on *الضروريات الخمس* (the main objectives of the five *الخمسة*) (which are very basic and need to be considered by every Muslim, namely *hifdz al-din* (maintaining/protecting religion), *hifzu al-nafs* (maintaining/protecting the soul), *hifzu al-aqli* (maintaining/protecting reason), *hifzu al-nasl* (maintaining/protecting descendants) and *hifzu al-mal* (maintaining/protecting property). Of the five main objectives, *hifzu aldin* (maintaining/protecting religion) is the highest level of objective (Mardika, 2020).

The study of Islamic criminal law is known in sharia science as *jinayah* or *jarimah*. Some *fuqaha* (sharia experts) distinguish between *jarimah* and *jinayah*. *Jarimah* is interpreted as all types of Islamic criminal violations. While *jinayah* is only for violations or crimes that involve the soul or limbs. In *jarimah*, criminal acts are classified according to the severity of the punishment into three types, namely *hudud*, *qishas*, and *ta'zir*. In this case, someone who commits insults to religion is subject to *jarimah ta'zir*, which etymologically means rejecting or preventing, in terminology it is a punishment whose level of measure is not mentioned by sharia (Islamic law) and this is entirely borne by a businessman/judge. In the application of cases of criminal acts of blasphemy committed through social media, it is classified as a *ta'zir* crime, considering that the media used by the perpetrator is a social network which is not discussed by sharia and applies to anyone who lives in the territorial area of a country that applies the concept of Islamic criminal law, both Muslims and non-Muslims (Hasdiana, 2018).

The word *riddah* comes from the word *radda*, which etymologically means turning back or is said to turn away from something to another. Meanwhile, according to terminology, the term *riddah* has the following meaning: turning back to disbelief from a state of faith. The term *riddah* is a more appropriate term to indicate a person's return to disbelief, and the *isim fa'il* of the word *riddah* is apostate (the perpetrator of the *riddah*), so it is known as the term apostate in Indonesian. In the literature on the discussion of *fiqh*, the definition of *riddah* is returning (to disbelief) from Islam or separating oneself from the Islamic religion that one adheres to. Based on this explanation, *riddah* can be

likened to the crime of blasphemy in Islamic criminal law. In the dictionary of legal terms, the word criminal act is an act that violates the Criminal Code and because it is contrary to the Law which is carried out intentionally by a person who can be held accountable. The forms of criminal acts of blasphemy that are defined by Jarimah Riddah are divided into three types, namely Riddah Qauliyah (words), Riddah Fi'liyah (deeds) and Riddah Qalbiyah (heart).

Riddah qauliyah is a term in Islamic law that refers to a person's action of leaving Islam through speech or words. Literally, "riddah" means apostasy or turning away from Islam, and "qauliyah" comes from the word "qaul," which means speech. Thus, riddah qauliyah is a type of apostasy that is carried out verbally, namely through statements or words that clearly express rejection of Islam or denigrate the basic teachings of the Islamic religion.

An example of riddah qauliyah is if someone openly denies the pillars of faith or the pillars of Islam, or makes remarks that insult or belittle Allah, the Prophet Muhammad, or fundamental Islamic teachings. In classical Islamic law, riddah qauliyah is a form of serious violation that can be subject to certain sanctions, depending on the context and jurisdiction of the applicable Islamic law.

#### 4. Conclusions

According to Islamic criminal law, the form of criminal act of blasphemy can be likened to the crime of riddah and is punished according to the punishment of riddah, namely as the story explains that someone who insults and harasses the Prophet Muhammad SAW, then he is killed as a result of his actions. Meanwhile, in Indonesia, positive law also regulates blasphemy, especially in the application of Article 156a (Criminal Code) concerning blasphemy. Seeing the criteria regarding the crime of blasphemy that is prohibited or stated in the provisions of the law, it is stated that the legal sanction against the perpetrator of blasphemy is a maximum of five years in prison.

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