
Drug Abuse In The Perspective Of Islamic Law

Adi Priyono

Postgraduate of Syarif Hidayatullah State Islamic University of Jakarta, Indonesia

*Corresponding Author

Email : adi.priyono20@mhs.uinjkt.ac.id

Abstract

This study aims to examine drug abuse from the perspective of Islamic law. This research is library research using a normative-theological approach. The theological-normativity side lies in the norms of Islamic law (fiqh jinayah) which are derived from revelations both from the Qur'an and from the Prophet's Hadith. Because the approach in this research can be classified as revelation research. The results of this study indicate that Islamic law against drug abuse (al-mukhaddirat) are all substances that if consumed will damage the physical and the mind, sometimes even making people crazy or drunk. The basic concept of drugs in Islamic law is based on khamr in the letter al-Maidah verse 90 which is condemned to be forbidden for consumption. The prohibition of drug abuse can be understood with the naqli argument according to the sources of the Qur'an and Hadith as well as the aqli argument based on a study of the dangers of drug consumption that cause prolonged adverse effects.

Keywords: *Drugs, Drug Abuse, Islamic law.*

INTRODUCTION

Drug abuse (narcotics, psychotropics, and other addictive substances) has become a social problem that is often found today (Suciowati, 2020). Victims of this abuse include various groups. What is worrying is that many young people who are expected to be the nation's next generation are involved in this problem. Drug abuse can involve a variety of individuals with different social and economic backgrounds.

The National Narcotics Agency (BNN) released data on the 2019 National Prevalence Rate for Drug Abuse, which showed that 2.40% of the Indonesian population, or the equivalent of 4,534,744 people had been exposed to drugs (Badan Narkotika Nasional, 2020). As many as 3,419,188 people have used drugs in the past year. Most of those exposed are addicts or regular drug abusers who incidentally are the nation's hopeful young generation, especially the male gender. In addition, people who live in urban areas tend to have higher exposure (Badan Narkotika Nasional, 2020). The following is a recapitulation of prevalence rates in each province in Indonesia. It is seen these cases are found in all provinces in Indonesia. Some provinces recorded figures that were much higher than other provinces, such as DKI Jakarta, Aceh, South Sumatra, East Java, Central Java, and DI Yogyakarta. What is more concerning is the data that most of these users have used drugs for at least one year until the time the data collection was conducted. This proves that these users are not just trying but are already at the level of continuous users. The negative effects of such use will certainly accumulate (Ahmad Ropel, 2020).

Table of Drug Prevalence Figures in All Provinces in Indonesia

No.	Provinsi	Pernah Pakai		Pakai 1 Tahun Terakhir	
		Estimasi N	%	Estimasi N	%
1.	Aceh	82.415	2,80%	56.192	1,90%
2.	Sumatera Utara	1.707.936	7,00%	1.585.941	6,50%
3.	Sumatera Barat	85.204	1,50%	63.903	1,10%
4.	Riau	96.452	0,90%	55.115	0,50%
5.	Jambi	7.271	0,50%	5.453	0,40%
6.	Sumatera Selatan	359.363	5,50%	326.694	5,00%
7.	Bengkulu	19.698	1,30%	13.789	0,90%
8.	Lampung	31.811	0,90%	31.811	0,90%
9.	Bangka Belitung	4.145	0,90%	2.961	0,60%
10.	Kepulauan Riau	4.620	0,40%	3.080	0,30%
11.	DKI Jakarta	195.367	4,90%	132.452	3,30%
12.	Jawa Barat	95.259	0,60%	68.042	0,40%
13.	Jawa Tengah	341.392	2,30%	195.081	1,30%
14.	DI Yogyakarta	29.132	3,60%	18.082	2,30%
15.	Jawa Timur	1.038.953	2,50%	554.108	1,30%
16.	Banten	48.664	1,40%	31.489	0,90%
17.	Bali	10.779	0,60%	4.312	0,30%
18.	Nusa Tenggara Barat	9.426	0,50%	4.713	0,30%
19.	Nusa Tenggara Timur	4.875	0,10%	4.875	0,10%
20.	Kalimantan Barat	33.550	0,80%	16.775	0,40%
21.	Kalimantan Tengah	10.108	0,70%	6.317	0,40%
22.	Kalimantan Selatan	79.370	1,80%	57.723	1,30%
23.	Kalimantan Timur	16.963	0,50%	4.241	0,10%
24.	Kalimantan Utara	5.959	1,70%	4.172	1,20%
25.	Sulawesi Utara	17.239	0,80%	14.366	0,70%
26.	Sulawesi Tengah	61.857	3,30%	52.341	2,80%
27.	Sulawesi Selatan	77.469	0,90%	55.335	0,60%
28.	Sulawesi Tenggara	30.570	1,00%	22.927	0,80%
29.	Gorontalo	4.307	1,00%	2.871	0,70%
30.	Sulawesi Barat	2.810	0,80%	2.248	0,70%
31.	Maluku	4.989	0,20%	4.989	0,20%
32.	Maluku Utara	691	0,20%	691	0,20%
33.	Papua Barat	4.998	0,30%	4.998	0,30%
34.	Papua	11.102	0,30%	11.102	0,30%
	Indonesia	4.534.744	2,40%	3.419.188	1,80%

Sumber : Survei Penyalahgunaan Narkoba BNN – LIPI, 2019.

This loss of property and life can certainly continue to swell year after year. Problems caused as a result of drug abuse are also commonly found in physical and mental health, including disturbing and even damaging the human mind or brain, especially those related to analytical power, synthesis power, analogy power, logical thinking, reasoning power, auditory hallucinations and vision, anticipation and memory power, damage family relations, increase crime rates, increase traffic accidents, other acts of violence, reduce productivity and nationalism of the younger generation, harm the state and even the country can be re-colonized even though it is not in physical colonial form. Feelings of fear, panic, This, of course, affects the daily activities that should be done so that it does not go well (Badan Narkotika Nasional, 2020).

Laws in Indonesia that regulate drugs can be found starting from Law Number 35 of 2009 concerning Narcotics, Law Number 5 of 1997 concerning Psychotropics, and various legal regulations derived from these laws. In essence, these legal regulations aim to create an orderly and prosperous Indonesian society that is free from various crimes, especially drug abuse. This shows that the eradication of all acts of drug abuse has become an orientation now and in the future as a way to achieve legal stability and public welfare.

Islamic law, in this case, *fiqh jinayah*, basically has the same aims and objectives as the legal view in Indonesia. To achieve this goal, positive law in Indonesia and Islamic law must have the same view on drug abuse .

The term drug is not found in the Qur'an or the hadith narration by the Prophet Muhammad. The emergence of the term narcotics is suspected to have been in 1998 when the use or use of these types of narcotics and psychotropic substances was discovered. Therefore, the term drugs began to be known in Indonesia to explain this phenomenon. In principle, any type of food, drink, or whatever is consumed by a drunken human, then it is illegal. This aspect of mind maintenance is a part of Islamic law (*maqasid al-shari'ah*). One of the indicators in it is the prohibition of liquor (*khamr*) and everything that intoxicates. Therefore, the prohibition of drugs is reviewed through this principle (Siregar, 2019).

Drugs can have long-lasting effects when used for a long period. The effect varies depending on each type of drug. Symptoms of addiction will appear in every drug class. Depressants can cause prolonged drowsiness and apathy. Meanwhile, the stimulant group will continuously stimulate body functions so that users tend to be hyperactive and irritable (Halim, 2018). Hallucinogens in particular will continue to cause hallucinations and perceptual distortions. Therefore, the use of drugs is prohibited for the general public. These prolonged effects can cause victims with high mortality rates. This incident is not only found in Indonesia but also in other countries in the world.

The prohibition of drug consumption is determined by considering the number of adverse effects produced, both for users and the community. Therefore, the affirmation of this prohibition needs to become a norm to be obeyed by the community. The norm with the most binding sanctions is the legal norm so that legal regulations prohibiting drug abuse are drawn up. In essence, the law is a reflection of values that are believed by the community and are realized as an institution in life. The rule of law can be binding if it fulfills the element of determination explicitly and contains the contents of the law itself. Therefore, the law governing drug abuse must contain clear prohibitions along with a description of the conditions and sanctions so that they can be binding when enacted (Putra & Ahyani, 2022).

Drug abuse occurs when there is a misappropriation of drug use beyond its actual use. In the medical world, drugs themselves, when understood in terms of the concept of narcotics and psychotropic, can function as part of treatment therapy. The consciousness-lowering effect of these substances is useful in medical procedures, especially large-scale ones such as surgery. Giving narcotics and psychotropic can help relieve pain in the process of taking medical action. This too cannot be done haphazardly. There are certain limitations in the administration of types and doses of narcotics and psychotropic substances for medical purposes.

RESEARCH METHODS

This research is library research (Amrin, 2022) using a normative-theological approach . The theological-normativity side lies in the norms of Islamic law (*fiqh jinayah*) which are derived from revelations both from the Qur'an and from the Prophet's Hadith. Because the approach in this research can be classified as revelation research.

RESULTS AND DISCUSSION

Classifications of Drugs based on the Rules of Law

The National Narcotics Agency (BNN) is guided by the Narcotics Law in classifying narcotics into several groups, namely Group I, Group II, and Group III. Not all of these narcotics can be used for medical purposes. Class I drugs include marijuana, opium (*Papaver omnivore*), and coca/cocaine plants. This group is prohibited even for medical purposes because of the high risk of causing addiction effects. This effect makes it difficult for users or even unable to escape from the desire to consume them. Meanwhile, the accumulation of narcotic substances in the body for a prolonged period can be fatal to the point of death (Suciowati, 2020).

Narcotics Group II is a group that can be used for medical purposes with a limited doctor's prescription. This group includes about 85 types such as morphine, heroin, alphaprodina, and several other types. Some of these narcotics are derivative products of Group I narcotics such as morphine and heroin in the form of opium derivatives. It has fewer side effects than opium but is still harmful to the body if not in the right dosage. This group can still cause dependence so prescriptions by doctors are also closely monitored.

Narcotics Group III has many types with lower side effects than the two previous groups. This group is also more widely used in medicine. But its circulation is still closely monitored to prevent misuse.

Classification also occurs in psychotropics. Class, I psychotropic substances are also very limited in knowledge and are not used even in medicine. This group includes LSD, DOM, ecstasy, and several other types with drastic mood swings to hallucinations. The fatal result of its use is death.

Class II psychotropics have a lower addiction rate but are still dangerous and are most often abused. This group has been used on a limited basis in medicine, such as amphetamine, methamphetamine, and other substances. A lower effect than Group II is Group III with similar functions, such as Mogadon, amobarbital, and several other substances.

The psychotropic group is divided into Group IV, more than the narcotics group. Group IV psychotropics have the lowest risk of addiction. Treatments made from these substances are more widely found and easier to obtain. But if consumed continuously, the risk of addiction will still arise and abuse occurs. In essence, both narcotics and psychotropics are considered to have benefits in the medical field only with the right dose and controlled circulation. Therefore, the formulation of the law as a reference in the prohibition of drugs must pay attention to these things (Amalia et al., 2020).

Islamic Law Perspective on Drugs

The legal point of view in discussing the prohibition of drug abuse can be seen from the perspective of Islamic criminal law. The emergence of the prohibition on drugs based on the interpretation of the law of *khamr* which is equally intoxicating or decreasing awareness still needs to be analyzed further regarding the forms of abuse and sanctions. Prohibition is still at the level of the concept of defining *khamr*, while drugs themselves have metamorphosed into various types, derivatives, and different effects such as narcotics, psychotropics, and other addictive substances that require different handling (Halim, 2018).

Islamic law includes 3 principles, namely general principles, principles of criminal law, and principles of civil law. When elaborated, general principles still include the principle of justice, the principle of legal certainty, and the principle of expediency (Siregar, 2019). Meanwhile, the principles of criminal law include the principle of legality, the principle of prohibition of transferring the blame to others, and the principle of presumption of innocence.

Finally, the principles of civil law include more principles, namely the principle of kinship, the principle of permissibility or permissible, the principle of virtue, the principle of benefiting life, the principle of freedom and volunteerism, and many other principles. When examined on the relationship between drugs and *khamr*, Islamic law that is more appropriate to provide a view on drug abuse is criminal law. Islamic criminal law is a law that contains disciplines about sharia which are based on faith, Islam, and ihsan (Putra & Ahyani, 2022).

In particular, drugs are in the scope of the science of sharia called *fiqh* (Putra & Ahyani, 2022). This law is sourced from Allah's regulations in the Qur'an and hadith. *Fiqh* in regulating drugs is related to the charge of crime, violations by humans, and punishments that are threatened on the perpetrators so that they are included in *jinayah fiqh*. Quoted from HA Djazuli that drugs as substances with the same interpretation as *khamr* are included in the material of Islamic criminal law (Hasan, 2012).

Based on the previous explanation, the perspective of Islamic law in the study of drug abuse is clearly at the level of Islamic criminal law (*fiqh jinayah*). The prohibition of drug abuse also seeks to achieve what is aspired by Islamic criminal law in its core legal position, namely obedience to Allah and the Messenger of Allah, the implementation of world security, and a form of responsibility for all human actions. Someone who is under the influence of drugs will have difficulty controlling their thoughts and actions because they are in a phase of decreased consciousness. This can result in things that are difficult to account for consciously by the person and can have negative consequences. Broadly speaking, this will cause turmoil in the dynamics of relations in society that requires an orderly life order. Therefore, the enforcement of *jinayah fiqh* against drug abuse is part of the responsibility of Muslims to participate in maintaining and avoiding this violation (Ariyanti, 2017).

The basic concept of drugs from the point of view of Islamic law refers to the provisions of *khamr*. According to 'Abdullah ibn Ahmad ibn Mahmud al-Nasafi, there are 4 (four) verses of the Qur'an in several different suras relating to *khamr*. The first is the letter al-Nahl verse 67. The second is listed in the letter al-Baqarah verse 219. The third is the letter an-Nisa' in verse 43, and the fourth is found in the letter al-Maidah verses 90-91. Meanwhile, the opinion of 'Abdullah Ibn 'Umar al-Syabi. Mujahid, Qatadah, Rabi' Ibn Anas, and Abdurruhman Ibn Zaid Ibn Aslam, as quoted by Muhammad Jamaluddin al-Qasirni; that the letter al-Baqarah verse 219 is the first verse related to *khamr*. then followed by the letter an-Nisa' verse 43. After that came down the letter al-Maidah verses 90-91 which became the last explanation related to *khamr* (Ibnu Katsir, 2018).

Khamr is one of the worst sins and its dangers threaten personal life and society. Therefore, Allah forbids *khamr* amid the habits of the Arab people who love *khamr* and regard it as a symbol of strength and chivalry. It is emphasized that *khamr* is vile and corrupts the mind. In the Qur'an, The prohibition of *khamr* is mentioned *mutadarrij* or gradually in several different suras, but in the Qur'an itself is not mentioned and it is not explained what the meaning of *khamr* is. Quran only mention / prohibits the consumption of *khamr* as stated in verses 90-91 of surah al-Maidah (Departemen Agama RI, 2014).

Anything that can intoxicate from anything, even if the method of use is not drunk, the law is haram just like the law of *khamr*. The hadiths below explain this. This means that other methods of use, such as smoking, injection, and various other media that aim to introduce the intoxicating substance into the body, are still considered haram. The majority of scholars call something that can eliminate the awareness of reason which is used by not drinking it with the term "al mukhaddirat", such as "al-banj" (certain types of plants that can be intoxicating), hasyish (marijuana), and so on. translation of the said hadiths.

1. Hadith narrated by Imam Muslim and owner of the Four Sunun from Abu Hurayrah ra: *Khamr was made from these two trees, then the Messenger of Allah showed them the vines and dates.* (Muslim). This hadith explains that the basic ingredients of *khamr* are made from pure grape juice from dates, wheat, or other materials.
2. Atsar narrated by Imam Abu Dawud from Shabi from Abdullah Ibn Umar from Umar ra said: The Messenger of Allah said: *"It has been revealed that there are five forbidden khamr: from grapes, dates, seeds, wheat, wheat flour (wheat) and from corn. Khamr is what corrupts the mind"* (HR Abu Dawud).
3. Hadith narrated by Abu Dawud, from Nurman bin Bashir ra: *"Indeed, from grapes (can be made) khamr, from dates (can be made) khamr, from honey (can be made) khamr (can be made) khamr, from wheat seeds (can be made) khamr, and from wheat flour (wheat) (can be used as) khamr."* (HR Abu Dawud)
4. Hadith narrated by Imam Turmudzi from Jabir Ibn Abdillah: *"From Jabir bin Abdillah: that the Messenger of Allah said: Everything that intoxicates in (amount) a lot, then the slightest is forbidden (the law) (HR Turmudzi.*
5. Hadith narrated by Imam Abu Dawud from Umm Salamah: *"The Messenger of Allah forbade anything that intoxicates and makes the body sluggish/unconscious"* (HR Abu Dawud).
6. Hadith narrated by Imam Muslim from Ibn Age: *"From Ibn Umar ra, the Messenger of Allah said: "Every intoxicant is kahmar and every intoxicant is haram (HR Muslim).*

Drugs whose use is taken by mouth, for example, are ecstasy pills. There are also types of drugs that are smoked such as *hashish*, heroin, and so on. Some drugs are used through needles such as morphine. Although the names and types of drugs vary, in the view of Islamic law their legal status is the same as the law of *khamr* based on some of the words of the Prophet. At the time of the Prophet Muhammad and his companions, the basic ingredients used to mix *khamr* were limited to certain fruits such as grapes and honey earlier. Meanwhile, the basic ingredients used to make drugs at this time are not only in the form of certain plants that can or have an intoxicating/intoxicating effect, but some of the basic ingredients are processed using chemicals that have an intoxicating effect. These materials are the forerunners of synthetic drugs that are not purely of plant origin. The variety of types and effects of synthetic drugs is more diverse than the real thing. The development of new types of drugs also continues to grow so the rule of law is required to always develop to accommodate these new types.

Islamic law based on the interpretation of *khamr* can be maintained even though new substances emerge. This is because as long as the new substances are intoxicating, their legal status in the eyes of Islamic law will always be haram. However, in criminal law cases such as the one in Indonesia, the emergence of new types of drugs that are not or have not been in the legal formulation will result in a legal vacuum. This means that any action or misuse of these substances will be difficult to prove legally because there is no proper legal formulation governing it. As a result, the perpetrator will not be able to be snared by any sanctions as long as the new type of drug does not have a legal umbrella that regulates it. Therefore,

Sanctions for Drug Abusers according to Islam

All rules in Islamic teachings, whether they are commands, prohibitions, permissibility, suggestions or something to be avoided, are aimed at the benefit of human life. There is no command except for good, and there is no prohibition unless the act will destroy (al A'raf verse 157). This is not merely a *naqli* argument, but can also be studied by reason and the mind as a human effort to find *aqli* propositions. The development of science from the Islamic perspective is obtained through a combination of *naqli* and *aqli* arguments by Islamic thinkers

and scholars since ancient times. The study of drug law and its abuse cannot be separated from these two arguments. Science has proven the damage caused by drug abuse in society. If this damage is explained as a punishment for violating Allah's prohibition, then the result of the damage that has occurred has become a separate sanction for the perpetrators. Prolonged bad effects on the body are the first sanctions the perpetrator has received since he decided to commit the offense (Halim, 2018).

There are five main things for the benefit that must always be maintained and maintained, because if not, human life will be damaged, chaotic and uncertain. The five main things are called the dharuuriyat needs which include the safety of the soul (soul, body, and honor), the safety of the mind, and the safety of lineage/descendants. the safety of property ownership, and the safety of the implementation of religious teachings (Rahayu et al., 2022). Every action and action that will damage the five things must always be prevented and prevented; on the contrary, every activity that will maintain, maintain, and sustain its fertility must always be strived for and preserved, Islamic Shari'a has forbidden *khamr* more or less since 14 centuries ago and this is related to Islam's appreciation of the human mind which is a gift from Allah SWT that must be preserved as well as possible. good and it turns out that in modern times like today people are starting to realize that *khamr* brings harm (negative impact) to human survival itself (Ariyanti, 2017).

The Qur'an does not explicitly contain clauses or provisions regarding legal sanctions imposed on consumers or drug users. What is listed is the prohibition of consuming *khamr*. In general, sanctions in Islamic criminal law are known by several terms, including *qishas*, *diyat*, *had*, and *ta'zir*. The criminal law is known as *jarimah* which is divided into *hudud* and *ta'zir* fingers. *Jarimah hudud* itself is taken from the word *had* which is a *fiqh* term with the closest meaning, namely the provisions regarding sanctions against perpetrators of crime. *Jarimah hudud* is a crime against the law of Allah SWT and the Messenger of Allah, so it is subject to sanctions . Various types of hadd depend on each crime committed, ranging from adultery, drinking *khamr*, stealing, killing, and various other crimes. Some examples of hands include amputation, stoning, imprisonment, exile, and crucifixion. *Jarimah hudud* is different from *Jarimah ta'zir*. The limits of punishment in *jarimah hudud* are mentioned in the Qur'an and Hadith. Meanwhile, *Jarimah ta'zir* is based on the decision of the judge/ruler (Hasan, 2012).

Drug users/consumers who are equated with consumption of *khamr* are offenses subject to *hudud* finger sanctions. This is already a serious crime so the punishment is heavy. Punishment of beatings and or flogging is included in the form of punishment that can be given to perpetrators of drug abuse. It also aims to provide a deterrent effect considering the magnitude of the adverse effects caused by drug abuse.

In more detail, the description of the *jarimah hudud* for drug abusers can be seen in several hadiths narrated by Bukhari, Abu Dawud, and Muslim. In the first hadith narrated by Imam Ahmad Bukhari and Abu Dawud from Abi Hurayrah ra, it is not stated with certainty how many strokes were carried out by the companions who were present at that time in giving punishment to those who drank *khamr*. Rasulullah SAW only ordered the companions who were there to beat him. Among the friends present some beat the alcoholic drinker by using the means to hit in the form of footwear, his own hands, and clothes.

Here is the meaning of the hadith. "Once upon a time a person was brought to the Prophet Muhammad, who had been drinking (*khamr*), then the Prophet Muhammad said (to a friend who was with him); Hit that person, Abu Hurairah said: some of us hit him with his hands Some of them hit with their shoes on, and some of them hit with their clothes. After that person passed, some people said; may Allah bring humiliation to you. Then the Prophet SAW

said; don't say that. Don't help people. it's to the devil". (Narrated by Ahmad Bukhari and Abu Dawud).

The second hadith was narrated by Imam Bukhari from 'Uqbah ibn al Harith. In the hadith it is not explained explicitly (explicitly) how many times Nu 'aiman or Ibnu Nu 'aiman were given a beating about cases of drinking *khamr*. In the hadith, it is only explained that the Prophet's order to a friend who was there at that time to beat the person, and one of the friends who also beat him, namely Uqbah Ibn al Harith, he (Uqbah Ibn al Harith) participated in hitting Nuaiman/Ibnu Nu'aiman by using footwear as a batting cover.

The following translation is the second hadith: *"Once the Prophet Muhammad saw a person who drank alcohol, named Nu'aiman or Ibn Nu'aiman, then the Messenger of Allah ordered the person who was watching to beat the person, 'Uqbah Ibn al Harith said: then the person was beaten by the people present at the time, and I was among those who beat him with footwear". (Narrated by Bukhari).*

The third hadith narrated by Imam Bukhari and Muslim from Anas Ibn Malik, provides an explanation that the Messenger of Allah once gave punishment to people who were related to cases of consuming *khamr* by using the fronds of date palm leaves as a means of beating. It is not stated in the hadith how much/number of lashes the Messenger of Allah (saw) did to people who consumed *khamr*. Until one day when Abu Bakr al-Shiddiq appeared to replace the Messenger of Allah as caliph, he imposed lashes against alcohol drinkers forty times. The hadith narrated by Imam Bukhari and Muslim from Anas Ibn Malik was used as the basis by the Shafi'iyah circles in applying sanctions for alcohol drinkers, namely by hitting forty times. Shafi scholars state that the punishment imposed on *khamr* drinkers is in the form of forty times of flogging, arguing that the practice that was applied by the prophet Muhammad SAW is syar'i evidence.i who should not be left with other actions. Meanwhile, an ijma' is considered ineffective if it contradicts the practice/deeds of the Prophet Muhammad.

Here is the translation of the third hadith: *"The Prophet Muhammad SAW used to whip/whipped (against alcohol drinkers) using date palm leaf midribs and footwear, as well as Abu Bakr continued the lashing (against alcohol drinkers with forty lashes)". (Narrated by Bukhari and Muslim).*

The fourth hadith narrated by Imam Muslim from Anas Ibn Malik, only mentions the amount or number of lashes that the Messenger of Allah (PBUH) had applied to alcohol drinkers. The number of lashes is forty times using footwear and date palm leaves as a means of beating. This practice (the penalty for drinking *khamr* as much as forty times) was then continued by Abu Bakr al-Shiddiq when he became caliph.

Here is the fourth hadith in translation: *"That the Prophet Muhammad SAW once hit a person who related to the problem of khamr with footwear and date palm leaves forty times, and Abu Bakr also lashed forty times (against those who drink khamr)." (HR Muslim)*

The fifth hadith was narrated by Imam Muslim, Ahmad, Abu Dawud, and Turmudzi from Anas Ibn Malik. The Messenger of Allah (saw) once beat a drinker of *khamr* forty times by using two palm leaf midribs as a means of beating, this practice (the sanction of lashing forty times for drinkers of *khamr*) was then continued by Caliph Abu Bakr al-Siddiq. However, when the reins of government shifted to Sayyidina Umar ra, the application of flogging sanctions for *khamr* drinkers was doubled to eighty times.

Here is the fifth hadith in translation: *"Once upon a time it was brought to the prophet Muhammad SAW someone who has drunk khamr). then the prophet whacked/whipped the person with two palm leaf midribs forty times. Then Anas said; Abu Bakr too do the same thing (flogging the drinker of khamr forty times). When Umar (became caliph), he consulted with humans (among friends), then Abdurrahman said the lightest had/sanction was eighty times,*

then 'Umar ordered to swallow the had (against alcohol drinkers forty times) ". (HR Muslim . Ahmad. Abu Dawud and Turmudzi).

Based on the hadiths above, it appears that there are substantial differences with regard to the application of sanctions are applied to alcohol drinkers and the amount of lashing sanctions against wine drinkers. On the one hand, there is a hadith that states that the amount of certainty for sanctions for alcohol drinkers is in the form of beatings, on the other hand, there is a hadith that states that the sanctions imposed on alcohol drinkers are in the form of forty lashes. Meanwhile, there is a hadith that states that the sanction given to alcohol drinkers is eighty lashes. This confirms *jarimah hudud* for drug abusers, namely as direct consumers of illicit goods.

Differences of opinion in the perspective of Islamic law are very possible. In fact, not all Islamic thinkers agree with drug consumption as a *hudud* finger. There are some groups that classify drug consumption into the finger of *ta'zir*. Some of the arguments underlying this include:

- 1) Drugs did not exist at the time of the Apostle
- 2) Drugs are more dangerous than alcohol
- 3) Drugs are not drunk like *khamr*
- 4) There are many different types, variations, and effects of drugs

This argument based on the Hadith narrated by Imam Muslim, Ahmad, Abu Dawud and Turmudzi from Anas Ibn Malik as mentioned above. Moreover, the Hadith is also used as a basis by the Malikiyah, Hanafiyah and Hanabilah circles, and the sanctions imposed on alcohol drinkers are in the form of eighty lashes. The practice of lashing is carried out by 'Umar ra to drinkers of *khamr* eighty times, while forty lashes are additional (*ziyadah*) and as a punishment that is *ta'zir* (learning) and the authorities/governments are given the authority or authority to impose punishments imposed on them. *ta'zir* nature if it is considered there is a positive value/benefit in it. If forty lashes is a had (sanction), it is impossible for the Messenger of Allah to not apply it (Wahbah al-Zuhaily, 2004).

Meanwhile, the Malikiyah, Hanafiyah, and Hanabilah scholars who argue that the sanction for drinking *khamr* is lashing as many as eighty times, express views/opinions that there has been *ijma'*/agreement from the friends, which at that time was in a deliberation in which friends and colleagues attended. Among the friends who were present was Abdurralunan Ibn Auf. At that time 'Umar Ibn al Khattab ra asked the opinion of the Companions regarding the sanctions for drinking *khamr*. Then Abdurruhan Ibn Auf gives the view that the lightest/lowest limit is eighty times. Then in the deliberation forum, it was agreed (there was an agreement) punishment of eighty lashes to the drinker of *khamr*. While *ijma'* is one of the legal arguments that can be used as a legal basis (Mardani, 2013). In the literature, it is stated that the deliberation was motivated by a letter sent by Khalid Ibn al-Walid to Umar Ibn al Khatthab ra and Umar ra read the contents of the letter in front of the friends of Ansar and Muhajirin. The gist of the letter; is that at that time other people were complacent with liquor (*khamr*), and they increasingly underestimated the punishment/sanction for drinking *khamr*. Then the idea arose what if the penalty for drinking *khamr* was increased/doubled (Wahbah al-Zuhaily, 2004).

In the Qanun of the Province of Nanggroe Aceh Darussalam, Number 12 of 2003 Article 4 states that alcoholic beverages and the like are unlawful and everyone is prohibited from consuming alcoholic drinks and the like. Furthermore, Article 6 states that (1) Any person or legal entity/business entity is prohibited from producing, providing, selling, falsifying, distributing, transporting, storing, selling, trading, giving and promoting alcoholic beverages and the like. (2) Any person or legal entity is prohibited from participating/helping in

producing, providing, importing, selling, distributing, transporting, storing, stockpiling, trading and producing alcoholic beverages and the like.

These articles show that *khamr* is something that is unlawful and prohibited from consuming, producing, providing, selling, falsifying, distributing, transporting, storing, selling, trading, giving and promoting *khamr* drinks and the like. In the Qanun it is stated that the purposes of the prohibition of alcoholic drinks and the like are:

1. Protect the community and various forms of activities and/or actions that damage the mind;
2. Prevent the occurrence of actions or activities that arise as a result of drinking alcohol in the community;
3. Increase community participation in preventing and eradicating the occurrence of alcoholic beverages and the like

It was further explained that the punishment for drinking alcohol was lashing 40 times, this was based on the *hudud khamr* of *khamr* contained in the hadith of the Messenger of Allah. Meanwhile, the person who produces, provides, sells, falsifies, distributes, transports, stores, sells, trades, gifts and promotes alcoholic beverages and the like, is threatened with *uqubat ta'zir* in the form of imprisonment for a maximum of 1 (one) year, a minimum of 3 (three) months and/or a fine of Rp. 75,000,000,- (seventy-five million rupiah), at least Rp. 25,000,000 (twenty-five million rupiah).

This is determined based on the finger of *ta'zir*. Because it is not nas (either the Qur'an and Hadith which state the punishment of lawyers and fines for sellers and dealers of *khamr*). For perpetrators of violations as referred to in Articles 6 and 8, which are carried out by business entities, sanctions are imposed on the person in charge and added with additional penalties in the form of administrative sanctions for revocation of business licenses. Furthermore, for perpetrators who repeat their actions, the sanctions given are sanctions as specified in Article 26 plus 1/3 of the maximum punishment. The author sees that the determination of sanctions for repeat violations of *khamr* and similar drinks is determined based on the finger of *ta'dzir*. Umar bin Khattab once lashed alcohol drinkers 80 times, 40 lashes as *hud* and 40 lashes as *jarimah ta'dzir*.

It is known that the legal status of drugs refers to the provisions contained in the legal status of *khamr*. Therefore, the imposition of sanctions for drug users also refers to the words of the Prophet Muhammad which explains the sanctions for alcohol drinkers. This means that drug users are subject to forty lashes.

The elaboration of provisions and sanctions for consumers of drug abuse includes many legal searches accompanied by differences from each group. This shows that the drug problem in the eyes of the law itself is not a trivial problem. Each provision can seem overlapping even though in fact each opinion has a basis for an argument that can be explained. The study of an Islamic perspective on drug abuse, especially users who consume it directly, is a study that continues to grow and needs to be balanced with studies from national law in Indonesia. The development of science and technology can not be denied also brings metamorphosed drugs into many variations of types and derivatives and is very likely to be transformed into substances that are not easily recognized. As the prevalence of drugs increases, the number of victims also increases. The existing laws are proven not to easily discourage the abuse that occurs in many circles of society. Therefore, Muslims have an obligation to participate in guarding the enforcement of this law in an effort to eradicate drug abuse and save the nation from adversity due to drugs.

CONCLUSION

The concept of drugs according to Islamic law is based on the definition of *khamr* which is forbidden to be consumed in the letter al-Maidah verse 90. Definition of drugs in Indonesia is defined as narcotics, psychotropic substances and other addictive substances regulated in Law Number 35 of 2009 concerning Narcotics and the Law Psychotropic Number 5 of 1997 concerning Psychotropics. The prohibition of drug abuse can be understood with the *naqli* argument according to the sources of the Qur'an and Hadith as well as the *aqli* argument based on a study of the dangers of drug consumption that cause prolonged adverse effects. Drug abuse is still widely found even though national law and Islamic law clearly prohibit it.

BNN data shows that the 2019 National Prevalence Rate for Drug Abuse in Indonesia reaches 2.40% of the total population. A study of Islamic law in enforcing the rules for prohibiting drug abuse is carried out to understand the concept and provide sanctions to create a deterrent effect. Sanctions given by Islamic law against drug abusers can change the *hudud* finger and the *ta'zir* finger. The differences in determining these sanctions have their respective arguments based on the study of the Qur'an, hadith, and *ijtihad*. What is absolutely agreed upon is the prohibition of drugs so that their misuse will be subject to sanctions according to the perspective of Islamic law.

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