




## The Urgency of Digitizing Islamic Law in the Disturbance 4.0 Era ( Normative Studies on Cybercrime)

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**Abstract.** This article will identify the study of Islamic Law which has various thoughts that are relevant to all forms of changing realities. Conservatism and liberalism are two patterns of thought that are identified as contradictory. The new world and new media have realized how important digitalization of Islamic law is. Choosing one mode of thought will clarify the position of Islamic law in a global context. The normative and empirical methods used in this research will dialogue Islamic law with conservatism and liberalism in mind with the dynamics of social change and today's digital technology. Dialogue on Islamic Law is always with the modern world, so that it is not stagnant and decadent is a necessity. The global era with the orbit of digital instruments as a tool that can provide anything, can also facilitate and accelerate desires in many aspects of life, both positive and negative. The facts show that digital instruments play a direct role in every aspect of life. Present in various applications and messages for convenience and the benefit of strengthening norms and values. The negative effects of digital transformation also present cyber crimes with their various modus operandi. From the research it was found that the digitization of Islamic law has occurred, for example the digital Koran, digital hadith, digital inheritance law and religious courts with their e-court and e-litigation as well as various other applications that come into contact with Islamic law. However, until now there is no digital application that can be used to make Islamic Law a preventive tool in dealing with cybercrimes. Digitalization of Islamic Criminal Law can be done by creating programs in the form of online applications, such as the Alarm of cyber crime application.

Keywords: Digitalization, Islamic Law, cyber crime

### 1. Introduction

The life of mankind globally is currently undergoing a transformation. The development of information technology has led to a world without borders. Social change is taking place so quickly, it seems that information technology is currently a double-edged sword (Ahmad Ramli, 2010). On the one hand the existence of technology can contribute to increasing human welfare, progress and civilization, and on the other hand it is an effective means of committing acts against the law. In this context, perhaps it is quite reasonable that there are communities today who want to isolate themselves from this information technology. For example, what was written by CNN Indonesia that the Baduy Dalam tribe requested the removal of the internet signal from their area (CNN Indonesia Friday, 09 June 2023). Is this attitude and wisdom exemplary and relevant for the construction of a new legal order known as cyber law? How is Islam and Islamic law responding to all forms of acts against cyber law and is the digitization of Islamic law very relevant and possible to do now and in the future? Digital trend is a necessity in this era of information technology.

Due to this digital trend, humanity is in a new era of disruption. The Disruption Era is an era in which the changes that occur are caused by disruptions that change the system and order of life in society broadly. This new societal order of life can be called the societal order of revolution 4.0. This is marked by the occurrence of various innovations due to technological sophistication. Transformation occurs in all aspects of life, especially in the trading business world. Various new markets have sprung up in cyberspace that will replace the traditional markets that have existed so far.

Digital accents in this context are important instruments in all aspects of life. Serves as a means that can facilitate and lighten the various burdens of activities carried out by humans. Digital in the global era which is supported by communication without boundaries, has the consequence of presenting two face formations. On the one hand, it can be beneficial to humans in various aspects of life. On the other hand, it can violate human nature as His creatures, if the use of digital media does not heed religious norms and individual, universal, collective values, as well as local and traditional wisdom which is managed properly.

The convenience in various aspects of life provided by digital technology should be accompanied by efforts to digitize Islam and Islamic law. Slowly there has been a digitization of Islam and Islamic law. The digitization of Islam and Islamic law is essentially the result of the interaction of Islam and Islamic law with the modern world. The process of digitizing Islamic law still places Muslims only as users of digital technology. The logical consequence as a user or users will likely make someone a perpetrator of a crime and a victim of cyber crime. Borrowing Arief Gosita's view that the modernization and development of science and technology resulted in victimization (Arief Gosita, 1995, 177).

Using digital instruments as a means to commit crimes will certainly endanger the survival of humanity as a whole. The harm caused by cybercrime will not only cause individual victims, it will even cause victims of the global community. The enormity of cyber crime should be accompanied by preventive actions. But the reality is not like that. Preventive measures can be taken to digitize Islamic law, and more specifically Islamic criminal law. The development of digital technology has triggered various kinds of innovations and massive changes in the business sector and the industry as a whole. As a result, players who choose to survive the old way will lose in global competition.

The Industrial Revolution 4.0 with all the technological sophistication it brings must be recognized as having changed the conditions of competition today. Thanks to the presence of technology, many new industries have sprung up and have had a big impact on the world. These changes then create disruptions in the specific industrial world in various sectors.

The word Disruption according to KBBI means something uprooted from its roots. This word was first introduced by Clayton Christensen in 1997 in his book entitled "The Innovator's Dilemma". The meaning of Digital and Technological Disruption is an effect that changes basic things (Fundamentals) regarding people's views and behavior towards markets, industry, culture, and various processes therein caused by innovation and the development of increasingly advanced digital technology.

In his book, Christensen also introduces the term Disruptive Innovation, which is a new development due to innovation that changes the way, structure, and functions of business and industry. The impact of these innovations is like creating new markets, disrupting the existence of existing markets, and ultimately replacing various previous

things with a more perfect system.

In Indonesia, the digital technology disruption that has resulted in the industrial revolution is real and has been present in various sectors, here are 5 examples of digital technology disruption from the industrial revolution that occurred in Indonesia:

1. Disruption of Digital Technology in the Health Sector Previously (Gina, 2023), people needed to register manually and queue long enough at the clinic to consult a doctor. However, thanks to the presence of technology, now people can easily make an appointment with a doctor. There are already many virtual consultation applications with doctors that can be used to immediately make an appointment with one click. Apart from that, you can also consult online and easily get prescriptions as recommended, then these prescriptions can also be redeemed without the need to come to the pharmacy.
2. Disruption of Digital Technology in the Financial Sector (Sihite and Cahyono, 2022). In this article explaining the disruption of innovation from fintech, it has explained how technology has affected the financial industry. Professions such as bank tellers are said to disappear in the future because they can be replaced by technology. Now you can open a new account anywhere without looking at the domicile address. The verification process is carried out via a video call and the account obtained is not much different from a normal account. The cash deposit and withdrawal feature can be done as usual through an ATM machine or at an Authorized Merchant appointed by the bank. In addition, credit applications can also be done online, so that the reach of lending to the public will be much wider.
3. Disruption of Digital Technology in Customer Service (Ananda and Dirgahayu, 2021) Before the presence of chatbots, the customer service process could be considered quite a hassle. someone needs to dial the operator number code, then forward the call to the relevant team. This process is not only complicated, but also quite time consuming and costly. Since the emergence of chatbot technology, both customers and companies can communicate with each other more effectively. Some questions can be answered automatically by bots, and the Customer Service team only needs to handle questions that really can't be resolved easily. Customers can also ask questions 24 hours a day, because the bot doesn't need to rest and can still answer with the same speed and accuracy.
4. Disruption of Digital Technology in the Field of Education (Husein, 2022). In the past, education (especially professions) certainly could not be easily accessed by everyone. One needs to register with a trusted educational institution, then follow a long series of courses. However, not all of the lessons can be applied directly in the field. With the help of technology, this problem can be solved. Now there are various online training applications available, which are even used by the Indonesian government in educational equity. So everyone can get and take part in the training needed anytime and anywhere.
5. Disruption of Digital Technology in the Retail Sector (Rizal, 2018). Since the emergence of online shops and e-commerce platforms, the retail industry has had to reformulate their strategy in order to survive and get their customers back. As is well known, online shopping currently offers a much more practical experience compared to visiting stores in person. You can also get product and store reviews in real time, which you can't get if you only visit physical stores. In addition, online shop platforms and e-commerce also help reach customers throughout Indonesia and increase

demand for courier services. Of course this can also move the wheels of the Indonesian economy. Digital Trends Become the Cause of the Emergence of the Disruptive Era.

## **2. Methods**

In the research that researchers conducted with the title of the urgency of digitizing Islamic law in the era of disruption 4.0 with normative studies of crime in cyberspace. Researchers use a type of conceptual approach and legislation. This study will describe the importance of digitizing Islamic law in preventive efforts, preventing various forms of cyber crime.

Data analysis is a continuous process of all the previous stages. And at this stage of data analysis, researchers are required to develop logical thinking from all researchers. Qualitative data analysis can be carried out while conducting research and when the research has been completed. Data analysis can be done if the researcher has collected enough data to then analyze and draw conclusions. In analyzing this data, the researchers then made transcripts of the interviews that had been conducted routinely, then grouped data that were considered important and discarded data that were not needed in this research. The data that has been selected and deemed appropriate is then described and conclusions drawn.

## **3. Results and Discussion**

Based on the form of activity carried out in cyberspace, the possibility of cybercrime can be classified into several forms, namely:

### **1. Unauthorized Acces**

Is a crime that occurs when someone enters or infiltrates a computer network system illegally, without permission, or without the knowledge of the owner of the computer network system he enters. Probing and port are examples of this crime.

### **2. Illegal Contens**

It is a crime committed by entering data or information onto the internet about something that is incorrect, unethical, and can be considered to violate the law or disturb public order, for example:

- a. Pornography spreader. For example the loading of a hoax or slander that will destroy the dignity or self-esteem of the other party.
- b. Loading of things related to pornography.
- c. Loading of information constituting state secrets, agitation and propaganda against the legitimate government, and so on.

### **3. Deliberate spread of viruses**

The spread of the virus is generally done by using e-mail. Often times people whose emails have viruses don't realize this. The virus is then sent to another place via email

### **4. Data forgery**

This type of crime is committed with the aim of falsifying data on important documents on the internet. These documents are usually owned by institutions or agencies that have web-based data base sites.

### **5. Cyberterrorism**

An act of cyber crime including cyber terrorism, if it threatens the government or citizens, including cracking into government or military websites.

## **6. Political hacker**

Political activity that is sometimes hacktivist is a website in an attempt to embed messages or discredit its opponents. In 1998 this hacker can change hundreds of websites to deliver messages and campaigns about anti-nuclear.

## **7. Perjudian (gambling)**

There are many forms of virtual casino gambling currently operating on the internet. This activity will usually be spared from the positive laws that apply in most countries. In addition, this can provide opportunities for organized criminals to practice money laundering everywhere

## **8. Cyber espionage**

Cyber espionage is a crime that utilizes internet crime to carry out espionage activities against other parties, by entering the target party's computer network system. This crime is usually directed against business rivals whose important documents or data are stored in a computerized system.

## **9. Infringements of Privacy**

Infringements of Privacy, namely crimes directed against someone's information which is very personal and confidential. This crime is usually directed against someone's personal information stored on a personal data form that is stored computerized, which if known by another person, can harm people materially or immaterially, such as credit card numbers, ATM pin numbers, information about hidden records or diseases. etc.

## **10. Offence against intellectual property**

Offense against intellectual property, namely crimes directed against intellectual property rights owned by someone on the internet. For example, imitating the display of a web page on a site belonging to someone else illegally, broadcasting information on the internet that turns out to be someone else's trade secret, and so on.

Islamic law is the Shari'a of Allah SWT which contains benefits in human life in this world and the hereafter. Materially, the Shari'a contains basic obligations for every human being to implement it. The concept of the basic obligation of the Shari'a is by placing Allah SWT as the holder of all rights, both those that exist within oneself and those that exist in others. Everyone is only as an executor who is obliged fulfill Allah's commands. The command of Allah SWT meant to be completed for the benefit of himself and others. It is this benefit for the people that makes the reason that Islam and Islamic law are a manifestation of the doctrine of rahmatan lil 'alamin (Edi Rosman, 2015).

The Qur'an is the word of Allah SWT, which explains the Shari'a so that the Qur'an is called al-bayan (explanation). The explanation referred to broadly has four ways and one of them is Allah SWT, providing an explanation in the form of texts (textual) about the Shari'a, for example people taking other people's belongings in a storage place in an incorrect way that exceeds the nisab limit must have their hands cut off for this reason. judgment from the court.

When connected with cyber crime with its various types and modes, then this crime is a form of crime that appears in today's modern era. Thus, according to an analysis of Islamic law (jinayat), cyber crimes can be punished with ta'zir. Ta'zir according to the meaning of language means prevention (al-man'u). Meanwhile, according to the term ta'zir, it is an educative punishment (ta'dib) in the sense of anticipating it by frightening it. As for syar'i, ta'zir is intended as a sanction imposed on the basis of disobedience, because it strictly does not include crimes contained in the Al-Quran and Hadith, such as had,



qisas, or kafârat.

Cybercrimes are essentially criminal activities using computer facilities or computer networks without permission and against the law, either by changing them or without changing (damage) to computer facilities that are entered or used or crimes using internet electronic media facilities because they are categorized as crimes. cyberspace, or crime in the field of computers in an illegal way. This can also be categorized as a computer crime aimed at a computer system or network, which includes all forms of new crimes that use the help of internet electronic media. Sanctions for the perpetrators of world crimes according to Islamic law are ta'zir. This sanction certainly goes through a judicial process with a judge's verdict with threats of punishment in the form of imprisonment, exile, whipping, up to the death penalty according to the level of harm he has done. The World crimes in the context of the ITE law are essentially crimes committed by perpetrators using information technology (internet) and the like. Cybercrime acts have been regulated specifically through the ITE law listed in chapter 7 for "Prohibited acts" namely in articles 27-37 and in chapter 11 for: criminal provisions" in articles 45-52.

Islamic law through cybercrime as a real crime, but virtual which has undergone modernization in the aspect of modus operandi and has similarities to Islamic criminal law in terms of substance. Because crimes that occur in cyberspace are developments from forms of crime that existed in ancient times and developed rapidly through the development of information and technology. The crime that is seen at this time is a form of modernization that accompanies the development of the main considerations of the purpose of law, namely the realization of human benefit both in this world and in the hereafter, namely the realization and maintenance of al-masikh al-khamsah or the five basic needs in human life which include the maintenance of religion (hifz al-din), soul (hifz al-nafs), lineage or honor (hifz al-nash), property (hifz al-mal) and reason (hifz al-aqli), so that reality in cyberspace practices is considered to violate five basic needs in human life.

### **The Importance of Digitizing Islamic Law in the Era 4.0**

The concept of Islamic theology in carrying out its religion kaffah. The mufasssirin (mutaqaddimin – mutaakhirin) in concluding that they embrace Islam in a kaffah manner (according to the text and context of the verse: al-Baqarah: 208), that their tendency to interpret it is from two sides:

1. Islamic orders for all mankind, (peace be upon all mankind).
2. An order for Muslims to fully implement the Shari'ah to the best of their ability. So amaliyah and consistency to care about realizing taslim (safety, prosperity) is a necessity.

It was narrated from Tariq bin Syaib he said: I heard the Messenger of Allah say: "Whoever among you sees an evil, then he should eradicate it with his hands (power), then if he is unable then forbid it with his tongue, then if he is unable then reject it with heart and thus the weakest faith. (HR: Bukhari).

The concept of Islamic theology in relation to all aspects of life as described in the hadith above can provide an illustration, that efforts to always be able to pave the way for goodness are always the top priority that must always be carried out by believers. So Asy'arie emphasizes this effort through more fundamental principles related to a deeper awareness related to faith:

"The principle of monotheism in Islam is related to theological and anthropological

concepts that view humans as a unit, both in a structural sense that shapes their personality and functionally that manifests in their role in life in this world as a subject of culture." (Musa Asy'arie: 1992, 6).

As a tangible unit between the physical and spiritual that continues to face each other in life, of course it is always associated with various touches in which the era was in a humanistic structural and functional reality. In order to be able to play the kaffah role referred to above, unification is the main prerequisite as a completeness of Islamic life that is kaffah, pious spiritual and pious social and pious worship of ghairu mahdhah which is even more numerous.

"The way for Muslims to get away from setbacks and further progress is to acquire Western modern science and technology. And in order for the latter to be achieved, the mental attitude of the people who lack faith in the power of reason, lack faith in human freedom and lack belief in the existence of natural law, must first be changed." (Asy'arie, 1992: 6).

The competence of the Islamic Ummah and generation can provide stimuli in favor of various components of life that contain the majesty of learning, namely theological norms and humanistic values. Only with this competency, would the Muslim Ummah and generation be able to master and bridge the realities of the times, while on the one hand the norms of monotheism, beliefs, and various distributions of values are maintained, on the other hand. Also do not miss the speed of various benefits of science, knowledge, technology, and digital developments and advances that can penetrate even further horizons.

Implikasi era digital adalah perubahan yang cepat. Perubahan sebagai suatu keniscayaan, akan tetapi eksistensi aqidah, keyakinan tetap sebagai way of thinking, way of investigating, a body of knowledge, dan method of high order thinking. Agama sebagai suatu ajaran norma-norma yang cenderung abadi sedangkan nilai-nilai dapat saja berubah. Setiap perubahan bermuatan risiko, maka pendalaman keduanya akan membawa isyarat terbangunnya kematangan yang menghasilkan komunikasi kearifan didasarkan pada hikmah (bijak), tahsin (kebaikan), dan mujadalah (informatif) (Q.S, 16: 125) , dan yang pasti adalah dalam dunia pada era digital sebagaimana yang telah kita rasakan sekarang ini adalah pada setiap kehidupan selalu mengacu konsep-konsep yang jelas, intensif, tepat, dan utuh (QS, 31: 30).

"Karena sesungguhnya, diantara tanda-tanda kekuasaan-Nya ialah menciptakan langit dan bumi, dan berlain-lainan bahasamu dan warna kulitmu. Sesungguhnya pada yang demikian itu benar-benar terdapat tanda-tanda bagi orang-orang yang mengetahui." QS, 30: 22).

Perspektif historis, Islam pada saat memasuki abad XVIII telah mengarahkan peradaban pembelajaran ilmu, pengetahuan, teknologi dan media digital untuk tujuan kemanusiaan dan hubungan antar kemanusiaan yang harmonis. Intensitas dinamika infrastruktur, sarana prasarana dibangun untuk keperluan itu. Naïf dengan penguasaan ilmu, teknologi, dan media digital di era modern ini, kemudian Islam dengan alih teknologi dan media disalah artikan untuk tujuan anomali dan disintegrasi, yang tentu tidak sejalan dengan konsep Islam yang rahmatan lilalamin. Hal ini dapat disimak pada tesis Lapidus dalam A History of Islamic Societies sebagai berikut: "Muhammad Ali's descendant Ismail 1863-1879 carried the development of the country still further. He continued the program of economic and technical growth, extended the railroads and telegraph, and constructed the Suez Canal and a new harbor fo Alexandria. He also gave Egypt European-Type law-

courts, secular schools and colleges, libraries, theaters, an opera house, and a western – type press, Egypt, like the Ottoman empire, acquired the infra structure of cultural modernity.” (Lapidus, 1989: 616).

In the same line of thought, many salaf scholars, such as Ibn Mas'ud (d. 32/652), Al-Auza'i (d. 157/774), Abu Umamah Al-Bahili (d. 86 H), said greetings[18] ] to non-Muslims, then explaining the reasons while answering questions, he said, “We were ordered to spread salam (peace) by the Prophet. (Assembly of Tarjih and Development of Islamic Thought PP Muhammadiyah, 2000: 75). Of course, with such a concept, Muslims can foster good mutual understanding with people of other religions, as can be explained from the affirmation of the verse:

“Do not abuse those they worship besides Allah because later they will abuse Allah beyond limits without knowledge (6:108) And do not argue with the People of the Book except in the best way (29:46).

The mandate of the preamble, and the 1945 Constitution, as well as the philosophy of the Unitary State of the Republic of Indonesia, which is then elaborated again with various decrees, decisions and other mandates as a form of formulation of a national system that upholds equal human dignity and worth. With this concept of equality, it will open various doors for the growth and development of harmony in the digital era, in harmony with various teachings of a religion as set out below:

"The reform era provides great hope for changes to occur towards a more democratic, transparent and highly accountable state administration as well as the realization of good governance and freedom of expression. It is hoped that all of this will bring the nation closer to achieving national goals as contained in the Preamble to the 1945 Constitution of the Republic of Indonesia. For this reason, the reform movement is expected to be able to encourage changes in the mentality of the Indonesian nation, both leaders and people so that they are able to become a nation that adheres to and upholds the values of -values of truth, justice, honesty, responsibility, equality, and brotherhood. (Secretariat General of the MPR RI, 2012: 5)

The lack of public awareness of the ethics of using social media, it is not surprising that in 2020 there has been an increase in criminal cases related to social media use activities in Indonesia, namely around 59 cases recorded from the previous 24 cases that occurred in 2019.

#### **4. Conclusions**

The digitization of Islamic law is very important in all fields of Islamic law. The field of family law, the field of economic law, banking, the field of constitutional law, and the field of criminal law. All forms of cyber crime with its various modes can be reduced if accompanied by efforts to digitize Islamic criminal law.

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