

# Pros and Cons of Online Criminal Case Settlement During the Covid-19 Pandemic: Study on Islamic Criminal Law

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## ABSTRACT

The online criminal trial discourse has become a hot discussion topic by criminal law practitioners, especially regarding the obscenity case in Petamburan that involved the suspect, HRS. HRS himself and his lawyer refused to hold the online trial for being contrary to the Criminal Procedure Code (KUHAP) although there is a Memorandum of Understanding between the Supreme Court, Attorney General's Office, Police, and the Directorate General (Ditjen) of Corrections regarding the Implementation of Criminal Trial Proceedings via video conferencing as efforts to prevent the spread of Covid-19 on April 13, 2020. This study aims to provide an answer that Islamic criminal procedural law can accommodate models of virtual criminal case resolution because it considers emergency situations. Moreover, the reason for the emergency has to do with humanity. The data used as materials for data analysis was library research which were taken from fiqh books, written documents, laws and other regulations. The results show that Islamic criminal law can consider its feasibility.

*Keywords: Virtual Criminal Court; Islamic Criminal*

## INTRODUCTION

Criminal Procedure Law regulates law enforcement procedures in Indonesia completely. The law is the whole legal norm that regulates how to implement and maintain material criminal law, which means that criminal procedural law plays an important role in producing material crimes to achieve just, helpful, dignified and certain laws.

Criminal procedure law which is supported by professional law enforcers will produce authoritative legal decisions and also make the implementation of material criminal law become authoritative. One of the important processes in the Criminal Procedure Code (KUHAP) is the system for regulating the criminal trial process that preceded it, namely; examination of files which have been declared complete by two law enforcement agencies, namely the State Police and the Attorney General's Office.

If both these institutions work together professionally, it will lead to respectable law enforcement, both for formal criminal law and material criminal law<sup>1</sup>.

This study does not aim to uncover the problems of the entire case examination process, but it is limited only to the online criminal trial proceedings, which is carried out based on several considerations; First, technological developments have affected various areas of people life which is not only related to meeting daily needs such as buying and selling transactions, marriage by telephone and matters relating to individuals, but also public issues such as the use of the surveillance camera (CCTV) to detect violations on the road. The use of information technology has also penetrated the judicial process, for example, the evidentiary process through CCTV recording, video and teleconference, online witnesses including examinations of perpetrators and victims of criminal acts.

Second, the judiciary must be quick and accurate prepare facility and infrastructure to support the online judicial process when judicial practice requires it. The Covid-19 pandemic that hit nations in the world has changed the mindset and habits of people from various sectors of life which have required people to implement health protocols in order to reduce the rate of spread of covid-19.

Third, the corona outbreak is an ordinary widespread event or an extraordinary event that has a wide impact on various sectors of human life, such as people are restricted to do activities as they have to do the 3 rules (Keep distancing, washing hand, and wearing mask). Many people have to experience losing their jobs and that makes them suffer economically. Nobody ever predicted that school children and students should conduct lectures online at home, and the same thing will be experienced by judicial institutions in Indonesia.

The practice of online criminal trials is based on; First, online trial practice opens opportunities to be carried out even if only by using the Memorandum of Understanding between the Supreme Court, Attorney General's Office, Police, and the Directorate General (Ditjen) of Corrections regarding the Implementation of Criminal Case Sessions through Video Conferences in the context of Covid-19 Prevention on April 13, 2020.

Although online trials have been practiced for a long time with e-court and e-litigation policies before the covid-19 pandemic, it is only limited to civil cases in general and religious civil courts in cases of divorce, talak, reconciliation and all types of cases which are the absolute authority of the Religious judiciary, including those practiced at the State Administrative Court (PTUN). The online trial is conducted in order to create a trial that is fast, efficient and low cost.

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<sup>1</sup> Zaeni Asyhadie, dkk., *Pengantar Hukum Indonesia* (Jakarta: Rajawali Pers, 2016), h. 261.

Willing or not, criminal justice will become a new phenomenon in criminal justice trials, because it was carried out for the sake of maintaining health protocols. Criminal justice will face many problems in conducting online trials, especially on technical obstacles such as the unavailability of infrastructure facilities, apart from the problem on the legal basis for proceedings.

Luhut MP Pangaribuan said that the use of teleconference technology in criminal court proceedings in the future is a necessity, but he also contended that the implementation of online criminal proceedings should not be rushed as it is worried could reduce (override) the provisions of the applicable criminal procedure law, especially the standard of proof<sup>2</sup>. Not only does it decide whether it is right or wrong for the defendant, but the court decision will cause misery for the defendant because in criminal procedural law it is only oriented solely to prove the suspect / defendant's guilt.<sup>3</sup>

It is the obligation of a public prosecutor to prove the guilt of a defendant or suspect who becomes the object of a trial at a criminal trial. Therefore, the criminal justice system in Indonesia based on the Criminal Procedure Code (KUHP) relies heavily on criminals<sup>4</sup>. Meanwhile, problems in online criminal proceedings during the pandemic, among others are lacking of fulfillment of the rights of the parties; the trial process is hampered; and the concern about the transmission of Covid-19 in court.

The criminal procedural law must be changed immediately. In addition, there are still many parties who have not been able to use information technology and the availability of internet networks in certain areas when they want to conduct electronic trials. Although there is a memorandum of understanding regarding the use of video conferencing in criminal cases, especially for examining witnesses. however, there were still obstacles to the availability of electronic devices in each agency, the position of the accused, and the presence of related parties (witnesses). Therefore, according to Luhut, continuing online criminal trials would disturb the principles of fair trial.<sup>5</sup>

True justice and honesty are the rights and desires of all people to possess, regardless of origin, descent, color, religion and sex when dealing with law<sup>6</sup>. It

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<sup>2</sup><https://www.hukumonline.com/berita/baca/lt5edfd188dad3f/problematika-sidang-pidana-daring-saat-pandemi?page=all>

<sup>3</sup> Ni Putu Rai Yuliantini, 'KEDUDUKAN KORBAN KEJAHATAN DALAM SISTEM PERADILAN PIDANA DI INDONESIA BERDASARKAN KITAB UNDANG-UNDANG HUKUM ACARA PIDANA (KUHP)', *Jurnal Komunikasi Hukum (JKH)*, 2015 <<https://doi.org/10.23887/jkh.v1i1.5006>>.

<sup>4</sup> Rai Yuliantini. Rai Yuliantini.

<sup>5</sup><https://www.hukumonline.com/berita/baca/lt5edfd188dad3f/problematika-sidang-pidana-daring-saat-pandemi?page=all>

<sup>6</sup> Hamzah Hasan, 'Kewajiban Asasi Manusia Perspektif Hukum Pidana Islam', *Al-Ulum*, 2019 <<https://doi.org/10.30603/au.v19i1.619>>.

must be the commander in resolving problems that occur in the midst of people's lives, so that certainty and justice are felt by all parties, especially for justice seekers.

## LITERATURE REVIEW

### 1. Court

(Kamus Besar Bahasa Indonesia), Court Session is the process of examining and adjudicating criminal cases in a courtroom under the leadership of a single judge or panel of judges<sup>7</sup>. This definition provides an understanding that a court session is a trial conducted in a room in a court building attended by a single head judge or panel of judges (at least 3 judges), the presence of the judge is an important element in the trial process and other court equipment such as; public prosecutor, defender (legal advisor) and defendant.

(Bambang Waluyo: 2000) Judges are state judicial officials who are authorized by law to judge (article 1 point 8 of the Criminal Procedure Code). Law No. 2 of 1986 article 12 paragraph (1) calls it a Court Judge, namely officials who carry out judicial power duties<sup>8</sup>. The law has placed judges in an honorable position. Judges are appointed and dismissed by the President as head of state. In accordance with article 25 of the 1945 Constitution (that the requirements to become and to be dismissed as a judge are stipulated by law)<sup>9</sup>.

Likewise in Law No. 14 of 1970 concerning Basic Provisions of Judicial Power and Law No. 2 of 1986 concerning General Courts. The magnitude of the State's attention to judges so that their position is regulated in the 1945 Constitution and other statutory derivatives in order to be able to examine and resolve cases submitted to them fairly and independently for the benefit of all parties without exception so that everyone is protected and fulfilled their rights and to get respect<sup>10</sup>. Rights and honor in the judicial proceedings are a necessity for parties and justice seekers.

### 2. Islamic Law

(Mardani: 2015), the term Islamic law, a typical Indonesian term, is a translation of al-fiqh al-Islamy, this term is used in the western legal discourse in Islamic law<sup>11</sup>. (Ahmad Rafiq: Islamic Law in Indonesia, 2013), in the Qur'an and Sunnah, the term

<sup>7</sup> Kamus Besar Bahasa Indonesia (Jakarta: Balai Pustaka, t.th.)

<sup>8</sup> Bambang Waluyo, Pidana dan Pemidanaan (Jakarta: Sinar Grafika, 2000), h. 72-73

<sup>9</sup> Bambang Waluyo, Pidana dan Pemidanaan, h. 73

<sup>10</sup> Widodo Widodo, 'POLITIK HUKUM PERUBAHAN ANCAMAN PIDANA TERHADAP PELAKU PENGHINAAN DAN/ATAU PENCEMARAN NAMA BAIK YANG MENGGUNAKAN INFORMASI ELEKTRONIK DAN/ATAU DOKUMEN ELEKTRONIK', MAKSIGAMA, 2020 <<https://doi.org/10.37303/maksigama.v12i1.63>>.

<sup>11</sup> Mardani, Hukum Islam, Pengantar Ilmu Hukum Islam di Indonesia (Yogyakarta: Pustaka Pelajar, 2010), h. 14.

Islam is not found which uses the word sharia, which is then translated as fiqh<sup>12</sup>. This later became popular among the Muslim community. In order to provide more clarity about the meaning of Islamic law, it is necessary to know in advance the meaning of each word.

(Rohidin: An Introduction to Islamic Law, 2017), The word law is etymologically derived from the Arabic root word, namely "hakama, yahkumu" with its mashdar form becomes "hukman". The word "al-hukmu" is the singular form of the plural "al-ahkâm"<sup>13</sup>. The word also means "horse rein or restraint", because in essence the law is to control or restrain a person from things that are prohibited by religion. The meaning of "jawazir" or prevention or refusal "is the meaning of the word hukmu which has the root of the word hakama. Prevent injustice, prevent suppression, prevent persecution, and reject other mafsadat.

(Zainudin Ali: 2006), citing the opinion of al-Fayumi in his book "Islamic Law, Introduction to Islamic Law in Indonesia" states that "hukum bi makna al-qadha' wa al-fashal" means that law refers to deciding, determining, and solving every problem<sup>14</sup>. When the term law is coupled with the term Islam it becomes "Islamic Law" which means a set of legal rules practiced by the mukallah which are taken from interpretive arguments.

(Joseph Schacht: An Introduction to Islamic Law, 1971). Islamic law is a set of religious rules, the totality of God's commands that govern the behavior of Muslim life in all its aspects<sup>15</sup>. Thus, Islamic law is a set of rules (God khithab), which contains the commands and prohibitions of God that govern practical behavior in the lives of Muslims in all its aspects. Islamic law is a representation of Islamic thought, a manifestation of the view of life and the essence of Islam.<sup>16</sup>

(Sudirman Taba: 2003), Islamic law (fiqh, sharia) not only functions as law, but also functions as normative values. Theoretically it relates to all aspects of life, and is the only social institution (institution) in Islam that can provide legitimacy to the desired changes in alignment between Islamic teachings and social dynamics<sup>17</sup>. On that basis, Islamic law should color national law in Indonesia because Islamic law is related to the beliefs of the majority of community.<sup>18</sup>

However, Islamic law does not necessarily become law that binds people's lives at the level of the state administration system. However, it must go through a

<sup>12</sup> Ahmad Rafiq, *Hukum Islam di Indonesia* (Jakarta: Raja Grafindo, 2003), h. 3

<sup>13</sup> Rohidin, *Buku Ajar Pengantar Hukum Islam: Dari Semenanjung Arabia Hingga Indonesia* (Yogyakarta: Lintang Rasi Aksara Books, 2017), h. 2.

<sup>14</sup> Zainudin Ali, *Hukum Islam, Pengantar Ilmu Hukum Islam di Indonesia* (Jakarta: Sinar Grafika, 2006), h. 1

<sup>15</sup> Joseph Schacht, *An Introduction to Islamic Law* (London: Oxford University Press, 1971), h. 1.

<sup>16</sup> Mardani, *Hukum Islam: Pengantar Ilmu Hukum Islam di Indonesia*, h. 164

<sup>17</sup> Sudirman Tebba, *Sosiologi Hukum Islam* (Cet. 1; Yogyakarta: UII Press, 2003) h. 4.

<sup>18</sup> Khoiruddin Buzama, 'Pemberlakuan Teori-Teori Hukum Islam Di Indonesia', *Al-'Adalah*, 2012.

process of legalization by State institutions (Government and House of Representatives). This legalization is a measure of the validity of a law in a country. Rich Islamic legal materials with various approaches are ready to be studied by considering the socio-cultural conditions of the community.

## **METHOD**

This type of research is descriptive qualitative research or literature research, which describes matters related to online criminal proceedings as part of the criminal case settlement process which has not been regulated in the Criminal Procedure Code (KUHAP), either by reviewing books or references that are related to the online Criminal Court trial, sources in books, articles in journals and other laws and regulations.

This research employed Islamic criminal law as its analysis, which requires seeing and reading the sources of Islamic criminal law as well as the principles of fikhiyyah and usuliyyah written by classical scholars and by contemporary jurists.

The approach used in addition to the normative juridical approach by making laws and other regulations as its reference is the normative theological approach, namely examining the verses of the qur'an and the hadith of the prophet which have become guidelines that can be understood in context so that they can be used as a basis for determining that the process of the online criminal court in resolving cases in emergency conditions, such as the Covid-19 pandemic, can be considered to use.

## **RESULT AND DISCUSSION**

The judiciary is the first institution (most responsible) to ensure that justice and honesty are upheld. Therefore, if the infrastructure to support the online judicial process is inadequate, it has the potential to reduce the validity of the evidentiary process. "So this disturbs the principle of fair trial, how to examine defendants, witnesses, evidence when the infrastructure is not good<sup>19</sup>.

The concern of some law practitioners is very reasonable as the goal to be achieved in any judicial process is the fulfillment of a sense of justice and honesty for the parties in litigation, or no party feels wronged for their rights. This was the reason why the suspect in the crowd case in Petambran HRS and his lawyers strongly object to the form of the trial conducted by the online court.

The Criminal Procedure Code also hasn't contained the rules of the judicial process, especially online trials, namely the Law of the Republic of Indonesia No. 8 of 1981 regarding the Criminal Procedure Code which states that the defendant as

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<sup>19</sup><https://www.hukumonline.com/berita/baca/lt5edfd188dad3f/problematika-sidang-pidana-daring-saat-pandemi?page=all>

well as witnesses and experts declared in the trial attended in person under articles 154, 159 and 196.

Presence means physical presence. Apart from the Criminal Procedure Code, it is also stipulated that the trial be held in the court building and the clothing arrangements for judges, public prosecutors, legal advisers and clerks. This is also explained in the Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Powers which regulates that the trial is attended by 3 (three) judges assisted by the clerk and obliges the public prosecutor and defendant to attend.

The articles in Law No. 8 of 1981 concerning KUHAP as well as Law No. 48 of 2009 concerning Judicial Power are the basis of requirement for the parties to be present in person at every trial process at the court building.

Indeed, the two laws had not considered the possibility of an online trial at the time of their creation, because the legislators had never imagined an extraordinary event like this (the Covid-19 pandemic). While suspects whose detention is no longer possible to extend, their cases must be immediately transferred to the court for trial processes, so that there is no other option that can be made except by conducting online trials as a form of emergency.

It is prohibited to allow suspects and the public who seek justice not to get a case resolution which results in dependency on the legal status of the justice seeker. Thus, the Memorandum of Understanding is the answer to legal problems that occur in the criminal justice environment in Indonesia as a form of responding to calls for maintaining health protocols.

Maintaining health protocols is a humanitarian jihad that cannot be negotiated even though the online trial has not been accommodated in the Criminal Procedure Code (KUHAP). Protecting and maintaining the soul from contracting the corona virus which results in death in Islamic law is a priority of the concern of Islamic law which is called *al-Mukhafadzatu 'ala al-nafsi*.

This principle occupies an important position in Islamic law defeating other obligations, even the implementation of worship that causes crowds and can cause the danger are allowed to be performed at home (such as Friday prayers, and congregational prayers in mosques). This principle must protect one of the *al-usûl al-khamsah*, which consists of maintaining religion, soul, mind, descent and property.

In addition the benefit must fall into one of three categories, namely to maintain primary (*darûrî*), secondary (*hâjî*) or complementary (*tahsînî*) necessity Besides the

benefit, it must be oriented to the interests of the world and the hereafter with all obligations (taklîf), legal subjects (mukallaf) and situations and conditions (ahwâl)<sup>20</sup>.

Ulama or Islamic scholar have formulated a rule of "la dharar wa la dhirar"<sup>21</sup> which emphasizes that performing worship must not be harmful to oneself or endanger others. Therefore, this method becomes the reason that allows to regulate the procedures for worshipping the congregation at the time of Covid-19, whose danger can lead to death.

During the Covid-19 pandemic, with a character that can be transmitted to anyone, praying in congregation in mosques, has a great potential for the spreading of this deadly virus. Because of the potential harm to self and others, scholars and the government advocated praying at home. The suggestion of worshipping at home is a new normal which in no way diminishes the merits and virtues of the congregation in worship. That suggestion, even getting excess merit because togetherness helps prevent others from harm<sup>22</sup>.

The legal position of the congregational prayer is seen from the law of origin is namely sunnah mu'akkadah (the sunnah which is more important). Even though keeping the soul from contracting the deadly corona virus is obligatory, it is better to give priority to what is obligatory than what is sunnah. The implementation of worship is regulated by Islamic law by still considering the 'illat, including the time and place based on the formulaic rules made by the scholars, namely; "Al-hukmu yaduuru ma'al' illati wujuudan wa 'adaman."<sup>23</sup>

Based on these principles, the prohibition of praying in touch has slowly begun to be relaxed, which is why some mosque managers have given the public the opportunity to carry out congregational prayers at mosques by setting the maximum distance away with the intention of avoiding physical contact, so as to reduce the possibility of contracting the corona virus more take precedence, although congregational prayer itself requires neat and tight shaf (taswiyah al-shufuf).

The concept of maqashid al-Syari'ah emphasizes that all activities and worship without exception are carried out in the framework of maintaining religion, guarding the soul, maintaining body parts, maintaining reason, protecting descendants and protecting property<sup>24</sup>. In simple terms, anything that has the potential to interfere with these five things must be avoided before the importance of worship. Because of that, the scholars present a formulation of the rule which states,

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<sup>20</sup> Mohammad Rusfi, 'MQASID AL-SYARIAH DALAM PERSEPEKTIF AL-SYATIBI', ASAS, 2019 <<https://doi.org/10.24042/asas.v10i02.4529>>

<sup>21</sup> Nazar Bakry, *Fiqh dan Ushul Fiqh* (Jakarta: Rajawali Press, t.th.), h. 123

<sup>22</sup> Fared F. Sainong, dkk., *Fikih Pandemi Beribadah di Masa Wabah* (Jakarta: Nuo Publishing, 2020), h. 10-11

<sup>23</sup> Nazar Bakry, *Fiqh dan Ushul Fiqh*, h. 113

<sup>24</sup> Mardani, *Ushul Fiqh* (Jakarta: Raja Grafindo Persada, 2013), h. 338-341



"dar'ul mafāsīd muqaddamun 'ala jalbul mas'lih" (avoiding danger is always prioritized over seeking maslahat). In another editorial team, "daf'ul madhāri muqaddamun" ala jalbil mand'fi."<sup>25</sup> (deny harm takes precedence over advantage).

In this context, eating what is prohibited is permissible and even ordered to save human life. We can learn from several examples at the time of the Prophet. Among them, the Prophet Muhammad once warned one of his companions for letting his camel not roped well for submitting to Allah Almighty, while he entered the mosque to pray. Our Prophet Muhammad PBUH taught to first tie then camel and then submitted to Allah the Almighty.

Prophet Muhammad PBUH also explained in another hadith that, "If you hear the news about the outbreak of Tha'un in a region, don't enter it., yet if you are in it, then don't get out of it." (narrated by al-Bukhari & Muslim). The prophet Muhammad's prohibition implies that when there is a ta'un outbreak or like the current corona epidemic, don't join an area that is temporarily hit by the plague yet if you are already in it, don't go out from it so that the virus is canalized and is not transmitted to other people to maintain their safety.

The Prophet once recommended staying at home rather than to go to the mosque just because of the frightening of heavy rain. The Prophet once said that the sick should not mix with the healthy (narrated by al-Bukhari and Muslim). Fear and pain are also believed to be the excuse (reason) for not praying in the mosque. All these examples can actually be set as a good precedent for Muslims to worship in times of the outbreak.

That is, among others, Indonesian jurists, such as Hasbi al-Shidieqy, Ali Yafie, Ibrahim Husen and Munawair Sadzali who are the initiators of the 'Indonesian style of fiqh', have jihad about Islamic law which is understood based on the social phenomena of society in Indonesia. The term fiqh must always be understood based on the context of social and cultural changes that occur in people's lives because fiqh is a product of generations at its time.

Understanding the phenomena that has been, is being and what will happen is at least using a legal thinking model that is based on two things: first, the aspiration to build Islamic law that is distinctively Indonesian by making Indonesian customs as one of the sources of Islamic law in Indonesia, which it also means liberating Indonesian culture from the strong Arabic culture followed by classical fiqh;

Second, the Indonesian tendency which is constitutionally oriented, namely the aspiration for Islamic law to become a formally promulgated regulation by the State. According to Yudian, Islamic law that was formalized in the form of a law could be

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<sup>25</sup> Abdul Wahhab Khallaf, *Ilmu Ushul Fiqh* diterjemahkan oleh Nur Iskandar al-Barsany (Jakarta: Raja Grafindo Persada, 2000), h. 336

seen as the consensus (ijmak) of Indonesian ulama. Therefore, in Yudian's view, Indonesian fiqh is basically Indonesianizing two concepts of Islamic law, namely urf (customs) and ijma' (consensus of the majority of scholars in a region) which are adapted to the Indonesian socio-political context<sup>26</sup>.

In line with what was conveyed by Yudian Ramadan Fawzi, he also explained the principle, namely al-'adat al-muhak Court (customs that can be the basis for establishing a law) which are taken from good habits that grow and develop in society so that they can be used as a basis for determining a law in accordance with the values that develop in society<sup>27</sup>.

Not to mention the problem of online trials during the Covid-19 pandemic, even carrying out worship in congregation at the mosque can be done at home which can cause crowds that are feared could transmit the virus to others. Thus the practice of online criminal proceedings conducted by courts according to Islamic law is permissible as long as the rights of the parties can be fulfilled and court facilities, both trial facilities and other infrastructure can be fulfilled. This is supported by the principle of the origin or the nature of everything that is permissible until there is an argument that shows the prohibition "al-ashlu fil asy-yâi al-ibâdhatu hattâ yakuma al-dalilul li-tahrim"<sup>28</sup>.

Islamic criminal laws also consists of ijabi and sulbi in the sense that Islamic criminal law encourages good deeds (amar makruf) to be carried out and prohibits munkar with all of its harm. This is related to the main objective of Islamic law to bring good deed to mankind, while the sulbi aspect encourages humans to avoid difficulties and harm<sup>29</sup>. This description shows that an online criminal trial according to Islamic law may be carried out by considering the feasibility of facilities and infrastructure for the trial especially the availability of an Internet network.

## CONCLUSION

The application of online criminal trials seen from the point of view of Islamic criminal law can be recognized as an alternative option in an emergency situation such as Covid-19 to avoid the possibility of spreading it in a crowd if the trial is carried out offline. In addition, it is to avoid the accumulation of cases and in order to uphold the principle of settlement of cases processed in the court in a fast, simple

<sup>26</sup> Sadari, 'Qur'anic Studies: Ber-Ushul Fiqh Dengan Maqashid Syariah Sebagai Metode Dalam Perspektif Yudian Wahyudi Sadari', Shahih, 2018 <<https://doi.org/10.22515/shahih.v3i1.1103>>

<sup>27</sup> Ramdan Fawzi, 'APLIKASI KAIDAH FIKIH كَائِدَاتُ فِئْهٍ دَالَمِ بِيْدَانِجِ مُؤَامَالَاه', *Amwaluna: Jurnal Ekonomi Dan Keuangan Syariah*, 2018 <<https://doi.org/10.29313/amwaluna.v2i1.3279>>

<sup>28</sup> Sumarjoko and Hidayatun Ulfa, 'KAIDAH FIKH BIDANG MU'AMALAH MAZHAB SYAFI'I (Kajian Teoritis Dan Praktik Serta Kehujjahannya)', *IQTISAD*, 2019 <<https://doi.org/eboro>> i adalah perbuatan mubah, sebab asal dari segala sesuatu boleh dilalukakan kecuali ada dalil yang melarangnya. Seperti yang dijelaskan oleh kaidah"حآة-ابال آءايشأأا يف لصلال"

<sup>29</sup> Amirullah Ahmad, SF., dkk., Dimensi HUKUM Islam dalam System Nasional mengengg 65 Tahun Prof. Dr. H. Bustanul Arifin, S.H. (Depok: Gema Insani Press, 1996), 86-92

and low cost manner. On the other hand, the settlement of cases by means of online criminal trials continues to prioritize the fulfilment of a sense of justice and legal certainty for justice seekers. To reach this goal, the availability of facilities in other trials is a must, for example Internet network facilities.

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