



## **PRISON ESCAPE VIEWED FROM ISLAMIC LAW PERSPECTIVES (A CASE STUDY AT MUARA LABUH PRISON)**

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### **Abstract**

*In Indonesia, there have been numerous cases of people escaping from prison including the Muara Labuh Prison. This research analyze the prison conditions, the cases that occurred there, the motives behind the escape, the responsibility of the warden, and how Islamic law views escape. Data were collected through observation of prison conditions and interviews. Data analysis was performed in several stages, including data reduction, display, and verification techniques, then, narrated using a qualitative approach and Islamic law. The results revealed three cases of inmates escaping from this prison. They have a variety of reasons for this, including an inability to restrain sexual desires, being unable to serve very long sentences, depression, and poor prison security, which is the warden's responsibility. Prison escape is not justified in Islamic law due to the necessity to obey state rules that are not specifically regulated in the Qur'an and Sunnah.*

**Keywords:** *Convict; Islamic Law; Prison; Punishment.*

### **Abstrak**

Banyak terjadi kasus melarikan diri dari hukuman penjara di berbagai wilayah Indonesia termasuk Lapas Cabang Rutan Muara Labuh. Tujuan penelitian ini untuk menganalisis kondisi penjara, kasus yang terjadi di sana, alasan yang memicu pelarian, pertanggungjawaban sipir dan bagaimana hukum Islam menilai pelarian itu. Pengumpulan data dilakukan dengan cara observasi kondisi lapas dan wawancara. Analisis data dilakukan dengan teknik reduksi, display dan verifikasi, kemudian dinarasikan dengan pendekatan kualitatif dan hukum Islam. Hasil: ada tiga kasus warga binaan yang melarikan diri dari lapas ini. Mereka memiliki alasan yang cukup beragam di antaranya ketidakmampuan untuk menahan hasrat seksual, tidak mampu menjalani masa hukuman yang sangat lama, depresi, dan lemahnya keamanan penjara sebagai tanggungjawab sipir. Pelarian itu tidak dibenarkan dalam hukum Islam karena adanya keharusan untuk patuh pada aturan negara yang khususnya tidak diatur dalam al-Qur'an dan Sunnah.

**Kata kunci:** Hukuman; Hukum Islam; Narapidana; Penjara.

## Background

Aprison is an institution for the confinement of people who have been determined by a judge to be guilty of committing a crime. It becomes an option for punishing criminals or perpetrators of crime at times. However, criminal offenders apparently do not want to spend their lives in prison. In the current context, the Indonesian State refers to jails or prisons with several terms, such as correctional facilities or detention centers. In general, every country in the world has prisons to punish those who are found guilty in court by a judge. The number of these prisons is increasing from day to day, while the size of the buildings does not go hand in hand with this growth. This overcrowding prison situation causes a plethora of issues for the inmates. Those who have money can illegally pay to set up their room to look like a luxury bedroom.<sup>1</sup> On the other hand, there have been reports of inmates fighting and assaulting others, with older inmates being the most vulnerable victims.<sup>2</sup> Many inmates purposefully incite riots, and there are even convicts who commit suicide in prison.<sup>3</sup> There are also those who have escaped from prison. This information can be found in a variety of media, such as cases of

inmate escapes exposed in online news.<sup>4</sup> The cases varied, ranging from inmates' break out in Aceh to prison escape in Jayapura. They escaped by jumping over the prison fence, destroying the isolation room, and so on.

The case of prison escapes also occurs at Muara Labuh Prison, Solok Selatan regency, West Sumatera Province. Meanwhile, Islamic law does not recognize prison sentences in particular. In general, if a criminal is punished immediately, the perpetrator who has been convicted can go free, except for the death penalty. However, prison as a basic concept in certain events is only briefly discussed in the Qur'an and Sunnah. For example, in Surah Yusuf (12): 33, it is mentioned that the Prophet Yusuf chose prison (al-sijn) over fulfilling a woman's invitation to sin (immorality). In another verse of Surah al-Maidah (5): 33, the word "yunfau" is explained as one of the punishments for those who commit robbery. Commentators translate the word "yunfau" as al-habsu, or imprisonment for robbers.<sup>5</sup>

In addition to the two verses mentioned above, there is a story in hadith about a person who was detained by the Prophet s.a.w for a particular period of time because he was suspected of committing a criminal

1 Y.A. Triana Ohoiwutun and Samsudi, "Menalar Sel Mewah di Lembaga Pemasyarakatan", *Masalah - Masalah Hukum Vol. 46, No. 1*, (January 2017): 48–54.

2 Adiansyah Adiansyah and Sukihananto Sukihananto, "Kekerasan Fisik Dan Psikologis Pada Narapidana Lansia Di Lembaga Pemasyarakatan Jawa Barat", *Jurnal Keperawatan Indonesia Vol. 20, No. 3*, (Juli 2017): 168–75, doi: <https://doi.org/10.7454/jki.v20i3.623>.

3 Jibi, "KERUSUHAN PENJARA: Napi Tewas Gantung Diri Sebelum Lapas Banceuy Rusuh, Ini Penjelasan Menteri Yasonna", <https://www.solopos.com/kerusuhan-penjara-napi-tewas-gantung-diri-sebelum-lapas-banceuy-rusuh-ini-penjelasan-menteri-yasonna-713247>.

4 CNN Indonesia, "Bongkar Ruang Isolasi, Tiga Napi di Lapas Banda Aceh Kabur", <https://www.cnnindonesia.com/nasional/20200805104701-12-532333/bongkar-ruang-isolasi-tiga-napi-di-lapas-banda-aceh-kabur>, accessed on 21 March 2021.

5 Al Jassash, *Ahkam Al-Qur'an* (Beirut: Dar al-Kitab al-'Arabi, 1983).

act (immorality), and then the Prophet s.a.w released him.<sup>6</sup> After the Prophet s.a.w died, prisons developed as a place to punish individuals for having committed a crime, particularly the crime of ta'zir (every immoral act that is not punished with hudud punishment). In subsequent developments, imprisonment has become a type of punishment in the ta'zir crime (jarimah), which is applied in many Muslim-majority countries, such as Egypt<sup>7</sup> and Pakistan<sup>8</sup>, as well as in Qanun Aceh Number 6 of 2014 concerning Jinayat Law. This Qanun considers imprisonment as a form of punishment in addition to flogging and fines.

In Islamic law, prison sentences, unlike hudud crimes, are not explained in detail. Even though the punishment is not regulated in the Qur'an and Sunnah, perpetrators of crime can be sentenced to prison as long as the punishment is beneficial to both the convict and society as a whole. This means that a prison sentence is not mandatory.<sup>9</sup> Hazairin, one of the figures and experts in Indonesian law, as cited by Zakiyah, suggested that prison sentences, primarily shorter prison terms, be

abolished and replaced with more social work. Hazairin thought this is preferable because a short prison sentence could have adverse implications for the inmates. In that short period of time, an individual will have the opportunity to learn negative behaviors from other convicts who are sentenced to long terms of imprisonment because they commit more serious crimes.<sup>10</sup> Although the sentence of less than one year is abolished or converted, a longer prison sentence or even a life sentence is still not considered effective for convicts, even though their presence in prison is capable of maintaining the public good but is perceived as failing to protect their basic interests.<sup>11</sup>

There is another alternative that can be used, in which convicts with a prison term of less than one year can repay their sentence.<sup>12</sup> In Malaysia, light caning, particularly for female convicts, has been converted into a form of punishment for performing community service.<sup>13</sup> The same thing is offered in Indonesia, with the goal of making the sentence more oriented toward achieving punishment goals that cannot be realized in prison terms.<sup>14</sup> There are also those who

6 Al Syauckani, *Nail Al-Authar Jilid V* (Kairo: Dar al-Hadis, 1978).

7 Mahmud Najib Hasani, *Syarh Qanun Al-'Uqubat* (Kairo: Dar al-Nahdhah al-'Arabiyah, 1972).

8 Tahir Mahmood, et al, *Criminal Law in Islam and the Muslim World A Comparative Perspective* (Delhi: Institute of Objective Studies, 1996).

9 Otto Yudianto, "Eksistensi Pidana Penjara Dalam Perspektif Hukum Islam Dan Hukum Adat", *DiH: Jurnal Ilmu Hukum Vol. 8, No. 15*, (Februari 2012), doi: <https://doi.org/10.30996/dih.v8i15.260>.

10 Ninik Zakiyah, "Hazairin Dan Penghapusan Pidana Penjara Pendek", *Al-Ahkam Vol. 26, No. 2*, (October 2016): 249–70.

11 Diah Gustiniati Maulani, "Pidana Penjara Seumur Hidup Dalam Sistem Pemasyarakatan", *Praevia Vol. 5, No. 1*, (January-June 2011): 41–58.

12 Iqbal Kamalludin, and Barda Nawawie Arief, "Kebijakan Reformasi Maqâshid Al-Syariah Dan Kontribusinya Dalam Formulasi Alternatif Keringanan Pidana Penjara", *Al-Adalah Vol. 15, No. 1*, (2018): 181–218.

13 Jasri Jamal and Atiqah Mohamed Saim, "The Implementation of Shari'ah Whipping in Malaysia: A Case Study", *International Journal of Arts & Sciences Vol. 4, No. 23*, (2011): 311.

14 Iskandar Wibawa, "Pidana Kerja Sosial Dan Restitusi Sebagai Alternatif Pidana Penjara Dalam Pembaharuan

argued that people who have been convicted of drug abuse and addiction can be transferred to medical and social rehabilitation because an addict is already a sick person as well as a victim.<sup>15</sup>

Despite the fact that the term for jail has been changed to a correctional facility, its implementation is still deemed ineffective. Correctional facilities are still viewed as a school of crime among fellow inmates. These institutions are ideal places for inmates to learn and teach the most professional and safe ways to commit crimes and violations.<sup>16</sup> The treatment of inmates in facilities like this is also known as prisonization.<sup>17</sup> In this context, prisonization means that inmates interact with one another in terms of fellow habits and behavior, imitating and learning from one another. Among these interactions is deviant sexual interaction as a result of an inability to control sexual desire, which leads to the development of sexually transmitted diseases such as HIV/AIDS.<sup>18</sup> Thus, non-institutional approaches such as conditional sentences, suspended sentences, and probation, are

required.<sup>19</sup>

Based on the aforementioned background, this research will address the following research questions: What is the current condition of Muara Labuh prison? What does a prison escape case look like? What are the motives behind the escape? What is the guards' accountability in this case? And, how does Islamic law view prison escape? By referring to the research questions, this present research aims to examine the condition of Muara Labuh prison, the cases of prison escape that occurred there, the reasons that triggered the escape, the guard's responsibility in this case, and Islamic law perspective on prison escape.

This is field research using a qualitative approach. This research used both primary and secondary data sources. Data were collected through observation of the condition of the Muara Labuh Prison and in-depth interviews with inmates who did the escape, who were re-arrested and transferred to Class IIB Prison in Solok and Class IIA Prison in Muaro, Padang. In addition, the researchers also conducted interviews with officers at the

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Hukum Pidana Indonesia”, *Jurnal Media Hukum Vol. 24, No. 2*, (2017): 105–14, doi: <https://doi.org/10.18196/jmh.2017.0086.105-114>.

- 15 Hatarto Pakpahan, “Kebijakan Formulasi Sanksi Tindakan Bagi Pengguna Dalam Tindak Pidana Narkotika”, *Arena Hukum Vol. 7, No. 2*, (August 2014): 225–46, doi: <https://doi.org/10.21776/ub.arenahukum.2014.00702.5>.
- 16 I Wayan Putu Sucana Aryana, “Efektivitas Pidana Penjara Dalam Membina Narapidana”, *DiH: Jurnal Ilmu Hukum Vol. 11, No. 21*, (February 2015): 39–44, doi: <https://doi.org/10.30996/dih.v11i21.446>. so they are hard to get back into his social life. One attempt to minimize the imposition of imprisonment is to resolve the criminal matter amicably out of court (through penal mediation
- 17 Titik Suharti, “Fungsi Ganda Lembaga Pemasyarakatan”, *Perspektif Vol. 2, No. 2*, (Juli 1997), doi: <http://dx.doi.org/10.30742/perspektif.v2i2.160>.
- 18 Valéria Peixoto Bezerra and Jordana De Almeida Nogueira, “AIDS and Jail : Social Representations of Women in Freedom Deprivation Situations \*” *Vol. 50, No. 4*, (2016): 554–61, <https://doi.org/doi.org/10.1590/S0080-623420160000500003>.
- 19 Angkasa, “Over Capacity Narapidana Di Lembaga Pemasyarakatan, Faktor Penyebab, Implikasi Negatif, Serta Solusi Dalam Upaya Optimalisasi Pembinaan Narapidana,” *Jurnal Dinamika Hukum Vol. 10, No. 3*, (September 2010): 213–21, <https://doi.org/10.20884/1.jdh.2010.10.3.46>.

Muara Labuh Prison and several members of the community around the prison who knew about the escapes. Document studies were also used to supplement data obtained from observations and interviews. Data were analyzed in stages, including data reduction, display, and verification (drawing conclusions), and then descriptively narrated using a qualitative approach and Islamic law.

## **Discussion**

### **A. The Condition of Muara Labuh Prison**

Muara Labuh Prison is one of the technical implementing units within the ranks of the Ministry of Law and Human Rights of the West Sumatra Regional Office. This prison, like other correctional institutions on Indonesian territory, has the main mandate and function of correctional services for inmates as well as assistance services as part of the implementation of Law Number 12 of 1995 concerning Corrections. Muara Labuh Prison was established in 1926, with the initial name Solok Branch Prison in Muara Labuh. This name was changed because Muara Labuh is now located in Solok Selatan Regency, which had recently separated from Solok Regency in 2004. The Muara Labuh Prison has had several changes in leadership and is currently led by Kaharudin, S. Sos.

The Muara Labuh Prison building is an old building inherited from the Dutch colonial period. The building is not too large, with a building area of  $\pm 1553\text{m}^2$  and a land area of

approximately  $1780\text{ m}^2$ . The Muara Labuh Prison has 7 rooms for inmates, 3 of which are for men, 1 for children or minors, 2 for isolation, and 1 for women. In 2019, the Muara Labuh Prison had a capacity of 24 inmates but was occupied by 64 inmates. It had one minor inmate, three female inmates, and the rest were adult male inmates. According to the description above, this prison had seen an increase in occupants, both types of convicts and detainees. The Muara Labuh Prison was only supposed to hold 24 people, but it was home to 64 inmates. Similar cases happen in almost all Indonesian prisons. There were 24 officers at the Muara Labuh Prison, consisting of 20 male officers and 4 female officers. They had various educational backgrounds. There were 5 undergraduates and 19 high school graduates; 11 officers were in the Class III category and 13 officers in Class II.

### **B. Inmates Escape at Muara Labuh Prison**

The crimes committed by inmates at the Muaralabuh Prison varied, including drug abuse, violence against children, theft, embezzlement, fraud, gambling, and murder. Hasanul Hidayat, a prison officer, explained that three prisoners escaped from the Muara Labuh Prison between 2012 and 2017. They were found guilty of rape and drug abuse charges. One of the escaped inmates, DP, was convicted of immoral crimes and sentenced to 6 years in prison. There was also HY, who was found guilty of drug abuse and sentenced to 6 years and 6 months in prison. JR, another

escapee, was sentenced to 9 years in prison for drug abuse as well as a decency offense. According to prison guards, the three inmates escaped the Muara Labuh Prison for various reasons.<sup>20</sup>

a. The Escape of DP

In 2012, an inmate with the initials DP escaped from the Muara Labuh Prison. He escaped after being assigned the task of washing an officer's car. The guard stated that at the time, an inmate with the initials DP was washing the car of an officer (Initial R) on duty. After ordering the inmate to wash his car outside the prison, the guard paid no attention to him. Finally, he did not notice DP flee. The inmate DP was not found after a lengthy search until now.<sup>21</sup> Based on the officer's explanation, there was an element of negligence carried out by the prison guard. He purposefully directed the inmate to wash cars outside the prison in the absence of other guards.

b. The Escape of JR

In 2015, an inmate with the initials JR escaped from Muara Labuh Prison by eluding the guards. The officer explained that there were two guards on duty that day, with the initials Zz and An. Zz was sleeping at the prison's front office, while An was at the prison's door. JR told An that he was called by Zz, whereas the intended guard was asleep at the time, so JR took advantage of the situation to escape.<sup>22</sup> According to this explanation,

there was a factor of the negligence of the guards when JR fled.

c. The Escape of HY

Meanwhile, in 2017, an inmate initials HY escaped from the Muara Labuh Prison. According to the prison guard, he escaped while the prison officer was bringing in meals from the prison gate. Sar and Sut were the guards on duty at the time. HY took advantage of the opportunity to flee when the officers opened the door to distribute the meals. There was a chase going on between the prison officers and the inmate at the time. Officers held his hand briefly before releasing it. Finally, he was captured about 150 meters away from the Muara Labuh Prison, more precisely near the old Muara Labuh Prosecutor's Office.<sup>23</sup>

### C. The Motives Behind Prison Escapes in Muara Labuh Prison

In general, there are numerous reasons why inmates attempt to escape from prison. According to Wilza, Deputy Head of the Muara Labuh Prison, there are many factors that cause convicts to flee, such as long sentences that they got tired of serving. According to the findings of interrogations conducted by the Muara Labuh Prison with inmates who escaped, one of the reasons they fled was because they were sentenced to long terms of imprisonment. They became depressed while serving their sentence in prison and eventually decided to flee. They felt uncomfortable, alienated, and

20 Interview with Hasanul Hidayat, Officer at Muara Labuh Prison, 13 October 2019.

21 Interview with Hasanul Hidayat, Officer at Muara Labuh Prison, 13 October 2019.

22 Interview with Hasanul Hidayat, Officer at Muara Labuh Prison, 17 October 2019.

23 Interview with Hasanul Hidayat, Officer at Muara Labuh Prison, 17 October 2019.

isolated from the outside world.<sup>24</sup>

Another inmate who escaped had a different reason; the desire to get drugs. This perpetrator admitted that one of the reasons he escaped from prison was to consume drugs. Whenever he became addicted, he began to feel uneasy and sick because he was not taking the drugs as his body desired. As a result, his strong desire to satisfy his drug addiction became the catalyst for his escape from prison. On the other hand, he explained that he was imprisoned for narcotics abuse as both a user and a dealer. He was aware of the rule that drug traffickers are not eligible for remissions. This increased his desire to flee the Muara Labuh Prison.

There are also inmates who flee because their minds are unstable. The deputy head of the Muara Labuh Prison said that the inmate who ran had a mental disorder.<sup>25</sup> This situation caused the inmate to make a snap decision to flee his sentence. By escaping from the Muara Labuh Prison, he also ignored the consequences of his actions. His escape was also motivated by feelings of confinement, depression, and isolation.

Another reason inmates flee the Muara Labuh Prison is unrestrained sexual desire. According to the deputy head of the Muara Labuh Prison, inmates' inability to suppress their sexual desires could be understood because they were unable to channel them to their respective wives due to their detainment.

As a result, the inmate fled the prison and went to his wife's house to satisfy his sexual desires. Following that, the inmate returned to the prison to serve his sentence.<sup>26</sup> The general public is aware that overcrowding in prisons is the leading cause of inmates escaping. Based on the data of 21 August 2019, the Muara Labuh Prison had 64 inmates and detainees. Meanwhile, the prison should only house 24 inmates. One of the prison's policies toward inmates who flee and are later apprehended is to transfer them to another prison with a higher security level (grade). There were 3 (three) inmates who escaped from the Muara Labuh Prison. One of them has not been arrested to this day. The other two were transferred to different prisons, including the Class IIA Prison in Padang and the Class IIB Prison in Solok. For the purpose of this research, the researchers met them in both prisons.

a. HY's Reasons for Prison Escape

HY was an inmate involved in drug abuse cases. After being re-arrested, he was transferred to the Class IIA Prison in Padang. This is specified in the correctional policy. Padang Class IIA Prison is located in West Sumatra Province's capital city. The distance between these two locations is about 127 kilometers. These two prisons are clearly distinct in terms of security, with the Padang Class IIA prison implementing maximum security. Nonetheless, the conditions of the prisons do not appear to be significantly

24 Interview with Wilza, Deputy Head of Muara Labuh Prison, 27 October 2019.

25 Interview with Wilza, Deputy Head of Muara Labuh Prison, 3 November 2019.

26 Interview with Wilza, Deputy Head of Muara Labuh Prison, 3 November 2019.

different. Dini, an officer at Class IIA Prison in Padang, explained that inmates and detainees at the Class IIA Prison in Padang are overcrowded. This prison should have a capacity of 458 people. However, the number of occupants (as of 17 August 2019) consisted of 1014 inmates and detainees. Furthermore, these convicts faced harsher punishments for a broader range of crimes and offenses, as well as longer sentences. They committed at least 20 different types of crimes and violations. This number was added by inmates who were apprehended after escaping, including HY.<sup>27</sup> Furthermore, HY explained that this excess capacity had a high potential for inmate rioting. Sometimes disturbances such as fights and arguments occurred in the detention cells because the overcrowded cells triggered the inmates' difficult-to-control emotions. As a transferee, HY frequently witnessed this situation.<sup>28</sup>

In an interview with the researchers, HY argued that he did not escape, but rather attempted to flee. He was eventually captured not far from the Muara Labuh Prison. According to him, the judge's sentence was extremely high (6 years and 6 months), and he received no remission. He could not bear such a lengthy sentence. As a result, when the opportunity arose, he tried to flee. However, he was eventually brought back and transferred to another prison with stricter supervision.

HY went on to say that he saw an opportunity to run at the time. The Muara Labuh Prison had two guards during that moment. The two guards were busy handing out the meals. He took advantage of the situation to flee. He made the decision on the spur of the moment, with no prior planning.<sup>29</sup> Some residents living near the prison witnessed the inmate's arrest. Eti explained that she had seen HY being pursued and arrested as he ran toward the old prosecutor's office. At first, she did not recognize the person being pursued by the guards at the time. After a closer look, she realized the person who had fled was one of the inmates at Muara Labuh Prison.<sup>30</sup>

#### b. JR's Reason for Prison Escape

Meanwhile, JR also escaped from the Muara Labuh Prison. He was transferred to Class IIB Prison in Solok after being arrested. Muara Labuh is located in the Solok Selatan Regency and is approximately 123 kilometers from the city of Solok. Rudi, an officer at the Class IIB Prison in Solok, explained that the facility's capacity is only for 192 people, but it is currently occupied by 410 inmates with various crimes and violations, as well as sentences ranging from the minimum to the maximum. According to the data, the Solok Class IIB prison has also reached its capacity, and JR became an additional occupant.<sup>31</sup> JR explained that he felt his sentence was too high, despite the opportunities available at

27 Interview with Dini, Officer at Class IIA Prison in Padang, 22 December 2019.

28 Interview with HY, An inmate who was captured after escaping from Muara Labuh Prison, 23 December 2019.

29 Interview with HY, An inmate who was captured after escaping from Muara Labuh Prison, 23 December 2019.

30 Interview with Eti, Local resident living near Muara Labuh Prison, 15 October 2019.

31 Interview with Rudi, Officer at Class IIB Prison in Solok, 29 October 2019.



the time. JR stated that he ran away from the Muara Labuh Prison because he believed he was innocent, but the investigators and judges wrongly accused him of abusing the girl and found him guilty.

He explained that the charges against him were for fleeing with a minor girl. Nonetheless, he claimed that he and the girl loved each other. He did not compel the girl to join him. The girl even stated that she did not agree if JR was imprisoned because of her willingness to run with him. However, the girl's family took a different approach to this case, continuing to sue JR as the perpetrator who fled an underage girl and demanding that JR be imprisoned in accordance with applicable legal provisions. As a result, JR felt wronged and tried to leave the prison. He took advantage of the opportunity while the guard on duty was sleeping. Furthermore, JR believed that his sentence was too high, and his inability to remain in prison for long contributed to his escape.<sup>32</sup> According to documents from the Muara Labuh Prison, JR was sentenced to prison not only for being involved in an immoral case but also for being involved in a narcotics abuse case, which resulted in him being sentenced to 9 years in prison with no chance of remission.

Aside from the personal reasons mentioned above, the situation and condition of the Muara Labuh Prison are other factors that cause inmates to flee. For example, prison guards' negligence because their attention is

diverted to other things while on duty. This is understandable when viewed through the lens of their humanity. Another factor driving this is a shortage of prison personnel. These opportunities come along every now and then and are used by inmates to escape, as in the cases of HY and JR. They attempted to flee the prison while the officers on duty were busy distributing the meals and when the guard fell asleep due to fatigue, despite the fact that their working hours had not ended.

#### **D. Accountability of Prison Officers of the Muara Labuh Prison**

Hidayat, an officer at the Muarah Labuh Prison, stated in an interview that he has worked at the facility since 2009. In his explanation, he confirmed that prison guards' duty is to open and close the gate. The guards then check everyone who leaves or enters the prison, including visitors, employees, and residents. They are also required to ensure that no residents or visitors enter and exit without the guard noticing. If there are any occupants (inmates and detainees) who need to leave the prison, they must do so under strict supervision and with the approval of the head of the prison. The guards must always be alert to the movements of inmates and detainees who look suspicious. Another duty of the prison guard is to inspect each visitor who visits and enters the prison to confirm they are not carrying any sharp weapons or other dangerous objects. Officers are required to

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<sup>32</sup> Interview with JR, An inmate who was captured after escaping from Rutan Muara Labuh Prison, 23 October 2019.

inspect the belongings of every visitor in order to ensure the safety of the prison, particularly inmates and detainees.<sup>33</sup>

Correctional policies have included provisions governing, among other things, the obligations of prison officers. If the officer fails to meet this obligation and an incident occurs that jeopardizes the security of the prison, such as inmates or detainees escaping, the officer may face penalties. Article 426 paragraphs 1 and 2 of the Criminal Code regulate this provision. According to this article:

*An official who is assigned to look after a person who has been deprived of his liberty by order of the general authority based on a judgment or decision of the court, intentionally allows that person to run away, or deliberately releases or assists when that person is released or escapes, shall be punished by a maximum of 4 years in prison. If that person flees, is released, or escapes due to the official's error (negligence), the person is threatened with two months in prison or a maximum fine of four thousand five hundred rupiahs.*

When HY, JR, and DP fled from the Muara Labuh Prison, the duty officers were faced with this situation. Officers who were found to be negligent in their duties faced disciplinary action, including demotion. Officer R's decision to order inmate DP to wash his car outside the prison, far from his supervision, was deemed negligent. Officers should not have given inmates assignments

because doing so could have given the inmates a way to escape the prison. The deputy head of the Muara Labuh Prison argued that officer R's punishment of one level demotion was proportionate to his actions and in accordance with the rules governing it.<sup>34</sup> In the case of JR's escape, the officers on duty at the time received certain penalties as well. JR escaped and was a fugitive for two years before being apprehended in Medan and transferred to Class IIB Prison in Solok. Officers with the initials An and Zz were punished at the time with demotion and a reduction in remuneration.

In the HY escape case, the on-duty officers were evaluated differently. At the time, the officers were distributing meals to the inmates, and HY took advantage of the opportunity to flee. Because the officers' negligence was not deemed fatal, they were not punished in any way other than an unwritten warning. Aside from that, the success of re-arresting HY in a relatively short period of time was another reason not to impose disciplinary punishment on these two prison officers.<sup>35</sup>

### **E. Prison Escape from the Perspective of Islamic Law**

It was stated at the beginning of the discussion that Islamic law does not recognize imprisonment. Nobody escaped from prison, according to the chroniclers of Islamic law. In the evolution of Islamic law's punishment, imprisonment has become one of the types

33 Interview with Hasanul Hidayat, Officer at Muara Labuh Prison, 17 October 2019.

34 Interview with Wilza, Deputy Head of Muara Labuh Prison, 3 November 2019.

35 Interview with Hasanul Hidayat, Officer at Muara Labuh Prison, 13 October 2019.

of punishment in the category of jarimah ta'zir. Jarimah is all religious prohibitions (Allah and the Messenger) in the Qur'an and Sunnah which are threatened with hadd and ta'zir punishments.<sup>36</sup> Hadd (plural: hudud) are punishments that have been determined in size in the Qur'an and Sunnah in the form of prohibitions and punishments, and the number is very limited. The Hanafiyah scholars said there were only five types, while the Jumhur scholars (the majority) said there were seven or eight.<sup>37</sup> For example, the punishment of cutting hands for those who commit theft is regulated in surah al-Maidah (5): 38, the punishment of 80 lashes for those accused of adultery (defaming the reputation of others) is regulated in surah an-Nur (24): 4, and the death penalty for those who intentionally kill others is regulated in several verses, including surah al-Baqarah (2): 178. Hudud punishment is a provision and right of Allah that cannot be changed or replaced by humans. The judge has limited authority other than only carrying out the sentence when it has been proven correct in court (ahkam al-murafa'ah).

Meanwhile, jarimah ta'zir refers to any immoral act (sin) that is not punished by hadd or kaffarat.<sup>38</sup> As a result, the government has full authority to regulate this jarimah ta'zir. There are three types of jarimah ta'zir in concept. First, the case of jarimah hudud in which the conditions for hudud punishment

are not met. For example, a thief steals property from another person's home but the value of the stolen property does not surpass the minimum amount (nisab) for hand cutting. In this case, the perpetrator receives ta'zir punishment as determined by the judge (government). Second, the Qur'an and Sunnah contain prohibitions on doing certain things, but these prohibitions are not accompanied by punishment provisions. As a result, the judge (state) decides on the punishment. For example, in the Qur'an surah an-Nur (24): 27, someone is prohibited from entering another person's house/residence without the permission of the owner. The prohibition is not accompanied by the threat of specific penalties if it is violated. In this case, the state is required to establish the rule of law as well as the appropriate punishment. Third, neither the prohibition nor the terms of punishment are explained in the Al-Qur'an or the Sunnah, so the regulation becomes the state's sole authority. For example, the state enacted Law Number 22 of 2009 concerning Road Traffic and Transportation, which includes provisions for penalties for violators. Based on that explanation, in addition to fines and warnings, imprisonment is an alternative punishment in the jarimah ta'zir category.

Despite this, there is information in the Prophet s.a.w's hadith about someone who fled while undergoing hudd punishment.<sup>39</sup> This

36 Al Mawardi, *Al-Ahkam al-Sulthaniyah* (Mesir: Maktabah wa Mathba'ah Musthafa al-Bab al-Halabi, 1966).

37 Al Kasāny, *Badai' al-Sanai' Fi Tartib al-Syarai'* (Beirut: Dār al-Kutub al-Ilmiyah, 1997).

38 Wahbah al Zuhaili, *Al-Fiqh al-Islamiy wa Adillatuh*, Vol. VII (Beirut: Dar al-Fikr, 1997).

39 Abu 'Abdillah Muhammad ibn Isma'il ibn Ibrahim al Bukhari, *Shahih Al-Bukhari*, 1st ed., vol. IV (Beirut: Dar al-Kutub al-Ilmiyah, 2008).

hadith tells the story of Ma'iz, who admitted to having committed adultery. Adultery is one type of hudud crime with a clear punishment in the Qur'an and Sunnah. In this hudud provision, the perpetrator's confession became legal evidence and was used to convict him. After Rasulullah s.a.w ensured the trial process was correct, he was punished with hudud punishment. The sentence was carried out not long after the trial, and Ma'iz fled during that time. Even though he was arrested and continued to be punished, the Prophet s.a.w regretted the attitude of his companions who chased and caught him after running away and said he should have been allowed to escape because he might withdraw his confession or repented for the sins he had committed, according to the Prophet s.a.w. Meanwhile, in Islamic law, repentance is a situation that can affect or even abolish the punishment.

If these two escape cases (the escape during the reign of Rasulullah s.a.w. and the escape of inmates from the Muara Labuh Prison) are compared, there are several points to consider. First, since the case was decided by the Prophet s.a.w based on evidence of confession, the escape of the convict during his time could be justified. In Islamic law, confession is evidence that can stand on its own without the assistance of other evidence such as testimony or qarinah (indication). Then, during the sentence's execution, he attempted to flee. Escape was considered by the Prophet s.a.w to be a form of withdrawing his confession, and

it was considered to be the same as repentance. Repentance itself can abolish punishment, including hudud punishment. In the study of Islamic law, withdrawing a confession can nullify a sentence even though it is done after a decision has been made.<sup>40</sup> Inmates who escaped from prison (particularly those who fled from the Muara Labuh Prison) were very different from those who escaped during the time of the Prophet s.a.w. The perpetrator was sentenced based on a range of evidence, including witness testimony and other evidence (qarinah). These two types of evidence differ from confessional evidence in that confessions can be withdrawn by the perpetrator, whereas testimony and qarinah cannot. As a result, in these two types of cases, convict escape results in different laws. Second, convicts escaping during the Prophet's time were part of the hudud case, the provisions of which were stipulated in the Qur'an and Sunnah, whereas inmates escaping from the Muarah Labuh Prison were specifically based on laws and regulations stipulated by the Republic of Indonesia. In this sense, this case falls within the scope of ta'zir punishment in Islamic law. As a result, if the convict is indicted by a judge based on a confession, he can justify fleeing as a way of withdrawing his confession, as was the case with convict escapes during the Prophet's time. This inmate, on the other hand, was punished with more than one piece of evidence, which aggravated his case. Therefore, even if he withdrew his confession

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40 Ibnu Qudamah, *Al-Mughni Juz 12* (Kairo: Dar al-Hadits, 1995).

at trial, his escape from prison could not be justified.

Third, when it comes to inmates who have escaped from the Muara Labuh Prison, repentance is not seen as having the ability to abort or release them from the punishment they are currently serving. The measure of their repentance from the sins of their crimes is by serving the sentence in that prison properly. In the concept of Islamic law, this situation is referred to as “zawajir”, namely the execution of punishment in the world as a form of learning and at the same time as “jawabir”, where the execution of punishment in the world can erase the sins of crimes in the hereafter.<sup>41</sup>

Based on the description above, the escape of inmates from correctional institutions or prisons is not justified under Islamic law, because this case differs from the escape carried out by Ma’iz during the time of the Prophet s.a.w. If an inmate admits all of his mistakes and sincerely repents, promising not to repeat the same or other evil act, he will be granted his rights as a convict. Obtaining a reduced sentence or remission is one of these rights. This remission is permissible under Islamic law because criminal cases in Indonesia (aside from Aceh) are still classified as ta’zir crimes, which are prosecutable by

the government. In this case, the state has the authority to impose punishments on criminal offenders, and these criminal perpetrators must comply with established regulations.

Conforming to this explanation, inmates who fled the Muara Labuh Prison did so for a variety of reasons, including pressure (stress and depression) and uncontrollable sexual urges. Many experts and researchers have confirmed these conditions.<sup>42</sup> The length of the sentence, particularly for prisoners sentenced to more than five years, is one of the factors that contribute to increased depression.<sup>43</sup> On the other hand, the daily addition of inmates has exacerbated the condition of correctional facilities, which cannot be expanded every day. Convicts who are imprisoned can change their sexual orientation from heterosexual to homosexual. Homosexuality is a deviant and highly contentious behavior that can be common in prisons.<sup>44</sup> It was proven that an inmate at the Muara Labuh Rutan Prison escaped to channel his sexual needs to his wife outside the prison. This was not always possible when he had sexual urges. The pressure of sexual desire on convicts has caused many problems in correctional institutions, both in Indonesia and elsewhere. In response, the Purwokerto Prison provides special facilities to meet the sexual needs

41 Ahmad Fathi Bahansi, *Al-Uqubah Fi al-Fiqh al-Islami Dirasatan, Fqhiyyatan, Mutajarratan* (Kairo: Maktabah Dar al-Urubah, 1961).

42 Egin Elga Dean Sum, Monika Veronika, and Sofia Pilosusan, “Kehidupan Narapidana Di LAPAS (Lembaga Pemasyarakatan),” *SCHOULID: Indonesian Journal of School Counseling Vol. 2, No. 2*, (2017): 20–25.

43 Dian Veronika Sakti Kaloeti et al., “Gambaran Depresi Warga Binaan Pemasyarakatan X,” *Jurnal Psikologi Vol. 13, No. 2*, (December 2017): 115–19.

44 Sugeng Pujileksono, “Masalah-Masalah Di Penjara Dalam Studi Sosial,” *Jurnal Salam Vol. 12, No. 2*, (July-December 2009): 13–30.

of inmates by providing conditional leave (CB), leave before release (CMB), and leave to visit family (CMK), because, with these three programs, inmates can return home to meet their families, particularly their wives, to fulfill their sexual desires.<sup>45</sup>

Some researchers proposed diyat punishment (the removal of a number of assets as punishment for committing a crime) as an alternative to punishment in murder cases in order to reduce the number of inmates in prisons.<sup>46</sup> Meanwhile, some argued that religious activities in prisons should be increased to encourage inmates to imitate each other's good deeds.<sup>47</sup> Another researcher suggested that Islamic criminal law legislation that does not recognize prison terms be implemented gradually as part of the formalization of laws and regulations because it is thought to have a positive impact on enriching and strengthening awareness of commitment to the nation and state.<sup>48</sup>

## Conclusion

The research's findings include the following: first, the condition of the Muara Labuh prison has exceeded its occupancy capacity and is not directly proportional

to tighter security. Second, three cases of escaped convicts were discovered, and one of them has yet to be apprehended. Third, the escape was motivated by the length of prison sentences and inmates' inability to suppress their sexual desires. Fourth, by receiving disciplinary punishment from the government, prison officers are also held accountable for the escape. Fifth, escaping from prison is not justified because the prison sentence is included in the state's extrajudicial punishment. Furthermore, there is always a reason to avoid imprisonment, because a human being who is accustomed to freedom will rebel when he is imprisoned and his movements are restricted. Inmates escaping from prison cannot be avoided, despite the government's efforts. On the one hand, this escape occurs because an inmate has physical and psychological needs, and not all of his psychological needs are met in a correctional institution, along with the sexual needs of married inmates. These situations have negative consequences for inmates, such as alienation, stress, and depression, which leads to them attempting to escape from prison.

45 Valéria Peixoto Bezerra and Jordana De Almeida Nogueira, "AIDS and Jail : Social Representations of Women in Freedom Deprivation Situations", *Journal of School of Nursing Revista da Escola de Enfermagem da USP* Vol. 50, No. 4, (2016): 554–61. doi: <https://doi.org/doi.org/10.1590/S0080-623420160000500003>.

46 Rocky Marbun, "Konsep Diyat Sebagai Alternatif Pemidanaan Dalam Sistem Peradilan Pidana Untuk Mengatasi Fenomena Overcapacity Lembaga Pemasyarakatan," *Jurnal Hukum Dan Peradilan*, Vol. 6, No. 2, (July 2017).

47 Erlina Anggraini, "Strategi Regulasi Emosi Dan Perilaku Koping Religius Narapidana Wanita Dalam Masa Pembinaan Studi Kasus : Lembaga Pemasyarakatan Wanita Klas II A Bulu Semarang," *Theologia* Vol. 26, No. 2, (July-December 2015): 284–311.

48 Faisal, "Menimbang Wacana Formalisasi Hukum Pidana Islam di Indonesia", *Ahkam* Vol. 12, No. 1, (January 2012): 37–50.

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