

**Author:**

<sup>1</sup>Mohamad Ridhuan Mohd Zawawi, <sup>2</sup>Wafaa' Yusof, <sup>3</sup>Zaini Nasohah, <sup>4</sup>Anwar Fakhri Omar, <sup>5</sup>Safiyah Hannah Souit

**Affiliation:**

<sup>1,2,3,4</sup>Universiti Kebangsaan Malaysia, Malaysia

<sup>5</sup>Al Azhar University, Egypt

**Corresponding author:**

\*p153792@siswa.ukm.edu.my

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## Rethinking *Hisbah* and *Sharia* Proceduralism: A Comparative Approach to Justice in Contemporary Islamic Law

**Abstract:** This study explores the impact of differences between the flexibility of the *hisbah* system in Islam and the procedural nature of the *Syariah* criminal enforcement system in Malaysia on the application of contemporary principles of justice. Using a qualitative approach, the research applies deductive content analysis based on primary and secondary sources, including classical Islamic legal texts, statutory laws, journal articles, books, and relevant websites. The data were analysed both descriptively and analytically, and the findings were presented thematically. To ensure data validity and reliability, the researcher used source triangulation. The findings reveal that contemporary justice principles—within the frameworks of *hisbah* and *Syariah* proceduralism in Malaysia—have not been applied comprehensively and holistically. Their implementation remains limited to specific areas and does not reflect a balanced integration of procedural, retributive, restorative, and distributive justice. While procedural justice appears to be better protected within the *Syariah* criminal enforcement system, this does not necessarily mean that justice is fully achieved, as gaps and inconsistencies still exist. In particular, retributive, restorative, and distributive justice require critical re-evaluation, as the procedural rigidity of the current system hinders their effective implementation—especially in terms of the severity and types of punishments imposed. In conclusion, this study highlights the need for reform in Malaysia's *Syariah* legal framework. Such reforms may include codifying remand and raid procedures into procedural law, revising statutory sentencing limits, institutionalising restorative justice mechanisms, formally recognising mediation based on these principles, and introducing other necessary legal changes. This research contributes to strengthening the *Syariah* criminal justice system in Malaysia and promoting the more holistic application of justice principles.

**Keywords:** Enforcement, Flexibility, *Hisbah*, Procedural.

## INTRODUCTION

*Hisbah* plays a role in safeguarding, regulating, and guiding the overall system of life in Islamic society to ensure it operates following the requirements of *Shariah*.<sup>1</sup> The *hisbah* system first emerged during the time of Prophet Muhammad (PBUH)<sup>2</sup> and was continued by the Islamic caliphs after him.<sup>3</sup> The implementation of *hisbah* by this specialised institution continued for hundreds of years<sup>4</sup> until the Western colonisation of Islamic countries. As a result, the *hisbah* institution was either integrated into other administrative institutions or, in some cases, retained but with a diminished role and no longer functioning as it once did.<sup>5</sup>

Although the *hisbah* institution no longer exists as a distinct entity today, its concept, which is rooted in *amar ma'ruf nahi munkar* and upholding justice, continues to be implemented in Malaysia.<sup>6</sup> This responsibility is carried out by specific agencies entrusted by the government, such as the State Islamic Religious Departments (Jabatan Agama Islam Negeri, JAIN). JAIN is responsible for preventing wrongdoing and enforcing *syara* laws among Muslims residing within the jurisdiction of a particular state. The duty of *amar ma'ruf nahi munkar* is specifically carried out by the Enforcement Division, which is legally empowered to enforce *Syariah* criminal laws.<sup>7</sup> According to data published in 2023, the Selangor Islamic Religious Enforcement Department successfully addressed 14,130 *Syariah*

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<sup>1</sup> All-Mu'izz Abas and Anwar Fakhri Omar, "The Role of Hisbah Institution in Governing Ihtikar Activities in Malaysia," *Al-Qanatir: International Journal of Islamic Studies* 31, no. 2 (2023): 122–131.

<sup>2</sup> Abdul Qahhar Ibrahim, Abdul Ghafar Don, and Muhamad Faisal Asha'ari, "Konsep Hisbah Dan Kepentingan Dalam Pengurusan Hal Ehwal Islam," *Al-Hikmah* 10, no. 1 (2018): 55–78.

<sup>3</sup> Ahmed Ezzat, "Law and Moral Regulation in Modern Egypt: A Hisba from Tradition to Modernity," *International Journal of Middle East Studies* 52, no. 4 (2020): 665–684, <https://doi.org/10.1017/S002074382000080X>.

<sup>4</sup> Fawad Khaleel and Alija Avdukic, "Islamic Classical Literature (A.D. 950–1450) on Institutionalisation of Ethics for Regulating Markets and Society," *Religions* 15, no. 12 (2024): 1496, <https://doi.org/https://doi-org/10.3390/rel15121496>.

<sup>5</sup> Abas and Omar, "The Role of Hisbah Institution in Governing Ihtikar Activities in Malaysia."

<sup>6</sup> Azrin Ibrahim, "Kepentingan Hisbah Dan Amalannya Di Malaysia," *Jurnal Islam Dan Masyarakat Kontemporari* 11, no. 1 (2015): 22–33, <https://doi.org/10.37231/>.

<sup>7</sup> Nur Al-Farhain Kamaruzaman and Kamaruzaman Yusoff, "Konsep Dan Aplikasi Hisbah Berkaitan Penguatkuasaan Undang-Undang Moral Islam Di Malaysia," *BITARA International Journal of Civilizational Studies and Human Sciences* 4, no. 1 (2021): 146–157, <http://www.bitarajournal.com>.

criminal offences involving Muslim community members in Selangor between 2018 and 2022.<sup>8</sup> This shows that the *hisbah* system is actively being implemented through *Syariah* law enforcement in Malaysia.

According to Alias et al.<sup>9</sup>, Religious Enforcement Officers today can also be called Muhtasib as their roles and responsibilities are similar to those of the Muhtasib in the past who were responsible for preventing wrongdoing and upholding justice within society. Furthermore, the enforcement of *Syariah* criminal laws in Malaysia today is built upon the same principles as *hisbah*: upholding justice and preventing wrongdoing.<sup>10</sup> It is, therefore, not surprising that some consider the enforcement of *Syariah* criminal laws to be a form of *hisbah*. However, there are significant differences between these two systems.<sup>11</sup> The *Syariah* Criminal Procedure Enactments and *Syariah* Criminal Offenses Enactments of various states, which serve as the legal basis for *Syariah* law enforcement in Malaysia today, only share the same foundational principles with the *hisbah* system but differ in terms of implementation, punishment, and objectives.

*Hisbah* is inherently flexible, meaning its implementation is not bound by specific procedures or formal guidelines except for *syara* (Islamic law) and universal principles, which make it applicable beyond a single aspect of life.<sup>12</sup> The implementation of *hisbah* encompasses all forms of wrongdoing within human life that fall under ta'zir offences, including violations related to creed (*akidah*), worship (*ibadah*), transactions (*muamalat*), and

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<sup>8</sup> Dewan Negeri Selangor, "Kes Jenayah Syariah," E-Quans Electronic Question and Answer Dewan Negeri selangor, 2023, <https://dewan.selangor.gov.my/question/kes-jenayah-syariah-2/>.

<sup>9</sup> Alias Azhar et al., "Hisbah Parameters In Syariah Criminal Legislative Framework In Malaysia: Overview of Prevention of Khalwat (Close Proximity) Criminal Offenses," *International Journal of Law, Government and Communication* 3, no. 9 (2018): 46-56, <http://www.ijlgc.com/PDF/IJLGC-2018-09-06-05.pdf>.

<sup>10</sup> Zulkifly Muda, Nizaita Omar, and Nehaluddin Ahmed, "Comparison Between Islamic Criminal Law and Man-Made Law," *International Journal of Academic Research in Business and Social Sciences* 14, no. 2 (2024): 972-980, <https://doi.org/10.6007/ijarbss/v14-i2/20718>.

<sup>11</sup> Ibrahim, "Kepentingan Hisbah Dan Amalannya Di Malaysia."

<sup>12</sup> Lorenzo Vidino, *Hisba in Hisba Europe? Assessing A Murky Phenomenon* (European Foundation For Democracy, 2013).

morality (*akhlaq*).<sup>13</sup> Unlike statutory law, *hisbah* is not tied to specific legislation that mandates fixed punishments for offenders. Its primary objective is to monitor, prevent, and safeguard society from engaging in activities prohibited by religion<sup>14</sup> rather than solely focusing on punishment.<sup>15</sup> Punishment is not the main emphasis of *hisbah*; hence, a Muhtasib is not necessarily required to impose penalties on wrongdoers but may offer advice or warnings depending on the nature of the offence and the offender's circumstances. However, in cases where wrongdoing is deemed severe, poses significant harm to society, or is repeatedly committed, the Muhtasib has the discretion to impose harsher punishments such as imprisonment, fines, or other forms of disciplinary action.<sup>16</sup>

On the other hand, the enforcement of *Syariah* criminal laws in Malaysia is fixed and procedural. Its implementation is strictly limited to offences explicitly stipulated in written laws that have been enacted in Malaysia.<sup>17</sup> If an act constitutes wrongdoing but is not codified in written law, the *amar ma'ruf nahi munkar* principle does not apply. This is because enforcement officers are not permitted to take action against such acts even if they are considered immoral, as the Constitution does not grant them authority. In carrying out this enforcement, specific legal procedures must be strictly followed. The enforcement process generally consists of pre-trial, trial, and judgment stages.<sup>18</sup> The primary objective of this enforcement leans more toward punishment rather than education. This is evident as every offence listed in the *Syariah* Criminal Offenses Enactments is accompanied by its prescribed punishment. Furthermore, the *Syariah* Criminal Procedure Enactments of various states do not recognise advice or warnings as an accepted method of enforcement.

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<sup>13</sup> Ibrahim, Don, and Asha'ari, "Konsep Hisbah Dan Kepentingan Dalam Pengurusan Hal Ehwal Islam."

<sup>14</sup> Ibrahim, "Kepentingan Hisbah Dan Amalannya Di Malaysia."

<sup>15</sup> Alias Azhar et al., "Shari'ah Criminal Law Enforcement in Hisbah Framework: Practice In Malaysia," *Intellectual DIscourse* 28, no. 01 (2020): 149-170, <https://doi.org/10.33383/2020-01>.

<sup>16</sup> Abdellah Hadj Ahmed, "Effectiveness of the Hisba Regime in Combating the Flagrant Delicto of the Environmental Crime - A Comparative Study of the Algerian Legislation," *Majallah Al-Ijtihad Lildirasat Al-Qanuniyyah Wa Al-Iqtisadiyyah* 09, no. 01 (2020): 640-663.

<sup>17</sup> Shamrahayu A. Aziz, "Islamic Criminal Law in the Malaysian Federal Structure: A Constitutional Perspective," *IJUM Law Journal* 15, no. 1 (2007): 101-120, <https://doi.org/10.31436/iiumlj.v15i1.62>.

<sup>18</sup> Shamrahayu Abdul Aziz, *Isu Penguatkuasaan Undang-Undang Jenayah Syariah Di Malaysia* (Kuala Lumpur: Dewan Bahasa dan Pustaka, 2016).

This clearly indicates that the primary aim of *Syariah* law enforcement is punishment rather than education.

Although the concept of *hisbah* exists within the enforcement of *Syariah* criminal laws in Malaysia, its approach is more procedural and rigid, differing from the true concept of *hisbah*, which is inherently flexible.<sup>19</sup> This raises a critical question: does the difference between the flexibility of *hisbah* and the procedural enforcement of *Syariah* criminal laws in Malaysia impact the principle of justice, which serves as the foundation for both systems? Compared to previous research, the uniqueness highlighted in this study lies in its detailed explanation of the differences between the flexible nature of the *hisbah* concept and the procedural nature of *Syariah* criminal enforcement in Malaysia. In addition, this study offers a unique perspective in understanding the impact of these differences on the principles of contemporary justice, an aspect that previous scholars have not addressed.

Some previous studies have focused solely on discussing the concept of *hisbah*, such as the study by Muhammad Dhiya'ul Haq and Muhammad Hafidz Alwi, which examined the concept of *hisbah* from the perspective of Imam al-Mawardi<sup>20</sup> and its implementation in the enforcement of *Syariah* criminal offences in the present day; Arfriani Maifizar's study explored the implementation of *hisbah* by the Wilayatul *Hisbah* (Moral Police) in Aceh in combating *khalwat* offences;<sup>21</sup> Zul Anwar, Zulfan and Muhammad Ridwan study discussed the application of *hisbah* for similar offences committed by offenders aged between 12 and 18 years old in Aceh;<sup>22</sup> research by Siti Aishah, Mahamatayuding Samah and Mohd Norhusairi Mat Hussin examined *hisbah* in the context of enforcing matrimonial offences

<sup>19</sup> Muda, Omar, and Ahmed, "Comparison Between Islamic Criminal Law and Man-Made Law."

<sup>20</sup> Muhammad Dhiya'ul Haq Habibullah and Muhammad Hafidz Alwi, "The Implementation of Al-Mawardi's Views on Hisbah System in Islam," *Syariah Journal of Fiqh Studies* 2, no. 1 (2024): 1-20, <https://doi.org/https://doi.org/10.61570/syariah.v2i1.46>.

<sup>21</sup> Arfriani Maifizar, "Wilayatul Hisbah's (WH) Strategy to Enforce the Law against Khalwat Case in Ujung Karang West Aceh Regency," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 1 (2022): 37-52, <https://doi.org/10.18326/ijtihad.v22i1.37-52>.

<sup>22</sup> Zul Anwar Ajim Harahap, Zulfan, and Muhammad Ridwan, "Analyzing the Offense of Juvenile Khalwat in Aceh: Evaluation of Qanun Number 14 of 2003 from an Islamic Legal Perspective," *Al-Manahij: Jurnal Kajian Hukum Islam* 18, no. 1 (2024): 79-93, <https://doi.org/10.24090/mnh.v18i1.10648>.

involving marriages without official consent among Muslims in the state of Johor<sup>23</sup>; Nur Al-Farhain Kamaruzaman and Kamaruzaman Yusoff study focused on the implementation of *hisbah* in the enforcement of Islamic moral laws in Malaysia.<sup>24</sup>

While considerable research has explored the concepts of *hisbah* and *Syariah* criminal enforcement in Malaysia, a significant gap persists in the existing literature concerning analysing the implications of the differences between these two systems on contemporary justice principles. Therefore, the researcher identifies this gap as an essential area that needs further examination and discussion. In light of this, the objective of this article is to analyse the implications of the differences between the flexibility of *hisbah* and the procedural enforcement of *Syariah* criminal laws in Malaysia on contemporary justice principles.

## METHOD

This study is a qualitative research that employs content analysis as its primary method of data analysis. The data were obtained through a deductive analysis of primary and secondary sources. Among the primary sources analysed are classical Islamic legal works such as *Al-Ahkam al-Sultaniyyah* by al-Mawardi and *Al-Hisbah Fi al-Islam* by Ibn Taymiyyah, both of which focus extensively on the discourse surrounding *hisbah*. As for primary sources relating to the *Syariah* criminal enforcement system in Malaysia, the materials analysed include statutory laws such as the *Syariah Criminal Procedure (Federal Territories) Act 1997* [Act 560], the *Syariah Criminal Offences (Federal Territories) Act 1997* [Act 559] and several others. On the other hand, secondary sources include journal articles, books, and relevant websites, particularly those discussing *hisbah*, *Syariah* criminal enforcement in Malaysia, and the principles of contemporary justice.

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<sup>23</sup> Siti Aishah Borhanuddin, Mahamatayuding Samah, and Mohd Norhusairi Mat Hussin, "Mechanisms For The Enforcement of Unauthorized Matrimonial Marriage For Muslims In The State of Johor," *Malaysian Journal of Syariah and Law* 13, no. 1 (2025): 18–34, <https://doi.org/https://doi.org/10.33102/mjsl.vol13no1.529>.

<sup>24</sup> Kamaruzaman and Yusoff, "Konsep Dan Aplikasi Hisbah Berkaitan Penguatkuasaan Undang-Undang Moral Islam Di Malaysia."

The data collected through a content analysis were subsequently examined using a descriptive-analytical approach, which enabled the researcher to comprehensively understand<sup>25</sup> the differences between *hisbah* and *Syariah* criminal enforcement concepts. This approach examined the two systems' differing characteristics based on contemporary justice principles. The findings are presented thematically with detailed explanations structured according to the themes developed in the study. To ensure the validity and reliability of the data, the researcher employed source triangulation by conducting cross-comparisons among various types of data sources. The convergence of findings across these sources reveals a consistent theme: the contrasting characteristics between the flexibility of the *hisbah* system and the procedural rigidity of *Syariah* criminal enforcement have significant implications for procedural, retributive, restorative, and distributive justice.

## RESULTS AND DISCUSSION

Justice is a universal aspiration and struggle for all human beings, regardless of race or nationality. In religious life, justice is a fundamental principle emphasised for its implementation<sup>26</sup> in Islam and other religions. Unlike other legal systems, the principle of justice in Islam is absolute and encompasses all of humanity, time, and aspects of life, including administration, law, economy, and social affairs.<sup>27</sup> Fundamentally, contemporary scholars have identified various forms of justice to ensure that human life functions harmoniously and equitably. Justice serves as a core foundation for implementing the *hisbah* system and enforcing *Syariah* criminal laws. The differences between the flexibility of *hisbah* and the procedural nature of *Syariah* criminal law enforcement have significant implications for the principles of justice. These implications can be further elaborated as follows.

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<sup>25</sup> Fadli Daud Abdullah et al., "Contemporary Challenges for Sharia Financial Institutions to Increase Competitiveness and Product Innovation Perspective of Sharia Economic Law: Evidence in Indonesia," *MILRev : Metro Islamic Law Review* 3, no. 2 (2024): 141-173, <https://doi.org/10.32332/milrev.v3i2.9202>.

<sup>26</sup> Azhar et al., "Shari'ah Criminal Law Enforcement in Hisbah Framework: Practice In Malaysia."

<sup>27</sup> Alias Azhar, "Integrasi Hisbah Dan Dakwah Dalam Prosedur Penguatkuasaan Undang-Undang Kesalahan Maksiat Dan Jenayah Khalwat Di Malaysia," *SYARIAH: Jurnal Hukum Dan Pemikiran* 18, no. 1 (2018): 119-138.



## Implications for Procedural Justice

Procedural justice is the fairness applied within a process or procedure used to achieve a particular outcome.<sup>28</sup> Cristina Ruano-Chamorro et al.<sup>29</sup> argue that procedural justice is related to the process used to reach a decision and the individuals responsible for carrying out the process. Process and outcome are interconnected; no outcome can be achieved without a process. A just and fair process leads to a good outcome. In the context of *hisbah* implementation and *Syariah* criminal law enforcement, procedural justice refers to the fairness applied in carrying out *amar ma'ruf nahi munkar* rather than the outcome of its implementation.

Procedural justice is more assured in *Syariah* criminal law enforcement<sup>30</sup> compared to *hisbah*. This is because the implementation process of *hisbah* is not bound by written procedures or legal frameworks, is generally informal, and lacks detailed guidelines. The *hisbah* process is flexible as no official procedures govern its implementation. A Muhtasib is only instructed to prevent wrongdoing in society, but the method of execution depends on the Muhtasib's discretion and judgment. As a result, the flexibility of *hisbah* can lead to injustice in its implementation. One of the injustices that arise is the inconsistency in procedures used to prevent wrongdoing, even for the same type of offense. Each Muhtasib or *hisbah* committee has its interpretation and discretion in carrying out *hisbah* procedures, which may differ from place to place. Some enforcement procedures are strict, while others are more lenient depending on the officer responsible for the implementation. Additionally, changes over time may influence *hisbah* procedures as the methods applied during one period may not be consistent with those used during another.

The absence of procedures governing the implementation of *hisbah* and the complete freedom given to the Muhtasib or *hisbah* committees to carry out *hisbah* open the

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<sup>28</sup> Luthfi Irawan and Ketut Sudarma, "Pengaruh Keadilan Distributif Dan Keadilan Prosedural Pada Komitmen Afektif Melalui Kepuasan Kerja," *Management Analysis Journal* 5, no. 2 (2016): 149-155.

<sup>29</sup> Cristina Ruano-Chamorro, Georgina G. Gurney, and Joshua E. Cinner, "Advancing Procedural Justice in Conservation," *Conservation Letters* 15, no. 3 (2022): 1-12, <https://doi.org/10.1111/conl.12861>.

<sup>30</sup> Zubaidi Sulaiman and Ahmad Hidayat Buang, "Analisis Pemakaian Arahan Amalan Di Mahkamah Syariah Menurut Perspektif Hukum Syarak," *Journal of Shariah Law Research* 7, no. 1 (2022): 107-128.



door to a lack of transparency in the process. This is because a Muhtasib can arbitrarily relax, tighten, or alter the enforcement procedures of *hisbah* based on the social status and relationship with the offender, even if the type and severity of the offense are the same. This occurs due to the absence of procedural laws regulating the *hisbah* system's implementation.<sup>31</sup> Family ties and social status influence human emotions and personal stances. Additionally, the lack of an appeal and review mechanism in *hisbah* enforcement means that its decisions cannot be challenged or reviewed even if elements of injustice exist. Appeal and review mechanisms are fundamental to procedural justice, and their absence directly contradicts the principle of justice. Every human process is prone to errors, and appeals or reviews serve to rectify those mistakes. Therefore, the absence of such mechanisms leads to injustice as errors that occur cannot be identified or corrected by the Muhtasib. Consequently, individuals subjected to penalties under *hisbah* have no opportunity to defend themselves or seek a fair reassessment of their case.

The enforcement of *Syariah* criminal laws in Malaysia is procedural and structured with clear guidelines stipulated in the *Syariah Criminal Procedure Act (Federal Territories) 1997*. This Act outlines three stages of enforcement: pre-trial, trial, and judgment. The procedures for each stage are explicitly detailed in the legislation. At the pre-trial stage, the enforcement of *Syariah* offenses includes receiving complaints or first information reports submitted to the Enforcement Division, conducting investigations, seizing evidence, and preparing a complete report.<sup>32</sup> However, not all types of *Syariah* misconduct can be directly investigated by Religious Enforcement Officers. Some offences require prior approval from the *Syariah* Chief Prosecutor before an investigation can proceed.<sup>33</sup> Religious Enforcement Officers do not have the authority to impose punishments on any individual. The power

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<sup>31</sup> Suna Salim, Syahrul Faizaz Abdullah, and Kamarudin Ahmad, "Wilayat Al-Hisba: A Means to Achieve Justice and Maintain High Ethical Standards in Societies," *Mediterranean Journal of Social Sciences* 6, no. 4 (2015): 201-206, <https://doi.org/10.5901/mjss.2015.v6n4s2p201>.

<sup>32</sup> Wafaa' Yusof, "A Pre-Trial Standard Operation Procedure for Children in Conflict with Sharia Criminal Law in Malaysia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024): 126-143, <https://doi.org/10.22373/sjhk.v8i1.16097>.

<sup>33</sup> Syeikh Ahmad Tarmizi Abdul Halim, *Ibnu Najah Mengupas Tatacara Jenayah Di Mahkamah Syariah (Ulasan Dan Perbandingan)* (Kajang: Anaasa Publication, 2022).

to sentence offenders rests solely with the court or judge, not the enforcement officers.<sup>34</sup> This is because the law explicitly defines the jurisdiction of Religious Enforcement Officers as limited to enforcement and investigation, excluding prosecution and adjudication.

The trial process encompasses prosecution, charges, and court proceedings, which involve presenting the evidence and testimonies gathered during the pre-trial stage. The judgment process begins after the trial has concluded and the prosecution and the defence have presented their cases. Siti Zubaidah<sup>35</sup> explains that judgment is how a judge delivers findings and decisions based on the trial proceedings. In delivering judicial decisions, judges are bound by specific procedures. These include sentencing must be based on the provisions stipulated in the *Syariah* Criminal Offenses Act (Federal Territories) 1997, judgments must be delivered in an open court, the original judgment must be recorded in the court proceedings, the verdict must be explained to the accused or their legal representative and if requested the judgment must be provided free of charge. These procedures are explicitly outlined in Sections 118, 119, and 120 of the *Syariah* Criminal Procedure Act (Federal Territories) 1997.

Unlike *hisbah*, the enforcement of *Syariah* criminal laws includes mechanisms for appeals and judicial reviews to uphold procedural justice. Offenders are legally allowed to appeal against convictions, sentences, orders, legal errors, and factual errors to the *Syariah* High Court within a specified timeframe. During the appeal process, the offender may apply to the court for a stay of execution, temporarily suspending the imposed sentence. If the *Syariah* High Court has ruled on the appeal and dissatisfaction remains, a second appeal can be submitted to the *Syariah* Court of Appeal to ensure justice further. Additionally, *Syariah* criminal procedural law provides for judicial reviews of decisions already made or for examining compliance with legal procedures during trials available to any disputing

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<sup>34</sup> Borhanuddin, Samah, and Hussin, "Mechanisms For The Enforcement of Unauthorized Matrimonial Marriage For Muslims In The State of Johor."

<sup>35</sup> Siti Zubaidah Ismail, *Undang-Undang Tatacara Jenayah Syariah* (Kuala Lumpur: Dewan Bahasa dan Pustaka, 2024).

party.<sup>36</sup> This is supported by several cases that were granted leave for judicial review, including *Muhamad Juzaili Mohd Khamis & Ors v. State Government of Negeri Sembilan & Ors*, *Berjaya Books Sdn Bhd & Lain-lain lwn. Jabatan Agama Islam Wilayah Persekutuan & Ors* among others.<sup>37</sup> The clarity of procedures at every stage of enforcement and the existence of appeal and review mechanisms demonstrate that procedural justice is implemented in *Syariah* criminal law enforcement, which is absent in *hisbah*.

However, the procedures codified within the *Syariah* criminal enforcement system contain several gaps that require reform and improvement. As Rian Dawansa and Echwan Iriyanto noted, legal reform must be undertaken as a manifestation of a dynamic legal system that moves toward progressive development.<sup>38</sup> These existing gaps hinder the full realisation of procedural justice. For instance, the *Syariah* Criminal Procedure (Federal Territories) Act 1997 [Act 560] and the 2007 Standing Orders of the Director of the State Islamic Religious Department do not codify procedures for intelligence gathering, undercover operations, and raids. This issue exposes such actions to personal interpretations that may not align with the principles of justice during their execution. The case of *Pendakwa Syarie Selangor v. Mohd Kamil Zuhairi Bin Abdul Aziz and Mohamed Mohsen Bin Radmard* registered under *Syariah* criminal case numbers [10002-136-0015-2011 & 10002-136-0016-2011]<sup>39</sup> serves as evidence that the absence of clear procedural guidelines can undermine the effective application of justice principles.

During the raid, the accused was arrested and charged with the offense of insulting religious authorities under Section 12(c) of the *Syariah* Criminal Offences (Selangor) Enactment 1995, namely for propagating teachings that contradict a fatwa. The reason provided by the religious enforcement officers and the *share* prosecutor for initiating the

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<sup>36</sup> Noranizan Mohd Sufian, Narizan Abdul Rahman, and Mazni Abdul Wahab, "Judicial Review of Shariah Criminal Offences in Malaysia : A Literature Review," *Journal of Shariah Law Research* 2, no. 2 (2017): 171-188.

<sup>37</sup> Sufian, Rahman, and Wahab.

<sup>38</sup> Rian Dawansa and Echwan Iriyanto, "Penghentian Penuntutan Berdasarkan Keadilan Restoratif," *Jurnal Hukum UNISSULA* 39, no. 1 (2023): 12-30, <https://doi.org/10.26532/jh.v39i1.26675>.

<sup>39</sup> Jabatan Kehakiman Syariah Selangor, *Pendakwa Syarie Selangor lwn Mohd Kamil Zuhairi Bin Abdul Aziz dan Mohamed Mohsen Bin Radmard* (2013).

prosecution was the accused's presence at a gathering of *Shia* adherents. However, no solid evidence was obtained to prove that the accused had actively propagated teachings contrary to the fatwa. In the written judgment, the judge remarked that the enforcement team acted prematurely in arresting the accused and should have observed for a longer period to determine the actual nature of the accused's actions and statements. Consequently, the court ordered the accused to be acquitted and discharged. The lack of a clear procedural framework for conducting raids resulted in premature enforcement action, which led to a miscarriage of justice when the accused was arrested and charged with propagating *Shia* teachings merely based on his presence at a *Shia* gathering.

The principle of justice in Islam is not limited to protecting the rights of the accused but also extends to those affected by the commission of the offence.<sup>40</sup> The absence of specific provisions for remand detention during investigation reflects a critical gap demonstrating that procedural justice is not comprehensively embedded within the *Syariah* criminal enforcement framework. Under current *Syariah* law, suspects may only be detained for investigative purposes for 24 hours. Section 22(3) of the *Syariah* Criminal Procedure (Federal Territories) Act 1997 [Act 560] provides that the detention period shall not exceed twenty-four hours, excluding the time necessary for travel from the place of arrest to the court.

If the investigation is completed within this time frame, the suspect must be brought before the court to be charged. Conversely, the suspect must be released if the investigation cannot be completed within that period.<sup>41</sup> In most cases, investigations cannot be completed within the limited 24-hour timeframe. Releasing a suspect before the investigation is concluded poses serious challenges to the principle of justice, including the inability to conduct a thorough and impartial investigation, the potential for the suspect to abscond, the risk of witness intimidation, and the possibility of evidence being tampered

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<sup>40</sup> Nameer Hashim Qosim et al., "Examining Legislation and Enforcement Mechanisms to Combat International Human Trafficking from an Islamic Criminal Law Perspective," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (2025): 251-79, <https://doi.org/10.29240/jhi.v10i1.12544>.

<sup>41</sup> Wafaa' Yusof and Anita Abdul Rahim, "Tatacara Penahanan Pra Perbicaraan Jenayah Syariah Di Malaysia: Analisis Menurut Pandangan Fuqaha," *Journal of Contemporary Islamic Law* 1, no. 1 (2016): 39-54.

with or lost.<sup>42</sup> These problems contribute to a denial of justice for individuals impacted by the offence, particularly when suspects are released and, more seriously when they cannot be prosecuted in court due to the failure to complete the investigation papers.

Accordingly, reforms to procedural law should be implemented to close the existing legal gaps. These reforms are crucial to enhance and maximise procedural justice within the *Syariah* criminal enforcement framework. In the Malaysian context, legal reform is a feasible and practical initiative, provided that it remains consistent with the provisions of the Federal Constitution. *Syariah* law is a matter of state prerogative, and any legal reform in this area does not require deliberation at the federal parliamentary level. One proposed reform to enhance procedural justice is providing the right to be tried without undue delay. A significant concern arises when cases are unduly delayed before reaching trial, leading to injustice for both the suspect and the victim. The suspect remains in a state of prolonged uncertainty regarding their legal fate, while the victim endures psychological distress stemming from the unresolved nature of the case.<sup>43</sup>

### **Implications for Retributive Justice**

Retributive justice, also known as punitive justice, refers to justice in sentencing proportionate to the type of offence committed.<sup>44</sup> According to Ramizah & Khairunnasriah<sup>45</sup>, retributive justice is a system of justice that focuses on the criminal actions of offenders. To uphold this form of justice, offenders must be punished with penalties that are proportionate to the crimes they have committed. In Islam, the

<sup>42</sup> Fathin Shahirah Abd Rahim, Wafaa' Yusof, and Nurbazla Ismail, "Justifikasi Keperluan Penahanan Reman Menurut Perundangan Islam Dan Sivil," *Jurnal Fiqh* 15 (2018): 87-116.

<sup>43</sup> Fatimah Haji Ahmad, Zulazhar Tahir, and Md Khalil Ruslan, "Hak Untuk Perbicaraan Yang Disegerakan Dari Perspektif Undang-Undang Sivil Dan Syariah," *Jurnal Undang-Undang Dan Masyarakat* 24, no. 1 (2019): 47-56, <https://doi.org/10.17576/juum-2019-24-06>.

<sup>44</sup> Oliver Nnamdi Okafor, "Shaming of Tax Evaders: Empirical Evidence on Perceptions of Retributive Justice and Tax Compliance Intentions," *Journal of Business Ethics* 182, no. 2 (2023): 377-395, <https://doi.org/10.1007/s10551-021-05011-y>.

<sup>45</sup> Ramizah Wan Muhammad and Khairunnasriah Abdul Salam, "The Concept of Retributive and Restorative Justice in Islamic Criminal Law with Reference to the Malaysian Syariah Court," *Journal of Law and Judicial System* 1, no. 4 (2018): 8-16, <https://doi.org/10.22259/2637-5893.0104002>.

punishment imposed must be balanced with the severity of the crime.<sup>46</sup> Additionally, punishment should be physical and visible rather than abstract. Retributive justice is based on three key factors: the type of crime committed, the offender's criminal intent, and the method by which the crime was committed. These three elements serve as critical considerations for judges in assessing how a criminal act affects the victim and society.<sup>47</sup>

Retributive justice encompasses three key aspects: the identity of the offender, the elements, and the punishment prescribed for the crime. Punishments under this concept must be based on written laws applicable within a country. The types and extent of punishments for systematic criminal offenses are limited in Malaysia. This is due to the *Syariah Courts (Criminal Jurisdiction) Act 1965*, which stipulates that only three types of punishments can be imposed: fines not exceeding RM5,000, imprisonment not exceeding 3 years, and caning not exceeding 6 lashes or a combination of these.<sup>48</sup> The *Syariah* criminal offences in Malaysia fall under the category of *ta'zir*, and according to Islamic jurisprudence, *ta'zir* punishments are not limited to these three forms alone.<sup>49</sup> This is because sentencing for *ta'zir* offences lies within the discretionary jurisdiction of the state authority as recognised in Islamic legal tradition.<sup>50</sup> Hence, Jasri & Hasnizam<sup>51</sup> argue that the current *Syariah* punishments in Malaysia should be reviewed and amended to expand the range of sentencing options.

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<sup>46</sup> Helmina Helmina et al., "Compromising and Repositioning the Meaning of Corruptors as Thieves in Applying the Provisions of Shara' into the Modern Era Context," *Al'Adalah* 21, no. 1 (2024): 25-52, <https://doi.org/10.24042/adalah.v21i1.21251>.

<sup>47</sup> Ramizah Wan Muhammad, "Keadilan Restoratif Dan Retributif Dalam Syariah Dan Di Malaysia: Satu Sorotan," *Journal of Contemporary Islamic Law* 3, no. 1 (2018): 35-41, <http://www.ukm.my/jcil/wp-content/uploads/2018/06/JCIL-2018-31-Article-5.pdf>.

<sup>48</sup> Zaini Nasohah, Zurul Iman Zakaria, and Zuliza Mohd Kusrin, "Cabaran Penyeragaman Undang-Undang Jenayah Syariah Di Malaysia," *International Journal of Islamic Thought* 22 (2022): 146-159, <https://doi.org/10.24035/ijit.22.2022.248>.

<sup>49</sup> Andri Winjaya Laksana et al., "Fiqh Jinayah's Approach to Children Trapped in the Octopus of Narcotics Trafficking," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 12, no. 01 (2025): 309-321, <https://doi.org/http://dx.doi.org/10.29300/mzn.v12i1.4888>.

<sup>50</sup> Ariman Sitompul et al., "Money Laundering Crime in the Perspective of Islamic Law in the System of Proof," *Justicia Islamica* 19, no. 2 (2022): 279-98, <https://doi.org/10.21154/justicia.v19i2.3920>.

<sup>51</sup> Jasri Jamal and Hasnizam Hashim, "Transformasi Mahkamah Syariah Di Malaysia: Keperluan Kajian Semula Terhadap Bentuk Hukuman Bagi Kes-Kes Jenayah Syariah," *'Ulum Islamiyyah Journal* 12, no. June (2014): 87-103.

The current practice in the *Syariah* Courts adheres to retributive justice as determined by written laws.<sup>52</sup> The sentences imposed by judges for *Syariah* criminal offences in the Federal Territories must be strictly based on the provisions outlined in the *Syariah* Criminal Offenses Act (Federal Territories) 1997. *Syariah* judges are limited to imposing only three types of punishments: fines, imprisonment, or caning, with no alternative sentencing options recognised under the law. As a result, the retributive justice applied in *Syariah* criminal law enforcement does not fully achieve the ideal level of justice, especially when compared to the implementation of *hisbah*. This is because *hisbah* follows a flexible sentencing approach aligned with the concept of *ta'zir* in Islam. *Ta'zir* punishments are varied and non-restrictive, provided they align with the primary objectives of Islam, which are preserving religion, life, dignity, intellect, and property.<sup>53</sup> Thus, a *Muhtasib* can impose punishments proportionate to the nature and severity of the offence as long as they comply with Islamic legal principles.<sup>54</sup> Minor offences may warrant lighter punishments such as warnings and advice, while serious offences can be met with proportionate penalties such as fines or other disciplinary measures.<sup>55</sup>

Unlike *Syariah* criminal law enforcement, where the same type of punishment may be applied to offences of varying severity, the *hisbah* system allows for more tailored punishments. This issue affects the principle of retributive justice as punishments in *Syariah* criminal law enforcement are confined to what is permitted under written law.<sup>56</sup> In *Syariah* criminal law enforcement, judges are strictly bound by legal procedures, meaning that punishments must be based on statutory provisions. This differs from *hisbah*, where

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<sup>52</sup> Nur Zulfah Md Abdul Salam, Norazla Abdul Wahab, and Hammad Mohamad Dahalan, "Mitigation In *Syariah* Courts: Judgment Based On Restorative Justice And Rehabilitation," *Journal of Fatwa Management and Research* 26, no. 2 (2021): 227–240, [www.jfatwa.usim.edu.my](http://www.jfatwa.usim.edu.my).

<sup>53</sup> Muda, Omar, and Ahmed, "Comparison Between Islamic Criminal Law and Man-Made Law."

<sup>54</sup> Ahmad Jamil Jaafar et al., "Hisbah Institution and Its Role in Environmental Conservation in Islamic Civilization," *Jurnal Islam Dan Masyarakat Kontemporari* 22, no. 1 (2021): 27–35, <https://doi.org/https://doi.org/10.37231/jimk.2020.22.526>.

<sup>55</sup> Ahmed, "Effectiveness of the Hisba Regime in Combating the Flagrate Delicto of the Environmental Crime - A Comparative Study of the Algerian Legislation."

<sup>56</sup> Zurul Iman Zakaria and Zaini Nasohah, "The Challenges of Implementing the Enforcement of *Syariah* Criminal Law in Malacca," *Malaysian Journal of Syariah and Law* 7, no. 2 (2019): 13–26, <https://doi.org/https://doi.org/10.33102/mjssl.v7i2.188>.



enforcement officers have the flexibility to choose the most appropriate form of punishment for a given offence. In *Syariah* courts, the seriousness of a crime is only considered when determining the severity of a punishment but not its form. While the severity of punishment may vary depending on the nature of the offence and its impact on society, the form of punishment remains restricted to fines, imprisonment, or caning. The law allows judges to exercise discretion in determining the degree of high or low punishment based on public interest and the case's specific circumstances.

However, changes in the severity of punishment remain subject to the legal authority the law grants and cannot exceed the maximum limits prescribed in legislation. As a result, certain offences do not proportionately match the severity of the punishment provided by law. For example, the maximum penalty of 5 years imprisonment, an RM5,000 fine, or 6 strokes of the cane is insufficient for offences such as alcohol consumption, adultery, and acts of men imitating women or LGBT.<sup>57</sup> These offences are considered serious crimes in Islam, warranting much harsher penalties under Islamic jurisprudence. The limited and lenient punishments prescribed in *Syariah* law are seen as inadequate in providing an effective deterrent for the growing prevalence of such offenses. Moreover, the primary objective of punishment, which is to prevent crime from recurring either by the offender or others, is not effectively achieved under the existing legal framework. The lack of severe deterrent effects on offenders and society increases the trend of such crimes. If the current limited sentencing options continue to be applied, the fear of punishment among offenders and society may diminish, leading to a rise in criminal behavior.<sup>58</sup> Thus, this imbalance in sentencing demonstrates that retributive justice is not fully implemented in *Syariah* criminal law enforcement.

Therefore, several measures must be undertaken to realise the implementation of retributive justice within the *Syariah* criminal enforcement system in Malaysia. First, an

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<sup>57</sup> Mohammad Hariz Shah Mohammad Hazim Shah Shah and Ahmad Hidayat Buang, "The Enhancement of the Sharia Criminal Laws in Coping with Transgender Issue in Malaysia : Challenges and Proposals," *Sains Insani* 6, no. 3 (2021): 08–20, <https://doi.org/https://doi.org/10.33102/sainsinsani.vol6no3.356>.

<sup>58</sup> Aziz, *Isu Penguatkuasaan Undang-Undang Jenayah Syariah Di Malaysia*.

amendment should be made to Section 2 of the *Syariah* Courts (Criminal Jurisdiction) Act 1965 (Amendment) 1984 [Act 355]. This section serves as an obstacle to imposing heavier punishments that would be more proportionate to the nature and severity of the offence committed.<sup>59</sup> In their study, Jasri Jamal and Hasnizam Hashim emphasise that it is now an appropriate time to amend the provision, given the increasing prevalence of criminal offences and the apparent ineffectiveness of the current punitive measures.<sup>60</sup> Various attempts have been undertaken to enhance the sentencing provisions for *Syariah*'s criminal offences through the proposed amendment of Act 355. Nevertheless, these efforts have not yet come to fruition even though the majority of members in Parliament are adherents of Islam.

Secondly, judges of the *Syariah* courts must exercise the full extent of the statutory sentencing limits, particularly in cases involving serious offences. A key concern affecting the *Syariah* judiciary in Malaysia today is the reluctance of judges to impose the maximum penalties allowed by law, with a noticeable tendency to opt for fines rather than corporal punishment or imprisonment. The imposition of a relatively low maximum fine of RM5,000.00 has contributed to instances of injustice in certain cases. Furthermore, in several states, the punishments of caning and imprisonment are not fully enforced, resulting in the prescribed penalties not being applied holistically and comprehensively.<sup>61</sup>

This problem can be attributed to several contributing factors. Notably, prison sentences imposed by the *Syariah* Subordinate Court judges are often overturned upon appeal to the *Syariah* High Court or the *Syariah* Court of Appeal. For example, in the case of *Abdul Wahab lwn Timbalan Pendakwa Mahkamah Syariah Selangor*, the *Syariah* Court of Appeal replaced the custodial sentence with a monetary fine of RM300 or one month of

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<sup>59</sup> Ismail, *Undang-Undang Tatacara Jenayah Syariah*.

<sup>60</sup> Jamal and Hashim, "Transformasi Mahkamah Syariah Di Malaysia: Keperluan Kajian Semula Terhadap Bentuk Hukuman Bagi Kes-Kes Jenayah Syariah."

<sup>61</sup> Mohd Sabree Nasri, "Akta 355 Dan Perkembangan Bidang Kuasa Mahkamah Syariah Dalam Perkara Jenayah Di Malaysia," *Jurnal of Law & Governance* 1, no. 1 (2018): 77-90.

imprisonment.<sup>62</sup> A similar situation occurred in *Mohamed bin Ya dan Lain-Lain lwn Pendakwa Syarie Kelantan*, where the offenders were initially sentenced to one year's imprisonment for engaging in customary practices deemed to conflict with Islamic principles. However, upon appeal to the *Syariah* Court of Appeal, the custodial sentence was replaced with an order to be of good behaviour for a period ranging from three to five years.<sup>63</sup> The sentence of caning, on the other hand, has frequently generated public controversy, which has resulted in its substitution with a monetary fine, as illustrated in the case of *Kartika Sari Dewi Sukarno* in 2019.<sup>64</sup>

### Implications for Restorative Justice

Restorative justice refers to an approach that focuses on repairing relationships between the offender, the victim, and society by emphasising collective resolution rather than solely imposing punishment on the offender.<sup>65</sup> This process involves all parties affected, aiming to restore the situation and address the consequences of the crime.<sup>66</sup> Laura MacDiarmid<sup>67</sup> asserts that restorative justice is fairer, more satisfactory, and carries greater legitimacy compared to traditional justice, particularly for victims. This is because conflict resolution is achieved through negotiation and joint discussions, leading to a consensus that is acceptable to all parties involved.

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<sup>62</sup> Arifah Rahimah Ismail and Mohd Al Adib Samuri, "Perintah Khidmat Masyarakat Sebagai Hukuman Alternatif Di Mahkamah Syariah Malaysia," *Kanun : Jurnal Ilmu Hukum* 26, no. 2 (2014): 192–219, <http://jurnal.dbp.my/index.php/Kanun/article/view/7961>.

<sup>63</sup> Zanariah Dimon et al., "Perintah Istitabah Bagi Kesalahan Akidah: Sorotan Kes Abdul Kahar B. Ahmad," in *Proceeding of 2nd International Conference on Law, Economics and Education (ICONLEE)*, 2017, 66–75.

<sup>64</sup> Jamal and Hashim, "Transformasi Mahkamah Syariah Di Malaysia: Keperluan Kajian Semula Terhadap Bentuk Hukuman Bagi Kes-Kes Jenayah Syariah."

<sup>65</sup> Hadi Sucipto et al., "Transforming Public Trust in Restorative Justice: An Islamic and Social Law Perspective on the Prosecutor's Role in the Contemporary Era," *MILRev: Metro Islamic Law Review* 3, no. 2 (2024): 364–387, <https://doi.org/10.32332/milrev.v3i2.9938>.

<sup>66</sup> Kania Puji Anggarini et al., "Implementation of Restorative Justice Regarding Child Violence Cases In Law Enforcement In The Police," *Journal of Lifestyle & SDG's Review* 5 (2025): 1–16, <https://doi.org/https://doi.org/10.47172/2965-730X.SDGsReview.v5.n02.pe03330>.

<sup>67</sup> Laura MacDiarmid, "Apology – Forgiveness in Restorative Justice : Victims ' Experiences With Justice-Involved Youth," *International Review of Victimology* 00, no. 0 (2025): 1–18, <https://doi.org/10.1177/02697580251314901>.

Restorative justice is the opposite of retributive justice, as retributive justice emphasises punishment as a means of conflict resolution, whereas restorative justice focuses on discussion and mutual agreement as a method of conflict resolution. According to Ramizah<sup>68</sup>, justice should be viewed as a complementary mechanism to conventional punishment rather than as a new alternative that replaces existing penalties. If restorative justice is adopted as a completely new form of punishment, it would imply the rejection of retributive justice despite the fact that Islam also acknowledges the importance of retributive justice. Therefore, restorative justice must coexist alongside retributive justice as rejecting retributive justice would lead to a form of injustice.

The objectives of punishment vary depending on different perspectives. These differences have sparked debates and discussions among contemporary scholars regarding the concept, objectives, and application of punishment. In Islam, punishment is not solely intended to penalise offenders but also serves a restorative purpose focusing on education and rehabilitation.<sup>69</sup> This view is supported by Ramizah & Khairunnasriah<sup>70</sup>, who state that the objectives of punishment in Islam encompass four key aspects: prevention, rehabilitation, punishment, and deterrence. The implementation of restorative justice is more prominent in the *hisbah* system than in *Syariah* criminal law enforcement. In the process of enforcing *amar ma'ruf nahi munkar* within society, education and rehabilitation are fundamental elements of *hisbah*.<sup>71</sup>

The flexible approach and punishments in *hisbah* allow for the application of advice, reprimands, and peaceful discussions with the involved parties without disregarding other forms of punishment. Punishment is not the sole priority of the Muhtasib, and not every offense necessarily requires the imposition of a physical penalty.<sup>72</sup> For minor offenses involving the rights of individuals, the Muhtasib may adopt a conciliatory approach by issuing reprimands and facilitating peaceful discussions between the involved parties to

<sup>68</sup> Muhammad, "Keadilan Restoratif Dan Retributif Dalam Syariah Dan Di Malaysia: Satu Sorotan."

<sup>69</sup> Muda, Omar, and Ahmed, "Comparison Between Islamic Criminal Law and Man-Made Law."

<sup>70</sup> Muhammad and Abdul Salam, "The Concept of Retributive and Restorative Justice in Islamic Criminal Law with Reference to the Malaysian Syaria Court."

<sup>71</sup> Azhar et al., "Shari'ah Criminal Law Enforcement in Hisbah Framework: Practice In Malaysia."

<sup>72</sup> Vidino, *Hisba in Hisba Europe? Assessing A Murky Phenomenon*.

restore relationships rather than immediately imposing punishment. Similarly, for first-time offenses, issuing a warning is the ideal method to make the offender aware of their wrongdoing. Punishing without considering the nature of the offense and the offender's circumstances contradicts the true concept of punishment in Islam<sup>73</sup> because it does not contain the element of *ta'dib*. Granting forgiveness is also one of the key elements of *ta'dib*. Through restorative justice, offenders are given a second chance to rectify their mistakes when the victim grants forgiveness through peaceful discussions and reconciliation sessions.

The procedural nature of *Syariah* criminal law enforcement dictates that punishments must adhere to those prescribed by written law, as previously discussed. Its primary focus is on punishing individuals who commit offenses rather than on educating or restoring relationships among the affected parties. Alias Azhar et al.<sup>74</sup> explain that the punishment concept in the country's legal system is primarily preventive, meaning offenders are punished with the hope that they will not repeat their crimes in the future. Additionally, it aims to deter others from committing similar offenses by emphasising the consequences of such crimes. However, the restorative aspect of education and rehabilitation is not incorporated into this enforcement system. The rehabilitation of individuals affected by the crime is not a key focus of the legal framework.

Although offenders receive punishment for their crimes, justice for the victim is not always fulfilled.<sup>75</sup> At times, the punishment prescribed by law is too lenient and does not adequately compensate for the harm suffered by the victim as a result of the offense. This occurs because there is no discussion or collective resolution process to reach a mutual agreement between the involved parties. Furthermore, the procedural nature of *Syariah* criminal law enforcement leaves no space for offenders to restore their relationships with those affected. The opportunity for forgiveness, which allows offenders to reform and seek reconciliation, cannot be implemented despite Islamic law recognising the concept of

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<sup>73</sup> Muda, Omar, and Ahmed, "Comparison Between Islamic Criminal Law and Man-Made Law."

<sup>74</sup> Azhar et al., "Shari'ah Criminal Law Enforcement in Hisbah Framework: Practice In Malaysia."

<sup>75</sup> MacDiarmid, "Apology – Forgiveness in Restorative Justice : Victims ' Experiences With Justice-Involved Youth."

victim forgiveness. The sentencing process in *Syariah* law enforcement is entirely entrusted to the court without considering the perspectives of the involved parties. This prevents the implementation of restorative justice as the system focuses solely on punishment rather than reconciliation and rehabilitation.

The underlying philosophy of Islamic criminal law extends beyond the imposition of proportionate punishment to include the objectives of rehabilitation and education. In striving to ensure that the *Syariah* criminal enforcement system in Malaysia remains both relevant and consistent with universal principles of justice, punitive sanctions alone are insufficient. Sentencing must also incorporate restorative elements that prioritise the reintegration of the offender, reparation for the victim, and the restoration of social equilibrium within the broader community. Furthermore, the existing punitive punishments codified under *Syariah* law in Malaysia have proven to be ineffective in curbing injustices within society. Therefore, a transformation is necessary through the introduction of alternative sentencing mechanisms for *Syariah* criminal offenders in order to complement or replace the current punitive approach. While the enforcement of *Syariah* criminal law in Malaysia is constrained by the jurisdictional limits prescribed under Act 355, judicial discretion still allows for the imposition of alternative punishments beyond fines, imprisonment, and caning that align more closely with restorative justice principles. Nevertheless, the application of such alternatives remains limited in practice largely due to the absence of explicit legal provisions that support and regulate their use.<sup>76</sup>

Alternative sentencing options that are both relevant and legally applicable within the *Syariah* legal framework in Malaysia include formal reprimands, good behaviour bonds, and placement in welfare homes. These measures are legally sanctioned as provided under Section 97(2) of the law. Furthermore, Sections 128 and 129 of the *Syariah* Criminal Procedure (Federal Territories) Act 1997 [Act 560] explicitly empower the court to impose good behavior orders on two specific categories of offenders, which are young offenders

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<sup>76</sup> Abdul Fattah Kamarudin et al., "Analisis Pelaksanaan Hukuman Alternatif Dalam Kes Khalwat Di Negeri Selangor," *Jurnal Undang-Undang Dan Masyarakat* 32 (2023): 73-84, <https://doi.org/10.17576/juum-2023-32-07>.

and first-time offenders. Rehabilitative sentencing in welfare homes is permitted under Section 97 of the same Act. Nevertheless, not all states have incorporated corresponding provisions within their respective *Syariah* criminal enactments to establish such facilities. To date, only seven states have enacted enabling provisions, and Selangor remains the only state that has implemented this form of alternative sentencing through the establishment of the Baitul Ehsan Women's Protection Centre and the Baitul Iman Faith Rehabilitation Centre<sup>77</sup> as applied in the case of *Pendakwa Syarie v. W*, *Syariah* criminal case number [10012-143-0023-2017].

Therefore, in order to maintain a balance between retributive and restorative justice within the enforcement of *Syariah* criminal law, judges must exercise discernment in sentencing, ensuring that punishment is not exclusively punitive but also incorporates restorative elements. Simultaneously, state governments are responsible for amending existing legislation to include provisions for the establishment of rehabilitation homes in states where such legal frameworks are currently absent. As for states that have already enacted provisions for the establishment of rehabilitation homes, a significant challenge remains in the actual implementation and operation of these facilities. Moreover, state governments are encouraged to initiate amendments to Act 560, particularly Section 97, by expanding the scope of restorative alternative punishments so long as these amendments remain consistent with the Federal Constitution and other relevant federal legislation. Given that *Syariah* law falls within the legislative competence of the states, such reforms do not require parliamentary endorsement.

### **Implications for Distributive Justice**

In general terms, distributive justice is a principle of justice that focuses on the fair distribution of benefits and burdens within society.<sup>78</sup> Ni Putu Ari Setyaningsih explains that this distribution does not necessarily mean equal shares for everyone but rather an

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<sup>77</sup> Jamal Jasri and Hashim Hasnizam, "Hukuman Alternatif Di Mahkamah Syariah: Keperluan Penambahbaikan Peruntukan Perundangan Syariah Negeri-Negeri," *Malaysian Journal of Syariah and Law* 4 (2016): 1-16.

<sup>78</sup> Aya Gruber, "A Distributive Theory of Criminal Law," *William and Mary Law Review* 52, no. 1 (2010): 1-73, <https://doi.org/10.4337/mlwr.1973.02.53>.



allocation adjusted according to an individual's circumstances and contributions.<sup>79</sup> The greater the contribution made by an individual, the greater the entitlement to benefits.<sup>80</sup> Distributive justice encompasses two key aspects: what is being distributed and to whom it is being distributed. Distributive justice is commonly discussed in economic distribution issues. However, its scope is much broader, extending to all aspects of human well-being, including social, economic, and legal matters.<sup>81</sup> In this article, the focus of the discussion on distribution is justice itself.

*Hisbah* prioritises finding solutions to misconduct rather than merely punishing offenders.<sup>82</sup> The flexibility of *hisbah* allows it to adapt its approach based on the situation and context without being constrained by rigid legal punishments.<sup>83</sup> Thus, the approach applied in the *hisbah* system considers various factors that contribute to misconduct, such as social and economic conditions. The main focus of *hisbah* is education and reform rather than punishment alone. Resolving conflicts is the primary duty of a *Muhtasib*. Therefore, if an individual commits an offense due to pressing social or economic factors such as poverty, they may be given a reprimand instead of punishment or a peaceful negotiation may be arranged between the affected parties under *Muhtasib*'s supervision. With this approach, justice is not only directed toward the victim but also toward the offender. Justice for the victim is served through the reprimand issued to the offender as a form of accountability, while justice for the offender is upheld by taking into account the underlying factors that led to their actions.

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<sup>79</sup> Ni Putu Ari Setyaningsih, "Analisis Tujuan Hukum Yang Dicapai Oleh Warga Negara Indonesia Melalui Perjanjian Perkawinan," *Belom Bahadat: Jurnal Hukum Agama Hindu* 11, no. 2 (2021): 87-99, <https://ejournal.iahntp.ac.id/index.php/belom-bahadat>.

<sup>80</sup> Nikodemus and Yohanes Endi, "Konsep Keadilan Menurut Thomas Aquinas Terhadap Wabah Korupsi Di Indonesia," *Jurnal Kewarganegaraan* 7, no. 2 (2023): 1224-1236.

<sup>81</sup> Herdiyanti et al., "Pengaruh Penerapan Sistem Keadilan Distributif Dan Keadilan Interaksional Terhadap Kepuasan Kerja Pegawai Perusahaan," *Jurnal Mirai Management* 7, no. 2 (2022): 523-530, <https://doi.org/10.37531/mirai.v7i3.2499>.

<sup>82</sup> Jaafar et al., "Hisbah Institution and Its Role in Environmental Conservation in Islamic Civilization."

<sup>83</sup> Imam Taufik Alkhotob, "The Concept of Al Hisbah and Its Implementation in Indonesia in the Perspective of Da'wah," *Jurnal Da'wah: Risalah Merintis, Da'wah Melanjutkan* 6, no. 1 (2023): 33-87, <https://doi.org/https://doi.org/10.38214/jurnaldawahstidnatsir.v6i1.159>.

The enforcement of *Syariah* criminal laws in Malaysia is more rigidly bound by procedural legal frameworks and lacks flexibility. This is because Malaysia's *Syariah* laws prioritise punishment over considering the social and economic factors that may have led to the offense.<sup>84</sup> Additionally, *Syariah* criminal law enforcement does not incorporate mediation or conflict resolution through negotiation. As a result, once a person is charged, the case is immediately brought to court, and punishment is imposed based on statutory provisions without alternative mechanisms. In comparison to the *hisbah* model, the realisation of distributive justice in the enforcement of *Syariah* criminal law remains limited in scope.

Nevertheless, its presence can be identified in Section 97(2) of Act 560, where external circumstances are recognised as relevant indicators for judicial discretion in sentencing. Judges are empowered to assess the offender's character, background, age, health condition, the relative triviality of the offence, or the unsuitability of punitive measures in order to substitute custodial, monetary, or corporal punishments with restorative alternatives such as formal reprimands, placement in state-approved welfare institutions or good behaviour bonds. The inclusion of such a provision facilitates the equitable distribution of justice between both the victim and the offender.

In an effort to broaden the application of distributive justice within Malaysia's *Syariah* criminal enforcement framework akin to the *hisbah* system, the proposed reform warrants due consideration by the relevant authorities. Presently, *Sulh* mediation is permitted solely in matters of *mal* as stipulated in Section 98 of the *Syariah* Court Civil Procedure (Federal Territories) Act 1998 [Act 585]. Practice Direction No. 3/2002 of the Department of *Syariah* Judiciary Malaysia (Application of *Sulh*) also stipulates that registered *mal* cases must be referred to the Chairman of the *Sulh* Council within 21 days from the date of case registration. However, in the context of criminal matters, *Sulh* mediation is not provided for under any statutory provision. In general, Islamic law offers a range of dispute resolution mechanisms beyond judicial adjudication, among which is *Sulh*. Importantly,

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<sup>84</sup> Aziz, *Isu Penguatkuasaan Undang-Undang Jenayah Syariah Di Malaysia*.

the application of dispute resolution in Islam encompasses not only *mal* but also extends to certain categories of criminal cases.<sup>85</sup> Islamic criminal law permits the waiver of punishment in cases involving *huquq al-'ibad*, where the victim grants forgiveness. Accordingly, criminal offences that do not fall under the category of *huquq Allah* may be lawfully resolved through mechanisms such as *Sulh*.<sup>86</sup>

Nevertheless, the application of *Sulh* mediation is currently absent in *Syariah* criminal cases in Malaysia, limiting the full implementation of distributive justice. Facilitating dialogue between the victim and the offender constitutes an effective approach to resolving criminal behaviour as it enables both parties to participate in the process of justice and to experience a more meaningful and equitable resolution.<sup>87</sup> Even in cases where consensus is not achieved, the benefits of the process remain evident. The willingness of both parties to come together facilitates clarification of the underlying sources of conflict and serves to reduce the extent of disagreement between them.<sup>88</sup> In light of this, the incorporation of *Sulh* mediation into *Syariah's* criminal procedure is both appropriate and necessary, as is adopting the same conceptual framework used in civil procedural law. *Sulh* mediation should be recognised as applicable not only at the pre-trial stage but also during the trial phase. Thus, the *Syariah* Criminal Procedure (Federal Territories) Act 1997 [Act 560] ought to be amended to expressly permit *Sulh* mediation as a mechanism for dispute resolution as is currently provided for in civil matters.

## CONCLUSION

This study concludes that the implementation of justice principles in contemporary Islamic law comprising procedural, retributive, restorative, and distributive justice remains

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<sup>85</sup> Fanani Ahwan, "Model Resolusi Konflik Alternatif Dalam Hukum Islam," *Al-Manahij, Jurnal Kajian Hukum Islam*, 2013.

<sup>86</sup> Nur Zulfah Md Abdul Salam and Noor Shamimi Afikah Mohammad Fadli, "Sulh Norma Baharu : Aplikasi Dalam Kes Mal Di Mahkamah Syariah Negeri Selangor," *Journal of Muwafaqat* 6, no. 2 (2023): 61-79.

<sup>87</sup> Deni Setiawan et al., "Law Enforcement of Sexual Violence on Social Media: An Islamic Restorative Justice Perspective," *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 1 (2025): 90-111, <https://doi.org/10.18860/j-fsh.v17i1.28185>.

<sup>88</sup> Zulkifli Yus, "Mediasi Dalam Penyelesaian Sengketa Perkawinan Pada Mahkamah Syar'iyah Di Aceh," *El-Ussrah: Jurnal Hukum Keluarga* 5, no. 2 (2022): 196-223.

fragmented and lacks comprehensive integration within both the flexible *hisbah* framework and the procedurally rigid *Syariah* criminal enforcement system. While procedural justice appears to be more institutionally safeguarded within Malaysia's *Syariah* criminal enforcement mechanisms compared to the *hisbah* model, this alone does not substantiate the comprehensive realisation of justice as envisioned within the broader objectives of Islamic legal theory. There remain several procedural lacunae within the *Syariah* criminal procedure framework that warrant urgent reform, particularly the codification of investigative measures such as intelligence gathering, undercover operations, rapid execution, and remand detention. The absence of clear statutory codification in these areas has led to arbitrary enforcement practices often guided by personal interpretation, which may transgress fundamental human rights and result in procedural injustice. The establishment of codified legal provisions governing these enforcement actions would ensure greater clarity, structural consistency, and normative direction, thereby strengthening the coherent and principled application of procedural justice. The implementation of retributive, restorative, and distributive justice within the *Syariah* criminal enforcement system warrants critical reassessment. This is due to the system's procedural rigidity, which has resulted in penalties that, in certain cases, fail to fulfil the demands of justice, particularly when the prescribed punishments are too lenient and lack restorative dimensions.

Furthermore, the distribution of justice is often uneven, with enforcement disproportionately favouring one party, thereby undermining the holistic realisation of justice as envisioned by the objectives of Islamic law. To address these shortcomings, substantive reform and legislative revision of the existing *Syariah* criminal law framework in Malaysia are imperative. This includes measures such as increasing the statutory maximum limits of punishments, codifying and institutionalising restorative forms of sentencing, formally recognising *Sulh*-based mediation as a legitimate mechanism for conflict resolution, and other necessary reforms. Such reforms are essential to ensure that the administration of justice is not limited solely to procedural dimensions but also

incorporates retributive, restorative, and distributive elements, reflecting a more holistic and integrative approach as exemplified in the *hisbah* system.

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## AUTHOR CONTRIBUTIONS STATEMENT

Mohamad Ridhuan Mohd Zawawi's contributions include conceptualising the study and research framework, analysing the study, and writing the research manuscript. Wafaa' Yusof and Zaini Nasohah contributed their expertise by providing the necessary input, designing an appropriate methodology, supervising the research process, and reviewing the manuscript. Anwar Fakhri Omar contributed in terms of grammar, provided critical data, and reviewed the manuscript. Safiyyah Hannah Souit contributed by conducting the literature review, assisting in the interpretation of findings, and supporting the editing of the final manuscript. All authors have read and approved the final version of the manuscript.

## CONFLICT OF INTEREST

This article has been written independently and objectively, free from any conflict of interest. The author has no financial, professional, or personal affiliations that could influence the content, analysis, or conclusions presented in this article. All information provided is sourced from credible references and is transparently conveyed for the benefit

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## BIBLIOGRAPHY

Abas, All-Mu'izz, and Anwar Fakhri Omar. "The Role of *Hisbah* Institution in Governing Ihtikar Activities in Malaysia." *Al-Qanatir: International Journal of Islamic Studies* 31, no. 2 (2023): 122–131.

Abd Rahim, Fathin Shahirah, Wafaa' Yusof, and Nurbazla Ismail. "Justifikasi Keperluan Penahanan Reman Menurut Perundangan Islam Dan Sivil." *Jurnal Fiqh* 15 (2018): 87–116.

Abdullah, Fadli Daud, Doli Witro, Misbahul Munir Makka, Muhamad Sadi Is, and Syahid Mujahid Wiwaha. "Contemporary Challenges for *Sharia* Financial Institutions to Increase Competitiveness and Product Innovation Perspective of *Sharia* Economic Law: Evidence in Indonesia." *MILRev : Metro Islamic Law Review* 3, no. 2 (2024): 141–173. <https://doi.org/10.32332/milrev.v3i2.9202>.

Ahmed, Abdellah Hadj. "Effectiveness of the *Hisba* Regime in Combating the Flagrant Delicto of the Environmental Crime - A Comparative Study of the Algerian Legislation." *Majallah Al-Ijtihad Lildirasat Al-Qanuniyyah Wa Al-Iqtisadiyyah* 09, no. 01 (2020): 640–663.

Ahwan, Fanani. "Model Resolusi Konflik Alternatif Dalam Hukum Islam." *Al-Manahij, Jurnal Kajian Hukum Islam*, 2013.

Alkhotob, Imam Taufik. "The Concept of *Al Hisbah* and Its Implementation in Indonesia in the Perspective of *Da'Wah*." *Jurnal Da'wah: Risalah Merintis, Da'wah Melanjutkan* 6, no. 1 (2023): 33–87. <https://doi.org/https://doi.org/10.38214/jurnaldawahstidnatsir.v6i1.159>.

Anggarini, Kania Puji, Edwar Julianto, Suntoni, Teddy Asmara, and Waluyadi. "Implementation of Restorative Justice Regarding Child Violence Cases In Law Enforcement In The Police." *Journal of Lifestyle & SDG's Review* 5 (2025): 1–16. <https://doi.org/https://doi.org/10.47172/2965-730X.SDGsReview.v5.n02.pe03330>.

Attahiru, Mustapha Sidi, Al Hasan Mohammed Hasan Al-Aidaros, and Syarifah Md Yusof.

"The Moderating Role of *Hisbah* Principles on the Relationship between Islamic Culture and Islamic Business Ethics." *International Journal of Innovation, Creativity and Change* 5, no. 2 (2019): 1478–1499.

Azhar, Alias. "Integrasi *Hisbah* Dan Dakwah Dalam Prosedur Penguatkuasaan Undang-Undang Kesalahan Maksiat Dan Jenayah Khalwat Di Malaysia." *SYARIAH: Jurnal Hukum Dan Pemikiran* 18, no. 1 (2018): 119–138.

Azhar, Alias, Muhammad Hafiz Badarulzaman, Mohammad Azam Hussain, and Fauziah Mohd Noor. "Hisbah Parameters In *Syariah* Criminal Legislative Framework In Malaysia: Overview of Prevention of Khalwat (Close Proximity) Criminal Offenses." *International Journal of Law, Government and Communication* 3, no. 9 (2018): 46–56.  
<http://www.ijlgc.com/PDF/IJLGC-2018-09-06-05.pdf>.

Azhar, Alias, Muhammad Hafiz Badarulzaman, Fidlizan Muhammad, and Siti Zamarina Mat Zaib. "Shari'ah Criminal Law Enforcement in *Hisbah* Framework: Practice In Malaysia." *Intellectual Discourse* 28, no. 01 (2020): 149–170.  
<https://doi.org/10.33383/2020-01>.

Aziz, Shamrahayu A. "Islamic Criminal Law in the Malaysian Federal Structure: A Constitutional Perspective." *IIUM Law Journal* 15, no. 1 (2007): 101–120.  
<https://doi.org/10.31436/iiumlj.v15i1.62>.

Aziz, Shamrahayu Abdul. *Isu Penguatkuasaan Undang-Undang Jenayah Syariah Di Malaysia*. Kuala Lumpur: Dewan Bahasa dan Pustaka, 2016.

Borhanuddin, Siti Aishah, Mahamatayuding Samah, and Mohd Norhusairi Mat Hussin. "Mechanisms For The Enforcement of Unauthorised Matrimonial Marriage For Muslims In The State of Johor." *Malaysian Journal of Syariah and Law* 13, no. 1 (2025): 18–34. <https://doi.org/https://doi.org/10.33102/mjsl.vol13no1.529>.

Dawansa, Rian, and Echwan Iriyanto. "Penghentian Penuntutan Berdasarkan Keadilan Restoratif." *Jurnal Hukum UNISSULA* 39, no. 1 (2023): 12–30.  
<https://doi.org/10.26532/jh.v39i1.26675>.

Dimon, Zanariah, Nurzatil Ismah Azizan, Nazneen Ismail, Hamidi Abd. Ghani, Zulkarnain



- Hassan, Nordin Mat Piah, Mohd Ramizu Abdullah, and Nurulfathonah Mohd Effendy. "Perintah Istitabah Bagi Kesalahan Akidah: Sorotan Kes Abdul Kahar B. Ahmad." In *Proceeding of 2nd International Conference on Law, Economics and Education (ICONLEE)*, 66–75, 2017.
- Ezzat, Ahmed. "Law and Moral Regulation in Modern Egypt: A Hisba from Tradition to Modernity." *International Journal of Middle East Studies* 52, no. 4 (2020): 665–684. <https://doi.org/10.1017/S002074382000080X>.
- Gruber, Aya. "A Distributive Theory of Criminal Law." *William and Mary Law Review* 52, no. 1 (2010): 1–73. <https://doi.org/10.4337/mlwr.1973.02.53>.
- Habibullah, Muhammad Dhiya'ul Haq, and Muhammad Hafidz Alwi. "The Implementation of Al-Mawardi's Views on Hisbah System in Islam." *Syariah Journal of Fiqh Studies* 2, no. 1 (2024): 1–20. <https://doi.org/https://doi.org/10.61570/Syariah.v2i1.46>.
- Haji Ahmad, Fatimah, Zulazhar Tahir, and Md Khalil Ruslan. "Hak Untuk Perbicaraan Yang Disegerakan Dari Perspektif Undang-Undang Sivil Dan Syariah." *Jurnal Undang-Undang Dan Masyarakat* 24, no. 1 (2019): 47–56. <https://doi.org/10.17576/juum-2019-24-06>.
- Halim, Syeikh Ahmad Tarmizi Abdul. *Ibnu Najah Mengupas Tatacara Jenayah Di Mahkamah Syariah (Ulasan Dan Perbandingan)*. Kajang: Anaasa Publication, 2022.
- Harahap, Zul Anwar Ajim, Zulfan, and Muhammad Ridwan. "Analysing the Offense of Juvenile Khalwat in Aceh: Evaluation of Qanun Number 14 of 2003 from an Islamic Legal Perspective." *Al-Manahij: Jurnal Kajian Hukum Islam* 18, no. 1 (2024): 79–93. <https://doi.org/10.24090/mnh.v18i1.10648>.
- Helmina, Helmina, Hermanto Harun, Doli Witro, Muh Zaitun Ardi, and Darti Busni. "Compromising and Repositioning the Meaning of Corruptors as Thieves in Applying the Provisions of Shara' into the Modern Era Context." *Al'Adalah* 21, no. 1 (2024): 25–52. <https://doi.org/10.24042/adalah.v21i1.21251>.
- Herdiyanti, Deddy Novie Citra Artta, Muhammad Yusuf, Sutrisno, and Agus Suyatno. "Pengaruh Penerapan Sistem Keadilan Distributif Dan Keadilan Interaksional

- Terhadap Kepuasan Kerja Pegawai Perusahaan.” *Jurnal Mirai Management* 7, no. 2 (2022): 523–530. <https://doi.org/10.37531/mirai.v7i3.2499>.
- Hidayatina, Hidayatina, and Sri Hananan. “Peluang Dan Kendala Penerapan Tugas Wilayah Al-Hisbah Sebagai Pengawas Pasar Di Provinsi Aceh.” *JURIS (Jurnal Ilmiah Syariah)* 16, no. 2 (2017): 159–172. <https://doi.org/10.31958/juris.v16i2.970>.
- Ibrahim, Abdul Qahhar, Abdul Ghafar Don, and Muhamad Faisal Asha’ari. “Konsep Hisbah Dan Kepetingan Dalam Pengurusan Hal Ehwal Islam.” *Al-Hikmah* 10, no. 1 (2018): 55–78.
- Ibrahim, Azrin. “Kepentingan Hisbah Dan Amalannya Di Malaysia.” *Jurnal Islam Dan Masyarakat Kontemporari* 11, no. 1 (2015): 22–33. <https://doi.org/10.37231/>.
- Irawan, Luthfi, and Ketut Sudarma. “Pengaruh Keadilan Distributif Dan Keadilan Prosedural Pada Komitmen Afektif Melalui Kepuasan Kerja.” *Management Analysis Journal* 5, no. 2 (2016): 149–55.
- Ismail, Arifah Rahimah, and Mohd Al Adib Samuri. “Perintah Khidmat Masyarakat Sebagai Hukuman Alternatif Di Mahkamah Syariah Malaysia.” *Kanun : Jurnal Ilmu Hukum* 26, no. 2 (2014): 192–219. <http://jurnal.dbp.my/index.php/Kanun/article/view/7961>.
- Ismail, Siti Zubaidah. *Undang-Undang Tatacara Jenayah Syariah*. Kuala Lumpur: Dewan Bahasa dan Pustaka, 2024.
- Jaafar, Ahmad Jamil, Mohd Takiyudin Ibrahim, Huzaimah Ismail, and Mohd Shahrudin Mohmud. "Hisbah Institution and Its Role in Environmental Conservation in Islamic Civilization." *Jurnal Islam Dan Masyarakat Kontemporari* 22, no. 1 (2021): 27–35. <https://doi.org/https://doi.org/10.37231/jimk.2020.22.526>.
- Jamal, Jasri, and Hasnizam Hashim. “Transformasi Mahkamah Syariah Di Malaysia: Keperluan Kajian Semula Terhadap Bentuk Hukuman Bagi Kes-Kes Jenayah Syariah.” *’Ulum Islamiyyah Journal* 12, no. June (2014): 87–103.
- Jasri, Jamal, and Hashim Hasnizam. “Hukuman Alternatif Di Mahkamah Syariah: Keperluan Penambahbaikan Peruntukan Perundangan Syariah Negeri-Negeri.” *Malaysian Journal of Syariah and Law* 4 (2016): 1–16.

- Kamarudin, Abdul Fattah, Muhammad Mustaqim Darus, Mohamad Azhan Yahya, and Ahmad Azam Mohd Shariff. "Analisis Pelaksanaan Hukuman Alternatif Dalam Kes Khalwat Di Negeri Selangor." *Jurnal Undang-Undang Dan Masyarakat* 32 (2023): 73–84. <https://doi.org/10.17576/juum-2023-32-07>.
- Kamaruzaman, Nur Al-Farhain, and Kamaruzaman Yusoff. "Konsep Dan Aplikasi Hisbah Berkaitan Penguatkuasaan Undang-Undang Moral Islam Di Malaysia." *BITARA International Journal of Civilizational Studies and Human Sciences* 4, no. 1 (2021): 146–157. <http://www.bitarajournal.com>.
- Khaleel, Fawad, and Alija Avdukic. "Islamic Classical Literature (A.D. 950–1450) on Institutionalisation of Ethics for Regulating Markets and Society." *Religions* 15, no. 12 (2024): 1496. <https://doi.org/https://doi-org/10.3390/rel15121496>.
- Laksana, Andri Winjaya, Moh. Nurul Huda, Hendro Widodo, Dzaka Imtiyaz Iqbal, and Doni Catur Saefudin. "Fiqh Jinayah's Approach to Children Trapped in the Octopus of Narcotics Trafficking." *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 12, no. 01 (2025): 309–321. <https://doi.org/http://dx.doi.org/10.29300/mzn.v12i1.4888>.
- MacDiarmid, Laura. "Apology – Forgiveness in Restorative Justice : Victims' Experiences With Justice-Involved Youth." *International Review of Victimology* 00, no. 0 (2025): 1–18. <https://doi.org/10.1177/02697580251314901>.
- Maifizar, Arfriani. "Wilayatul Hisbah's (WH) Strategy to Enforce the Law against Khalwat Case in Ujung Karang West Aceh Regency." *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 1 (2022): 37–52. <https://doi.org/10.18326/ijtihad.v22i1.37-52>.
- Md Abdul Salam, Nur Zulfah, and Noor Shamimi Afikah Mohammad Fadli. "Sulh Norma Baharu : Aplikasi Dalam Kes Mal Di Mahkamah Syariah Negeri Selangor." *Journal of Muwafaqat* 6, no. 2 (2023): 61–79.
- Muda, Zulkifly, Nizaita Omar, and Nehaluddin Ahmed. "Comparison Between Islamic Criminal Law and Man-Made Law." *International Journal of Academic Research in Business and Social Sciences* 14, no. 2 (2024): 972–980. <https://doi.org/10.6007/ijarbss/v14-i2/20718>.

- Muhammad, Ramizah Wan. "Keadilan Restoratif Dan Retributif Dalam Syariah Dan Di Malaysia: Satu Sorotan." *Journal of Contemporary Islamic Law* 3, no. 1 (2018): 35-41. <http://www.ukm.my/jcil/wp-content/uploads/2018/06/JCIL-2018-31-Article-5.pdf>.
- Muhammad, Ramizah Wan, and Khairunnasriah Abdul Salam. "The Concept of Retributive and Restorative Justice in Islamic Criminal Law with Reference to the Malaysian Syariah Court." *Journal of Law and Judicial System* 1, no. 4 (2018): 8-16. <https://doi.org/10.22259/2637-5893.0104002>.
- Nasohah, Zaini, Zurul Iman Zakaria, and Zuliza Mohd Kusrin. "Cabaran Penyeragaman Undang-Undang Jenayah Syariah Di Malaysia." *International Journal of Islamic Thought* 22 (2022): 146-159. <https://doi.org/10.24035/ijit.22.2022.248>.
- Nasri, Mohd Sabree. "Akta 355 Dan Perkembangan Bidang Kuasa Mahkamah Syariah Dalam Perkara Jenayah Di Malaysia." *Jurnal of Law & Governance* 1, no. 1 (2018): 77-90.
- Nikodemus, and Yohanes Endi. "Konsep Keadilan Menurut Thomas Aquinas Terhadap Wabah Korupsi Di Indonesia." *Jurnal Kewarganegaraan* 7, no. 2 (2023): 1224-1236.
- Okafor, Oliver Nnamdi. "Shaming of Tax Evaders: Empirical Evidence on Perceptions of Retributive Justice and Tax Compliance Intentions." *Journal of Business Ethics* 182, no. 2 (2023): 377-395. <https://doi.org/10.1007/s10551-021-05011-y>.
- Qosim, Nameer Hashim, Said Salih Muhammed, Raad Fajer Ftayh, Mohammed Zuhair, and Jassim Kadhi Kabrchi. "Examining Legislation and Enforcement Mechanisms to Combat International Human Trafficking from an Islamic Criminal Law Perspective." *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (2025): 251-279. <https://doi.org/10.29240/jhi.v10i1.12544>.
- Ruano-Chamorro, Cristina, Georgina G. Gurney, and Joshua E. Cinner. "Advancing Procedural Justice in Conservation." *Conservation Letters* 15, no. 3 (2022): 1-12. <https://doi.org/10.1111/conl.12861>.
- Salam, Nur Zulfah Md Abdul, Norazla Abdul Wahab, and Hammad Mohamad Dahalan. "Mitigation In Syariah Courts: Judgment Based On Restorative Justice And Rehabilitation." *Journal of Fatwa Management and Research* 26, no. 2 (2021): 227-240.

[www.jfatwa.usim.edu.my](http://www.jfatwa.usim.edu.my).

- Salim, Ssuna, Syahrul Faizaz Abdullah, and Kamarudin Ahmad. "Wilayat Al-Hisba: A Means to Achieve Justice and Maintain High Ethical Standards in Societies." *Mediterranean Journal of Social Sciences* 6, no. 4 (2015): 201–206. <https://doi.org/10.5901/mjss.2015.v6n4s2p201>.
- Selangor, Dewan Negeri. "Kes Jenayah Syariah." E-Quans Electronic Question and Answer Dewan Negeri selangor, 2023. <https://dewan.selangor.gov.my/question/kes-jenayah-Syariah-2/>.
- Selangor, Jabatan Kehakiman Syariah. Pendakwa Syarie Selangor lwn Mohd Kamil Zuhairi Bin Abdul. Aziz dan Mohamed Mohsen Bin Radmard (2013).
- Setiyawan, Deni, Ismet Hadi, Noor Rahmad, Aditya Maulana Rizqi, and Kuni Nasihatun Arifah. "Law Enforcement of Sexual Violence on Social Media: An Islamic Restorative Justice Perspective." *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 1 (2025): 90–111. <https://doi.org/10.18860/j-fsh.v17i1.28185>.
- Setyaningsih, Ni Putu Ari. "Analisis Tujuan Hukum Yang Dicapai Oleh Warga Negara Indonesia Melalui Perjanjian Perkawinan." *Belom Bahadat: Jurnal Hukum Agama Hindu* 11, no. 2 (2021): 87–99. <https://ejournal.iahntp.ac.id/index.php/belom-bahadat>.
- Shah, Mohammad Hariz Shah Mohammad Hazim Shah, and Ahmad Hidayat Buang. "The Enhancement of the Sharia Criminal Laws in Coping with Transgender Issue in Malaysia: Challenges and Proposals." *Sains Insani* 6, no. 3 (2021): 08–20. <https://doi.org/https://doi.org/10.33102/sainsinsani.vol6no3.356>.
- Sitompul, Ariman, Arie Kartika, Windy Sri Wahyuni, and Maswandi Maswandi. "Money Laundering Crime in the Perspective of Islamic Law in the System of Proof." *Justicia Islamica* 19, no. 2 (2022): 279–298. <https://doi.org/10.21154/justicia.v19i2.3920>.
- Sucipto, Hadi, Faliuh Suaedi, Erna Setijaningrum, Mia Amiati, and Rachmat Suhaimi Nasution. "Transforming Public Trust in Restorative Justice: An Islamic and Social Law Perspective on the Prosecutor's Role in the Contemporary Era." *MILRev: Metro Islamic Law Review* 3, no. 2 (2024): 364–387. <https://doi.org/10.32332/milrev.v3i2.9938>.

- Sufian, Noranizan Mohd, Narizan Abdul Rahman, and Mazni Abdul Wahab. "Judicial Review of Shariah Criminal Offences in Malaysia : A Literature Review." *Journal of Shariah Law Research* 2, no. 2 (2017): 171-188.
- Sulaiman, Zubaidi, and Ahmad Hidayat Buang. "Analisis Pemakaian Arahan Amalan Di Mahkamah Syariah Menurut Perspektif Hukum Syarak." *Journal of Shariah Law Research* 7, no. 1 (2022): 107-128.
- Vidino, Lorenzo. *Hisba in Hisba Europe? Assessing A Murky Phenomenon*. European Foundation For Democracy, 2013.
- Yus, Zulkifli. "Mediasi Dalam Penyelesaian Sengketa Perkawinan Pada Mahkamah Syar'iyah Di Aceh." *El-Usrah: Jurnal Hukum Keluarga* 5, no. 2 (2022): 196-223.
- Yusof, Wafaa'. "A Pre-Trial Standard Operation Procedure for Children in Conflict with Sharia Criminal Law in Malaysia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024): 126-143. <https://doi.org/10.22373/sjkh.v8i1.16097>.
- Yusof, Wafaa', and Anita Abdul Rahim. "Tatacara Penahanan Pra Perbicaraan Jenayah Syariah Di Malaysia: Analisis Menurut Pandangan Fuqaha." *Journal of Contemporary Islamic Law* 1, no. 1 (2016): 39-54.
- Zakaria, Zurul Iman, and Zaini Nasohah. "The Challenges of Implementing the Enforcement of Syariah Criminal Law in Malacca." *Malaysian Journal of Syariah and Law* 7, no. 2 (2019): 13-26. <https://doi.org/https://doi.org/10.33102/mjssl.v7i2.188>.