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Incorporating *Islah* Principles into Restorative Justice: Bridging Contemporary Legal Practice and Islamic Values

Abstract: The concept of *islah* in Islamic law emphasizes peaceful conflict resolution through mediation, compromise, and forgiveness—principles that align closely with the restorative justice approach in modern legal systems. This article aims to explore the integration of *islah* values into the restorative justice framework, as well as how the concept of reconciliation in both positive law and Islamic law can be recontextualized in the contemporary era. This study employs a qualitative method using a normative-juridical and comparative approach based on a literature review of primary and secondary sources, including classical Islamic legal texts (*turath*), statutory regulations, and policy documents on restorative justice practices in Indonesia and selected Muslim-majority countries. The findings indicate that *islah* values hold significant potential to enrich restorative justice practices, particularly in strengthening participatory justice and the restoration of social relationships. The recontextualization of reconciliation not only opens space for dialogue between positive law and Islamic law but also offers a more humanistic, contextual, and community-responsive model of conflict resolution. The article recommends enhancing legal regulations to incorporate *islah*-based approaches within Indonesia's criminal justice system as part of a broader effort to harmonize national legal norms with Islamic values. Its academic contribution lies in providing a constructive foundation for the theoretical and normative integration of *islah* values into the national legal system through restorative justice while offering a new paradigm for resolving criminal cases in a more contextualized manner.

Keywords: Islamic law, *Islah*, Positive Law, Restorative Justice, Reconciliation.

INTRODUCTION

The development of contemporary legal thought shows a paradigm shift from a retributive approach to a more restorative approach in criminal case resolution. Restorative justice emerged as an alternative to the repressive criminal justice system, which has been considered not fully able to provide a sense of substantive justice, especially for victims and communities.¹ This approach emphasizes the recovery of losses, reconciliation between the parties, and the active participation of all elements involved in legal conflicts.² In the Indonesian context, the implementation of restorative justice has begun to be institutionalized through internal regulations of law enforcement officials, such as the National Police Chief Regulation No. 8 of 2021 and the Attorney General's policy regarding the termination of prosecutions based on restorative justice.³

On the other hand, in the Islamic legal tradition, the values contained in the concept of *islah* have carried the spirit of peaceful, dialogical, and participatory conflict resolution from the beginning. *Islah*, as part of the dispute resolution mechanism, not only emphasizes the formal legal aspect but also emphasizes the restoration of social relations and moral balance in society. In many fiqh literature, *islah* is positioned as a more important method (*afdhal*) than punishment in resolving criminal problems, especially those of *qishas*, *diyat*, and cases that have the potential to damage social harmony. Thus, the values of *islah* and restorative justice have a substantive meeting point that allows for integration in the context of the national legal system.⁴

¹ Hadi Sucipto dkk., "Transformation of Public Trust in Restorative Justice by the Prosecutor's Office: An Islamic and Social Law Approach in the Contemporary Era," *MILRev: Metro Islamic Law Review* 3, no. 2 (30 Desember 2024): 364-387, <https://doi.org/10.32332/milrev.v3i2.9938>.

² Cahya Wulandari, "Dinamika Restorative Justice Dalam Sistem Peradilan Pidana Di Indonesia," *Jurnal Jurisprudence* 10, no. 2 (23 Maret 2021): 233-249, <https://doi.org/10.23917/jurisprudence.v10i2.12233>.

³ D.E. Ismail dkk., "Collocation of Restorative Justice with Human Rights in Indonesia," *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (2024): 394-417, <https://doi.org/10.22219/ljih.v32i2.35374>.

⁴ Rizky Fauzi, Watni Marpaung, dan Nurul Huda Prasetya, "Restorative Justice Concept in Islam & Its Implementation in National Criminal Law from Islamic Legal Philosophy," *JURNAL AKTA* 12, no. 1 (7 Februari 2025): 49-59, <https://doi.org/10.30659/akta.v12i1.43727>.

A number of previous studies have discussed the application of restorative justice in the context of positive law in Indonesia. For example, research by Nur Roehati et al. highlights Indonesia's customary criminal justice system as a form of restorative justice.⁵ Meanwhile, the study by Sudirman et al. tries to apply the concept of restoration of justice in Islamic law but is still in a normative-moral framework and is not yet included in the discourse of integration in the national legal system.⁶ On the other hand, research by Nasution explained Ideality, Reality, and Problems of Restorative Justice in The Indonesia Criminal Justice System.⁷ Thus, there is a scientific space that has not been optimally worked on, namely how *islah* as a value of Islamic law can be integrated normatively and conceptually into the framework of restorative justice in Indonesia's positive law. So far, the discourse on integration between Islamic law and national law tends to be fragmented, between those that focus on moralistic, historical, or only symbolic aspects. There has been no comprehensive study that attempts to establish a conceptual synthesis between *islah* and restorative justice as part of the reform of criminal law based on local and religious values.

The novelty of this research lies in its integrative and contextual approach. This research not only compares two legal concepts from two different systems but also seeks to develop a conceptual and normative framework for the integration of *islah* values in the emerging restorative justice system in Indonesia. Thus, this research contributes to the enrichment of progressive legal theories based on local and religious wisdom values, as well as providing a normative offer for the reform of criminal law regulations in Indonesia.

Based on this mapping, the research questions asked in this study are: (1) How can the concept and values of *islah* in Islamic law be understood in the framework of restorative

⁵ Nur Roehati dkk., "A Restorative Justice System in Indonesia: A Close View from the Indigenous People Practices," *Sriwijaya Law Review*, 27 Januari 2023, 87-104, <https://doi.org/10.28946/slrev.Vol7.Iss1.1919.pp87-104>.

⁶ Andi B. Mutmainnah Sudarmin dkk., "Restorative Justice in Islamic Law: Solutions to Improve Social Justice Towards a Golden Indonesia 2045," *El-Rusyd* 8, no. 2 (28 Desember 2023): 97-104, <https://doi.org/10.58485/elrusyd.v8i2.203>.

⁷ Nurul Putri Awaliah Nasution, Jubair Jubair, dan Abdul Wahid, "The Restorative Justice: Ideality, Reality, and Problems in The Indonesia Criminal Justice System," *Rechtsidee* 10, no. 2 (12 Desember 2022):, <https://doi.org/10.21070/jihr.v11i0.775>.

justice? (2) To what extent can the principles of *islah* be reactualized in the context of positive Indonesian law, especially in the reform of the criminal justice system? (3) What is the conceptual model that can be offered for the integration of the value of *islah* into the national restorative justice system? The purpose of this study is to analyze the concept of *islah* in Islamic law and examine its suitability with the restorative justice approach in positive law, as well as to develop a normative-conceptual integration model that can be applied in the framework of national criminal law reform. This research also aims to expand academic insights in the field of Islamic law and criminal law, especially in contemporary issues related to reconciliation and transformative justice.

METHOD

This study uses a qualitative approach with a type of juridical normative research combined with comparative and conceptual approaches.⁸ The main focus of the research is to examine the legal norms, principles, and basic values contained in the concepts of *islah* (Islamic law) and restorative justice (positive law), then analyze the possibility of their integration into the Indonesian national legal framework. The data sources used in this study consist of secondary data, which includes primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations, such as the Criminal Code, the Criminal Code, the National Police Chief's Regulation No. 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice, and other regulations related to the criminal justice system in Indonesia. Meanwhile, secondary legal materials include classical Islamic law literature (*turats*), the results of previous research, journal articles, academic books, and the opinions of legal experts. Tertiary legal materials are used as complements, such as legal dictionaries, encyclopedias of Islamic law, and other scientific references.

The data collection technique is carried out through literature studies by tracing and analyzing relevant legal documents and scientific literature. Source search is carried

⁸ Matthew B Miles dan A. Michael Huberman, *Analisis data kualitatif: buku sumber tentang metode metode baru* (Jakarta: Universitas Indonesia Press, 2014).

out systematically through reputable journal databases, research institution repositories, and other authoritative sources. The data analysis technique used is normative-qualitative analysis, which describes, interprets, and constructs data based on the perspective of Islamic law and positive law. In the comparative approach, a comparison is made between the principles of *islah* and restorative justice to see the common points, differences, and potential for integration. Meanwhile, the conceptual approach is used to formulate a model of integrating *islah* values into the national legal system theoretically and systematically. To maintain objectivity, the validity of the data is tested through triangulation of sources, i.e. by comparing various classical Islamic legal literature, the views of contemporary scholars, and relevant positive legal documents.⁹ This study also pays attention to the sociological context and the latest regulatory developments so that the results of the study are not only theoretical but also contextual and applicable in the Indonesian national legal system.

RESULTS AND DISCUSSION

The Concept and Value of *Islah* in the Perspective of Restorative Justice

From the perspective of Islamic law, *islah* is not just an alternative dispute resolution but part of an integral justice system. *Islah* terminologically means repair and restoration¹⁰, Especially in the context of human relationships that are fractured due to conflict or crime. In the Qur'an and Hadith, this term is used in various contexts, ranging from the resolution of domestic conflicts (QS. An-Nisa: 128) and civil war (QS. Al-Hujurat: 9-10) to disputes in the community.¹¹ In the criminal framework, especially in cases of *jinayat*, *islah* is an important mechanism that allows for a peaceful settlement of cases through pardon, compensation (*diyat*), or mediation, all of which are voluntary. This shows that *islah* is

⁹ Helaluddin dan Hengki Wijaya, *Analisis Data Kualitatif: Sebuah Tinjauan Teori & Praktik* (Sekolah Tinggi Theologia Jaffray, 2019).

¹⁰ Zainuddin Zainuddin, "Islah Dalam Pemahaman Qur'an Hadis," *Jurnal Ilmiah AlMu'ashirah: Media Kajian Al-Qur'an Dan Al-Hadits Multi Perspektif* 19, no. 2 (30 Juli 2022): 161-171, <https://doi.org/10.22373/jim.v19i2.14058>.

¹¹ Saidah Saidah, "Konsep Islah Dalam Hukum Islam (Perspektif Tafsir Maudhu'iy)," *DIKTUM: Jurnal Syariah Dan Hukum* 10, no. 2 (11 Juli 2012): 120-127, <https://doi.org/10.35905/diktum.v10i2.260>.

deeply rooted in Islamic texts and traditions as a form of restorative justice that emphasizes restoration, not mere retribution.¹²

The main principle in *islah* is the active participation of the parties involved, namely the victim and the perpetrator. In the formal criminal justice system, the process often marginalizes the victim's voice because of its focus on the state as legal representation. On the other hand, in *islah*, the victim has a central role in determining the expected form of justice. For example, in cases of minor abuse in Islamic boarding schools or Muslim villages in Indonesia, victims and perpetrators often meet for deliberations, witnessed by community and family leaders, in order to agree on an apology, a form of compensation, and a commitment of the perpetrator not to repeat his actions. This process not only saves both parties from a long and rigid legal process but also reinforces previously damaged social relations.

In addition, *Islah* emphasizes the main goal of *ishlah al-khatā'*—which is the correction of mistakes and negative effects of criminal acts. In this context, the perpetrator is not only asked to admit his mistake but also given space to repair the damage caused, both materially and morally. For example, in the case of petty theft involving teenagers, such as theft of items at school or stalls, the perpetrator may be asked to return the item, apologize directly to the victim, and contribute to social or religious activities in their neighborhood as a form of social responsibility. This approach not only avoids the stigma of criminal law but also fosters a sense of responsibility and moral awareness.¹³

No less important in *islah* is the role of community leaders as mediators. In the Islamic tradition, mediation is not carried out by the state law apparatus alone but by morally and socially trusted parties, such as ulama, traditional leaders, or community leaders. In many cases in Aceh, South Sulawesi, and West Nusa Tenggara, the settlement

¹² Ali Sodiqin, "Legal, Moral, and Spiritual Dialectics in the Islamic Restorative Justice System," *AHKAM: Jurnal Ilmu Syariah* 21, no. 2 (30 Desember 2021), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/22675>.

¹³ Sutejo Simatupang, Mohamad Ismed, dan Tofik Yanuar, "Penerapan Restorative Justice Terhadap Pelaku Tindak Pidana Kelalaian Berkendara Yang Menyebabkan Matinya Korban," *Jurnal Locus Penelitian Dan Pengabdian* 3, no. 10 (31 Oktober 2024): 829–843, <https://doi.org/10.58344/locus.v3i10.3089>.

of family conflicts or minor crimes is carried out by customary councils or religious forums that carry out the functions of *islah*. They play a role not only as mediators but also as guardians of harmonious values in society. The involvement of these figures makes the settlement process more legitimate in the eyes of the public and increases compliance with the results of the deliberations.

Meanwhile, restorative justice in the modern legal approach has almost identical principles.¹⁴ It emphasizes that the settlement of cases is participatory and voluntary and aims to recover the losses experienced by the victim, as well as help the perpetrator understand the impact of his actions.¹⁵ In practice in some countries, such as New Zealand and Canada, restorative justice is implemented in the form of community conferences, victim-perpetrator mediation, and family dialogue.¹⁶ In Indonesia, this spirit is beginning to be accommodated in the policies of police institutions and prosecutors for minor cases,¹⁷ although it is still administrative in nature. The similarity between the values of restorative justice and *islah* shows that the modern legal system can actually learn from the values of Islamic law that have prioritized participatory and reconciliation justice.

It should be noted that *islah* is not intended to avoid formal justice or cover up wrongdoing but rather to strike a balance between legal-formal justice and social-communal justice. In the case of petty domestic violence, for example, a husband who verbally abuses his wife can be processed through the *islah* approach, where the extended family and religious leaders become facilitators of the dialogue. The husband is given the opportunity to apologize and commit to improvement, and if agreed upon, the case is not brought to

¹⁴ Joko Budi Darmawan dkk., "Restoring Public Trust: Analyzing Corruption Cases and Their Impact on Governance in Indonesia," *RSF Conference Series: Business, Management and Social Sciences* 4, no. 1 (10 September 2024): 287-294, <https://doi.org/10.31098/bmss.v4i1.890>.

¹⁵ T. Andiko, Z. Nurdin, dan Efrinaldi, "Implementation of Restorative Justice in a Customary Court in Rejang Lebong District, Bengkulu, Indonesia: A Maqāṣid Al-Sharī'ah Review," *Juris: Jurnal Ilmiah Syariah* 23, no. 1 (2024): 93-106, <https://doi.org/10.31958/juris.v23i1.12008>.

¹⁶ G.S. García dan P.T. Ordoñez, "Restorative justice. A paragon between criminal and transitional justice," *Araucaria* 26, no. 57 (2024): 483-504, <https://doi.org/10.12795/araucaria.2024.i57.23>.

¹⁷ Seger Handoyo dkk., "The Measurement of Workplace Incivility in Indonesia: Evidence and Construct Validity," *Psychology Research and Behavior Management* Volume 11 (Mei 2018): 217-226, <https://doi.org/10.2147/prbm.s163509>.

the realm of formal law. This is more effective in creating domestic tranquility than criminalization, as long as there is no severe physical violence that endangers the life or dignity of the victim.¹⁸

However, *islah* also has its limits. In cases of serious crimes or those involving the broad public interest—such as premeditated murder, corruption, or terrorism—the *islah* mechanism is not always relevant. Islamic law itself limits the space of *islah* only to things that allow *afwu* (forgiveness), not to things that fall under the category of *hudud* or heavy *ta'zir*. Therefore, it is important to classify criminal cases that can be resolved systematically so that this integration does not cause deviations from the principle of universal justice.¹⁹

In Indonesian Muslim society, the value of the *islah* is still alive. In some areas, such as Gorontalo, Aceh, and Madura, dispute resolution with the *islah* approach has been carried out for generations. For example, in the case of a fight between teenagers that caused minor injuries, the perpetrator and the victim's family were gathered at a mosque or village hall to apologize, provide compensation, and pledge peace. This process is considered to be more about restoring the dignity of the victim and having a deterrent effect on the perpetrator than the ordinary judicial process, which sometimes prolongs conflicts. The similarity of principles and practices between *islah* and restorative justice is the basis for the fact that this approach is very likely to be integrated into the national legal system. This not only strengthens a justice system that is more responsive to local and religious values, but it also bridges the gap between society and the state's legal institutions. This integration will make national law more contextual, characterful, and substantive justice. Therefore, there needs to be a policy that supports the strengthening of community mediation institutions, the training of community leaders as facilitators of *islah*, and the harmonization of regulations between positive law and Islamic principles oriented toward restorative justice.

¹⁸ Putu Arya Wibisana dkk., "Qualitative Analysis of Corruption in Mining and Its Impact on Sustainable Development," *RSF Conference Series: Business, Management and Social Sciences* 4, no. 1 (10 September 2024): 58–65, <https://doi.org/10.31098/bmss.v4i1.859>.

¹⁹ A. Ariefulloh dkk., "Restorative justice-based criminal case resolution in Salatiga, Indonesia: Islamic law perspective and legal objectives," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 23, no. 1 (2023): 19–36, <https://doi.org/10.18326/IJTIHAD.V23I1.19-36>.

Table 1: Comparison of the Values and Practices of *Islah* in Islamic Law and Restorative Justice

Aspects	<i>Islah</i> (Islamic Law)	Restorative Justice (Modern)	Implementation Examples
Definition	Voluntary peace efforts oriented towards the restoration of social relations	The process of resolving criminal conflicts by involving victims, perpetrators, and communities	Mediation between perpetrators and victims with the role of community leaders
Theological/Legal Basis	The Qur'an and Hadith (e.g. QS. An-Nisa: 128, QS. Al-Hujurat: 9-10)	The principles of participatory justice and victims' rights in the modern criminal law system	Handling of <i>jinayat</i> through <i>diyat</i> and <i>sulh</i>
Main Objectives	Ishlah al-khatā' (correcting mistakes and repairing damages)	Recovery of victim losses and reintegration of perpetrators	Petty theft perpetrators return items & apologize
The Role of the Victim	Be active in the peace process, including the right to apologize or ask for compensation.	Actively involved in the dialogue and recovery process	The victim decides the form of recovery in the deliberation forum
The Role of the Mediator	Religious, customary, or local community leaders	Trained facilitators (legal mediators, social workers)	Clerics in Aceh mediate domestic conflicts
Scope of Matter	Light <i>jinayat</i> , <i>qishas-diyat</i> , social-communal conflicts	Light to medium crimes (non-violent crimes)	The case of a student fight in Madura was resolved by <i>islah</i>
Forms of Recovery	Forgiveness, <i>diyat</i> (compensation), pledge of peace, social contribution	Compensation, apology, rehabilitation program	Teenage perpetrators work socially in the <i>mosque</i> for a week
Deployment Limitations	This does not apply to <i>hudud</i> and heavy <i>ta'zir</i> (such as corruption and terrorism)	Not for serious or repeat crimes	Premeditated murder must still be formally prosecuted
Additional Value	Rooted in local socio-religious norms and strengthening harmony	Reduce the burden on the formal justice system and avoid criminalization	Reviving the culture of community deliberation
Potential for Integration in National Law	Through the approach of living law, <i>maslahah</i> , and the institutional role of society	Restorative regulation at the police and prosecutor's office levels	Training of mediators based on <i>islah</i> values in the community

Source: Author's Interpretation

Table 1 presents a comprehensive comparison between the concept of *Islah* in Islamic law and Restorative Justice in the modern legal system. Fundamentally, both emphasize a conflict resolution approach based on voluntary participation between victim and perpetrator, with the main goal of restoring social relations damaged by criminal acts. *Islah* in the Islamic tradition is based on normative sources such as the Qur'an and Hadith, which explicitly encourage peaceful settlement, mediation, and forgiveness in certain cases. Restorative justice, although born in the Western legal tradition, shows the same values, especially in victim empowerment, the moral responsibility of the perpetrator, and the presence of a neutral mediator in the dialogue process.

Table 1 also shows that both have similar forms of recovery—ranging from restitution apology to the involvement of the perpetrator in social activities. However, both *Islah* and restorative justice have limitations in their application, especially for serious crimes. On the other hand, the superiority of *Islah* lies in the socio-religious legitimacy inherent in the structure of Muslim society so that the process is more accepted and respected. The integration of these values into national law through the training of community leaders and the strengthening of community-based mediation institutions will enrich Indonesia's justice system towards more substantive and contextual justice.

Reactualization of the *Islah* Principle in Indonesian Positive Law

The actualization of the principle of *islah* in Indonesia's positive law is a strategic step to answer the limitations of the criminal justice system, which has tended to be retributive and not always able to provide substantive justice for the community. In practice, the criminal law system often prioritizes formal procedures and the imposition of sanctions as a form of conflict resolution without paying attention to the restoration of social relations damaged by criminal events. This approach has not fully reflected the values of a vibrant and thriving society in Indonesia, where peaceful settlement and kinship are highly valued. In the midst of the need for a more humane justice system, the value of *islah*

in the Islamic tradition has emerged as a relevant and contextual offer to complement the restorative justice approach that has begun to be formally accommodated in regulations.²⁰

Since the issuance of Police Regulation No. 8 of 2021 and Attorney General's Guideline No. 15 of 2020, the restorative justice approach has gained space in the Indonesian legal system.²¹ However, its implementation is still limited to administrative aspects, has not reached the cultural roots of the community²², and has not explicitly involved religious values such as *islah*. In fact, in various Indonesian Muslim communities, resolving cases through religious approaches such as *islah* has long been a living social practice. In Aceh, for example, cases of minor persecution or family disputes are often resolved through deliberative forums facilitated by religious and customary leaders. This process not only reduces conflicts but also restores social harmony that had been damaged.

In this context, the reactualization of *islah* values can be carried out through the preparation of a legal framework that recognizes and legitimizes the role of community and religious leaders as mediators in resolving minor criminal conflicts. It is necessary to formulate rules that allow the termination of criminal cases on the basis of peace that is voluntarily achieved by both parties while still prioritizing the protection of victims and the public interest. For example, in the case of petty theft by teenagers in the school or stall environment, the perpetrator can be directed to return the goods, apologize, and carry out social activities as a form of accountability. This settlement is more effective than bringing cases to court that risk stigmatizing young perpetrators and deciding their future.²³

²⁰ Ariyani Ariyani, Fikri, dan Andi Marlina, "The Concept of Al-Islam and the Restorative Justice Approach in Settlement of Criminal Cases," *DELICTUM: Jurnal Hukum Pidana Islam*, 1 Agustus 2023, 28-43, <https://doi.org/10.35905/delictum.vi0.6403>.

²¹ Faisal Hadi Pramono dan Laras Astuti, "Penerapan Keadilan Restoratif Pada Tindak Pidana Ringan Di Kejaksaan Negeri Yogyakarta," *Indonesian Journal of Criminal Law and Criminology (IJCLC)* 4, no. 2 (21 September 2023): 84-98, <https://doi.org/10.18196/ijclc.v4i2.19806>.

²² Mia Amiati Iskandar, "Pertanggungjawaban Pidana Korporasi Sebagai Subjek Tindak Pidana Pencucian Uang," *PALAR (Pakuan Law review)* 8, no. 4 (2022): 51-59.

²³ D.L. Kusworo, A.O. Abdulkadir, dan M.N.K. Fauzi, "Reflections on the Dismissal of Theft Charges Through Prosecutor's Restorative Justice House in Lampung," *Jurnal Media Hukum* 30, no. 2 (2023): 136-152, <https://doi.org/10.18196/jmh.v30i2.18384>.

This actualization is also important to reduce the burden on judicial institutions²⁴, which have been filled with minor cases that can actually be resolved informally. By involving religious leaders, scholars, and community leaders as legitimate mediators trained in the principles of restorative justice, case resolution can be done faster, more efficiently, and with dignity.²⁵ For example, in the pesantren environment, cases of persecution between students are often resolved through *islah* involving kyai as a mediator, with results that all parties can accept. Trust in religious leaders in resolving cases provides strong moral legitimacy for the outcome of peace, as opposed to formal legal settlements that are sometimes considered too far removed from community values.²⁶

However, the *islah* process needs to be limited with clear signs so that it is not used to pressure victims in cases involving serious violence, such as domestic violence, sexual abuse, or crimes against children. In such cases, the *islah* approach can only be used if it is truly based on the victim's voluntariness, with protection from a neutral third party. Law enforcement agencies and victim assistance organizations must closely supervise the process. This is important to ensure that the justice produced remains on the side of human rights and does not harm the socially or legally weak.²⁷

Another step that can be taken is to compile a compilation of criminal law based on local and religious values²⁸, which accommodates principles such as deliberation,

²⁴ Mia Amiati Iskandar, *Perluasan penyertaan dalam tindak pidana korupsi menurut UNCAC 2000 dan UNCAC 2003* (Referensi, 2013), <https://scholar.google.com/scholar?cluster=9477805736556607705&hl=en&oi=scholar>.

²⁵ Andiko, Nurdin, dan Efrinaldi, "Implementation of Restorative Justice in a Customary Court in Rejang Lebong District, Bengkulu, Indonesia."

²⁶ N. Rochaeti, M.H. Prasetyo, dan J.H. Park, "Implementing of Restorative Justice to Build the Criminal Justice System in Indonesia: A Study of the Batak Toba Justice System," *Law Reform: Jurnal Pembaharuan Hukum* 19, no. 2 (2023): 221-247, <https://doi.org/10.14710/lr.v19i2.53184>.

²⁷ M. Weinrath dan B. Broschuk, "Police and Crown Prosecutor Use of Restorative Justice and Diversion for Adults and Youth in a High-Crime Area," *Canadian Journal of Criminology and Criminal Justice* 64, no. 4 (2022): 21-46, <https://doi.org/10.3138/cjccj.2022-0034>.

²⁸ Mia Amiati, "Memaknai Kepentingan Umum dalam Oportunitas Jaksa Agung (Tinjauan Perspektif Teoritis)," *Jakarta: Miswar*, 2014, <https://scholar.google.com/scholar?cluster=9704458093835007050&hl=en&oi=scholar>.

forgiveness, and relationship restoration.²⁹ This compilation can be a guideline for law enforcement in handling cases of a communitarian nature, especially in areas that still uphold customary and religious values.³⁰ For example, in South Sulawesi, the value of *spirit na pacce* is the basis for resolving conflicts between citizens by involving traditional leaders and the families of the perpetrators to restore the victim's self-esteem.³¹ This process is very effective in creating social reconciliation and preventing revenge that could spread. Religious institutions also have an important role in strengthening the function of *islah*. Islamic boarding schools, mosques, taklim councils, and Islamic institutions such as MUI can function as training centers for mediators based on Islamic values. This training can equip community leaders with professional and ethical mediation skills while strengthening the synergy between state law and community law. The involvement of this institution will strengthen social acceptance of the results of conflict resolution, as well as build public trust in the legal system.

The impact of this actualization of *islah* values is felt not only by individuals involved in conflicts but also by the general social order. By prioritizing solutions based on dialogue, forgiveness, and social responsibility, people will be more accustomed to resolving problems peacefully and respectfully. This creates a legal culture based on local wisdom, not solely on the threat of punishment.³² The law is no longer seen as a tool of state coercion but as a means of building meaningful peace and justice for all parties.³³ Overall, the

²⁹ Maulia Kuswicaksono, "Pengaruh Kearifan Lokal terhadap Penerapan Sanksi Hukum Adat Atas Tindak Pidana yang Diatur oleh KUHP Terhadap Pelaku," *Jurnal Syntax Transformation* 2, no. 09 (20 September 2021): 1308–1318, <https://doi.org/10.46799/jst.v2i9.323>.

³⁰ Muhammad Natsir dan Andi Rachmad, "Penetapan Asas Kearifan Lokal Sebagai Kebijakan Pidana Dalam Pengelolaan Lingkungan Hidup Di Aceh," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 7, no. 4 (31 Desember 2018): 468–489, <https://doi.org/10.24843/JMHU.2018.v07.i04.p05>.

³¹ Ansar Abbas dkk., "Human Capital Creation: A Collective Psychological, Social, Organizational and Religious Perspective," *Journal of Religion and Health* 63, no. 3 (Juni 2024): 2168–2200, <https://doi.org/10.1007/s10943-022-01665-8>.

³² Muhammad Andy Lesmana, Muzdalifah, dan Yamani Naufal, "Efektivitas Restorative Justice Berbasis Kearifan Lokal Sebagai Sarana Penyelesaian Perkara Pidana Pada Masyarakat Banjar," *RIO LAW JURNAL* 5, no. 1 (20 Februari 2024), <https://doi.org/10.36355/rlj.v5i1.1246>.

³³ Irmawati Irmawati, Mulyati Pawennei, dan Abdul Qahar, "Penyelesaian Tindak Pidana Ringan Melalui Kearifan Lokal (Hukum Adat) Dalam Sistem Hukum Indonesia," *Journal of Lex Generalis (JLG)* 3, no. 2 (12 Februari 2022): 133–147.

actualization of the principle of *islah* in Indonesia's positive law is part of a legal reform effort that bridges the gap between legal-formal justice and socio-cultural justice. By incorporating the value of *islah* into legal regulations, training, and practice, the state can establish a legal system that is not only normatively fair but also contextual and grounded. This step will make national law more responsive to community dynamics, as well as strengthen the character of Indonesian law, which is religious, inclusive, and upholds humanity.

Table 2: Reactualization of the *Islah* Principle in Indonesian Positive Law

Aspects	Principles of <i>Islah</i> (Islamic Law)	Restorative Justice (Hukum Positif)	Opportunities for Reactualization in National Law
Dasar Filosofis	Restoration of social relationships, forgiveness, and harmony (<i>ishlah al-khatā'</i>)	Recovery of victims' losses, perpetrators' liability, reconciliation	Harmonizing local religious values with the principle of substantive justice
Main Actors	Victims, perpetrators, and community leaders/scholars as facilitators	Victims, perpetrators, facilitators of the formal system (investigators, prosecutors)	Active involvement of religious and traditional leaders as community mediators
Scope of Matter	Civil and minor criminal cases (<i>jinayat</i> , <i>qishas</i> , <i>diyat</i>)	Generally minor and non-violent offenses	Preparation of classification of cases that can be resolved through <i>islah</i>
Settlement Procedure	Voluntary deliberations, peaceful agreements, informal	Conferences, mediation, and dialogue within the framework of administrative law	Formal recognition of the results of community deliberations through new regulations
Final Results	Voluntary peace, forgiveness, <i>diyat</i> , and vows do not repeat	Reparations of victims, peace agreements, cessation of cases	Termination of <i>islah</i> -based cases through a legal framework
Excess	Rooted in tradition, high moral legitimacy, participatory	Formal regulatory support, access to state legal mechanisms	Integration of cultural and religious approaches in national law enforcement
Example Practice	Settlement of minor persecution by religious leaders in Islamic	Restorative justice programs by the police and	Customary and religious deliberation forums are given legal

	boarding schools or villages	prosecutors for petty theft	reinforcement as mediation
Implementation Challenges	Not yet recognized in the formal system, potential bias, limited victim protection	Bureaucratic resistance, limited understanding of legal actors	The need for regulatory harmonization, training of community mediators, strict supervision
Reform Direction	Revitalization of the value of <i>islah</i> as a social-communal justice system	Strengthening justice based on recovery and community participation	Compilation of criminal law based on local and religious values

Source: Author's interpretation

Table 2 presents a comparison between the principle of *islah* in Islamic law, the restorative justice approach in positive law, and the opportunity for the actualization of the principle of *islah* in the Indonesian national legal system. From the philosophical point of view, both *islah* and restorative justice emphasize the importance of restoring social relations and moral responsibility for criminal acts, not just retaliation. *Islah* has strong religious and social roots in the Islamic tradition, where the process of resolving conflicts takes place deliberatively and voluntarily and involves community leaders or scholars as facilitators. Meanwhile, restorative justice in Indonesia has begun to be institutionalized through policies by the police and the prosecutor, but it is still limited to minor cases.³⁴ The two have a common point in terms of making the victim and the perpetrator the main actors in the settlement of the case, with the aim of reaching a peaceful agreement that restores justice.

The opportunity for the actualization of the value of *islah* in positive law is very open, especially through the formal recognition of community- and religious-based settlement mechanisms. By developing a normative framework that allows for the termination of cases based on a peace agreement in the spirit of *islah*, national law can become more contextual and responsive to local values. For example, community leaders who have been playing a role in mediation can legally function as facilitators of restorative

³⁴ Nor Soleh, "Restorative Justice Dalam Hukum Pidana Islam Dan Kontribusinya Bagi Pembaharuan Hukum Pidana Materiil Di Indonesia," *Isti'dal : Jurnal Studi Hukum Islam* 2, no. 2 (2015): 123-135, <https://doi.org/10.34001/istidal.v2i2.640>.

justice. This process also encourages the state to accommodate the practice of peaceful deliberation that has been going on for a long time in the community, such as in Islamic boarding schools, traditional villages, or traditional Muslim communities. For this reason, clear regulations, training of mediators based on local values, and supervision are needed to ensure that the principles of justice are upheld so that *islah* does not become a tool of compromise on the rights of victims.

Conceptual Model of *Islah* Integration into the National Restorative Justice Framework

The conceptual model of integrating *islah* into the national restorative justice framework is a strategic effort to bridge modern positive law with the roots of Islamic legal traditions that prioritize participatory and reconciliation justice. The philosophical dimension of this model places *islah* as a pillar in the philosophy of Islamic law that aims to create common justice and the restoration of social relations damaged by conflict.³⁵ This means that justice is not seen vertically as a relationship between the state and citizens but horizontally as a relationship between people that requires improvement, empathy, and understanding. This concept is in line with the noble values of Pancasila and the aspirations of social justice in Indonesia.

At the normative level, this model encourages the reinterpretation of articles in the new Criminal Code and the Criminal Code, especially those that open up room for law enforcement discretion.³⁶ For example, in the Criminal Code, there is a principle of opportunity and prosecutorial discretion, which allows prosecutors to stop prosecutions in the public interest.³⁷ The values of *maslahah*, *'urf* (a local tradition), and *hudud* (the purpose of Islamic law) can be used as a framework of interpretation to expand the meaning of the "public interest," thus allowing the *islah* approach to be legitimately accommodated. This

³⁵ Ariyani, Fikri, dan Marlina, "The Concept of Al-Islam and the Restorative Justice Approach in Settlement of Criminal Cases."

³⁶ Mia Amiati, Hamzah Halim, dan Jady Zaidi Hassim, "Navigating Ambiguity: Critiques of Indonesia's Health Law and Its Impact on Legal Redress for Medical Malpractice Victims," *Hasanuddin Law Review* 10, no. 1 (8 Juni 2024): 94-107, <https://doi.org/10.20956/halrev.v10i1.5346>.

³⁷ Yusi Amdani, "Konsep Restorative Justice dalam Penyelesaian Perkara Tindak Pidana Pencurian oleh Anak Berbasis Hukum Islam dan Adat Aceh," *Al'Adalah* 13, no. 1 (4 Juli 2017): 81-76, <https://doi.org/10.24042/adalah.v13i1.1130>.

can be applied, for example, in the case of petty theft by teenagers in the village who have expressed regret and resolved through customary deliberation.

The sociological dimension of this model is very important because it relies on the strength of the social capital of Indonesian society.³⁸ In various regions such as Aceh, Madura, and Minangkabau, custom- and religious-based conflict resolution has been long and effective. In this context, religious and customary figures are not just moral advisors but are key actors in maintaining social harmony. A real example is the practice of "village peace" in Papua or the "traditional hall" forum in West Sumatra, which has succeeded in preventing the escalation of conflicts between youth through the *islah* mechanism. This model places the community as a subject, not just a legal object.³⁹

In the institutional dimension, this model encourages the establishment of *islah*-based mediation forums under official state institutions. This forum can be developed through synergy between the Witness and Victim Protection Institute (LPSK), the Prosecutor's Office, the District Court, and community leaders. Its function is as a facilitator of restorative justice-based case resolution with an Islamic approach. For example, in cases of domestic verbal violence that do not amount to severe physical violence, these forums can facilitate peace between husbands and wives through the guidance of religious leaders and female mediators who understand the local cultural context. This model not only strengthens the position of victims and perpetrators in conflict resolution but also provides space for a more profound process of social and spiritual recovery. In contrast to the formal justice system that focuses on proof and verdict, this model emphasizes social repentance, which is the process of repentance of the

³⁸ Mia Amiati, Adhryansah Adhryansah, dan Iman Prihandono, "Human Rights Violations and Corporate Criminal Liability: An Analysis of the New Indonesian Criminal Law," *Sriwijaya Law Review*, 31 Juli 2024, 230–248, <https://doi.org/10.28946/slrev.Vol8.Iss2.3687.pp230-248>.

³⁹ Rahmi Murniwati, "Eksistensi Peradilan Adat Dalam Penyelesaian Sengketa di Sumatera Barat," *Unes Journal of Swara Justisia* 7, no. 3 (21 Oktober 2023): 1116–1124, <https://doi.org/10.31933/ujsj.v7i3.417>.

perpetrator that is witnessed by the community and followed up with concrete actions such as apologies, compensation, and positive contributions to society.⁴⁰

In its implementation, this model requires special training for law enforcers, community leaders, and mediators to understand the principles of *islah* and restorative justice comprehensively. State institutions can facilitate this training in collaboration with Islamic boarding schools, Islamic universities, and civil society organizations. The training curriculum should include communication skills, an understanding of Islamic law, local cultural approaches, and modern mediation techniques.⁴¹ For example, in South Sulawesi, a mediation training module based on Bugis-Makassar values has been developed that is in line with the principle of *islah*. One of the advantages of this model is its flexibility in adapting to a variety of local contexts without having to step outside the national legal framework. This model does not pretend to replace the formal justice system, but rather complements it with a more humanistic and participatory approach. In cases of minor offenses such as defamation or defamation on social media that are troubling to small communities, *islah*-based settlement can be a more effective and speedy alternative to formal, bureaucratic court processes.⁴²

However, the success of this model requires a supportive political and regulatory commitment. There needs to be a policy that recognizes the results of *islah*-based mediation as part of a legal process that is legal and legally binding. For example, the results of community deliberations that religious leaders and mediation institutions have ratified can be given executive power by the court. This will prevent duplication of processes and provide legal certainty for the parties to the settlement. Finally, this conceptual model of

⁴⁰ Achmad Thorik dkk., "Perbandingan Konsep Restorative Justice Dalam Hukum Pidana Islam Dengan Hukum Pidana Indonesia," *Nomos : Jurnal Penelitian Ilmu Hukum* 4, no. 3 (31 Januari 2024): 88-96, <https://doi.org/10.56393/nomos.v4i1.2100>.

⁴¹ Mohamad Mikroj dan Adang Djumhur, "Restoratif Justice Sebagai Perwujudan Keadilan Dalam Prespektif Teori Kemaslahatan (Maqashid Al-Syari'ah)," *TAHKIM* 19, no. 2 (31 Desember 2023): 238-253, <https://doi.org/10.33477/thk.v19i2.5164>.

⁴² Ahmad Ropei, "Penerapan Restorative Justice Sebagai Alternatif Penyelesaian Masalah Pidana Berdasarkan Hukum Pidana Islam," *AL-KAINAH: Journal of Islamic Studies* 1, no. 2 (28 Desember 2022): 40-83, <https://doi.org/10.69698/jis.v1i2.14>.

islah integration emphasizes that the Indonesian legal system does not have to be trapped in the dichotomy between modernity and tradition. By exploring local and religious values such as *islah*, the national legal system can become more contextual, inclusive, and substantively just. This is a tangible form of legal reform based on the nation's cultural roots and progressive Islamic values. This integration is also a solution to shorten the distance between the formal laws of the state and people's trust in the justice system that they feel is relevant and meaningful in their daily lives.

CONCLUSION

This research confirms that the integration of *islah* values in the framework of restorative justice can be an effective bridge to unite the principles of justice in positive law and Islamic law. This approach not only reflects the need to balance substantive justice in society but also provides space for reconciliation and restoration of relationships damaged by lawlessness. *Islah*, which is rooted in Islamic legal philosophy, emphasizes the importance of horizontal relationships between individuals, prioritizing social restoration rather than punishment alone and encouraging a deeper process of social repentance. Through normative, sociological, and institutional approaches, this integration model opens up opportunities to renew a justice system that is more responsive, participatory, and based on local values that live in society. The existence of space for *islah*-based mediation in official institutions, as well as the involvement of local actors such as religious and traditional leaders, make a positive contribution to a more humane and contextual conflict resolution. The implementation of this model, despite the challenges in terms of regulation and political commitment, has great potential to enrich the restorative justice approach in Indonesia, as well as connect formal law with the moral and religious values that the community trusts.

Follow-up research can examine the social and legal impact of the application of the *islah* approach in resolving minor to medium cases, as well as analyze its success in reducing the level of conflict or reducing the burden of formal justice. In addition, the

research can also explore the challenges faced in integrating these traditional values with the modern legal system, particularly related to the existence of legally valid *islah*-based mediation institutions. Furthermore, further studies need to develop training models for law enforcers, religious leaders, and mediators to understand and apply the principles of *islah* in various conflict resolution contexts. Research is also important to see how the application of Islamic law and the principle of *islah* can be harmonized with government policies, especially in terms of regulations that give executive power to the results of *islah*-based mediation. In addition, research on measuring the effectiveness of this approach in improving restorative justice and reducing social stigma against perpetrators can also make an important contribution to the development of more inclusive and contextual restorative justice in Indonesia.

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AUTHOR CONTRIBUTIONS STATEMENT

Joko Budi Darmawan contributed to the development of a conceptual framework and basic theory regarding the integration of *islah* values in restorative justice. He focuses on the philosophical and normative aspects of the concept of reconciliation in positive law and Islamic law, as well as an analysis of its application in the Indonesian context. Fendy Suhariadi plays a role in conducting empirical studies, especially in exploring the application of *islah* values in Indonesian society and the role of law enforcement discretion

in the framework of restorative justice. He is also involved in research related to conflict resolution cases in various regions. Suparto Widjojo directs research on the institutional dimension, contributes to designing an *islah*-based mediation forum model, and develops suggestions for the involvement of official state institutions such as LPSK, the Prosecutor's Office, and the District Court in its implementation. Mia Amiati focuses on the practical aspects of the implementation of the value of *islah*, including designing a training curriculum for law enforcers, religious leaders, and mediators to explore the principles of Islamic-based restorative justice. Amjad Hamad Abdullah contributes interdisciplinary insights, linking the principles of Islamic law with their application in Indonesia's positive legal system. He also highlighted the challenges and opportunities in adapting the concept of *islah* to the diversity of local cultures in Indonesia. All authors made significant contributions to the formulation of theories, methodologies, and practical recommendations in this study, creating the basis for the actualization of the concept of reconciliation in contemporary law.

CONFLICT OF INTEREST

The authors state that there are no conflicts of interest associated with this study. All findings and analyses presented in this article are the results of objective research and are not influenced by personal, financial, or professional interests that could affect the integrity and objectivity of the research.

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