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THE APPLICATION OF *IṢLĀḤ* IN THE SETTLEMENT OF CRIMINAL ACTS BASED ON RESTORATIVE JUSTICE IN THE INDONESIAN NATIONAL POLICE INVESTIGATORS
(Socio-Juridical Analysis of the Application of *Iṣlāḥ* in Society)

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ABSTRACT

The Quran and Hadith are the main sources of Islamic law. One area of Islamic law is criminal law, which plays a very important role in contributing to the enforcement of criminal law in Indonesia, making it very important to conduct research to understand the application of reconciliation in the settlement of criminal acts based on restorative justice by Indonesian National Police investigators. This paper aims to reveal how the implementation of reconciliation in the Quran is applied to the settlement of criminal acts based on restorative justice by police investigators. The methods used in this study are literature review and field study with a maslahah approach. The results of this study can be used as material in academic studies in further research and in understanding the relevance of Islah in the Settlement of Criminal Acts Based on Restorative Justice in Police Investigators, as well as material for stakeholder analysis in determining policy in terms of ushul fiqh texts.

Keywords: Reconciliation; criminal settlement; *restorative justice*

1. INTRODUCTION

The enforcement of criminal law in Indonesia's criminal justice system has undergone a shift from retributive to rehabilitative, and now towards restorative justice. Retributive justice emphasizes retribution and appropriate punishment, while rehabilitative justice focuses more on the rehabilitation of the perpetrator, and restorative justice seeks to restore the relationship between the perpetrator, the victim, and the community. One of the many problems faced by humanity is the issue of reconciliation or peace. The Quran, as *hudan linnās*, contains a number of guidelines for believers. The Quran is the main source of Islamic law that regulates all aspects of human life and is appropriate to place and time, including regulating reconciliation or peace. A number of verses in the Quran emphasize that peace is a necessity, including making efforts to prevent conflict if there are signs of it arising within society.[1]

[1] Saidah Sekolah and others, 'KONSEP ISHLAH DALAM HUKUM ISLAM (Perspektif Tafsir Maudhu'iy)', 10.2 (2012), pp. 120–27.

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Based on this, the author is interested in researching the concept of applying reconciliation as a non-penal means of reaching an agreement, which is a material requirement in the implementation of restorative justice as a solution to the failure to reach an agreement between the reporting party/victim and the reported party/suspect, so that at least the cases that can be resolved are through Restorative Justice by using the application of reconciliation in reaching a peaceful agreement, by determining the title of this dissertation proposal "The Application of Islah in the Settlement of Criminal Acts Based on Restorative Justice in the Indonesian National Police Investigators (Socio-Juridical Analysis of the Application of Islah in Society)".

2. METHODS

This study uses a combination of literature review and field data, conducting a literature review in which the literature is selected according to the subject matter and analyzed in depth so that conclusions and findings can be drawn from the research. The literature was taken from books, national and international journal articles, and other literature, as well as descriptive qualitative observations of the relevance of Islah in the settlement of criminal acts based on restorative justice in the Indonesian National Police's investigations.

This research is descriptive and analytical in nature, with the aim of describing the current situation using scientific research methods and solving problems based on the data and facts collected at the time of the research. The analysis in this study applies a kamaslahatan approach in understanding the relevance of Islah in resolving criminal acts based on restorative justice in Indonesian National Police investigations.

3. RESULTS AND DISCUSSIONS

Data on case resolutions using the Restorative Justice approach at the Sambas Police Headquarters in 2023 and 2024, namely in 2023 there were 195 cases resolved, 192 of which were resolved based on Restorative Justice (Restorative Justice) were 4 (four) cases. In 2024, there were 246 cases resolved, with 193 cases resolved based on Restorative Justice and 32 (thirty-two) cases resolved based on Restorative Justice. Data on the case resolution shows that the resolution of cases based on restorative justice is still very small, which in 2023 was only around 2% and in 2024 was only around 16%.

Sambas Regency, which is the research area, has the following religious distribution in 2024: Islam 87.97%, Buddhism 6.83%, Christianity 4.69% (Protestantism 2.86% and Catholicism 1.83%), Confucianism 0.48%, and Hinduism 0.03%. [2] The data shows that Muslims are the vast majority, accounting for approximately 87.97% of the population of 579,114 (five hundred seventy-nine thousand one hundred fourteen) people out of a total population of 648,310 (six hundred forty-eight thousand three hundred ten) people.

The Quran as *hudan linnās* contains a number of guidelines for believers. One of the many issues faced by humanity is the issue of reconciliation or peace. A number of verses in the Quran emphasize that peace is a necessity, including making efforts to prevent conflict if there are signs of it arising in society.[3] In the Qur'an, there are several verses that discuss the concept of *iṣlāḥ* (reconciliation or rectification), including Surah *al-Baqarah* verses 182 and 224, which are classified as *madaniyyah* verses; Surah An-Nisa verses 35, 114, 128, and 129, also classified as

[2] https://www.google.com/search?q=persentase+agama+penduduk+sambas+tahun+2024.
[3] Sekolah and others, 'KONSEP ISHLAH DALAM HUKUM ISLAM (Perspektif Tafsir Maudhu'iy)'.

Madaniyyah; Surah *al-A'rāf* verses 142 and 35, which are classified as Makkiyyah; Surah Al-Anfal verse 1, classified as *madaniyyah*; and Surah *al-Ḥujurāt* verses 9 and 10, likewise classified as *Madaniyyah*.

Upon examining a number of verses relevant to this term, it becomes evident that the dimension of peace (*iṣlāḥ*) serves as the underlying spirit for fostering harmony. Islam, which regards the Qur'an as its primary source of teaching, is thus recognized as a religion that upholds peace and reconciliation.[4]

Restorative Justice is the resolution of a criminal act involving the perpetrator, the victim, the families of both parties, community leaders, religious leaders, customary leaders, or other stakeholders who work together to seek a fair settlement through reconciliation, emphasizing the restoration of the situation to its original state. This concept is regulated under Article 1, Paragraph 3 of the Regulation of the Indonesian National Police Number 08 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice.

In the implementation of Restorative Justice by the Indonesian National Police investigators as an alternative effort to resolve criminal cases, the procedural mechanism of the criminal justice system already provides a legal basis for carrying out such restorative justice. However, in practice, this process often ends in failure due to the absence of mutual agreement during the mediation process between the perpetrator and the victim, facilitated by the police investigators.

In the research area, namely Sambas Regency, West Kalimantan Province—where the majority of the population is Muslim—the principle of *iṣlāḥ* should ideally be applied as a conceptual framework for reaching agreements between parties in the handling of criminal cases based on restorative justice. Thus, criminal cases that meet both material and formal requirements can be addressed through restorative justice mechanisms grounded in the spirit of reconciliation and mutual understanding.

Iṣlāḥ, meaning reconciliation or peace, is one of the terms found in the Qur'an. The word *aṣliḥū* is derived from *aṣlaḥa,* which in turn originates from *ṣaluḥa,* serving as the antonym of *fasada* (corruption or damage).[5] The contemporary Indonesian Qur'anic scholar M. Quraish Shihab, in his Tafsir *al-Miṣbāḥ*, explains the concept of *iṣlāḥ* with reference to Surah *al-Ḥujurāt*, verses 9–10.[6] The verse implies that if two groups, even among the believers, engage in any form of conflict, the Qur'an commands that reconciliation be pursued. If one of the disputing parties continues to act unjustly toward the other, then it should be restrained until it returns to the truth and to obedience to Allah's command. Once both parties have truly returned to righteousness, they should be reconciled with justice, and fairness must be upheld in all matters.[7]

Furthermore, the Qur'anic exegete Wahbah al-Zuḥaylī, in his *Tafsīr al-Munīr*, elaborates on the concept of *iṣlāḥ* in Surah *al-Ḥujurāt* verse 9 within the context of reconciliation. He explains that when two groups are in conflict, they should be reconciled through counsel and by calling them to the path of Allah, while preventing them from engaging in violence or killing one another. If one party refuses, it should be admonished with a tone of warning. Throughout the reconciliation process, justice must be upheld at all times.[8]

[4] Sekolah and others, 'KONSEP ISHLAH DALAM HUKUM ISLAM (Perspektif Tafsir Maudhu'iy)'.
[5] Abdul Wahid Haddade, 'Konsep Al-Ishlah Dalam Al-Qur-An', *Tafsere*, 4.1 (2016), h. 13–23.
[6] https://quran.com/id/kamar-kamar/h.9-10
[7] Sekolah and others, 'KONSEP ISHLAH DALAM HUKUM ISLAM (Perspektif Tafsir Maudhu'iy)'.
[8] Haddade, 'Konsep Al-Ishlah Dalam Al-Qur-An'.

The term al-iṣlāḥ is derived from the root word جلصـ, which denotes peace, happiness, tranquility, comfort, and rectification. In relation to this, within the epistemology of Islamic law, the term is generally used in the Qur'an to indicate the categorization of knowledge in the process of legal reasoning—namely, that which can be directly derived from the sacred text (naṣṣ) and that which is obtained through the process of legal inference (*istinbāṭ*).[9]

Iṣlāḥ is a method of resolving disputes that arise among members of the Muslim community.[10] In the verse, the word *aṣliḥū* is an imperative verb (*fi'l al-amr*), which means "make peace" or "reconcile." According to the principles of *uṣūl al-fiqh* (Islamic legal theory), an imperative verb generally signifies an obligatory command, indicating that the act it prescribes must be carried out.[11]

Iṣlāḥ can be carried out through various cultural means or community customs that continue to be preserved as society evolves, as long as they are considered relevant and contain elements of public benefit (*maṣlaḥah*). Nevertheless, a significant portion of society remains steadfast in upholding their traditions. This persistence reflects their awareness of the positive values embedded within these traditions, which remain relevant despite the continuous progress of time.[12]

Sambas Regency, where the majority of the population is Muslim and where several traditions strongly support the practice of *iṣlāḥ*, holds great potential for resolving social issues through reconciliation and peacebuilding. Among these traditions is s*aprahan*, a communal gathering and dining event. *Saprahan* is one of the enduring traditions still practiced today among the people of West Kalimantan, particularly within the Muslim-Malay community, despite the growing influence of modernity. This tradition not only serves as a symbol of local wisdom passed down through generations but also reflects the deep-rooted cultural foundations that continue to shape their social life. Although modern influences have increasingly permeated communities in urban areas such as Pontianak, *saprahan* remains alive and valued, not merely as a relic of the past, but as a tradition embodying values essential to contemporary life. It exemplifies how cultural heritage can adapt to changing times without losing its essence as a means of strengthening social and cultural bonds.[13]

Etymologically, the word "*saprahan*" is derived from the term "*saprah*," meaning "to spread out," while in Arabic it originates from "*safrah*," which means "round" or "circular." The concept of circularity is deeply reflected in the way this tradition is practiced: people sit together in a circle, sharing food from a large communal dish. This act of communal dining goes beyond merely satisfying physical needs; it serves as a medium for strengthening social bonds and fostering a sense of intimacy among individuals. Each occasion of shared eating embodies a strong spirit of mutual cooperation and collective harmony (*gotong royong*).[14]

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[9] Fikri, 'Transformation the Value of Al-Islah in the Diversity of Conflict: Epistemology Islamic Law in the Qur'an', *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 16.2 (2016), h. 205.

[10] Sengketa Kontrak and Bisnis Syari, 'Islah, Dading, Penyelesaian Sengketa, Sengketa Bisnis, Syariah.', 3, 2014, h. 30–42.

[11] Kontrak and Syari, 'Islah, Dading, Penyelesaian Sengketa, Sengketa Bisnis, Syariah.'

[12] Resta Tultuffia Sari, 'Tradisi Saprahan Masyarakat Muslim-Melayu Kalimantan Barat : Relevansinya Sebagai Sumber Belajar Agama Islam Seputar Moderasi Beragama', 8.1 (2025), h. 51–81.

[13] Sari, 'Tradisi Saprahan Masyarakat Muslim-Melayu Kalimantan Barat : Relevansinya Sebagai Sumber Belajar Agama Islam Seputar Moderasi Beragama'.

[14] Sari, 'Tradisi Saprahan Masyarakat Muslim-Melayu Kalimantan Barat : Relevansinya Sebagai Sumber Belajar Agama Islam Seputar Moderasi Beragama'.

Through this tradition, the implementation of *iṣlāḥ* or reconciliation is strongly supported. During communal gatherings and shared meals, members of the community have the opportunity to discuss and resolve issues that arise among them. Since the community shares a common religious background—Islam, which highly upholds peace—such gatherings provide a conducive setting for fostering harmony. The achievement of iṣlāḥ thus becomes an entry point for peacebuilding, fulfilling one of the material requirements for police investigators in resolving criminal cases based on the principles of restorative justice.

The application of *iṣlāḥ* as reflected in the Qur'an can serve as a conceptual foundation for reaching mutual agreement between the parties involved, thereby enabling the effective implementation of criminal case resolution based on the principles of restorative justice.

4. CONCLUSION

The implementation of iṣlāḥ is highly important and should be undertaken as a conceptual framework for achieving mutual agreement between the parties involved in the resolution of criminal cases based on restorative justice. Through this approach, criminal cases handled by the Indonesian National Police investigators can be resolved in accordance with the principles of restorative justice.

The implementation of criminal case resolution based on restorative justice can be carried out through iṣlāḥ as a form of reconciliation between the parties involved in the criminal act. In this way, the objectives of contemporary criminal law namely legal certainty, justice, and utility can be effectively achieved.

The findings of this study can provide valuable contributions to policymakers in formulating contemporary criminal law regulations and in considering the implementation of sentencing. Moreover, it offers potential for further research on aspects that have not been explored in the present study.

REFERENCES

Fikri, 'Transformation the Value of Al-Islah in the Diversity of Conflict: Epistemology Islamic Law in the Qur'an', *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 16.2 (2016), p. 205

Haddade, Abdul Wahid, 'Konsep Al-Ishlah Dalam Al-Qur-An', *Tafsere*, 4.1 (2016), pp. 13–23

Kontrak, Sengketa, and Bisnis Syari, 'Islah, Dading, Penyelesaian Sengketa, Sengketa Bisnis, Syariah.', 3, 2014, pp. 30–42

Sari, Resta Tultuffia, 'Tradisi Saprahan Masyarakat Muslim-Melayu Kalimantan Barat : Relevansinya Sebagai Sumber Belajar Agama Islam Seputar Moderasi Beragama', 8.1 (2025), pp. 51–81

Sekolah, Saidah, Tinggi Agama, Islam Negeri, Kata Kunci, : Al-Ishlah, Hukum Islam, and others, 'KONSEP ISHLAH DALAM HUKUM ISLAM (Perspektif Tafsir Maudhu'iy)', 10.2 (2012), pp. 120–27

Fikri, 'Transformation the Value of Al-Islah in the Diversity of Conflict: Epistemology Islamic Law in the Qur'an', *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 16.2 (2016), p. 205

Haddade, Abdul Wahid, 'Konsep Al-Ishlah Dalam Al-Qur-An', *Tafsere*, 4.1 (2016), pp. 13–23

Kontrak, Sengketa, and Bisnis Syari, 'Islah, Dading, Penyelesaian Sengketa, Sengketa Bisnis, Syariah.', 3, 2014, pp. 30–42

Sari, Resta Tultuffia, 'Tradisi Saprahan Masyarakat Muslim-Melayu Kalimantan Barat : Relevansinya Sebagai Sumber Belajar Agama Islam Seputar Moderasi Beragama', 8.1 (2025), pp. 51–81

Sekolah, Saidah, Tinggi Agama, Islam Negeri, Kata Kunci, : Al-Ishlah, Hukum Islam, and others, 'KONSEP ISHLAH DALAM HUKUM ISLAM (Perspektif Tafsir Maudhu'iy)', 10.2 (2012), pp. 120–27