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The Concept of Reconciliation in Islamic Criminal Law and the Implementation of Restorative Justice as a Contribution to Criminal Law Reform in Indonesia

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Abstract:
The criminal law system in Indonesia tends to be retributive, with a primary focus on sanctioning perpetrators of criminal acts. This approach is often unable to provide a comprehensive solution to the losses suffered by victims and to restore disrupted social relations. In this context, the restorative justice approach presents itself as a more humanistic alternative, with an emphasis on victim recovery, offender accountability, and social reconciliation. Interestingly, the principles of restorative justice align with the values in Islamic criminal law, particularly in the concept of ishlah (peace), which provides ample room for settling criminal cases through reconciliation between perpetrators and victims. This concept aligns with the primary principles of restorative justice, namely the restoration of social relations, active participation by the parties, and the recovery of victims. In Indonesia, the application of restorative justice has begun to be incorporated into various regulations, such as the National Police Chief Regulation Number 8 of 2021 and the new Criminal Code; however, its implementation still faces normative and cultural challenges.
Keywords: Peace; Islamic Criminal Law; Restorative Justice; and Legal Reform.

A. INTRODUCTION

Criminal law plays a crucial role in maintaining order and justice within society. So far, the approach to criminal law in Indonesia has been more retributive in nature, focusing on retaliation against perpetrators of criminal acts. However, this approach often does not fully restore social relationships damaged by criminal offenses, especially in minor cases or those involving personal relationships between parties. Therefore, the emergence of the restorative justice paradigm is significant as an alternative approach to resolving criminal cases that is more humanistic, just, and restorative (Budiyono, Wahyudi, & Retnaningrum, 2024; Hamamudin, Iryani, & Setiawan, 2024).

In the tradition of Islamic criminal law, the concept of peace (ishlah) has long been recognized as a means of resolving criminal cases, particularly in cases involving jinayah, such as qishas and diyat. Islamic criminal law provides great space for the

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parties to make peace, even in serious cases, as long as it does not violate the principles of Sharia. This shows that Islamic law has restorative justice values that are relevant to modern legal needs, including in the context of national criminal law reform (Wahid, 2022; Kurniawan et al., 2024).

Indonesia, as a country with a majority Muslim population, has great potential to adopt the values of peace in Islamic criminal law into the national legal system. Efforts to reform criminal law through the application of restorative justice, which is currently being promoted, can enrich its approach by integrating Islamic principles that encourage peace, justice, and social recovery. Therefore, it is essential to examine in depth how the concept of peace in Islamic criminal law can make a significant contribution to strengthening the implementation of restorative justice in Indonesia as part of a more inclusive and equitable criminal law reform (Fadila et al., 2024; Sulistyanta et al., 2021).

Interestingly, the values and principles in restorative justice have long been recognized in the Islamic criminal law system. The concept of ishlah (peace) is an important instrument in resolving criminal cases, especially in cases involving individual rights, such as qishas and diyat. In Islamic criminal law, peace between the perpetrator and the victim can even nullify criminal charges, provided it does not contradict the principles of Sharia. This shows that Islam not only emphasizes punishment but also encourages the process of social recovery and reconciliation (Walim, 2024; Darmawan et al., 2024).

The study of peace in Islamic criminal law and its relevance to the concept of restorative justice is very important. This is not only to enrich theoretical perspectives in criminal law, but also to make a genuine contribution to efforts to reform criminal law in Indonesia, ensuring it is more just, socially just, and in line with the local and religious values of the community.

In practice, the implementation of restorative justice principles inspired by Islamic criminal law requires support for regulatory, institutional, and paradigmatic shifts among law enforcement officials. The peace process should not only be a formality, but should be viewed as an active dialogue process that involves all parties, including perpetrators, victims, and the community. In this context, the role of institutions such as the police, prosecutors, and judiciary needs to be strengthened with training and implementation guidelines based on restorative justice principles. Additionally, support from religious and community leaders is crucial to ensure that this approach is accepted and effective within the socio-cultural context of Indonesian society.

The integration of Islamic values in national criminal law policy through restorative justice approaches can also strengthen the legitimacy of the legal system in the eyes of the community (Husaini et al., 2023). When people see that the legal system is not only repressive but also restorative, and by the moral values they believe in, then trust in the law will increase. This is a strategic step in creating a legal system that is not only effective in tackling crime but also capable of fostering social cohesion and promoting long-term peace. Therefore, the synergy between the values of Islamic law and the principles of restorative justice needs to be continuously developed within the framework of criminal law reform that is oriented towards human values, justice, and social harmony.

B. METHOD

This research is a normative legal study (doctrinal), which involves examining legal materials, such as literature, to understand the principles, norms, and legal doctrines relevant to the theme raised. The primary focus of this research is to conceptually and normatively examine peace in Islamic criminal law and the application of restorative justice principles in the Indonesian criminal justice system, to contribute to the reform of national criminal law (Sugiyono, 2013).

This paper deals with the issue of peace in Islamic law and the application of Restorative Justice in the latest Indonesian criminal law.

Data collection is conducted through library research, while data analysis is performed descriptively and qualitatively by processing, interpreting, and connecting the data obtained to address the formulated research problems (ARFA, 2010).

C. RESULTS AND DISCUSSION

1. The Concept of Peace in Islamic Criminal Law

Peace (as-salam) in Islam is not just the absence of conflict or violence, but includes welfare, tranquility, and harmony in human relations. Islam teaches that peace is an ideal condition that every Muslim should strive for, both individually and collectively. According to the Qur'an, peace can only be achieved through justice, and conversely, peace is impossible without justice (Arafat et al., 2024).

In Islamic criminal law, peace (ishlah) is one of the primary principles that emphasizes the peaceful and just resolution of criminal cases, particularly in cases involving individual rights, unlike the conventional criminal law system, which is oriented towards retributive justice, Islamic criminal law opens a vast space for settling criminal cases through deliberation, forgiveness, and social reconciliation (Flora, 2018; Solin et al., 2024).

Peace in Islamic criminal law is based on the teachings of the Qur'an and the Hadith of the Prophet Muhammad, which encourage mutual forgiveness and peaceful resolution of disputes. One of the clearest examples is in murder cases, where the victim's family is given three options: qishas (retribution), accept diyat (ransom), or forgive the perpetrator unconditionally. This last option is the highest form of reconciliation and is considered a highly recommended action in Islam. In Surah Al-Baqarah verse 178, it is mentioned that forgiving is better for those who do good (Al Ayyubi, 2023; Kusuma & Diani, 2022).

Normatively, peace has strong legitimacy in Islamic criminal law. The act of ishlah does not only apply to murder cases, but also other criminal offenses such as maltreatment, theft, and other minor cases, as long as they do not involve the absolute rights of Allah (such as hudud). In other words, in cases involving individual rights, peaceful settlement is highly recommended as long as it is agreed upon by the parties concerned (Waluyadi, 2014).

Peace is also considered part of maqashid al-syari'ah, which is the main objective of Islamic law, namely protecting life, property, honor, and social harmony. Therefore, peace is not just a legal instrument, but is part of the grand vision of Islam to create a just, peaceful, and civilized society (Hutapea, 2023; Al Giffari et al., 2023).

In the context of application, the practice of reconciliation in Islamic criminal law is usually realized through mediation between offenders and victims, or between their families, with or without the role of religious authorities or community leaders. This process emphasizes the values of substantive justice, respect for victims' rights, offender repentance, and social integrity (Rohmadi, 2015).

Thus, the concept of peace in Islamic criminal law is an approach that emphasizes recovery and reconciliation, not merely retribution. This is highly relevant to the restorative justice approach that is currently developing in modern legal systems, including efforts to reform criminal law in Indonesia.

2. *Implementation* of the Criminal Case Peace Process through Restorative Justice

Restorative justice is an alternative approach to resolving criminal cases that focuses on restoring the losses suffered by victims, holding perpetrators accountable, and actively involving the community in the conflict resolution process. In contrast to the conventional criminal justice system that focuses on punishment, restorative justice emphasizes the peace process and the restoration of social relations disrupted by criminal acts (Al Ayyubi, 2023).

In Indonesia, the concept of restorative justice has begun to be implemented more concretely, alongside the emergence of various regulations, such as National Police Chief Regulation No. 8 of 2021 concerning the handling of crimes based on Restorative Justice, as well as recognition in the new Criminal Code (KUHP). The primary objective of this application is to expedite lengthy legal processes and facilitate a more equitable settlement for all parties (Angrayni, 2016; Syauqi, 2023).

The peace process within the restorative justice framework typically begins with the willingness of the victim and perpetrator to meet in a mediation or deliberation forum, facilitated by law enforcement, community leaders, or professional mediators. In this meeting, the perpetrator is allowed to acknowledge their mistakes, apologize, and demonstrate good faith to make amends, both morally and materially. Victims are also given space to convey the impact they feel, and express their wishes regarding the form of recovery that is considered fair (Chandra, 2014; Adinda et al., 2024; Sari, Sawitri & Muflichah, 2022).

The outcome of this process is a mutual agreement between the victim, perpetrator, and the parties involved, which may include an apology, compensation, community service, or other forms of remedy. If an agreement is reached, the case can be stopped or not continued in the formal justice process, based on the principle of diversion or termination of the case in the interests of justice (Mansari, 2018).

However, the application of restorative justice is not suitable for all types of cases. It is usually limited to minor crimes, juvenile cases, or cases that do not pose a serious threat to public order. In addition, its application must fulfill the principles of voluntariness, no pressure, and consider the balance of rights and interests of all parties.

The implementation of the peace process in criminal cases through the restorative justice approach in Indonesia has shown positive developments. However, it still faces several normative and practical challenges. Based on a review of regulations, field practices, and interviews with law enforcement officials and relevant parties, several key findings were identified.

Restorative justice has been normatively accommodated through National Police Chief Regulation No. 8 of 2021 and Attorney General Regulation No. 15 of 2020, as well as being part of the new approach in the national Criminal Code, which was passed in 2022. This regulation provides a legal basis for law enforcement to halt certain criminal cases if an amicable agreement has been reached between the perpetrator and the victim, as long as it does not conflict with public interest.

In practice, this approach has been successfully applied in various regions to resolve minor crimes, such as light maltreatment, petty theft, citizen disputes, and cases involving children in conflict with the law. For example, in several Polres and State Attorney's Office, the perpetrator and victim are facilitated to reconcile through mediation, the results of which are then outlined in the minutes of peace and become the basis for termination of the legal process (SP3 or termination of prosecution).

The primary benefit of implementing restorative justice is the emotional and psychological satisfaction of the victim, as they are given the space to voice their suffering and receive an apology directly from the perpetrator. The perpetrator also gets the opportunity to take active responsibility and restore social relations with the community. In some cases, this peaceful effort is also accompanied by the provision of compensation or a mutually agreed-upon settlement.

Fourth, the obstacles found include the low understanding of law enforcement officials about the principles of restorative justice, the absence of uniform implementation standards, and the fear of abuse by perpetrators who use peace to avoid punishment. In addition, not all victims are willing to reconcile, especially in cases that cause serious injury, deep trauma, or involve self-esteem.

Fifth, conceptually, the application of restorative justice aligns strongly with the values in Islamic criminal law, such as the concepts of ishlah (peace) and afwu (forgiveness). This demonstrates that the application of restorative justice is not only a modern approach, but also reflects the principles of justice that have long been ingrained in the culture and traditions of the Indonesian people, both religious and communal.

Overall, this study concludes that the application of peace through restorative justice can be a real contribution to the reform of criminal law in Indonesia. This approach not only resolves legal conflicts but also revives social and spiritual values in justice enforcement (Ginting & Muazzul, 2018; Setyowati, 2020).

Through the implementation of a restorative justice-based peace process, it is expected that case settlements will not only resolve legal aspects but also address social and humanitarian concerns. This reflects a more holistic approach to justice and aligns with the values of local wisdom and the culture of deliberation that have long been a part of Indonesian society (Akbar, 2022).

3. The Application of Peace in Islamic Criminal Law and the Application of Restorative Justice in Relation to Criminal Law Reform in Indonesia

In Indonesia, the concept of restorative justice in practice is not new. The practice of non-adversarial dispute resolution, or outside the criminal justice process, has been applied by the community as a reflection of the consensus deliberation institution, which is part of the philosophy of the Indonesian nation. Reality shows that the resolution of a conflict in Indonesian society, even when it involves a violation of criminal legislation, does not always result in a court case. Minor cases such as juvenile delinquency, petty theft, and even maltreatment and rape can also be resolved through these deliberative institutions with or without involving the relevant officers (Maulana, 2019).

Restorative justice has been applied in case handling at the prosecutor's office. At least 2,103 cases have been terminated through restorative justice mechanisms. In the application of restorative justice at the prosecution level, the Prosecutor's Office has made legal instruments as a guide for prosecutors in handling cases. "Good law ideally provides something more than just legal procedures." In the implementation of restorative justice, the Prosecutor's Office has issued three rules that serve as legal guidelines and frameworks for prosecutors to apply restorative justice in handling cases. First, Prosecutor's Regulation No.15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. This regulation represents a form of prosecutorial discretion in handling cases by applying restorative justice principles. Through this internal regulation, it is hoped that prosecutors can use it as a guideline to balance the applicable rules with the principle of expediency, thereby achieving the desired outcome (Ariefulloh et al., 2023).

Peace in Islamic criminal law and the application of restorative justice have a very close relevance in the context of criminal law reform in Indonesia. Both depart from the same paradigm, namely justice oriented towards recovery (restorative), rather than just punishment (retributive). This shows that there is a meeting point between Islamic values that live in Indonesian society and modern humanist legal principles.

In Islamic criminal law, peace (ishlah) is the main principle that is highly upheld. In murder cases, for example, Islamic law provides space for the victim's heirs to forgive the perpetrator with or without compensation (diyat). In Islam, the decision to forgive is considered a noble act. It aligns with the principle of substantive justice, which prioritizes the balance between the rights of the victim, the responsibilities of the perpetrator, and the social benefit. This concept formed the initial framework of restorative justice, long before the term was even recognized in modern legal literature (Prima, 2024).

Meanwhile, restorative justice in modern criminal law also places victims, perpetrators, and the community as the leading actors in the case resolution process. The principle is to resolve conflicts with dialogue, prioritize recovery, and rebuild social harmony. In Indonesia, this approach has begun to be implemented through various regulations, such as National Police Chief Regulation No. 8 of 2021 and Attorney General Regulation No. 15 of 2020, as well as being accommodated in the new Criminal Code, which recognizes the termination of cases based on peace.

When linked to criminal law reform in Indonesia, these two approaches offer important contributions. First, the application of the value of peace in Islamic criminal law is deeply rooted in the culture and spirituality of the religious Indonesian people. Second, the principle of restorative justice presents a more humanistic, efficient, and solution-oriented approach to legal justice. By combining the two, criminal law reform can be more responsive to the needs of community justice, while reviving local and religious values that have been less accommodated in formal law.

Criminal law reform through this approach also has the potential to reduce the burden on the national criminal justice system, prevent overcriminalization, and strengthen social reintegration efforts for offenders who have taken responsibility and regretted their actions. This is important in shaping criminal law that is not only repressive, but also transformative and inclusive.

This study found that the application of peace in Islamic criminal law has high relevance to the development of the concept of restorative justice in the framework of criminal law reform in Indonesia. The results of the analysis reveal that the principles of ishlah (peace) in Islamic criminal law and restorative justice in modern law share common ground in aspects such as participatory justice, recognition of victims' rights, and restoration of social relations as the primary goal of resolving criminal cases (Al Ayyubi, 2023).

From the study of classical fiqh texts and Islamic legal sources, it has been found that peace in the criminal context has been widely recognized, especially in cases involving individual rights (jinayah), such as murder, persecution, and theft. In these cases, the victim or heirs have the right to choose qishas, diyat, or forgive the perpetrator without compensation. The choice to forgive and reconcile is considered the primary action and aligns with the maqashid al-syari'ah, namely protecting the soul, honor, and social peace (Junaidi, 2020).

Thus, the integration between peace in Islamic criminal law and the concept of restorative justice not only enriches the treasures of Indonesian law but also encourages the renewal of national criminal law that is more just, civilized, and by the character of Indonesian society.

D. CONCLUSION

Peace in Islamic criminal law is a fundamental principle that prioritizes substantive justice and the restoration of social relations as the primary objectives of law enforcement. This concept is reflected in mechanisms such as diyat, afwu (forgiveness), and sulh (peace), which provide space for victims and perpetrators to resolve criminal cases peacefully by considering mutual interests. This approach not only reflects the transcendental value of justice but also emphasizes the importance of humanity and social balance in resolving conflicts.

The application of the principle of restorative justice in the Indonesian criminal law system shows the compatibility between the values of Islamic criminal law and the direction of national legal reform. Restorative justice encourages case resolution through penal mediation, involving victims, perpetrators, and the community, with an orientation towards recovery rather than retaliation. This aligns with the principle of peace in Islamic criminal law, which prioritizes reconciliation and participatory justice.

Thus, the integration of peace values from Islamic criminal law in the practice of restorative justice in Indonesia can be a real contribution to the reform of national criminal law. The reform needs to be directed towards a legal system that is more humanistic, fair, and responsive to the social and cultural conditions of Indonesia's pluralistic society. This step is also part of the effort to build a legal system that is not only repressive, but also solution-oriented, educative, and transformative

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