

Prison System Transformation: Delving into Restorative Justice, Rehabilitation, and Religious Life Based on Islamic Law

Suud Sarim Karimullah

Gümüşhane University, Turkey

Email: suudsarimkarimullah@gmail.com

Abstract

This study explores the idea of the transformation of prison systems based on Islamic law to understand the contribution of Islamic principles and practices to the effectiveness and fairness of the prison system as a whole. The research method involves a systematic and comprehensive literature review to understand the conceptualization of Islamic law in the context of the prison system and previous studies. It aims to establish a strong theoretical basis, identify research gaps, explore existing empirical evidence, and make a significant contribution to understanding Islamic law's application in the prison system. The results of this study conclude that integrating Islamic law into the prison system can make an important contribution to rehabilitating prisoners, promoting restorative justice, and providing fair and equal religious accommodation. However, its implementation must be carried out carefully, considering the principles of justice, human rights, and religious diversity. Collaboration and dialogue between prison institutions, scholars, and related parties are also needed to strengthen comprehensive understanding, overcome misconceptions, and ensure that implementing Islamic law in the prison system is carried out properly and in line with human rights principles.

Keywords: *Islamic Law, Prison Systems, Rehabilitation, Restorative Justice, Religious Accommodation*

Abstrak

Kajian ini menggali gagasan tentang transformasi sistem penjara yang didasarkan pada hukum Islam dengan maksud untuk memahami kontribusi prinsip-prinsip dan praktik Islam terhadap efektivitas dan keadilan sistem penjara secara keseluruhan. Metode penelitian melibatkan tinjauan literatur yang sistematis dan komprehensif guna memahami konseptualisasi hukum Islam dalam konteks sistem penjara serta studi sebelumnya. Hal ini bertujuan untuk membangun dasar teoretis yang kuat, mengidentifikasi kesenjangan penelitian, mengeksplorasi bukti empiris yang ada, dan memberikan kontribusi yang signifikan dalam pemahaman penerapan hukum Islam dalam sistem penjara. Hasil penelitian ini menyimpulkan bahwa integrasi hukum Islam dalam sistem penjara dapat memberikan kontribusi penting dalam rehabilitasi narapidana, mendorong keadilan restoratif, dan menyediakan akomodasi agama yang adil dan setara. Namun, implementasinya harus dilakukan dengan hati-hati, dengan mempertimbangkan prinsip-prinsip keadilan, hak asasi manusia, dan keragaman agama. Kolaborasi dan dialog antara institusi penjara, ulama, dan pihak terkait juga diperlukan untuk

memperkuat pemahaman yang komprehensif, mengatasi miskonsepsi, serta memastikan bahwa implementasi hukum Islam dalam sistem penjara dilakukan dengan baik dan sejalan dengan prinsip-prinsip hak asasi manusia.

Kata Kunci: Hukum Islam, Sistem Penjara, Rehabilitasi, Keadilan Restoratif, Akomodasi Keagamaan

INTRODUCTION

The prison system aims to maintain public safety, maintain social order, and provide opportunities for inmates to improve themselves (Petersilia & Threath, 2017). However, the prison system must also recognize prisoners' religious rights, including their right to practice their spiritual practices (Stansfield et al., 2018). In this context, Islamic law has a significant role in providing guidance and a framework for Muslim prisoners. Rehabilitation is a critical element of the modern prison system, with the primary goal of preparing inmates to return to being productive members. Islamic law can provide a holistic approach to rehabilitating Muslim prisoners in this context.

The principles of Islamic law, which include repentance, peace, and recovery, can provide a solid moral and spiritual foundation for inmates in their rehabilitation process (Muhajir et al., 2023; Sugitanata, Karimullah, Sholikhah, et al., 2023). In addition to rehabilitation, restorative justice is essential in prison systems that focus on recovery and reconciliation (Marshall, 2020). Principles of Islamic law, such as *musyawarah* (negotiation), *musyarakah* (cooperation), and *ta'awūn* (mutual assistance), can provide a foundation for the practice of restorative justice in prisons. Integrating Islamic law into the prison system can create space for Muslim inmates to actively participate in the therapeutic process, improve their relationships with society, and avoid the social stigmatization inherent to them. However, integrating Islamic law into the prison infrastructure encounters numerous hurdles. Among these is the intricate task of harmonizing prisoners' religious liberties with the imperatives of maintaining prison security and order. Additionally, aligning Islamic legal frameworks with the existing national laws poses a considerable challenge. Moreover, varied interpretations of Islamic law can often precipitate conflicts among Muslim inmates.

This study examines the concept of prison system transformation based on Islamic law. Implementing Islamic law within the prison system can impact public perceptions of the criminal justice system and prisons, raising questions about legal equality and the treatment of both Muslim and non-Muslim inmates.

Therefore, it is essential to consider these implications when designing and implementing policies related to integrating Islamic law into the prison system. This research will involve a comprehensive literature review to address challenges and leverage the potential benefits of mainstreaming Islamic law in the prison system. It is expected that this study will provide valuable insights for practitioners, policymakers, and social scientists interested in enhancing the effectiveness of the prison system through the integration of Islamic law. Understanding the benefits, challenges, and implications of mainstreaming Islamic law in the prison system can move toward developing a more inclusive, fair, and effective prison system that provides rehabilitation and reconciliation for Muslim inmates while promoting the development of a prison system grounded in humanitarian values and justice.

In addition, this study also aims to fill the existing knowledge gaps in the literature on the application of Islamic law in the prison system. While there has been some research on religion and religiosity in prison contexts, Mallory Mallory et al., (2021) have highlighted individual and institutional factors that influence the religiosity of female Muslim inmates, including feelings of guilt, the need for spiritual support, and inequality in the religious services they receive in prison. Corinne et al., (2015) integrated the tools of the sociology of religion and prison sociology to understand how religion can be mobilized as an essential factor in daily life, as an individual or collective resource, and as a problem or solution in the prison world by trying to understand the processes by which religion can be a turning point in a person's life journey and sometimes help inmates to stop crime.

There are several studies related to restorative justice and the implementation of Islamic law in the prison system, such as those by Mohammad Ali Heidari and Masoma Porshabanan (2015), who in their research highlight the importance of Islamic discourse on restorative justice, which is rooted in principles such as encouraging forgiveness, modification of interpersonal relationships, arbitration, intervention, compensation, and repentance. Salim et al., (2021) investigated the concept of restorative justice about tolerance in the religion of Islam which suggests a tolerance for other beliefs, thoughts, and practices, as well as that Islam as a religion is compatible with different views of justice. Islamul Haq (2020), in his research, stated that Islam views prison as a type of *takzīr* punishment and treats prisoners well but is not given privileges.

Previous research on implementing Islamic law in the prison system has generally explored various aspects, such as the role of religion in prisoner rehabilitation, the application of punishments based on Sharia principles, the protection of human rights, and religious freedom. Some studies have presented different opinions on the effectiveness and implications of implementing Islamic law in the prison system. Previous research has also included analyses of existing practices in other countries or legal procedures. Although there have been some studies on religion and religious practices in the prison context, research focusing on integrating Islamic law remains limited. Consequently, this study aims to provide a more comprehensive understanding of how the application of Islamic law can influence rehabilitation, restorative justice, and religious accommodation within the prison system. Additionally, this research holds significant relevance in the current social and political context. In various countries, there is a population of predominantly or largely Muslim prisoners. Hence, it is crucial to consider their religious and cultural needs within the prison system to ensure that they can practice their religious beliefs in a dignified and equitable manner. Within the broader framework of understanding multiculturalism and religious pluralism, implementing Islamic law in the prison system can also serve as an example of inclusive prison practices that respect religious freedom. By accommodating the spiritual needs of Muslim inmates, the prison system can provide them with opportunities to deepen their understanding of their faith, strengthen their religious identities, and promote a holistic rehabilitation process.

Critical discussion of the application of Islamic law in the prison system raises several questions and challenges that need to be carefully considered. First, it should be noted that the prison system must maintain universal principles of justice and human rights. Applying Islamic law in the prison system must ensure that all inmates, regardless of religion, are treated fairly and their rights are recognized. Furthermore, avoiding the misuse or manipulation of Islamic law in the prison system is essential. Interpretations of Islamic law can vary among individuals and groups, and there is a risk that the application of Islamic law in the prison system may be used to justify the unfair or discriminatory treatment of non-Muslim inmates. Therefore, it is essential to have clear and objective guidelines for integrating Islamic law into the prison system that ensure fair treatment and refer to universal human rights principles.

An inclusive prison system must be able to accommodate and respect the

religious rights of the various religious traditions within it. Therefore, the implementation of Islamic law must be carried out with due regard to the protection of religious freedom and ensuring that non-Muslim prisoners can also carry out their spiritual practices freely. In addition, paying attention to the relationship between religion and rehabilitation is essential. Although Islamic law has principles that encourage repair and recovery, not all Muslim inmates may be willing or ready to adopt a faith-based rehabilitative approach. The prison system must offer a holistic and diverse rehabilitation approach, including physical, psychological, social, and spiritual aspects, without imposing a particular religious policy on prisoners.

RESEARCH METHOD

To conduct this research, a comprehensive methodology approach will be employed. The researcher will undertake an in-depth literature review to grasp the conceptualization of Islamic law within the prison system and the existing studies conducted previously. Conducting a systematic literature review is an essential initial step in this research. The researcher will utilize relevant academic databases and other sources of information to search for literature related to the integration of Islamic law in the prison system, rehabilitation, restorative justice, and religious accommodation. Subsequently, the selected literature will be critically analyzed and synthesized to provide a strong theoretical foundation for the study. A systematic literature review enables the researcher to understand the current research on implementing Islamic law in the prison system, rehabilitation, restorative justice, and religious accommodation. By reviewing relevant literature, the researcher can build a robust theoretical foundation, gain insights into existing conceptual frameworks, and identify research gaps that need to be addressed. Thus, a systematic literature review is a powerful tool to establish a solid theoretical basis, identify research gaps, explore existing empirical evidence, and contribute significantly to understanding the implementation of Islamic law in the prison system.

RESEARCH FINDINGS AND DISCUSSION

The Impact of Applying Islamic Law in the Rehabilitation of Prisoners

Theoretically, the application of Islamic law in the rehabilitation of prisoners has several significant positive influences. One of its principal aspects

is the concept of repentance (Rezaei et al., 2019). Islamic law encourages individuals who have made mistakes to repent and improve themselves. In the context of prisoner rehabilitation, this means allowing prisoners to introspect, admit their mistakes, and work to change their behavior to return to being productive members of society. This concept of repentance intrinsically encourages a rehabilitation process that focuses on changing the attitude and mentality of prisoners. In addition, the application of Islamic law in the rehabilitation of prisoners also involves the concept of restoring the rights of victims. Islam emphasizes the importance of improving the relationship between perpetrators and victims (Abu-Nimer & Nasser, 2013). In prisoner rehabilitation, this could mean encouraging prisoners to improve themselves and take responsibility for their actions by compensating for harm caused to victims. This approach helps victims recover and allows prisoners to continue their rehabilitation process and reintegration into society.

Islamic law provides a solid moral foundation for the rehabilitation of prisoners (Bulbulia, 1985). Principles such as justice, compassion, and peace are the underlying values of the Islamic legal system (Al Hamid et al., 2023; Sugitanata, Karimullah, & Al Hamid, 2023). In the context of prisoner rehabilitation, this means providing prisoners with fair and humane treatment and promoting an attitude of compassion and peace in interaction with them. This approach not only helps to create a positive rehabilitation environment but can also change people's views of prisoners as members of society who still have the potential to contribute. However, in practice, the implementation of the application of Islamic law in the rehabilitation of prisoners still faces several challenges. One of the challenges is the lack of adequate resources. Prisoner rehabilitation programs based on Islamic law require strong support from the government and society regarding funds, facilities, and trained professionals. This lack of resources can hinder the effectiveness of rehabilitation programs and limit the positive impact that can be achieved.

Another challenge is the need for a holistic and integrated approach to prisoner rehabilitation based on Islamic law. This involves cooperation between police agencies, the criminal justice system, and educational and social institutions. Good coordination between various stakeholders is the key to success in applying Islamic law to rehabilitating prisoners. Without good coordination, rehabilitation efforts can become fragmented and less practical

(Minoura, 2018). In a broader context, using Islamic law to rehabilitate prisoners also needs to pay attention to religious freedom and human rights aspects. These principles must be maintained and respected in every rehabilitation step carried out. It is essential to ensure that the application of Islamic law does not violate the rights of individuals and does not lead to discrimination against minority groups.

Faced with challenges in applying Islamic law to rehabilitating prisoners, several steps can be taken to improve the effectiveness of rehabilitation programs. First, it is essential to raise awareness and understanding of the principles of Islamic law in the rehabilitation of prisoners among law enforcement officers and rehabilitation staff. Adequate training and education should be provided to enhance their knowledge of Islamic values, concepts of repentance, and rehabilitation approaches based on Islamic law. This will help ensure rehabilitation programs concerning relevant religious and cultural values are implemented. Second, it requires close cooperation between police agencies, the criminal justice system, and educational and social institutions. Good coordination will allow a smooth flow of information and ensure a smooth transition between the stages of rehabilitation. Establishing this cooperation is also essential to address gaps in the rehabilitation process, such as the lack of relevant education and job training programs.

Adequate allocation of resources is essential to supporting the application of Islamic law in rehabilitating prisoners. The government should pay serious attention to financing rehabilitation programs, including facility funding, staff training, education programs, and post-rehabilitation support. In addition, involving communities and non-governmental organizations in funding and support can also help overcome resource constraints. In addition to internal efforts, collaborations with international institutions, research institutes, and civil society organizations can make valuable contributions to improving rehabilitation practices grounded in Islamic law. The exchange of knowledge, experience, and best evidence can help identify the best model program that fits the local context. It is also essential to ensure that the application of Islamic law in rehabilitating prisoners is in harmony with the principles of human rights and freedom of religion. Maintaining a balance between religious values and protecting individual rights is critical in building inclusive and equitable rehabilitation programs.

Overall, applying Islamic law in prisoner rehabilitation can significantly positively impact changing prisoner behavior and promoting successful social reintegration. However, the challenges of resources, inter-institutional coordination, and an adequate understanding of Islamic principles still need to be addressed. With a strong commitment from the government, close cooperation between relevant agencies, a fair allocation of resources, and an approach that respects human rights, applying Islamic law to rehabilitating prisoners can provide tangible benefits to the individuals involved and society as a whole.

It is important to look objectively and critically at the application of Islamic law in rehabilitating prisoners. Although there are arguments in favor of the positive influence of the application of Islamic law, there are also some considerations to consider. First, it is necessary to be aware of the risk of misuse or misinterpretation of Islamic law in prisoner rehabilitation. Incorrect or extreme interpretations of religious teachings can lead to inhumane treatment of prisoners or restrictions on their freedom of religion. Therefore, there needs to be scrutiny and a moderate approach to implementing Islamic law to ensure that human rights and individual liberties are respected.

Furthermore, it is necessary to consider whether applying Islamic law to rehabilitating prisoners can meet the needs and diversity of society, including individuals with diverse religious backgrounds. Although Islamic law has strong moral values, an approach that focuses only on specific spiritual teachings may ignore the needs and beliefs of different individuals. Therefore, it is essential to ensure that rehabilitation programs include inclusive aspects and respect freedom of religion and individual beliefs.

There are also questions about the effectiveness and extent to which the application of Islamic law in rehabilitating prisoners can result in sustainable change. Although religious values can boost individuals morally, successful repair requires an evidence-based and integrated approach. Comprehensive support, including education, training, skills, and social support, is needed to help prisoners change their behavior and prepare them for reintegration into society. Therefore, it is essential to ensure that the application of Islamic law in the rehabilitation of prisoners is not only limited to religious aspects but also includes elements of comprehensive repair. Resource challenges and infrastructure shortages must also be addressed. A successful rehabilitation

program requires sufficient investment in adequate facilities, trained staff, and adequate financial support. This lack of resources can hinder effective implementation and reduce the positive impact that may be achieved.

Applying Islamic law to rehabilitating prisoners raises questions and challenges that need to be considered critically (SpearIt, 2012). Although there are arguments in favor of the positive influence of the application of Islamic law, it is essential to ensure that its implementation does not violate human rights, disregard religious freedom, or ignore the diverse needs of individuals. In addition, there needs to be a comprehensive rehabilitation approach supported by adequate resources. Thus, the understanding and application of Islamic law to rehabilitating prisoners must be made carefully and critically to ensure optimal outcomes and justice for all parties involved. Although applying Islamic law can provide a solid moral foundation, there is the potential for injustice in law enforcement and rehabilitation. For example, there is a risk of gender discrimination or discrimination against minority groups in applying Islamic law that could negatively affect the rehabilitation of prisoners. Therefore, it is essential to ensure that the application of Islamic law in rehabilitating prisoners is carried out with the principles of justice and equality as a guide. In addition, it should also be noted that Islamic law has a variety of interpretations and variations in different countries and societies. Each country has a different social, cultural, and political context, which can affect the implementation and impact of the application of Islamic law in the rehabilitation of prisoners. Therefore, there is no single approach that can be universally applied. Rehabilitation approaches based on Islamic law need to be adapted to each country's context, considering universal values, human rights, and individual needs (Analisa et al., 2022).

It is also necessary to look at the effectiveness and actual results of applying Islamic law to rehabilitating prisoners. Although religious values can provide motivation and moral encouragement, evaluating whether this approach achieves the desired rehabilitation goals is essential. Periodic evaluation, data collection, and objective research are needed to measure the true impact of Islamic law's application in prisoners' rehabilitation. This way, rehabilitation policies and practices based on Islamic law can be improved. In addition, in the context of prisoner rehabilitation, it is also necessary to consider the protection and fulfillment of prisoners' rights. Although Islamic law encourages repentance and behavioral change, the treatment of detainees must remain by human rights

principles and international norms. Fundamental rights such as access to education, medical care, and psychosocial recovery must be adequately met without discrimination or inhumane treatment.

Executing Restorative Justice by Islamic Law

Implementing restorative justice based on Islamic law is an exciting approach to the justice system that aims to improve the relationship between perpetrators, victims, and society after the occurrence of a criminal act (Absar, 2020; Hascall, 2011; Sriwiyanti et al., 2021). Restorative justice emphasizes reconciliation, recovery, and social reintegration as alternative or complements to only retributive punishment (Karimullah, 2023; Menkel-Meadow, 2007). In Islamic law, restorative justice can combine religious values with Islamic law principles to achieve more holistic justice.

One of the main principles in implementing restorative justice based on Islamic law is the concept of repentance or penance. Repentance is an effort to admit mistakes, regret actions, and commit to change. In Islam, repentance is the first step in improving relations with God and people. In restorative justice, repentance can be the foundation for the reconciliation process between perpetrator and victim. Perpetrators who regret their actions can work to repair the harm caused and establish better relationships with victims and the community. In addition, implementing restorative justice based on Islamic law can also integrate the concepts of *qisās* (retribution) and *diyāt* (payment of compensation). In the case of crimes involving physical or life loss, the *qisās* principle can be applied by considering the victim's wishes and ensuring justice for all parties involved. However, restorative justice also emphasizes recovery and reconciliation efforts, so *diyāt* can be an alternative to avoid only punitive retribution. By paying the *diyāt*, the perpetrator can return the losses caused and improve relations with the victim and the community.

Implementing restorative justice based on Islamic law can also involve the role of ulama, communities, and religious education institutions. Clerics can act as mediators or facilitators in vital processes, helping to understand and apply relevant religious values in conflict resolution. The community also plays a crucial role in supporting and supervising the therapeutic process, ensuring that justice is met and reconciliation takes place correctly. Religious education institutions can provide education and training to stakeholders on the concepts

and principles of restorative justice based on Islamic law. However, several challenges need to be overcome in implementing restorative justice based on Islamic law. First, there is a need for a deep understanding of Islamic law and the principles of restorative justice among scholars, legal practitioners, and stakeholders. Developing appropriate guidelines and procedures requires an interdisciplinary approach and dialogue between scholars, jurists, and therapeutic justice practitioners. Second, adequate resources are needed, both financial and infrastructural, to carry out the vital justice process effectively. This involves sufficient training, facilities, and support to engage all parties involved, including perpetrators, victims, and the community. Third, ensuring that the restorative justice process is based on Islamic law, human rights, individual freedoms, and principles of universal justice is essential. Implementing restorative justice should not be a tool to oppress or discriminate against specific individuals or groups.

In addition to the challenges previously mentioned, some aspects still need to be considered in implementing restorative justice based on Islamic law. One is the need to develop adequate systems to manage and monitor healthy justice processes. This includes establishing institutions or mechanisms responsible for the implementation and supervision of vital techniques, as well as the development of clear guidelines, procedures, and standards to regulate their performance. Furthermore, involving the community in the restorative justice process is essential. Active community participation in determining and implementing conflict resolution will increase trust, support reconciliation, and strengthen the integrity of the process. In addition, community involvement can also help build awareness and a better understanding of the concepts and benefits of restorative justice based on Islamic law (Islam et al., 2018; Qafisheh, 2012).

Applying restorative justice based on Islamic law also requires an approach focusing on social recovery and reintegration (Maghfirah et al., 2016). This means that, in addition to resolving conflicts and improving the relationship between the perpetrator and the victim, it is also essential to provide support and training to the perpetrator to avoid the recurrence of criminal acts and help them rebuild a productive and meaningful life. In addition, there needs to be a mechanism to measure the success and effectiveness of implementing restorative justice based on Islamic law. A periodic evaluation of the process and its results

will help identify the strengths and weaknesses of this approach, as well as provide a basis for further improvement and development. The data and information collected can also strengthen argumentation and understanding of the benefits of Islamic law-based restorative justice in a broader social and legal context. In addition, it is essential to maintain a commitment to the principles of restorative justice and religious values in the long term (Tierney, 2006). This requires ongoing support from the government, religious institutions, and society. Continuity in implementing and developing restorative justice based on Islamic law will ensure that this process not only becomes a trend or a temporary policy but becomes an integral part of a sustainable justice system.

One issue that needs to be considered is the sustainability and consistency of applying restorative justice based on Islamic law. In some cases, especially in countries with robust legal systems based on secular law, there can be challenges in integrating restorative justice principles based on Islamic law into existing systems. This can lead to inconsistency between Islamic law and existing secular law, as well as a conflict of interpretation and consistent application of the law. In addition, maintaining a balance between restorative justice and protecting victim's rights is also a significant concern (Van Ness, 2012). Although restorative justice aims to restore the relationship between the perpetrator and the victim, the victim's rights must also be respected and protected. This includes the interests of victims in the conflict resolution process, the protection of victims from coercion or coercion of reconciliation, and the protection of victim's rights to justice and appropriate compensation.

Implementing restorative justice based on Islamic law also needs attention to gender roles and gender justice. Although Islamic law has foundations and principles emphasizing gender equality, there is often inequality and discrimination against women (Mir-Hosseini, 2019; Supriyadi et al., 2019). Therefore, in the course of restorative justice based on Islamic law, it is essential to ensure that women receive fair and equal treatment and have equal access to the processes and benefits of restorative justice. In addition, it is also necessary to consider social justice and socio-economic perspectives when implementing restorative justice based on Islamic law. In a broader context, social and economic disparities can affect access to justice and recovery for those in vulnerable or impoverished situations. Therefore, the restorative justice process must include

social and economic empowerment measures and maintain equal access and opportunity for all parties involved.

Related to that, it is also essential to pay attention to protecting minority and marginal groups in implementing restorative justice based on Islamic law. This can include protection against discrimination and structural injustices such groups may experience in healthy justice processes (Hargovan, 2015; Insani & Karimullah, 2023). In building an inclusive restorative justice system, it is essential to understand and consider the specific perspectives and needs of minority and marginal groups. By paying attention to these issues and continuously adapting, implementing restorative justice based on Islamic law can improve the justice system and achieve more comprehensive justice in society. However, it is also important to realize that implementing restorative justice based on Islamic law is not without controversy and criticism. Some of the issues in this context are how restorative justice based on Islamic law can provide fair justice for all parties involved, especially when dealing with serious crimes. One frequent criticism is about the guilty party or the ruling group's potential abuse of restorative justice.

In some cases, the perpetrator of the crime may use the restorative justice process to avoid the punishment they should have received or to avoid accountability for their actions. This can create a situation in which the victim feels that justice is not being met and that the perpetrator is not getting the punishment he deserves. In addition, restorative justice based on Islamic law may also have limitations in dealing with crimes involving human rights violations or cases of grave crimes, such as crimes against humanity. In such situations, restorative justice may not be able to provide adequate justice for the victim or the affected community.

The principles of restorative justice based on Islamic law may vary in different countries and societies, depending on local interpretations and understandings of religious teachings (Muhammad, 2020; Salim Hamid N Almjnoni, 2021). Therefore, there is a need for in-depth study and accurate knowledge of the values and cultural context of practicing restorative justice based on Islamic law. Related to that, it should also be noted that Islamic law-based restorative justice may not be able to address the root causes of crime fully. Although the focus is on reconciliation and recovery, broader social and policy measures are still needed to prevent crime from occurring and address the social

risk factors that contribute to crime. In summing up, the implementation of restorative justice based on Islamic law offers an exciting approach to the resolution of criminal conflicts. However, the criticism and controversy that arise need to be taken seriously. In implementing restorative justice based on Islamic law, there needs to be a good balance between fairness for perpetrators, victims, and society and protection of human rights, gender justice, and social justice.

The community is crucial in supporting and strengthening the restorative justice process (Zehr & Mika, 2017). They can contribute to providing emotional and social support to perpetrators and victims and play a role in facilitating social reintegration and community recovery after conflict resolution. In addition, it is necessary to make ongoing efforts to increase public understanding and awareness of the concepts and principles of restorative justice based on Islamic law. Public education, community engagement in dialogue and discussion, and the provision of easily accessible information about restorative justice can help reduce the stigma and ignorance in society. Furthermore, it is essential to maintain the integrity and independence of the restorative justice process based on Islamic law. This process must be free from political interference or the interests of specific individuals or groups. The involvement of scholars, jurists, and restorative justice practitioners of integrity is critical to ensuring that this process proceeds according to the principles of justice and accountability.

Furthermore, there is a need for continuous monitoring and evaluation of the implementation of restorative justice based on Islamic law. Good monitoring can help identify weaknesses and challenges that may arise in this process and improve and develop better practices. Ongoing evaluations can also help measure the impact and effectiveness of restorative justice in achieving the goals of recovery, reconciliation, and social reintegration.

Each community has a unique context, and restorative justice approaches must be tailored to local needs and conditions. This can include adjusting the methods, procedures, and strategies for implementing restorative justice to suit existing cultures and values. Several aspects need to be considered in analyzing the implementation of restorative justice based on Islamic law. First, it is essential to understand that Islamic law-based restorative justice emphasizes recovery, reconciliation, and social reintegration. This approach differs from the traditional punitive approach, which focuses on punishment and retribution. Islamic law-

based restorative justice pays greater attention to efforts to repair damaged relationships and restore victims, perpetrators, and communities. In this context, restorative justice based on Islamic law can provide a more humane and holistic approach to dealing with criminal conflicts. By allowing perpetrators to take responsibility for their actions, repair the damage done, and restore relationships with victims and the community, restorative justice based on Islamic law tries to achieve more thorough and sustainable justice.

Implementing restorative justice based on Islamic law also reflects the principles contained in the teachings of the Islamic religion. Regulations such as compassion, mercy, peace, and community empowerment can be foundational in restorative justice. In Islam, the concept of *maqasid al-sharia*, which emphasizes justice, humanity, and the common good, can be used as a guide in implementing restorative justice based on Islamic law. However, in analyzing the implementation of restorative justice based on Islamic law, it is also necessary to recognize that some challenges and controversies are still associated with its practice. One challenge is ensuring justice for all parties involved, including perpetrators, victims, and the community. There is a risk that perpetrators may use restorative justice to avoid the punishment they should receive or disregard the victims' rights.

Restorative justice based on Islamic law must also protect human rights, gender justice, and social justice. Although Islamic law has values that value gender equality and social justice, differences in interpretation and implementation can result in inequality and discrimination (Karimullah et al., 2023; Suleman et al., 2023). Therefore, there needs to be severe vigilance and effort to ensure that the performance of restorative justice based on Islamic law does not ignore or impose values that conflict with the principles of human rights and gender justice. Furthermore, a good analysis also includes considering the social, political, and cultural context of implementing restorative justice based on Islamic law. Every society has unique dynamics and challenges, and restorative justice approaches must be adapted to those contexts. The influence of factors such as the existing legal system, social norms, and public trust in legal institutions will affect the implementation of restorative justice based on Islamic law. Considering these aspects, implementing restorative justice based on Islamic law can be an effective tool for improving the justice system and achieving more holistic justice in society.

A good analysis should also examine the benefits and potential positive impacts of implementing restorative justice based on Islamic law. One of the advantages that can be achieved is to reduce the rate of repeat crime by involving offenders in the process of recovery and social reintegration. Through dialogue, repentance, and awareness of the impact of their actions, perpetrators can change their behavior and prevent future crimes from occurring. In addition, restorative justice based on Islamic law can provide a space for victims to convey their experiences, gain emotional recovery, and get satisfaction from the reconciliation process. Victims often feel neglected or not actively involved in the judicial process in traditional legal systems. However, through restorative justice, victims can speak up, express their feelings, and get more holistic justice. In the therapeutic process, victims, perpetrators, and communities are invited to work together to find mutually beneficial solutions and repair the damage done. This can create a sense of community solidarity, harmony, and unity.

Furthermore, a restorative justice approach based on Islamic law can also strengthen justice based on religious and ethical values held by Muslim communities. By linking the therapeutic process to Islamic spiritual principles, such as compassion, forgiveness, and mercy, a more meaningful and profound solution to the criminal conflict can be obtained. However, in analyzing the implementation of restorative justice based on Islamic law, it is essential to address some of the challenges that can arise. One is the need for support and active participation from all relevant parties, including the judiciary, the community, scholars, and restorative justice practitioners. Close collaboration between various stakeholders is essential to ensuring the success and sustainability of implementing restorative justice based on Islamic law. With a holistic approach supported by all relevant parties, implementing restorative justice based on Islamic law can significantly contribute to achieving broader and more sustainable justice (Fawaid, 2020; Muhammad, 2020).

Understanding and Practice of Religious Accommodation in the Prison System

The mainstreaming of Islamic law in the prison system for religious accommodation is essential to ensuring respect for religious freedom and safeguarding human rights for Muslim prisoners. In this context, it is necessary to discuss the implementation and importance of integrating Islamic law principles into the prison system to meet the spiritual needs of Muslim prisoners.

First of all, mainstreaming Islamic law in the prison system mirrors the freedom of religion guaranteed in various international conventions and declarations of human rights. Freedom of religion is a fundamental right that must be respected by the state, including in the context of criminal punishment. Applying Islamic law principles in prison allows Muslim prisoners to worship and practice their faith freely. Second, providing religious accommodation to Muslim prisoners is essential to balancing rehabilitation and development goals and fulfilling human rights. Prisons should not only be places of punishment but also be places to change behavior and prepare prisoners for reintegration into society. In this context, facilitating religious practices consistent with the beliefs of Muslim prisoners can help build solid morals and ethics and assist in the rehabilitation process.

Third, mainstreaming Islamic law in the prison system can reduce the risk of radicalization among Muslim prisoners. Radicalization is a severe problem that must be addressed within the prison system. By providing adequate access to correct religious knowledge and practices, Muslim prisoners have a greater chance of acquiring an accurate understanding of Islam and avoiding erroneous or extreme interpretations. This can help reduce the risk of extremism and encourage the process of de-radicalization within prisons. Fourth, mainstreaming Islamic law in the prison system also reflects the principles of inclusion and equality. Through increased understanding and respect for the religion and beliefs of Muslim prisoners, the prison system sends the message that all prisoners, regardless of their religion or beliefs, have the same rights and are respected as human beings. It can also create an inclusive environment and promote interreligious harmony within the prison. However, it is worth remembering that mainstreaming Islamic law in the prison system must align with broader principles of law and justice (Silke & Veldhuis, 2017). The provision of religious accommodation to Muslim prisoners must not sacrifice the rights of other prisoners or discriminate between prisoners based on their religion. Ensuring the policies and practices adopted are fair, transparent, and non-discriminatory is essential.

Implementing the mainstreaming of Islamic law in the prison system should also involve collaboration between government agencies, prison authorities, and Muslim religious leaders. Good cooperation between all these parties will ensure that policies and practices implemented consider the needs

and perspectives of the Muslim religion appropriately. In this case, it is essential to consider several vital aspects. First, prison facilities must provide adequate space and facilities for the performance of worship for Muslim prisoners. For example, they offer a clean and comfortable prayer room and facilities for reading the Qur'an and performing other worship. In addition, food facilities in prisons must also pay attention to the need for halal diets for Muslim prisoners to practice food worship accordingly. Second, prison officers and personnel must be equipped with an adequate understanding of Islamic law and the religious practices required of Muslim prisoners. Appropriate training should be organized to increase their awareness and knowledge of accommodating the spiritual needs of Muslim prisoners. This will help ensure that prisoners are treated respectfully and sensitive to their spiritual practices.

Thirdly, it is essential to adopt an individual approach to meeting Muslim prisoners' religious needs. Each prisoner has different needs, and there needs to be a careful evaluation of their spiritual practices and the provision of appropriate support. This can involve collaborating with Muslim religious leaders within the prison or allowing visits from outside religious leaders to provide spiritual guidance and counseling to Muslim prisoners. In addition, mainstreaming Islamic law in the prison system should also include protection against the abuse of religion. Governments and prison authorities need to ensure that the principles of religious freedom are not abused for extremist or radical purposes. Therefore, there needs to be an effective monitoring and control mechanism to prevent the spread of extremism in prisons. To effectively mainstream Islamic law in the prison system, involving the Muslim community, clerics, and religious organizations in the decision-making process is essential. Their participation can help ensure that the adopted policies reflect the needs and aspirations of Muslims.

Several challenges may be encountered in its implementation. First, there may be differences of opinion or controversy in determining which religious practices should be accommodated in the prison system. There are various schools and interpretations within the religion of Islam itself, and there can be debate as to which practices should be permitted or how to carry them out. Therefore, an open and inclusive dialogue between stakeholders, clerics, and Muslim prisoners is needed to reach a consensus acceptable to all parties. Secondly, limited resources can be an obstacle to implementing the

mainstreaming of Islamic law in the prison system. Providing adequate facilities and support for the religious practices of Muslim prisoners can require significant financial and logistical investments.

In some cases, prisons may face space, workforce, or budget limitations. Therefore, there needs to be an effort to identify and overcome these barriers, including by obtaining support and resources from the government and the community. Another challenge is managing diverse perspectives and interests within the prison. Prison systems often have heterogeneous populations, including prisoners with varying religious backgrounds and beliefs. To accommodate the spiritual needs of Muslim prisoners, it is essential to ensure that fair treatment is also given to prisoners of other faiths or no religion. This could include considering their needs and perspectives in developing inclusive prison policies.

In addition, the challenge that may arise is balancing prisoners' religious freedom with prison security and order. Any policy or practice involving the mainstreaming of Islamic law must consider security aspects relating to the supervision, control, and prevention of offenses within prisons (Al-Fijawi et al., 2019). There must be close cooperation between prison authorities, security officers, and religious leaders to find an adequate and safe solution for all parties. Finally, it is essential to continue to evaluate and monitor the implementation of the mainstreaming of Islamic law in the prison system. Periodic evaluations will help identify successes and challenges and provide opportunities for necessary improvements and adjustments. Careful monitoring will also help ensure that Islamic law principles are correctly applied and not abused. By engaging relevant stakeholders, engaging in open dialogue, and managing differences wisely, mainstreaming Islamic law can become an integral part of a fair and inclusive prison system.

CONCLUSION

The integration of Islamic law into the prison system can have positive effects on multiple fronts. Firstly, incorporating Islamic law into prisoner rehabilitation provides a holistic approach. Islamic values and teachings, such as forgiveness, penance, and second chances, are crucial in transforming inmates' behavior. A rehabilitation approach based on Islamic law encourages comprehensive and compassionate efforts to address the underlying causes of

crime, provide moral guidance, and support inmates reintegrating into society. Secondly, Islamic law can potentially foster restorative justice within the prison system. Islamic justice, mercy, and reconciliation principles can be applied in healthy justice practices such as victim-offender mediation, reconciliation programs, and community involvement. This approach emphasizes the restoration of losses, accountability, and establishing harmonious relationships between offenders, victims, and society.

Additionally, the study emphasizes the importance of fair and equal religious accommodation within the prison system. Integrating Islamic law into religious accommodation ensures inmates' freedom of religion, including access to religious rituals, halal food, and spiritual counseling. This approach guarantees respect for prisoners' religious freedom while upholding the principles of justice and applicable laws within the prison context. However, implementing mainstream Islamic law in the prison system presents challenges. Prison officers must possess a deep understanding and competence in Islamic law to ensure adequate religious accommodation. Moreover, it is crucial to prevent the misuse of Islamic law that may lead to discrimination or religious extremism. Effective implementation of mainstreaming Islamic law in the prison system calls for collaboration and dialogue among prison institutions, clerics, and relevant stakeholders. This collaboration will foster comprehensive understanding, address misconceptions, and ensure the correct implementation of Islamic law within the prison system, all while maintaining adherence to human rights principles.

REFERENCES

- Absar, A. A. (2020). Restorative justice in Islam with special reference to the concept of Diyya. *Journal of Victimology and Victim Justice*, 3(1), 38–56. <https://doi.org/10.1177/2516606920927277>
- Abu-Nimer, M., & Nasser, I. (2013). Forgiveness in The Arab and Islamic Contexts: Between Theology and Practice. *Journal of Religious Ethics*, 41(3), 474–494. <https://doi.org/10.1111/jore.12025>
- Al-Fijawi, M. F. A., Shah, M. A., Aung, U. T., & Muhammad, M. K. (2019). Violations of basic rights of prisoners in conventional and Islamic Law: Theory and practice. *Intellectual Discourse*, 27(2), 455–474.
- Al Hamid, R., Sugitanata, A., & Karimullah, S. S. (2023). Sinkronisasi Pendekatan Sosiologis Dengan Penemuan Hukum Islam Sui Generis Kum Empiris. *Bertuah Jurnal Syariah Dan Ekonomi Islam*, 4(1), 48–60. <https://doi.org/https://doi.org/10.56633/jsie.v4i1.553>
- Analisa, L., Kamarusdiana, K., & Adhha, N. (2022). Implementation of Rehabilitation for Narcotics Addicts in Positive Legal Perspective and Islamic Law. *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 22(1), 92–124. <https://doi.org/10.30631/alrisalah.v22i1.1122>
- Bulbulia, M. A. E. (1985). The ethical foundations and distinctive features of Islamic law. *Comparative and International Law Journal of Southern Africa*, 18(2), 215–236. https://doi.org/https://hdl.handle.net/10520/AJA00104051_745
- Fawaid, B. (2020). Building Restorative Justice on Crime of Murder Dealing With Islamic Criminal Law Perspective. *QISTIE*, 12(2), 103–116. <https://doi.org/10.31942/jqi.v12i2.3131>
- Haq, I. (2020). Prison in Review of Islamic Criminal Law: Between Human and Deterrent Effects. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 4(1), 132–150. <https://doi.org/10.22373/sjhc.v4i1.6683>
- Hargovan, H. (2015). Violence, victimisation and parole: Reconciling restorative justice and victim participation. *South African Crime Quarterly*, 54, 55–64. <https://doi.org/10.4314/sacq.v54i1.5>
- Hascall, S. C. (2011). Restorative justice in Islam: Should Qisas be considered a form of restorative justice. *Berkeley J. Middle E. & Islamic L.*, 4, 35. <https://ssrn.com/abstract=2120726>
- Heidari, M. A., & Porshabanan, M. (2015). Study of restorative justice and

distributive justice from the perspective of Islamic law and jurisprudence. *New York Science Journal*, 8(6), 80–85.

Insani, N., & Karimullah, S. S. (2023). Justice for Nature: Integrating Environmental Concerns into Legal Systems for Adequate Environmental Protection. *Jurnal Hukum Dan Peradilan*, 12(1), 129–158. <https://doi.org/10.25216/jhp.12.1.2023.129-158>

Islam, M. J., Suzuki, M., Mazumder, N., & Ibrahim, N. (2018). Challenges of implementing restorative justice for intimate partner violence: An Islamic perspective. *Journal of Religion & Spirituality in Social Work: Social Thought*, 37(3), 277–301. <https://doi.org/10.1080/15426432.2018.1440277>

Karimullah, S. S. (2023). From Punishment to Healing: The Transformative Power of Restorative Justice. *SASI*, 29(4), 678–690. <https://doi.org/10.47268/sasi.v29i4.1688>

Karimullah, S. S., Said, N. M., Wasalmi, W., & Syafi'i, A. G. (2023). Da'wah for Social Justice: Creating Awareness of Social Issues Through a Religious Approach. *Jurnal Dakwah Risalah*, 34(2), 110–128. <https://doi.org/10.24014/jdr.v34i2.25373>

Maghfirah, A. A., Risandy, D. A., & Hilimi, N. (2016). Sulh'In Islamic Criminal Law as The Form of Restorative Justice: A New Framework in Indonesian Criminal Law. *Proceedings. Proceeding of Scientific Cooperations 2nd International Conference on Social Sciences of Istambul Turkey. 2nd-3rd of April*.

Marshall, C. D. (2020). Restorative justice. *Religion Matters: The Contemporary Relevance of Religion*, 101–117. https://doi.org/10.1007/978-981-15-2489-9_7

Menkel-Meadow, C. (2007). Restorative justice: What is it and does it work? *Annu. Rev. Law Soc. Sci.*, 3, 161–187. <https://doi.org/10.1146/annurev.lawsocsci.2.081805.110005>

Minoura, S. (2018). Offender rehabilitation reform in Japan: Effective cooperation between professional and volunteer probation officers. *International Journal of Law, Crime and Justice*, 54, 111–120. <https://doi.org/10.1016/j.ijlcrj.2018.03.004>

Mir-Hosseini, Z. (2019). Islamic law and the question of gender equality. In *Routledge Handbook of Islamic Law* (pp. 340–354). Routledge.

Muhajir, M., Nisa, I. S., Munawar, A., & Karimullah, S. S. (2023). Agus Moh Najib's Thoughts on the Interconnection of Islamic Law and National Law. *Jurnal Ilmiah Al-Syir'ah*, 21(1), 86–103. <https://doi.org/10.30984/jis.v21i1.2321>

- Muhammad, R. W. (2020). Forgiveness and Restorative Justice in Islam and the West: A Comparative Analysis. *ICR Journal*, 11(2), 277–297. <https://doi.org/10.52282/icr.v11i2.786>
- Petersilia, J., & Threatt, J. (2017). Release from prison. *The Encyclopedia of Corrections*, 1–9. <https://doi.org/10.1002/9781118845387.wbeoc019>
- Qafisheh, M. M. (2012). Restorative Justice in the Islamic Penal Law: A Contribution to the Global System. *International Journal of Criminal Justice Sciences*, 7(1), 487–507.
- Rezaei, M. J., Panjehpour, J., & Asadi Koohbad, H. (2019). The Role of Repentance (from Theft) in Punishment and Ta'zir Based on Jurisprudence and Islamic Penal Code1392: an Analytical Appraisal. *Journal of Islamic Jurisprudence and Law*, 12(23), 91–118.
- Rostaing, C., Béraud, C., & De Galembert, C. (2015). Religion, reintegration and rehabilitation in French prisons: The impact of prison secularism. *Religious Diversity in European Prisons: Challenges and Implications for Rehabilitation*, 63–79. https://doi.org/10.1007/978-3-319-16778-7_5
- Salim Hamid N Almjnoni, M. R. B. A. (2021). Restorative justice and its connection with the tolerance of the Islamic religion in Saudi Arabia. *Journal of Hunan University Natural Sciences*, 48(9).
- Schneuwly Purdie, M., Irfan, L., Quraishi, M., & Wilkinson, M. (2021). Living Islam in prison: how gender affects the religious experiences of female and male offenders. *Religions*, 12(5), 298. <https://doi.org/10.3390/rel12050298>
- Silke, A., & Veldhuis, T. (2017). Countering violent extremism in prisons: A review of key recent research and critical research gaps. *Perspectives on Terrorism*, 11(5), 2–11. <https://www.jstor.org/stable/26297927>
- SpearIt. (2012). Religion as Rehabilitation-Reflections on Islam in the Correctional Setting. *Whittier L. Rev.*, 34, 29.
- Sriwiyanti, S., Saefudin, W., & Aminah, S. (2021). Restorative Justice for Juvenile Offenders in Indonesia: A Study of Psychological Perspective and Islamic Law. *Journal of Islamic Law (JIL)*, 2(2), 168–196. <https://doi.org/10.24260/jil.v2i2.335>
- Stansfield, R., Mowen, T. J., & O'Connor, T. (2018). Religious and spiritual support, reentry, and risk. *Justice Quarterly*, 35(2), 254–279. <https://doi.org/10.1080/07418825.2017.1306629>

- Sugitanata, A., Karimullah, S. S., & Al Hamid, R. (2023). Hukum Positif dan Hukum Islam: Analisis Tata Cara Menemukan Hukum dalam Kacamata Hukum Positif dan Hukum Islam. *JURISY: Jurnal Ilmiah Syariah*, 3(1), 1–22. <https://doi.org/10.37348/jurisy.v3i1.242>
- Sugitanata, A., Karimullah, S. S., Sholikhah, S. K., & Aminah, S. (2023). Building Harmony In Diversity: Exploring Masnun Tahir's Perspective on Multicultural Fiqh. *JURISY: Jurnal Ilmiah Syariah*, 3(2), 47–57. <https://doi.org/10.37348/jurisy.v3i2.346>
- Suleman, F., Arifuddin, Q., Saifudin, S., Khasanah, F., & Karimullah, S. S. (2023). The Review of the Maslahah Mursalah Related to Early Marriage: Implementation and Orientation. *Jurnal Dinamika Hukum*, 23(3), 573–586. <https://doi.org/10.20884/1.jdh.2023.23.3.3783>
- Supriyadi, T., Julia, J., & Firdaus, E. (2019). The problems of gender equality: A reconstruction of Islamic doctrine. *Journal of Social Studies Education Research*, 10(2), 91–110. <https://www.learntechlib.org/p/216590/>.
- Tierney, N. (2006). Religion, the globalization of war, and restorative justice. *Buddhist-Christian Studies*, 79–87.
- Van Ness, D. W. (2012). Creating restorative systems. In *Restorative justice and the law* (pp. 150–169). Willan.
- Zehr, H., & Mika, H. (2017). Fundamental concepts of restorative justice. In *Restorative Justice* (pp. 73–81). Routledge.