

## Beyond Punishment: Justice and Benefits in Islamic Criminal Law

Hari Sanjaya Siregar,<sup>1</sup>

<sup>1</sup>Universitas Islam Negeri Sumatera Utara Medan, Indonesia

<sup>1</sup>harisanjayasir22@gmail.com

**Keywords:** Justice, Benefit, Islamic Criminal Law, *Beyond Punishment*, Criminality.

**Abstract:**

This study examines the paradigm *beyond punishment* in Islamic criminal law through the analysis of the concepts of justice (*al-'adl*) and benefit (*al-maṣlaḥah*) as the main goal of punishment. This study departs from criticism of the modern penal system which tends to be oriented towards retribution and deterrent effects, so that it is not fully able to accommodate the interests of victims, perpetrators, and society proportionately. The research uses normative legal methods with a conceptual and philosophical approach through analysis of the Qur'an, hadith, jiyah jurisprudence literature, the theory of *maqāṣid al-syarī'ah*, as well as various contemporary studies on the purpose of punishment. The results of the study show that Islamic criminal law builds a multidimensional concept of punishment. Justice is not only realized through the provision of proportionate sanctions, but also through the restoration of victims' rights, community protection, rehabilitation of perpetrators, and crime prevention. On the other hand, benefits are a normative orientation that ensures that every form of punishment produces social benefits, maintains human dignity, and realizes order and stability in society. The instruments of *qisās*, *diyat*, *ta'zīr*, and the mechanism of forgiveness show the flexibility of Islamic criminal law in integrating the retributive, restorative, rehabilitative, and preventive dimensions in a balanced manner. This research emphasizes that Islamic criminal law offers a more humane and just criminal paradigm, which is not solely oriented towards punishment, but also on the realization of substantive justice, protection of human rights, and the benefits of victims, perpetrators, and society in a sustainable manner.

**Kata Kunci:** Keadilan, Kemaslahatan, Hukum Pidana Islam, *Beyond Punishment*, Pemidanaan.

**Abstrak:**

Penelitian ini mengkaji paradigma *beyond punishment* dalam hukum pidana Islam melalui analisis konsep keadilan (*al-'adl*) dan kemaslahatan (*al-maṣlaḥah*) sebagai tujuan utama pemidanaan. Kajian ini berangkat dari kritik terhadap sistem pemidanaan modern yang cenderung berorientasi pada pembalasan dan efek jera, sehingga belum sepenuhnya mampu mengakomodasi kepentingan korban, pelaku, dan masyarakat secara proporsional. Penelitian menggunakan metode hukum normatif dengan pendekatan konseptual dan filosofis melalui analisis terhadap Al-Qur'an, hadis, literatur fikih jinayah, teori *maqāṣid al-syarī'ah*, serta berbagai kajian kontemporer mengenai tujuan pemidanaan. Hasil penelitian menunjukkan bahwa hukum pidana Islam membangun konsep pemidanaan yang bersifat multidimensional. Keadilan tidak hanya diwujudkan melalui pemberian sanksi yang proporsional, tetapi juga melalui pemulihan hak korban, perlindungan masyarakat, rehabilitasi pelaku, dan pencegahan kejahatan. Di sisi lain, kemaslahatan menjadi orientasi normatif yang memastikan setiap bentuk pemidanaan menghasilkan manfaat sosial, menjaga martabat manusia, serta mewujudkan ketertiban dan stabilitas masyarakat. Instrumen *qisās*, *diyat*, *ta'zīr*, dan mekanisme pemaafan menunjukkan fleksibilitas hukum pidana Islam dalam mengintegrasikan

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| dimensi retributif, restoratif, rehabilitatif, dan preventif secara seimbang. Penelitian ini menegaskan bahwa hukum pidana Islam menawarkan paradigma pemidanaan yang lebih humanis dan berkeadilan, yang tidak semata-mata berorientasi pada penghukuman, tetapi juga pada terwujudnya keadilan substantif, perlindungan hak asasi, serta kemaslahatan bagi korban, pelaku, dan masyarakat secara berkelanjutan. |
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## Introduction

Crime is a social phenomenon that always accompanies human life and has various impacts on individuals, society, and the state. Therefore, the existence of criminal law is an important instrument to maintain social order, protect people's rights, and uphold justice. In practice, the modern criminal justice system tends to place criminality as the main means of responding to criminal acts.<sup>1</sup> This paradigm is more *punishment-oriented justice* which emphasizes the provision of sanctions to perpetrators as a form of accountability for the actions committed. Although such an approach has a repressive and preventive function, criticism has shown that the orientation of punishment alone is often incapable of providing full justice, especially in meeting the needs of victims, restoring disturbed social relationships, and encouraging improvement in the behavior of offenders.<sup>2</sup>

The development of contemporary criminal law thought shows a shift from a penal paradigm to a more humanist and restorative paradigm. The concept of *restorative justice*, for example, emphasizes the importance of recovering victim losses, social reconciliation, and reintegration of perpetrators into society. This shift suggests that the purpose of criminal law is no longer understood only as a means of *retribution*, but also as an instrument to create social balance and broader benefits. In this context, the idea of *beyond punishment* emerged, which is a paradigm that views that the goal of criminal law must go beyond just punishment by integrating the values of justice, utility, and social recovery.<sup>3</sup>

Islamic criminal law has actually long developed a paradigm that is in line with the idea of *beyond punishment*. As part of Islamic law, criminal law not only aims to impose sanctions on the perpetrators of crimes, but also to realize justice (*al-'adl*) and benefits (*al-maslahah*) for all parties involved. From an Islamic perspective, law is an instrument to maintain the order of human life while realizing the goals of sharia (*maqāṣid al-syarī'ah*), namely the protection of religion, soul, intellect, descent, and property. Therefore, every criminal provision in Islam is essentially directed to

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<sup>1</sup> Rahayu Kojongian and Rima Anggriyani, "Analisis Kriminologis Terhadap Fenomena Kejahatan Begal Dengan Senjata Tajam Di Kota Kendari," *The Juris* 8, no. 1 (2024): 342–48.

<sup>2</sup> Sahat Maruli Situmeang, "Fenomena Kejahatan Di Masa Pandemi Covid-19: Perspektif Kriminologi," *Majalah Ilmiah UNIKOM* 19, no. 1 (2021): 35–43.

<sup>3</sup> Faidatul Hikmah and Rio Armanda Agustian, "Konvergensi Konsep Retribusi Dan Rehabilitasi Dalam Filsafat Hukum Pidana Kontemporer Indonesia," *CREPIDO* 5, no. 2 (2023): 217–28.

maintain the public interest and prevent social damage.<sup>4</sup>

The normative foundation of justice in Islamic criminal law can be found in various verses of the Qur'an. Allah SWT. said: "*Indeed, Allah has commanded (you) to be just and do good deeds*" (QS. An-Nahl [16]: 90).<sup>5</sup> This verse emphasizes that justice is a fundamental principle that must be the basis in every law enforcement. In addition, the Qur'an also emphasizes that the application of criminal law is not solely aimed at retaliating against the perpetrators, but also maintaining the sustainability of people's lives. This is reflected in the words of Allah SWT: "*And in qīṣāṣ there is a guarantee of life for you, O you who have understanding, so that you may be pious*" (QS. Al-Baqarah [2]: 179). This paragraph shows that criminal sanctions have preventive and protective purposes that are oriented towards social benefits.<sup>6</sup>

In addition to upholding justice, Islamic criminal law also provides ample space for forgiveness, reconciliation, and the restoration of social relations. In the case of murder, for example, the Qur'an opens up the possibility of settlement through forgiveness and payment of diyat as affirmed in the Qur'an. Al-Baqarah [2]: 178. This provision shows that Islamic criminal law is not rigid and solely retributive, but provides opportunities for the creation of peace and recovery between the perpetrator and the victim. This principle shows that the purpose of Islamic criminal law is not only oriented towards punishment, but also on the resolution of conflicts in a just and dignified manner.<sup>7</sup>

This paradigm is further strengthened by the hadith of the Prophet Muhammad (PBUH) which emphasizes the importance of protecting individual rights and prudence in law enforcement. The Prophet PBUH said: "*Avoid the implementation of hudud when there is still syubhat (doubt)*" (HR. al-Tirmidhi). This hadith shows that Islamic criminal law strongly upholds the principle of protection against the possibility of wrongful convictions. Similarly, the hadith "*lā ḍarar wa lā ḍirār*" (should not cause harm and should not retaliate with harm) is an important basis for the application of the principle of benefit in Islamic law.<sup>8</sup>

Theoretically, the concept of justice and benefit in Islamic criminal law is rooted in the theory of *maqāṣid al-syarī'ah* developed by Abu Ishaq al-Shatibi. According to this theory, the main purpose of the Shari'ah is to realize the benefits of human beings

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<sup>4</sup> Moh Riziq, "Rekonstruksi Teori Born Criminal (Lombroso) Dalam Hukum Pidana Kontemporer," *Southeast Asian Journal of Victimology* 3, no. 1 (2025).

<sup>5</sup> Iin Mutmainah, "Etika Ekonomi Islam Dalam Surat An-Nahl: 90," 2021.

<sup>6</sup> Akhmad Sulaiman, "Reinterpretasi Ayat Al-Qiṣāṣ QS. Al-Baqarah: 178-179," *MAGHZA: Jurnal Ilmu Al-Qur'an Dan Tafsir* 3, no. 2 (2018): 242-52.

<sup>7</sup> M Ilham Firmansyah and Achmad Mudzakkir Yusuf, "Makna Keadilan Dalam QS Al-Baqarah (2): 178 Studi Perbandingan Hermeneutika Fazlur Rahman Dan Fondasionalisme Normatif Al-Ghazali," *IHSAN: Jurnal Pendidikan Islam* 4, no. 2 (2026): 134-43.

<sup>8</sup> S H Achmad Fitriani et al., *Hukum Perdata Dan Hak Asasi Manusia: Menjamin Keadilan Individu* (PT. Nawala Gama Education, 2025).

through the protection of the five basic needs (*al-d arūriyyāt al-khams*), namely religion, soul, intellect, descent, and property. Thus, criminalization in Islam is not understood as the ultimate goal, but as a means to safeguard these fundamental interests. This perspective makes Islamic criminal law have a broader orientation than just punishment, which is to create a balance between victim protection, perpetrator development, and public order.<sup>9</sup>

Based on this description, the concept of *Beyond Punishment: Justice and Benefit in Islamic Criminal Law* is important to be studied as an alternative paradigm in understanding the purpose of punishment. This study seeks to examine how Islamic criminal law integrates the values of justice and benefit in the settlement of criminal acts, so that punishment not only functions as an instrument of retribution, but also as a means of protection, rehabilitation, crime prevention, and the creation of social harmony. Thus, Islamic criminal law offers a more comprehensive, humanistic, and oriented model of punishment for the realization of substantive justice for perpetrators, victims, and society as a whole.

## Method

This research is a normative *legal research* that aims to examine and analyze the concept of justice and benefits in Islamic criminal law as a paradigm *beyond punishment*.<sup>10</sup> Normative legal research was chosen because the focus of the study lies in the study of legal norms, legal principles, doctrines, and the thoughts of scholars and legal scholars related to the purpose of punishment in the perspective of Islamic criminal law.<sup>11</sup> This approach allows researchers to construct the concept of justice and benefit based on Islamic legal sources and relate it to the development of contemporary criminal theory.<sup>12</sup>

The research uses several approaches, namely *conceptual approach*, *philosophical approach*, and *comparative approach*. A conceptual approach is used to study the concepts of justice (*al-'adl*), benefit (*al-maslahah*), punishment, and *maqāṣid al-syarī'ah* that develop in the treasures of Islamic law. Philosophical approaches are used to examine the ontological, epistemological, and axiological foundations of the purpose of punishment in Islam, especially as it relates to the protection of the rights of perpetrators, victims, and society. Meanwhile, a comparative approach is used to compare the orientation of punishment in Islamic criminal law with modern penal

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<sup>9</sup> Putriana Paulina Dheri, "Urgensi Pembentukan Undang-Undang Artificial Intelligence Di Indonesia Dalam Perspektif Asas Kehati-Hatian Dan Perlindungan Hak Konstitusional," *QOSIM: Jurnal Pendidikan Sosial & Humaniora* 4, no. 3 (2026): 3309–18.

<sup>10</sup> Nanda Dwi Rizkia and Hardi Fardiansyah, *Metode Penelitian Hukum (Normatif Dan Empiris)* (Penerbit Widina, 2023).

<sup>11</sup> Suhaimi Suhaimi, "Legal Problems and Approaches in Normative Law Research," *Journal of Yustitia* 19, no. 2 (2018).

<sup>12</sup> Jonaedi Efendi, "Metode Penelitian Hukum Normatif Dan Empiris Edisi 1," 2020.

paradigms, especially the retributive, utilitarian, and restorative approaches.<sup>13</sup>

The source of legal materials in this study consists of primary, secondary, and tertiary legal materials. Primary legal materials include the Qur'an, hadith of the Prophet Muhammad (peace be upon him), and fiqh rules related to Islamic criminal law. Secondary legal materials consist of books of jurisprudence, *literature on maqāṣūl al-fiqh*, works on *maqāṣid al-syarī'ah*, criminal law books, scientific journal articles, and research results relevant to the theme of justice, benefits, and the purpose of punishment. The tertiary legal materials are in the form of legal dictionaries, encyclopedias of Islamic law, and various other supporting sources that help explain the concepts used in the research.<sup>14</sup>

The technique of collecting legal materials is carried out through library research, which is by searching, inventorying, and reviewing various legal sources and literature that are relevant to the object of research. Furthermore, the collected legal materials are analyzed using qualitative analysis methods with descriptive-analytical techniques.<sup>15</sup> The analysis is carried out through the process of identification, classification, interpretation, and legal construction of various norms and doctrines related to the concept of justice and benefits in Islamic criminal law. The results of the analysis are then presented systematically to explain how Islamic criminal law develops a *paradigm beyond punishment* that is not only oriented towards punishment, but also on victim protection, perpetrator development, crime prevention, and the achievement of social benefits in accordance with the goals of Islamic sharia (*maqāṣid al-syarī'ah*).<sup>16</sup>

## Result and Discussion

### The Criminal Paradigm in Islamic Criminal Law: From Levy to Benefit

Criminalization is one of the important instruments in the legal system to maintain social order, protect people's rights, and uphold justice. In the development of criminal law theory, the purpose of punishment is generally classified into several main paradigms, namely retributive, preventive, rehabilitative, and restorative. The retributive paradigm views crime as a commensurate retribution for the acts committed by the perpetrators of crimes. In this perspective, a person is punished for having committed a mistake that violates legal norms and harms others. Meanwhile, the preventive paradigm places crime as a means to prevent crime, both through a deterrent effect on perpetrators (*special prevention*) and through warnings to the community (*general prevention*). Further developments have given birth to a

<sup>13</sup> S H I Jonaedi Efendi and S H Prasetyo Rijadi, *Metode Penelitian Hukum Normatif Dan Empiris: Edisi Kedua* (Prenada Media, 2022).

<sup>14</sup> S H I Kristiawanto, *Memahami Penelitian Hukum Normatif* (Prenada Media, 2022).

<sup>15</sup> Iman Jalaludin Rifa'i, "Ruang Lingkup Metode Penelitian Hukum," *Metodologi Penelitian Hukum* 6 (2023).

<sup>16</sup> Ahmad Rosidi, Muhammad Zainuddin, and Ismi Arifiana, "Metode Dalam Penelitian Hukum Normatif Dan Sosiologis (Field Research)," *Journal Law and Government* 2, no. 1 (2024).

rehabilitative and restorative paradigm that seeks to improve perpetrators and restore social relations that have been disrupted due to criminal acts.<sup>17</sup>

In the context of Islamic criminal law, punishment cannot be understood only in terms of retribution or punishment. Islamic criminal law (*fiqh al-jināyah*) is built on the principles of justice (*al-'adl*), benefit (*al-maṣlaḥah*), and protection of the purposes of sharia (*maqāṣid al-syarī'ah*). Therefore, although there is an element of retribution in some forms of criminal sanctions, the ultimate goal of punishment in Islam does not stop at retribution, but is directed at the creation of benefits for individuals and society. This paradigm shows that Islamic criminal law has a broader orientation than the retributive theory that has developed in modern criminal law.<sup>18</sup>

Normatively, the concept of criminalization in Islam is rooted in the teachings of the Qur'an and hadith that place justice as a fundamental principle in law enforcement. Allah SWT. said: "*Indeed, Allah has commanded (you) to be just and do good*" (QS. An-Nahl [16]: 90). This verse shows that the purpose of the law is not only to punish the perpetrator, but also to ensure the realization of justice for all parties involved. In the criminal context, justice includes the protection of victims' rights, the enforcement of perpetrators' responsibilities, and the maintenance of public order. Thus, criminalization in Islam is part of an effort to maintain social balance based on moral and human values.<sup>19</sup>

The retributive element in Islamic criminal law can be found in the concept of *qīṣāṣ*. Literally, *qīṣāṣ* means appropriate retribution against the perpetrator of a criminal act that takes life or causes physical injury. This provision is based on the words of Allah SWT: "*And in qīṣāṣ there is a guarantee of life for you, O you who have understanding, so that you may be pious*" (QS. Al-Baqarah [2]: 179). The verse shows that *qīṣāṣ* is not just a mechanism of retribution, but a means to preserve life and prevent the occurrence of a wider range of crimes. Therefore, although *qīṣāṣ* contains a retributive element, its main orientation remains on the protection of society and the maintenance of social order.

In contrast to the concept of absolute retribution in classical criminal law theory, Islamic criminal law does not make retribution the sole purpose of punishment. In the case of *qīṣāṣ*, the victim's family is given the right to choose between demanding the implementation of *qīṣāṣ*, receiving *diyat* (compensation), or apologising to the perpetrator. The choice shows that Islamic criminal law recognizes

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<sup>17</sup> Amelia Suci Rahmadani et al., "Peran Pidana Pengawasan Sebagai Alternatif Pemidanaan Dalam Mewujudkan Tujuan Pemidanaan Di Indonesia," *Jurnal Kajian Hukum Dan Pendidikan Kewarganegaraan* 2, no. 3 (2026): 673–79.

<sup>18</sup> Risma Ayu Ananta, "Efektivitas Pidana Penjara Sebagai Sarana Pemidanaan Dalam Hukum Pidana Indonesia," n.d.

<sup>19</sup> Adisty Suchy Octarilza, Ahmad Zuhdi, and Salis Irvan Fuadi, "Pembentukan Karakter Kebajikan Pada Anak: Perspektif Al-Qur'an Surat An-Nahl Ayat 90," *AL-MUSTAQBAL: Jurnal Agama Islam* 2, no. 3 (2025): 67–77.

the importance of reconciliation and the restoration of social relations. The presence of this forgiveness mechanism proves that the purpose of Islamic criminal law is not solely to punish the perpetrator, but also to create greater peace and benefits.<sup>20</sup>

The paradigm of benefit in Islamic criminal law is rooted in the theory of *maqāṣid al-syarī'ah* which places the protection of the five basic human needs (*al-d arūriyyāt al-khams*) as the main goal of the law. These five needs include the protection of religion (*hifẓ al-dīn*), soul (*hifẓ al-nafs*), intellect (*hifẓ al-'aql*), posterity (*hifẓ al-nasl*), and property (*hifẓ al-māl*). In this perspective, any form of punishment must be directed to safeguard and protect these basic interests. Therefore, punishment in Islam is not seen as the ultimate goal, but as a means to prevent damage (*mafsadah*) and realize benefits (*maṣlaḥah*) for society.<sup>21</sup>

The orientation of benefits is increasingly visible in the concept of *ta'zīr*. In contrast to *hudud* and *qisās* which have been normatively determined, *ta'zīr* gives the authority to judges or the government to determine the type and degree of punishment based on social conditions, the degree of wrongdoing, and the needs of the community. This flexibility shows that Islamic criminal law has a high adaptability to the changing times. The judge can consider various aspects, such as the motive of the perpetrator, the impact of the act, the possibility of behavior improvement, and the interests of the victim and the community. Thus, punishment is not only oriented towards retribution, but also on coaching and prevention.<sup>22</sup>

Furthermore, the paradigm of benefits in Islamic criminal law is closely related to the concept of *restorative justice* that has developed in the modern legal system. Both emphasized the importance of recovering victim losses, perpetrator responsibility, and improving social relations. In Islamic criminal law, these values are reflected through the mechanisms of *diyat*, *sulḥ* (peace), and forgiveness. The settlement of cases does not solely focus on punishing the perpetrators, but also on efforts to restore the social balance that has been disturbed by criminal acts. Therefore, Islamic criminal law can be seen as one of the legal systems that has substantially accommodated the principles of restorative justice long before the concept developed in contemporary legal studies.<sup>23</sup>

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<sup>20</sup> Uni Sabadina, "Sanksi Tindakan Dalam Hukum Pidana Di Indonesia Perspektif Teori Relatif," *UIR Law Review* 9, no. 2 (2025): 13–25.

<sup>21</sup> Muhammad Tahmid Nur, *Menggapai Hukum Pidana Ideal Kemaslahatan Pidana Islam Dan Pembaruan Hukum Pidana Nasional* (Deepublish, 2018).

<sup>22</sup> Maulida Hasanah, Muna Hasanah, and Noormala Santi, "Hukuman Pidana Dalam Islam: Analisis Konseptual, Maqāṣid Asy-Syarī'ah, Dan Relevansi Kontemporer," *Ahsan: Jurnal Ilmiah Keislaman Dan Kemasyarakatan*, 2025, 221–32.

<sup>23</sup> Eko Budi Sariyono, "Polri Untuk Masyarakat: Dalam Paradigma Pemidanaan Modern Berdasarkan KUHP Nasional Guna Mewujudkan Perlindungan Hukum Masyarakat," *Proceedings of Police Academy* 1, no. 1 (2025): 132–49."

The transformation of the criminal paradigm from levy to benefit shows that Islamic criminal law has a holistic and multidimensional character. Criminalization not only serves as a means of retribution against perpetrators, but also as an instrument of community protection, victim recovery, perpetrator development, and crime prevention. This approach reflects the balance between individual interests and social interests that characterize Islamic law. Thus, the success of punishment is not measured by the severity of the punishment imposed, but by the extent to which the law is able to realize justice, create order, and generate sustainable benefits.<sup>24</sup>

In the context of contemporary criminal law reform, the benefit paradigm developed in Islamic criminal law has a very important relevance. The crisis of the effectiveness of punishment, the high rate of recidivism, and the increasing demand for the protection of victims' rights indicate the need for a more comprehensive legal approach. Islamic criminal law offers an alternative thought that places justice, humanity, and welfare as the primary goals of punishment. Therefore, the criminal paradigm in Islamic criminal law cannot be understood solely as a repressive punishment system, but as a system that seeks to build social harmony through the integration of justice, responsibility, and benefit. With this orientation, Islamic criminal law presents a paradigm *beyond punishment* that makes punishment a means to realize welfare and substantive justice for all members of society.<sup>25</sup>

Application of the Concept of Justice in Handling Crime Cases against Perpetrators and Victims Justice is one of the fundamental goals in every legal system, including in criminal law. In the context of handling crime cases, justice is not only interpreted as punishing the perpetrator, but also as an effort to protect the rights of victims, recover losses caused by criminal acts, and maintain social balance in society. So far, the conventional criminal justice system has been dominated by the paradigm of *retributive justice*, which is an approach that places criminal justice as a form of state retribution against perpetrators for violations of the law that have been committed. In this paradigm, the main focus is directed at the punishment of the perpetrator, while the needs of the victim and the social impact of the crime often receive insufficient attention.<sup>26</sup>

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<sup>24</sup> Syinthia Rosa Naibaho and Dwi Wachidiyah Ningsih, "Transformasi Paradigma Pemidanaan Anak Melalui Putusan Pemaafan Hakim (Rechterlijk Pardon)," *Judge: Jurnal Hukum* 6, no. 08 (2026): 1548–55.

<sup>25</sup> Hikmah and Agustian, "Konvergensi Konsep Retribusi Dan Rehabilitasi Dalam Filsafat Hukum Pidana Kontemporer Indonesia."

<sup>26</sup> Berliana Aisyah Nur Salwa and Sidik Sunaryo, "Keadilan Dalam Perspektif Nilai-Nilai Pancasila: Relevansi Dan Implementasinya Dalam Sistem Hukum Indonesia," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 3 (2025): 1956–64.



The limitations of the retributive approach encourage the development of a *restorative justice* paradigm that offers a new perspective in criminal case resolution. Restorative justice departs from the view that criminal acts are not solely violations of the state or legal norms, but also cause loss and suffering for the victim, the victim's family, and the community. Therefore, the settlement of criminal cases is not enough to be carried out through the punishment of the perpetrators, but must be directed to the recovery of losses, the improvement of social relations, and reconciliation between the parties affected by the crime.

Within the framework of restorative justice, victims, perpetrators, and the community are placed as subjects who have an important role in the case settlement process. Victims are given space to convey their experiences, suffering, and losses they have experienced due to criminal acts. At the same time, the perpetrator is given the opportunity to understand the consequences of his actions, admit his mistakes, and take responsibility for the losses caused. The involvement of both parties in the dialogue and deliberation process is expected to be able to produce a more just settlement compared to a purely punitive-oriented approach.

One of the main instruments in the application of restorative justice is mediation between perpetrators and victims. Through the mediation process, both parties can meet in a conducive atmosphere to build communication, convey each other's views, and find solutions that can be mutually accepted. Mediation not only serves as a means of conflict resolution, but also as a mechanism to build empathy and moral awareness. For victims, this process provides an opportunity to gain recognition for the suffering experienced and gain certainty about the responsibility of the perpetrator. Meanwhile, for the perpetrator, mediation is a means to understand the real impact of his actions and encourage the birth of awareness to correct the mistakes that have been made.

In practice, restoration, which is the main goal of restorative justice, can be realized through various forms, one of which is restitution or compensation. Restitution is a form of accountability of the perpetrator to the victim for material and immaterial losses arising from criminal acts. Through restitution, victims not only get recognition of their rights, but also get a more concrete recovery compared to just seeing the perpetrator serve a prison sentence. On the other hand, the obligation to provide restitution encourages the perpetrator to be directly responsible for the consequences of his actions, so that the criminal process has a stronger educational and rehabilitative dimension.

In the perspective of Islamic criminal law, the concept of restorative justice has a very close relevance to the basic principles of sharia. Islamic criminal law not only aims to punish the perpetrator, but also to realize justice and benefits for all parties involved. This is in line with the main purpose of the sharia (*maqāṣid al-syarī'ah*) which emphasizes the protection of religion, soul, intellect, descent, and property. In various provisions of Islamic criminal law, the aspects of restoration and reconciliation receive significant attention. For example, in the case of murder or persecution, Islam recognizes the concepts of *qisās*, *diyat*, and forgiveness (*al-'afw*) which provide space for the victim or his family to determine the form of settlement that is considered to be the most justice-giving.<sup>27</sup>

The concept of *diyat* as compensation to the victim or his family shows that Islamic criminal law is not only oriented towards the punishment of the perpetrator, but also pays attention to the victim's need for recovery. Even under certain conditions, Islam encourages forgiveness and peace as a form of settlement that brings more benefits to all parties. This shows that the Islamic criminal law paradigm does not essentially stop at the retributive aspect, but integrates restorative and rehabilitative dimensions in the law enforcement process.

In addition to providing benefits for victims, the application of the concept of justice that is oriented towards recovery also has positive implications for the perpetrators of criminal acts. In the conventional penal system, perpetrators often receive prolonged social stigma, making it difficult to reintegrate into society after serving their sentence. This condition often encourages the emergence of recidivism behavior because the perpetrator feels alienated and loses the opportunity to improve his life. On the contrary, the restorative approach seeks to build moral awareness and social responsibility of actors so that they can return to being a productive part of society.

From a sociological perspective, this approach also helps reduce society's tendency to see perpetrators of crimes solely as individuals to be punished. Many studies show that factors such as poverty, social inequality, low levels of education, dysfunctional family environments, and social marginalization are often the backdrop for the emergence of criminal behavior. Understanding these factors is not intended to justify criminal acts, but rather to build a more comprehensive and prevention-oriented legal approach. Thus, the perpetrator is not only seen as a lawbreaker, but also as an individual in need of coaching and rehabilitation.<sup>28</sup>

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<sup>27</sup> Ali Muchasan, M Syarif, and Dhuhaa Rohmawan, "Maqāṣid Al-Syarī'ah Dalam Tinjauan Pemikiran Ibnu 'Āsyūr," *INOVATIF: Jurnal Penelitian Pendidikan, Agama, Dan Kebudayaan* 9, no. 1 (2023): 133–51.

<sup>28</sup> Kartika Maulida, "Kriminalitas Dan Hukum: Perspektif Sosiologi Terkait Kontrol Sosial Dan Hukum," *Jurnal Hukum Caraka Justitia* 5, no. 1 (2025): 14–28.

Despite its various advantages, the application of restorative justice still faces a number of challenges. One of the main challenges is that there is still a limited understanding of the concept and mechanism of restorative justice among law enforcement officials and the public. Some parties still view that justice can only be realized through severe punishment of the perpetrators. As a result, restorative approaches are often seen as a form of weakening law enforcement. In fact, restorative justice does not eliminate the responsibility of the perpetrator, but rather changes the form of accountability to be more constructive and recovery-oriented.

Therefore, it is necessary to make efforts to socialize, educate the public, and strengthen regulations that support the implementation of restorative justice in the criminal justice system. A common perception among law enforcement officials, academics, and the public is an important factor to ensure that this approach can be implemented effectively. In addition, adequate monitoring mechanisms are needed so that the restorative process is not abused and still ensure the protection of victims' rights.<sup>29</sup>

In the end, true justice is not only measured by the severity or lightness of the punishment meted out to the perpetrator, but by the extent to which the legal system is able to recover the victim's losses, encourage the accountability of the perpetrator, and create social harmony in society. In this perspective, restorative justice offers a more comprehensive approach because it places victims, perpetrators, and society as an integral part of the case-resolution process. Various studies show that offenders involved in restorative justice programs tend to have lower recidivism rates compared to those who only serve prison sentences. The findings indicate that recovery, dialogue, and social responsibility are more effective in preventing the recurrence of criminal acts than punishment that is purely repressive. Thus, the application of the concept of restorative justice is an important step towards a criminal justice system that is more just, humane, and oriented towards the benefit of all parties.

Forms of benefits that can be given to both parties, both perpetrators and victims. The forms of benefits that can be provided to both parties, both perpetrators and victims, in the context of restorative justice are very important to create balance and recovery in society. Restorative justice focuses not only on the punishment of the perpetrator, but also on the recovery of the victim and reconciliation between the two parties. One form of benefit that can be given to victims is through compensation or compensation. In the restorative justice process, perpetrators are expected to admit their wrongdoing and provide restitution to the victim as a form of responsibility for their actions. This not only helps the victims financially, but also gives them recognition for the suffering they have experienced.<sup>30</sup>

In addition to compensation, rehabilitation programs for perpetrators are also an important form of benefit. Offenders often come from difficult social backgrounds or experience deep trauma. By giving offenders access to rehabilitation programs, such as counseling or education, we not only help them to improve themselves but also prevent the recurrence of criminal acts in the future. This rehabilitation process can include skills training, education, and psychological support that aims to prepare the perpetrator to be able to contribute positively to society again.<sup>31</sup>

Benefits can also be realized through mediation between the perpetrator and the victim. In this process, the two are given the opportunity to meet and dialogue directly under the guidance of a neutral mediator. These encounters allow the victim to convey the emotional and physical impact of the crime they experienced, while the perpetrator can understand the consequences of their actions. This kind of dialogue can be the first step towards reconciliation and the restoration of social relations damaged by crime.

Furthermore, community involvement in the restorative justice process is also a significant form of benefit. The community plays a role as a facilitator in the conflict resolution process, helping to create a supportive environment for both parties. By involving community leaders or religious leaders in mediation, conflict resolution results tend to be more acceptable to all parties. This creates a sense of togetherness and collective responsibility in maintaining social security and order. The benefits in the context of restorative justice also include efforts to prevent crime through education and socialization of moral and ethical values to the community. By raising awareness of the negative impact of crime and the importance of respecting each other's rights, we can build a safer and more harmonious society.<sup>32</sup>

In the perspective of maqashid sharia, all these forms of benefit are in line with the purpose of Islamic law which emphasizes the protection of soul, property, religion, descent, and reason. Restorative justice seeks to realize welfare for all parties involved in the legal process. Thus, the application of the concept of benefit in handling crime cases not only provides benefits for individuals but also for society as a whole.

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<sup>29</sup> Arpandi Karjono and Parningotan Malau, "Penerapan Keadilan Restoratif Justice Dalam Hukum Pidana Berbasis Kearifan Lokal," 2024.

<sup>30</sup> Ario Ade Wicaksono, "Perlindungan Hukum Terhadap Perempuan Sebagai Korban Tindak Pidana Kekerasan Dalam Rumah Tangga Dengan Penyelesaian Restorative Justice" (Universitas Islam Sultan Agung Semarang, 2025).

<sup>31</sup> Said Aqil Munawar Siregar, "Restorative Justice Dalam Perma NO. 1 Tahun 2024 Ditinjau Dari Hukum Pidana Islam" (UIN Syekh Ali Hasan Ahmad Addary Padangsidempuan, 2025).

<sup>32</sup> Ummu Salamah Munir, "Penyelesaian Tindak Pidana Kekerasan Dalam Rumah Tangga Melalui Restorative Justice Perspektif Fiqhi Jinayah (Studi Kasus Di Polres Kota Parepare)" (IAIN ParePare, 2024).

## Fair and Beneficial Legal Approach in the Criminal Justice System

The criminal justice system essentially functions not only as an instrument of law enforcement, but also as a means to realize justice and benefits in people's lives. So far, the orientation of the criminal justice system tends to be dominated by a legalistic paradigm that places punishment as the main goal of the law enforcement process. The success of the judiciary is often measured by the state's ability to find the perpetrators, prove their guilt, and impose penalties in accordance with the provisions of the applicable law. Although this approach is important in maintaining legal certainty, in practice it is often not able to provide substantive justice for all parties involved, especially victims of crimes. Therefore, a legal approach is needed that is not only oriented to the legal-formal aspect, but also considers the value of justice and benefits as the main goal of law enforcement.<sup>33</sup>

In the context of the state of law, justice is a fundamental principle that is the basis for the implementation of the criminal justice system. Justice cannot be reduced only as the mechanical application of the rule of law, but must be understood as an effort to provide balanced protection of the rights of each individual. One form of implementation of this principle is reflected in the principle of *presumption of innocence* which is regulated in the Indonesian criminal procedure law system. This principle emphasizes that every person who is suspected, arrested, detained, prosecuted, and brought before the court must be presumed innocent until there is a court decision with permanent legal force. Philosophically, this principle implies that the state should not treat a person as a criminal until his guilt is proven through a legitimate legal process.<sup>34</sup>

The existence of the principle of presumption of innocence has a very important meaning in ensuring procedural *justice*. This principle prevents abuse of power by law enforcement officials and ensures that the legal process is based on evidence and facts, not prejudice or public pressure. In practice, it is not uncommon for a person to experience social stigmatization even before the court renders a verdict. Therefore, respect for the principle of presumption of innocence is a form of protection of human dignity as well as a reflection of a democratic state of law.<sup>35</sup>

In addition to the protection of suspects and defendants, a fair legal approach also requires equal access to legal aid. The right to obtain legal assistance is one of the important instruments to ensure a balance of the positions of the parties in the judicial

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<sup>33</sup> SHMH Kadri Husin and SHMH Budi Rizki Husin, *Sistem Peradilan Pidana Di Indonesia* (Sinar Grafika, 2022).

<sup>34</sup> H Siswanto Sunarso, M H Sh, and M Kn, *Viktimologi Dalam Sistem Peradilan Pidana* (Sinar Grafika, 2022).

<sup>35</sup> Nurhasan Nurhasan, "Keberadaan Asas Praduga Tak Bersalah Pada Proses Peradilan Pidana: Kajian," *Jurnal Ilmiah Universitas Batanghari Jambi* 17, no. 3 (2017): 205-15.

process. Without adequate legal assistance, the suspect or defendant has the potential to experience injustice due to limited knowledge about the rights they have. Therefore, the presence of legal counsel not only serves as a defender of the client's interests, but also as a control mechanism against the possibility of procedural violations by law enforcement officials.

From the perspective of substantive justice, legal protection should not only be focused on the perpetrator or suspect, but should also include the interests of the victim. One of the weaknesses of the conventional criminal justice system is its tendency to place victims as passive parties. After giving testimony as a witness, victims often no longer get adequate space in the case settlement process. As a result, even though the perpetrator has been sentenced, the victim does not necessarily get recovery for the losses he has suffered. In such conditions, a decision that formally meets the sense of justice is not necessarily able to provide true justice.

Therefore, a beneficial legal approach requires an orientation to victim recovery. Justice is not only measured by the success of punishing the perpetrators, but also by the ability of the legal system to restore the rights of victims who have been harmed. These forms of recovery can be in the form of compensation, restitution, psychological rehabilitation, or social recovery. Thus, victims are not only positioned as a means of proof in the judicial process, but as legal subjects who have the right to protection and recovery.

This approach has strong relevance to the concept of *restorative justice* that has developed in the modern legal system. Restorative justice views criminal acts not solely as a violation against the state, but as actions that cause harm to individuals and social relationships. Therefore, the settlement of the case must be directed to efforts to repair these losses through dialogue, mediation, and agreements involving victims, perpetrators, and the community. In this paradigm, the perpetrator is encouraged to take direct responsibility for the consequences caused by his actions, while the victim is given space to express his needs and expectations for the settlement of the case.

From the perspective of Islamic criminal law, an approach oriented towards justice and benefit has actually become an integral part of the purpose of sharia (*maqāṣid al-syarī'ah*). Islamic sharia places the protection of religion, soul, intellect, descent, and property as the main purpose of the law. Therefore, every criminal policy must be directed at the realization of benefits and prevention of damage in society. In this context, the law is not seen as a mere tool of retribution, but as an instrument to create social order and common welfare.

The concept of benefit gives a broader dimension to the meaning of justice. It is not enough for a legal decision to meet normative provisions, but it must also consider the social impact it causes. Punishments that are too severe can create new injustices, while punishments that are too light have the potential to reduce public

trust in the legal system. Therefore, judges are required to consider not only the legality aspect, but also the values of utility and social justice in every decision handed down.<sup>36</sup>

Another aspect that is no less important in realizing a fair legal approach is the prevention of torture, intimidation, and arbitrary treatment in the law enforcement process. The use of force in investigations not only violates human rights, but also goes against the principles of justice itself. Recognition obtained through pressure or torture cannot be used as a basis for building a just legal system. Therefore, the professionalism of law enforcement officials is an absolute requirement in realizing a dignified judicial process oriented towards the protection of human rights.

In addition, transparency and accountability are important elements in building a fair justice system. Trials that are open to the public allow the public to supervise the course of the legal process and prevent abuse of authority. Transparency also serves to increase public trust in the judiciary, which ultimately strengthens the legitimacy of the legal system as a whole.<sup>37</sup>

In the end, a fair and beneficial legal approach must be directed towards a broader goal, namely rehabilitation and social reintegration of perpetrators. Punishment should not only serve as a means of retribution, but also as a coaching instrument that allows the perpetrator to return to being a productive member of society. Studies have shown that penal systems that emphasize rehabilitation have lower recidivism rates than those that are only penalty-oriented. These findings show that sustainable justice can only be achieved if the legal system is able to balance victim protection, perpetrator accountability, and the interests of society as a whole.<sup>38</sup>

Thus, a fair and beneficial legal approach in the criminal justice system not only requires legal certainty, but also requires the protection of human rights, the recovery of victims, the rehabilitation of perpetrators, and the realization of social benefits. This approach reflects a paradigm shift from just *law enforcement* to *justice enforcement*, namely law enforcement that is oriented towards the creation of substantive justice and community welfare in a sustainable manner.

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<sup>36</sup> Muhammad Zaid Anshari Nasution, "Rekonstruksi Tujuan Hukum Dalam Perspektif Hukum Barat Dan Maqāṣid Al-Syarī 'ah: Analisis Filosofis Terhadap Keadilan, Kemanfaatan, Dan Kemaslahatan," *Tabayyanu: Journal Of Islamic Law* 1, no. 01 (2024): 1–8.

<sup>37</sup> Siti Rohmah Muyassaroh and Ifa Nurhayati, "Analisis Teori Maslahat Najmuddin Al-Thufi Sebagai Landasan Hukum Progresif Dalam Fiqih Kontemporer," *Journal of Literature Review* 1, no. 2 (2025): 496–500.

<sup>38</sup> Sarifudin Sarifudin, "Hukum Islam Progresif: Tawaran Teori Maslahat At-Thufi Sebagai Epistemologi Untuk Pembangunan Hukum Nasional Di Indonesia," *Jurnal Wawasan Yuridika* 3, no. 2 (2019): 135–54.

## **Beyond Punishment: Integration of Justice, Benefit, and Restorative Justice in Islamic Criminal Law**

The development of contemporary criminal law thought shows a paradigm shift from a *punitive justice* approach to an approach that emphasizes restoration, reconciliation, and social benefit. This shift was born from the realization that the penal system that only focuses on punishing perpetrators is often unable to solve the root of the crime problem comprehensively. Although imprisonment and various other forms of sanctions can have a deterrent effect and meet the demand for retaliation against the perpetrator, the reality is that this approach is not necessarily able to recover the victim's losses, improve the behavior of the perpetrator, or restore the social balance that has been disturbed by criminal acts. In this context, the idea of *beyond punishment* emerges, which is a paradigm that views that the goal of criminal law must go beyond mere punishment by integrating justice, benefit, and social recovery simultaneously.<sup>39</sup>

In Islamic criminal law, the paradigm *beyond punishment* is actually not a new concept. From the beginning, Islamic sharia did not place punishment as the ultimate goal of law, but rather as an instrument to realize justice (*al-'adl*), benefit (*al-maṣlaḥah*), and social order. Criminality in Islam is not designed to cause suffering alone, but to maintain the fundamental values that are the goal of the Shari'ah (*maqāṣid al-syarī'ah*), namely the protection of religion (*ḥifẓ al-dīn*), the soul (*ḥifẓ al-naḥs*), reason (*ḥifẓ al-'aql*), descent (*ḥifẓ al-nasl*), and wealth (*ḥifẓ al-māl*). Therefore, every form of criminal sanction must be understood within the framework of protecting the interests of individuals and society, not solely as a form of retribution against the perpetrators of crimes.<sup>40</sup>

The concept of justice in Islamic criminal law has a broader dimension compared to the retributive justice that has developed in the modern legal tradition. In the retributive paradigm, justice is often understood as the provision of punishment that is commensurate with the mistakes made by the perpetrator. The heavier the mistake made, the heavier the punishment imposed. While this principle of proportionality is important for maintaining legal certainty, it tends to focus on the relationship between the state and the perpetrator, while the position of the victim is often on the margins of the judicial process. As a result, victims do not always obtain adequate recovery even if the perpetrator has been sentenced.<sup>41</sup>

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<sup>39</sup> Ivan Erranza Putra, Hartiwiningsih Hartiwiningsih, and Anita Zulfiani, "Restorative Justice Sebagai Sanksi Pemidanaan Dalam Tindak Pidana Narkotika Di Indonesia," *Indonesian Journal of Social Sciences and Humanities* 6, no. 1 (2026): 23–32.

<sup>40</sup> Lonna Yohanes Lengkong, Paltiada Saragi, and Andree Washington Sianipar, "Komprehensif Tentang Hukum Pidana Balasan Dan Implikasinya," *Honeste Vivere* 35, no. 2 (2025): 274–84.

<sup>41</sup> Noercholish Rafid, "Nilai Keadilan Dan Nilai Kemanfaatan Pada Jarimah Qisas Dan Diyat Dalam Hukum Pidana Islam," *Milkiyah: Jurnal Hukum Ekonomi Syariah* 1, no. 1 (2022): 8–14.



In contrast to this paradigm, Islamic criminal law places the victim as a party who has substantive rights in the criminal case settlement process. In the case of murder or persecution, for example, Islamic law gives the victim or the victim's family the right to determine the form of settlement that is considered the fairest, either through *qishās*, *diyat*, or forgiveness. The presence of this choice shows that justice in Islam is not only measured by the implementation of punishment, but also by the fulfillment of victims' rights and the creation of social balance. Thus, justice in Islamic criminal law is multidimensional because it includes justice for victims, perpetrators, and society at the same time.

From a philosophical perspective, the concept of justice cannot be separated from the principle of benefit which is the main goal of sharia. In the theory of *maqāṣid al-syarī'ah*, the law is not seen as a set of rigid rules, but rather as an instrument to realize the benefits and prevent harm in human life. Therefore, the application of criminal law must always consider its impact on the welfare of individuals and society. A sentence that is formally legal does not necessarily reflect justice if it causes greater harm or fails to achieve the goal of social protection.<sup>42</sup>

This principle of benefit is what makes Islamic criminal law have high flexibility in responding to various social problems. In the category of *ta'zīr*, for example, judges are given the authority to determine the type and level of punishment based on the level of wrongdoing, social conditions, and community needs. This authority shows that Islamic criminal law is not only oriented to formal legality, but also to the social effectiveness of a legal decision. Thus, the success of punishment is not solely measured by the implementation of sanctions, but by the extent to which the sanctions are able to improve the behavior of the perpetrators, protect victims, and maintain community stability.

This benefit paradigm has a very close relationship with the concept of *restorative justice* that has developed in the modern legal system. Conceptually, *restorative justice* was born as a criticism of the dominance of the retributive approach which is considered to fail to provide a satisfactory solution for victims and the community. The restorative approach views crime as a social conflict that causes losses for various parties, so the solution must be directed at the recovery of these losses. The main focus is no longer on punishing the perpetrator, but on repairing damaged relationships, recovering the victim, and encouraging the perpetrator to take responsibility for his actions.

If analyzed in depth, the basic values of *restorative justice* have actually been present in Islamic criminal law for a long time. The concepts of *diyat*, forgiveness (*al-'afw*), and peace (*ṣulḥ*) are clear examples of how Islamic sharia prioritizes solutions

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<sup>42</sup> Mahendra Kusuma and Rosida Diani, "Qishash Diyat Dalam Hukum Pidana Islam Lebih Mencerminkan Keadilan Dari Sisi Korban," *Jurnal Dinamika* 2, no. 2 (2022): 45-54.

oriented towards restoration and reconciliation. In certain cases, the victim or his family is even encouraged to apologize if it brings more benefits than the implementation of the punishment. The recommendation shows that the goal of the law does not stop at retribution, but is directed at the creation of peace and social harmony.<sup>43</sup>

The integration between justice, benefit, and *restorative justice* shows that Islamic criminal law essentially develops a holistic criminal paradigm. Justice ensures that each party obtains its rights proportionately; the benefit ensures that the law produces greater social benefits; Meanwhile, *restorative justice* provides a mechanism to restore relationships damaged by criminal acts. These three elements do not run separately, but complement each other in realizing more substantive legal goals.

In this perspective, the perpetrator of the crime is not seen solely as an object of punishment, but rather as an individual who has the potential to be corrected and reintegrated into society. A judgment-oriented approach often results in social stigmatization that actually increases the likelihood of recidivism. On the contrary, a restorative approach supported by the principle of benefit seeks to build the moral awareness of perpetrators through a more constructive accountability mechanism. Perpetrators are encouraged to understand the impact of their actions, repair the losses caused, and rebuild damaged social relationships.

On the other hand, the victim is no longer positioned as a passive party who is just waiting for a court decision. Victims are given space to convey their needs, hopes, and forms of recovery that are considered fair. This is in line with the principle of substantive justice that places victims as legal subjects who must obtain optimal protection and recovery. Thus, the judicial process not only produces a legally valid verdict, but also provides a real sense of justice for the aggrieved party.

Analysis of these principles shows that Islamic criminal law actually offers a model of punishment that goes beyond the conventional paradigm of punishment. The beyond *punishment* paradigm places punishment not as a goal, but as a means to realize justice, benefits, and social recovery. The success of the criminal justice system is no longer measured by the number of perpetrators punished or the severity of the sanctions imposed, but by its ability to recover victims, correct perpetrators, and maintain public order in a sustainable manner.

Therefore, amid various criticisms of the modern penal system that tends to be repressive and less effective in reducing crime rates, the Islamic criminal law paradigm offers a relevant perspective for the development of the contemporary criminal justice system. The integration between justice, benefit, and *restorative justice* shows that law can function not only as an instrument of social control, but also as a

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<sup>43</sup> Daniel W Van Ness et al., *Restoring Justice: An Introduction to Restorative Justice* (Routledge, 2022).

means of social transformation oriented towards the protection of human dignity and the achievement of common prosperity. Thus, the concept of *Beyond Punishment* in Islamic criminal law is not merely a critique of the punishment paradigm, but rather a conceptual offer of how the law should work to create more substantive justice, broader benefits, and sustainable social peace.

### Conclusion

In the criminal justice system, the application of a fair and beneficial approach is essential to create comprehensive justice for all parties involved, both perpetrators and victims. Restorative justice is emerging as a more humane alternative to traditional retributive approaches, with a focus on restoration and reconciliation. Through dialogue between perpetrators and victims, as well as compensation and rehabilitation efforts, the justice system can function not only to punish, but also to restore social relations damaged by crime. By integrating the principles of justice in positive law and the values of welfare in a religious perspective, we can build a more inclusive, fair, and sustainable justice system.

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