

# **‘SULH’ IN ISLAMIC CRIMINAL LAW AS THE FORM OF RESTORATIVE JUSTICE: A NEW FRAMEWORK IN INDONESIAN CRIMINAL LAW**

**Aliflanya Arisandy Maghfirah, Diny Arista Risandy, Nurindah Hilimi**

University of Indonesia  
Faculty of Law, Department of Islamic Law  
Depok, West Java  
16424  
Indonesia

e-mail: aliflanya.maghfirah@ui.ac.id, diny.arista@ui.ac.id, nurindah.hilimi@ui.ac.id  
telephone: +62 811 1856 985, +62 877 7557 5114, +62 815 8421 2437

## **Abstract**

*Restorative Justice is an approach where victims, offenders, and community who are involved and/or affected by crime put real efforts to heal the harm and put things right after the crime has been committed. In Islamic Criminal Law, there is a form of criminal cases settlement which is in accordance with the concept of restorative justice: Sulh. Sulh or conciliation (amicable settlement) is a method in which victims and offenders are allowed to arrange peace to each other in the case of the substitution of punishment for offenders. Indonesian criminal justice system has not yet fully acknowledged the existence of this method, but the implementation of restorative justice has already been developed by indigenous peoples in many areas in Indonesia. Criminal cases settlement through conciliation is very suitable for Indonesian people that uphold deliberations. Thus, the implementation of Sulh as the form of criminal cases settlement without litigation could be a great solution for particular criminal cases that happens in Indonesia.*

**Keywords:** *Sulh; Restorative Justice; Crime; Islamic Criminal Law;*

---

---

## **1. Introduction**

Law enforcement process in Indonesia that is set out in Criminal Procedure Law would create a sense of justice and legal certainty if the legal substance, the legal structure, and the legal culture is applied in such integrated way.

In general, the criminal cases in Indonesia are settled through litigation (through courts) or known as 'in-court settlement.' Once again, the aim of this settlement is to achieve justice, legal certainty, and also purposiveness.<sup>1</sup> These three things happens to be the goals of law that law makers and also the society hope to achieve from law enforcement. But in fact,

---

<sup>1</sup> Purposiveness, justice, and legal certainty are the three general percepts stated by Gustav Radbruch (a legal philosopher) to complete the concept of law. See HEATHER LEAWOODS, "Gustav Radbruch: An Extraordinary Legal Philosopher," *Washington University Journal of Law and Policy*, (January 2000), vol. 2:489, p. 493.

the implementation of law enforcement in criminal cases are often unable to fulfill those three things at once.

Speaking of criminal cases settlement, Islam has *sulh* (conciliation) as a method that is different from any conventional methods of criminal cases settlement implemented in Indonesia.<sup>2</sup> This method is ‘a contrario’ with the litigation method, so that *sulh* is known as ‘out-court settlement’ that tries to find the alternative way to settle the case (win-win solution). Nowadays, ‘out-court settlement’ is more familiar in civil cases.

In *sulh* or conciliation, the conflicting parties (the victim(s) and the offender(s)) arrange a mutual agreement so that the case is solved amicably. The other point is that the victim or the heirs of the victim will then get fair compensation for the harm that caused by the offender. This is different from the general criminal cases settlement in which the offender has no right to settle the case amicably once he got arrested. So then, this case will be between the state (represented by the prosecutor) and the accused (the offender). Simply to say, the offender has no chance to negotiate with the victim or the heirs of the victim. For some cases that rely on the report made by the victim, the victim is also unable to conciliate with the offender unless he revokes the report.<sup>3</sup> The point is that by the settlement through litigation, the victim or the heirs of the victim might lose the chance on getting compensation from the offender in which the victim or the heirs of the victim will possibly get if using ‘out-court settlement.’

Basically in the development of Criminal Law, there has been an alternative in the settlement of criminal cases, known as ‘Restorative Justice.’ Restorative Justice is an approach where victims, offenders, and community who are involved and/or affected by crime put real efforts to heal the harm and put things right after the crime has been committed. In restorative justice, the offender is expected to take a real and full responsibility for the harm caused by

---

<sup>2</sup> *Sulh (al-sulh)* in Arabic means termination of a dispute. It is derived from the word ‘saluha’ or ‘salaha’ which means to be good, right, proper, suitable or the process of restoring something. See HANIS WAHED, “Sulh: Its Application in Malaysia,” *IOSR Journal of Humanities and Social Sciences*, vol. 20, issue 6, ver. II (June 2015), p. 71, e-ISSN: 2279-0837, p-ISSN: 2279-0845.

<sup>3</sup> In Indonesia, one of the cases which rely on the report of the victim can be seen in Article 369 Indonesian Criminal Code: (1) *Any person who, with intent to unlawfully benefit himself or another, by threat of slander lebel revelation of a secret forces someone either to deliver any property which wholly or partially belongs to that person or to a third party, or to negotiate a loan or to annul a debt, shall, being guilty of black mail, be punished by a maximum imprisonment of four years; (2) This crime shall not be prosecuted unless upon complaint of the person against whom it has been committed.*

him.<sup>4</sup> Also in restorative justice, the community becomes the part in the healing process from the crime. Different from settlement in court where the main actor is always the accused (the offender), in restorative justice the rights of the aggrieved party (the victim) is also the center in which it has to be restored in order for the victim to obtain the essence of law: justice.

Indonesian criminal justice system has not yet fully acknowledged the existence of this method, but the application of restorative justice has developed in many rural and urban societies where many criminal cases are solved amicably as part of the settlement. Also the settlement of the criminal cases through conciliation as in *sulh* offered by Islamic Criminal Law, are very compatible with the hallmark of Indonesia that uphold the spirit of deliberations in every problem that happens, with the aim that the criminal law is the *ultimum remedium* (last resort) not as a *premium remedium* (prime resort).

## 2. Discussion

### 2.1 Criminal Cases Settlement according to Criminal Law System in Indonesia

Generally in Indonesian Criminal Law, the settlement of criminal cases solved through litigation (through the courts) or known as 'in-court settlement.' In the field of public law such as Criminal Law and Criminal Procedure Law, the law gives validity to law enforcement officers on behalf of the state, to enforce the law according to the rules. The understanding of law enforcement officers today is that all criminal case ought to enter the court, as long as there are valid regulations. The results which are often raised in the litigation process is that there will be the loser and the person who wins, so that litigation process is often referred to 'win-lose solution.'

In Indonesian Criminal Code, criminal provisions on crime against life is set in the book II chapter XIX, which consists of 13 Articles, Article 338 to Article 350. For example on the Articles related to the crime of murder:

Article 338 Indonesian Penal Code on murder: *“The person who with deliberate intent takes the life of another person, shall, being guilty of manslaughter, be punished by a maximum imprisonment of fifteen years.”*

---

<sup>4</sup> This is the principle of reparation: that those who offend should do something to repair the wrong they have done, and in so doing acknowledge the harm they have caused. See EAMONN CARRABINE, et.al., *Criminology A Social Introduction*, (New York: Routledge, 2009), p. 237.

Article 340 Indonesian Penal Code on premeditation murder: “*The person who with deliberate intent and with premeditation takes the life of another person, shall being guilty of murder, be punished by capital punishment of life imprisonment or a maximum imprisonment of twenty years.*”

As seen from the formulation of the articles, the nature of criminal sanctions is retaliation, while the primary goal of criminal sanctions is deterrence,<sup>5</sup> aimed at the offender himself as well as to those who have the potential to become the offender. It also aims to protect people from all forms of crime and educate or repair for the offender.

## **2.2 Criminal Cases Settlement in The Perspective of Islamic Law**

### **2.2.1 The Form of Cases Settlement in Islamic Criminal Law**

'Fiqh Al-Jinayat' (Islamic Criminal Law) is the law that regulates *jarimah* (the crime) and *uqubah* (the punishment). In 'Fiqh Al-Jinayat,' it is also discussed about the settlement of criminal cases viewed from various *jarimah*. 'Fiqh Al-Jinayat' divides crimes into 3 (three) categories: *jarimah hudud* (crimes against God – the punishment is fixed in the Quran and Hadiths); *jarimah qisas-diyat* (crimes against an individual or family – the punishment is equal retaliation in the Quran and the Hadiths); and *jarimah ta'zir* (crimes whose punishment is not specified in the Quran and the Hadiths, and is left to the discretion of the ruler or judge).<sup>6</sup>

---

<sup>5</sup> For Bentham and contemporary thinkers, a distinction is drawn between *individual* and *general* deterrence. Individual deterrence is said to occur when someone finds the experience of punishment so unpleasant that they never wish to repeat the infraction for fear of the consequences. On the other hand, the idea of general deterrence is that offenders are punished not to deter the offenders themselves, but to discourage other potential offenders. See EAMONN CARRABINE, et.al., *Ibid.*, p. 233.

<sup>6</sup> *Hudud* (plural of *hadd*, a “limit” set by God), the contravention of which leads to a prescribed and mandatory penalty. The second, *ta'zir* (chastisement), comprises those crimes not included among the *hudud* because their punishment is discretionary. *Ta'zir* implies the correction or rehabilitation of the culprit; hence, punishment is left to the judge and might vary depending upon who inflicts it and upon whom it is inflicted. The third category, *qisas-diyat* (retribution), is concerned with crimes against the person such as homicide, infliction of wounds, and battery. Punishment by retribution is set by law, but the victim or his next of kin may waive such retribution by accepting blood money or financial compensation (*diyah*) or by forgoing the right altogether. See FARHAT J. ZIADEH, “Criminal Law,” Oxford Islamic Studies, Oxford University Press. Access from <<http://www.oxfordislamicstudies.com/article/opr/t236/e0170>>.

*Quran (Al-Quran)* is the religious text of Islam, which Muslims believe to be a revelation from God. Hadith(s) is a report, story, or tradition about what Muhammad (the historical founder of the Islamic religion) said or did and about he did not say or do. See JUAN E. CAMPO, *Encyclopedia of Islam*, (New York: Facts on File, Inc, 2009), p. 278.

### 2.2.2 The Principles of *Sulh* in Islamic Law

There are three principles that must exist in *sulh*: the disclosure of the truth; there must be the victim(s) (or the heirs of the victim) and the offender(s) as the conflicting parties, while the other is neutral third party to help the conflicting parties communicating to each other and lower the tension; and then *sulh* is a voluntary process without coercion, promoting the balance of rights and obligations. Also, *sulh* or conciliation is conceptually not necessarily erase mistakes that the offender has committed, but the nature is to give the offender commutation.

Revealing the truth is a crucial thing that the offender has to be done. Quran Surah Al-Hujarat verse 6 clearly states how important a truth must be revealed in order not to do injustice to other people.<sup>7</sup> Then, there are two parties that are able to be identified in a process of *sulh*, the conflicting parties and the third party as a *mushlih* (people who conciliate the conflicting parties). Last but not the least, the parties in the conflict are the parties who actually have the interest in it, which is between the victim (or the heirs of the victim) and the offender. *Sulh* is a process of agreement between the parties to get an understanding so that no longer conflict occurs. Therefore, the existence of the victim and the offender is absolute.

There are also specific terms and conditions for the existence of the offender and the victim: The victim in the context of Islamic law is the direct victim, the person harmed or suffer from the crime committed by the offender. Aside from being a direct victim, the victim that is able to perform *sulh* should be in a position to be responsible for his actions, that he is an adult, not in a state of mad, drunk, or in a state of distress or forced. Then, for the offender he must be personally responsible for the crime he had committed, in which if there is no *sulh* then he will be punished according to regulations. In *sulh* it is not allowed to have representations for the offender by other parties. The last one, the *mushlih* role. The *mushlih* here is the independent party who actively assist the settlement between the victim and the offender. The actual position of the *mushlih* in the process of *sulh* is conditional. If in the process of *sulh*, there is a possibility for something worse to happen, such as pressures both from the offender or the victim, then it becomes crucial to have a *mushlih*. Parties that can act as a *mushlih* in *sulh* is not limited whether it is a person or institution. The role of *mushlih*

---

<sup>7</sup> Quran Surah Al Hujarat verse 6: “O believers, if an evildoer comes to you with some news, verify it (investigate to ascertain the truth), lest you should harm others unwittingly and then regret what you have done.” See AHMAD RAMZY, “Perdamaian dalam Hukum Pidana Islam dan Penerapan Restorative Justice Dikaitkan dengan Pembaruan Hukum Pidana di Indonesia,” (Thesis University of Indonesia, Jakarta, 2009), p. 31

himself, from authors perspective, should be performed by judges, so that the decision later will have executorial power. Then, in this process there must also exist the balance between rights and obligations. The victim (or the heirs of the victim) is prohibited to demand the compensation beyond the ability of the offender, the offender himself is also prohibited to delay the payment of compensation or decrease of indemnity or compensation that has been determined. Islam reminds that in the context of society, in solving problems that arise in society should be using the principle of proportionality.<sup>8</sup>

This is the essence of punishment using *sulh* which provides a two-way balanced solution, with a goal of true peace: the loss of the burden of sin for the offender, and the loss of the sense of anguish and resentment for the victim (and his families). Peace is a command from God that should be sought fairly as a grace from God, who loves peace.

### **2.2.3 The Categorization of Crime Allowed to be Settled by *Sulh***

According to the teachings of ‘Hanafi madhhab,’<sup>9</sup> *jarimah qisas* is divided into five categories: intentional murder, quasi-intentional murder, unintentional murder, intentional maltreatment and unintentional maltreatment. This means that crimes which can be replaced with an amicable settlement are heavy crimes.<sup>10</sup>

## **2.3 The Concept of Justice**

### **2.3.1 Retributive and Restitutive Justice towards Restorative Justice**

Retributive justice has several meanings, but are able to be understood as a concept of justice that holding on principles: (1) actors who have the intention of doing several types of crime, generally serious crimes, morally punishable proportionally; (2) intrinsically, morality is good when the legitimized officers do the sentencing to criminals according to the regulations; (3) it can not be morally permissible to deliberately punish innocent people, nor impose disproportionate punishment to criminals.<sup>11</sup>

---

<sup>8</sup> AHMAD RAMZY, *Ibid.*, p. 38.

<sup>9</sup> Derived from the Arabic verb *dhahabal yadhhabu* (lit. went/to go), the verbal noun *madhhab* generally means that which is followed, and more specifically, the opinion or idea that one chooses or adopt. *Madhhab* also means a group of jurists and legists who are loyal to a distinct, integral, and most importantly, collective legal doctrine attributed to an eponym, a master-jurist, so to speak, after whom the school is known to acquire particular, distinctive characteristics. Thus, after the formation of the schools, jurists began to characterized as Hanafi, Maliki, Shafi'i, or Hanbali. See WAEL B. HALLAQ, *The Origins and Evolution of Islamic Law*, (Cambridge: Cambridge University Press, 2005), p. 150-152.

<sup>10</sup> AHMAD HANAFI, *Asas-Asas Hukum Pidana Islam*, (Jakarta: Bulan Bintang, 1986), p. 8.

<sup>11</sup> “Retributive Justice.” Access from <<http://plato.stanford.edu/entries/justice-retributive/>>

Restitutive justice is a rights-based approach to criminal sanctions which views crime as an offense by one individual against the rights of another calling for forced reparations by the criminal (offender) to the victim. This is a sharp departure from the two predominant sanctioning theories-retribution and crime prevention. Rights-based analysts have criticized this approach for fighting to include *mens rea*, or criminal intent into the calculation of sanctions, thereby ignoring the traditional distinction between crime and tort.<sup>12</sup>

The change of paradigm of justice in criminal law is a phenomenon that is being worldwide today, where the paradigm of restorative justice now gets its own special place. International society is more aware of and agree that it is necessary to change the mindset in dealing with criminal cases settlement. The criminal justice system based on retributive justice and restitutive only give the authority to the state (delegated to law enforcement officers: police, prosecutors, judges). The offender and the victim have a little opportunity to deliver a version of justice they want. The state determines the degree of justice for the victim by giving imprisonment to the offender. Not surprisingly, a crime committed by the offender is increasing because in prison they actually received additional knowledge to commit a crime and then recruit others to follow.

In the view of Jim Considine, one of the pioneers of restorative justice from New Zealand, the concept of retributive and restitutive justice, based on punishment and vengeance, is counter productive that it fails to rehabilitate, is expensive and leads people to re-offend very quickly. In restorative justice, the aim is healing for both the victim and the offender.<sup>13</sup>

The comparison among retributive, restitutive, and restorative justice are as follows :

**Table 1 The Comparison among Retributive, Restitutive, dan Restorative Justice**

No.	Differences	Retributive	Restitutive	Restorative
1.	Philosophical Foundation	Achieving justice with a retaliation to the person who	Correcting mistakes by repairing	Forgiveness is the basic in repairing

<sup>12</sup> RANDY BARNETT, "The Justice of Restitution". Access from <<http://www.bu.edu/rbarnett/25amer117.htm>>

<sup>13</sup> GEORGE M. ANDERSON, "Restorative Justice: Interview with Jim Considine." Access from <<http://americanmagazine.org/issue/277/article/restorative-justice-interview-jim-considine>>. See also JIM CONSEDINE, *Restorative Justice: Healing the Effects of Crime*, (Lytelton: Ploughshares Publications, 1995), p. 11.

		caused harm		human relationships.
2.	Ways	Punishment for the offender is equal with the harm he caused.	The victim receives compensation.	The offender regrets the harm he caused, promise not to repeat, and give the victim compensation if needed
3.	Focus	The offender	The victim	The offender and the victim

*Source: Dean E. Peachey, "Restitution, Reconciliation, Retribution: Identifying the Forms of Justice People Desire", in Restorative Justice on Trial: Pitfalls and Potentials of Victim Offender Mediation-Internationa Research Perspectives, eds Messmer, H and Otto, H.U., (Dordrecht: Kluwer Academic Publishers,1992), p. 552 – 553.*

From the table above, it is clear that restorative justice offers a more comprehensive solution for victims and offenders such as awareness-raising actions, forgiveness, recovery of victims and necessary compensation. It is not found in the values of retributive and restitutive justice.

### **2.3.2 Restorative Justice in Criminal Justice System**

Criminal actions are no longer considered as an attack against the state, but it is a crime committed against someone else. Restorative justice is based on the conception of humanity on both sides, the offender and the victim. Restorative process aimed at healing injuries for all parties by the crime. Alternative solutions are explored with a focus on repairing the damage that caused by the crime.<sup>14</sup>

Criminal cases settlement is actually very simple. Applying the elements of restorative justice in settling cases between the victim and the offender, by:<sup>15</sup>

<sup>14</sup> JIM CONSEDINE, *Ibid.*, p. 158.

<sup>15</sup> DS. DEWI and FATAHILLAH A. SYUKUR, *Mediasi Penal: Penerapan Restorative Justice di Pengadilan Anak Indonesia*, p. 34.

1. Organizing the meetings for the conflicting parties (the victim and the offender) and the families that support them;
2. Giving the opportunities for all parties to tell how the crime has happened and proposing solutions or action plans;
3. Giving the offender and his family the opportunity to propose a final solution that can be agreed by all presenting parties, Once they have listened to the opinions of others;
4. Supervising the implementation of the proposal, particularly in regard to the compensation for the victim.

### 2.3.3 Restorative Justice in Laws and Regulations in Indonesia

Based on the fourth principle of Pancasila,<sup>16</sup> decisions are taken by deliberations (prioritizing deliberations in making decisions for the common good). Deliberations to reach consensus filled with a spirit of brotherhood, so that the philosophy of "deliberations" should contains the elements as follows: (1) *conferencing* (meeting to hear each other and express opinions), (2) *search solutions* (finding solutions on the issue that is happening), (3) *reconciliation*, (4) *repair* (fixing for all the consequences arising), and (5) *circles* (mutual support).<sup>17</sup> These principles are exactly as required and be the keywords in the conception of restorative justice so that any constitutional basis of restorative justice find its feet.

In recent developments, the conception of restorative justice have started to be introduced in the Draft Law on Indonesian Criminal Code as well as the positive criminal Code in Indonesia. The principle of restorative justice is applied in juvenile criminal justice system in Indonesia, as contained in Article 8 of Act No. 11 of 2012 on Juvenile Criminal

---

<sup>16</sup> Pancasila is the official philosophical foundation of the Indonesian state. Pancasila consists of two Old Javanese words (originally from Sanskrit) which means five principles. It comprises five principles held to be inseparable and interrelated:

1. Belief in the one and only God (in Indonesian, *Ketuhanan Yang Maha Esa*).
2. Just and civilised humanity (in Indonesian, *Kemanusiaan Yang Adil dan Beradab*).
3. The unity of Indonesia (in Indonesian, *Persatuan Indonesia*).
4. Democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives (in Indonesian, *Kerakyatan Yang Dipimpin oleh Hikmat Kebijaksanaan, Dalam Permusyawaratan dan Perwakilan*).
5. Social justice for all of the people of Indonesia (in Indonesian, *Keadilan Sosial bagi seluruh Rakyat Indonesia*).

<sup>17</sup> KUAT PUJI PRAYITNO, "Restorative Justice untuk Peradilan Pidana di Indonesia (Perspektif Yuridis Filosofis dalam Penegakan Hukum *In Concreto*," *Jurnal Dinamika Hukum* Vol. 12, No. 3 (September 2013). Access from <<http://fh.unsoed.ac.id/sites/default/files/fileku/dokumen/JDH2012/JDHSeptember2012/3.pdf>>

Justice System.<sup>18</sup> This conception of restorative justice, it is not impossible in the future to be applied more widely in criminal laws and regulations in Indonesia.

### ***2.3 Compatibility of The Implementation of Conciliation in Islamic Criminal Law in the Context of Law in Indonesia***

In reality within the society, the practice of conciliation between the victim and the offender done not only in violation of Adat Law but the Criminal Law in general as well. Resolution of conflict in amicable way is the cultural value owned by Indonesian society, as stated by Daniel S. Lev cited by Wukir Prayitno that the legal culture in Indonesia in resolving the conflict has its own characteristics due to its cultural values. Maintaining peace is a commendable effort, so that it can solve the conflict in the form of compromise.<sup>19</sup>

In Indonesian Adat law, regulation concerning the judge of peace set in Article 3 *Reglement op de Rechterlijke Organisatie en het Beleid der Justitie* (Regulation on the Composition of The Judiciary and Court Policy). There are still many indigenous peoples in Indonesia who use this system.

The values in society that upholds peace is the law that lives in society and the law that lives in society is the real law. The Law that lives in society should be explored through legal discovery (*rechtsvinding*) by judges. Adat Law as the unwritten law can also be a source of law.

The aspects of criminal law in the teachings of Islam which currently a discourse for the criminal law reform in Indonesia is an absolute thing, it is expressed by Dr. Abdul Gani Abdullah, S.H., in his writing. According to him, there are three things that become the basis for it:

1. Philosophical, a substantial injection of normative aspects of Islamic teachings produce epistemological attitudes which give great contribution to the growth of the outlook on life, the ideal of morality and the ideal of law in socio-cultural life of the people of Indonesia.

---

<sup>18</sup> Article 8 Act No. 11 of 2012: “(1) Diversion process done through consultations involving children and parents/guardians, the victim and/or parents/guardians, Supervising Social and Professional Social Worker based approach Restorative Justice; (2) If necessary, consultations referred to in section (1) may involve the power of Social Welfare, and/or community; (3) Diversion process shall take into account: a. the interests of victims, b. child welfare and responsibilities, c. avoidance of negative stigma; d. avoidance of retaliation; e. harmonious society, f. propriety, morality, and public order.”

<sup>19</sup> ALEF MUSYAHADAH, “Kedudukan Perdamaian Antara Korban dengan Pelaku Tindak Pidana dalam Sistem Pidana”, (Thesis University of Diponegoro, Semarang, 2005), p. 1.

2. Sociological, histories of Indonesian Islamic community showed that ideals and legal awareness in the life of Islam have a sustainable level of actuality.
3. Juridicial, Indonesian legal history is very deep with religious substances that finally give a characterization of the nation of Indonesia.<sup>20</sup>

### 3. Conclusion

Speaking of criminal law reform in Indonesia, it has a close relation to the purpose of criminal punishment. It is not easy to find out the purpose of criminal punishment explicitly from the Indonesian Criminal Code. Thus, the attempt to see the purpose of criminal punishment are able to be done by analyzing other regulations or law doctrines. As in the previous discussion, the tendency of using retributive justice is still high in Indonesia, although the use of restorative justice is much more in line with the concept of justice in Indonesian society. It is also in line with the implementation of criminal cases settlement using *sulh* as in Islamic Criminal Law. The concept of *sulh* that is offered by the Islamic Criminal Law has a good prospect for Indonesian criminal law reform, for in the case of murder, for example, it is much more fair if families of the victim receive compensation for the harm caused by the offender, instead of punished in prison for years. It will also be a great idea if the concept *sulh* becomes the source in the draft of Indonesian Criminal Code and Indonesian Code of Criminal Procedure (Act No. 8 of 1981).

### References

- [1] ACT NO. 11 OF 2012 ON JUVENILE CRIMINAL JUSTICE SYSTEM
- [2] ANDERSON, GEORGE M. "Restorative Justice: Interview with Jim Consedine." Access from <<http://americanmagazine.org/issue/277/article/restorative-justice-interview-jim-consedine>>.
- [3] BARNETT, RANDY. "The Justice of Restitution." Access from <<http://www.bu.edu/rbarnett/25amer117.htm>>
- [4] CAMPO, JUAN E. *Encyclopedia of Islam*. New York: Facts on File, Inc, 2009.
- [5] CARRABINE, EAMONN. Et. Al. *Criminology A Social Introduction*. New York: Routledge, 2009.
- [6] CONSEDINE, JIM. *Restorative Justice: Healing the Effects of Crime*. Lyttelton: Ploughshares Publications, 1995.
- [7] DEWI, DS. and FATAHILLAH A. SYUKUR. *Mediasi Penal: Penerapan Restorative Justice di Pengadilan Anak Indonesia*.
- [8] HALLAQ, WAEL B. *The Origins and Evolution of Islamic Law*. Cambridge: Cambridge University Press, 2005.
- [9] HANAFAI, AHMAD. *Asas-Asas Hukum Pidana Islam*. Jakarta: Bulan Bintang, 1986.

---

<sup>20</sup> USAMMAH, "Pertanggungjawaban Pidana dalam Perspektif Hukum Islam", (Thesis University of North Sumatera, Medan, 2008), p. 73.

- [10] INDONESIAN CRIMINAL CODE
- [11] INDONESIAN CODE OF CRIMINAL PROCEDURE. ACT NO. 8 OF 1981.
- [12] MUSYAHADAH, ALEF. "Kedudukan Perdamaian Anantara Korban dengan Pelaku Tindak Pidana dalam Sistem Pemidanaan." Thesis University of Diponegoro, Semarang, 2005.
- [13] PEACHEY, DEAN E. "Restitution, Reconciliation, Retribution: Identifying the Forms of Justice People Desire." *Restorative Justice on Trial: Pitfalls and Potentials of Victim Offender Mediation-Internationa Research Perspectives*. Dordrecht: Kluwer Academic Publishers, 1992.
- [14] PRAYITNO, KUAT PUJI. "Restorative Justice untuk Peradilan Pidana di Indonesia (Perspektif Yuridis Filosofis dalam Penegakan Hukum *In Concreto*," *Jurnal Dinamika Hukum* Vol. 12, No. 3 (September 2013). Access from <<http://fh.unsoed.ac.id/sites/default/files/fileku/dokumen/JDH2012/JDHSeptember2012/3.pdf>>
- [15] RAMZY, AHMAD. "Perdamaian dalam Hukum Pidana Islam dan Penerapan Restorative Justice Dikaitkan dengan Pembaruan Hukum Pidana di Indonesia." Thesis University of Indonesia, Jakarta, 2009.
- [16] "Retributive Justice." Access from <<http://plato.stanford.edu/entries/justice-retributive/>>
- [17] USAMMAH." Pertanggungjawaban Pidana dalam Perspektif Hukum Islam." Thesis University of North Sumatera, Medan, 2008.
- [18] WAHED, HANES. "Sulh: Its Application in Malaysia." *IOSR Journal of Humanities and Social Sciences*, vol. 20, issue 6, ver. II (June 2015), pp. 71-79. E-ISSN: 2279-0837, P-ISSN: 2279-0845.
- [19] ZIADEH, FARHAT J. "Criminal Law." *Oxford Islamic Studies*. Oxford University Press. Access from <<http://www.oxfordislamicstudies.com/article/opr/t236/e0170>>.