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REVIEW OF JOHN RAWLS' THEORY OF JUSTICE IN PENAL MEDIATION AS A SETTLEMENT FOR MINOR OFFENSES AT *AL-ISHLAH* MALE ISLAMIC BOARDING SCHOOL, MALANG

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Abstract

This study examines the resolution of minor criminal offenses committed by students at Pondok Pesantren Putra Al-Ishlah, Singosari, Malang, through penal mediation, analyzed within the framework of John Rawls' theory of justice. Offenses such as petty theft, verbal insults, and minor vandalism are addressed internally through restorative measures rather than formal legal proceedings. Employing a qualitative field research approach, data were collected through interviews with pesantren administrators and teachers, along with the analysis of documented cases from 2020 to 2024. The pesantren applies restorative and educational sanctions, such as Qur'an recitation, performing the call to prayer, or repairing damaged property while engaging offenders, victims, and guardians in a deliberative mediation process. The findings demonstrate that this approach embodies Rawls' two key principles of justice: the assurance of equal basic liberties and the application of the difference principle in promoting fairness. Penal mediation at the pesantren functions not only as a deterrent to future

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misconduct but also as a means of reconciliation and moral development, reinforcing community cohesion. This culturally grounded model of restorative justice offers an alternative framework for addressing juvenile misconduct in educational institutions, illustrating the practical integration of moral philosophy, disciplinary methods, and character education in a faith-based setting.

Keywords: Islamic Boarding School; Minor Offenses; Penal Mediation; Restorative Justice; Rawlsian Theory of Justice

INTRODUCTION

Pesantren emerged and developed alongside the arrival of Islam in Java, making it an integral part of the history of education in Indonesia. It established a strong connection between knowledge and religious values (Fadilah et al., 2023). The life system within pesantren resembles that of society at large. Pesantren have a set of rules that must be followed, similar to laws enacted by the government. In fact, their enforcement and implementation are often stricter and more controlled due to the smaller scope of the community. These regulations are established by the management with the consent of the kyai (pesantren leader). All students (santri) are informed of these rules, and any violations are subject to disciplinary action. In recent times, there has been a rise in criminal acts within pesantren environments, ranging from minor to serious offenses such as bullying, assault, and theft. One tragic case involved a 13-year-old student at AKPW who died after allegedly being bullied by a senior student, identified by the initial G, at a pesantren located in Grogol District, Sukoharjo Regency, Central Jawa (Abrori, 2024). Subsequently, a female student (santriwati) from East Nusa Tenggara Province, identified by the initials NI, was in critical condition and required hospitalization after being subjected to bullying by one of her peers (Farhan Faris & Zulfikar, 2024).

Ideally, a pesantren should serve as a safe and comfortable environment for teaching and learning, free from concerns over criminal acts or rule violations. However, Pondok Pesantren Putra Al-Ishlah in Singosari, Malang, has experienced incidents of minor criminal offenses committed by students almost every year, one of which is theft. In one case, a student identified by the initials GAS repeatedly stole money from his roommate. The resolution process for criminal acts within pesantren environments is generally handled

internally, particularly when the offenses are considered minor, thus avoiding the involvement of external parties. However, if the offense is deemed serious, the case must be resolved with the involvement of outside authorities, such as the police. In this pesantren, disciplinary actions are imposed on students based on punishments agreed upon through deliberation among the pesantren administrators. Such deliberations are necessary because the existing rules do not yet contain specific provisions for sanctions against students who commit minor criminal acts. So far, the approach has been to conduct discussions involving the victim's family, the offender, and the pesantren management in order to reach a resolution or compensation agreement regarding the minor offense (A. Arif, personal communication, 17 November 2024). This process is referred to in legal terms as penal.

Through mediation, the victim's family, the offender, and community figures can be brought together to seek the best possible solution for all parties involved. This approach is not only intended to punish the offender, but also to restore social relationships between the offender, the victim, and the surrounding community. Thus, penal mediation serves as an effective means of repairing the harm caused by criminal acts and fostering peace within society (Sudarsono, 2015). The ultimate goal of penal mediation is to achieve restorative justice. Both the concepts of restitutive and restorative justice essentially share the same objective realizing legal justice (Sukardi & Purnama, 2022).

Based on the aforementioned explanations, the author believes that this research is necessary, with a focus on examining the reality of how minor criminal offenses committed by students at Pondok Pesantren Putra Al-Ishlah are resolved. This issue needs to be further analyzed through the lens of John Rawls' theory of justice, particularly in regard to the resolution process and whether it aligns with the objectives of the theory. According to the author, the recurring incidents within the pesantren environment deserve attention, especially concerning the resolution mechanisms, which should aim toward a win-win solution. Such an approach would allow the students to continue their educational activities effectively, despite the challenges posed by minor delinquent behavior among the santri.

A comparative study relevant to this research is titled *"Asas Kemasalahatan dalam Penyelesaian Tindak Pidana Perundungan oleh Santri Berdasarkan Maqashid Syariah"* written by Ilham Lahiyah, Fauzan Muhammadi, et al. (Lahiyah et al., 2023). The focus of this paper is to specifically examine the resolution of bullying-related criminal acts that occur within the pesantren environment. This resolution process is then analyzed through the perspective of

maqashid shariah, or the objectives of Islamic law. Furthermore, there is a study entitled *"Perlindungan Hukum Terhadap Santri Atas Tindakan Bullying Di Pondok Pesantren Darul 'Ulum Jombang"* written by Mohd Fariz Saputra, Moh. Muhibbin, Sunardi (Saputra & Muhibbin, 2024). This study serves as a relevant comparison, especially in exploring the extent to which legal mechanisms are enforced within Islamic boarding schools to safeguard students' rights. Subsequently, there is a study entitled "Penerapan Ta'zir dalam Membentuk Karakter Kedisiplinan Santri di Pondok Pesantren Babakan Jamanis" written by Fitri Syifa Nuriah (Nuriah, 2023). The focus of this study is on the impact of ta'zir (disciplinary punishment) on students who violate pesantren regulations. The implementation of ta'zir aims to improve students' character and prevent them from continuing undesirable or unethical behavior patterns. The difference between this study and the aforementioned research lies in the specific criminal act that becomes the focus of analysis. There are also distinctions in terms of research object and location. The present study focuses on minor criminal offenses as a whole and their resolution through penal mediation, which is then analyzed using John Rawls' theory of justice. This research is conducted at Pondok Pesantren Al-Ishlah, Singosari, Malang.

METHODS

The type of research employed in this study is field research, also referred to as empirical legal research. This approach views law as a social phenomenon that exists within real-world society. It involves direct engagement in the field to obtain information sources that are qualified as primary data (Qamar, 2020). This research was conducted at Pondok Pesantren Al-Ishlah Putra, Singosari, Malang. A qualitative approach was employed in this study. Qualitative research aims to understand phenomena experienced by research subjects, such as behaviors, perceptions, motivations, actions, and other related aspects (Yusuf, 2014).

The sources of empirical legal data are derived from field data. Field data refers to information obtained from respondents and informants, including experts who serve as key resource persons (Muhaimin, 2020). Data collection in this study was conducted through interviews with respondents in the field (Muhammad, 2004). Semi-structured interviews were used, with questions designed based on pre-established themes. The purpose of the interviews was to gain an in-depth understanding of a particular phenomenon (Fransisca Tungka, 2024). In this case, the interviewees were administrators and teachers at Pondok

Pesantren Al-Ishlah, Singosari, Malang. In addition to interviews, documentation was also employed as a method of data collection. This involved gathering, recording, and documenting files or research results related to the study (Saifullah, 2018).

Table 1: Informant Data

No.	Informants' Names	Positions of Informants
1.	Ahmad Arif	Head of the Pesantren Board
2.	Ahmad Reza Dimas Maulana	Disciplinary Officer of the Pesantren Board
3.	Muhammad Azka Syauqillah	Secretary of the Pesantren Board
4.	Muhammad Muhyidin	Treasurer of the Pesantren Board
5.	Moh. Hariri	Sanitation Officer of the Pesantren Board
6.	Khoirul Ahsanan	Pesantren Instructor
7.	Uinnuha Abdurrahman	Pesantren Instructor

RESULTS

Minor Criminal Offenses Committed by Students of Pondok Pesantren Putra Al-Ishlah within the Pesantren Environment

Pesantren are Islamic educational institutions that represent a unique subculture within Indonesian society. They have played a significant role in national intellectual development for generations and continue to do so today. The primary goal of education in pesantren is to instill the understanding that learning is both an obligation and a form of devotion to God. As educational institutions, pesantren bear a major responsibility in shaping the character of their students (santri) (Dhofier, 1981). Pesantren serve not only as centers of learning, but also as moral and spiritual guides that nurture generations with a deep understanding of both religion and life (Sirodj, 2006). From a methodological perspective, pesantren can be classified into three categories: the first consists of pesantren that rely solely on traditional methods in teaching classical Islamic texts; the second includes those that fully adopt methods aligned with formal education systems; and the third category comprises pesantren that combine traditional approaches with adaptations of educational methods commonly used in formal institutions (Hidayat, 2016).

The educational and instructional models in Islamic boarding schools (pesantren) are closely linked to the type and characteristics of each institution. Most pesantren in Indonesia apply a traditional system of education in their learning processes. One such traditional

pesantren is the Al-Ishlahiyah Islamic Boarding School Foundation (Yayasan Pondok Pesantren Al-Ishlahiyah), with the official registration number (NSPP) 512350725403. It is located at Kramat No. 46, Pagentan Subdistrict, Singosari District, Malang Regency, East Java. The pesantren was established in 1955 on a 5,049 m² plot of land and was officially registered through notary EH Wijaya in 1983 under the document number 171/YPP/YYF/III/1983. The number of students (santri) at this pesantren has steadily increased over the years. The foundation was founded by the late KH. Kholil Mahfudz, and the male boarding school (pondok pesantren putra) is currently led by KH. Agus Ahmadi Fathul Wahab, Lc. (Fathurrahman, 2017). The educational methods implemented in pesantren are generally determined by the policies of the kiai (Islamic cleric), based on his personal preferences. From a methodological standpoint, pesantren can be classified into three categories: the first includes pesantren that apply purely traditional methods in teaching classical Islamic texts; the second comprises those that fully adopt methods aligned with formal education systems; and the third category includes pesantren that combine traditional methods with adaptations of the educational practices commonly found in formal institutions (Hidayat, 2016).

In any social setting, including within pesantren environments, there will inevitably be actions that deviate from established rules. Juvenile delinquency often emerges and can have a negative impact on the teaching and learning environment in pesantren. Such actions may in fact be categorized as criminal offenses, as they involve violations of legal or institutional regulations, whether intentional or not. Criminal law experts generally still consider mens rea (fault or culpability) as part of the definition of a criminal offense, although some distinguish it as a separate element (Hakim, 2019). According to Moeljatno, criminal law is a part of the overall legal system that applies within a country. It establishes the fundamental principles and regulations that determine which actions are prohibited, along with the corresponding threats or sanctions in the form of specific punishments for those who violate such prohibitions. Furthermore, it defines the circumstances under which individuals who have committed such violations may be subjected to or imposed with the prescribed punishments. Lastly, it outlines the procedures for how such punishments may be enforced when someone is suspected of having breached the prohibitions (Moeljatno, 2015).

Moeljatno states, "A criminal act refers solely to the nature of the act itself, namely, its prohibited nature accompanied by the threat of punishment if violated." Moeljatno also states: "A criminal act is an act that is prohibited by a legal rule, the prohibition of which is

accompanied by a threat (sanction) in the form of a specific punishment for anyone who violates it. It can also be said that a criminal act is an act that is prohibited and punishable under a legal rule, provided that it is understood that the prohibition applies to the act itself (namely, a condition or event caused by a person's conduct), whereas the criminal sanction is directed toward the person who caused that event" (Moeljatno, 2015).

In criminal law, the elements of a criminal offense constitute the conditions that determine whether a person's act can be subjected to punishment. These elements include various aspects such as a human act that conforms to the statutory definition of a crime, is unlawful in nature, and involves an individual who commits the act with a degree of culpability. These elements encompass a human action that fulfills the statutory formulation, is in violation of the law, and includes fault or blameworthiness on the part of the perpetrator (Akmal, 2024). According to M. Yahya Harahap in Examination in Court Hearings, Appeals, Cassation, and Judicial Review, minor criminal offenses (tindak pidana ringan) are classified as a type of criminal act that falls under the procedure for the summary examination of minor offenses (Harahap, 2009). However, Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP) does not explicitly define which offenses fall under the category of minor criminal offenses for summary examination procedures. Nevertheless, KUHAP provides a benchmark in terms of "the severity of the threat of punishment." This is explained in Article 205 paragraph (1) of KUHAP, which states that minor offenses are cases punishable by imprisonment or detention for a maximum of three (3) months and/or a fine of up to Rp. 7,500 (seven thousand five hundred rupiahs); this includes minor acts of insult, except those specified in Paragraph 2 of this section. Based on the above definition of minor criminal offenses, the researcher identified several types of minor offenses occurring in Islamic boarding schools (pesantren), which are regulated in the Indonesian Criminal Code (KUHP), as follows:

Disturbing public order, this type of behavior also occasionally occurs within the pesantren environment. This offense is regulated under Article 172 of the Indonesian Criminal Code (KUHP), which states: "Anyone who intentionally disturbs public peace by shouting or making false signs of danger shall be punished with imprisonment for a maximum of three weeks or a fine of up to Rp. 900 (nine hundred rupiahs)." Between the years 2020 and 2024, there were four cases recorded in the pesantren that fell under this category of minor criminal offense related to disturbing public order (A. R. D. Maulana, personal communication, 17 November 2024). The first case involved a student with the initials MF,

who was joking with a roommate in the middle of the night, causing a disturbance that prompted complaints from nearby residents affected by the noise. The second case involved a group of students playing football on the pesantren field after 10:00 PM, claiming they were unable to sleep. This activity disrupted most of the pesantren residents as well as neighboring households. The third incident was committed by a student with the initials MNA, who shouted loudly after 10:00 PM in an attempt to call out to another student in a different dormitory room. The fourth case was similar in nature but involved the use of offensive language, committed by a student with the initials MM.

Negligently losing or concealing confiscated items, such incidents are not uncommon within the pesantren environment. This offense is regulated under Article 231 paragraph (4) of the Indonesian Criminal Code (KUHP), which states: "If such an act is committed due to negligence in storing confiscated items, the offender shall be subject to imprisonment for a maximum of one month or a fine of up to Rp. 1,800 (one thousand eight hundred rupiahs)." Between 2020 and 2024, there were seven cases classified as minor criminal offenses related to the negligent loss or concealment of confiscated items (M. A. Syauqillah, personal communication, 17 November 2024). All seven of these cases involved the same type of offense—namely, the concealment and unauthorized retrieval of confiscated mobile phones. Electronic devices such as mobile phones are prohibited within the pesantren, yet in several instances, students secretly took and hid these confiscated items. These seven cases occurred at different times throughout the 2020–2024 period and were committed by students with the initials HTH, NK, MAF, MN, MFA, IP, and MI.

Minor Insults, are commonly found in various settings, including within the pesantren environment. This offense is regulated under Article 315 of the Indonesian Criminal Code (KUHP), which states: "Any intentional insult that does not constitute defamation or written defamation, committed against a person whether publicly through speech or writing, directly to the person verbally or through actions, or by letter addressed or delivered to that person—shall be punishable as a minor insult with imprisonment for a maximum of four months and two weeks or a fine of up to Rp. 4,500 (four thousand five hundred rupiahs)." From 2020 to 2024, there were four cases classified as minor criminal offenses involving minor insults (M. Muhyiddin, personal communication, 17 November 2024). These four cases share a similar pattern but were committed by different individuals at different times. The acts of insult typically involved mockery among fellow students, which escalated into disputes. It often began with name-calling using derogatory nicknames and progressed to addressing each other

by using their fathers' names in a mocking manner. These incidents involved several students with the initials MNA, MR, AN, and MBF.

Defamation in writing, A similar incident occurred in the pesantren environment between 2020 and 2024. This is in accordance with Article 321 paragraph (1) of the Indonesian Criminal Code (KUHP), which states: "Anyone who disseminates, displays, or posts in public any writing or picture containing an insult, or defames the name of a deceased person, with the intention that the contents of the letter or picture become known or more widely known to the public, shall be punished with imprisonment for a maximum of one month and two weeks or a fine of up to Rp. 4,500 (four thousand five hundred rupiah)." Between 2020 and 2024, there were five cases classified as minor criminal offenses of insult through writing (Moh. Hariri, personal communication, 17 November 2024). Of the five cases, three were committed by students against fellow students, all involving the same action: scribbling on lockers with mocking phrases and writing the names of parents on lockers and desks as a form of ridicule. The other two cases were committed by students against the pesantren administrators. The first case involved a student with the initials MB, who scribbled on the walls of the pesantren, particularly in almost all the bathrooms, with insulting remarks directed at the administrators. The second case, also similar, was committed by students with the initials MB and HS, who wrote rebellious and insulting phrases about the pesantren administrators on the dormitory doors. Essentially, these actions were driven by the students' disappointment after receiving ta'zir (disciplinary punishment) for not performing congregational prayers. Since the administrators imposed sanctions on students who failed to attend such activities, these acts were an expression of the students' frustration toward the administrators.

Minor Assault, although considered a minor offense, frequently occurs among students in Islamic boarding schools (pesantren). This is in accordance with Article 352 of the Indonesian Penal Code, which states: "Assault that does not cause illness or an impediment to carrying out work, official duties, or occupation, is punishable as minor assault, with imprisonment of up to three months or a maximum fine of IDR 4,500 (four thousand five hundred rupiah)." Between the years 2020–2024, there were five cases categorized as minor assault among students at the pesantren (A. Arif, personal communication, 17 November 2024). Some of these incidents involved physical assaults committed by fellow students, resulting in minor injuries. The assaults were often triggered

by annoyance or irritation due to joking among students. These acts were carried out by students with the initials MH, MA, MR, AA, and SZF.

Petty theft, although it may seem unlikely to occur in an educational environment, is not entirely avoidable. Such incidents have also occurred in the pesantren, and this is in accordance with Article 364 of the Criminal Code: "The acts described in Article 362 and Article 363 point 4, as well as those described in Article 363 point 5, if not committed in a house or enclosed yard that has a house, and if the value of the stolen goods does not exceed Rp. 25 (twenty-five rupiah), are punishable as petty theft with a maximum imprisonment of three months or a maximum fine of Rp. 250 (two hundred and fifty rupiah)."From 2020 to 2024, there were 10 cases categorized as petty theft in the pesantren (K. Ahsanan, personal communication, 17 November 2024). Six of the theft cases involved money theft, committed by AP, MHA, MD, and GAS (the latter involved in three incidents). Two cases involved the theft of clothes and jackets, committed by MF and MR. Another case involved the theft of food, committed by MB, who broke into the victim's locker. All of these incidents shared a similar motive: envy, as the victims were perceived to have better clothes or more food. Meanwhile, the money theft cases were motivated by the perpetrators running out of pocket money due to frequently spending on non-essential items, such as branded clothing and excessive visits to internet cafés.

Minor Fraud, incidents have also occurred within the pesantren environment, and such acts fall under the provisions of Article 379 of the Indonesian Penal Code, which states: “If the goods involved are not livestock and the value of the goods, debt, or credit does not exceed Rp. 25 (twenty-five rupiahs), the act is considered minor fraud and is punishable by a maximum imprisonment of three months or a maximum fine of Rp. 250 (two hundred fifty rupiahs).” Between 2020 and 2024, there were three reported cases classified as minor fraud within the pesantren setting (U. Abdurrahman, personal communication, 17 November 2024). The perpetrators of these acts were students with the initials GAS, HTH, and MNA. All three were involved in similar cases where they used school and pesantren tuition fees (SPP) provided by their parents for personal needs, such as going to internet cafes (warnet), buying cigarettes, and other non-essential items. The motive was similar to the previous minor theft cases, though the source of the money differed in these cases, it was intended for tuition payments. As a result, there was conflict between the pesantren administrators and the students’ guardians, who believed they had already fulfilled their financial obligations, while in reality, the tuition fees remained unpaid due to the misuse of funds by the students.

Minor Vandalism (Penerusakan Ringan) occurred within the pesantren environment due to various causes. This type of act is regulated under Article 407 paragraph (1) and Article 497 of the Indonesian Penal Code (KUHP). Article 407 paragraph (1) states: "If the damage caused results in a loss of no more than Rp. 25 (twenty-five rupiahs), the offender shall be punished with imprisonment for a maximum of three months or a fine not exceeding Rp. 250 (two hundred and fifty rupiahs)." During the period 2020–2024, there were 5 cases classified as minor vandalism that took place in the pesantren (A. Arif, personal communication, 17 November 2024). The first case is the destruction of a room's window glass caused by a ball. This happened because they were playing soccer in front of the room, and it hit the glass, committed by students with the initials MRR, MR, MR. The second case is the destruction of a bathroom door by MA, motivated by mischief, intending to startle a friend inside the bathroom by kicking the door. The third case is the burning of a student's wardrobe carried out by MHA, triggered by an argument with the victim, then the perpetrator vented by setting the victim's wardrobe on fire. The fourth case is the destruction of CCTV by MB, MH, MAP, motivated by discomfort with being watched by the CCTV. In fact, the purpose of installing CCTV by the pesantren was to monitor if theft or other incidents occur. The fifth case is the destruction of roof tiles stacked in the yard, committed by students with the initials MAF, SS, MF. The reason behind this destruction was to test their strength after taekwondo training.

From the eight types of minor criminal offenses mentioned above, several violations committed by students can be categorized as minor offenses. These violation cases were obtained through semi-structured interviews conducted by the researcher with several administrators and teachers at the Al-Ishlah Male Islamic Boarding School in Singosari, Malang. The records of violations from 2020 to 2024 that can be classified under minor criminal offenses are as follows:

Table 2: Number of Minor Criminal Offense Cases

No.	Type of Minor Criminal Offense	Number of Cases
1.	Disturbing Public Order	4
2.	Negligence in Losing or Concealing Seized Items	7
3.	Minor Insult (Light Defamation)	4
4.	Defamation in writing	5
5.	Minor Assault	5
6.	Petty Theft	10
7.	Petty Fraud	3
8.	Minor Vandalism	5

DISCUSSION

A Theoretical Review of John Rawls' Theory of Justice on the Resolution of Minor Criminal Offenses through Penal Mediation at Pondok Pesantren Putra Al-Ishlah

From the many cases that occurred in the pesantren, the administrators and teachers at Pondok Pesantren Putra Al-Ishlah imposed punishments on the perpetrators of acts that could be classified as minor criminal offenses. These punishments were intended to serve as a deterrent, but also carried an educational purpose for the betterment of the students. Such measures included:

Disturbing public order, students who committed this violation were punished by being required to perform the adzan (call to prayer) for two consecutive weeks. This punishment was considered to not only serve as a deterrent but also to have educational value for the student. However, if the student failed to carry out the punishment, a heavier sanction would be imposed. Then, for negligence in losing or hiding confiscated items, the student was punished by being required to read one juz of the Qur'an in the pesantren courtyard every night for one week after daily activities, under the supervision of the administrators. This punishment was both educational and effective as a deterrent, as not all students were able to complete such a task (K. Ahsanan, personal communication, 17 November 2024).

Minor Insult (Penghinaan Ringan), students who committed this violation were punished by being required to perform the adzan (call to prayer) for two consecutive weeks and clean the courtyard every afternoon for two weeks under the supervision of the administrators. This punishment was considered not only beneficial for the student involved but also for all students, as it helped maintain a clean and orderly environment in the pesantren (Moh. Hariri, personal communication, 17 November 2024). Then, insults in written form, students who committed this violation were punished by being required to write Surah Yasin three times under the supervision of the administrators and were obligated to remove any traces of the offensive writings as a form of taking responsibility (M. A. Syauqillah, personal communication, 17 November 2024).

Minor Assault: Students who committed this violation were punished by being required to perform the adhan (call to prayer) for three consecutive weeks and clean the yard every afternoon for three weeks under the supervision of the administrators. The perpetrators would gradually come to regret their actions as the disciplinary process progressed (A. R. D. Maulana, personal communication, 17 November 2024). Minor Theft: Students who

committed this violation were punished by being required to perform the adhan (call to prayer) and mop the corridors of the pesantren and the prayer hall (musholla) every day for three consecutive weeks under the supervision of the administrators (M. Muhyiddin, personal communication, 17 November 2024).

Minor Fraud: Students who committed this violation were punished by being required to recite Surah Yasin three times in the pesantren courtyard under the supervision of the administrators (A. Arif, personal communication, 17 November 2024). Minor Vandalism: Students who committed this violation were required to replace or repair the damaged property and were punished by being assigned to mop the pesantren hallways and prayer room (mushola) every day for three consecutive weeks, under the supervision of the administrators (A. Arif, personal communication, 17 November 2024).

In addition to the punishment imposed, the pesantren administrators also summoned the students' parents or guardians to conduct a penal mediation, as the students' actions had caused material loss or damage. The resolution of such cases through a restorative justice approach reflects the aim to restore what has been harmed or lost due to the criminal act, and to provide compensation to the victim based on an agreement mutually reached by all involved parties (Bawono & Glaser, 2024).

tymologically, the term mediation originates from the Latin word "mediare", which means to be in the middle. It also comes from the English word "mediation", which refers to a dispute resolution process involving a mediator who acts as a neutral third party. The mediator helps the disputing parties to find a peaceful solution that is beneficial to all parties, commonly known as a "win-win solution" (Usman, 2013). The term restorative justice is a foreign terminology that began to be recognized in Indonesia since the 1960s (Anugrah & Sudiro, 2023). From a historical perspective, penal mediation has long been known as a part of local wisdom in Indonesia, deeply rooted in customary law and based on religious values (Lesmana, 2019).

Penal mediation is an innovation within the legal system implemented by law enforcement authorities by adopting a restorative justice approach, with the aim of resolving cases peacefully and restoring the losses arising from the criminal act (Akmal, 2024). The purpose of penal mediation is to achieve restorative justice. Literally, restorative justice can be understood as the restoration of justice to both the offender and the victim,(Flora, 2022) In addition, it also aims to address conflicts arising from criminal acts in a fair manner, as a

response to efforts intended to reduce the retributive approach rooted in retributive justice. This approach deserves serious attention (Krismiyarsi, 2020). The practice of the concept of restorative justice reflects its objectives by addressing criminal acts through identifying and taking steps to repair harm or damage, involving all relevant parties (Susanti, 2021). Thus, penal mediation becomes an effective means of repairing the harm caused by criminal acts and creating peace within society (Sudarsono, 2015). This process emphasizes the restoration of losses experienced by the victim and/or the community as a result of the offender's actions, and directly involves both the victim and the offender in the resolution (Mansyur, 2016).

The main principle of the restorative justice concept refers to the process of bringing together the offender and the victim or the community to actively participate in resolving a criminal case. In restorative justice theory, the resolution process of a legal violation is carried out by facilitating a meeting between the victim and the offender (suspect) to settle the conflict. In this meeting, the mediator provides the offender with the opportunity to clearly explain the actions they have committed (Rizanizarli et al., 2023). Restorative justice adheres to an integrative foundation that offers solutions in which every party involved participates in dispute resolution through deliberation. The outcomes of implementing restorative justice can be identified as follows (Supriyanto, 2024):

First, victim-offender mediation takes place. After an incident occurs in the pesantren, the administration summons and brings together the offending student and the victim. The administration ensures that both parties have reconciled and are no longer in conflict.

Second, there is a conference involving all related parties. The administration investigates the chronology of events by gathering witnesses and evidence. Once the case is clear, they impose appropriate sanctions on the offender as a deterrent.

Third, support circles are held. Since most students are under the age of 18, the role of the parents or guardians is essential in cases involving their children. The guardians of both the victim and the perpetrator are brought together to be informed about the case.

Fourth, there is assistance to the victim and restitution. After the guardians are gathered, the administration facilitates the penal mediation process. In many cases, the guardians of the offending students provide financial compensation—such as medical expenses in cases of minor assault, or payment for damaged goods in destruction cases. Sometimes, the pesantren administration and the offender's guardians offer additional

compensation as a form of accountability and recovery, enabling the case to be resolved amicably through penal mediation.

John Rawls' theory of justice holds significant relevance in reviewing conflict resolution systems or legal violations within educational communities such as Islamic boarding schools (pesantren). Rawls proposed two fundamental principles of justice that form the foundation of a fair society: (1) the principle of equal basic liberties for all individuals, and (2) the difference principle, which states that social and economic inequalities are only permissible if they benefit the least advantaged members of society (Rawls, 2019).

In the context of Pondok Pesantren Putra Al-Ishlah, the practice of penal mediation for minor criminal offenses such as petty theft, minor insults, or acts of vandalism serves as a community-based conflict resolution innovation that embodies Rawls' principles. This mediation process emphasizes the restoration of social relationships and justice through the active involvement of all parties (offenders, victims, guardians, and pesantren administrators) to achieve an educational and peaceful resolution (Akmal, 2024). Such practices align with Rawls' notion of *justice as fairness*, where justice is assessed based on the fair distribution of rights, duties, and opportunities within the basic structure of society.

A concrete example is the case of a student, identified by the initials GAS, who committed theft. Instead of taking a repressive legal approach, the pesantren facilitated a deliberative mediation involving the student's guardians and the victim's family. The parties agreed on an appropriate form of compensation, and the student was also given educational sanctions such as leading the call to prayer and participating in cleaning duties. This procedure reflects the fair equality of opportunity principle, as it provides the student with a chance for moral recovery without long-term stigmatization, thus preserving their right to continue their education (M. A. Syauqillah, personal communication, 17 November 2024). From the Rawlsian justice perspective, this approach illustrates the application of the *difference principle*, as the system aims to ensure that legal processes do not marginalize young individuals who commit minor offenses. The goal is not merely punitive, but also aims to strengthen the social structure of the pesantren by fostering the offender's moral responsibility to the community (Sudarsono, 2015). Moreover, penal mediation exemplifies *justice as fairness* by ensuring that both the victim and the offender are granted equal opportunities to voice their perspectives and receive fair treatment. In some cases, such as written insults or property damage, sanctions included restorative acts such as writing Qur'anic verses or repairing the damage

demonstrating a sanction model that is not only corrective but also transformative and educational.

This form of penal mediation, although rooted in local religious and cultural values, effectively integrates Rawls' concept of substantive justice into community-based legal practices. It aligns with what Rawls termed as an *overlapping consensus*, wherein diverse value systems (positive law, religious teachings, and local traditions) converge to realize social justice within the educational institution. Therefore, the model of resolving minor criminal offenses through penal mediation at Pondok Pesantren Putra Al-Ishlah serves not only as a culturally grounded alternative but also as a practical implementation of John Rawls' theory of justice one that promotes reconciliation and character development through a humanistic and egalitarian legal approach.

CONCLUSION

This study affirms that the implementation of penal mediation in resolving minor criminal offenses at Pondok Pesantren Putra Al-Ishlah, Singosari, Malang, functions as an alternative approach that not only aims to deter misconduct but also emphasizes justice, education, and the restoration of social relationships among offenders, victims, and the pesantren community. Common offenses, such as petty theft, verbal insults, vandalism, minor fraud, and minor assault are addressed through deliberative processes involving the offender, the victim, the students' guardians, and pesantren administrators.

Sanctions for such violations are educational and constructive in nature, including Qur'anic recitation, leading the call to prayer (adhan), writing Surah Yasin, and participating in communal cleaning activities. In cases involving material loss, offenders and their guardians are required to provide restitution and engage in mediated reconciliation. This model embodies the principles of restorative justice and aligns with John Rawls' theory of justice, particularly the principles of equal basic liberties and the difference principle, which holds that social and economic inequalities are permissible only if they benefit the least advantaged members of society.

The application of justice in this pesantren context through penal mediation exemplifies a legal practice that is not merely repressive but also transformative and humanistic. It fosters character development and sustains social cohesion within the pesantren environment. Furthermore, it reflects an overlapping consensus between positive law, religious norms, and

local wisdom in constructing a fair, peaceful, and educational mechanism for conflict resolution. Therefore, the penal mediation model employed at Pondok Pesantren Putra Al-Ishlah may serve as a reference for other educational institutions seeking to promote substantive justice and reinforce the pesantren's role as a moral and spiritual educational entity grounded in community values.

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