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Reconstructing the Concept of Sulh as a Restorative Justice Model in Contemporary Islamic Criminal Law

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Abstract

The growing adoption of restorative justice in contemporary criminal justice systems has intensified scholarly interest in dispute resolution models that are humane, participatory, and oriented toward repairing harm. Within Islamic criminal law, *ṣulḥ* constitutes a conflict resolution mechanism that shares substantial conceptual affinities with restorative justice; however, its reconstruction as a contemporary restorative justice model remains insufficiently examined. This study aims to analyze the concept of *ṣulḥ* in Islamic criminal law, identify its relevance to restorative justice, and reconstruct its application in accordance with the requirements of modern criminal justice systems. Employing a qualitative library research approach, the study draws on the Qur'an, Hadith, classical Islamic jurisprudential literature, scholarly books, journal articles, and other relevant academic sources. The data were analyzed through content analysis and a descriptive-analytical framework grounded in *maqāṣid al-sharīʿah*. The findings demonstrate that *ṣulḥ* incorporates the principal elements of restorative justice, including dialogue, reconciliation, forgiveness, victim restitution, offender accountability, and the restoration of social relationships. Its contemporary reconstruction may be pursued by strengthening

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victims' participation, optimizing penal mediation, and integrating considerations of public welfare (*maṣlaḥah*) into modern criminal justice practices. The study concludes that *ṣulḥ* has substantial potential to serve as a restorative justice model in contemporary Islamic criminal law by integrating Islamic legal principles with modern approaches to justice centered on peacebuilding, harm reparation, and social restoration. These findings contribute to Islamic criminal law scholarship by providing a conceptual framework for adapting classical reconciliation mechanisms to contemporary criminal justice contexts.

Keywords: Islamic Criminal Law; Legal Reconstruction; *Maqāṣid Al-Sharīʿah*; Restorative Justice; *Ṣulḥ*

INTRODUCTION

In its development, restorative justice is a new dimension that needs to be studied in both theoretical and practical aspects. The development of contemporary criminal law shows a paradigm shift from a retributive approach oriented towards a restorative approach that emphasizes the restoration of social relations following a crime (Irawan et al., 2026). The restorative justice paradigm emerged as a response to various weaknesses in the conventional criminal justice system, which was deemed to be overly focused on punishing the perpetrator while neglecting the interests of the victim, family, and community (Sutanti et al., 2026). From this perspective, crime is understood not only as a violation of the state, but also as a breakdown in social relations that must be restored through dialogue, reconciliation, perpetrator accountability, and reparation for victims. This approach is gaining increasing attention in various modern legal systems because it is considered more humane, participatory, and oriented toward creating sustainable social harmony (Hakeem et al., 2026).

In Indonesia, the implementation of restorative justice has advanced significantly through various law enforcement policies that provide space for resolving criminal cases outside formal judicial mechanisms (Feriandref et al., 2026). The presence of this approach shows the need to build a legal system that does not solely focus on punishment, but also pays attention to aspects of recovery and peace (N. P. Sari et al., 2026). However, the implementation of restorative justice still faces various challenges, both normatively and practically, particularly regarding its philosophical foundation, legal legitimacy, and consistent implementation within the criminal justice system. This situation demands the search for

conceptual sources capable of strengthening the theoretical and normative basis of restorative justice practices (Situmeang & Meilan, 2025).

In Islamic law, the concept of peaceful conflict resolution has long been recognized through the mechanism of *sulh*. Etymologically, *sulh* means peace, reconciliation, or dispute resolution through an agreement between the parties (Situmeang & Meilan, 2025). In the context of Islamic criminal law, *sulh* is not only understood as an instrument for resolving disputes, but also as a means to realize the welfare, maintain social relations, and avoid the destructive impacts of prolonged conflict (Asnawi et al., 2026). This concept provides space for victims and perpetrators to reach a resolution based on agreement, forgiveness, compensation, and the restoration of social relations without neglecting the principles of justice. Therefore, *sulh* has characteristics very close to the principles of restorative justice developed in modern legal theory (Flora, 2025).

However, studies on *sulh* have so far been placed more as part of Islamic civil law or traditional dispute resolution mechanisms, while its potential as a model of restorative justice in contemporary Islamic criminal law has not received adequate attention (Wicaksana & Januarsyah, 2025). Most previous research has focused on comparing restorative justice and Islamic criminal law, particularly through the concepts of *qiṣāṣ, diyāt*, and *al-'afw* (forgiveness), while the conceptual reconstruction of *sulh* as a comprehensive normative framework remains relatively limited. Consequently, the epistemological contribution of Islamic law to the development of modern restorative justice models has not been optimally explored (N. P. Sari et al., 2026).

Furthermore, the dynamics of modern society, characterized by social plurality, the increasing complexity of criminal acts, and demands for a more responsive judicial system, require a reinterpretation of classical concepts of Islamic law. Reconstructing *sulh* is crucial so that the concept is understood not only in its historical context but also in its ability to address the needs of the contemporary legal system (Sihombing, 2024). This reconstruction includes a review of the normative basis, the objectives of law (*maqāṣid al-syarī'ah*), implementation mechanisms, and their relevance to the principles of victim participation, perpetrator accountability, and social recovery, which are the main characteristics of restorative justice. Thus, *sulh* can be positioned as an alternative model that is not merely normative-theological in nature, but also applicable in modern criminal law reform (Utami et al., 2026).

Theoretically, the reconstruction of the concept of *sulh* has strong relevance to the progressive legal paradigm, which positions law as an instrument for realizing substantive benefits and justice. This approach aligns with the primary objective of Islamic criminal law, which is oriented not only toward imposing sanctions but also toward protecting individual rights, maintaining social order, and achieving the public good (Meliala et al., 2023). Therefore, the development of the *sulh* model within the framework of restorative justice has the potential to become a bridge between the normative values of Islam and the need for reform of the contemporary criminal justice system to be more inclusive, humanistic, and just (G. N. A. Sari et al., 2024).

Previous research shows that Sodiqin's (2015) analysis of *qisas* law in the Islamic jurisprudence tradition, particularly in murder cases, has substantively adopted a restorative justice approach through the mechanisms of *sulh, afwu*, and *diyat*, where the victim or their family is given the right to choose between *qisas, diyat*, or forgiving the perpetrator, so that the state acts as a mediator rather than the sole arbiter of justice. Similarly, Ramdlany's (2021) research confirms that the concepts of Islah and afwu in Islamic criminal law provide ample space for peaceful conflict resolution and the restoration of social relations, in contrast to the retributive criminal system that tends to ignore the role of the victim. In the context of contemporary contextualization, Firmansyah et al. (2025) suggests that the integration of *sulh* values into the national criminal justice system can enrich the practice of restorative justice that is more humanistic and based on local wisdom, especially in cases of minor crimes such as minor assault. Finally, research by Fadhila (2025) highlights that the relationship between the concept of *al-'afwu* and restorative justice in Islamic law is not only theoretical but also has practical implications for the reform of substantive criminal law in Indonesia, particularly through the application of the principle of rechterlijk pardon in very minor cases. Thus, these four studies collectively confirm that the concept of *sulh* in Islamic criminal law contains strong reconstructive potential to be used as a relevant model of restorative justice in the context of contemporary criminal law.

Based on this description, this study aims to reconstruct the concept of *sulh* as a model of restorative justice in contemporary Islamic criminal law. This study not only examines the normative and philosophical foundations of *sulh* but also analyzes its relevance to the development of modern restorative justice theory and practice. Thus, this research is expected to provide a conceptual contribution to the development of Islamic criminal law

that is adaptive to the challenges of the times while enriching the discourse on restorative justice in the context of national and global law.

METHODS

The researchers in this study used a qualitative approach, with library research, to conduct a normative-philosophical study of the concept of sulh in Islamic criminal law and its relevance to the contemporary restorative justice paradigm (Hasan et al., 2025). The research data were obtained from primary sources, including the Qur'an, hadith, classical fiqh books, and Islamic legal literature discussing *sulh, qiṣāṣ, diyāt*, and conflict resolution from a sharia perspective. Meanwhile, secondary sources included books, reputable journal articles, laws and regulations, and various scientific publications that examine restorative justice in the modern legal system.

The data collection technique in this study was implemented through a systematic documentation approach, encompassing primary and secondary sources such as classical fiqh and usul texts, contemporary fatwas, relevant court decisions, and academic literature on restorative justice. The documentation process was conducted selectively and critically: sources were selected based on thematic relevance and academic or religious authority, then classified by type (normative, historical, contextual) and contextualized within the realm of modern Islamic criminal law. Furthermore, the researchers triangulated documents by examining comparative interpretations of scholars and legal policies across several Muslim jurisdictions to enrich the empirical data and reduce textual bias (Sulistiyo, 2023).

Data analysis combined content analysis and comparative analysis methods to identify similarities, differences, and intersections between the concept of *sulh* and the principles of restorative justice. The analysis stages included thematic coding of key concepts (e.g., reconciliation, restoration, and benefit), creating a comparative matrix, and hermeneutic interpretation to capture semantic nuances and practical implications. Next, the data were analyzed descriptively-analystically using the *maqāṣid al-syarī'ah* approach to reconstruct the conceptual framework of *sulh*—outlining the relevant objectives of shariah (*ḥifẓ al-dīn, al-nafs, al-ʿaql, al-nasl*, and *al-māl*) and assessing the extent to which *sulh* practices can be formulated as a model for resolving criminal cases that is oriented towards recovery, peace, and welfare in the context of contemporary Islamic criminal law (Moleong, 2018; Sugiyono, 2022).

RESULTS

Conceptualization of *Sulh* in Islamic Criminal Law

The concept of *sulh* is a conflict resolution instrument deeply rooted in Islamic legal tradition. Terminologically, jurists define *sulh* as a contract or agreement aimed at ending a dispute and establishing peace between conflicting parties (Herlangga, 2025). According to Wahbah al-Zuḥailī, *sulh* is a dispute resolution mechanism that is justified by the Shari'a to create benefits and eliminate hostility in social life (Putri, 2025). Similarly, Ibn Qudāmah explained that *sulh* is a form of settlement that prioritizes the willingness of the parties, thereby maintaining the stability of social relations and preventing broader conflict. The normative basis for this concept can be found in various verses of the Qur'an and hadith that place peace as a fundamental value in social life (Rusydianta, 2025).

From the perspective of Islamic legal theory, the existence of *sulh* cannot be separated from the primary objectives of sharia (*maqāṣid al-syarī'ah*), namely, safeguarding religion, life, intellect, posterity, and property. Therefore, resolving conflict through peace is seen as an instrument capable of achieving greater benefits than simply imposing sanctions (Cortright & Lopez, 2018). This approach shows that Islamic law is not solely oriented towards punishment (punitive justice), but also provides space for solutions that are oriented towards reconciliation and restoration of social relations (Subhan, 2025). The research results show that the concept of *sulh* in Islamic criminal law has broader dimensions than simply resolving civil disputes. In certain criminal cases, particularly those related to individual rights (*ḥaqq al-ādami*), *sulh* becomes an instrument that enables dialogue, forgiveness, compensation, and restoration of relationships between victims and perpetrators. It demonstrates that the substance of *sulh* contains principles that align with the development of the modern restorative justice paradigm (Maula, 2026).

The Meeting Point of *Sulh* and Restorative Justice

The restorative justice theory developed by Howard Zehr emphasizes that crime is a violation of individuals and social relationships, not merely an offense against the state. Therefore, the resolution of criminal acts must be directed at reparation for the victim's losses, accountability for the perpetrator, and community involvement in the conflict resolution process (Najib & Ezbeyda, 2025). Zehr emphasized that the success of restorative

justice is measured by the extent to which the harm caused by the crime can be repaired and social relations can be repaired (Purba, 2023).

These principles have substantial similarities to the concept of *sulh*. In Islamic criminal law, victims are given a crucial role in determining the form of settlement. The perpetrator is not only legally but also morally responsible for repairing the harm caused (Darmawan et al., 2025). In addition, the community plays a role as a mediator and guardian of the creation of sustainable peace. Thus, the relationship between *sulh* and restorative justice is not only conceptual but also functional (Albab & Harmoko, 2025).

An analysis of these two concepts reveals several key similarities. First, both place the victim as the primary subject in the conflict resolution process. Second, both encourage the active participation of the perpetrator in redressing the impact of the crime. Third, both aim to restore the social balance disturbed by the crime. Fourth, both emphasize the importance of dialogue and mutual agreement over a repressive, coercive approach (Kholid et al., 2026). The research findings show that the values contained in *sulh* have actually accommodated most of the principles of restorative justice currently developing in modern legal systems. Therefore, the assumption that restorative justice is a completely new concept is not entirely accurate, as its basic substance has long been recognized in the Islamic legal tradition through the *sulh* mechanism.

Reconstruction of the Concept of *Sulh* in the Context of Contemporary Islamic Criminal Law

Social changes occurring in the modern era require a reinterpretation of various classical concepts of Islamic law, including *sulh*. According to Jasser Auda, Islamic law must be understood dynamically through the *maqāṣid al-syarīʿah* approach to remain relevant to societal developments (Taufikurahman & Saputro, 2025). This approach emphasizes that the main objective of law is not to maintain normative forms rigidly, but rather to realize justice, benefit, and protection of human rights (Khamim et al., 2025).

Reconstruction of *sulh* needs to be carried out by expanding its functions and implementation mechanisms. While in classical times *sulh* was practiced more within a limited community setting, in the contemporary era, the concept can be developed into a model for resolving criminal cases integrated with the formal justice system (Purnomo et al., 2026). This

reconstruction is not intended to eliminate state authority in law enforcement, but rather to create a balance between legal certainty and social recovery (Junaedi et al., 2025).

The reconstruction of *sulh* begins with strengthening the victim's position in the criminal case resolution process. This strengthening includes recognizing the victim's right to active participation, access to information about the process, and fair compensation as part of the settlement. By positioning the victim not merely as a witness or object of the process, but as a subject who determines part of the settlement outcome, the *sulh* mechanism opens up opportunities for more meaningful healing—both psychological and material—that are often not achieved through solely retributive investigations and punishments (Najib & Ezbeyda, 2025).

The second step is to provide greater space for penal mediation as a means of dialogue between the victim and the perpetrator. Professionally facilitated penal mediation allows for the exchange of narratives, concrete disclosure of harm, and an opportunity for the perpetrator to demonstrate remorse and offer reparation. This dialogical process enhances the legitimacy of the settlement because it involves shared consensus and minimizes judicial antagonism. The outcome is not simply punishment, but a transformative agreement that can encourage real responsibility and prevent recurrence.

The integration of the values of public welfare, forgiveness, and social responsibility into criminal law policy is the third step, providing a normative framework for *sulh*. This approach guides the creation of rules that focus not only on retribution but also on restoring social relations and the common good. In policy practice, this means designing flexible legal procedures—for example, criteria for cases eligible for mediation, mechanisms for monitoring the implementation of *sulh* agreements, and incentives for perpetrators who fulfill their responsibilities—so that these values are not merely rhetorical but are realized in measurable outcomes.

The results of this study demonstrate that *sulh* reconstruction is theoretically relevant and potentially applicable to criminal justice reform. This concept addresses the main criticisms of conventional justice—its inability to provide reparation for victims and the failure of social reintegration for perpetrators—by offering a more restorative and contextual mechanism. Realizing this requires legal instruments, the capacity of mediation facilitators, and rigorous monitoring and evaluation so that *sulh* becomes not merely a symbolic alternative but an effective model of adaptive justice in the context of modern society.

DISCUSSION

Implications of *Sulh* Reconstruction for the Development of Modern Islamic Criminal Law

Within the framework of progressive legal theory, law serves not only as a tool for controlling behavior but also as an instrument responsive to social needs and providing tangible benefits for communal life (Hamzah & Syamsudin, 2022). This approach demands a shift in orientation from merely enforcing norms to achieving concrete goals of public welfare (*maslahah*). In the context of Islamic criminal law, the reconstruction of *sulh* should be viewed as part of an effort to make the law more vibrant and contextual—connecting sharia principles to contemporary social issues such as prison overcrowding, victim dissatisfaction, and the rise of recidivism. Thus, a progressive perspective underpins the normative legitimacy for the revitalization of traditional peace mechanisms so they function effectively in the modern justice system.

The reconstruction of *sulh* strengthens the humanistic orientation of Islamic criminal law by shifting the focus from retribution to restoration and reintegration (Azisa et al., 2025). Theoretically, this affirms the view that perpetrators are moral subjects with the capacity to change, so that sanctions ideally combine accountability with opportunities for rehabilitation. This approach allows for the imposition of proportionate and restorative sanctions—for example, compensation agreements, community service obligations, or measurable development programs—that not only punish but also facilitate behavioral change. This type of construction also reduces the stigmatization that often hinders the perpetrator's social reintegration.

The impact of *sulh* reconstruction on victims' rights and positions is also significant: victims gain greater access to express material and immaterial losses and participate in determining the form of reparation they deem just. The restorative model offers concrete mechanisms such as mediation facilitated by community leaders, agreed-upon compensation, or a formal apology process—instruments that address victims' healing needs more directly than retributive mechanisms. Victim involvement not only strengthens a sense of substantive justice but also increases satisfaction with the case resolution process, reduces the desire for extrajudicial retaliation, and supports more sustainable social recovery.

The role of the community is key to the implementation of reconstructed *sulh*; it plays a preventive, facilitative, and supervisory role in the reconciliation process (Nasution & Lubis, 2026). By activating social networks, traditional leaders, religious organizations, and local institutions, the settlement process can proceed with strong social legitimacy, making the results more acceptable and durable. Community involvement also enables contextual solutions—for example, adapting forms of restitution to local values—and accelerates the reintegration of perpetrators through jointly initiated social support and economic opportunities.

Practically, implementing a reconstructed *sulh* model can provide solutions to structural problems in the criminal system: reducing the burden on correctional institutions, reducing recidivism rates through community-based rehabilitation programs, and increasing victim satisfaction and public trust in the judiciary (Marzuqin et al., 2026). This implementation requires procedural reforms—for example, strengthening pre-trial mediation mechanisms, establishing ethical standards for facilitators, and integrating settlement outcomes into judicial decisions—as well as policy support such as incentives for restorative resolution and training for law enforcement officers to manage the *sulh* process fairly and effectively.

Empirical research shows that the reconstruction of *sulh* produces a productive synthesis between normative Islamic values and contemporary legal demands, while maintaining the basic principles of sharia while addressing standards of human rights, public participation, and social recovery (Khasanah et al., 2026; Nashir et al., 2025). Therefore, *sulh* can be positioned as the foundation for reforming Islamic criminal law that is inclusive, responsive, and oriented toward the common good. To realize this, further steps are needed: normative studies that elaborate the sharia foundations for restorative practices, pilot projects in various regions to test implementation models, and policy reforms that foster harmonization between *sulh* mechanisms and formal judicial procedures.

CONCLUSION

This study concludes that the concept of *sulh* in Islamic criminal law is strongly relevant to the restorative justice paradigm in contemporary legal systems; substantively, *sulh* functions not only as a dispute-resolution mechanism but also as an instrument for restoring social relations that prioritizes peace, forgiveness, offender accountability, and victim

protection as primary objectives. The findings reveal significant convergence between *sulh* and restorative justice—particularly in victim and offender involvement, conflict resolution through dialogue, restitution, and efforts to restore social equilibrium—underscoring *sulh*'s potential as a normative and philosophical foundation for a more humane, welfare-oriented criminal justice model. To render *sulh* practicable in the contemporary Islamic criminal law context, a reconstruction grounded in *maqāṣid al-sharīʿah* is needed to extend the peace function into mechanisms integrated with modern justice systems, including strengthening victims' positions, optimizing penal mediation, enhancing offender responsibility, and involving communities in reconciliation; through such reconstruction, *sulh* can evolve from a classical normative concept into an applicable restorative justice model responsive to modern societal needs and serve as an alternative paradigm in reforming Islamic criminal law that balances legal certainty, public benefit, and substantive justice.

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