



## IMPLEMENTATION OF RESTORATIVE JUSTICE IN RESOLVING FAMILY CONFLICTS FROM THE PERSPECTIVE OF ISLAMIC FAMILY LAW

### PENERAPAN KEADILAN RESTORATIF DALAM MENYELESAIKAN KONFLIK KELUARGA DARI PERSPEKTIF HUKUM KELUARGA ISLAM

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DOI: <https://doi.org/10.62567/micjo.v3i3.2452>

#### Abstract

This study aims to analyze the urgency and mechanisms of implementing Restorative Justice in resolving family conflicts from the perspective of Islamic Family Law. Amid the high rates of divorce and domestic violence, formal litigation approaches often fail to repair fractured relationships among family members. This research employed a qualitative method with a normative juridical approach. Data were collected through literature studies of Islamic legal texts, Indonesian statutory regulations, and related literature on Restorative Justice. The findings indicate that the concept of Restorative Justice has strong relevance to the principle of *Ishlah* (reconciliation) in Islamic Family Law. Unlike the retributive approach, which focuses on punishment, Restorative Justice prioritizes relationship recovery, forgiveness, and collective welfare. In practice, instruments such as mediation in Religious Courts and the role of *Hakam* (peace mediators) represent clear manifestations of these restorative values. The study concludes that integrating Restorative Justice into the family law system is not only effective in reducing divorce rates but also capable of preserving the psychological well-being of family members, especially children. The academic contribution of this study lies in providing a theoretical foundation for the development of positive law in Indonesia to become more accommodative toward non-litigation dispute resolution based on religious values and local wisdom. The researcher recommends strengthening technical mediation regulations so that they do not merely become procedural formalities in court.

**Keywords :** Restorative Justice, Islamic Family Law, *Ishlah*, Family Conflict, Mediation.

#### Abstrak

Penelitian ini bertujuan untuk menganalisis urgensi dan mekanisme penerapan Keadilan Restoratif dalam menyelesaikan konflik keluarga dari perspektif Hukum Keluarga Islam. Di tengah tingginya angka perceraian dan kekerasan dalam rumah tangga, pendekatan litigasi formal seringkali gagal memperbaiki hubungan yang retak di antara anggota keluarga. Penelitian ini menggunakan metode kualitatif dengan pendekatan yuridis normatif. Data dikumpulkan melalui studi literatur teks hukum Islam, peraturan perundang-undangan Indonesia, dan literatur terkait tentang Keadilan Restoratif. Temuan menunjukkan bahwa konsep Keadilan Restoratif sangat relevan dengan prinsip *Ishlah* (rekonsiliasi) dalam Hukum Keluarga Islam. Berbeda dengan pendekatan retributif yang berfokus pada



hukuman, Keadilan Restoratif memprioritaskan pemulihan hubungan, pengampunan, dan kesejahteraan bersama. Dalam praktiknya, instrumen seperti mediasi di Pengadilan Agama dan peran Hakim (mediator perdamaian) merupakan manifestasi nyata dari nilai-nilai restoratif ini. Studi ini menyimpulkan bahwa mengintegrasikan Keadilan Restoratif ke dalam sistem hukum keluarga tidak hanya efektif dalam mengurangi angka perceraian tetapi juga mampu menjaga kesejahteraan psikologis anggota keluarga, terutama anak-anak. Kontribusi akademis dari penelitian ini terletak pada penyediaan landasan teoritis bagi pengembangan hukum positif di Indonesia agar lebih akomodatif terhadap penyelesaian sengketa non-litigasi berdasarkan nilai-nilai agama dan kearifan lokal. Peneliti merekomendasikan penguatan regulasi teknis mediasi agar tidak hanya menjadi formalitas prosedural di pengadilan.

**Kata Kunci :** Keadilan Restoratif, Hukum Keluarga Islam, Ishlah, Konflik Keluarga, Mediasi.

## 1. INTRODUCTION

Conflict within the family institution is an unavoidable sociological phenomenon; however, its recent escalation has shown an alarming trend. Formal litigation-based legal approaches, which are rigid in nature, often place family members in a binary “win-lose” position, ultimately widening emotional fractures and neglecting the best interests of children. The research problem in this study stems from the ineffectiveness of the conventional judicial system in addressing the root causes of family disputes, which are private and emotional in nature. Although mediation regulations have been implemented, in practice they are often trapped in procedural formalities without touching the essence of sustainable relationship recovery. This is where the urgency of implementing restorative justice becomes crucial to be studied more deeply as a more humane alternative for conflict resolution.

Previous relevant studies have extensively explored restorative justice in the field of criminal law, particularly in juvenile crime cases and minor violence. Several scholars have highlighted how restorative justice can reduce court workloads. However, in the context of Islamic family law, the existing literature remains limited to general discussions of mediation without specifically linking it to a comprehensive restorative framework. Most studies only focus on the administrative aspects of mediation in Religious Courts without examining how the values of forgiveness and reconciliation in Islamic law can be systematically integrated into national legal policies.

The novelty of this study lies in the synthesis between the doctrine of *Ishlah* (reconciliation) in Islamic Family Law and the modern concept of restorative justice. This paper does not merely view reconciliation as an effort to prevent divorce, but as a mechanism for restoring the mental, social, and legal rights and obligations of the disputing parties. The focus of this study is to construct a family conflict resolution model that balances the certainty of positive law with the flexibility of Sharia values that prioritize public benefit (*maslahah*).

The objective of this article is to map the epistemological foundations of restorative justice in Islamic Family Law and to formulate its applicable framework within the Indonesian legal system. The author seeks to demonstrate that Islamic principles provide broad space for the implementation of justice oriented toward restoration, rather than merely the termination of legal relationships.

The main argument of this paper is that restorative justice is essentially a contemporary manifestation of the values of *maqasid al-shariah*, particularly in the aspects of protecting lineage (*hifdz an-nasl*) and protecting life (*hifdz an-nafs*). The author argues that family conflicts in Islam should not be resolved through retributive or merely procedural approaches, but through participatory mechanisms involving the extended family or *hakam* (peace mediators), as prescribed in Surah An-Nisa of the Qur'an.

By prioritizing dialogue and moral responsibility, restorative justice can provide a fairer solution for all family members because it seeks to heal emotional wounds that are often not accommodated in court decisions. This integration is expected to transform the face of family law from being confrontational into a more collaborative and future-oriented system.



## 2. RESEARCH METHOD

This study employed a normative legal research design using a library-based approach. It examined legal norms, justice principles, and Islamic doctrines relevant to family conflict resolution, with a focus on the conceptual integration of restorative justice and *ishlah* in Islamic law.

The approaches used included conceptual, statutory, and comparative approaches. The conceptual approach explored legal and Islamic doctrines on restorative justice. The statutory approach reviewed relevant regulations such as the Compilation of Islamic Law, the Religious Courts Law, and Supreme Court mediation regulations. The comparative approach compared retributive justice commonly applied in courts with restorative values promoted in Islam.

The study relied entirely on secondary data consisting of primary legal materials (Qur'an, Hadith, marriage laws, Compilation of Islamic Law, and mediation regulations), secondary materials (books, journals, theses, and research reports), and tertiary materials (legal dictionaries and encyclopedias).

Data were collected through systematic library research and analyzed using qualitative normative methods through data reduction, classification, interpretation, and deductive conclusion drawing. This method was expected to produce a strong juridical framework on how Islamic Family Law can support the implementation of restorative justice to preserve family unity and welfare.

### Theoretical Framework

This study is based on the theory of Restorative Justice, which emphasizes relationship recovery, accountability, and reconciliation rather than punishment. In family conflicts, restorative justice seeks to heal emotional and social harm through dialogue, repair, and transformation of damaged relationships.

It is also supported by the Sociology of Islamic Law, which views law as an instrument to achieve social harmony and public benefit (*maslahah*). In this perspective, the success of law is measured not by the number of court decisions, but by the restoration of peace (*sakinah*) within the family.

The doctrine of *ishlah* (reconciliation) and *tahkim* (family arbitration) provides theological and sociological legitimacy for restorative justice in Islam. The involvement of neutral third parties (*hakam*) reflects participatory justice and aligns with legal pluralism, where religious values complement state law.

Furthermore, the theory of *maqasid al-shariah* serves as a philosophical basis, especially in protecting lineage (*hifdz an-nasl*) and protecting life (*hifdz an-nafs*). Restorative justice helps safeguard children from traumatic family disputes and supports the mental well-being of all parties.

Overall, this study constructs a model of mercy-based justice that integrates legal compliance, social reconciliation, and spiritual values in resolving family conflicts.

## 3. RESULT AND DISCUSSION

Family is the primary foundation of social structure. In the sociology of law perspective, the family is not merely a biological unit, but also the smallest legal institution that possesses its own norms, rules, and conflict resolution mechanisms. However, modern social changes have created more complex family disputes, including economic conflicts, domestic violence, and child custody disputes that often end in court proceedings. Conventional litigation-based approaches, which emphasize punishment and a win-lose outcome, frequently fail to resolve the root causes of family conflict. Instead, they often leave psychological trauma and damage family relationships.

The findings of this study show that restorative justice offers a more humane and effective alternative. For Muslim communities, restorative justice is closely related to the Islamic concept of *ishlah* (reconciliation), which prioritizes peace, forgiveness, and the restoration of relationships. Thus, restorative justice is not a foreign concept, but rather a modern expression of values already embedded in Islamic family law.

From a theoretical perspective, restorative justice emphasizes three main principles: participation of all parties, recovery of losses, and transformation of harmful relationships into healthier ones. In family disputes, this means creating safe spaces for dialogue, encouraging accountability, and



rebuilding trust among family members. These principles are consistent with the sociological view of Islamic law, which sees law as an instrument for achieving *maslahah* (public benefit) and family harmony. If legal processes destroy family cohesion, then the law fails to achieve its social purpose.

The study also indicates that litigation mechanisms are often ineffective in resolving family disputes. High divorce rates and low mediation success rates demonstrate that court-based mediation frequently becomes a procedural formality rather than a genuine reconciliation process. By the time cases reach court, emotional tensions are usually severe, making peaceful settlement more difficult. This suggests the importance of early restorative interventions before disputes escalate into legal battles.

Islamic Family Law provides broad opportunities for the implementation of restorative justice through several instruments. First, the role of *hakam* (family mediators), as mentioned in Surah An-Nisa verse 35, allows neutral representatives from both families to facilitate reconciliation. This mechanism reflects community-based justice, where disputes are resolved through dialogue and trust. Second, in minor domestic violence cases, restorative approaches may include counseling, spiritual guidance, behavioral rehabilitation, and victim protection measures. Third, in post-divorce situations, restorative justice ensures that children's rights, financial support, and mutual respect remain protected even after separation.

Sociologically, restorative justice is more effective than litigation for three reasons. First, it preserves social capital by maintaining communication between parents for the best interests of children. Second, it gains stronger legitimacy in Muslim communities because religious advice about forgiveness and peace is often more persuasive than formal legal sanctions. Third, it is more efficient in terms of time and cost, reducing prolonged disputes that may create new economic and emotional burdens.

However, several challenges remain. Unequal power relations within families may turn reconciliation into hidden oppression, especially against women who feel pressured to accept unfair settlements. In addition, some mediators still focus only on administrative procedures rather than meaningful psychological restoration. Cultural shame and reluctance to involve outsiders also prevent many families from seeking help until conflicts become severe.

Overall, the study concludes that integrating restorative justice into Islamic Family Law is a sociological necessity for strengthening family resilience in Indonesia. Through the combination of legal norms and the principle of *ishlah*, law can function not as a tool of division, but as a means of healing. Therefore, strengthening mediator capacity, revitalizing the role of *hakam*, and promoting restorative values in premarital and family education are essential steps toward a more humane and future-oriented family justice system.

#### 4. CONCLUSION

Based on the results of the analysis and discussion presented above, this article concludes several main points that address the objective of examining the implementation of Restorative Justice (RJ) in resolving family conflicts from the perspective of Islamic Family Law:

##### 1. Theological and Juridical Synergy

This study finds that Restorative Justice has strong roots in Islamic Family Law through the principle of *ishlah* (reconciliation). Theoretically, RJ is not merely a modern legal method, but also a manifestation of the values of *maqasid al-shariah*, particularly in protecting lineage (*hifz al-nasl*) and protecting life (*hifz al-nafs*). The findings indicate that conflict resolution through reconciliation provides higher psychological satisfaction for the parties compared to confrontational litigation decisions.

##### 2. Data-Based Effectiveness

The sociological legal analysis of religious court data shows the urgency of a paradigm shift. Although divorce rates remain high, reaching more than 500,000 cases annually nationwide, mediation processes that apply restorative approaches—through the involvement of *hakam* or certified mediators with sociological perspectives—have proven more effective in maintaining post-divorce



communication for the best interests of children. This demonstrates that RJ is effective in reducing the sociological domino effects of domestic conflict.

### 3. Law as an Instrument of Harmony

In line with the sociology of law theory, the implementation of RJ in family conflicts shifts the function of law from merely being a tool of punishment to becoming a tool of social restoration. This approach has succeeded in minimizing the negative stigma and trauma that commonly arise from formal court proceedings.

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