

## **Law Enforcement of Sexual Violence on Social Media: An Islamic Restorative Justice Perspective**

**Deni Setiyawan\***

Universitas Muhammadiyah Gombong, Indonesia

**Ismet Hadi**

Universitas Muhammadiyah Gorontalo, Indonesia

**Noor Rahmad**

Universitas Muhammadiyah Gombong, Indonesia

**Aditya Maulana Rizqi**

Universitas Muhammadiyah Gombong, Indonesia

**Kuni Nasihatun Arifah**

Universitas Muhammadiyah Gombong, Indonesia

\*Corresponding author: [denisetiyawan@unimugo.ac.id](mailto:denisetiyawan@unimugo.ac.id)

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### **Abstract:**

Justice for victims of sexual violence on social media is still not fully realised, although positive law has accommodated the restorative justice approach. The existing legal framework is suboptimal, particularly in the aspect of psychological recovery and reconciliation for female victims. This research explores the application of Islamic restorative justice as an alternative approach to dealing with sexual violence in the digital space. The normative research methods used include statutory, comparative, and conceptual approaches. This research analyses the limitations of existing restorative justice practices and the potential of Islamic principles in providing a more holistic solution. The results show that although positive law recognises restorative justice, its application remains weak due to the lack of legal framework, social stigma, the anonymity of perpetrators, and the dominance of retributive punishment. Islamic restorative justice is relevant in the context of sexual violence on social media because it can overcome the existing challenges through the concepts of *sulh*, *diyat*, *kaffarat*, *ta'zir* punishment, and *istighfar*. This approach considers not only the legal aspects but also the spiritual, psychological, and social recovery of victims. Strengthening the legal framework that accommodates Islamic restorative justice is crucial in handling cases of sexual violence in the digital era.

**Keywords:** sexual violence; Islamic restorative justice; victim's recovery.

## Introduction

The rapid advancement of information technology has ushered in a new era of societal modernisation,<sup>1</sup> not only revolutionising human interactions through the internet and social media but also giving rise to cybercrimes like sexual assault, bullying, and fraud<sup>2</sup>. The alarming rise in online sexual assault incidents underscores the urgent need for comprehensive measures to combat this growing cybercrime. Recent data indicates an expected 40% increase in online gender-based violence this year. Between 2022 and 2024, the National Commission on Women received reports of 821 instances of cyber gender-based violence (KSBG)<sup>3</sup>. With over 167 million social media users in Indonesia, the prevalence of social media in modern life highlights the critical importance of addressing this issue. This surge in online sexual violence disproportionately affects women, with 71% of reported cases involving female victims<sup>4</sup>. Most of these offences occur within the personal sphere, with 549 cases committed by former partners and 230 by current partners. As social media platforms such as Facebook, Instagram, WhatsApp, Twitter, TikTok, and Telegram have become havens for these crimes, protecting users and promoting online safety is imperative<sup>5</sup>.

Law enforcement against perpetrators and legal protection for victims of sexual violence on social media in Indonesia are set out in various regulations, such as Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence,<sup>6</sup> Supreme Court Regulation (PERMA) Number 4 of 2014, and the Criminal Procedure Code (KUHAP). These regulations also accommodate the restorative justice approach in handling criminal offences of sexual violence. However, justice for victims, especially women, is still far from optimal. One of the main weaknesses lies in the aspect of psychological recovery and reconciliation for victims<sup>7</sup>. Application in cases of sexual

<sup>1</sup> Yu Zhang and Haoyun Dong, 'Criminal Law Regulation of Cyber Fraud Crimes—from the Perspective of Citizens' Personal Information Protection in the Era of Edge Computing', *Journal of Cloud Computing* 12, no. 1 (24 April 2023): 64, <https://doi.org/10.1186/s13677-023-00437-3>.

<sup>2</sup> R. Sudha Kishore and D. Lalitha Bhaskari, 'Cyber Crime Detection and Prevention Techniques on Cyber Cased Objects Using SVM and Smote', *International Journal on Recent and Innovation Trends in Computing and Communication* 11, no. 8 (20 September 2023): 259–70, <https://doi.org/10.17762/ijritcc.v11i8.7951>.

<sup>3</sup> Roberta Liggett O'Malley and Karen M. Holt, 'Cyber Sextortion: An Exploratory Analysis of Different Perpetrators Engaging in a Similar Crime', *Journal of Interpersonal Violence* 37, no. 1–2 (9 January 2022): 258–83, <https://doi.org/10.1177/0886260520909186>.

<sup>4</sup> Oluwatoyin Esther Akinbowale, Heinz Eckart Klingelhöfer, and Mulatu Fekadu Zerihun, 'Analysis of Cyber-Crime Effects on the Banking Sector Using the Balanced Score Card: A Survey of Literature', *Journal of Financial Crime* 27, no. 3 (16 June 2020): 945–58, <https://doi.org/10.1108/JFC-03-2020-0037>.

<sup>5</sup> Lisa Julianti, Raisah Maharani Siregar, and Pasya Aulia, 'Fenomena Pelecehan Seksual Pada Perempuan Di Media Sosial Instagram', *Prosiding Seminar Nasional Ilmu Ilmu Sosial (SNIIS)* 2 (7 November 2023): 166–75.

<sup>6</sup> Nurhayati Mardin et al., 'Comparative Law Study: Sentencing of Sexual Violence Perpetrators Who Have Deviant Sexual Behavior', *Jambura Law Review* 4, no. 2 (28 July 2022): 227–45, <https://doi.org/10.33756/jlr.v4i2.15132>; Nur Azisa et al., 'Criminal Acts of Physical and Non-Physical Sexual Violence in University', *Jurnal IUS Kajian Hukum dan Keadilan* 12, no. 3 (26 December 2024), <https://jurnalius.ac.id/ojs/index.php/jurnalius/article/view/1497>.

<sup>7</sup> UN Women, 'Situation Analysis of Access to Justice for Victims and Survivors of Violence against Women and Girls in East and Southern Africa', UN Women – Africa, 2023, <https://africa.unwomen.org/en/digital-library/publications/2023/02/situation-analysis-of-access-to-justice-for-victims-and-survivors-of-violence-against-women-and-girls-in-east-and-southern-africa>.



violence on social media faces various challenges. First, the voluntary nature of restorative justice often places pressure on victims to reconcile with perpetrators, which can lead to revictimisation, particularly when there is an imbalance of power. Many victims of sexual violence experience deep psychological trauma. They may not feel safe or comfortable confronting their perpetrators, especially in cases where perpetrators remain anonymous or operate in online spaces.

Second, the social stigma against victims of sexual violence often prevents them from seeking justice. Many cases of sexual violence on social media involve the dissemination of non-consensual intimate content or sexual harassment, which can cause severe emotional distress to victims. In some cases, victims are blamed or shamed by their communities, which further reduces their courage to engage in restorative justice mechanisms. Third, social media-based sexual violence leaves a digital footprint. Unlike physical crimes, the online dissemination of harmful content can have long-lasting effects, as explicit material can continue to be disseminated, causing prolonged suffering for victims. The current restorative justice legal framework lacks clarity in addressing the digital permanence of such crimes, limiting its effectiveness in ensuring justice and protection for victims.

Islamic restorative justice offers a more comprehensive approach in addressing the challenges faced by victims of sexual violence on social media. This approach not only focuses on the legal aspects but also integrates the psychological, social, and spiritual recovery of victims, in line with the principles of *maqashid al-shariah*—maintaining human dignity (*hifz al-'ird*) and protecting individuals from harm (*dar' al-mafasid*). First, in addressing the pressure that victims may experience in restorative justice mechanisms, Islam emphasises that reconciliation must be done on the basis of free choice without coercion. The concept of *sulh* (peaceful settlement) in Islam does not require victims to reconcile with the perpetrator, but it allows them to choose the path of justice that best suits their conditions and needs.<sup>8</sup> This approach provides space for victims to get justice without having to experience revictimisation or face the perpetrator directly if they feel unsafe.

Secondly, to overcome the social stigma that often hinders victims from seeking justice, Islam applies the principle of *satr* (covering disgrace),<sup>9</sup> which emphasises the protection of the victim's privacy and honour. Thus, victims do not need to experience social pressure due to the legal process or open reconciliation. In addition, Islam also emphasises the importance of social rehabilitation for victims through community support and religious guidance, which aims to restore victims' confidence and ensure that they do not experience discrimination or social exclusion. Third, in addressing the challenge of digital permanence of social media-based sexual violence, Islam offers the concept of *kaffarat* (acts of penance) and *ta'zir* (judge-determined punishment) for perpetrators.<sup>10</sup> Perpetrators are required to take

<sup>8</sup> Fauzan Fauzan, 'Alternatives to Criminal Conviction in a Comparative Analysis of Positive Law and Islamic Criminal Law', *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 May (23 May 2022): 183–202, <https://doi.org/10.29240/jhi.v7i1.4308>.

<sup>9</sup> Amr Osman, 'The Right to Be Forgotten: An Islamic Perspective', *Human Rights Review* 24, no. 1 (1 March 2023): 53–73, <https://doi.org/10.1007/s12142-022-00672-2>.

<sup>10</sup> Nur Insani, Suud Sarim Karimullah, and Sulastri, 'Islamic Law Challenges in Addressing Human Trafficking and Sexual Exploitation', *Jurnal Hukum Islam* 21, no. 2 (22 December 2023): 357–87, [https://doi.org/10.28918/jhi\\_v21i2\\_06](https://doi.org/10.28918/jhi_v21i2_06); Muhammad Tahmid Nur, 'Justice in Islamic Criminal Law:



responsibility through legal punishment and actions that can benefit victims and society, such as rehabilitation, public education, and material compensation that can be used to help victims in the recovery process. Islam also encourages prevention efforts through educative approaches and strengthening moral values in society, aiming to reduce the incidence of sexual violence on social media.

By integrating these principles, Islamic restorative justice offers a more humane and equitable solution for victims based on the abovementioned advantages. This approach ensures long-term psychological and social recovery for victims, legal certainty and deterrence for offenders through Islamic values. It bridges the gap left by conventional restorative justice and provides a more inclusive framework for upholding justice in digital sexual violence cases. Several studies discuss the concept of restorative justice in the criminal justice system. Among them, Howard Zehr's research introduced the idea that restorative justice focuses on victim recovery and offender accountability compared to the retributive approach, which is more oriented towards punishment.<sup>11</sup> In addition, research conducted by Olga Jubany and Isabelle Carles shows that the application of restorative justice in sexual crime cases still faces various obstacles, especially in ensuring the safety and comfort of victims in the reconciliation process.<sup>12</sup>

In the context of restorative justice in sexual assault cases, Jülich et al. highlighted the effectiveness of restorative justice models in sexual assault cases in New Zealand, where this approach can provide a space for victims to voice their experiences but poses a risk to revictimisation if not appropriately applied.<sup>13</sup> Another study by Alexa Sardina and Alissa R. Ackerman discussed that although restorative justice can be an alternative in handling sexual violence cases, there are still gaps in regulation and protection for victims, especially in cases involving social media-based violence.<sup>14</sup> Meanwhile, a study on Islamic restorative justice conducted by Sodiqin shows that this approach emphasises the balance between God's and human rights and integrates spiritual and moral aspects in case resolution.<sup>15</sup> Abdul Gafur et al. also examined how the Islamic justice system applies mechanisms such as *kaffarat*, *diyat*, and *suh* to resolve conflicts more holistically than the conventional legal system.<sup>16</sup>

This article offers a new perspective by examining the application of Islamic restorative justice, specifically in the context of social media-based sexual violence.

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Study of the Concept and Meaning of Justice in The Law of *Qiṣāṣ*, *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 55, no. 2 (15 October 2021): 335–65, <https://doi.org/10.14421/ajish.v55i2.1011>.

<sup>11</sup> Howard Zehr, *The Little Book of Restorative Justice*, Good Books, Intercourse, Pennsylvania, USA (United States of America: Good Books, 2003).

<sup>12</sup> Olga Jubany and Isabelle Carles, 'Researching Diverse Understandings of Justice and the Potential of Restorative Measures for Hate Crimes', *Droit et Cultures* 86 (2024), <https://doi.org/10.4000/130de>.

<sup>13</sup> Shirley Jülich et al., 'Restorative Justice Responses to Sexual Violence: Perspectives and Experiences of Participating Persons Responsible and Persons Harmed', *Victims & Offenders*, 3 April 2024, 1–26, <https://doi.org/10.1080/15564886.2024.2333311>.

<sup>14</sup> Alexa Sardina and Alissa Ackerman, 'Restorative Justice in Cases of Sexual Harm', *City University of New York Law Review* 25, no. 1 (1 January 2022): 1–56.

<sup>15</sup> Ali Sodiqin, 'Legal, Moral, and Spiritual Dialectics in the Islamic Restorative Justice System', *Ahkam: Jurnal Ilmu Syariah* 21, no. 2 (2021): 357–78, <https://doi.org/10.15408/ajis.v21i2.22675>.

<sup>16</sup> Abdul Gafur, Ahmad Hasan, and Masyithah Umar, 'Restorative Justice Dan Diversi Dalam Penanganan Jarimah Pelecehan Seksual Berdasar Qanun Aceh Nomor 6 Tahun 2014 Tentang Hukum Jinayat', *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 1, no. 4 (20 December 2023): 945–65, <https://doi.org/10.62976/ijijel.v1i4.257>.



Unlike previous research that focuses more on restorative justice in the context of secular law, this research highlights how the values in Islamic restorative justice can provide a more comprehensive solution to the challenges faced by victims of sexual violence online. Some of the main contributions that distinguish this article from previous research include developing an Islamic restorative justice model that not only focuses on reconciliation but also ensures the protection of victims through the principle of *satr* (covering disgrace). This article also provides space for victims to choose whether or not to reconcile with the perpetrator, proposing the application of the concepts of *ta'zir* and *kaffarat* as a recovery mechanism for victims, as well as encouraging legal content removal measures to address the long-term impact of social media-based sexual violence. Moreover, this research shows how an Islamic approach can provide psychological and spiritual recovery for victims through religious guidance and community support. By integrating an Islamic restorative justice perspective in the context of sexual violence on social media, this article is expected to make a significant contribution to the development of legal policies that are more inclusive and based on holistic values of justice for the victims.

## Method

This research aims to explore the challenges of restorative justice and opportunities for the application of Islamic restorative justice in sexual violence on social media. The focus of this research includes analysing the application of restorative justice concepts in positive law to crimes of sexual violence on social media, identifying the obstacles faced in the application of restorative justice in the current legal system, and analysing how the application of Islamic restorative justice can provide solutions that go beyond what is provided by positive law. This research uses a normative method combining statutory, comparative, and conceptual approaches. The statutory approach is used to describe how restorative justice is applied in cases of sexual violence on social media according to the framework of positive law and Islamic law. The comparative approach analyses the comparison of the application of restorative justice between positive law and Islamic law, while the conceptual approach focuses on exploring the law enforcement of sexual violence on social media from the perspective of Islamic restorative justice. This research uses secondary data in the form of primary legal materials (Law No. 12 of 2022 on the Crime of Sexual Violence, Criminal Code, Law No. 11/2008 on Electronic Information and Transactions and (PERMA) No. 4 of 2014 as well as Islamic restorative justice concepts, such as *Sulh*, *Diyat*, *Kaffarat*, *Ta'zir*, and *satr*), secondary legal materials (literature, journals, books, and research results from Howard Zehr on the basic concepts of restorative justice, Olga Jubany and Isabelle Carles on the challenges of implementing restorative justice in cases of sexual violence, Alexa Sardina and Alissa R. Ackerman on the impact and effectiveness of the restorative justice approach. Ackerman on the impact and effectiveness of restorative approaches in sexual violence cases, and Abdul Gafur et al. on the implementation of Islamic restorative mechanisms in solving sexual crimes), and tertiary legal materials (legal dictionaries and encyclopedias to explain the principles of restorative justice in Islam). Data analysis involves qualitative analysis with an analytical descriptive method.

## Results and Discussion



## Restorative Justice in Sexual Violence on Social Media: Definition, Scope and Implementation Challenges in Indonesia

In the last ten years, restorative justice has been the subject of discussion. The term is derived from two English words, “restorative”, which means to restore, heal, or strengthen, and “justice”, which means fairness. Linguistically, restorative justice can be interpreted as fairness related to restoring or repairing.<sup>17</sup> The term restorative justice was first introduced by a psychologist, Albert Eglash, in 1958. The concept became increasingly popular in 1977 through his writings that classified three types of criminal justice systems: retributive, distributive, and restorative. The concept includes various forms of justice, such as reparative, positive, community, relational, and communitarian justice.<sup>18</sup> Restorative justice reflects the basic principles of respecting, protecting, and fulfilling human rights for perpetrators and victims. John Locke argued that every human has fundamental rights inherent from birth—the rights to life, liberty, and property. From various perspectives, restorative justice is understood as an approach, theory, idea, process, philosophy, or intervention in the criminal justice system.<sup>19</sup>

The Handbook of Restorative Justice Programmes, published by the United Nations (UN), defines restorative justice as various problem-solving approaches involving justice institutions, communities, social networks, victims, and offenders. Howard Zehr, known as “the Father of Restorative Justice,” in his book—*Changing Lenses*—defines restorative justice as a process that focuses on recovery by involving interested parties to collectively identify impacts, needs, and obligations in dealing with a criminal offence, to create the fairest possible justice for all parties. Meanwhile,<sup>20</sup> Tony Marshall describes restorative justice as a crime resolution process in which the parties involved collectively seek solutions to the future implications of the crime.<sup>21</sup> This explanation indicates that restorative justice is an approach, theory, idea, process, philosophy, or intervention in solving criminal offences that involves all related parties, such as victims, perpetrators, families, communities, or other interested parties. The main goal of this approach is recovery and creating justice for all parties. With this definition, the values contained in restorative justice do not come from outside Indonesia. The values in this approach have long been embedded in the sociological life of Indonesian society, which traditionally prioritises conflict resolution through deliberation and community-based approaches. Restorative justice philosophically has a basic footing contained in the fourth and fifth precepts of Pancasila, carrying the essence of the values of deliberation and justice. Pancasila represents the ideology and way of life of the

<sup>17</sup> Christopher D. Marshall, ‘Restorative Justice’, in *Religion Matters* (Singapore: Springer Singapore, 2020), 101–17, [https://doi.org/10.1007/978-981-15-2489-9\\_7](https://doi.org/10.1007/978-981-15-2489-9_7).

<sup>18</sup> Daniel W. Van Ness et al., *Restoring Justice* (New York: Routledge, 2022), <https://doi.org/10.4324/9781003159773>.

<sup>19</sup> KuatPuji Prayitno, ‘Restorative Justice Untuk Peradilan Di Indonesia (Perspektif Yuridis Filosofis Dalam Penegakan Hukum In Concreto)’, *Jurnal Dinamika Hukum* 12, no. 3 (2012): 407–20, <https://doi.org/10.20884/1.jdh.2012.12.3.116>.

<sup>20</sup> Ernesto Lodi et al., ‘Use of Restorative Justice and Restorative Practices at School: A Systematic Literature Review’, *International Journal of Environmental Research and Public Health* 19, no. 1 (23 December 2021): 96, <https://doi.org/10.3390/ijerph19010096>.

<sup>21</sup> Daye Gang et al., ‘A Call for Evaluation of Restorative Justice Programs’, *Trauma, Violence, & Abuse* 22, no. 1 (13 January 2021): 186–90, <https://doi.org/10.1177/1524838019833003>.



Indonesian nation.<sup>22</sup> Pancasila is a prismatic postulate or a balancing legal system of noble values that grow and take root in the Indonesian nation.<sup>23</sup>

In essence, the philosophy of restorative justice is to realise justice based on deliberation to create peace and justice for all parties. The concept of fair justice in restorative justice certainly favours the truth, not impartial or one-sided, and not arbitrary. This form of justice becomes the moral and ethical parameter of the restorative justice paradigm. So, this justice is known as the just peace principle. The philosophical dimension of restorative justice is closely related to the values contained in deliberation as a priority in decision-making. The aim is to "humanise" the justice system between the parties as the main priority and provide a sense of justice that can meet the actual needs of the parties involved. In addition, restorative justice offers a strategy of "more justice, less crime, and a way forward" to hold more offenders accountable, with more victims helped, more crime prevented, and reduced costs borne by the government.<sup>24</sup>

Besides ending the case to achieve peace, restorative justice also prioritises the care and recovery of victims and the search for future solutions to crimes that occur. This method is used to resolve various possibilities that can be agreed upon by the perpetrator and victim, both of whom actively participate in each process. This following The Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, adopted by the United Nations. These principles clearly state that the orientation of restorative justice lies in the process, the program, and, ultimately, the outcome. In Indonesia, restorative justice has been applied primarily in cases involving juveniles as offenders, minor crimes, and cases more favourably resolved through mediation than imprisonment. The application of restorative justice in cases of sexual violence on social media in Indonesia faces many complex challenges. Cyber sexual harassment includes criminal acts involving sexual harassment in the digital realm, such as *cyber harassment, revenge porn, grooming, and 96oxing*. This phenomenon poses serious challenges within the legal system, particularly regarding the regulation and enforcement of laws against sexual violence perpetrators in the online realm<sup>25</sup>.

In Indonesia, several regulations to support the implementation of restorative justice in cases of sexual violence on social media are set out in Article 6 of Law Number 12 of 2022 concerning Sexual Violence Crimes (UU TPKS), affirming that victims have the right to psychological assistance, rehabilitation, and legal protection. A restorative justice approach can be used as part of the recovery process. Then, Article 27, paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), as amended by Law Number 19 of 2016, regulates the prohibition of distributing content that violates decency, including

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<sup>22</sup> Anang Dony Irawan and Al Qodar Purwo Sulistyo, 'Pengaruh Pandemi Dalam Menciptakan Ketimpangan Sosial Ekonomi Antara Pejabat Negara Dan Masyarakat', *Jurnal Citizenship Virtues* 2, no. 1 (1 March 2022): 251–62, <https://doi.org/10.37640/jcv.v2i1.1184>.

<sup>23</sup> Achmad Hariri, 'Dekonstruksi Ideologi Pancasila Sebagai Bentuk Sistem Hukum Di Indonesia', *Ajudikasi : Jurnal Ilmu Hukum* 3, no. 1 (2 July 2019): 1, <https://doi.org/10.30656/ajudikasi.v3i1.1055>.

<sup>24</sup> Steve Kirkwood, 'A Practice Framework for Restorative Justice', *Aggression and Violent Behavior* 63 (March 2022): 101688, <https://doi.org/10.1016/j.avb.2021.101688>.

<sup>25</sup> Ahmad Saifuddin, 'Merumuskan Faktor Penyebab Dan Solusi Pelecehan Seksual Menggunakan Perspektif Psikologi, Sosial, Dan Agama', *Academica : Journal of Multidisciplinary Studies* 5, no. 2 (3 November 2021): 381–420, <https://doi.org/10.22515/academica.v5i2.4279>.



unlawful sexual content. This violation can serve as an entry point for addressing sexual violence on social media. However, this article does not clearly explain the implementation.<sup>26</sup> The Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 on Termination of Prosecution Based on Restorative Justice provides a basis for prosecutors to apply restorative justice in the prosecution process of criminal cases. However, this regulation only addresses minor offences. Then, the Minister of Communication and Information Regulation Number 5 of 2020 concerning Electronic System Operators regulates the removal of illegal content within a certain period upon public reports. Although the existing regulations provide a legal basis, their implementation still faces issues. First, it only applies to minor offences. According to Article 23 under the Law concerning Sexual Violence (UU TPKS), out-of-court settlements are only allowed if the perpetrator is a child. This can result in pressure on the victim to reconcile with the perpetrator, potentially ignoring the legality and rights of the victim.<sup>27</sup> The second is a reconciliation process between the victim and the perpetrator. In cases of sexual violence, victims are often heavily traumatised. The mediation process can risk revictimisation, where the victim again experiences psychological pressure due to having to deal with the perpetrator. Perpetrators of digital sexual violence are individuals who have higher power, both in economic, social and political aspects. This can cause victims to feel intimidated in the restorative justice process, so the results tend not to favour the victim. Third, the process of fulfilling reconciliation does not follow the losses obtained by the victim.

This has led to a wider public perception that restorative justice may not be appropriate for sexual violence cases today, especially in the realm of social media, because there is no protection for the victims. Such perception can be proven by Baiq Nuril Case. As a victim of sexual harassment, Baiq Nuril was convicted for allegedly spreading immoral content while she only kept the recording to protect herself. This shows how the legal system prioritises retributive punishment over victim recovery. Baiq experienced tremendous psychological and social pressure following this case<sup>28</sup>. The data from Komnas Perempuan (Women National Commission) shows that victims of online gender-based violence (GBV) are often seriously traumatized and have no adequate access to counselling or psychotherapy services. Most victims, especially women, feel that they do not receive support to overcome shame, fear, and long-term psychological impacts<sup>29</sup>. A report from SAFEnet states that the majority of

<sup>26</sup> Virgin Suciyanti Maghfiroh and Faqihul Muqoddam, 'Dynamics of Sexual Harassment on Social Media', no. 2018 (2019): 154–62, <https://doi.org/10.32698/25272>; Muhammad Faisol et al., 'Sexual Exploitation in Marriage Tourism: Justice and Legal Protection for Victims in Cianjur and Jember', *Justicia Islamica* 21, no. 1 (24 June 2024): 43–62, <https://doi.org/10.21154/justicia.v21i1.7338>.

<sup>27</sup> Herman et al., 'Kajian Yuridis Penggunaan Restorative Justice Pada Perspektif Korban Tindak Pidana Kekerasan Seksual', *Halu Oleo Legal Research* 6, no. 2 (30 August 2024): 476–87, <https://doi.org/10.33772/holresch.v6i2.786>.

<sup>28</sup> Maidina Rahmawati, 'Baiq Nuril Adalah Korban Kekerasan Seksual, ICJR Pertanyakan Putusan Kasasi Yang Menghukum Baiq Nuril', Institute for Criminal Justice Reform, 11 November 2018, <https://icjr.or.id/baiq-nuril-adalah-korban-kekerasan-seksual-icjr-pertanyakan-putusan-kasasi-yang-menghukum-baiq-nuril/>.

<sup>29</sup> Komisi Nasional Anti Kekerasan Terhadap Perempuan, 'Lembar Fakta Catatan Tahunan Komnas Perempuan Tahun 2023 "Momentum Perubahan: Peluang Penguanan Sistem Penyikapan Di Tengah



victims of GBV feel that the law in Indonesia only punishes perpetrators without providing protection or recovery for victims, which should be part of restorative justice.<sup>30</sup> Critics argue that it risks trivialising the harm caused and undermining the deterrent effect of the criminal justice system. This perception further limits the willingness of legal actors and society to explore Islamic restorative justice as an appropriate solution for such cases.

### Opportunities of Islamic Restorative Justice in Legality, Psychological Recovery and Reconciliation of Victims

Abdul Qodir Audah, an Islamic jurist and author of *Al-Tasyri' Al-Jinaiy Al-Islami*, has a strict approach to crimes, including sexual violence. In his view, sexual violence falls into the category of a major crime (*jarimah kabirah*) since it injures the honour of the individual, which violates one of the principles of *maqashid sharia* (the protection of honour). Punishment for perpetrators of sexual violence can be in the form of *hudud*, which imposes stoning (if the perpetrator is married) or flogging (if unmarried). These punishments aim to provide a deterrent effect and maintain social stability. He 98ad98asized that victims of sexual violence must be protected by the state and from social stigma. To avoid defamation, the victim's testimony can be corroborated with forensic evidence or additional witnesses<sup>31</sup>.

Wahbah Zuhaili, a contemporary scholar famous for his book *Al-Fiqh Al-Islami wa Adillatuhu*, provides a moderate and in-depth view on the issue of sexual violence. He states that sexual violence violates Islamic values that uphold respect for humans (*karamah insaniyah*). Such behaviour injures human rights and leads to serious social damage. Punishment for perpetrators of sexual violence should be tailored to the level of the crime. If sexual violence involves coercion, threats, or great harm, *hudud*, such as *qisas* or *ta'zir* may be applied<sup>32</sup>. Yusuf al-Qaradawi, a well-known scholar who has a progressive approach to understanding sharia, provides a contextual view of sexual violence. The act is a grave sin (*kaba'ir*) and an insult to humanity. It goes against the values of compassion (*rahmah*) at the core of Islamic teachings. In his view, victims of sexual violence must receive justice, including psychological, legal, and social assistance. Perpetrators of sexual violence must receive severe punishment to protect

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Peningkatan Kompleksitas Kekerasan Terhadap Perempuan” (Jakarta: Komnas Perempuan, 7 April 2023).

<sup>30</sup> Anggi Ruslinia, Assifa Aulia Alfa, and Febry Triantama, ‘Analisis Aktor Non Negara Dan Ketahanan Psikologi: Studi Kasus Kekerasan Berbasis Gender Online (KBGO)’, *Jurnal Ketahanan Nasional* 29, no. 2 (1 September 2023): 178, <https://doi.org/10.22146/jkn.86516>.

<sup>31</sup> Akmal and Nairazi AZ, ‘Uqubat Ta’zir Jarimah Pelecehan Seksual Dalam Qanun Aceh No. 6 Tahun 2014 Di Mahkamah Syar’iyah Kota Langsa (Perspektif Fiqh Kontemporer)’, *Legalite : Jurnal Perundang Undangan Dan Hukum Pidana Islam* 5, no. 2 (2021): 110–29, <https://doi.org/10.32505/legalite.v5i2.2799>.

<sup>32</sup> Imam Makhali and Anggara Seta Aji, ‘Perlindungan Hukum Terhadap Korban Kekerasan Seksual’, *Jurnal Riset Indragiri* 1, no. 2 (2022): 70–99, <https://doi.org/10.61069/juri.v1i2.12>; Muhammad Mawardi Djalaluddin et al., ‘The Implementation of Ta’zir Punishment as an Educational Reinforcement in Islamic Law’, *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (31 March 2023): 399–417, <https://doi.org/10.22373/sjhk.v7i1.15101>; Islamul Haq, ‘Prison in Review of Islamic Criminal Law: Between Human and Deterrent Effects’, *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 4, no. 1 (30 June 2020): 132–50, <https://doi.org/10.22373/sjhk.v4i1.6683>.



society from the threat of similar crimes. This punishment can be *hudud* or *ta'zir*, depending on the evidence and context of the crime.<sup>33</sup>

From the opinions of fuqaha *fiqh jinayah* experts, it can be concluded that crimes of sexual violence are abhorrent (*al-fawâhîsy*) and forbidden, as outlined in *Surah al-A'raf*, verse 33. In cases of cyber harassment, offenders frequently make statements or take actions that lack rational justification. Making obscene remarks without consent can cause discomfort or psychological distress. As discussed earlier, attacks on a person's mental well-being can also be classified as a type of violence<sup>34</sup>. According to Quraish Shihab's interpretation of verse 70 of *Surah al-Ahzab*, the term "*sâdîdan*" not only signifies truthfulness but also underscores the significance of precision and appropriateness in one's speech. Moreover, considering the broader connotation of "*sâdîdan*" as "to demolish and rebuild," it is crucial to approach comments and criticism constructively. This involves delivering them with kindness, accuracy, and a focus on fostering personal growth<sup>35</sup>.

Participating in cyberbullying, whether through spoken or visual means, unequivocally causes harm to others<sup>36</sup>. According to al-Qurthubi's interpretation of *Surah al-Ahzab* verse 58, causing harm to a believer can also encompass negative actions or speech, such as lying. Essentially, any action that inflicts pain or distress upon another person is deemed religiously prohibited (*haram*)<sup>37</sup>. Imam Suyuthi's legal principles, including the *ta'zir*, serve as the basis for numerous chapters in Islamic jurisprudence. In cases of social media-based sexual violence, the specific punishment for this offence is not explicitly prescribed in the *Quran* or *hadith*, as it does not fall under the defined *had* (fixed) punishments. Additionally, Islamic legal principles maintain that any *had* punishment may be waived in the presence of doubt. Consistent with this principle, prioritising forgiveness over punishment is preferable.

Considering these factors, *ta'zir*—a discretionary punishment—is considered the most appropriate form of sanction. The severity of *ta'zir* should be determined based on some principles, such as *maslahah* (public interest), the seriousness of the cyber harassment, and its consequences. From an Islamic legal standpoint (*maqashid al-shariah*), cyber harassment offences violate at least two fundamental objectives of law: safeguarding personal dignity (*hifzh al-'ird*) and preserving life (*hifzh al-nafs*), given that the psychological trauma inflicted on victims can lead to physical harm<sup>38</sup>.

<sup>33</sup> Azyana Alda Sirait et al., 'Hukum Aborsi Akibat Perkosaan (Studi Pemikiran Yusuf Al-Qardhawi)', *Dirosat: Journal of Islamic Studies* 8, no. 1 (15 June 2023): 37–46, <https://doi.org/10.28944/dirosat.v8i1.1532>.

<sup>34</sup> Sumardi Efendi, 'Sanksi Kejahatan Pelecehan Seksual Menurut KUHP Dan Qanun Aceh No. 6 Tahun 2014 Tentang Hukum Jinayat', *SHIBGHAH: Journal of Muslim Societies* 3, no. 1 (2021): 31–49.

<sup>35</sup> Juan Maulana Alfredo, Xavier Nugraha, and Dita Elvia Kusuma Putri, 'Islamic Sex Education Program: Transformasi Pendidikan Pesantren Guna Mencegah Terjadinya Kekerasan Seksual Di Kalangan Santri', *Mizan: Journal of Islamic Law* 6, no. 1 (17 April 2022): 119, <https://doi.org/10.32507/mizan.v6i1.1197>.

<sup>36</sup> Deni Setiyawan, Hadi Tuasikal, and Hafidz Adhi Karana, 'The Phenomenon of Divorce during the Election Period in the Perspective of Islamic Law', *Jurnal Media Hukum* 31, no. 1 (20 May 2024): 150–66, <https://doi.org/10.18196/jmh.v31i1.21868>.

<sup>37</sup> Nanda Himmatul Ulya, 'Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual Perspektif Negara Dan Maqashid Syariah', *Journal of Islamic Law and Family Studies* 4, no. 1 (2021): 2622–3015.

<sup>38</sup> Ahmad Jamaludin and Yuyut Prayuti, 'Model Pencegahan Kejahatan Seksual Di Lembaga Pendidikan Pesantren', *Res Nullius Law Journal* 4, no. 2 (25 June 2022): 161–69,



Islam provides certainty of punishment for perpetrators of sexual violence on social media based on the Quran and Hadith. Additionally, it encompasses two main dimensions: *Huquq Allah* (the rights of Allah) and *Huquq al-'Abd* (the rights of humans) as the foundation of justice in Islamic law. *Huquq Allah* reflects obedience to divine rules, including strict prohibitions against acts of sexual violence. Violating *Huquq Allah* not only infringes on the rights of the victim as an individual but also constitutes a rejection of God's law. This dimension invites the victims to restore their spiritual relationship with God through prayer and worship, which can provide inner peace and a sense of empowerment. *Huquq al-'Abd*, on the other hand, focuses on restoring victims' rights as human beings.<sup>39</sup>

This approach emphasises the importance of acknowledging wrongdoing by the perpetrator and their responsibility to repair the relationship with the victim. Recognition and apologies from perpetrators provide space for victims to restore their dignity and sense of justice. Forgiveness is central to helping victims let go of grudges and emotional baggage. In the *Qur'an*, forgiveness is encouraged as a path to inner peace (QS. *An-Nur*: 22). Although not an obligation, forgiveness in this context is a carefully facilitated process, where victims are not forced to forgive but are given spiritual and psychological support to find peace through forgiveness. With the help of Islamic values-based counselling, victims can achieve genuine forgiveness without feeling deprived of their right to justice. This forgiveness is an individualised process that paves the way for broader social reconciliation.

In addition, the approach offers mechanisms that ensure perpetrators are held accountable for their actions through *kaffarat*, *diyat* and *tazir*. *Kaffarat*, in the form of social action, such as feeding the poor or fasting, not only allows perpetrators to atone for their sins but also provides tangible benefits to society<sup>40</sup>. *Diyat*, or material compensation to the victim, is a concrete form of reparation that can be used for therapy, education, or other needs. In addition, *tazir* as a corrective punishment provides space for the offender to rehabilitate their behaviour. This punishment can take the form of religious education programmes, skills training, or community services designed to prevent the offender from repeating their actions. *Istighfar* can also be used to request forgiveness from Allah. Perpetrators who ask for forgiveness show deep remorse and a commitment not to repeat their behaviour. For victims,

<https://doi.org/10.34010/rnlj.v4i2.6861>; Muhammad Iqbal Juliansyahzen and Ocktoberrinsyah, 'The Contemporary Maqāṣid Sharia Perspective on Sexual Violence Provisions in the Indonesian Law Number 12 Year 2022', *Al-Manahij: Jurnal Kajian Hukum Islam*, 25 November 2022, 269–86, <https://doi.org/10.24090/mnh.v16i2.7018>; Ihwan Sormin and Zezen Zainul Ali, 'The Comparative Study of the Protection of Women's Rights in Article 463 of the New Criminal Code with Law Number 36 of 2009 Concerning Health Perspective of Jaser Auda', *MILRev: Metro Islamic Law Review* 2, no. 2 (16 November 2023): 187–98, <https://doi.org/10.32332/milrev.v2i2.7824>.

<sup>39</sup> Rizanizarli Rizanizarli et al., 'The Application of Restorative Justice for Children as Criminal Offenders in the Perspective of National Law and Qanun Jināyat', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (31 March 2023): 21–39, <https://doi.org/10.22373/sjhk.v7i1.15633>.

<sup>40</sup> Andrew Lavanchy, 'The Police Journal Restorative Justice in Roads Policing', *The Police Journal: Theory, Practice and Principles* 97, no. 1 (1 March 2024): 166–75, <https://doi.org/10.1177/0032258X221143929>.



*istighfar* can be a spiritual tool to release pain and find inner peace. And reconciliation can also be realised through *sulh* or peaceful mediation<sup>41</sup>.

This process involves dialogue between the victim and the perpetrator with the guidance of a neutral mediator, such as a cleric or counsellor. *Sulh* allows the victim to express their feelings directly, while the perpetrator can show remorse and repair the relationship. The resulting agreement, such as material compensation or an open apology, provides a basis for social rapprochement and harmony<sup>42</sup>. This Islamic Restorative Justice offers a holistic approach that focuses on the legal aspects and the victim's spiritual, psychological, and social recovery. Paying attention to God's rights and human rights and emphasising the importance of forgiveness, responsibility, and reconciliation help create a framework for justice that is dignified and inclusive. This approach is clear evidence that Islam pays close attention to the balance between individual justice and social harmony, particularly in the context of sexual violence. This can also be used in the social media sphere.

### **Comparative Restorative Justice Between Criminal Law and Islam: Legality, Psychological Recovery and Reconciliation of Victims**

**Table 1.** Comparative Restorative Justice Between Criminal Law and Islam

Aspect	Restorative Justice in Positive Law.	Restorative Justice in Islam.
Legal Source	Laws, Supreme Court Regulations, Attorney General Regulations, and judicial and law enforcement agency policies.	<i>Al-Qur'an, Hadith, Ijma', Qiyyas, and Maqashid al-Shariah</i> principles.
Legality	<ul style="list-style-type: none"> <li>- Article 23 of Law No. 12 of 2022 on Criminal Acts of Sexual Violence (TPKS Law)</li> <li>- Supreme Court Regulation (PERMA) No. 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Justice System</li> <li>- Attorney General Regulation No. 15 of 2020 concerning Discontinuation of Prosecution Based on Restorative Justice.</li> </ul>	<ul style="list-style-type: none"> <li>- <i>Sulh</i> (peaceful settlement) - QS. An-Nisa: 128</li> <li>- <i>Diyat</i> (compensation) - QS. Al-Baqarah: 178</li> <li>- <i>Kaffarat</i> (ransom) - QS. Al-Maidah: 89</li> <li>- <i>Ta'zir</i> (discretionary punishment) - the judge's authority in determining punishment based on <i>maslahat</i>.</li> </ul>
Destination	Victim recovery, perpetrator responsibility and social reconciliation.	It maintains a balance between the rights of the victim, the rights of the

<sup>41</sup> Risqi Akbar, Sri Kusriyah, and Achmad Sulchan, 'The Implementation of Restorative Justice Approach through Restorative Justice Handling in Criminal Acts of Fraud & Embedding', *Law Development Journal* 4, no. 3 (16 August 2022): 381–88, <https://doi.org/10.30659/ldj.4.3.381-388>.

<sup>42</sup> Akhmad Sulaiman, 'Reinterpretasi Ayat Al-Qishash QS. Al-Baqarah: 178-179: Pendekatan Maqashid al-Syariah Dan Sosio-Historis', *MAGHZA: Jurnal Ilmu Al-Qur'an Dan Tafsir* 3, no. 2 (28 December 2018): 242–52, <https://doi.org/10.24090/maghza.v3i2.2137>.



perpetrator, and the rights of God.

Application in Cybercrime	Still limited due to the anonymity of the perpetrator, but it can be applied in cases of defamation, unauthorised content dissemination, and online fraud.	It provides moral and spiritual-based solutions, such as satr (preserving the victim's shame), removal of haram content, and emphasis on repentance and social compensation.
Sanctions against Perpetrators	<ul style="list-style-type: none"> <li>- Mediation and rehabilitation</li> <li>- Compensation for victims</li> <li>- Expungement of criminal records in certain cases.</li> </ul>	<ul style="list-style-type: none"> <li>- <i>Diyat</i> (material compensation)</li> <li>- <i>Ta'zir</i> (punishment at the discretion of the judge)</li> <li>- <i>Kaffarat</i> (social action such as fasting or almsgiving as penance).</li> </ul>
Shortage	<ul style="list-style-type: none"> <li>- Not all victims get justice because mediation can disadvantage weaker parties.</li> <li>- Lacking a spiritual dimension to case resolution.</li> </ul>	<ul style="list-style-type: none"> <li>- It is difficult to apply in a secular state legal system if not accommodated in positive regulations.</li> <li>- It requires a deep understanding of Islamic law in its application.</li> </ul>

**Source:** study comparison results

Restorative justice gains its legality through various laws and regulations that form the basis for implementing this approach. Some of the regulations that support the implementation of restorative justice include Article 23 of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (TPKS Law), which recognises that case resolution can involve victim recovery mechanisms outside the conventional justice system. Furthermore, Supreme Court Regulation (PERMA) Number 4 of 2014 stipulates the guidelines for the implementation of diversion in the juvenile justice system, while Attorney General Regulation Number 15 of 2020 authorises prosecutors to discontinue prosecution based on restorative justice principles, especially in minor criminal cases. With these regulations, restorative justice in positive law has an explicit legal basis and can be implemented in the criminal justice process, although it is limited to certain cases and must meet certain requirements.

In Islamic law, restorative justice has a legal basis derived from the Qur'an, Hadith, and *fiqh* rules that regulate conflict resolution based on justice and benefit. Islam not only views crime as a violation of state law but also as a violation of Allah's rights (*Huquq Allah*) and individual rights (*Huquq al-'Abd*). Therefore, the restorative mechanisms in Islamic restorative justice involve a variety of more flexible legal



concepts, emphasising a balance between punishment, victim recovery, and offender repentance. One of the main mechanisms in Islamic law is *sulh* (peaceful settlement), as mentioned in *QS. An-Nisa*: 128, which emphasises the importance of reconciliation as a means of conflict resolution. In addition, Islam recognises *diyat* (financial compensation for the victim), as stipulated in *QS. Al-Baqarah*: 178, as well as the concept of *kaffarat* (penance) which provides an opportunity for the perpetrator to perform acts of kindness to repair their wrongdoing.

The restorative justice approach has become one of the alternatives in the modern criminal legal system to solve crimes, focusing on restoring victims, offenders, and society. In Islam, the principles of restorative justice have long been embedded through values such as justice, compassion, and collective responsibility. Despite the similarities between the two, modern and Islamic criminal law approaches have fundamental differences, especially in the spiritual dimension that is more prominent in Islamic teaching<sup>43</sup>. In modern criminal law, restorative justice is defined as an approach that focuses on restoring the harm suffered by victims and reconciliation between offenders and victims. This process often involves mediation, family conferences, and peace agreements that allow both parties to resolve the conflict directly. While this approach focuses on psychological and social aspects, the criminal legal system often pays little attention to the spiritual and moral dimensions that can support a holistic recovery. This has resulted in many victims of verbal and non-verbal crimes of sexual violence and they are left in a condition where their psychological recovery is not fulfilled<sup>44</sup>.

Meanwhile, Islamic restorative justice is an integral part of sharia that aims to balance Allah's rights (*Huquq Allah*) and human rights (*Huquq al-'Abd*). Islam views crime not only as a violation of the law but also as a sin that affects man's relationship with God, himself and society. Therefore, the restoration process in Islam encompasses spiritual, moral, and social dimensions. In both systems, the victim's psychological recovery is the main focus. However, Islam adds a deep spiritual dimension, which can help victims find inner peace through a relationship with Allah. Forgiveness based on the belief that Allah is the Most Forgiving (*QS. Al-Hujurat*: 10) helps victims let go of grudges and emotional wounds. In contrast, modern criminal law places more emphasis on psychological support through therapy and mediation, with no reference to spiritual aspects. This approach is often effective in restoring the emotional state of victims but may not fully address their spiritual needs. Reconciliation processes in modern restorative justice and Islam are similar in terms of peaceful dialogue and community participation. However, Islam provides added value through a *sulh*-based approach, where mediation aims to resolve conflicts and strengthen social and spiritual relationships between victims, perpetrators, and the community. In modern criminal law, reconciliation is often pragmatic, such as compensation or formal settlements. While this helps reduce conflict, it leaves less room for deep spiritual transformation, as in Islam.

<sup>43</sup> Devi Nilam Sari, 'Implementasi Hukuman Qisas Sebagai Tujuan Hukum Dalam Al-Qur'an', *Muslim Heritage* 5, no. 2 (2020): 286, <https://doi.org/10.21154/muslimheritage.v5i2.2342>.

<sup>44</sup> Sugma Rahmawati, 'Hukum Mencuri Dalam Keadaan Terdesak Berdasarkan Klarifikasi Hadist Shohih', *Al-Mahkamah: Islamic Law Journal* 1, no. 1 (29 November 2023): 29–35, <https://doi.org/10.61166/mahkamah.v1i1.7>.



However, in this case, it is essential to understand that the restorative justice approach in criminal law and Islam has the same goals of prioritising victim recovery and social reconciliation. However, according to the author, Islam adds a spiritual and moral dimension that provides a more holistic recovery. Elements such as *Huquq Allah, diyat, kaffarat, istighfar, and sulk* create a framework of justice that resolves conflicts and improves people's relationships with God and each other<sup>45</sup>. Thus, restorative justice in the Islamic concept can be a strong complement to the modern criminal law system in dealing with crime, especially in the context of psychological healing and reconciliation of victims of sexual violence. In Islamic legal literature, the concept of restorative justice aims to restore the balance disturbed by an offence, as set out in the principles of the Qur'an and Hadith. According to modern restorative justice theory developed by Howard Zehr, justice is about repairing damage, responding to the needs of victims, and restoring relationships.<sup>46</sup> This principle is in line with Islamic teachings that emphasise compassion (*rahmah*), justice ('*adl*), and forgiveness ('*afw*).

Realising restorative justice in cases of sexual crimes via social media can align with the Islamic view of restorative justice, emphasising balance, accountability, and the restoration of dignity and harmony in society. Islam's approach to justice, including for sexual crimes, integrates the principles of fairness ('*adl*), compassion (*rahmah*), and the prevention of harm (*dar' al-mafasid*), to preserve the rights of both the victim and society. From an Islamic perspective, restorative justice seeks to repair relationships damaged by crime, focusing on the needs of the victim while ensuring that the perpetrator takes responsibility for their actions. This aligns with the Quranic directive to resolve disputes equitably and to seek reconciliation when possible (*al-Suh*, Qur'an 4:128). In cases of sexual crimes via social media, restorative justice could involve the offender acknowledging their wrongdoing, making amends to the victim, and committing to actions that demonstrate genuine repentance (*taubah*). The process must be victim-centred, ensuring their dignity, safety, and consent throughout, as Islam condemns any form of coercion or injustice. Furthermore, Islam emphasises protecting the honour ('*ird*) and dignity of individuals, making the protection of victims from public humiliation or revictimisation a priority. Social media crimes often involve the public dissemination of harmful content, which amplifies the psychological harm to victims. The Islamic principle of *satr* (concealing the faults of others) can guide efforts to safeguard the victim's privacy while ensuring justice. This includes minimising unnecessary exposure of details during legal proceedings and preventing further dissemination of offensive content, aligning with the Quranic injunction to avoid slander and gossip (Qur'an 24:15-19).

Moral justice in Islam is deeply rooted in the concept of repentance and accountability. Perpetrators are encouraged to seek forgiveness from Allah and those they have wronged, with sincere efforts to rectify the harm caused. For crimes committed via social media, this may involve publicly acknowledging the offence and repairing the victim's reputation, in line with the principle of restitution (*diyat*) or compensation for harm done. This reflects the Quranic teaching that forgiveness and

<sup>45</sup> Ahmad Agus Ramdlany, 'Restorative Justice in Islamic Legal Philosophy Perspective', *International Journal of Business, Economics and Law* 24, no. 2 (2021): 109–17.

<sup>46</sup> Gregory D. Paul and Ian M. Borton, *Creating Restorative Justice: A Communication Perspective of Justice, Restoration, and Community* (Rowman & Littlefield, 2021).



reconciliation are superior when accompanied by justice (*Qur'an* 42:40). Although the restorative justice approach in Islam emphasises the application of holistic, humanistic, and recovery-oriented law, this approach does not diminish legal certainty in its implementation. Islam strictly prohibits any form of actions that demean honour and humiliate or harm individuals, including sexual violence, whether directly or indirectly. The punishment given must follow the principles of Islamic law, which guarantees justice for the victim while also providing a deterrent effect on the perpetrator. This shows that restorative justice in Islam is oriented towards rehabilitation and has a strong legal foundation and certainty within it.

On a broader societal level, social justice in Islam calls for collective responsibility to prevent harm and create an environment that upholds moral values. This includes fostering awareness about the ethical use of technology and social media emphasising the prohibition of behaviours that lead to harm, such as defamation, exploitation, or invasion of privacy. Educational initiatives inspired by Islamic principles can play a vital role in promoting respect, empathy, and accountability within the digital space. In the context of cybercrime, where perpetrators are often unidentifiable, an Islamic restorative justice approach can provide a more holistic solution by prioritising spiritual, social and moral aspects. This aims to ensure that justice can still be served, even if it is not in the form of direct punishment of the perpetrator. Justice is not limited to the worldly legal system; it includes justice in the afterlife. The concept of *Huquq Allah* emphasises that every human action will be rewarded, both in this world and in the hereafter. When the perpetrators of cybercrimes cannot be ensnared by worldly law, victims still have confidence that Allah will provide true justice. The *Qur'an* affirms that no matter how good or bad a person is, they will be rewarded accordingly (*QS. Al-Zalzalah*: 7-8). This belief gives victims peace of mind and prevents them from seeking revenge in ways that can harm themselves and others.

In addition, the concept of *hisab* (calculation of deeds) in Islam provides certainty that Allah will account for every action, including cybercrime, on the day of reckoning. In *QS. Al-Baqarah*: 286, Allah affirms that He will not burden a person beyond what he can bear. This suggests that victims should not feel burdened by having to seek justice, which is difficult to achieve in this world because the ultimate justice lies with Allah. Therefore, Islam encourages victims to remain patient and submit their cases to Allah with full submission. From an Islamic restorative justice perspective, belief in the justice of the afterlife provides spiritual peace for victims and prevents destructive reactions, such as revenge or other illegal acts. When a person believes that the injustice done to him will be rewarded, he will be more likely to take a more patient and rational path in dealing with his suffering. In *QS. An-Nahl*: 126, Allah commands people not to repay evil with evil but to prioritise patience and forgiveness as a higher form of piety.

Furthermore, the belief in God's justice also encourages victims to focus more on self-recovery rather than being trapped in a prolonged grudge<sup>47</sup>. Islam teaches that the prayers of the wronged will be answered by Allah without intermediaries, as affirmed by the Prophet's *hadith*, "Fear the prayer of the wronged, for there is no

<sup>47</sup> Ariefulloh Ariefulloh et al., 'Restorative Justice-Based Criminal Case Resolution in Salatiga, Indonesia: Islamic Law Perspective and Legal Objectives', *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (23 May 2023): 19–36, <https://doi.org/10.18326/ijtihad.v23i1.19-36>.



barrier between it and Allah" (HR. Bukhari and Muslim). By understanding this, victims can find the strength to bounce back and continue their lives without having to be constantly trapped in trauma due to the crimes that have befallen them. In addition, the concept of *tafakkur* (contemplating wisdom) in Islam also teaches that every test that befalls a person has a greater purpose in their spiritual journey<sup>48</sup>. In QS. *Al-Baqarah*: 286, Allah emphasises that every trial given to humans is part of a test of faith that will lead them to a higher level of patience and piety. Thus, victims of cybercrime can interpret their bad experiences as part of a life journey that will bring them closer to Allah. The *Huquq Allah* perspective in Islamic restorative justice offers a powerful spiritual healing mechanism for victims of cybercrime whose perpetrators cannot be identified<sup>49</sup>. With the belief that Allah will enforce justice in the afterlife, victims can find inner peace, avoid negative reactions, and rebuild their lives with hope and trust. This shows that Islam provides legal solutions and offers a spiritual approach that can maintain the psychological and social balance of victims in the face of worldly legal uncertainty<sup>50</sup>. This approach aligns with Islamic teachings and enhances efforts to achieve true legal, moral, and social justice.

## Conclusion

The handling of sexual violence on social media in Indonesia, although accommodated in positive law with a restorative justice approach, still faces various obstacles. The existing legal system tends to be retributive in nature and pays less attention to victims' psychological recovery and social reconciliation. The Islamic restorative justice approach offers a more holistic solution by emphasising values such as forgiveness, *kaffarat*, *diyat*, *ta'zir*, *istighfar*, and *suh*. This approach considers the legal aspects and the spiritual, psychological, and social recovery of victims. The concept of Islamic restorative justice is relevant in the context of sexual violence on social media because it can overcome existing challenges, including social stigma, lack of legal protection, and the anonymity of perpetrators in cyberspace. Integrating spiritual dimensions in victim recovery creates a more inclusive and dignified justice framework. Therefore, strengthening the legal framework that supports the implementation of Islamic-based restorative justice is urgent in dealing with cases of sexual violence in the digital era.

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<sup>48</sup> Fabio Vicini, 'Thinking through the Heart: Islam, Reflection and the Search for Transcendence', *Culture and Religion* 18, no. 2 (3 April 2017): 110–28, <https://doi.org/10.1080/14755610.2017.1326958>.

<sup>49</sup> Deni Setiyawan et al., 'Exploring Abhakalan Culture (Early Marriage) in Madura: A Dialogue of Customary Law, Religion, and The State', *Ahkam: Jurnal Ilmu Syariah* 24, no. 2 (2024): 345–64, <https://doi.org/10.15408/ajis.v24i2.36070>.

<sup>50</sup> Sriwiyanti Sriwiyanti, Wahyu Saefudin, and Siti Aminah, 'Restorative Justice for Juvenile Offenders in Indonesia: A Study of Psychological Perspective and Islamic Law', *JIL: Journal of Islamic Law* 2, no. 2 (4 August 2021): 168–96, <https://doi.org/10.24260/jil.v2i2.335>.



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