AL RISALAH: Jurnal Ilmu Syariah dan Hukum

VOLUME 24 NO 2, NOVEMBER 2024
P-ISSN: 2252-8334 / E-ISSN: 2550-0309
This work is licensed under a Creative Commons Attribution 4.0 International License
https://doi.org/10.24252/al-risalah.vi.52557

UMAR BIN KHATTAB'S PHILOSOPHICAL IJTIHAD THINKING ON THE RESTORATIVE JUSTICE APPROACH IN ISLAMIC CRIMINAL LAW

Suhartati*[1], Achmad Musyahid[2], Lomba Sultan[3], Abdul Syatar[4]
E-mail: suhartatisaja12@gmail.com
E-mail: achmad.musyahid@uin-alauddin.ac.id
E-mail: lomba.sultan@uin-alauddin.ac.id
E-mail: abdul.syatar@uin-alauddin.ac.id
[1]*Universitas Indonesia Timur*
[234]*Universitas Islam Negeri Alauddin Makassar*

*corresponding author

Abstract
This study examined the depth of Caliph Umar bin Khattab's philosophical thinking in applying ijtihad in the context of Islamic criminal law, especially related to the restorative justice approach. By analyzing various policies and legal decisions taken by Umar, this study attempted to uncover the philosophical basis underlying the application of the principles of restorative justice in the Islamic justice system during his leadership by identifying the values of justice, humanity, and maslahah as the main pillars of Umar bin Khattab's ijtihad thinking in the context of restorative justice. Using a descriptive qualitative approach, this study examined primary and secondary sources, including fiqh books and modern literature on restorative justice. The results of the study showed that Umar's ijtihad was not only based on literal Sharia texts but also considered maslahat (benefit) and the social context of society. This could be seen in decisions such as the temporary suspension of the punishment of amputation of hands during a time of famine, which illustrated the law's flexibility in responding to emergencies.

Keywords: Philosophical Thinking; Ijtihad; Umar bin Khattab; Islamic Criminal Law, Restorative Justice

INTRODUCTION

The pattern of philosophical reasoning is based on an *ilat* that requires a change in law adjusted to the current social situation[1]. Philosophical reasoning is urgently needed

[1] Rizal Darwis, "Eksistensi Akal Dalam Al-Qur'an Dan Penerapannya Dalam Kehidupan Masyarakat," *Aqlam: Journal of Islam and Plurality* 7, no. 1 (2022): 53–76, https://doi.org/10.30984/ajip.v7i1.1837.

to develop and actualize Islamic law in the era of contemporary legal problems.[2] Without philosophical reasoning, the empirical meaning of Islamic law cannot be understood properly.[3] In addition, philosophical reasoning is closely related to efforts to establish Islamic law,[4] which aims to maintain and create human welfare and protect humans from things that can damage their lives. Therefore, punishment is determined to improve individuals and protect society so they can live in an orderly manner.[5]

The history of philosophical thought in Islamic law has actually been shown by the Prophet Muhammad SAW when he allowed Muaz bin Jabal to use his thoughts in the land of Yemen if he did not find a basis in the Al-Qur'an and Hadith. Even in some cases, the Prophet Muhammad SAW himself carried out the thought process if no verses had been revealed, such as in the case of the deployment of troops in the Badr war, which was questioned by Hubbab bin Munzir, then the Prophet SAW answered that the war strategy was not based on the guidance of revelation but the result of his own thoughts.[6]

Philosophical reasoning in a legal determination is an effort that a legal determination can prevent someone from sinning. The highest and lowest limits of punishment depend on the needs of the public interest; punishing people who commit crimes does not mean revenge but for their own benefit, and punishment is a last resort in keeping someone from falling into sinful acts.[7] The law, at least, can first be realized as related to the purification of the soul so that every Muslim can be a source of goodness, not evil, for society and its environment. To realize that carrying out all forms of worship becomes a must with the aim of cleansing the soul and strengthening social solidarity.[8]

---

[2] Mahfudz Junaedi, "Maqâṣid Syarī'ah Upaya Membentuk Peraturan Daerah: Pendekatan Sistem Perspektif Jasser Auda," *Syariati: Jurnal Studi Al-Qur'an dan Hukum* 3, no. 02 (2017): 182–98, https://doi.org/10.32699/syariati.v3i02.1152.

[3] Mario Julyano dan Aditya Yuli Sulistyawan, "Pemahaman terhadap asas kepastian hukum melalui konstruksi penalaran positivisme hukum," *Crepido* 1, no. 1 (2019): 13–22, https://doi.org/10.14710/crepido.1.1.13-22.

[4] Asrul Hamid dan Dedisyah Putra, "The Existence of New Direction in Islamic Law Reform Based on The Construction of Ibnu Qayyim Al-Jauziyah's Thought," *JURIS (Jurnal Ilmiah Syariah)* 20, no. 2 (2021): 247–57, https://doi.org/10.31958/juris.v20i2.3290.

[5] Michel Foucault, "Discipline and punish," in *Social theory re-wired* (Routledge, 2023), 291–99.

[6] Mun"im A. Sirri, *Sejarah Fiqh Islam* (Surabaya: Risalah Gusti, 1995). h. 28-29.

[7] H.A Djzuli, *Fikih Jinayah (Upaya Menanggulangi Kejahatan dalam Islam)* (Jakarta: PT.Raja Grafindo Persada, 1997). h. 26-27

[8] Syarīf „Alī Ibn Muḥammad Al-Jurjānī, *Kitāb al-Ta"rīfāt* (Juddaṭ: al-Haramyn li al-Ṭibā"ah, n.d.). h. 146.

Second, in order to realize justice for society. *Third is* the realization of human welfare, which is the ultimate goal of Islamic law.

Realizing human welfare takes the ability and expertise of a mukalaf, both in understanding the determination of law and in the context of implementing the determination of law.[9] In several legal cases, the companions of the Prophet Muhammad SAW, such as Caliph Umar bin al-Khattab, did a lot of philosophical reasoning. This type of philosophical reasoning is based on an *ilat* that requires a change in law that is adjusted to the situation of society that occurred at that time.

Umar bin Khattab was known as the companion who used reasoning (*ra'yu/ijtihad*) the most in understanding and implementing Islamic teachings. What made Umar bin Khattab this way was, among other things, the talent of intelligence that was so inherent in him that he inherited it from his ancestors. In addition, Umar bin Khattab seemed to conclude that when the Prophet Muhammad SAW was alive, he had often expressed opinions and suggestions, and the Prophet Muhammad SAW accepted them happily and proudly. Some of Umar bin Khattab's views or suggestions were even strengthened by Allah SWT by sending down revelations. This reality seemed to be understood by Umar bin Khattab as legitimacy (permission) from Allah SWT and the Prophet Muhammad SAW for this community to carry out ijtihad as widely as possible both during the Prophet Muhammad SAW's lifetime and especially after his death.

One of the factors that drives the development of philosophical thought in Islamic legal discourse is the social changes that occur amid society.[10] The intensity of these social changes often has major implications that affect various legal concepts and institutions. Thus, a philosophical approach to Islamic law is very much needed because Islamic law is considered an eternal law and a law that can adapt in the context of social change and modernism.[11] Therefore, it is very important to understand Umar bin Khattab's

[9] Muhammad Nur Iqbal, Faisar Ananda Arfa, dan Abi Waqqosh, "Tujuan Hukum Islam dalam Perspektif Maqashid Al-Syari'ah," *Jurnal Pendidikan Dan Konseling (Jpdk)* 5, no. 1 (2023): 4887–95, https://doi.org/10.31004/jpdk.v5i1.11763.
[10] Joni Zulhendra, "Fresh Ijtihad sebagai Upaya dalam Meretas Tertutupnya Pintu Ijtihad: Studi Perkembangan Hukum Islam pada Masa Kontemporer," *Al-Qanun: Jurnal Pemikiran dan Pembaharuan Hukum Islam* 26, no. 1 (2023): 83–95, https://doi.org/10.15642/alqanun.2023.26.1.83-95.
[11] Dr. Khalid Mas'ud, *Islamic Legal Philosopy* (Surabaya: Al-Ikhlas, 1995). h. 23-24.

philosophical thoughts about facing legal problems, especially Islamic law, in the contemporary era.

METHOD

This study employed a descriptive qualitative approach with a literature analysis method to explore the philosophical thoughts of Umar bin Khattab's ijtihad in the restorative justice approach to Islamic criminal law. The data was collected through literature studies of primary sources such as classical books and historical documents, as well as secondary sources in the form of scientific journals, books, and related academic works. The data analysis was carried out using the content analysis method, which included the process of data reduction, categorization, and interpretation to understand the relevance of Umar's thoughts to the principles of restorative justice, such as the restoration of victims' rights and the welfare of society. The data validity is carried out through source triangulation to ensure the accuracy and consistency of research results.

RESULT AND DISCUSSION

1. Umar Bin Khattab's Philosophical Thinking

Ijtihad is often interpreted as mobilizing all the abilities of a *fāqih* (fiqh expert) to explore and formulate amaliyah laws (practical laws) from detailed evidence. Umar himself was one of the companions who had very good scientific qualities.[12] When the Prophet Muhammad SAW was still alive, Umar's opinions were often directly confirmed by Allah SWT through His word. For example, when a hypocrite named Ubay ibn Salūl died, the Prophet Muhammad SAW wanted to pray for his body; Umar stood up and expressed his opinion about the impropriety of praying for the body of a hypocrite who was an enemy of Allah SWT. Immediately, a revelation came down confirming what Umar had conveyed.

[12] Ishaq Ishaq dan Muannif Ridwan, "A study of umar bin Khatab's Ijtihad in an effort to formulate Islamic law reform," *Cogent Social Sciences* 9, no. 2 (2023): 2265522, https://doi.org/10.1080/23311886.2023.2265522.

However, in reality, Umar's ijtihad in applying Islamic law only began after the Prophet Muhammad SAW died.[13] In theory, the concept of Umar's ijtihad can be seen in the messages he sent to the judges he appointed and assigned to various regions. Two letters are historically attributed to Umar, namely his letter to Shurayḥ, who was a *qāḍī* in Kufah, and Abū Mūsā al-Asy" arī, who was a *qāḍī* in Basrah.

The contents of the first letter to Qaḍī Shurayh are as follows: "If you are faced with an important problem, then look first to the *Kitabullah* (Book of Allah, Al-Qur'an), then decide the law with it (based on its contents). If you do not find it in the Book of Allah, then look at the cases that were decided by the Messenger of Allah. If you also do not find it, then look at the cases that were decided by the pious people and also the just leaders. And if you do not find it either, then you may choose; if you want to do ijtihad with your reason, then do it, and if you want to consult with me (then do it), and I consider that your choice to consult with me is a step that will give you good". While the contents of the second letter to Abū Musā al-Ash" arī are as follows: "*Amma ba'du*. Indeed, determining the punishment (*al-qaḍā'*) is a definite obligation and is an authentic tradition. If a problem arises, then know that true speech will be of no benefit if it is not followed by real implementation. When people (with various social strata backgrounds) are in the court, treat them equally and look at them with the same view. The punishment you decide should also be the same (no discrimination) so that noble people (who have high social status) will not expect you to commit injustice and that weak people do not lose hope of getting justice.

Evidence is an obligation that must be provided by the person who accuses, and an oath is a reinforcement for the party who denies the accusation. An agreement to make peace between fellow Muslims is permissible unless the peace agreement causes forbidden things to become permissible or permissible things to become forbidden. Whoever claims that there is a right that has been neglected, then give him a grace period; if he is able to explain the facts of the matter (with strong evidence), then give him that right, but if he fails to convince you, then the problem is solved by itself. This is the right way to resolve disputes. If you get new guidance (belief) that can change the decision that

[13] Nur Hidayat dan Wahyu Abdul Jafar, "Ijtihad From Friends of The Prophet Muhammad in Making Justice Law," *International Journal of Educational Research & Social Sciences* 2, no. 1 (2021): 111–17.

you have made today, then do not be afraid (ashamed) to change the new decision that is correct because, in fact, the truth cannot be defeated by anything. And correcting yourself to get the truth is better than continuing to be in falsehood. All Muslims are just (trustworthy), except for those who have committed false oaths or have been flogged because of a legal decision (hudud) or whose loyalty and closeness (to Islam) are in doubt. Only Allah knows the secrets of humans. Allah will keep legal decisions hidden until there is evidence or an oath (which will clarify the facts of the case).

If you face problems whose laws are not explicitly mentioned in the Al-Qur'an or Sunnah, then use the reason given to you to solve these problems. Know the examples of cases (the laws mentioned expressly in the Al-Qur'an) well, then make a decision that you are sure is a decision that is more beloved by Allah and closer to the truth. Avoid being angry, confused, hurting other people, and complicating matters when a dispute occurs. Correct legal decisions, hitting the target of truth, will be rewarded by Allah and will always be remembered. Whoever practices the truth based on sincere intentions will feel that only Allah SWT (who will protect and help him with problems) is sufficient when it comes to himself and others. Whoever makes things up, Allah SWT will criticize him. Indeed, Allah SWT will not accept a servant's deeds except those based on sincerity. What do you think about Allah's rewards, both in the form of sustenance that you get in the world and His blessings that are still hidden?"[14]

The two letters above clearly illustrate Umar's thinking about carrying out ijtihad on a problem. On the one hand, 'Umar remained firm in adhering to the existing naṣ, but on the other hand, he also made benefit an important consideration in carrying out ijtihad.[15]

Then, to see how the theory is applied in the two letters above, it is necessary to examine how Umar practiced ijtihad.

[14] M Meilani, F Fatmawati, dan Lomba Sultan, "Penerapan Prinsip Keadilan Dalam Hukum Islam: Analisis Konsep Ijtihad Khalifah Umar Bin Khattab," *Madani: Jurnal Ilmiah Multidisiplin* 1, no. 10 (2023): 596–608, https://doi.org/doi.org/10.5281/zenodo.10171684.
[15] Noorhidayah Noorhidayah, "Aplikasi Fatwa Melalui Metode Ijtihad Lembaga Baḥṡ Al-Masâil Nahdlatul Ulama," *Syariati: Jurnal Studi Al-Qur'an dan Hukum* 7, no. 2 (2021): 167–82, https://doi.org/10.32699/syariati.v7i2.2108.

a. The Elimination of the Granting of Zakat Rights to *Muallaf* in the Al-Qur'an

The non-granting of zakat rights to *muallaf* is obviously contrary to the Qur'an, Surah al-Taubah, verse 60. However, Umar considered that after several Islamic events occurred during his time, the condition of the Muslim community was strong enough and existed and even became a force to be reckoned with. At that time, he considered that no more people needed to be called *muallaf*, which resulted in them not having a share in the distribution of zakat assets. According to Saiful Bahri in his paper entitled Ijtihad of Umar al-Faruq (2004), the absence of *muallaf* as one of the recipients of zakat does not mean denying the text, but rather their condition which could no longer be considered *muallaf* was what made them not receive a share of zakat.[16]

b. The Termination of the Law of Cutting Off Hands during the Majā'ah Period (Famine/Scarcity)

Surah al-Maidah verse 38 clearly states that there is a punishment of ḥad cutting off the hand of a thief.[17] 'Umar made an effort to *takhṣīṣ* against this verse, then accompanied by consideration of the background of the theft case, so that the understanding or interpretation of Surah al-Maidah verse 38 obtained by Umar is not rigid. The verse also does not always apply to all cases of theft, but there are exceptions; for example, theft is motivated by forced conditions. The leniency given to forced conditions (emergency) is closely related to efforts to realize the welfare that is the goal and essence of Islamic law.[18] In this case, it does not mean that Umar's ijtihad is without a textual basis. Allah Himself commands us not to plunge ourselves into destruction; it is permissible to eat dead bodies if absolutely necessary.

[16] Ridwan Ridwan, "Telaah Pemikiran Hukum Progresif Umar Bin Khatab Perspektif Indonesia," *Jurnal Hukum Samudra Keadilan* 13, no. 1 (2018): 32–43, https://doi.org/10.33059/jhsk.v13i1.696.
[17] Faira Aisyah, Nurdin Nurdin, dan Tri Amanatun Nadliroh, "Taubat Sebagai Penggugur Had Terhadap Pelaku Tindak Pidana Pencurian (Jarimah Sirqah) Perspektif Imam Al Nawawi," *Jatiswara* 37, no. 1 (2022): 78–92, https://doi.org/10.29303/jtsw.v37i1.367.
[18] Muhammad Aldiansyah Pratama dan Ahmad Fajar Shodik, "Analisis Konsep Penafsiran Kontekstual Sayyidina Umar Bin Khattab Terhadap Teks Al-Qur'an," *Annual Conference on Islamic Studies and Humanities* 1, no. 1 (2022): 32–51.

c. Prohibiting the Marriage of Muslim Men with Women from the People of the Book

Regarding the marriage of Muslim men with women of the People of the Book, Umar actually argued that it is permissible to marry women of the People of the Book.[19] However, in special conditions, Umar stated, "Indeed, foreign women deceive and lull." This is not only maintaining the Muslims' stability, psychological existence, and social balance. In the language of *ushul fiqh*, it is known as a preventive action in the form of *sadd al-dharī" ah*. Through several examples above, it is known that Umar did not ignore the text at all but rather a form of contextual understanding of the related text. In addition, he placed maslahat as an important consideration in his ijtihad.

In some conditions, it is also shown how Umar disagreed with something he thought was contrary to the text. Umar rejected the narration of Fațimah binti Qāis that during the time of the Prophet, women whose wives divorced did not get a living and a place to live. Umar rejected this narration by adhering firmly to the general text (both regarding *raj'i* and *bā" in* divorce), namely as Allah says in the letter al-Thalaq verse 6. The idea of divorce has indeed drawn differences among *scholars (ulama)*. In this case, it appears that Umar did not agree with the opinion of Fațimah binti Qais, which did not seem to be in accordance with the text. However, Umar did not dare to assume that Fațimah binti Qāis was lying.

Based on the descriptions above, it can be seen that in making decisions related to social problems, Umar first considers similar cases during the time of the Prophet Muhammad SAW and their resolution methods in a socio-historical context. Therefore, when making the verses of the shari'a as a basis for decision-making, he often links them to the conditions of society and the time the verses are revealed so that the resulting benefits are in accordance with the spirit of the Sunnah. In addition, in general, it can be said that Umar, in his ijtihad practice, uses a method of making decisions based on similar conditions known as *qiyās*. He collects problems whose laws are known with the assumption that the problems have the same nature or characteristics (*illat*) as the problem to be decided and then makes an analogy.

[19] Bambang Hermawan, "Tinjauan Atas Pemikiran Muhammad Quraish Shihab Tentang Konsep Ahli Kitab Dalam Perkawinan Beda Agama Di Indonesia," *Istidal: Jurnal Studi Hukum Islam* 5, no. 1 (2018): 20–34, https://doi.org/10.34001/istidal.v5i1.852.

Umar bin Khattab seems to contradict the provisions of the Al-Qur'an/Hadith. For example, at first glance, Umar bin Khattab's decision (*ijtihad*) seems to contradict the provisions of the Al-Qur'an/Hadith, for example:

a. At the time of the Prophet Muhammad SAW and Caliph Abu Bakar, 3 (three) *talaqs* could be pronounced at once and considered 1 (one) *talaq*. Umar emphasized that the pronunciation of *talaq* should not be done immediately but in stages.
b. Al-Qur'an determines the groups entitled to receive zakat, including *Muallaf*(sura At—Taubah: 60). Umar stopped giving zakat to *Muallaf*.
c. The Qur'an, in Surah Al-Maidah, verse 38, emphasizes that people who steal are threatened with having their hands cut off, but Umar did not carry this out.
d. Umar forbade Muslim men from marrying women from the People of the Book, even though the Al-Qur'an in Al Maidah verse 5 allows it. In short, this is Umar's thinking at that time and its scope for the present and the future.
e. *Talaq* 3 (three), pronounced at once in one place at one time, is considered a divorce that cannot be referred to (back) as husband and wife unless the ex-wife first married someone else and then divorced. The period of her *iddah* has expired before she can return to her husband first with the new marriage contract. This line of law was determined by Umar based on the interests of women because, in his time, many husbands easily pronounced 3 divorces on their wives so that they could divorce and remarry another woman. The purpose is to protect women from the abuse of the right to divorce in the hands of men. Thus, Umar's action, which prohibits the husband from issuing 3 divorces at once without the 1st or 2nd divorce stages first, is intended for the husband to be careful in using the divorce right and arbitrarily- authorized to use his rights. Juridically and sociologically, Umar's actions, as mentioned above, are correct because, on the one hand, he still appreciates and respects the right of divorce to the husband. On the other hand, the fall of divorce still protects the wife.
f. The Muallaf group, indeed, is one of the groups entitled to receive zakat, but Umar stopped this. Umar's idea of stopping giving zakat to the *Muallaf*was was based on the consideration that Islam was already strong; there were so many Muslims that

there was no longer any need to give privileges to special groups within the Muslim community.

2. The Implementation of Umar Bin Khattab's Ijtihad Philosophical Thinking on the Restorative Justice Approach in Islamic Criminal Law

As explained previously, Umar ibn al-Khaṭṭāb's ijtihad paid close attention to the aspect of *maslahat*. In this case, it can be said that Umar's ijtihad is in line with Progressive law, which has its motto of law for humanity. Both require that the applicable law must aim for the welfare of humanity. The socio-historical aspect is equally important when considering a problem. Both enforce the law by prioritizing the values of justice, certainty, and the law's benefits for those seeking justice.[20]

Umar bin Khattab's ijtihad, which seems to have evolved from text to context at different times, is more about considering the basic ethics of his Islamic moral awareness.[21] So, it is not merely finished if only seen from the text and context of the application of the verses. However, it is also important to see the need for the application of awareness of ethical values. With the existence of Umar's ijtihad and from other paradigms, it can be stated that Umar's thoughts prioritize the ethical relativism of moral beliefs based on Islam. Thus, moral considerations require a much better decision than other moral decisions at that time. Umar bin Khattab (Umar) is an extraordinary figure. His intelligence, ideas, and ijtihad more often get legitimacy from revelation. However, in the period after the death of the Prophet Muhammad SAW, namely during his caliphate, the idea of ijtihad of Umar bin Khattab showed a direction that was seen by some *scholars (ulama)* as progressive, even appearing to differ from the text of the Al-Qur'an and Hadith, even though only in certain seasons or contexts and conditions.

Umar bin Khattab's ijtihad decision was often delivered firmly. His firmness tended to be colored by his own character. In some cases, his character in giving ijtihad or decisions was beneficial for Islam's progress. In addition to Muslims having been widely adopted by areas around the Arabian Peninsula, and even further than that to Spain,

[20] Haerul Akmal, "Restorative Justice In The Case Of Murder According To Fiqih Jinayah (Analysis of Judge's Decision Number: 315/Pid. B/2018/PN. Skt)," *Al-'Adalah: Jurnal Syariah dan Hukum Islam* 6, no. 2 (2021): 336–50, https://doi.org/10.31538/adlh.v6i2.1588.
[21] Syefriyeni Syefriyeni, "Relativisme Etika Keyakinan Moral: Sebuah Ijtihad Etik Umar bin Khattab," *Intizar* 25, no. 2 (2019): 107–14, https://doi.org/10.19109/intizar.v25i2.4591.

social problems in society were also very numerous, which were different from the problems during the time of the Prophet Muhammad SAW, then the firmness of the decision of Umar bin Khattab was very much needed at that time. Umar bin Khattab was a figure who had received a lot of education directly from the Prophet Muhammad SAW. So, as the Prophet Muhammad SAW taught his people in deliberation and opinion at that time, related to existing problems, it is undeniable that all of that became capital for Umar bin Khattab to continue trying to provide decisions in his considerations of existing cases or problems, especially after the death of the Prophet Muhammad SAW.

In this case, the object of the study of Islamic jurisprudence related to Umar's decision only looks at a few cases, namely the law of cutting off hands, *ghanimah*, divorce, *muallaf*, and adulterers. This selection is because Umar is considered progressive by some *scholars (ulama)* based on what the Prophet Muhammad SAW has done. For example, during the lean season, Umar did not cut off the hands of thieves, Umar no longer exiled adulterers, Umar no longer gave alms to *muallaf* when the *muallaf* were inadequate conditions. Umar imposed a ba'in divorce for those who said it once for 3 divorces because many husbands like to play around, while this should not be played around with. Considering what Umar decided is very important. Some of his views are only read and seen from the study of Islamic jurisprudence (debate between text and context) and also formalistic legalism. Another study, namely ethics (moral philosophy), is needed as an interdisciplinary study with Islamic jurisprudence. Between fiqh and ethics, there is a similarity, namely that the object of study is human behavior, but there are several differences.

On this basis, the need for law is very dominant, but mere law without consideration and questioning, looking from an ethical perspective, will lopsidedly affect the results of Umar's ijtihad. In the end, it will question Umar's credibility as someone who had received direct education from the Prophet Muhammad SAW. Therefore, it seems necessary to have an ethical assessment of Umar's ijtihad. So, the process of developing the theoretical framework of his fiqh is not separated from ethics.

The law of cutting off hands was previously practiced during the period of ignorance, then it was recognized by Islam, and other conditions were added. Umar did not punish the camel thief, who slaughtered it for food on the grounds of hunger. Umar only ordered

them to pay compensation to the camel owner twice the price of the camel. Umar canceled the law of cutting off their hands because the theft occurred during the famine.

However, Umar did not impose it on a group of employees who stole a camel because his employer did not give him a fair wage. In fact, the one who was punished at that time by Umar bin Khattab was the employer, namely Ibn Hathib Ibn Abi Balta'ah, who required the owner of the stolen camel to pay twice its price.[22] Umar also did not cut off the hand of the person who stole from the Baitul Mal. Ibn Mas'ud asked Umar about the identity of the thief. Umar said, Free him because everyone has a right to the property in the Baitul Mal. Then Umar punished him with the *ta'zir* punishment of lashing.[23]

Understandably, Umar dropped the punishment from several cases mentioned earlier, also based on several considerations. For Umar bin Khattab, the punishment of cutting off hands did not always have to be carried out. Surah al-Maidah verse 38 is understood with exceptions as practiced by the Prophet Muhammad SAW. The postponement of cutting off hands was also carried out in war, and the Prophet Muhammad SAW prohibited from cutting off the hands of thieves in war was interpreted by Umar so that thieves at that time would not run and join the enemy. Such considerations clearly influenced Umar's thinking in applying the provisions of the verse so that his interpretation was not dry and was always linked to the texts of the rules in Islam. Umar emphasized, "I prefer to be mistaken in not imposing legal sanctions because there is a mitigating pretext, rather than imposing them wrongly, even though there is a mitigating pretext." In this case, Umar did not immediately follow the law of cutting off hands; however, he also looked at many things. The political situation and conditions at that time, as well as the situation and conditions of Muslim society at that time.

Justice is a norm of life that is desired by everyone in their social order.[24] Social institutions, called countries, international institutions, and organizations that bring together countries, seem to have the same vision and mission regarding justice.[25]

[22] Abu Zahrah, h. 288.
[23] Asafri, *op. cit*., h. 150
[24] Idris Idris, Armai Arief, dan Made Saihu, "Keadilan Sosial dalam Perspektif Al-Qur'an," *Journal of Creative Student Research* 1, no. 4 (2023): 57–75, https://doi.org/10.55606/jcsrpolitama.v1i4.2214.
[25] Zulkifli Zulkifli, "Tuntutan Keadilan Perspektif Hukum Islam," *JURIS (Jurnal Ilmiah Syariah)* 17, no. 1 (2018): 137–46, https://doi.org/10.31958/juris.v17i1.1005.

However, their perceptions and conceptions may differ on the issue. Justice is a relative concept.[26] The scale of justice varies greatly from country to country, and each scale of justice is defined and determined by society according to the social order of the society concerned.[27]

The main goal of restorative justice is to create a fair trial.[28] In addition, it is expected that the parties—the perpetrator, the victim, and the community—play a major role in it. The victim is expected to receive appropriate compensation agreed upon together with the perpetrator to replace the losses and reduce the suffering experienced.[29] In restorative justice, the perpetrator must take full responsibility so that he can realize his mistake.[30]

The emergence of the concept of restorative justice, which is considered a new idea in the criminal law system, basically has a method with a traditional pattern of conflict resolution and crime that has been present in various cultures throughout human history. The criminal law system in Indonesia provides space for the application of the concept of restorative justice, which substantially does not conflict with the values of Islamic criminal law.[31] Therefore, the concept of restorative justice is considered the right concept in the process of resolving criminal cases and is more effective in fulfilling the sense of justice in society.[32]

---

[26] Ismi Nurhayati et al., "Konsep Keadilan Dalam Perspektif Plato," *Nusantara: Jurnal Pendidikan, Seni, Sains Dan Sosial Humaniora* 1, no. 01 (2022): 1–25, https://journal.forikami.com/index.php/nusantara/article/view/135.

[27] Gusnarib Wahab dan M Iksan Kahar, "Krisis Kesetaraan, Keadilan dan Krisis Kemanusiaan," in *Proceedings of International Conference on Islamic Civilization and Humanities*, vol. 2, 2024, 1–19, https://proceedings.uinsa.ac.id/index.php/iconfahum/article/view/1791.

[28] Habibul Umam Taqiuddin dan Risdiana Risdiana, "Penerapan Keadilan Restoratif (Restorative Justice) Dalam Praktik Ketatanegaraan," *JISIP (Jurnal Ilmu Sosial dan Pendidikan)* 6, no. 1 (2022): 3596–3610, https://doi.org/10.58258/jisip.v6i1.2972.

[29] Rudiyanto Rudiyanto, Moh Zeinudin, dan Abshoril Fithry, "Penyelesaian Tindak Pidana Penadahan dengan Prinsip Restorative Justice dalam Tahap Penyidikan," *Jurnal Jendela Hukum* 10, no. 2 (2023): 132–45, https://doi.org/10.24929/jjh.v10i2.2979.

[30] Hanafi Arief dan Ningrum Ambarsari, "Penerapan Prinsip Restorative Justice dalam Sistem Peradilan Pidana di Indonesia," *Al-Adl: Jurnal Hukum* 10, no. 2 (2018): 173–90, https://doi.org/10.31602/al-adl.v10i2.1362.

[31] Mira Maulidar, "Korelasi Filosofis Antara Restorative Justice dan Diyat dalam Sistem Hukum Pidana Islam," *At-Tasyri': Jurnal Ilmiah Prodi Muamalah* 13, no. 2 (2021): 143–55, https://doi.org/10.47498/tasyri.v13i2.856.

[32] Henny Saida Flora, "Keadilan Restoratif Sebagai Alternatif dalam Penyelesaian Tindak Pidana dan Pengaruhnya dalam Sistem Peradilan Pidana di Indonesia," *University Of Bengkulu Law Journal* 3, no. 2 (2018): 142–58, https://doi.org/10.33369/ubelaj.3.2.142-158.

The added value of restorative justice is that crime is seen as part of a social act or violation against an individual, not just a criminal offense against the state.[33] Restorative justice places a higher value on the involvement of the parties.[34] Restorative justice emphasizes the need to recognize the impact of social injustice in simple ways rather than giving the perpetrator formal justice while the victim does not get any justice. Restorative justice actively involves the victim and family in resolving criminal cases.[35] In the context of Islamic criminal law, the involvement of victims of criminal acts (recognition of the victim's rights) is expressly accommodated in *diyat*, as Allah SWT says in the Al-Qur'an Al-Baqarah (2): 178-179:

> "*O believers! The law of retaliation is set for you in cases of murder—a free man for a free man, a slave for a slave, and a female for a female. But if the offender is pardoned by the victim's guardian, then blood-money should be decided fairly and payment should be made courteously. This is a concession and a mercy from your Lord. But whoever transgresses after that will suffer a painful punishment. There is security of life for you in the law of retaliation, O people of reason, so that you may become mindful of Allah*."

In history, it is stated that when Islam was almost legalized, during the *Jahiliyah* era, there were two Arab tribes at war with each other. Among them, some were killed, and those who were injured even killed servants and women. They have not had time to take revenge because they converted to Islam. Each of them boasted about the size of his troops and his wealth and swore that he would not be happy if his murdered servants were not replaced with free people, women replaced with men. So, the verse above came down, which confirms the law of *qisas*.

The scholars (ulama) explicitly state that rights in Islamic criminal law are divided into the rights of Allah SWT and the rights of humans.[36] Abdul Qadir Awdah explained that sometimes there are two rights in one criminal act. Some actions touch on individual

---

[33] Widyani Putri, "Apakah Restorative Justice Sejalan Dengan Nilai-nilai Hukum dan Rasa Keadilan yang Hidup dalam Masyarakat Indonesia?," *Gema Keadilan* 9, no. 2 (2022): 93–107.
[34] Andri Kristanto, "Kajian Peraturan Jaksa Agung Nomor 15 Tahun 2020 Tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif," *Lex Renaissance* 7, no. 1 (2022): 180–93, https://doi.org/10.20885/JLR.vol7.iss1.art14.
[35] Abdul Aziz, Ghufron Maksum, dan Ali Mutakin, "Pendekatan Keadilan Restoratif dalam Penyelesaian Tindak Pidana Kekerasan dalam Rumah Tangga," *Al Ashriyyah* 9, no. 2 (2023): 99–112, https://doi.org/10.53038/alashriyyah.v9i2.173.
[36] Reni Surya, "Klasifikasi tindak pidana hudud dan sanksinya dalam perspektif hukum islam," *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam* 2, no. 2 (2019): 530–47, https://doi.org/10.22373/sjhk.v2i2.4751.

rights, but community rights are more dominant in them, such as *qazaf*. Other acts touch on community rights, but individual rights are greater than community rights, such as murder. However, Awdah later reiterated that every action that touches human rights basically also contains God's rights (community rights).

Awdah emphasized that individual rights in criminal law do not necessarily become purely individual rights. The cancellation of *qisas* punishment in deliberate murder and *diyat* in culpable homicide resulted in it being allowed to be replaced with *ta'zir*.[37] Thus, after forgiveness is given by the victim/family, the ruler can impose *ta'zir* punishment on the perpetrator by considering the perpetrator's condition. The understanding above shows that Islam first understood the concept of victim-oriented long before Western criminal law experts initiated restorative justice. Islam does not only interpret criminal acts as violations against the state and offender-oriented, but Islam sees it from a more complex level. Criminal acts are also understood as violations of individual interests or victim-oriented.

In the regulation of modern criminal law on victims of crime, two models are known, namely the procedural rights model and the service model. At first glance, the procedural rights model in modern criminal law will appear to be in line with *qisas-diyat*. This assumption is concluded based on the understanding of the procedural rights model, which gives victims an active role in the course of the judicial process. This model views victims as subjects who must be given broad legal rights to demand and pursue their interests. Unlike the service model, the emphasis is placed on the need to create standard standards for the development of victims of crime that can be used by law enforcement officers, such as the provision of compensation as a restitutive criminal sanction.[38]

The implementation of non-penal policies in Islam has long been applied to the crime of *qisas-diyat* (murder and assault), which in Indonesian criminal law is categorized as a serious crime that cannot be carried out peacefully. As-Sayid Sabiq commented that the

[37] Atu Karomah, "Pandangan Hukum Islam Tentang Korban Kejahatan Dalam Konteks Hukum Positif Indonesia," *Al Qisthas Jurnal Hukum dan Politik* 9, no. 2 (2018): 87–114, https://doi.org/10.37035/alqisthas.v9i2.1574.
[38] Irawan Adi Wijaya dan Hari Purwadi, "Pemberian Restitusi Sebagai Perlindungan Hukum Korban Tindak Pidana," *Jurnal Hukum Dan Pembangunan Ekonomi* 6, no. 2 (2018): 93–111, https://doi.org/10.20961/hpe.v6i2.17728.

provisions of Al-Baqarah (2): 178-179 relating to the law of *qisas-diyat* contain several thoughts:

1. *Qisas*is is a form of correction of the discriminatory laws of ignorance.
2. Alternative laws, namely *qisas, diyat*, or forgiveness.
3. There is leniency and ease from Allah regarding the implementation of the law of *qisas*.
4. A reconciliation system exists between the parties concerned (victim or guardian and perpetrator).
5. *Qisas*ensures the continuation of human life safely. *Qisas* also serve as a deterrent so that other people are afraid to commit the crime of murder, considering the severe punishment.

This opinion clearly shows that *the diat* is an alternative law; there is a forgiveness process, a peace process, and reconciliation efforts between the parties. This is in line with the main idea of restorative justice. Peace in Islam is recommended. As stated by Ibnu Qayyim Al-Jauziyah, based on the words of Allah SWT in Surah Al-Hujuraat (49) 9:

> "*And if two groups of believers fight each other, then make peace between them. But if one of them transgresses against the other, then fight against the transgressing group until they are willing to submit to the rule of Allah. If they do so, then make peace between both groups in all fairness and act justly. Surely Allah loves those who uphold justice*."

Based on the Message of Caliph Umar bin Khatab, peace must be based on a clear corridor. Peace does not allow something that is forbidden or forbid something permissible.[39] This basis is then seen in the context of criminal law; as long as this peace accommodates both parties' interests, based on both parties' consent, understanding the good and bad, and justice, peace can be enforced.

The application of peace, as applied to murder and assault, is similar to the application of restorative justice in modern criminal law. Regardless of the pros and cons of what type of punishment can be applied to restorative justice, such as in the Islamic criminal law system or modern criminal law, it must be acknowledged that Islam had long embraced restorative justice before modern criminal law used it.

[39] Syaibatul Hamdi dan M Ikhwan, "Tinjauan Hukum Islam Terhadap Implementasi Restorative Justice Dalam Sistem Peradilan Pidana Anak Di Indonesia," *MAQASIDI: Jurnal Syariah dan Hukum* 1, no. 1 (2021): 74–85, https://doi.org/10.47498/maqasidi.v1i1.603.

Restorative justice realizes justice for the parties, not only realizing legal justice but also considering social justice, individual justice, and moral justice.[40] Justice widely applied by law enforcement officers is only limited to legal justice. This is proven by the many criminal case resolution processes in society that actually injure the sense of justice in society. It is legitimate when criminal law enforcement is applied based on what is stipulated by the Criminal Code or other laws. However, what is not realized is the intelligence of law enforcement officers in seeing which cases can be continued and which cannot. That is the reason why authority, such as discretion and opportunity rights, are given. In Islamic doctrine, as emphasized by Marcel A. Boisard, justice is the center of the movement of basic moral values. So, justice in Islam is one of the most important basic principles. Justice in Islam includes individual justice (*al-ada'lah al-fardiyyah*) and social justice (*al-ada>lah al-ijtima>iyah*). Justice in Islamic law always considers morality, society, and individuality, not limited to applying legal justice.

As one example is what Umar bin Khattab once did by releasing the punishment on the thief. As one of the types of *hudud* crimes, theft is the right of Allah, which means that the state cannot be involved in deciding its release. However, with his intelligence, Umar released the thief of *udzq* (dates) by considering the famine that occurred then.

Umar's story shows that justice cannot be understood solely as legal justice. However, it must still consider moral justice, social justice, and individual justice according to the conditions and cases that occur. The practice carried out by Umar in the context of modern law today can also be known as the application of discretion and diversion as a form of restorative justice.

CONCLUSION

Umar's ijtihad aims to determine decisions related to social problems that are always changing. Umar uses a decision-making method based on similar conditions known as qiyās. In addition, with his progressive law, Umar prioritizes the maslahat mursalah so that he pays great attention to the role of human behavior in law. The ijtihad and the qiyas marsalah mursalah method indicate that Umar's philosophical thinking is just

[40] Rajarif Syah Akbar Simatupang, "Pelaksanaan Sistem Peradilan Pidana Anak Di Indonesia Perspektif Nilai Keadilan," *Jurnal Yuridis* 11, no. 1 (2024): 54–63, https://doi.org/10.35586/jyur.v11i1.8356.

visionary, innovative, dynamic, and measurable. Therefore, his thinking is not only widely accepted and implemented by the Islamic community at that time but also provides a new alternative in the courage to interpret the Al-Qur'an and the Sunnah of the Prophet Muhammad SAW. The implementation of Umar bin Khattab's ijtihad in facing the contemporary era technically, Umar first considers similar cases during the time of the Prophet Muhammad SAW along with their resolution methods in a socio-historical context by emphasizing that justice cannot be understood as legal justice alone. However, it is still necessary to consider moral justice, justice in society, and individual justice according to the conditions and cases that occur. The practice carried out by Umar in the context of modern law can also be known as the application of discretion and diversion as a form of restorative justice.

REFERENCES

Aisyah, Faira, Nurdin Nurdin, dan Tri Amanatun Nadliroh. "Taubat Sebagai Penggugur Had Terhadap Pelaku Tindak Pidana Pencurian (Jarimah Sirqah) Perspektif Imam Al Nawawi." *Jatiswara* 37, no. 1 (2022): 78–92. https://doi.org/10.29303/jtsw.v37i1.367.

Akmal, Haerul. "Restorative Justice In The Case Of Murder According To Fiqih Jinayah (Analysis of Judge's Decision Number: 315/Pid. B/2018/PN. Skt)." *Al-'Adalah: Jurnal Syariah dan Hukum Islam* 6, no. 2 (2021): 336–50. https://doi.org/10.31538/adlh.v6i2.1588.

Al-Jurjānī, Syarīf „Alī Ibn Muḥammad. *Kitāb al-Ta"rīfāt*. Juddaṭ: al-Haramyn li al-Ṭibā"ah, n.d.

Arief, Hanafi, dan Ningrum Ambarsari. "Penerapan Prinsip Restorative Justice dalam Sistem Peradilan Pidana di Indonesia." *Al-Adl: Jurnal Hukum* 10, no. 2 (2018): 173–90. https://doi.org/10.31602/al-adl.v10i2.1362.

Aziz, Abdul, Ghufron Maksum, dan Ali Mutakin. "Pendekatan Keadilan Restoratif dalam Penyelesaian Tindak Pidana Kekerasan dalam Rumah Tangga." *Al Ashriyyah* 9, no. 2 (2023): 99–112. https://doi.org/10.53038/alashriyyah.v9i2.173.

Darwis, Rizal. "Eksistensi Akal Dalam Al-Qur'an Dan Penerapannya Dalam Kehidupan Masyarakat." *Aqlam: Journal of Islam and Plurality* 7, no. 1 (2022): 53–76. https://doi.org/10.30984/ajip.v7i1.1837.

Djzuli, H.A. *Fikih Jinayah (Upaya Menanggulangi Kejahatan dalam Islam)*. Jakarta: PT.Raja Grafindo Persada, 1997.

Flora, Henny Saida. "Keadilan Restoratif Sebagai Alternatif dalam Penyelesaian Tindak

Pidana dan Pengaruhnya dalam Sistem Peradilan Pidana di Indonesia." *University Of Bengkulu Law Journal* 3, no. 2 (2018): 142–58. https://doi.org/10.33369/ubelaj.3.2.142-158.

Foucault, Michel. "Discipline and punish." In *Social theory re-wired*, 291–99. Routledge, 2023.

Hamdi, Syaibatul, dan M Ikhwan. "Tinjauan Hukum Islam Terhadap Implementasi Restorative Justice Dalam Sistem Peradilan Pidana Anak Di Indonesia." *MAQASIDI: Jurnal Syariah dan Hukum* 1, no. 1 (2021): 74–85. https://doi.org/10.47498/maqasidi.v1i1.603.

Hamid, Asrul, dan Dedisyah Putra. "The Existence of New Direction in Islamic Law Reform Based on The Construction of Ibnu Qayyim Al-Jauziyah's Thought." *JURIS (Jurnal Ilmiah Syariah)* 20, no. 2 (2021): 247–57. https://doi.org/10.31958/juris.v20i2.3290.

Hermawan, Bambang. "Tinjauan Atas Pemikiran Muhammad Quraish Shihab Tentang Konsep Ahli Kitab Dalam Perkawinan Beda Agama Di Indonesia." *Istidal: Jurnal Studi Hukum Islam* 5, no. 1 (2018): 20–34. https://doi.org/10.34001/istidal.v5i1.852.

Hidayat, Nur, dan Wahyu Abdul Jafar. "Ijtihad From Friends of The Prophet Muhammad in Making Justice Law." *International Journal of Educational Research & Social Sciences* 2, no. 1 (2021): 111–17.

Idris, Idris, Armai Arief, dan Made Saihu. "Keadilan Sosial dalam Perspektif Al-Qur'an." *Journal of Creative Student Research* 1, no. 4 (2023): 57–75. https://doi.org/10.55606/jcsrpolitama.v1i4.2214.

Iqbal, Muhammad Nur, Faisar Ananda Arfa, dan Abi Waqqosh. "Tujuan Hukum Islam dalam Perspektif Maqashid Al-Syari'ah." *Jurnal Pendidikan Dan Konseling (Jpdk)* 5, no. 1 (2023): 4887–95. https://doi.org/10.31004/jpdk.v5i1.11763.

Ishaq, Ishaq, dan Muannif Ridwan. "A study of umar bin Khatab's Ijtihad in an effort to formulate Islamic law reform." *Cogent Social Sciences* 9, no. 2 (2023): 2265522. https://doi.org/10.1080/23311886.2023.2265522.

Julyano, Mario, dan Aditya Yuli Sulistyawan. "Pemahaman terhadap asas kepastian hukum melalui konstruksi penalaran positivisme hukum." *Crepido* 1, no. 1 (2019): 13–22. https://doi.org/10.14710/crepido.1.1.13-22.

Junaedi, Mahfudz. "Maqâṣid Syarī'ah Upaya Membentuk Peraturan Daerah: Pendekatan Sistem Perspektif Jasser Auda." *Syariati: Jurnal Studi Al-Qur'an dan Hukum* 3, no. 02 (2017): 182–98. https://doi.org/10.32699/syariati.v3i02.1152.

Karomah, Atu. "Pandangan Hukum Islam Tentang Korban Kejahatan Dalam Konteks Hukum Positif Indonesia." *Al Qisthas Jurnal Hukum dan Politik* 9, no. 2 (2018): 87–114. https://doi.org/10.37035/alqisthas.v9i2.1574.

Kristanto, Andri. "Kajian Peraturan Jaksa Agung Nomor 15 Tahun 2020 Tentang

Penghentian Penuntutan Berdasarkan Keadilan Restoratif." *Lex Renaissance* 7, no. 1 (2022): 180–93. https://doi.org/10.20885/JLR.vol7.iss1.art14.

Mas‟ud, Dr. Khalid. *Islamic Legal Philosopy*. Surabaya: Al-Ikhlas, 1995.

Maulidar, Mira. "Korelasi Filosofis Antara Restorative Justice dan Diyat dalam Sistem Hukum Pidana Islam." *At-Tasyri': Jurnal Ilmiah Prodi Muamalah* 13, no. 2 (2021): 143–55. https://doi.org/10.47498/tasyri.v13i2.856.

Meilani, M, F Fatmawati, dan Lomba Sultan. "Penerapan Prinsip Keadilan Dalam Hukum Islam: Analisis Konsep Ijtihad Khalifah Umar Bin Khattab." *Madani: Jurnal Ilmiah Multidisiplin* 1, no. 10 (2023): 596–608. https://doi.org/doi.org/10.5281/zenodo.10171684.

Noorhidayah, Noorhidayah. "Aplikasi Fatwa Melalui Metode Ijtihad Lembaga Baḥṡ Al-Masâil Nahdlatul Ulama." *Syariati: Jurnal Studi Al-Qur'an dan Hukum* 7, no. 2 (2021): 167–82. https://doi.org/10.32699/syariati.v7i2.2108.

Nurhayati, Ismi, Maya Herma sa'ari, Mochammsd Deny Firmanulloh, dan Selpina Hermansyah. "Konsep Keadilan Dalam Perspektif Plato." *Nusantara: Jurnal Pendidikan, Seni, Sains Dan Sosial Humaniora* 1, no. 01 (2022): 1–25. https://journal.forikami.com/index.php/nusantara/article/view/135.

Pratama, Muhammad Aldiansyah, dan Ahmad Fajar Shodik. "Analisis Konsep Penafsiran Kontekstual Sayyidina Umar Bin Khattab Terhadap Teks Al-Qur'an." *Annual Conference on Islamic Studies and Humanities* 1, no. 1 (2022): 32–51.

Putri, Widyani. "Apakah Restorative Justice Sejalan Dengan Nilai-nilai Hukum dan Rasa Keadilan yang Hidup dalam Masyarakat Indonesia?" *Gema Keadilan* 9, no. 2 (2022): 93–107.

Ridwan, Ridwan. "Telaah Pemikiran Hukum Progresif Umar Bin Khatab Perspektif Indonesia." *Jurnal Hukum Samudra Keadilan* 13, no. 1 (2018): 32–43. https://doi.org/10.33059/jhsk.v13i1.696.

Rudiyanto, Rudiyanto, Moh Zeinudin, dan Abshoril Fithry. "Penyelesaian Tindak Pidana Penadahan dengan Prinsip Restorative Justice dalam Tahap Penyidikan." *Jurnal Jendela Hukum* 10, no. 2 (2023): 132–45. https://doi.org/10.24929/jjh.v10i2.2979.

Simatupang, Rajarif Syah Akbar. "Pelaksanaan Sistem Peradilan Pidana Anak Di Indonesia Perspektif Nilai Keadilan." *Jurnal Yuridis* 11, no. 1 (2024): 54–63. https://doi.org/10.35586/jyur.v11i1.8356.

Sirri, Mun‟im A. *Sejarah Fiqh Islam*. Surabaya: Risalah Gusti, 1995.

Surya, Reni. "Klasifikasi tindak pidana hudud dan sanksinya dalam perspektif hukum islam." *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam* 2, no. 2 (2019): 530–47. https://doi.org/10.22373/sjhk.v2i2.4751.

Syefriyeni, Syefriyeni. "Relativisme Etika Keyakinan Moral: Sebuah Ijtihad Etik Umar bin Khattab." *Intizar* 25, no. 2 (2019): 107–14.

https://doi.org/10.19109/intizar.v25i2.4591.

Taqiuddin, Habibul Umam, dan Risdiana Risdiana. "Penerapan Keadilan Restoratif (Restorative Justice) Dalam Praktik Ketatanegaraan." *JISIP (Jurnal Ilmu Sosial dan Pendidikan)* 6, no. 1 (2022): 3596–3610. https://doi.org/10.58258/jisip.v6i1.2972.

Wahab, Gusnarib, dan M Iksan Kahar. "Krisis Kesetaraan, Keadilan dan Krisis Kemanusiaan." In *Proceedings of International Conference on Islamic Civilization and Humanities*, 2:1–19, 2024. https://proceedings.uinsa.ac.id/index.php/iconfahum/article/view/1791.

Wijaya, Irawan Adi, dan Hari Purwadi. "Pemberian Restitusi Sebagai Perlindungan Hukum Korban Tindak Pidana." *Jurnal Hukum Dan Pembangunan Ekonomi* 6, no. 2 (2018): 93–111. https://doi.org/10.20961/hpe.v6i2.17728.

Zulhendra, Joni. "Fresh Ijtihad sebagai Upaya dalam Meretas Tertutupnya Pintu Ijtihad: Studi Perkembangan Hukum Islam pada Masa Kontemporer." *Al-Qanun: Jurnal Pemikiran dan Pembaharuan Hukum Islam* 26, no. 1 (2023): 83–95. https://doi.org/10.15642/alqanun.2023.26.1.83-95.

Zulkifli, Zulkifli. "Tuntutan Keadilan Perspektif Hukum Islam." *JURIS (Jurnal Ilmiah Syariah)* 17, no. 1 (2018): 137–46. https://doi.org/10.31958/juris.v17i1.1005.