Al-Adalah: Jurnal Hukum dan Politik Islam
https://jurnal.iain-bone.ac.id/index.php/aladalah
E-ISSN 2685-550X | P-ISSN X2406-8802
Vol.11, No. 2, July, 2026, pp. 281-299
https: Prefix 10.35673
aladalah@iain-bone.ac.id

Between Reconciliation and Justice: Reactualizing As-Sulḥ in Resolving Juvenile Violence within Indonesia's Legal Pluralism

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ARTICLE INFO

Article history
Received: 03 April 2026
Revised: 15 April 2026
Accepted: 17 April 2026

Keywords
As-Sulḥ:
Restorative Justice;
Juvenile Violence;
Legal Pluralism;
Islamic Criminal Law
Mardame,

ABSTRACT

This study examines the tension between reconciliation and justice in the regulation of assault-related offenses under Indonesian positive criminal law and Islamic criminal law, while critically analyzing the implementation of as-sulḥ in resolving juvenile violence within the Halongonan community of North Padang Lawas. Adopting a socio-legal empirical approach, this research conceptualizes law as a social practice (law in action) and draws on qualitative data from in-depth interviews with community leaders, religious figures, and local residents. Data were analyzed using constant comparative analysis based on three key indicators: voluntariness, power balance, and substantive justice. The findings reveal that although as-sulḥ normatively promotes reconciliation, forgiveness, and the restoration of social relations, its practical application often reflects a tension between reconciliation and justice, manifested in the form of pseudo-reconciliation. Settlements tend to occur under social pressure and unequal power relations, making them formalistic and transactional, and failing to fully embody the principles of al-riḍā' (consent), 'adālah (justice), and maṣlaḥah (public interest). In response, this study argues for the reactualization of as-sulḥ through the integration of restorative justice, the principles of maqāṣid al-sharī'ah, and the national criminal law framework within Indonesia's plural legal system. Theoretically, it contributes to the discourse on reconciliation and justice in legal pluralism, while practically offering a more just, reflective, and context-sensitive model for resolving juvenile violence.

1. Introduction

Violence among juveniles remains a persistent socio-legal concern across legal systems worldwide, particularly in societies undergoing rapid social transformation.[1] Contemporary criminological studies suggest that juvenile violence cannot be understood merely as a violation of criminal law, but rather as a manifestation of complex structural and cultural factors,[2] including weakened social control, identity dynamics, and the normalization of violence in social interactions.[3] In this context, law enforcement approaches that are exclusively punishment-oriented are increasingly viewed as inadequate, as they fail to address the needs for victim recovery, offender reintegration, and the prevention of recurring conflicts.[4]

In response to the limitations of retributive approaches, global scholarship has developed the concept of restorative justice as an alternative paradigm in criminal dispute resolution. This approach emphasizes participatory dialogue, acknowledgment of responsibility, and the restoration of harm as the primary objectives of the justice process.[5] However, recent developments in the literature reveal significant critiques of restorative justice, particularly its tendency toward procedural formalization, which in some contexts has failed to produce substantive restoration for victims.[6] Daly (2006) dan Hoyle (2015), for instance, argue that restorative justice practices are often trapped in what may be termed "restorative justice without restoration," where dialogical processes occur formally but do not adequately address power imbalances, social pressures, or coerced participation.[7] These critiques indicate a gap between the normative ideals and empirical realities of restorative justice practices.

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[1] A Flynn, M Lee, dan M Halsey, "Introduction. Youth violence: de-escalation strategies and socio-legal responses," *Onati Socio-Legal Series* 11, no. 5 (2021): 1088–94, https://doi.org/10.35295/osls.iisl/0000-0000-0000-1211.

[2] T Ur Rehman, "Global trends of escalating aggression and violence among youth," *Youth Voice Journal* 15, no. 3 (2025).

[3] V de Paula Faleiros, "Criminality, social inequality and penalization of adolescents and young people," *Direito, Estado e Sociedade* 2022, no. 61 (2022), https://doi.org/10.17808/des.0.1368.

[4] E S Scott dan L Steinberg, "Adolescent development and the regulation of youth crime," *Future of Children* 18, no. 2 (2008): 15–33, https://doi.org/10.1353/foc.0.0011; S D I Wulan et al., "Justice for Child Offenders: A Humanistic Legal Approach," *Journal of Human Rights, Culture and Legal System* 5, no. 3 (2025): 749–79, https://doi.org/10.53955/jhcls.v5i3.773.

[5] John Braithwaite, *Restorative Justice & Responsive Regulation*, *Oxford University Press*, 2022; D W Van Ness, "Justice that restores: From impersonal to personal justice," in *Criminal Justice: Retribution vs. Restoration*, 2013, 93–110, https://doi.org/10.4324/9780203046944.

[6] I Vanfraechem, D Bolívar, dan I Aertsen, *Victims and restorative justice*, *Victims and Restorative Justice*, 2015, https://doi.org/10.4324/9780203070826.

[7] Kathleen Daly, "The Limits of Restorative Justice," in *Handbook of Restorative Justice*, 1st editio (Routledge, 2006), https://doi.org/https://doi.org/10.4324/9780203346822-15; Carolyn Hoyle dan Fernanda Fonseca Rosenblatt, "Looking Back to the Future: Threats to the Success of Restorative Justice in the United Kingdom," *Victims & Offenders* 11, no. 1 (2 Januari 2016): 30–49, https://doi.org/10.1080/15564886.2015.1095830.

Within the framework of Indonesian positive law, the criminal offense of assault is comprehensively regulated in the Criminal Code (Kitab Undang-Undang Hukum Pidana—KUHP), both under the previous regime through Article 351 and under Law Number 1 of 2023 through Article 466. This normative construction places the degree of harm as the primary basis for determining criminal sanctions, reflecting a proportional retributive orientation as a defining characteristic of criminal law.[8] Although the reform of the KUHP demonstrates efforts toward the modernization of national criminal law, the approach remains fundamentally rooted in a retributive paradigm focused on punishing the offender. Consequently, relational and psychological dimensions inherent in conflict—such as the restoration of social relationships, moral acknowledgment, and offender reintegration—are not fully accommodated within this normative framework, particularly in cases involving juveniles.

In contrast, within the tradition of Islamic law, the concept of as-sulḥ offers a dispute resolution framework oriented toward reconciliation, justice, and public welfare.[9] In the perspective of fiqh jināyah, assault (jināyah ‘alā al-badan) is understood as acts of aggression (al-i‘tida’) or physical injury (al-jarḥ wa al-ḍarb), namely actions that harm others physically or psychologically without legitimate legal justification.[10] Assault in Islamic criminal law is classified based on the degree of harm, including minor injury (al-jarḥ al-yasīr), severe injury (al-jarḥ al-shadīd) causing organ damage, permanent disability, or loss of bodily function, and acts resulting in death categorized as homicide (qatl).[11] Within this framework, resolution is not solely retributive but allows space for peaceful settlement mechanisms based on voluntary agreement between the parties through as-sulḥ.[12] Conceptually, as-sulḥ aligns with the principles of restorative justice, particularly in its emphasis on dialogue, acknowledgment of wrongdoing, and the restoration of social relations.[13] evertheless, such normative compatibility does not automatically guarantee successful implementation in complex social contexts, especially within societies characterized by strong legal pluralism.

[8] Zaidun dan Joko Setiyono, “Penyelesaian Tindak Pidana Penganiayaan Dengan Pendekatan Keadilan Restoratif,” *Jurnal Pembangunan Hukum* 6, no. 1 (2024): 49–60, https://doi.org/https://doi.org/10.14710/jphi.v6i1.49-60.

[9] E Bengochea Tirado, “The role of ṣulḥ in Sahrawi state-building,” *British Journal of Middle Eastern Studies* 51, no. 3 (2024): 618–35, https://doi.org/10.1080/13530194.2022.2132216.

[10] M Ali dan A Muliyono, “Analysis of Islamic Criminal Law Perspectives on Domestic Violence in Indonesia,” *Manchester Journal of Transnational Islamic Law and Practice* 19, no. 2 (2023): 114–22; Ahmad Wardi Muslich, *Hukum Pidana Islam*, *Sinar Grafika, Jakarta*, 2005, 43.

[11] Khairul Hamim, *FIKIH JINAYAH*, *Sanabil* (Mataram, 2020), 13.

[12] Mohammad Hashim Kamali, *Shari’ah Law: An Introduction*, *Oneworld Publications*, 2008; Wael B. Hallaq, *SHARIA THEORY , PRACTICE , TRANSFORMATIONS*, *Cambridge University Press* (Cambridge University Press, 2009).

[13] J B Darmawan et al., “Incorporating Islah Principles into Restorative Justice: Bridging Contemporary Legal Practice and Islamic Values,” *MILRev: Metro Islamic Law Review* 4, no. 1 (2025): 269–94, https://doi.org/10.32332/milrev.v4i1.10435.

Indonesia, as a country with complex legal pluralism, presents a dynamic interaction between state law, customary law, and religious law in dispute resolution.[14] Several studies indicate that community-based dispute resolution mechanisms often serve as alternatives to formal judicial systems, particularly in cases involving close social relationships.[15] However, existing literature tends to emphasize the success of such mechanisms in maintaining social harmony, without critically evaluating potential distortions arising from unequal power relations, collective pressure, and pragmatic interests.

This gap becomes evident in the practice of resolving juvenile assault cases in Halongonan, North Padang Lawas Regency, where as-sulḥ is operationalized through the customary practice of mardame. Normatively, this mechanism reflects values of collectivism, deliberation, and social harmony. However, the empirical findings of this study reveal a fundamental paradox: a mechanism that is normatively designed to achieve reconciliation often results in forms of superficial peace in practice. Agreements are frequently shaped by social pressure, unequal bargaining positions, and economic considerations, thereby obscuring the principles of voluntariness and substantive justice.

To explain this phenomenon, this article proposes the concept of pseudo-reconciliation, referring to a condition in which peace processes appear procedurally successful but substantively fail to achieve balanced justice and relational restoration. This concept intersects with global critiques of restorative justice, such as coerced reconciliation and thin justice,[16] while placing particular emphasis on the dynamics of legal pluralism and local socio-cultural contexts shaping reconciliation practices. Thus, pseudo-reconciliation is understood not merely as a deviation in practice, but as a structural phenomenon arising from the interaction between norms, power, and culture.

Based on these gaps, existing literature has not yet fully integrated three key dimensions simultaneously: (1) conceptual limitations in the operationalization of

[14] Fradhana Putra Disantara, "Konsep Pluralisme Hukum Khas Indonesia sebagai Strategi Menghadapi Era Modernisasi Hukum," *Al-Adalah: Jurnal Hukum dan Politik Islam* 6, no. 1 (14 Juni 2021): 1–36, https://doi.org/10.35673/ajmpi.v6i1.1129.

[15] S Seko dan A H Soa, "Revitalizing Tradition: The Role Of Pakat Perkara In Resolving Land Disputes Within The Dayak Tobag Community," *Masalah-Masalah Hukum* 54, no. 1 (2025): 47–56, https://doi.org/10.14710/mmh.54.1.2025.47-56; R D Sutanti, N Rochaeti, dan A R Damora, "Customary law as an instrument of restorative justice: an alternative approach to criminal conflict resolution in plural legal systems," *Clio. Revista de Historia, Ciencias Humanas y Pensamiento Critico.* 5, no. 10 (2025): 1348–81, https://doi.org/10.5281/zenodo.15453907; A S Sarmadi et al., "Negotiating Islamic Law and Customary Practice: Fiqh al-Aqalliyyat and Restorative Justice in Banjar Inheritance Disputes," *Jurnal Ilmiah Al-Syir'ah* 23, no. 2 (2025): 279–96, https://doi.org/10.30984/jis.v23i2.3673; N L Jalilah, B R Mulhimmah, dan P Aggriani, "Sidikare as Kinship-Based Dispute Resolution of Sasak Muslim within the National and Islamic Law Framework," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 20, no. 2 (2025): 370–92, https://doi.org/10.19105/al-lhkam.v20i2.17220.

[16] R Bhargava, "The difficulty of reconciliation," *Philosophy and Social Criticism* 38, no. 4–5 (2012): 369–77, https://doi.org/10.1177/0191453712447997.

restorative justice and as-sulḥ,[17] (2) implementation dynamics within unequal power relations,[18] and (3) critical analysis of reconciliation distortions in plural legal systems.[19] The absence of such integration indicates a lack of a comprehensive analytical framework capable of explaining the relationship between norms, practices, and power in restorative dispute resolution mechanisms.

Departing from these gaps, this article aims to critically examine the implementation of as-sulḥ in resolving juvenile assault cases within the context of legal pluralism in Indonesia. It positions as-sulḥ not merely as a normative concept, but as a socio-legal practice shaped by the interaction between legal norms, cultural values, and power relations. The central question addressed is: to what extent can as-sulḥ function as an authentic restorative mechanism, and under what conditions does it become reduced to pseudo-reconciliation?

This article offers three main contributions. First, it advances a critique of the limitations of restorative justice by highlighting the role of power imbalances in distorting reconciliation processes. Second, it reconceptualizes as-sulḥ as a normative framework that is not only compatible with, but also potentially corrective of, reduced reconciliation practices. Third, it introduces the concept of pseudo-reconciliation as a novel analytical framework in socio-legal studies to explain the failure of peace mechanisms within plural legal systems.

Accordingly, this article positions the Indonesian local context not merely as an empirical site, but as a strategic conceptual space for reconstructing the relationship between reconciliation and justice in contemporary legal theory. The findings are expected to enrich global discourse by contributing perspectives from non-Western legal traditions to the development of more inclusive, context-sensitive, and sustainable models of justice.

2. Legal Material and Methods

This study employs a socio-legal empirical design using a qualitative-critical approach that conceptualizes law as a social practice (law in action).[20] This approach is adopted to bridge the gap between normative legal constructions and empirical practices in the implementation of as-sulḥ. Methodologically, the research integrates a statute approach

[17] D W Van Ness dan M F Schiff, "Satisfaction Guaranteed?: The Meaning of Satisfaction in Restorative Justice," in *Restorative Community Justice: Repairing Harm and Transforming Communities*, 2015, 47–62, https://doi.org/10.4324/9781315721347-7; D Setiyawan et al., "Law Enforcement of Sexual Violence on Social Media: An Islamic Restorative Justice Perspective," *De Jure: Jurnal Hukum dan Syar'iah* 17, no. 1 (2025): 90–111, https://doi.org/10.18860/j-fsh.v17i1.28185.

[18] N Azisa et al., "Psychological Recovery of Crime Victims within Contemporary Restorative Justice: An Islamic Legal Perspective," *MILRev: Metro Islamic Law Review* 4, no. 2 (2025): 1098–1127, https://doi.org/10.32332/milrev.v4i2.11184; K Clamp, *Restorative justice in transitional settings*, *Restorative Justice in Transitional Settings*, 2016, https://doi.org/10.4324/9781315723860.

[19] G Johnstone, "Critical perspectives on restorative justice," in *Handbook of Restorative Justice*, 2013, 598–614, https://doi.org/10.4324/9781843926191-41.

[20] Sulistyowati Irianto et al., *Kajian sosio-legal*, *Seri unsur-unsur penyusun bangunan negara hukum*, 2012.

to examine the regulation of assault offenses within the Indonesian Criminal Code, a conceptual approach to analyze restorative justice, as-sulḥ, legal pluralism, and pseudo-reconciliation, and a case study approach focusing on the "*mardame"* practice in Halongonan, North Padang Lawas Regency, as the primary empirical context.

The data consist of both primary and secondary sources. Primary data were collected through in-depth interviews with key informants, including community leaders in Halongonan and religious figures who play significant roles in reconciliation processes, supplemented by interviews with local community members. Informants were selected purposively based on their direct involvement and social authority in dispute resolution. Secondary data were obtained through library research, encompassing primary legal materials such as the Qur'an, Hadith, and the Indonesian Criminal Code, as well as relevant academic literature. This approach emphasizes in-depth contextual analysis to uncover social dynamics—such as collective pressure and unequal power relations—that are not always visible within formal normative frameworks.

Data analysis was conducted qualitatively through processes of reduction, categorization, and interpretation, employing a constant comparative analysis technique,[21] and validated through source triangulation. The analysis focuses on three principal indicators—voluntariness, balance of power relations, and substantive justice—to distinguish between authentic reconciliation and pseudo-reconciliation. In line with the exploratory nature of this study, the methodological approach is not merely intended to describe legal practices, but also to develop a socio-legal explanation of reconciliation distortions within the context of legal pluralism. Accordingly, this research prioritizes conceptual refinement rather than statistical generalization.

3. Results and Discussion

3.1. Normative Framework of Assault: A Comparative Analysis between Indonesian Positive Law and Islamic Criminal Law

In Indonesian criminal law, the offense of assault is classically regulated under Articles 351 to 355 of the Criminal Code (Kitab Undang-Undang Hukum Pidana—KUHP).[22] A defining characteristic of this regulation lies in the absence of an explicit definition of assault, resulting in a doctrinal construction primarily shaped through the

[21] Sheila M Fram, "The Constant Comparative Analysis Method Outside of Grounded Theory," *The Qualitative Report* 18, no. 1 (2013): 1–25, https://doi.org/https://doi.org/10.46743/2160-3715/2013.1569 This.

[22] Willa Wahyuni, "Jenis-Jenis Penganiayaan dan Jerat Hukumnya," Hukum Online.com, 2022; Rafi Ashadiqi, "TINJAUAN YURIDIS TERHADAP PEMIDANAAN PELAKU TINDAK PIDANA PENGANIAYAAN YANG MENYEBABKAN LUKA BERAT (STUDI PUTUSAN NO: 334/PID.B/2023/PN.AMB DAN PUTUSAN NO:30/PID.B/2023/PN.CJR)" (Universitas Islam Sultan Agung Semarang, 2025).

formulation of legal elements and prescribed sanctions. Within doctrinal interpretation, assault is generally understood as an intentional act aimed at causing pain or injury to another person, comprising the essential elements of a physical act (actus reus), intent (mens rea), and the resulting harm in the form of physical suffering or impairment of health.[23]

This normative structure indicates that Indonesian positive criminal law situates assault within a legal-formal framework oriented toward the proof of elements and the imposition of sanctions. This construction is largely maintained in Law Number 1 of 2023 on the Criminal Code, albeit with several systematic and editorial adjustments. The reformulation includes the reclassification of provisions into Articles 466–471, as well as refinements in aggravating factors and the expansion of the scope of offenses. To illustrate these developments, a systematic comparison between the old and the new Criminal Code is presented below.

Table 1. Comparative Regulation of Assault in the Old and New Indonesian Criminal Code

Category of Assault	Old Criminal Code (Articles 351–355)	New Criminal Code (Articles 470–474)
Ordinary assault	≤ 2 years 8 months; serious injury ≤ 5 years; death ≤ 7 years	≤ 2 years 6 months; serious injury ≤ 5 years; death ≤ 7 years
Minor assault	≤ 3 months or fine; increased by one-third if against a subordinate	≤ 6 months or fine; if resulting in death ≤ 10 years
Premeditated assault	≤ 4 years (no injury), ≤ 7 years (serious injury), ≤ 9 years (death)	Included in Article 473 (premeditated & serious): ≤ 12 years; if resulting in death ≤ 15 years
Serious assault	≤ 8 years; if resulting in death ≤ 10 years	Article 472: ≤ 8 years; if resulting in death ≤ 10 years
Aggravation	+⅓ for victims who are parents/spouse/children; group context (Article 356)	+⅓ for public officials, use of dangerous materials, or parents as victims (Article 474)
Attempt	Not punishable	Not punishable (Article 470(5))

Source: Compiled by the author

Table 1 demonstrates that the changes introduced in the new Criminal Code are not paradigmatic but rather constitute technical refinements of the existing structure. Although certain categories reflect increased sanctions and expanded offense coverage, the underlying orientation remains rooted in a retributive approach. Consequently, criminal law reform in this context has not fully accommodated approaches oriented toward victim restoration and social reconciliation.

[23] K Currul-Dykeman, "Assault and Battery," in *The Encyclopedia of Criminology and Criminal Justice*, 2014, 1–3, https://doi.org/10.1002/9781118517383.wbeccj545.

In contrast, Islamic criminal law situates assault within the framework of al-jināyah ‘alā al-badan, referring to crimes against bodily integrity that encompass not only legal but also moral and theological dimensions. Assault is understood as an act of unlawful harm (al-jarḥ wa al-ḍarb or al-i‘tida’), classified according to the degree of injury, ranging from minor harm to acts resulting in death.[24]

The sanctioning system in Islamic criminal law reflects a more flexible and layered structure, encompassing the mechanisms of qiṣāṣ, diyah, and ta‘zīr.[25] Qiṣāṣ embodies the principle of retributive equivalence; however, its application is not absolute, as it allows victims the discretion to grant forgiveness. In such cases, diyah operates as a compensatory mechanism, shifting the orientation from retribution toward restoration,[26] while ta‘zīr provides discretionary authority for the imposition of sanctions based on considerations of public interest (maṣlaḥah).[27]

The most distinctive dimension between these two legal systems lies in their approach to conflict resolution mechanisms. Islamic criminal law explicitly integrates the principles of al-‘afw (forgiveness) and al-ṣulḥ (peaceful settlement) as inherent components of its legal structure.[28] This integration reflects an orientation not solely toward punishment but also toward social reconciliation and the restoration of relationships between offender and victim.

Furthermore, the concept of iṣlāḥ extends the meaning of reconciliation beyond mere dispute settlement to encompass a broader process of restorative social transformation. Principles such as voluntariness (al-riḍā’), justice (‘adālah), public benefit (maṣlaḥah), and benevolence (iḥsān) constitute the normative foundation ensuring that reconciliation processes do not produce new forms of injustice.[29] Thus, Islamic criminal law does not

[24] Alfan Maulidin Ichwanto, “Tindak Pidana Penganiayaan dalam Hukum Pidana Islam,” *Al_Qanun* 20, no. 1 (2017).

[25] M Ali, H F Al-Fahad, dan W Maulana, “Philosophical Foundation, Application, and Controversies of Judicial Pardon in Islamic Criminal Law, Indonesian Penal Code, and the Criminal Justice System of Kuwait,” *De Jure: Jurnal Hukum dan Syar’iah* 17, no. 2 (2025): 624–48, https://doi.org/10.18860/j-fsh.v17i2.32629.

[26] S T Halimang, “Justice and Qiṣāṣ in Islamic Law: The Views of Muslim Scholars and Intellectuals at Makassar City, South Sulawesi,” *Samarah* 9, no. 1 (2025): 617–42, https://doi.org/10.22373/sjhk.v9i1.26164.

[27] Hanifah Haydar Ali Tajuddin dan Salehan Yatim, “Islamic Inheritance Law,” *Islamic Law in Malaysia: The Challenges of Implementation*, 2021, 63–73, https://doi.org/10.1007/978-981-33-6187-4_6; E Baris, “The Concept of Ta‘zir al-Shadid in Ottoman Criminal Law: An Examination Based on Classical Islamic Law and Ottoman Fatwa Collections,” *Hitit Theology Journal* 24, no. 1 (2025): 105–30, https://doi.org/10.14395/hid.1626638.

[28] S Modongal, “Justice (adi) through forgiveness ('afw): Islamic ethics for qisäs as an alternative to the western conflict resolution mechanism,” *Islamic Quarterly* 64, no. 2 (2020): 147–58.

[29] J Sriwidodo, “Ensuring Restorative Justice Through Penal Mediation in Indonesia: An Examination from the Perspective of Islah (Reformation) in Islamic Criminal Law,” *Manchester Journal of Transnational Islamic Law and Practice* 20, no. 3 (2024): 45–57.

merely accommodate retributive elements but simultaneously integrates restorative and reconciliatory approaches.

Based on the foregoing analysis, it can be concluded that a fundamental paradigmatic distinction exists between Indonesian positive criminal law and Islamic criminal law. While the former tends to frame assault within a legal-formal and retributive structure, the latter develops a more holistic approach by integrating retribution, restoration, and reconciliation. This distinction provides an important analytical foundation for understanding how the concept of as-sulḥ is implemented in social practice, as well as the extent to which it can mediate the tension between formal justice and substantive justice within society.

3.2. The Practice of Implementing As-Sulḥ in Resolving Juvenile Assault Cases in the Halongonan Community

The phenomenon of juvenile assault constitutes a socio-legal problem that extends beyond legal dimensions, being closely intertwined with social structures, patterns of community relations, and the effectiveness of informal social control. In the Halongonan community of North Padang Lawas, cases of juvenile assault are generally triggered by factors such as interpersonal conflicts, peer group solidarity, weak family supervision, and low levels of legal awareness. The impacts are not limited to physical harm but also include psychological trauma, fragmentation of social relations, and the potential for recurring intergroup conflicts.

Within this context, the Halongonan community tends to resolve assault cases through non-litigation mechanisms based on as-sulḥ (peaceful settlement), facilitated by customary leaders, religious figures, and the families of both parties.[30] Normatively, this practice aligns with Islamic values and local wisdom that emphasize deliberation (musyawarah), kinship, and social harmony as the primary objectives of conflict resolution. However, empirical findings indicate that the implementation of as-sulḥ in practice does not always reflect the ideal principles prescribed in Islamic criminal law.

Based on in-depth interviews with key informants, including Inpun Harahap and Kaliman Hasibuan, it is evident that settlement practices in assault cases are often oriented more toward administrative resolution aimed at avoiding formal legal processes than toward substantive reconciliation.[31] In many instances, offenders are effectively "compelled" to meet compensation demands, while victims do not fully experience psychological recovery or a sense of perceived justice. This condition reflects a deviation from the principles of tarāḍī (voluntariness) and 'adālah (justice) embedded in the concept of as-sulḥ.

[30] Inpun Harahap, community leader in Halongonan, North Padang Lawas Regency, personal interview, August 2, 2025.

[31] Kaliman Hasibuan, religious leader in Halongonan, North Padang Lawas Regency, personal interview, August 3, 2025.

An analysis of five empirical cases collected in this study reveals both consistent patterns and notable variations. To provide empirical transparency, a summary of case characteristics is presented in Table 2 below;

Table 2. Synthesis of As-Sulḥ Practices in Juvenile Assault Cases in Halongonan

No	Type of Case	Pattern of As-Sulḥ	Key Elements	Social Outcome	Evaluation
1	School misunderstanding	Monetary compensation	No acknowledgment of wrongdoing	Recurring conflict	Pseudo-reconciliation
2	Intergroup fighting	Money + livestock	Disproportionate compensation	Ongoing resentment	Unjust
3	Sports-related conflict	Compensation + apology	Symbolic reconciliation	Improved relations	Near ideal
4	Personal relationship conflict	Apology + agreement	Moral acknowledgment	Conflict subsides	Relatively successful
5	Revenge-based school conflict	Community mediation	Promise + compensation	Temporary stability	Weak transformation

Source: Author's synthesis based on empirical field data from in-depth interviews and selected case studies in Halongonan, analyzed using constant comparative analysis

As illustrated in Table 2, the practice of as-sulḥ in Halongonan is not homogeneous but exists along a spectrum ranging from pseudo-reconciliation to partial reconciliation. In several cases, settlements tend to be transactional in nature, emphasizing material compensation without genuine acknowledgment of wrongdoing. As a result, social relations between offenders and victims remain strained and retain the potential for renewed conflict.

Conversely, some cases demonstrate more substantive elements of reconciliation, including acknowledgment of wrongdoing, apologies, and symbolic acts of social reintegration. However, even in relatively successful cases, the educational and transformational dimensions remain limited. Offenders do not consistently internalize moral values, while victims often accept settlement as a form of social compromise rather than as an outcome of fully realized justice. These findings underscore that the success of as-sulḥ cannot be measured solely by the achievement of formal agreement, but rather by the quality of the deliberative process and the depth of relational restoration it produces.

From the overall findings, three principal problems can be identified. First, there is a normative misalignment between the principles of as-sulḥ and its empirical practice, particularly in relation to al-riḍā' (voluntariness), al-'adālah (justice), and al-iḥsān (benevolence). Second, the emergence of pseudo-reconciliation reflects a condition in which peace processes appear procedurally successful but substantively fail to restore social relations and achieve balanced justice. Third, the persistence of recurring conflicts indicates that these settlement mechanisms are not yet effective in addressing the root causes of disputes or in fostering long-term social harmony.

Accordingly, the practice of as-sulḥ in the Halongonan community exhibits an ambivalent character. On the one hand, it functions as a conflict resolution mechanism that is efficient, low-cost, and contextually grounded. On the other hand, its implementation

continues to face significant limitations in achieving authentic restorative justice. This condition underscores the urgency of both conceptual and practical reconstruction of as-sulḥ, so that it does not remain confined to the formalities of settlement, but instead genuinely advances restoration, substantive justice, and the sustainability of social relations.

3.3. Comparative Analysis of the Principles of As-Sulḥ in Islamic Criminal Law and Their Practice in the Halongonan Community, North Padang Lawas

To assess the validity of as-sulḥ practices in resolving assault cases in the Halongonan community, it is necessary to employ a normative analytical framework grounded in the fundamental principles of Islamic criminal law. These principles function not only as ethical foundations but also as evaluative parameters for measuring the extent to which reconciliation practices reflect substantive justice.

The first principle is voluntariness (al-riḍā'), which requires that any settlement agreement be based on free and genuine consent, without coercion.[32] However, empirical findings reveal a systemic tendency toward distortion of this principle. In many cases, victims or their families accept reconciliation not as an autonomous choice, but as a result of social pressure, unequal power relations, or intervention by local actors. This phenomenon reflects what may be termed coerced consent, where formal agreement does not represent substantive voluntariness. This finding aligns with critiques in the international literature on mediation and restorative justice, which suggest that without genuine voluntariness, reconciliation processes risk being reduced to merely procedural mechanisms.[33]

The second principle is justice ('adālah), which, according to classical fuqahā', requires that no party be harmed in the reconciliation process.[34] However, in local practice, the compensation provided is often disproportionate to the physical and psychological harm suffered by victims. This indicates the presence of substantive injustice, where procedural justice is achieved through formal agreement, but substantive justice for victims remains unfulfilled. Thus, settlement agreements are not always synonymous with justice; rather, they may function as instruments of social stabilization at the expense of victims' rights.[35]

The principle of public interest (maṣlaḥah) in Islamic legal doctrine emphasizes a balanced protection of both individual and collective interests.[36] In practice, however, the orientation of maṣlaḥah in Halongonan tends to exhibit a communal bias, prioritizing social

[32] Darmawan et al., "Incorporating Islah Principles into Restorative Justice: Bridging Contemporary Legal Practice and Islamic Values."

[33] M Suzuki, "Beyond face-to-face: Exploring the restorative potential of shuttle mediation," *Criminology and Criminal Justice*, 2025, https://doi.org/10.1177/17488958251400121.

[34] A Yaqub, L Mahfiana, dan M Akbar, "Justice, Mediation, and Kalosara Custom of the Tolaki Community in Southeast Sulawesi from the Perspective of Islamic Law," *Samarah* 7, no. 2 (2023): 1077–96, https://doi.org/10.22373/sjhk.v7i2.13183.

[35] D Druckman dan L Wagner, "Justice Matters: Peace Negotiations, Stable Agreements, and Durable Peace," *Journal of Conflict Resolution* 63, no. 2 (2019): 287–316, https://doi.org/10.1177/0022002717739088.

[36] Zahrul Mubarrak et al., "The Urgency of the Islamic Law and Contemporary Societal Challenges: The Flexibility of al-Maslahah in Determining the Hierarchy of Maqāṣid al- Sharīʿah," *El-Usrah: Jurnal Hukum Keluarga* 8, no. 1 (2025): 344–65, https://doi.org/10.22373/pxydd884.

stability and group harmony over victim recovery. This reflects a form of communitarian dominance, where collective interests overshadow individual rights.

Another key principle is that as-sulḥ must not legitimize what is prohibited. A Prophetic tradition states: *"Reconciliation is permissible except that which makes the unlawful lawful or the lawful unlawful"*.[37] However, local practices demonstrate a tendency to resolve all types of assault cases—including serious ones—through informal settlement without involving formal legal mechanisms. This leads to what may be described as normative bypassing, namely the circumvention of legal enforcement obligations from both Islamic and state law perspectives.

The principle of iḥsān (benevolence and forgiveness) emphasizes the moral-spiritual dimension of conflict resolution.[38] In empirical practice, however, forgiveness often arises not from ethical consciousness but from social pressure and the need to maintain communal harmony. As a result, the value of iḥsān shifts from a moral virtue to a form of social compliance, thereby losing its ethical substance.

Finally, the principle of a win–win solution (tawāfuq), which ideally ensures mutual benefit for both parties,[39] tends in practice to devolve into a win–lose outcome. Offenders benefit by avoiding formal legal processes, while victims receive inadequate compensation. This reflects structural inequality within reconciliation negotiations.

Overall, this analysis demonstrates a significant gap between the normative construction of as-sulḥ in Islamic criminal law and its implementation in the social practices of Halongonan. This gap is not merely incidental but reflects a recurring pattern characterized by normative distortion, communal dominance, and the marginalization of victim justice. In other words, the local practice of as-sulḥ tends to produce pseudo-reconciliation—a form of settlement that is procedurally valid and socially stabilizing, yet substantively fragile in terms of justice. To systematically illustrate these patterns of normative deviation, a comparative analysis is presented in Table 3 below;

Table 3. Comparative Analysis of the Principles of As-Sulḥ and Their Practice in the Halongonan Community

Principle of As-Sulḥ	Classical Fuqahā' Perspective (Islamic Law)	Practice in Halongonan (Customary/Social Context)	Comparative Analysis
Voluntariness (al-Riḍā')	Valid if free from coercion; agreement must reflect mutual consent.	Victims/families often accept settlement due to social, economic, or elite pressure.	Deviation: voluntariness shifts into social coercion.
Justice (ʻAdālah)	Must not harm victims' rights; unjust settlements rejected.	Customary compensation often disproportionate.	Formal justice achieved, substantive justice neglected.

[37] Darmawan et al., "Incorporating Islah Principles into Restorative Justice: Bridging Contemporary Legal Practice and Islamic Values."

[38] Modongal, "Justice (adi) through forgiveness ('afw): Islamic ethics for qisäs as an alternative to the western conflict resolution mechanism."

[39] S Ahmed, "Negotiation," in *Elgar Encyclopedia of Leadership*, 2025, 245–46, https://doi.org/10.4337/9781035307074.000106.

Public Interest (Maṣlaḥah)	Aims to prevent hostility and ensure balanced welfare.	Focus on communal harmony rather than victim recovery.	Collective benefit overrides individual justice.
No Legalization of the Unlawful	Settlement cannot override legal prohibitions (e.g., ḥudūd).	Even serious cases settled informally.	Normative bypassing of both Islamic and state law.
No Legalization of the Unlawful	Settlement cannot override legal prohibitions (e.g., ḥudūd).	Even serious cases settled informally.	Normative bypassing of both Islamic and state law.
Benevolence (Iḥsān)	Encourages voluntary forgiveness as moral virtue.	Forgiveness driven by social pressure.	Ethical value shifts into social compliance.
Win–Win Solution (Tawāfuq)	Mutual benefit for both parties.	Offenders benefit more than victimsc.	Transforms into win–lose outcome.

Source: Compiled by the author based on primary data and normative analysis

These findings indicate that although as-sulḥ shares conceptual affinities with restorative justice—particularly in its emphasis on restoration and reconciliation—its empirical practice does not fully embody authentic restorative justice principles. This reinforces findings in international scholarship that the effectiveness of mediation and restorative justice is highly dependent on the quality of voluntariness, balance of power relations, and institutional support. In the Halongonan context, the absence of these conditions leads to the reduction of reconciliation mechanisms into mere social formalities, thereby reinforcing the existence of pseudo-reconciliation as a structural problem within legal pluralism.

Accordingly, the integration of as-sulḥ principles, customary law, and restorative justice within the framework of national law becomes essential to ensure that reconciliation mechanisms not only preserve social harmony but also guarantee substantive justice for victims.

3.4. Reconstruction of As-Sulḥ Based on Restorative Justice, Maqāṣid al-Sharī‘ah, and National Criminal Law

The reconstruction of the concept of as-sulḥ in resolving juvenile assault cases constitutes both a normative and sociological necessity, particularly within the context of the Halongonan community in North Padang Lawas, where a clear gap exists between ideal conceptual formulations and empirical practices. As demonstrated in the preceding analysis, reconciliation practices in the community tend to be formalistic and transactional, thereby failing to achieve the fundamental objectives of as-sulḥ, namely the restoration of social relations and the realization of substantive justice. Accordingly, a reconstructed model is required—one that is not only grounded in Islamic legal values but also adaptable to the

evolution of modern legal paradigms, particularly the restorative justice approach within national criminal law.

In the global context, restorative justice has developed as an alternative paradigm within modern criminal justice systems, emphasizing victim restoration, offender accountability, and the reconstruction of social relationships.[40] International scholarship demonstrates that restorative justice functions not only as a dispute resolution mechanism but also as an instrument of social transformation capable of reducing recidivism and strengthening social cohesion. However, most of these approaches are rooted in secular-liberal paradigms that do not fully accommodate moral and spiritual dimensions. It is precisely here that as-sulḥ offers a significant conceptual contribution, as it integrates ethical values, spirituality, and public welfare (maṣlaḥah) within the process of conflict resolution.

Accordingly, the reconstruction of as-sulḥ proposed in this study is directed toward the integration of three principal normative frameworks: restorative justice, maqāṣid al-sharī‘ah, and national criminal law. This integration produces a model that is not only normatively coherent but also socially applicable.

First, from the perspective of restorative justice, the reconstruction of as-sulḥ requires a participatory and dialogical process in which offenders, victims, and the community are actively involved in resolving conflicts.[41] In contrast to local practices that tend to be elitist and dominated by customary leaders, this model positions the victim as the central subject, endowed with full rights to articulate their interests. In this regard, acknowledgment of harm by the offender becomes a fundamental prerequisite for achieving a genuine settlement, ensuring that reconciliation is not merely symbolic but grounded in moral accountability.[42]

Second, from the perspective of maqāṣid al-sharī‘ah, the reconstruction of as-sulḥ must be oriented toward the protection of five fundamental objectives: ḥifẓ al-nafs (protection of life), ḥifẓ al-māl (protection of property), ḥifẓ al-‘aql (protection of intellect), ḥifẓ al-nasl (protection of lineage), and ḥifẓ al-dīn (protection of religion).[43] In the context of assault, the protection of life and bodily integrity must be prioritized. Therefore, compensation (diyah or other forms of restitution) should be determined based on proportional justice rather than symbolic agreement.[44] Moreover, the concept of al-‘afw

[40] M Briskey, “Restorative Justice: Drawing from the Old to Develop New Justice Alternatives,” in *The Cambridge Handbook of Forensic Psychology*, 2021, 514–29, https://doi.org/10.1017/9781108848916.032.

[41] S Zubaidah et al., “Integrating Tradition into Legal Reform: Reconstructing the Role of Reconciliatory Customary Judges in Diversion Processes within the Interplay of Islamic, Customary, and National Law,” *Jurnal Ilmiah Mizani* 12, no. 2 (2025): 56–70, https://doi.org/10.29300/mzn.v12i2.8439.

[42] M Kalter dan M Uitslag, “RESTORATIVE WORK AND VICTIM AWARENESS,” in *Forensic Social Work: Supporting Desistance*, 2025, 333–45, https://doi.org/10.4324/9781003603139-27.

[43] Darmawan et al., “Incorporating Islah Principles into Restorative Justice: Bridging Contemporary Legal Practice and Islamic Values.”

[44] Z S Ibrahim et al., “Integration of Maqaṣid al-Shari’ah in the Criminal Law Reform to Achieve Justice and Human Dignity,” *Jurnal Hukum Islam* 23, no. 1 (2025): 105–44, https://doi.org/10.28918/jhi.v23i1.04.

(forgiveness) must be positioned as an ethical choice arising from the victim's autonomous will, rather than as a product of social pressure.

Third, from the perspective of national criminal law—particularly within the framework of Law Number 1 of 2023 on the Indonesian Criminal Code—the reconstruction of as-sulḥ should be integrated with restorative justice mechanisms that have been normatively recognized. The new Criminal Code provides space for out-of-court settlement of certain offenses, taking into account the interests of victims, offenders, and society. In this regard, as-sulḥ may function as a cultural-religious approach that reinforces the implementation of restorative justice, thereby fostering harmonization between state law and the living law within society.

Based on the integration of these three frameworks, the reconstructed model of as-sulḥ proposed in this study is characterized by several key features. First, it is grounded in authentic voluntariness (al-riḍā'), ensuring that all settlement agreements are free from social or structural coercion. Second, it is oriented toward substantive justice ('adālah), guaranteeing that victims' rights are fulfilled proportionally. Third, it prioritizes balanced public interest (maṣlaḥah), harmonizing individual and collective concerns. Fourth, it operates within the boundaries of both Islamic law and national law, ensuring that it does not become a means of unlawfully evading criminal responsibility. Fifth, it promotes an authentic win–win solution, whereby offenders assume moral and social responsibility while victims receive meaningful restoration.

Furthermore, this model underscores the importance of institutional control mechanisms to prevent deviations in the practice of as-sulḥ. In this regard, the role of the state, law enforcement agencies, and socio-religious institutions becomes crucial in ensuring that reconciliation processes adhere to principles of justice and do not disadvantage any party. Thus, as-sulḥ should no longer be understood merely as a customary or traditional practice, but rather as an integral component of a broader legal system oriented toward restorative justice.

Through this reconstruction, the present study contributes not only empirically to the understanding of conflict resolution practices in the Halongonan community but also theoretically to the development of a restorative justice paradigm grounded in Islamic values. The proposed model demonstrates that the integration of as-sulḥ, maqāṣid al-sharī'ah, and national criminal law offers a conceptually robust and contextually relevant alternative for addressing the challenges of modern criminal justice systems, particularly within pluralistic and religiously grounded societies.

4. Conclusion

This study demonstrates that the regulation of assault offenses in Indonesian positive criminal law and Islamic criminal law converges in its protection of bodily integrity and human dignity, yet diverges paradigmatically in their approaches to dispute resolution. Islamic criminal law, through the concept of as-sulḥ, emphasizes forgiveness, restoration, and social reconciliation, whereas national criminal law has historically been oriented toward a retributive approach, although recent developments have begun to incorporate

restorative justice. In practice, within the Halongonan community of North Padang Lawas, customary and religiously grounded reconciliation mechanisms function as effective social instruments for mitigating open conflict. However, their implementation frequently deviates from the normative principles of as-sulḥ. Settlements tend to be formalistic and transactional, failing to fully reflect the principles of voluntariness (al-riḍā'), justice ('adālah), and public interest (maṣlaḥah), and remain insufficient in achieving substantive restoration of social relations, thereby carrying the potential for latent future conflicts.

Based on the comparative analysis between Islamic legal norms and local practices, this study identifies a significant gap between the ideal conception of as-sulḥ and its empirical implementation. To bridge this gap, the study proposes a reconstructed model of as-sulḥ that integrates restorative justice, the principles of maqāṣid al-sharī'ah, and the framework of national criminal law, as reflected in the recent development of the Indonesian Criminal Code. This model emphasizes authentic voluntariness, substantive justice oriented toward victim restoration, and a balanced consideration of individual rights and social stability, supported by institutional control mechanisms to prevent the misuse of reconciliation as a means of evading criminal accountability. In this regard, the study contributes not only empirically to the understanding of local conflict resolution practices but also theoretically to the advancement of a restorative justice paradigm grounded in Islamic values.

Accordingly, the reconstruction of as-sulḥ through the integration of Islamic principles, restorative justice, and national legal frameworks constitutes not merely a normative necessity but also an epistemological imperative in developing a criminal justice system that is responsive to contemporary social complexity. At this juncture, as-sulḥ should no longer be understood merely as a traditional mechanism of reconciliation, but as a paradigm of transformative justice capable of mediating the tensions between law, morality, and social reality within pluralistic societies.

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