



The Efforts to Decriminalize Article 549 of the Indonesian Criminal Code from the Perspective of Islamic Criminal Law

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ABSTRACT

This study examines the decriminalization of Article 549 of the Indonesian Penal Code (KUHP) from the perspective of Islamic criminal law, focusing on livestock negligence in Sukadame Village, Silangkitang District, South Labuhan Batu Regency. The issue arises from unconfined livestock damaging private land, leading to legal disputes and calls for regulatory reform. This research aims to analyze the necessity of decriminalizing Article 549 KUHP by evaluating its application in local cases and comparing the legal framework of positive law and Islamic law regarding livestock negligence. A qualitative approach with an empirical juridical method was employed, collecting data through interviews with legal practitioners, community leaders, and affected parties, alongside document analysis. The findings indicate that decriminalizing Article 549 KUHP requires legal reform to ensure alignment with current socio-economic conditions. However, prior to implementation, community engagement is crucial to prevent legal uncertainty and unintended consequences. The study suggests that legal adjustments should balance societal needs and legal enforceability, ensuring fairness while maintaining public order. These findings contribute to ongoing discussions on legal reform in Indonesia, particularly in harmonizing statutory law with Islamic legal principles.

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1. Introduction

Criminal law plays a fundamental role in regulating social order by defining punishable acts and determining appropriate sanctions.¹ However, social, economic, and cultural developments often necessitate legal reforms to align with contemporary societal norms and values.² One evolving legal concept is decriminalization, a process that removes the criminal status of certain acts, thereby rendering them non-punishable.³ Decriminalization can occur in two forms: de facto decriminalization, where an act remains legally punishable but is no longer enforced due to policy changes or societal attitudes, and de jure decriminalization, where legal provisions are officially repealed or amended to remove criminal sanctions.⁴

One of the contentious legal provisions in Indonesia is Article 549 of the Indonesian Criminal Code (KUHP), which regulates offenses related to livestock trespassing on private property. This provision stipulates that individuals who allow their livestock to enter another person's land without permission may face fines or even imprisonment in cases of repeated violations.⁵ However, in practice, the enforcement of Article 549 KUHP has primarily diminished, as disputes concerning livestock damaging farmland are commonly resolved through informal mechanisms such as community-based negotiations or financial compensation. This phenomenon raises important questions regarding the relevance of this provision within the modern legal system.

The debate surrounding the decriminalization of Article 549 KUHP is particularly significant in rural communities, such as Sukadame Village in Silangkitang Subdistrict, South Labuhan Batu Regency, where farmers and livestock owners have established informal mechanisms for dispute resolution. When livestock damages agricultural crops, settlements are often reached amicably through financial compensation rather than formal legal action. These customary practices suggest that positive law may no longer reflect prevailing social norms, prompting discussions on whether formal legal intervention remains necessary or decriminalization should be considered.

¹ Akbar, "Relevansi Putusan Mahkamah Konstitusi Di Bidang Pengujian Undang-Undang Terhadap Politik Kriminal Indonesia."

² A.Barlian dan Arief, "Formulasi Ide Permaafan Hakim (Rechterlijk Pardon) Dalam Pembaharuan Sistem Pemidanaan Di Indonesia."

³ Handoko, *Dekriminalisasi terhadap Delik-Delik dalam KUHP*.

⁴ Handoko.

⁵ *Kitab Undang-Undang Hukum Pidana*.

Previous studies on decriminalization in Indonesia have primarily focused on more complex offenses, such as narcotics,⁶ defamation,⁷ and minor criminal acts. However, there is a gap in research addressing the decriminalization of traditional offenses, particularly those related to property and agricultural disputes. Some comparative legal analyses have explored how different jurisdictions handle minor offenses through administrative sanctions rather than criminal prosecution⁸, but few have examined how Islamic legal principles could contribute to the decriminalization process in Indonesia

From the perspective of Islamic criminal law, regulations concerning livestock trespassing can be traced within Islamic jurisprudence. The Quran (Surah Al-Anbiya' 21:78-79) recounts the judgments of Prophet Dawud and Prophet Sulaiman in resolving disputes over livestock damaging farmland.

وَدَاوُدَ وَسُلَيْمَانَ إِذْ يَحْكُمَانِ فِي الْحَرْثِ إِذْ نَفِثَتْ فِيهِ عَنَمُ الْقَوْمِ وَكُنَّا لِحُكْمِهِمْ شَاهِدِينَ ﴿٧٨﴾
فَفَهَّمْنَاهَا سُلَيْمَانَ وَكُلًّا آتَيْنَا حُكْمًا وَعِلْمًا وَسَخَرْنَا مَعَ دَاوُدَ الْجِبَالَ يُسَبِّحْنَ وَالطَّيْرَ وَكُنَّا فَاعِلِينَ ﴿٧٩﴾

Meaning:

Moreover, (remember the story of) David and Solomon, when they gave judgment concerning the field when the sheep of a people damaged the crops. Moreover, We were witnesses to their judgment. Then We gave Solomon the understanding of the ruling (that was more appropriate), and to each of them, We granted wisdom and knowledge. Moreover, We subjected the mountains and the birds to glorify (Us) along with David, and We were the One who did it. (Q.S. Al-Anbiya' (21): 78-79).⁹

Islamic jurisprudence emphasizes restorative justice, where resolution prioritizes compensation for the aggrieved party rather than punitive measures. However, legal studies in Indonesia have yet to explore how these Islamic principles can be harmonized with modern criminal law reforms, particularly regarding minor property offenses.

This study contributes to legal discourse by presenting a socio-legal analysis of decriminalizing livestock trespassing under Article 549 of the Indonesian Penal Code. Unlike previous research, which primarily examines decriminalization from a secular legal perspective, this study offers a comparative approach by integrating insights from Islamic jurisprudence. Furthermore, through a case study in Sukadame Village, this research bridges legal theory with the socio-cultural realities evolving within the community.

⁶ Tarigan dan Collins, "Dekriminalisasi Penggunaan Ganja: Pendekatan Komparatif California's Adult Use of Marijuana Act Maria"; Ulfa, "Dekriminalisasi Terhadap Pasal 127 Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika."

⁷ Fitri, "Menggagas Konsep Dekriminalisasi Pencemaran Nama Baik Sebagai Pelanggaran Hukum Perdata Murni."

⁸ Sulaiman dan Hosnah, "Analisis Penerapan Restorative Justice dalam Kasus Tindak Pidana Ringan Sebagai Upaya Mengurangi Over Kapasitas di Lembaga Pemasyarakatan."

⁹ Syarifah, "Ibrah dari kisah nabi Sulaiman dalam al-Qur'an di era kontemporer."

The novelty of this study lies in its interdisciplinary approach, which integrates legal doctrine, empirical case studies, and Islamic law to formulate policy recommendations for legal reform. By exploring the legal and social dimensions of livestock trespassing offenses, this research seeks to propose alternative dispute resolution mechanisms based on Islamic law and customary law. Consequently, this study aims to enhance Indonesia's legal framework, making it more adaptive to societal needs while remaining aligned with the principles of Islamic jurisprudence.

The findings of this study have significant implications for legal policymakers, academics, and local governments. First, by highlighting the ineffectiveness of enforcing Article 549 of the Indonesian Penal Code, this research provides empirical evidence supporting the need for legal reform. Second, by examining alternative dispute resolution models rooted in Islamic jurisprudence, this study offers a more culturally appropriate approach to handling minor property disputes in rural Indonesian communities. Third, this research aligns with global trends in criminal law reform, where minor offenses are increasingly addressed through administrative mechanisms rather than criminal sanctions, as evidenced by the study conducted by Jordan Blair Woods (2015).¹⁰ This study contributes to national and global legal discourse on criminal law reform by contextualizing international legal developments within Indonesia's legal framework.

Through this interdisciplinary analysis, this study aims to assess the relevance of criminal sanctions for livestock trespassing offenses and explore alternative legal mechanisms that balance legal certainty, social harmony, and cultural traditions. Consequently, this research supports the broader objective of modernizing Indonesia's legal system while ensuring justice and efficiency in handling minor offenses.

2. Legal Material and Methods

This study employs a socio-legal approach, integrating doctrinal legal analysis with an empirical examination of how laws are applied and perceived within society. The socio-legal perspective allows for a deeper understanding of how legal norms function in practice beyond their textual formulation.¹¹ By combining these two approaches, the study aims to bridge the gap between legal theory and real-world implementation.

The research focuses on "*The Efforts to Decriminalize Article 549 of the Indonesian Penal Code from the Perspective of Islamic Criminal Law in Sukadame Village, Silangkitang District, South Labuhan Batu Regency.*" To achieve this objective, it draws from both library research and fieldwork. Library research thoroughly examines primary, secondary, and tertiary legal materials, including statutory regulations, Islamic legal texts, court decisions, academic journals, books, and relevant research reports. This

¹⁰ Woods, "Decriminalization, police authority, and routine traffic stops."

¹¹ Irianto et al., *Kajian sosio-legal*.

doctrinal analysis establishes a theoretical foundation for understanding the legal framework governing minor property offenses and the principles of Islamic criminal law that could contribute to decriminalization efforts.

In addition to the legal doctrinal study, this research conducts an empirical investigation to explore how legal principles are enforced and understood within the local community. Primary data is gathered through in-depth interviews with key stakeholders such as community leaders, landowners, livestock farmers, law enforcement officials, and legal scholars. These interviews provide insight into how legal disputes related to livestock trespassing are resolved in practice and how local customs influence law enforcement. Furthermore, participatory observation is employed to gain a more nuanced understanding of dispute resolution mechanisms at the community level.

To ensure the relevance of the data collected, the study applies purposive sampling, selecting participants based on specific criteria that align with the research focus. This method allows for collecting rich, contextually significant information that reflects the lived experiences of those directly affected by the legal issue under study¹².

By adopting a socio-legal framework, this study examines the existing legal structure and investigates how legal norms interact with social realities. This comprehensive approach makes it possible to propose contextual and applicable policy recommendations that align with Islamic criminal law principles and the practical needs of rural communities. The findings of this research contribute to ongoing discussions on legal reform in Indonesia, particularly in developing a more adaptive and culturally sensitive approach to decriminalization.

3. Results and Discussion

3.1 Efforts to Decriminalize Cases of Livestock Negligence in Sukadame Village, Silangkitang District, South Labuhan Batu Regency

3.1.1. *The Concept of Decriminalization in the Context of Livestock Owner Violations*

Decriminalization is a legal process aimed at removing or reducing the criminal status of an act previously classified as a criminal offense, shifting its legal consequences from criminal sanctions to administrative mechanisms or community-based dispute resolution.¹³ In the context of livestock negligence in Sukadame Village, the decriminalization approach is particularly relevant, given that such conflicts are predominantly civil and can be effectively resolved through non-litigation mechanisms rooted in local customs and deliberative consensus. The enforcement of criminal sanctions in such cases often does not align with the socio-cultural realities of rural communities,

¹² Disemadi, "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies."

¹³ Unlu, Tammi, dan Hakkarainen, *Drug Decriminalization Policy Literature Review: Models, Implementation and Outcomes*.

where disputes are traditionally settled through negotiation, compensation, and community mediation rather than formal legal proceedings.

Despite the increasing recognition of community-based dispute resolution, Indonesia's Penal Code (KUHP) still classifies livestock negligence as a punishable offense under Article 549. This provision stipulates that:

1. Any person who, without permission, allows their livestock to enter another person's garden, pasture, or field—whether it has been sown, plowed, planted, or not yet harvested—or on land marked with a prohibition sign by the owner may be subject to a maximum fine of three hundred seventy-five rupiah.
2. The animals involved in the violation may be confiscated.
3. If the offense is committed within one year of a similar violation that has been legally decided, the fine may be substituted with a maximum imprisonment of fourteen days.

Given these legal provisions, there is an apparent dissonance between formal legal regulations and the socio-legal realities of rural communities. The relevance of Article 546 KUHP, which governs livestock negligence, needs to be reassessed within a legal framework that is more adaptive to contemporary socio-cultural dynamics. Rural communities often perceive livestock grazing as an integral part of their agricultural livelihood, and responsibility for damages caused by unattended animals is traditionally settled through mutual agreements and compensatory mechanisms rather than formal criminal prosecution.

In practice, local societies have established customary livestock ownership and liability norms, emphasizing direct compensation over punitive legal measures. Most cases are resolved through monetary restitution or other agreed-upon compensation without formal legal proceedings. This approach reflects customary law practices and restorative justice principles, prioritizing reconciliation, community harmony, and proportional accountability over rigid criminal sanctions.

Consequently, the continued criminalization of such acts under KUHP raises critical questions regarding the effectiveness and appropriateness of criminal sanctions in addressing livestock-related disputes. The reliance on punitive measures fails to consider local dispute resolution mechanisms that have long proven effective in maintaining social equilibrium and economic stability within rural communities. This highlights the urgent need for legal reform, particularly in redefining livestock negligence as an administrative or civil offense rather than a criminal act, thus aligning Indonesia's legal system with community values and international trends in decriminalization.

3.1.2. Case Study: Settlement of Crop Damage Disputes Caused by Livestock

One of the cases identified in the field study involves a dispute between Tugiran, a palm plantation owner, and Budi, a livestock owner. The dispute arose when several of Budi's cattle entered Tugiran's plantation at night and caused damage to newly planted oil palm seedlings. In response to the incident, Tugiran took the initiative to secure the cattle within his property and waited for the owner to arrive. Upon Budi's arrival, both parties engaged in a negotiation process, which resulted in an amicable agreement where the

livestock owner agreed to provide financial compensation proportional to the number of damaged seedlings.

This case exemplifies the prevalence of negotiation-based dispute resolution as the primary approach adopted by the community in addressing conflicts related to livestock negligence. Rather than resorting to formal legal procedures, affected parties rely on customary mediation mechanisms emphasizing dialogue, mutual understanding, and financial restitution. The preference for informal settlements allows for a more expedient resolution process, prevents prolonged conflicts, and preserves social harmony within the community.

The effectiveness of this community-based approach is further reinforced by its alignment with customary values and social norms, prioritizing maintaining collective stability over adversarial litigation. Moreover, such practices illustrate the limitations of the current legal framework, particularly the rigid enforcement of criminal sanctions under Article 549 of the Indonesian Penal Code (KUHP), which may not adequately reflect the realities of rural societies. Consequently, this case highlights the necessity for a legal framework that formally recognizes and integrates community-driven dispute resolution mechanisms, fostering a more contextually appropriate approach to decriminalization and conflict management.

3.1.3. Community-Based Dispute Resolution Mechanisms

Field research findings indicate that the community in Sukadame Village employs distinct mechanisms to resolve disputes arising from livestock negligence. One of the most frequently utilized methods is deliberation between the disputing parties. In this approach, landowners who have suffered damages can directly present their grievances to the livestock owner. This face-to-face meeting allows the livestock owner to clarify the situation and propose a resolution. The process is deeply rooted in communal values of kinship and solidarity, which remain strong within the social structure of rural communities.

According to the village head, Sarwono,¹⁴ deliberation is the primary dispute resolution method because it fosters direct communication between both parties without the involvement of a coercive third party. Open dialogue allows for mutually acceptable solutions, reducing the likelihood of prolonged conflicts that could disrupt social stability within the village.

Several villagers who have previously encountered similar disputes also acknowledge the effectiveness of deliberation-based settlements. One such case involved Budi, who recounted an incident where his livestock damaged another person's crops. In that instance, the affected landowner requested financial compensation of IDR 150,000 for the losses. Budi willingly agreed to the compensation, recognizing that the amount was reasonable for the damage caused.

¹⁴ Wawancara

Beyond direct deliberation between disputing parties, community members frequently engage local leaders, such as the village head or traditional elders, as mediators. In cases where direct deliberation fails to yield an agreement, the presence of these community figures becomes crucial. These leaders act as intermediaries, facilitating communication between both parties and ensuring that the resolution is fair and acceptable to all involved stakeholders.

As Sarwono further explains, dispute resolution through community leaders is often more effective due to its higher social legitimacy than formal legal processes. Sometimes, the village head and local government officials convene special meetings to identify the most appropriate resolution strategies. By doing so, disputes can be settled amicably, minimizing broader social tensions.

The initial step in this dispute resolution practice requires the affected party to identify the responsible livestock owner. Once the livestock owner's identity is confirmed, the negotiation begins, aiming to reach a mutually beneficial agreement. This community-based approach allows conflicts to be resolved efficiently and effectively without relying on the formal judicial system, often perceived as cumbersome and time-consuming.

3.2 Criminal Law Reform of Article 549 of the Indonesian Penal Code: Criminal Sanctions for Livestock Owners

Written law (law in book) often experiences discrepancies in its enforcement (law in enforcement) within society. Many legal provisions are normatively well-established but fail to be effectively implemented due to social, economic, and cultural conditions.¹⁵ Such misalignment can render legal provisions ineffective due to a lack of legal awareness, weak law enforcement mechanisms, or the dominance of social practices over formal legal norms. Consequently, criminal law reform becomes urgent, particularly for provisions no longer aligned with the evolving social dynamic.

In the context of Indonesian criminal law, one regulation that requires reassessment is Article 549 of the Indonesian Penal Code (KUHP), which stipulates sanctions against livestock owners who allow their animals to enter another person's garden, pasture, field, or yard without permission. This provision states that any violation is subject to a maximum fine of IDR 375, and if a repeat offense occurs within one year of the initial legal ruling, the fine may be substituted with a maximum imprisonment of fourteen days. While this provision aims to protect landowners from damages caused by unattended livestock, its effectiveness remains debatable. In many rural communities, livestock-related disputes are more frequently resolved through customary mechanisms or mutual agreements between residents, reflecting the restorative justice approach rather than a repressive, punitive model.

¹⁵ Biroli, "Problematika Penegakkan Hukum di Indonesia (Kajian dengan Perspektif Sosiologi Hukum.)"

The discrepancy between formal legal provisions and social practices suggests that criminal law reform must consider not only legal aspects but also social and cultural dimensions. Effective laws are not merely those that can be legally enforced but also those that are recognized, accepted, and voluntarily upheld by society as a fair means of dispute resolution. In the case of Article 549 of the Indonesian Penal Code, a punitive approach based on criminal sanctions often proves incompatible with agrarian communities, which tend to prioritize deliberation and compensation as the primary means of conflict resolution. Therefore, legal reform regarding this article should adopt a more adaptive and contextually relevant criminal policy approach.

Criminal law reform does not solely involve amendments to statutory provisions but also requires an evaluation of law enforcement effectiveness and public acceptance of existing regulations. In this regard, there are two main approaches to reforming Article 549 of the Penal Code: criminalization and decriminalization. The criminalization approach focuses on tightening regulations and increasing sanctions to enhance deterrence. However, this approach has limitations, particularly within Indonesia's criminal justice system, which still faces a high caseload and challenges in enforcing laws in remote areas.

Conversely, the decriminalization approach offers a more restorative and community-based model, where violations related to livestock trespassing are no longer treated as criminal offenses but are instead handled through administrative sanctions or customary dispute resolution mechanisms. Decriminalization in this context does not imply the removal of accountability for livestock owners but rather modifies the resolution mechanism to better align with the social realities of rural communities. Several measures that could be implemented in the decriminalization of Article 549 of the Penal Code include:

1. Replacing criminal sanctions with administrative penalties, where livestock owners whose animals damage another person's land are fined through administrative measures, with revenues allocated for community welfare programs.
2. Strengthening community-based dispute resolution mechanisms, by increasing the role of traditional leaders, village heads, and local officials as mediators in dispute resolution processes.
3. Encouraging the use of village regulations (Perdes) or local wisdom as flexible legal instruments, allowing regulations to be tailored to the specific needs of each region without always relying on the national criminal justice system.

A more adaptive criminal policy approach would create a legal system that is more responsive to social realities, while also reducing reliance on the formal criminal justice system, which is often inefficient in handling minor cases. Furthermore, a legal reform approach based on restorative and community-based justice would be more aligned with the character of rural communities, which typically favor negotiation and compensation-based solutions over retributive criminal sanctions.

From a values-based approach, criminal law reform in the context of Article 549 of the Penal Code is not only aimed at harmonizing the law with social practices but also ensuring that legal provisions maintain legitimacy in the eyes of society. This process involves a reassessment of the social, political, and cultural values underpinning the legal system, ensuring that the resulting laws are not merely legally binding norms but also accepted and voluntarily upheld by the community.

Considering these factors, the reform of Article 549 of the Penal Code should adopt a gradual decriminalization approach, where livestock trespassing disputes are shifted from criminal proceedings to community-based resolution mechanisms, while still ensuring the existence of protection mechanisms for landowners and accountability for livestock owners. Consequently, the law would not only serve as an enforcement tool but also function as a mechanism that fosters social harmony, restorative justice, and adaptive solutions to changing societal dynamics.

3.3 The Islamic Legal Perspective on Livestock Management

Islam provides comprehensive guidance on animal ownership and livestock management, ensuring that such activities align with ethical, legal, and social responsibilities. The fundamental principle in Islamic law is that keeping and managing livestock is permissible, as long as it is conducted responsibly and without cruelty or negligence. The Qur'an explicitly acknowledges the significance of livestock as a divine blessing, providing warmth, sustenance, and economic benefits to humans:

وَالْأَنْعَامَ خَلَقَهَا لَكُمْ فِيهَا دِفْءٌ وَمَنَافِعُ وَمِنْهَا تَأْكُلُونَ ﴿٥﴾

"And He created livestock for you; in them is warmth and various benefits, and from them, you eat." (Qur'an, An-Nahl: 5)

The permissibility of livestock ownership in Islam is further reinforced by the fact that several types of livestock, such as camels, cows, goats, and sheep, are directly mentioned in Islamic teachings. These animals provide multiple benefits, including their wool and skin for clothing, milk for consumption, and meat for sustenance. In addition, they serve as sources of economic livelihood and play an integral role in Islamic rituals, such as sacrificial offerings (Qurban) during Eid al-Adha. The Qur'an highlights the aesthetic and practical aspects of livestock, describing how they bring beauty when returning to their enclosures at dusk and when they are let out to graze in the morning.

While Islamic law permits livestock ownership, it also establishes strict guidelines regarding the responsibilities of livestock owners, particularly concerning damage caused by their animals. The principles of liability and compensation in Islam emphasize justice and fairness, ensuring that property rights are protected while promoting social harmony. The Qur'an narrates the judicial ruling of Prophet David (Dawud) and Prophet Solomon

(Sulaiman) in a livestock-related dispute, underscoring the importance of accountability in cases where animals cause harm:

وَدَاوُدَ وَسُلَيْمَانَ إِذْ يَحْكُمَانِ فِي الْحَرْثِ إِذْ نَفِثَتْ فِيهِ غَنَمُ الْقَوْمِ وَكُنَّا لِحُكْمِهِمْ شَاهِدِينَ ﴿٧٨﴾
فَفَهَّمْنَاهَا سُلَيْمَانَ وَكُلًّا آتَيْنَا حُكْمًا وَعِلْمًا وَسَخَرْنَا مَعَ دَاوُدَ الْجِبَالَ يُسَبِّحْنَ وَالطَّيْرَ وَكُنَّا فَاعِلِينَ ﴿٧٩﴾

"And (mention) David and Solomon, when they gave judgment concerning the field when the sheep of a people had overrun it at night, and We were witness to their judgment. And We gave Solomon understanding of the case, and to each (of them), We gave wisdom and knowledge..." (Qur'an, Al-Anbiya: 78-79)

The historical interpretation of this verse describes an incident where a farmer's crops were damaged by a herder's flock of sheep. Prophet David ruled that the sheep should be given to the farmer as compensation, but Prophet Solomon introduced a more balanced resolution: the farmer would temporarily keep the livestock while the herder recultivated the damaged field, after which both parties would return to their original ownership. This decision reflects a restorative justice approach, prioritizing fairness and proportionality in legal judgments.

From this Islamic legal perspective, allowing livestock to roam freely and cause damage to another person's property is considered a prohibited act. Islamic law strictly prohibits any form of injustice, including infringing upon another person's property rights. Furthermore, Islamic jurisprudence (fiqh) mandates that individuals must take full responsibility for any harm or destruction caused by their livestock, regardless of whether the damage was intentional or accidental.¹⁶

In Islamic jurisprudence, the principle of liability (dhaman) applies to situations where livestock cause harm to another person's property.¹⁷ The doctrine of strict liability (al-mas'uliyah) ensures that even unintentional damage must be compensated. This is supported by the thirteenth legal maxim (qawa'id fiqhiyyah), which states¹⁸:

الإِثْلَافُ يَسْتَوْي فِيهِ الْمُتَعَمِّدُ وَالْجَاهِلُ وَالنَّاسِي

"Destruction of another's property requires compensation, regardless of whether it was intentional, due to ignorance, or out of forgetfulness."

¹⁶ Nisa, "Tanggung Jawab Pemilik Hewan Ternak Yang Menyebabkan Kerusakan Perkebunan Warga Ditinjau Dari Qanun Gampong Blang Teungoh (Studi Kasus Gampong Blang Teungoh Kecamatan Meukek Aceh Selatan)."

¹⁷ Ramadhani, "Jurnal Tamwil : Jurnal Ekonomi Islam."

¹⁸ Ibrahim, *AL-QAWA'ID AL-FIQHIYAH (KAIDAH-KAIDAH FIQIH)*.

This legal maxim establishes the universal obligation to provide compensation for damages caused by one's actions, even in cases of negligence or accident. The rationale behind this principle is that Islamic law aims to prevent injustice and protect individual property rights, while also promoting accountability and responsibility in communal living.

A practical example of this principle is if a livestock owner allows their animals to graze freely, and the animals trespass onto a neighbor's land, causing destruction to crops or property. In such cases, the owner is obliged to compensate the affected party, regardless of whether the damage was caused deliberately or due to negligence. This liability framework is fundamental to maintaining social order and preventing disputes in agrarian communities.

Islamic law classifies legal sanctions (*uqubat*) based on the nature of the offense and its consequences. A. Djazuli categorizes Islamic punishments into four types:

1. Physical punishments (*hudud*) – such as flogging.
2. Capital punishment (*qisas*) – applied in cases of homicide.
3. Restrictions on personal freedom – including imprisonment or exile.
4. Financial penalties – such as *diyat* (blood money), *kafarah* (atonement fines), and property confiscation.

In the context of livestock-related offenses, financial penalties play a significant role in ensuring that damages are fairly compensated. *Diyat* refers to a monetary penalty imposed for harm or loss, functioning as a form of compensation rather than punitive retribution. This principle is particularly relevant in cases of property destruction caused by livestock, where financial restitution ensures fairness without resorting to harsh criminal penalties.

Furthermore, Islamic legal doctrines emphasize the importance of intent (*niyyah*) in determining criminal liability. While Islamic law does not impose guilt on individuals for unintended actions, financial restitution remains obligatory if their actions result in harm to others. This reflects the fundamental balance between justice and mercy in Islamic legal philosophy.

Beyond individual liability, Islamic teachings emphasize broader environmental responsibility. Modern environmental degradation is not only caused by natural phenomena but also by human actions, such as deforestation and unregulated grazing. The Qur'an explicitly forbids causing harm to the earth, reinforcing the idea that humans are stewards (*khalifah*) of the environment.

"And do not cause corruption on the earth after its reformation." (Qur'an, Al-A'raf: 56)

From an Islamic standpoint, sustainable livestock management must balance human economic needs with environmental preservation. This principle aligns with modern legal and ecological frameworks, advocating for regulated grazing, land conservation, and responsible animal husbandry to prevent excessive environmental damage.

In rural communities such as Sukadame, Silangkitang Subdistrict, conflicts related to livestock trespassing are often resolved through community-based mediation. Local leaders, village elders, and religious scholars play a central role in facilitating deliberative dispute resolution (*sulh*), ensuring that all parties reach a fair agreement. This method reinforces social harmony, prevents prolonged legal disputes, and aligns with Islamic principles of justice and reconciliation.

4 Conclusion

Based on the analysis presented, the decriminalization of Article 549 of the Indonesian Penal Code (KUHP) regarding livestock trespassing onto another person's land is necessary, as society increasingly perceives such actions as a civil matter rather than a criminal offense. The shift from a repressive approach to administrative regulation reflects legal adaptation to evolving social dynamics, where community-based dispute resolution and compensation mechanisms are more effective in maintaining social harmony than retributive criminal sanctions. Therefore, revisions to the Penal Code are essential to ensure that existing laws are more proportional, responsive to societal needs, and do not criminalize actions that no longer pose a significant public threat.

From an Islamic legal perspective, allowing livestock to damage another person's land constitutes a violation of property rights, which, according to the Qur'an, must be compensated by the livestock owner through a financial remedy (*diyat*). Unlike conventional criminal law, which focuses primarily on punishment for offenders, Islamic law emphasizes restorative justice, aiming to restore the victim's rights and prevent prolonged conflict. Consequently, a decriminalization approach that prioritizes administrative sanctions and community-based resolution mechanisms aligns with Islamic legal principles, while also creating a more adaptive, fair, and effective legal system for resolving such disputes.

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