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| Research Article |

Religious Moderation in Indonesian Criminal Law Reform: A Framework for Judicial Reasoning in Blasphemy Cases

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Abstract: A central challenge in Indonesian blasphemy cases is determining what punishment is proportionate to the harm caused by religiously hostile expression. This study aims to develop a framework for assessing and justifying proportionate sentences in Indonesian blasphemy cases. Its novelty lies in assigning distinct roles to three theories within one sentencing framework. H. L. A. Hart's legal positivism guides the identification of the statutory basis for liability and the available sentencing options. Najm al-Dīn al-Ṭūfī's account of *maṣlaḥah* (public welfare) in Islamic jurisprudence guides the comparison of the likely benefits and harms of those options. Howard Zehr's restorative justice examines how a response can promote accountability and repair harm. The study uses qualitative documentary analysis of Indonesia's Criminal Code, the 2024 ministerial regulation on strengthening religious moderation, and selected decisions of the Indonesian Ulema Council's 2024 national fatwa assembly. The framework gives priority to statutory authority, then weighs lawful sentencing options in light of public welfare and opportunities for repair. A hypothetical case of public hostility toward a religious minority illustrates how a judge could assess whether a fine adequately addresses the proven harm, whether imprisonment would be disproportionate, and whether voluntary steps toward repair should inform the decision. This study contributes to Islamic legal scholarship by showing how al-Ṭūfī's account of *maṣlaḥah* can inform the assessment of proportionality in Indonesian blasphemy cases, within statutory limits and alongside restorative justice. The framework's application in judicial practice remains to be assessed through analysis of identified judgments.

Keywords: Religious Moderation, Indonesian Criminal Law Reform, Judicial Reasoning, Blapshemy.

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Introduction

The history of prosecutions under Article 156a of Indonesia's former Criminal Code (KUHP) illustrates a tension between religious pluralism and the regulation of blasphemy. The state promotes religious moderation to counter extremism (Alvian, 2023; Hikmah et al., 2024). Studies document the prosecution of blasphemy cases (Davis, 2019; Patrick, 2011; Sandberg & Doe, 2008; Tolan, 2016), including cases involving religious minorities, social critics, and digital content creators (Cox, 2020; Fischer, 2021; Grambo, 2019; Sarib et al., 2023). The use of religious sentiment for political and social control remains a concern (A'yun, 2021; Raza, 2025; Yilmaz et al., 2023). The relationship between state policy and judicial practice raises questions about how institutions make decisions (Behm Cross et al., 2019; Bradt et al., 2022; Zilberman, 2025). Religious moderation calls for tolerance and inclusivity (Luhuringbudi, Abdiguno, & Yani, 2024; Nugroho, 2024). Religious pluralism and social polarization make those policy goals especially relevant to judicial reasoning (Porat, 2023). Grassroots movements and civil society organizations have voiced growing concern about the misuse of blasphemy law and called for reforms that prioritize human rights, freedom of expression, and interfaith harmony (Burke, 2020; Cox, 2020; DasGupta, 2021; Luhuringbudi, Putra, & Utami, 2024; McGregor & Setiawan, 2019). These concerns raise a question for criminal law reform about how judges can justify a proportionate sentence while accounting for harm and opportunities for repair (Llewellyn & Morrison, 2018; Maglione, 2019; Pelsinger, 2025; Valance, 2022). This study addresses that question at sentencing, where judges must explain how an authorized sanction responds to proven harm. The analysis also considers whether a sentence could aggravate tensions among the communities affected by the case.

Research on Indonesian blasphemy cases has generally taken sociological, political, or constitutional approaches, focusing on the role of fatwas, patterns of collective action, and legislative stagnation. Researchers have examined how religious authorities interact with state power (Bentzen & Gokmen, 2023; Christian, 2019), but have often treated the application of law as mechanical and paid little attention to the principles that guide judicial reasoning (Belhaj, 2023; Padela, 2019; Salman, 2025). How Islamic legal theory and modern legal philosophy could guide proportionate sentencing in these cases remains an open question. Although recent studies have begun to address *maqāṣid al-sharī'ah* (objectives of Islamic law) and legal pluralism, few integrate Western legal philosophy with classical *uṣūl al-fiqh* (foundations of Islamic jurisprudence) to explain how judges could weigh lawful sentencing options. The article's original contribution is to bring together H. L. A. Hart's legal positivism, Najm al-Dīn al-Ṭūfī's theory of *maṣlaḥah mursalah* (unrestricted public interest), and Howard Zehr's theory of restorative justice. It gives each theory a distinct role in a single framework for Indonesian courts.

This study aims to develop a framework for assessing and justifying proportionate sentences in Indonesian blasphemy cases that draws on legal

positivism, *maṣlaḥah* (benefit), and restorative justice. The framework addresses tensions between legal obligations and social concerns by examining statutory authority alongside the common good (*maṣlaḥah al-'āmmah*, literally public interest). Drawing on statutory materials, legal doctrine, policy directives, and selected fatwa decisions, the study examines the basis for incorporating religious moderation into sentencing analysis. The study also contributes to the debate on criminal law reform by proposing a role for restorative mechanisms in the adjudication of blasphemy cases. This proposal reflects the emphasis on inclusive and participatory justice in Sustainable Development Goal (SDG) 16. The paper also aims to enrich Islamic legal discourse by demonstrating how classical concepts such as *maṣlaḥah* can inform legal reasoning in a modern pluralistic democracy. The study calls this approach "moderate judicial reasoning," a balance between legal certainty and ethical responsiveness.

The study argues that proportionate sentencing in blasphemy cases requires establishing the legal basis for a sentence and assessing the lawful options in light of *maṣlaḥah* and restorative justice. H. L. A. Hart's legal positivism helps courts identify the legal basis for liability and the sentencing options available to them. The study also draws on Najm al-Dīn al-Ṭūfī's *maṣlaḥah mursalah* as an Islamic jurisprudential basis for considering public interest (*maṣlaḥah*) when comparing lawful sentences, including whether a particular response could trigger conflict (*mafsadah*, literally harm). Howard Zehr's theory of restorative justice directs attention to accountability, dialogue, and opportunities to repair harm. These concerns align with religious moderation. Together, the three theories connect legal authority with social ethics and help courts explain why a lawful sentence is proportionate to the offense and responsive to its consequences. The study proposes that Indonesian criminal law reform revise statutory provisions and reshape judicial reasoning to reflect the nation's pluralistic and democratic aspirations.

Method

This study examines Indonesian criminal law reform through the lens of religious moderation, focusing on how judges could explain their sentencing decisions in blasphemy cases. In these cases, the state exercises its authority to punish in a context shaped by freedom of expression and religious sensitivity. They illustrate why reform concerns both the text of criminal statutes and the reasons judges give for applying them. The analysis treats pluralism, tolerance, and social peace as part of the policy context, alongside Pancasila and Sustainable Development Goal (SDG) 16. The study asks how a court can assess whether a lawful sentence is proportionate to the offense and responsive to its social consequences. From the perspective of religious moderation, the analysis considers how legal authority, public welfare, and social repair can inform that assessment.

The study uses a descriptive qualitative design and analyzes documents to interpret the meanings and assumptions in legal provisions, policy statements, and religious opinions relevant to the proposed framework. Previous scholarship provides context for the religious and social implications of blasphemy cases (Jannah & Fauzi, 2021; Suleman, 2018). Each type of material answers a different question. Statutory provisions establish the conditions for liability and the available sentencing options. Policy statements articulate public objectives, while religious opinions help explain the significance of conduct in a plural society. The study reads these materials alongside the three theories to develop and illustrate an approach to judicial reasoning.

The primary materials include Indonesian criminal law texts, Minister of Religious Affairs Regulation No. 3 of 2024 on strengthening religious moderation, and selected decisions from the 2024 national fatwa assembly of the Indonesian Ulema Council (MUI). The hypothetical sentencing case draws on Article 300 of the Criminal Code, as amended by Law No. 1 of 2026, and the sentencing considerations in Article 54 of Law No. 1 of 2023. The ministerial regulation provides policy context for the analysis of dignity and public welfare. The selected fatwa decisions provide religious context for interpreting interfaith conduct, particularly the distinction between worship and social interaction. The study considers each document's institutional authority and function when determining whether a passage establishes a legal condition, states a policy objective, or provides ethical context.

The study selected materials for their relevance to blasphemy cases, developments in Indonesian criminal law reform, and religious moderation. Institutional authority and social relevance also guided document selection. Court materials, news coverage, and social media provide background on the legal and political debate. The analysis of legal, policy, and religious documents forms the basis of the framework. Within those materials, the study focuses on provisions and passages that address the scope of legal authority, the interests of affected people, or possibilities for responding to harm. A systematic assessment of judicial reasoning in practice would require analysis of a defined set of judgments. The documentary analysis supports the development of a normative framework and a hypothetical illustration of its use in sentencing.

The analysis proceeds in three stages. First, Hart's legal positivism helps identify the rules governing liability and the sentencing options authorized by law (Hart, 1958/2013, 2016, 1958/2017). Second, al-Ṭūfī's account of *maṣlaḥah* guides the comparison of the likely benefits and harms of *those* options, with attention to their effects on affected communities and the risk of escalating tensions (Kurnaz, 2023). Third, Zehr's restorative justice guides the assessment of accountability and opportunities for voluntary repair (Zehr, 1998, 2008, 2013, 1990/2017). These stages distinguish the legal authority to act from the reasons for choosing a particular response. The discussion applies the stages to a hypothetical case of public hostility

toward a religious minority. On the assumption that the court has established liability, the example compares imprisonment with a fine and considers whether voluntary steps toward repair could inform the sentence. The example assumes an isolated incident that led to intimidation but no subsequent violence. These facts give the court a concrete basis for discussing harm, the risk of recurrence, and the circumstances in which repair could inform sentencing. The example shows how the framework can structure reasons for a proportionate sentence while keeping the decision within statutory limits.

Legal Positivism

The analysis begins with the legal basis for judicial authority. For Hart (2012), the rule of recognition identifies the criteria officials use to determine which norms count as valid law in their legal system. Adams (2025) distinguishes the formal function of these criteria from the substantive standards that a legal system may incorporate. Baude and Sachs (2023) examine how officials publicly explain the sources and structure of the law and how official practice may diverge from those explanations. These accounts provide a lens for examining Indonesia's Code of Criminal Procedure (Law No. 20 of 2025, art. 1), which defines the roles of investigators, public prosecutors, judges, and advocates. The definitions identify who may exercise particular powers. The applicable procedural provisions specify how and under what conditions officials may exercise them. In a blasphemy case, this distinction matters at each stage. Investigators must act within their procedural authority, prosecutors must establish the statutory basis of the charge, and judges must justify a disposition that the law permits. The framework developed in this study treats religious moderation as an interpretive consideration within that legal structure. Where the governing provisions allow discretion, a judge can consider the circumstances of the case and the likely consequences of a lawful response. For example, a court must identify the available legal responses before explaining why its choice is proportionate in the circumstances. This sequence makes the court's reasoning easier to review by showing which options the statute authorizes and where the court exercises judgment. This approach connects the requirements of legality with the article's subsequent analysis of *maṣlaḥah al-ʿāmmah* (public welfare) and *al-ʿadl* (justice) in the Islamic legal tradition.

The rules on suspect designation, pretrial review, and interception illustrate how this authority operates in practice. Article 90(1) of the Code of Criminal Procedure requires investigators to base a suspect designation on at least two items of evidence. Articles 158–160 provide for pretrial review, including challenges to the legality of coercive measures, while Article 136 addresses interception for investigative purposes (Law No. 20 of 2025). The evidentiary threshold governs the initial designation. Pretrial review provides a way to challenge specified measures, and the interception rules govern a particular investigative power. The stated safeguards and their practical effects warrant separate consideration. In their analysis

of Indonesia's earlier procedural framework, Susilo et al. (2024) found that pretrial review of suspect designations focused on formal and procedural validity, highlighting the limits of that review when individuals were repeatedly designated as suspects. The study provides a basis for comparing the scope of review under the earlier framework and the current Code. For blasphemy cases, it also helps distinguish the legal grounds for challenging an investigative decision from the factual and legal grounds for determining guilt. The Code separately provides for restorative justice subject to statutory eligibility requirements (Law No. 20 of 2025, arts. 79–80). Before the legislature enacted those provisions, Sukardi and Purnama (2022) examined the broader role of restorative justice in Indonesian criminal law enforcement. Their study provides context for the current statutory mechanism. Its availability in a particular case depends on whether the facts and the charged offense meet the statutory conditions.

Judicial pardon illustrates how the statutory framework can accommodate case-specific reasoning at sentencing. Article 54(2) of the Criminal Code allows a court to refrain from imposing a punishment or measure when the minor nature of the conduct, the offender's personal circumstances, or circumstances at the time of or after the offense justify that outcome on grounds of justice and humanity (Law No. 1 of 2023). The Code of Criminal Procedure provides for the corresponding judgment once the court has established guilt (Law No. 20 of 2025, art. 246). In the broader sentencing literature, Zimran and Dagan (2025) distinguish the offense from the offender's character when discussing the justification of a sentence. In applying that distinction, the court should establish liability and then explain how the statutory considerations inform its choice of disposition. In a blasphemy case, any assessment of likely escalation or prospects for reconciliation should turn on evidence specific to the case. Al-Ṭūfī's account of *maṣlaḥah*, as examined by Kurnaz (2023), provides a basis for this article's analysis of public welfare in that assessment. The proposed reading also draws on the objectives of Islamic law, or *maqāṣid al-sharīʿah*, particularly the protection of life (*ḥifẓ al-nafs*), reason (*ḥifẓ al-ʿaql*), and honor (*ḥifẓ al-ʿirḍ*). These considerations help explain why the consequences of a disposition matter in a religiously sensitive case. In explaining the sentence, the court should connect those consequences to the proven conduct, the applicable statutory criteria, and the facts that make the disposition proportionate.

Maṣlaḥah Theory

Indonesia's religious moderation policy provides a starting point for examining *maṣlaḥah* (public welfare) in criminal law reform. Article 1(1) of Minister of Religious Affairs Regulation No. 3 of 2024 defines religious moderation in terms that include protecting human dignity and advancing the common good, guided by fairness, balance, Pancasila, and the 1945 Constitution. The regulation states these commitments, and this article develops their connection to Islamic legal theory. In *Al-*

Taʿyīn fī sharḥ al-arbaʿīn, his commentary on the forty hadith, Najm al-Dīn al-Ṭūfī examines the maxim *lā ḍarar wa-lā ḍirār* (no harm and no reciprocating harm) in his discussion of the thirty-second hadith. He argues that preventing harm entails attending to human benefit. When a general text or consensus appears to conflict with welfare, he considers how specification and clarification can give effect to welfare (al-Ṭūfī, 1998, pp. 237–239; Kurnaz, 2023). He distinguishes social dealings from acts of worship and matters whose terms are prescribed, and he recognizes exceptions to the no-harm principle, including certain punishments (al-Ṭūfī, 1998, pp. 238–239, 274–277). This article draws on his framework to assess the consequences of choices that positive law authorizes. In comparative research on Indonesia, Malaysia, and Thailand, Muhajarah and Soebahar (2024) identify *maṣlaḥah* as a line of reasoning used by jurists who permit certain forms of interreligious engagement on grounds of mutual benefit. Although the comparison concerns arguments for tolerance in a different legal setting, it illustrates how considerations of welfare can guide reasoning about coexistence. This approach is also relevant when a religiously sensitive dispute comes before a court. In applying this approach to criminal adjudication, the article examines how a court may weigh foreseeable harms and benefits when exercising legally authorized discretion.

Indonesia's policy framework also sets out how government institutions pursue those public goals. Presidential Regulation No. 58 of 2023 establishes a Joint Secretariat to coordinate the implementation of religious moderation (arts. 9–10). Minister of Religious Affairs Regulation No. 3 of 2024 specifies the Secretariat's steering and implementing functions and sets out arrangements for joint planning, monitoring, evaluation, and reporting (arts. 2–5). These arrangements assign responsibilities across government. Qoumas et al. (2024) trace how the Ministry promoted religious moderation and report that implementation advanced particularly within the Ministry itself. Jati et al. (2024), drawing on fieldwork in Semarang and Yogyakarta, identify limits to top-down implementation and describe how Muslim youth can broaden participation through interfaith dialogue. Research on selected Muhammadiyah and Nahdlatul Ulama Islamic boarding schools likewise situates religious moderation in religious and social practices adapted to local settings (Qorib & Umiarso, 2025). Together, these studies suggest that assessing the policy requires examining formal coordination alongside local practices. In a religious dispute, local dialogue can help clarify how the dispute affects the communities involved. Its relevance to a case depends on what participants reveal about the people affected and the circumstances of the dispute. For example, a consultation may identify who has experienced intimidation and whether renewed contact would create further risks. Reports of community concerns can therefore identify questions that warrant inquiry, subject to the ordinary requirements for establishing the facts. Questions of criminal liability and sentencing remain governed by the applicable legal provisions and the evidentiary record.

These distinctions clarify how *maṣlaḥah* can inform judicial reasoning in blasphemy cases. Zaluchu et al. (2025) identify social, cultural, and implementation dimensions in Indonesian research on religious moderation. These dimensions underscore the importance of examining the setting in which a dispute arises. In a criminal case, however, the court needs case-specific evidence before assessing likely harm, the effects of a sanction, or the prospects for repair. The relevant inquiry is whether an available response addresses the proven harm while taking account of foreseeable consequences for those affected. For example, where the statutory conditions for judicial pardon are met, a court may explain how the circumstances of the offense and the considerations of justice and humanity bear on its decision under Article 54(2) (Law No. 1 of 2023). Considerations of public welfare can help the court explain which consequences matter for that statutory assessment. That assessment also requires identifying whose interests are at stake. A response sought by the most vocal group may leave the people directly affected exposed to further hostility. A general appeal to social harmony can leave it unclear who faces harm and how the proposed decision would address it. A reasoned decision should identify the harm established by the evidence, explain the relevance of the affected community's circumstances, and show how the court's lawful response addresses that harm. By making those reasons explicit, the framework brings the Islamic legal concern with preventing harm into an account of sentencing discretion that can be examined and challenged.

Restorative Justice Theory

Restorative justice asks which harms a response to religious hostility should address and who needs to participate. Zehr (2015) frames the inquiry around the harms people have experienced, the needs that follow from those harms, and the obligations of those responsible. The Eighth Ijtima' of Indonesian Fatwa Commissions provides a distinct religious source for identifying conduct relevant to that inquiry. Its guidance affirms religious freedom and tolerance (*al-tasāmuḥ*), invokes Qur'an 109:6, and encourages cooperation across religious differences in social affairs. It also proscribes ridiculing, disparaging, insulting, or belittling the teachings of other religions (Ijtima' Ulama Komisi Fatwa Se-Indonesia VIII [Ijtima' Ulama VIII], 2024, sec. A). These provisions identify conduct the assembly considers harmful to relations between religious communities. The restorative inquiry asks how to establish and address that harm in a particular case. In *Sharḥ mukhtaṣar al-rawḍah*, al-Ṭūfī treats *istiṣlāḥ* (seeking welfare through legal reasoning) as a disputed source of law and describes *maṣlaḥah* in terms of securing a benefit or averting a harm (al-Ṭūfī, 1987, Vol. 3, pp. 204–206). His distinction helps specify what a proposed response is expected to achieve. Ending intimidation, for instance, averts a continuing harm, while enabling affected people to participate in community life may secure a concrete benefit. The article thus applies his legal theory to a contemporary question about harm and repair. Criminal liability

depends on the applicable statute and the evidence. The welfare inquiry can inform only the choices the law authorizes.

The Ijtima' guidance on greetings illustrates how people can observe religious boundaries while maintaining social contact. It treats a Muslim greeting framed as a prayer as a matter of worship and prohibits Muslims from offering prayers specific to another religion. In mixed-faith forums, it permits the Muslim greeting, national greetings, and other greetings that do not combine prayers from different religions, such as "good morning" (Ijtima' Ulama VIII, 2024, sec. B, pts. 2–5). These distinctions help explain why people may be willing to take part in a conversation about harm while retaining different views about its religious dimension. The design of a restorative process also shapes who can participate and how. Langford (2026), analyzing recordings of four victim–offender meetings, found that facilitators' questioning shaped the discussion and gave participants different opportunities to speak. In a religiously sensitive dispute, this finding suggests that facilitators should give affected people room to describe the incident in their own terms and to decline questions or arrangements they consider unsafe. A facilitator can ask what would reduce the risk of recurrence without presuming that participants share a religious interpretation of the incident. Under Indonesia's Code of Criminal Procedure, the statutory mechanism is subject to eligibility rules and exclusions, and it must be conducted without coercion or intimidation (Law No. 20 of 2025, arts. 80–82). The legal analysis must therefore start with the offense charged and the circumstances of the case. The procedural rules govern whether and how a formal process may take place. Within those limits, the religious guidance can help a facilitator understand participants' boundaries.

The guidance on religious holidays applies the same distinction in a different setting. It affirms that members of other faiths should be free to observe their holidays and encourages cooperation (*al-ta'āwun*) in social affairs. It also treats offering another religion's holiday greetings and wearing its festive symbols as falling outside the forms of tolerance it endorses. It also rejects compelling anyone to participate in another religion's celebrations (Ijtima' Ulama VIII, 2024, secs. C–D). In the framework proposed here, those distinctions help clarify what an agreement might reasonably require of participants. An affected person may seek an end to public insults, an acknowledgment of intimidation, or a commitment to prevent recurrence. MacDiarmid's (2025) interviews with victims in restorative programs involving young people found that victims associated sincere apologies with accepting responsibility, recognizing harm, and taking steps to make amends. Although the study concerns cases involving young people, its findings help explain why the substance of a proposed apology matters here. In a blasphemy case, participation and the terms of any agreement should reflect the safety and choices of the people affected, including those who decide against dialogue or forgiveness. If the statutory mechanism is unavailable or the parties decline to participate, the court can still explain how the lawful disposition responds to the harm documented in the record.

Al-Ṭūfī's distinction between avoiding harm and securing benefit helps make that explanation concrete, while Zehr's account focuses attention on responsibility and repair (al-Ṭūfī, 1987, Vol. 3, pp. 204–206; Zehr, 2015).

Reflection of Religious Moderation in Indonesian Criminal Law

Read together, the legal, policy, and religious materials suggest that religious moderation can inform criminal law reform by guiding how judges justify sentences in blasphemy cases. Hart's rule of recognition identifies criteria of legal validity (Hart, 2012). In this framework, the inquiry begins with the rules governing liability and the available penalties. Al-Ṭūfī's account of *maṣlaḥah* (Kurnaz, 2023) provides an Islamic jurisprudential basis for assessing the consequences of penalties for affected people and wider society. Zehr's restorative justice directs attention to the harm caused by the offense and the ways to take responsibility and repair that harm (Zehr, 2015). The statute establishes the options a court may consider. Public welfare and restorative considerations then help the court explain why its choice is proportionate in the circumstances. Minister of Religious Affairs Regulation No. 3 of 2024 and the 2024 national fatwa assembly's decisions inform the policy and ethical dimensions of the analysis. Their emphasis on dignity, public welfare, and interfaith conduct helps identify the interests at stake in a dispute. In the proposed framework, these materials help interpret the context in which harm occurs, while statutory authority determines whether and how the court may act.

The assembly's treatment of interfaith greetings illustrates how the religious materials inform the inquiry into harm. The distinction it draws between worship and general greetings shows how people can maintain their religious commitments while engaging with those who hold different beliefs. Its rejection of degrading conduct, including *al-istihzā'* (ridicule) and *al-taḥqīr* (belittlement), draws attention to the dignity of those affected by religious hostility. The idea of *adab al-ikhtilāf* (etiquette of disagreement) helps explain why those concerns matter to judicial reasoning. The relevant distinction is between disagreement about beliefs and conduct that causes harm under the circumstances established in the case. That distinction matters because the same conduct can carry different meanings in different settings, so the court must explain how the context relates to the harm established by the evidence. Once liability is established, a court can consider that distinction when assessing whether a sentence would protect affected people, reduce further conflict, or impose a disproportionate burden. Judicial pardon illustrates this distinction between finding guilt and deciding how to respond. The statutory conditions for withholding punishment give the court room to consider the seriousness of the act and the circumstances of the case. Article 54(2) links that discretion to the circumstances of the offense and considerations of justice and humanity. Al-Ṭūfī's account of public welfare (Kurnaz, 2023) can inform sentencing by directing the court to ask which response would avert harm and secure benefits for those affected.

The need to explain this assessment becomes particularly important when public demands and the evidence point toward different responses. In Indonesian blasphemy cases, religious expert testimony has often influenced findings of guilt (A'yun & Lindsey, 2026). At sentencing, the record may show an isolated incident or continuing intimidation that warrants closer attention. In either situation, the judge should explain how the evidence supports the proposed sentence. Considerations of social peace (*al-silm al-ijtimā'ī*) and dignity (*ḥifẓ al-karāmah*) call for attention to whose interests are affected, including those of minorities whose views may carry less weight in public debate. In his commentary on Qur'an 5:2, al-Ṭūfī (2005, p. 200) treats the risk of wider discord as a reason to refrain from supporting an attempt to stop wrongdoing. Applied here as an ethical consideration, this directs the court to ask whether a proposed sentence could aggravate the harm established in the case. Zehr's account complements this assessment by asking what acknowledgment, responsibility, and repair would mean in the circumstances (Zehr, 2015). An apology or an offer to participate in dialogue may be relevant if it addresses the harm and those affected can participate safely and voluntarily. The judge can evaluate such steps alongside the seriousness of the offense and the likely consequences of the available sanctions. The hypothetical case that follows brings these inquiries together by tracing how a judge moves from establishing liability to explaining why a sentence is proportionate in light of public welfare and the prospects for repair.

Consider a hypothetical sentencing case in Indonesia arising from public hostility toward a religious minority. Assume that the prosecution has proved each element of the offense under Article 300(1) of the Criminal Code, as amended by Law No. 1 of 2026, and that the exception in Article 300(2) does not apply. The conduct was isolated, and no violence followed. Some community members reported intimidation, and the defendant acknowledged the harm. Applying Hart's framework (Hart, 2012), the court would explain why the evidence establishes liability and identify the sentencing options the statute authorizes. Article 300(1) authorizes imprisonment or a fine. This inquiry helps ensure that statutory authority and the evidence guide decisions about guilt and penalties, even under public pressure.

Al-Ṭūfī's account of *maṣlaḥah* (Kurnaz, 2023) guides the comparison of the authorized penalties. In weighing how well a fine or imprisonment could deter recurrence and protect those affected, the court would consider the intimidation established in the case and the sentencing considerations in Article 54(1) of Law No. 1 of 2023. A fine could be proportionate if it adequately addresses the harm. If the court chooses imprisonment, it should explain why the circumstances justify that more restrictive response. Proportionality also calls for attention to additional burdens a penalty may impose on people experiencing social disadvantage (Brown Coverdale, 2025). Continuing threats could alter the assessment.

The court could then use Zehr's approach to consider accountability and repair (Zehr, 2015). An apology or a commitment to cease hostile conduct could inform

sentencing if the step is voluntary, the court can evaluate it fairly, and it respects the safety and choices of the affected community. A systematic review of restorative practices highlights the importance of voluntary participation for affected people (Nascimento et al., 2023). If those affected decline dialogue or consider it unsafe, the court would assess the sentencing options on the basis of the evidence. In this way, religious moderation can inform the reasons for a sentence within statutory limits.

The example illustrates the role of religious moderation in the court's reasons for sentencing. It connects the applicable legal rule with the harm established by the evidence and the expected consequences of punishment. The framework thus helps explain why a judge might find a fine adequate in one case and imprisonment warranted in another. It also clarifies why the possibility of repair depends on the circumstances of the case, including the safety and choices of the affected community. In practice, courts could use this sequence to organize their reasons, and legal professionals could use it to evaluate them. The court's findings on the offense would establish the basis for liability. Its sentencing reasons would explain how the chosen response addresses the harm and how it compares with the options available. In disputes that attract public attention, a clear explanation can help readers distinguish the relevance of public concern from the evidentiary basis for the decision. Research drawing on a defined set of judgments could assess whether this framework would improve consistency in practice. The example thus clarifies what a sentencing explanation would need to address.

This focus on sentencing reasons complements broader research on the public role of religious authority in Indonesia (Fealy & White, 2008). Scholarship on Indonesian blasphemy laws also provides context for concerns about the political use of religious sentiment (A'yun, 2021). Against that background, this study asks how courts can justify a sentence once they have established liability under the statute. Its contribution to Islamic legal scholarship is to specify what al-Ṭūfī's account of *maṣlaḥah* contributes to that assessment. His account directs attention to the benefits and harms that may follow from choosing a particular lawful sentence (Kurnaz, 2023). A study of Indonesian marriage dispensations illustrates why courts should specify whose interests count in this assessment (Prihantoro & Sodiqin, 2026). Restorative justice adds questions about how those responsible can acknowledge the harm and what the people affected need. The analysis reads the assembly's decisions as religious materials that can illuminate possibilities for coexistence and social repair. Further study could examine whether and how those decisions affect the handling of criminal cases. These limits define what the documentary analysis and the hypothetical example can establish about the proposed framework.

Within the scope of this analysis, the framework could inform guidance on how courts explain sentencing decisions in religiously sensitive cases. Such guidance could ask courts to identify the legal basis for the chosen sentence, the evidence of harm, and the weight given to each relevant circumstance. It could also clarify how

courts assess voluntary steps toward repair when they are raised at sentencing. Training for judges, prosecutors, and investigators could use the hypothetical case to distinguish the conditions for imposing a penalty from the reasons for selecting one. Any pilot initiative involving interfaith dialogue would need to protect voluntary participation, including the right of affected people to decline without adverse consequences. Religious leaders and civil society organizations may provide knowledge of local circumstances, while the court retains responsibility for evaluating the evidence and explaining its decision. To assess broader recommendations, researchers should examine judgments in which courts faced comparable choices and identify the reasons that shaped each outcome. Those findings could then help determine whether the framework needs to account for additional safeguards or local conditions. The immediate contribution is a way to explain proportionate sentencing within statutory limits while attending to public welfare and the possibility of repair.

Conclusion

Religious moderation can inform Indonesian criminal law reform by providing a framework judges can use to assess and justify proportionate sentences in blasphemy cases. Hart's legal positivism guides the court in identifying the statutory basis for liability and the penalties the law authorizes. Al-Ṭūfī's account of *maṣlaḥah* helps the court compare how each penalty would address the proven harm, protect affected communities, and influence the risk of further hostility. Zehr's restorative justice directs attention to accountability and opportunities for repair. The hypothetical case illustrates how these inquiries bear on sentencing. Once liability is established, a fine may be sufficient if it addresses the proven harm and the risk of recurrence. If the court chooses imprisonment, it should explain why the circumstances warrant the more restrictive response. An acknowledgment of harm or a voluntary commitment to cease hostile conduct may also inform that assessment, provided the court can evaluate it fairly and respect the safety and choices of those affected. This study contributes to Islamic legal scholarship by showing how *maṣlaḥah* can inform a court's choice among lawful penalties by directing attention to the consequences of punishment for the people involved.

The framework presents a normative proposal grounded in the analysis of legal, policy, and religious documents. The hypothetical case illustrates how a court could apply the framework. Research on actual judgments could assess how it applies in practice. A study of a defined set of judgments could examine how courts distinguish liability findings from sentencing considerations, what evidence they use to assess harm, and how they justify their choice among available penalties. A comparison across cases could show when courts consider acknowledgment, forgiveness, or other steps toward repair and how much weight they give those considerations alongside the seriousness of the offense. Such research could identify which parts of the framework reflect the reasons judges already give and which parts

need refinement to account for the circumstances of individual cases. Those findings could help determine whether the framework guides sentencing within statutory limits and gives due weight to the safety and interests of affected communities.

Declarations

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Ethical Statement. The researchers ensured that participation was voluntary, protected participants' confidentiality and anonymity, and respected their rights throughout the study. Informed consent was obtained before data collection began. The authors affirm that the study adhered to applicable ethical principles for research.

AI Usage Declaration. ChatGPT AI assisted the authors in developing the study's theoretical concepts. The authors take full responsibility for all published content.

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