Justice Beyond Legal Formalism: A Maslahah-Oriented Reading of Criminal Law Enforcement in Indonesia through Rawls and Hamka

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ABSTRACT:

Background: Criminal law enforcement in Indonesia is still widely understood as a matter of procedural compliance and formal proof, while the dimension of justice experienced by society often remains marginal.

Aims: This article aims to reread criminal law enforcement by positioning maslahah as an evaluative horizon and placing it in dialogue with the ideas of justice developed by John Rawls and Buya Hamka, in order to articulate a more humane and equitable normative direction.

Methods: This study adopts a qualitative normative–philosophical approach based on library research. The analysis draws on major works by Rawls and Buya Hamka, supported by literature on criminal law enforcement and maslahah theory. Analytical reasoning is guided by the concepts of maslahah mursalah and maslahah mu'tabarah to assess legal objectives, public benefit, and potential harm within criminal law practices.

Result: The analysis reveals that criminal law enforcement in Indonesia tends to prioritize procedural legality and punishment, while insufficiently addressing the protection of vulnerable groups and the restoration of social balance. A maslahah-oriented reading highlights the need to consider public benefit, harm prevention, and the safeguarding of human dignity as more adequate criteria for evaluating criminal law enforcement.

Conclusion: Moving beyond legal formalism requires an ethical framework capable of bridging distributive justice and conscience-based justice. Anchored in maslahah, the conceptual dialogue between Rawls and Hamka provides a normative foundation for strengthening substantive justice and enhancing the legitimacy and public trust of Indonesia's criminal justice system.

Keyword: Criminal law enforcement; justice theory; legal formalism; maslahah; moral responsibility;

INTRODUCTION

Criminal law enforcement is often regarded as a concrete indicator of how a state governed by law actually functions. Through criminal law, the state not only imposes sanctions but also expresses which values are considered essential for collective life. In the Indonesian context, however, criminal law enforcement is frequently understood primarily as a matter of procedural compliance and technical accuracy in applying legal norms. Such an understanding may produce decisions that appear orderly and correct in formal terms, yet remain disconnected from the sense of justice experienced by society (Grossmann & Trubina, 2021; Tavares, 2024).

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When procedural certainty becomes the dominant orientation, problems arise once legally valid decisions generate social perceptions of injustice. Legal certainty is undeniably important, but certainty that stands alone risks distancing law from its ethical function. In this situation, criminal law may operate efficiently as a technical mechanism while losing its moral capacity as a means of protecting human dignity and restoring social order (Z. Ibrahim et al., 2025; Simon, 2025).

The tension between formal legality and substantive justice becomes more visible in enforcement practices that result in unequal treatment across social groups. Differences in legal outcomes between vulnerable individuals and those with economic or political power suggest that the core issue does not lie merely in the application of legal provisions, but in the underlying value orientation that drives criminal law enforcement. For this reason, critiques of criminal law enforcement cannot be resolved solely through procedural refinement, but must engage with deeper normative questions (Kubrin & Tublitz, 2022; Simmler et al., 2023).

From this perspective, criminal law enforcement needs to be understood as an ethical practice rather than a purely procedural process. Its evaluation should not be confined to the fulfillment of legal elements or procedural accuracy, but should also consider social consequences, public benefit, harm prevention, and the protection of human dignity. Such an approach situates criminal law enforcement at the intersection between legal norms and broader demands for social justice (Grenfell et al., 2023).

Previous studies have already pointed in this direction. Several scholars employ modern theories of justice to critique inequalities in the distribution of legal burdens and benefits, while others emphasize the moral and humanitarian dimensions of criminal law enforcement. This body of literature suggests that punishment alone cannot serve as the sole measure of justice, as the protection of vulnerable groups and the restoration of social balance are equally central objectives of criminal law. Nevertheless, these approaches have largely developed in parallel rather than within an integrated evaluative framework.

This limitation becomes clearer when the contributions of individual scholars are examined more closely. Sari et al. (2025) argues that Rawls's theory of justice provides a strong conceptual foundation, yet faces serious structural obstacles when applied in Indonesia. (Angell, 2023; Rönnegard & Smith, 2024), by contrast, maintains that Rawlsian principles remain applicable if accompanied by consistent social and political reform. From another angle, Lubis (2023) highlights the tendency of Indonesia's criminal justice system to prioritize procedural certainty over moral and humanitarian considerations, which constrains the development of restorative approaches. Darmawan et al. (2025) emphasizes the continued relevance of Buya Hamka's moral values, particularly for protecting poor and marginalized communities through more restorative practices. proposes integrating Rawls's distributive justice with Hamka's humanistic values, while Apriansah et al. (2022) underscores the need for structural reform to prevent criminal law enforcement from being dominated by political and economic interests. Despite these valuable contributions, existing studies have not systematically positioned Indonesian criminal law enforcement within an integrated reading of Rawls and Hamka through the perspective of maslahah.

This article aims to reexamine criminal law enforcement in Indonesia through a maslahah-oriented reading that employs the ideas of John Rawls and Buya Hamka as analytical lenses. Its

primary objective is to formulate a normative evaluative framework that moves beyond legal formalism by foregrounding public benefit, harm prevention, the protection of human dignity, and justice for vulnerable groups. In doing so, the article seeks to demonstrate that a conceptual dialogue between Rawls and Hamka can enrich the orientation of criminal law enforcement, allowing it to move beyond procedural certainty toward substantive justice that strengthens legitimacy and public trust in Indonesia's criminal justice system.

METHOD

Research Design

This article is grounded in qualitative normative legal research and is written with a conceptual–philosophical orientation. The study is not designed to produce statistical generalizations or to evaluate enforcement performance through empirical indicators. Instead, it addresses a normative question, namely what it means for criminal law enforcement in Indonesia to be just when the practice is frequently shaped by procedural legality and formal reasoning. For that reason, the analysis is situated at the intersection of legal philosophy and Islamic legal thought. John Rawls's justice as fairness and Buya Hamka's moral-humanistic understanding of justice are treated as interpretive lenses, while maslahah is used as the evaluative horizon that enables an integrated reading relevant to Indonesian socio-legal realities

Participant

Because the inquiry is normative, the study does not rely on human participants. The "data" consist of texts that carry normative authority or theoretical weight. These include Indonesian legal materials relevant to criminal law enforcement, such as legislation and doctrinal discussions, as well as a limited set of court decisions used illustratively to reflect how formal legality and moral considerations may interact in practice. The study also draws on primary conceptual texts by Rawls and Hamka, accompanied by peer-reviewed scholarship on legal formalism, substantive justice, restorative justice, and maslahah. Sources are selected purposively, with emphasis on their direct relevance to the research question and their capacity to clarify or challenge the normative assumptions underlying criminal law enforcement.

Instrument

The main instrument is an author-constructed analytical guide that structures how each source is read and compared. Rather than functioning as a checklist, the instrument operates as a set of normative criteria that keeps the analysis consistent across legal texts and theoretical arguments. It combines three linked dimensions, namely procedural legality, substantive justice, and maslahah-based evaluation. These dimensions guide the interpretation process illustrated in Figure 1 and ensure that the assessment of criminal law enforcement extends beyond technical compliance to include public benefit, harm prevention, and the protection of human dignity.

Data Analysis

Analysis proceeds through qualitative content analysis and normative interpretation in an iterative manner. The process begins with identifying dominant orientations in Indonesian criminal law enforcement discourse, particularly the tendency to equate justice with procedural correctness.

Rawls's principles of justice are then applied to assess fairness, equality, and protection for the least advantaged, while Hamka's perspective is used to examine moral responsibility, human dignity, and broader social consequences. Finally, the perspective of maslahah is employed to synthesize these readings into a single evaluative framework. As summarized in Figure 1, this synthesis allows the study to formulate normative findings and propose an evaluative orientation for criminal law enforcement that aligns distributive justice with moral-humanitarian values.
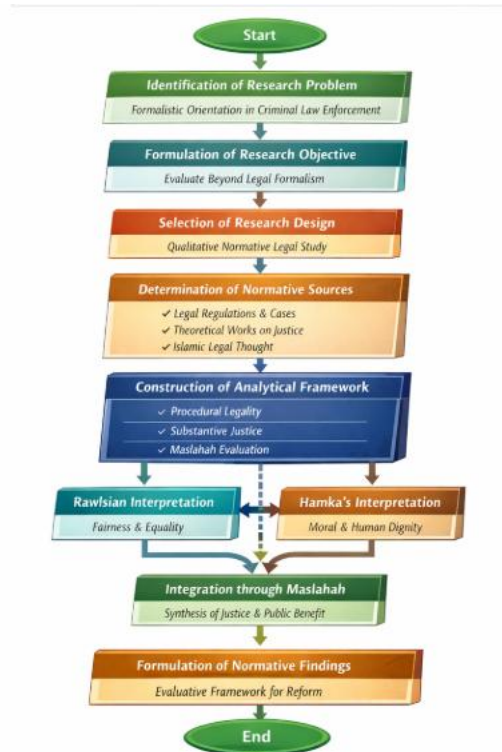

Figure 1. Flowchart of the Normative Analytical Process

RESULTS AND DISCUSSION

Result

The normative analysis conducted in this study indicates that criminal law enforcement in Indonesia continues to operate within a framework that places strong emphasis on legal formalism. In practice, justice is frequently equated with the correct fulfillment of criminal elements and strict adherence to procedural rules. This approach positions legal certainty as the primary benchmark of success, while considerations related to social context, structural inequality, and the vulnerability of legal subjects receive limited attention. The findings suggest that criminal law is often applied as a technical mechanism rather than as an instrument aimed at achieving substantive justice.

Further analysis reveals a persistent gap between legal certainty and distributive justice. The uniform application of criminal law, without adequate consideration of the social conditions and structural positions of offenders and affected parties, may result in decisions that are formally valid yet substantively problematic. Under such circumstances, criminal law appears neutral at the normative level, but in practice it can reinforce existing inequalities, particularly when applied to individuals or groups situated in socially and economically disadvantaged positions.

The study also finds that moral and humanitarian dimensions have not been consistently integrated into criminal law enforcement. Considerations of human dignity, social responsibility, and corrective or restorative objectives of punishment tend to remain peripheral. As a result, the effectiveness of criminal law enforcement is more often assessed through the certainty of sanctions and punitive outcomes rather than through its capacity to prevent broader social harm or to restore social balance. To clarify these patterns, the main normative findings are summarized in Table 1.

Table 1. Summary of Normative Findings

Evaluation Aspect	Key Findings
Orientation of criminal law enforcement	Strong emphasis on legal formalism and procedural compliance
Understanding of justice	Justice is primarily understood as legal certainty
Legal certainty and distributive justice	Legal certainty frequently overrides substantive justice
Moral and humanitarian dimension	Not systematically integrated into enforcement practices
Position of vulnerable groups	Vulnerability is insufficiently considered in legal assessment
Role of *maslahah*	Emerges as a normative orientation toward public benefit

A maslahah-oriented reading allows these findings to be understood within a more coherent evaluative framework. Maslahah functions as a normative meeting point that connects procedural legality, demands for distributive justice, and moral–humanitarian values. Through this lens, criminal law enforcement is assessed not only in terms of formal compliance, but also in relation to the benefits and harms it produces within society. The relationship among these elements is illustrated in Figure 1, which highlights the normative shift from legal certainty toward a more substantive conception of justice.
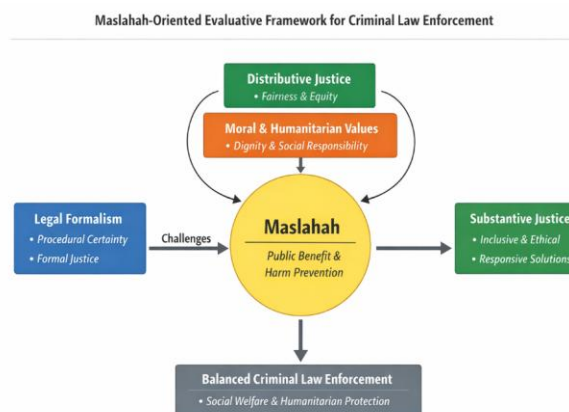

Figure 1. Maslahah-Oriented Framework for Evaluating Criminal Law Enforcement

This figure illustrates maslahah as the central evaluative lens integrating procedural legality, distributive justice, and moral–humanitarian values, thereby directing criminal law enforcement toward public benefit and harm prevention.

Discussion

The discussion of the findings suggests that the prevalence of legal formalism in Indonesian criminal law enforcement is rooted in how justice itself is conceptually framed (Faisal et al., 2024; Musmuliadin et al., 2024). When procedural correctness becomes the primary measure of legal success, criminal law tends to operate as a system of compliance rather than as a mechanism for addressing social realities (Nafid et al., 2024). This orientation helps explain why decisions that are legally sound may nonetheless be perceived as unjust, particularly when they fail to account for unequal social conditions surrounding those subject to the law.

Within this context, Rawls's theory of justice offers an important normative lens (Clements & Formosa, 2021; Kiran et al., 2023). Rawls does not reject legal consistency, but he insists that fairness must be assessed by examining how legal institutions affect those who are least advantaged. The findings indicate that the consistent application of criminal law rules, when detached from social context, may preserve formal equality while neglecting substantive fairness. As a result, criminal law enforcement can unintentionally place disproportionate burdens on socially vulnerable groups, even while maintaining an appearance of neutrality.

The findings also reveal that moral and humanitarian considerations remain marginal within prevailing enforcement practices (Ambrosini, 2023; Martin et al., 2021). This observation resonates with Buya Hamka's critique of law that is reduced to technical execution. Hamka's perspective emphasizes that justice is inseparable from moral conscience and respect for human dignity. From this viewpoint, criminal law enforcement that prioritizes punishment and deterrence alone risks narrowing the ethical scope of justice and overlooking the broader responsibility of law to preserve social harmony and human worth.

A maslahah-oriented reading enables these concerns to be addressed within a single evaluative framework. Rather than opposing legality, maslahah situates legal certainty within a broader horizon of public benefit and harm prevention (A. H. Ibrahim & Harun, 2024; Solehudin et al., 2024). The findings suggest that maslahah allows Rawls's concern for distributive justice and Hamka's moral-humanistic orientation to complement one another. Through this integration, criminal law enforcement can be evaluated not only by its formal correctness, but also by the social consequences it generates.

This perspective has important implications for how criminal law enforcement is understood and assessed (Moreto & Charlton, 2021; Tripathi et al., 2021). Reform efforts that focus exclusively on procedural improvement are unlikely to resolve the deeper normative issues identified in this study. Without reexamining the values that guide enforcement practices, legal reforms may continue to produce outcomes that are procedurally valid yet socially contentious. The findings indicate that a shift in evaluative orientation is necessary to bridge the gap between legality and justice.

By situating criminal law enforcement within a maslahah-oriented framework informed by Rawls and Hamka, this study advances a more context-sensitive understanding of justice. In this framework, legal certainty remains an essential foundation, but it is no longer treated as an end in itself (Carlsson, 2025). Instead, it functions as part of a broader commitment to fairness, moral responsibility, and the protection of human dignity. Such an approach strengthens the legitimacy of criminal law by aligning it more closely with societal expectations of justice.

Implications

These findings imply that Indonesian criminal law enforcement cannot be evaluated convincingly if justice is reduced to procedural correctness alone. Legal certainty is indispensable,

yet when it becomes the dominant yardstick, it tends to crowd out questions of distributive fairness, moral responsibility, and the real vulnerability of those who face the criminal process. Reading enforcement practices through Rawls and Buya Hamka, and integrating both through a maslahah-oriented lens, highlights the need for a normative shift in evaluation: enforcement should be assessed not only for its formal validity, but also for the benefits it secures for the public, the harms it prevents, and the extent to which it protects human dignity and sustains social trust in the criminal justice system.

Limitations

This article is conceptual and normative in nature, which means its conclusions remain at the level of evaluative reasoning rather than empirical demonstration. It does not conduct a detailed examination of specific judicial decisions or observe how police, prosecutors, and judges actually incorporate considerations resembling maslahah, fairness, or moral conscience in everyday practice. The argument is also built around a focused dialogue between Rawls and Hamka, so it does not provide an exhaustive comparison with other justice paradigms such as restorative justice, socio-legal critiques, or critical legal studies. For these reasons, the results should be read as a carefully argued framework for assessment, not as a descriptive claim about how Indonesian criminal law enforcement always operates in practice.

Suggestions

Future work should test the practical usefulness of this framework by pairing normative analysis with systematic engagement with case law and institutional reasoning, including patterns in judicial justification, prosecutorial discretion, and enforcement priorities. Further research may also broaden the conversation by bringing in complementary perspectives, especially approaches that speak directly to restoration, proportionality, and structural inequality, while remaining attentive to Indonesia's social and moral context. In the meantime, legal education and professional training would benefit from treating ethical evaluation as a core competency rather than an afterthought, so that criminal law enforcement is guided not only by compliance with procedure but also by public benefit, harm prevention, and a more substantive understanding of justice.

CONCLUSION

This article affirms that criminal law enforcement in Indonesia is still predominantly guided by a legal-formalistic logic that equates justice with procedural correctness. Although legal certainty remains a fundamental requirement of the rule of law, the analysis shows that certainty alone cannot adequately respond to issues of social inequality, moral accountability, and respect for human dignity. By engaging Rawls's concern for fairness toward the least advantaged and Buya Hamka's emphasis on moral conscience, and bringing both perspectives together through a maslahah-oriented reading, this study offers a broader way to evaluate criminal law enforcement. Within this framework, legality is not dismissed, but assessed in light of its social consequences, its capacity to prevent harm, and its contribution to public benefit. The conclusion therefore underscores that moving beyond strict legal formalism allows criminal law enforcement in Indonesia to retain normative legitimacy while responding more meaningfully to societal expectations of justice.

ACKNOWLEDGMENT

The author wishes to acknowledge the intellectual and academic support that made the completion of this article possible. Constructive discussions with colleagues in the field of law and legal philosophy played an important role in sharpening the normative arguments developed in this study. The author is also grateful for the academic setting that encouraged critical reflection on issues of justice, morality, and criminal law enforcement, which provided a fertile ground for the ideas explored in this article. The author alone is responsible for the interpretations and conclusions presented, as well as for any remaining limitations of the work.

AUTHOR CONTRIBUTION STATEMENT

Moh Safik was responsible for the conception and design of the study, formulation of the research problem, development of the theoretical and normative framework, analysis of legal materials, and drafting of the manuscript. Mu'tashim Billah served as the academic supervisor and provided scholarly guidance throughout the research process, offered critical feedback to strengthen the normative and philosophical arguments, and reviewed the manuscript to ensure conceptual coherence and academic rigor. Both the author and the supervisor approved the final version of the manuscript for publication.

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