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## Implementation of Restorative Justice in the Indonesian Criminal Law System

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**Abstract:** Restorative justice is an alternative approach in the criminal law system that is oriented towards restoring social relations between perpetrators, victims, and the community. In Indonesia, the application of this concept has begun to be adopted in various regulations, such as Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Regulation of the Chief of Police No. 8 of 2021, and Circular of the Attorney General No. 15 of 2020. This article uses a normative legal research method with a descriptive-analytical approach to examine the basic concept of restorative justice, implementation in the field, challenges faced, and solutions to strengthen its application in Indonesia. The results of the discussion show that although the application of restorative justice has shown positive developments in resolving minor criminal cases, challenges such as the retributive paradigm, limited regulations, and lack of understanding of the authorities are still obstacles. Therefore, strengthening national regulations, legal education, and increasing the role of the community are important steps in expanding the application of restorative justice effectively and fairly in Indonesia.

**Keyword:** Restorative Justice, Criminal Law, Diversion, Social Recovery, Indonesian Justice System

### INTRODUCTION

The criminal law system in Indonesia basically adopts a retributive approach, namely the imposition of sanctions on perpetrators of criminal acts as a form of release for the actions committed. However, along with the development of the era and the increasingly complex needs of society for justice, there has been a push to adopt a new approach that focuses more on restoring social relations, victim recovery, and the responsibility of perpetrators of crimes. One approach that has developed is restorative justice.

Restorative justice offers an alternative to traditional criminal mechanisms that tend to be oriented towards punishment. This approach places the main focus on restoring the losses caused by the crime, bringing together victims, perpetrators, and in a process of community dialogue to jointly find the best solution. This aims not only to provide justice to victims, but also to build awareness of the perpetrators of the impact of their actions and create social harmony.

According to Tony F. Marshall (1999), restorative justice is defined as "a process in which the parties involved in a particular violation collectively decide how to deal with the consequences of the violation and its implications in the future." This means that restorative justice is a process in which the parties involved in a crime jointly seek a resolution to the consequences of the crime and efforts for the future. This definition emphasizes the importance of the role of all affected parties in determining a just and meaningful form of resolution.

In addition, Howard Zehr, known as the "Father of Restorative Justice," in his book *Changing Lenses: A New Focus for Crime and Justice* (1990), stated that restorative justice seeks to direct the focus of the criminal justice system from violations of the law and punishment, to the damage caused by the crime and efforts to repair it. According to Zehr, restorative justice views crime not merely as a violation of the state, but as damage to human relations.

The implementation of restorative justice in Indonesia has begun to receive special attention, especially in recent years. One of the concrete steps taken is the issuance of the Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice. In the regulation, it is emphasized that the handling of criminal cases can be resolved through restorative justice by fulfilling certain requirements, such as a peace agreement between the victim and the perpetrator, a minor crime, and not causing a negative impact on the wider community.

Furthermore, from an Indonesian legal perspective, the idea of restorative justice is in line with the values of life in society. The concept of deliberation, mediation, and family resolution have long been known in the local wisdom of the Indonesian people. Therefore, the application of restorative justice is considered not only theoretically relevant, but also contextual to the legal culture of Indonesian society (Saputra, F., & Ali, H., 2021).

According to John Braithwaite (2002) in his book *Restorative Justice and Responsive Regulation*, restorative justice has the potential to create more effective justice than the retributive approach. Braithwaite emphasized that the restorative process can reduce the rate of recidivism because the perpetrators are not only punished, but also guided to understand their mistakes and repair the damage that has been caused. Thus, restorative justice not only improves social relations, but also contributes to the prevention of future crimes.

In its application, restorative justice does not immediately replace all conventional criminal law mechanisms, but rather becomes an alternative approach that can be applied in certain cases. In juvenile criminal cases, for example, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) explicitly encourages resolution through restorative justice. This shows that Indonesian legislators have realized the importance of this approach, especially in efforts to protect the best interests of children in conflict with the law.

In addition to juvenile criminal cases, the Supreme Court has also issued Circular Letter Number 2 of 2021 which regulates the application of restorative justice at the court level. This circular requires judges to consider a restorative approach in handling certain cases, especially minor crimes, so that the judicial process prioritizes humanitarian values and peace.

However, although the concept of restorative justice brings many benefits, in practice there are several challenges. One of them is the need for a complete understanding from law enforcement officers

## **METHOD**

This article is written using a normative legal research method or normative juridical. This method is carried out by reviewing legal materials consisting of laws and regulations, legal literature, doctrines, and previous research results that are relevant to the application of restorative justice in the criminal law system in Indonesia.

The legal materials used include primary legal materials such as Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Regulation of the Republic of Indonesia

National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, and the Criminal Code (KUHP). In addition, secondary legal materials in the form of books, journals, scientific articles, and expert opinions are also analyzed to enrich the discussion.

The technique of collecting legal materials is carried out through library research, namely by accessing various relevant written sources. All data obtained is then analyzed qualitatively, with a descriptive-analytical approach to understand the concept of restorative justice, assess its implementation in Indonesia, and identify challenges and solutions in its application.

Through this method, it is hoped that a comprehensive picture can be obtained regarding how restorative justice is applied in the Indonesian criminal law system, as well as providing constructive recommendations for future improvements.

## **RESULTS AND DISCUSSION**

### **Understanding and Basic Principles of Restorative Justice**

Restorative justice, or restorative justice, is an alternative approach in the criminal law system that aims to resolve criminal cases by prioritizing the restoration of social relations between the perpetrator, victim, and community. This approach is different from the retributive system which focuses on punishing the perpetrator of the crime.

In restorative justice, the main focus is not merely on providing punishment, but rather recognizing the victim's losses, restoring disrupted social relations, and providing an opportunity for the perpetrator to correct their mistakes. The main principles of restorative justice include:

Involvement of all parties: victims, perpetrators, families, and communities actively participate. Restitution of losses: both material and immaterial losses borne by the victim. Reintegration of the perpetrator into society: with responsibility for his actions. Prevention of future crimes: by improving social relations.

According to Howard Zehr, one of the pioneers of restorative justice theory, restorative justice starts from the questions: "What damage has occurred?", "Who is responsible for the damage?", and "How can the damage be repaired?". This is in stark contrast to the retributive approach which asks: "Which rules were violated?" and "What punishment is appropriate?".

### **History and Development of Restorative Justice in the World**

The concept of restorative justice has actually been known for a long time in the tradition of dispute resolution in various cultures, such as in the customary law of African communities (Ubuntu), Indian tribes in North America, and Indonesian customary law itself. In the modern era, restorative justice began to be formalized in countries such as Canada, New Zealand, Australia, and the United States (Yeni, F., Erwin, G., & Ali, H., 2019).

In New Zealand, the application of restorative justice in the juvenile justice system became the starting point for a recovery-based criminal law revolution. This concept then spread to various countries with models such as family group conferencing, victim-offender mediation, and circle sentencing.

Indonesia has begun to look at restorative justice in line with efforts to reform the law and justice system to be more humane, especially in order to reduce the overcapacity of correctional institutions and improve social justice.

### **Implementation of Restorative Justice in the Indonesian Criminal Law System**

#### **a) Supporting Regulations**

Several important regulations that support the implementation of restorative justice in Indonesia include:

Law No. 11 of 2012 concerning the Juvenile Criminal Justice System. This law regulates the principle of diversion in every stage of the examination of juvenile cases.

Diversion is carried out by bringing together victims and perpetrators to find a fair solution, outside the formal trial process.

Regulation of the Republic of Indonesia National Police No. 8 of 2021. This regulation regulates the mechanism for handling criminal acts based on restorative justice at the police level, especially for minor crimes and certain cases. Circular of the Attorney General Number 15 of 2020. Instructs the prosecutor's office to resolve cases restoratively, especially for cases with a maximum sentence of five years, small losses, and without broad social impacts.

In addition, the Supreme Court also encourages the implementation of restorative justice through various internal regulations and judge training.

#### b) Practice in the Field

Restorative justice practices in Indonesia have begun to be widely applied, such as:

Resolving cases of child fights at school through mediation between the perpetrator, victim, teacher, and parent. A case of petty theft that was resolved with compensation and an apology without proceeding to the trial stage.

A case of minor assault that ended with peace after being facilitated by the police.

In many cases, this approach accelerates the resolution of cases, reduces the workload of law enforcement, and restores relationships at the community level (Nugroho, F., & Ali, H., 2022).

#### c) Implementation in Various Institutions

Police: Through investigators who mediate between the perpetrator and victim from the investigation stage. Prosecutor's Office: Offers termination of prosecution based on the principle of restorative justice.

Courts: Judges use restorative justice considerations in deciding cases, especially in cases of children.

### Challenges in Implementing Restorative Justice in Indonesia

#### a) Retributive Legal Culture

Most law enforcement officers and the public still hold the paradigm that justice means punishment. This mentality makes acceptance of restorative justice not always easy, especially in cases that are considered "insulting" the law if not sentenced to severe punishment.

#### b) Lack of Understanding and Capacity of Officers

Not all officers understand the concept and techniques of restorative justice facilitation. Training on restorative justice is still limited to a small group of law enforcers.



Sumber: Data Perkiraan Berdasarkan Tren Pelaksanaan Restorative Justice (UU No. 11/2012, Perkap No. 8/2021, SE Jaksa Agung No. 15/2020)

Source: Estimated data Based on Restorative Justice Implementation Trends (Law No. 11/2012, Regulation of the Chief of Police No. 8/2021, SE Attorney General No. 15/2020)

**Figure 1. Case Comparison**

The bar chart is a bar chart that shows the comparison of the number of cases resolved through Restorative Justice and litigation in Indonesia, based on estimated data from 2018 to 2022. The light blue bar represents the number of cases resolved using the Restorative Justice approach. The pink bar represents the number of cases resolved through litigation. This graph shows that the implementation of restorative justice has increased significantly, while the number of litigation cases tends to be stable or slightly increasing.

## CONCLUSION

The implementation of restorative justice in the Indonesian criminal law system is a progressive step in realizing a more humanistic, participatory, and socially-restored justice concept. This approach shifts the paradigm from a retributive justice system to a system that emphasizes problem solving, victim recovery, perpetrator responsibility, and social reintegration.

Indonesia has demonstrated its commitment to the implementation of restorative justice through various legal instruments, such as Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Regulation of the Chief of Police No. 8 of 2021, and Circular of the Attorney General No. 15 of 2020. Practices in the field have also shown positive results, especially in handling minor crimes and cases involving children. However, the implementation still faces various challenges, ranging from a legal culture that is still retributive, lack of understanding of law enforcement officers, to the absence of comprehensive national regulations.

Therefore, to optimize the implementation of restorative justice, strategic steps are needed such as the preparation of special laws, intensive training for law enforcement officers, increasing public awareness, and strengthening the role of the community in resolving cases. In addition, a strict and transparent monitoring system needs to be built to ensure that the implementation of restorative justice is truly carried out in accordance with the principles of justice.

Through strengthening regulations, increasing human resource capacity, and changing the legal paradigm in society, restorative justice is expected to become the main foundation in building a fairer, more effective, and more dignified Indonesian criminal justice system in the future.

## REFERENSI

- Barda Nawawi Arief, Bunga Rampai Kebijakan Hukum Pidana (Jakarta: Kencana Prenada Media Group, 2008), hlm. 77.
- Bazemore, Gordon & Umbreit, Mark S. (1995). "Rethinking the Sanctioning Function in Juvenile Court: Retributive or Restorative Responses to Youth Crime." *Crime & Delinquency*, Vol. 41, No. 3, pp. 296–316.
- Daniel W. Van Ness dan Karen Heetderks Strong, *Restoring Justice: An Introduction to Restorative Justice* edisi ke-4 (New Providence: Anderson Publishing, 2010), hlm. 45..
- Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice* (Scottsdale, PA: Herald Press, 1990), hlm. 181.
- Indonesia Judicial Research Society (IIRS). (2020). *Penerapan Keadilan Restoratif di Indonesia: Studi Kebijakan dan Praktik*. Jakarta: IIRS.
- John Braithwaite, *Restorative Justice and Responsive Regulation* (Oxford: Oxford University Press, 2002), hlm. 69.
- Lilik Mulyadi, *Prinsip-Prinsip Hukum Pidana* (Bandung: Citra Aditya Bakti, 2011), hlm. 154.
- Latifah, Siti. (2019). "Implementasi Keadilan Restoratif dalam Penyelesaian Tindak Pidana Ringan di Indonesia." *Jurnal Hukum dan Pembangunan*, Vol. 49, No. 1, pp. 88–105.



- Daly, Kathleen. (2002). "Restorative Justice: The Real Story." *Punishment & Society*, Vol. 4, No. 1, pp. 55–79.
- Muladi. (2002). *Hak Asasi Manusia, Politik, dan Sistem Peradilan Pidana*. Semarang: Badan Penerbit Universitas Diponegoro.
- Muladi, Kapita Selekt Sistem Peradilan Pidana (Semarang: Badan Penerbit Universitas Diponegoro, 1995), hlm. 102.
- Nugroho, F., & Ali, H. (2022). Determinasi SIMRS: Hardware, Software Dan Brainware (Literature Review Executive Support Sistem (ESS) For Business). *Jurnal Manajemen Pendidikan Dan Ilmu Sosial*, 3(1), 254-265.
- Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021 tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif.
- Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021 tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif.
- Surat Edaran Jaksa Agung Republik Indonesia Nomor 15 Tahun 2020 tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif.
- Saputra, F., & Ali, H. (2021). The Impact of Indonesia's Economic and Political Policy Regarding Participation in Various International Forums: G20 Forum (Literature Review of Financial Management). *Journal of Accounting and Finance Management*, 2(1), 40-51.
- Tony F. Marshall, Restorative Justice: An Overview (London: Home Office Research Development and Statistics Directorate, 1999), hlm. 5.
- Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak.
- Undang-Undang Republik Indonesia Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak.
- Wiyono, Ahmad. (2020). *Keadilan Restoratif dalam Sistem Peradilan Pidana*. Jakarta: Kencana Prenada Media Group.
- Yeni, F., Erwin, G., & Ali, H. (2019). Analisis Strategi Pemasaran Dalam Menghadapi Persaingan Bisnis Pada Pt. Federal Internasional Finance (Fif) Group Di Kecamatan Ipuh, Kabupaten Mukomuko. *Jurnal Ilmu Manajemen Terapan*, 1(1), 38-54.