

## Optimizing The Implementation of Restorative Justice In The Settlement of Criminal Acts In Indonesia

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### Abstract

Within the criminal court system, restorative justice is a method that highlights the improvement of relationships between offenders, victims affected by criminal acts and community involvement in achieving more humane justice. In Indonesia, this idea has been accommodated in various legal policies, but its implementation still faces obstacles, such as regulatory disharmony, lack of understanding of law enforcement officials, and limited community support. Therefore, this article will concentrate on the problems regarding the concept of restorative justice in Indonesia, its legal basis and regulatory policies, the effectiveness of implementation in the perspective of the office of the prosecutor, and strategies to optimize its application.using a statutory and conceptual perspective, normative juridical research methodology is employed. Data was obtained from scientific journals through Google Scholar as well as news from trusted websites such as CNN Indonesia, and Hukum Online. In addition, relevant laws and regulations, such as regulation of the supreme court and the criminal code, and Regulations regarding the office of the attorney general of the republic of indonesia, were systematically reviewed however, official sources. The results showed that from 2020-2023 optimizing the application of restorative justice experienced a significant increase with 4,443 cases resolved and 111 rehabilitation centers established. Although implemented since 2020 there are still challenges in its implementation. Therefore, the optimization it is necessary for restorative justice to be supported by harmonizing regulations, increasing the capacity of law enforcement officials, and educating the public so that its implementation is more effective in Indonesia's criminal justice sytem.

**Keywords:** effectiveness; implementation; restorative justice.

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### Introduction

The criminal justice indonesia's system is currently dealing with various challenges, such as high crime rates, overcapacity of correctional institutions, and judicial processes that often take a long time and do not fully provide justice for all parties. In facing these problems, optimization efforts are needed in the criminal justice system. Nasution & Marpaung (2023) explains that the term "optimal" is the root of the word "optimization", which denotes the highest or best. Optimizing entails being at the top or most.<sup>1</sup> Another word that is often used is optimizing where the word means the process of optimizing something which means doing something of high value or the best, therefore optimization in the criminal justice

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<sup>1</sup> Aliyah Nurwinda Aulia Nasution dan Syafri Fadillah Marpaung, "Strategi Kepala Madrasah Dalam Optimalisasi Sarana Prasarana di Madrasah Aliyah," *Munaddhomah: Jurnal Manajemen Pendidikan Islam* 4, no. 2 (2023): 317-29, <https://doi.org/10.31538/munaddhomah.v4i2.426>.

system must be directed at achieving more effective, efficient and equitable justice for all parties.

Restorative justice focuses on the the criminal justice system in a way that emphasizes mending the bonds between criminals, victims, and the communities impacted by criminal activity. Unlike the conventional justice system that focuses on punishment and retribution, restorative justice emphasizes dialogue, restoration of harm, and reintegration of the offender into society. The idea of restorative justice in Indonesia begun to receive serious attention as an alternative to address the overcapacity of correctional institutions and to encourage more inclusive and equitable conflict resolution. Although the implementing restorative justice in several countries has shown positive results, such as a decrease in recidivism rates and increased victim satisfaction.<sup>2</sup>

An alternative is the restorative justice concept to solving criminal cases, in which the criminal focus is changed to a dialog and mediation process.<sup>3</sup> However, in judicial practice, not all criminal cases result in prison sentences. This is due to the application of the idea of an out-of-court settlement through restorative justice mechanism founded on the ideas of fairness. Normatively, the application the goal of restorative justice is not limited to prison sentences, but results in the interests of victim rehabilitation being aligned and non-imprisonment of perpetrators in certain criminal cases, for instance, cases involving women, children, drugs, and small-time offenses.<sup>4</sup>

The direction of enforcement of Indonesia 's criminal justice system is currently gradually shifting, the settlement of criminal cases in Indonesia initially still maintains a retributive paradigm, where punishment still focuses on imposing punishment on the perpetrator while the victim who in this case has suffered losses is still less considered, as evidenced by the position of victims who are only limited to witnesses in court proceedings do not have more authority to participate and can influence the decision in the trial. Also, the form of punishment in Indonesia still prioritizes imprisonment for perpetrators so that almost all criminal acts end up in correctional institutions ranging from minor to serious crimes, all of which

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<sup>2</sup> Indi Noroini, "Efektivitas Penerapan Restorative Justice Dalam Kasus Pidana Di Indonesia," *jurnal cahaya* 5, no. 2 (2024): 818–28, <https://doi.org/10.36312/jcm.v5i2.3179>.

<sup>3</sup> Kornelius Benuf dan Muhammad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurangi Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020): 20–33, <https://doi.org/10.14710/gk.2020.7504>.

<sup>4</sup> Fifi Finkpraseda Alviolita dan Barda Nawawi Arief, "Kebijakan Formulasi Tentang Perumusan Tindak Pidana Pencemaran Nama Baik Dalam Pembaharuan Hukum Pidana Di Indonesia," *law reform* 15, no. 1 (2019): 130–48, <https://doi.org/10.14710.lrv15i1.23359>.

are eventually included in the Correctional Institution. This is also one of the factors that make the conditions of prisons in Indonesia experience overcapacity.<sup>5</sup>

In this study, the author seeks to provide novelty and contribution to legal studies regarding using restorative justice to address criminal cases offenses in Indonesia. This article has novelty value compared to previous studies. The first article from Wardhani (2023) entitled the dynamics of the restorative justice approach's application in criminal cases resolution, highlighted the challenges of implementing restorative justice in a legal system that is still oriented towards a retributive approach, without providing concrete solutions to optimize policy.<sup>6</sup> Meanwhile, the second article from Sitepu & Piadi (2019) entitled restorative justice's application in the prosecution of corrupt officials focuses on restoring state losses in corruption cases but does not discuss its application in other criminal acts.<sup>7</sup> The third article from Kurnia & Rosando (2023) entitled restorative justice's application in criminal justice acts only focuses on discussing the application of restorative justice in small-scale criminal cases by highlighting applicable regulations and procedures so that the scope of the discussion is limited to certain types of cases has not reviewed the optimization approach for all criminal acts.<sup>8</sup> The article uniqueness is found in the discussion of optimizing the execution of restorative justice which not only includes a description of the concept or implementation, but also formulates how the legal basis of restorative justice, implementation and optimization of restorative justice in Indonesia.

This article is expected to be an important reference for academics, legal practitioners, and policy makers in understanding and deciding on steps to maximize restorative justice's application in Indonesia. For the international scientific community. This article provides a new perspective regarding the criminal justice system's content and the restorative justice approach in developing countries, especially in Indonesia, which can serve as a model and or comparison for other countries. Thus, this article aims to explore the importance of optimizing indonesia's uses of restorative justice to address criminal offenses. According to

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<sup>5</sup> Akbar Fitriani dan Ali Muhammad, "Penerapan Metode Restorative justice dalam Penyelesaian Perkara di Indonesia," *Journal Of Social Science Research* 1, no. 2 (2021): 243-49, <https://j-innovative.o/articlerg/index.php/innovative/article/view/45>.

<sup>6</sup> Dwinanda Linchia levi Heningdyah Nikolas Kusuma Wardhani, "Dinamika Implementasi Pendekatan Restorative Justice Dalam Penyelesaian Tindak Pidana," *Jurnal Unes Law Review* 5, no. 4 (2023): 1908-18, <https://doi.org/10.31933/unesrev.v5i4>.

<sup>7</sup> Rida Ista Sitepu dan Yusona Piadi, "Implementasi Restoratif Justice dalam Pemidanaan Pelaku Tindak Pidana Korupsi," *Jurnal Rechten: Riset Hukum dan Hak asasi Manusia* 1, no. 1 (2019): 67-75, <https://doi.org/10.5200/rechten.viii.7>.

<sup>8</sup> Evita Ayu Kurnia dan Abraham Ferry Rosando, "Penerapan Keadilan Restoratif Dalam Tindak Pidana Ringan," *Jurnal Penelitian Hukum* 3, no. 4 (2023): 34-45, <https://doi.org/10.69957/cr.v3i04.1192>.

the contents of the introduction above related to the article entitled Optimizing Indonesia's use of restorative justice to address criminal offenses, the author formulates research: first, What is the concept of restorative justice?. Second, What is the legal basis and how is the restorative justice regulatory policy in Indonesia?. Third, how is the effectiveness of the implementation of restorative justice in the perspective of the office of prosecutor and fourth, how is the Optimization of Restorative Justice in Indonesia?

## Research Methods

This article aims to analyze and identify optimal strategies in applying restorative justice to the outcome of criminal offenses in Indonesia, by highlighting the challenges and opportunities faced in its application. This research is qualitative with an approach to normative law, it investigates the rule of law and restorative justice application is founded on academic literature and empirical data from the news. The primary sources data of utilized in this research were personal data and secondary data. Primary data includes regulations and laws and regulations that are the legal foundation for the using restorative justice in Indonesia, the regulations studied in this study include Indonesian Attorney General's Regulation Number 15 of 2020, Indonesian Police Regulation Number 8 of 2021, Supreme Court Regulation (PERMA) Number 1 of 2024 and others. Meanwhile, secondary data from this study were obtained from scientific journals from Google Scholar and news from trusted sites such as online law and Kompas to describe the actual implementation of restorative justice. And analysis of data is carried out using the content analysis method by comparing theories and identifying gaps and formulating recommendations for optimizing the application of restorative justice in Indonesia.

## Discussion

### 1. Restorative Justice Concept

The word fair, which signifies not, is the root of the word justice (Justitia) one-sided, impartial, in favor of the right and not arbitrary. Quoted from Triyudiana & Nurhayati (2023), justice according to John Rawls is the principle of rational applying policy to the idea of community groups' overall well-being.<sup>9</sup> Meanwhile, justice Aristotle asserts that justice consists in considering everyone equally and unequally unequally according to their disparity, which is quoted from Arta & Sena

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<sup>9</sup> Andra Triyudiana dan Neneng Putri Siti Nurhayati, "Penerapan Prinsip Keadilan Sebagai Fairness Menurut John Rawls Di Indonesia Sebagai Perwujudan Dari Pancasila," *Jurnal kajian kontemporer Hukum dan masyarakat* 2, no. 1 (2023): 1–25, <https://doi.org/10.11111/dassollen.xxxxxxx>.

(2022) this implies that the same items receive the same treatment and the unequal are handled unequally, proportionally.<sup>10</sup> With the goal of elevating the role of crime victims, Restorative justice views crime as a loss or harm and justice as an endeavor to restore that damage, criminals and society three very important the criminal justice system's elements that affect societal safety and well-being.<sup>11</sup> Restorative justice can be referred to as a new paradigm law enforcement model to address discontent with the way criminal justice system operates which emphasizes legal processes. The practice of law by law enforcers that occurs in Indonesia tends to always rest on the footing of legism thinking as the main characteristic of legal positivism.

Legal arrangements regarding restorative justice vary from jurisdiction to jurisdiction. However, there are several principles and aspects that are commonly found in restorative justice laws.<sup>12</sup> Here are some of the main principles of restorative justice:

- a. Refair of damage: Prioritizing the recovery of victims, both materially and non-materially.
- b. Participation of all parties: including, victim, family members, offenders, and the community in the process of resolution.
- c. Offender responsibility: it is expected of offenders to own up to their mistakes and make amends.
- d. Prevention of recidivism: focusing on rehabilitating the offender so that they do not reoffend.
- e. Community reinforcement restores harmony in society by repairing relationships damaged by the criminal offense.

An effective restorative justice approach depends on two factors. First, from the community, the success of restorative justice will be achieved if the mindset of the community does not only focus on the deterrent effect of the perpetrator, but also the recovery of the victim's losses. Second, in terms of law enforcement officials (APH), inter-institutional cooperation is a determining factor in achieving the above goals. In this case the prosecutor is only a facilitator to facilitate if both the victim and the offender wish to reconcile, the prosecutor does not play an active role in implementing the restorative justice approach, peace efforts then the

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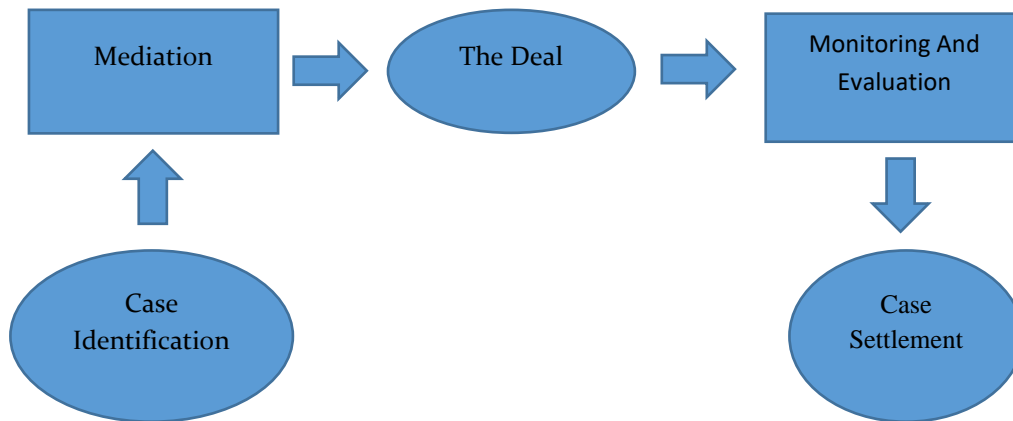
<sup>10</sup> I Komang Kawi Arta dan I Gede Arya Wira Sena, "Eksistensi Paralegal Bagi Masyarakat Pencari Keadilan," *Kertha Widya Jurna Hukum* 10, no. 2 (2022): 145-55, <https://doi.org/10.37637/kw.v10i2.1248>.

<sup>11</sup> Dewi Setyowati, "Memahami Konsep Restorative Justice sebagai Upaya Sistem Peradilan Pidana Menggapai Keadilan," *Pandecta* 15, no. 1 (2020): 121-41, <https://doi.org/10.15294/pandecta.v15i1.24689>.

<sup>12</sup> Devina Anggelina, "Penerapan Konsep Keadilan Restorative Justice pada Korban Tindak Pidana Ringan," *INNOVATIVE: Journal Of Social Science Research* 4, no. 1 (2024): 9191-9201, <https://doi.org/10.31004/innovative.v4i1>.

next case is submitted to the court.<sup>13</sup> In addition, there is a process in restorative justice which can be described as in Chart 1:

**Chart 1.** Restorative Justice Process



*Source: author's analysis based on various literature*

Based on the chart above, there are 5 processes the approach of restorative justice, the following is an explanation of the chart above

- a. Case identification  
Cases are selected based on certain criteria, such as minor crimes or cases that allow the reconciliation process. Within the framework of Indonesian law, restorative justice is often applied in cases such as minor crimes, children who are in legal trouble.
- b. Mediation or deliberation  
The parties involved, such as the offender, victim, family, and community (sometimes assisted by a mediator or facilitator). Meet to talk about the impact of the crime and find a fairthe answer. The deliberation aims to listen to the victim's grievances, allow the offender to take responsibility, and develop an agreement that restores the victim's losses.
- c. Agreement  
Agreements are made considering the outcome of the deliberation. For example, the offender may be asked to apologize, make resitution, perform community service, or another mutually agreed forms of reparation.

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<sup>13</sup> Maidin Gultom dan Sahata Manalu, "Pendekatan Restorative justice Sebagai Alternatif Penyelesaian Tindak Pidana Penganiayaan Ringan Di Kejaksaan Negeri Medan," *Fiat Justitia: jUrnal Hukum* 4, no. 1 (2023): 44–61, <https://doi.org/10.54367/fiat.v4i1>.

d. Monitoring and evaluation

Implementation of the agreement is monitored to ensure that all parties fulfill their commitments.

e. Case resolution

If the agreement has been implemented, the case is considered closed and often does not proceed to formal justice, depending on the applicable legal policy.

From the principles and processes of restorative justice, there are 2 types of settlements in the practice of restorative justice, including the following:

a. Diversion in the juvenile justice system:

Currently, there is a legal breakthrough towards restorative justice, which prioritizes recovery for the best interests of children, according on Indonesian Law Number 11 of 2012 concerning the juvenile criminal justice system (hereinafter referred to as the SPA Law), it is possible to resolve criminal cases through “diversion”, which is one form of the juvenile criminal court system’s use of restorative justice. Article 1 paragraph (6) of the SPPA Law is the resolution of criminal cases by involving perpetrators, victims, families of victims / perpetrators and related parties to jointly seek a fair solution by emphasizing recovery back to its original state and not retaliation. Meanwhile, Article 1 paragraph (7) of the SPPA Law states that diversion is the transfer of the settlement of children’s cases from the criminal justice process to an extrajudicial mechanism. Considering the above description, in the settling of case using diversion as a form regarding the use of restorative justice, only criminal crimes involving minors or those in confrontation with the law may use it. So, in cases of children involved in criminal acts can be resolved through mediation without going to court.

b. Peaceful Compensation / Minor Crimes

The implementation of the restorative justice idea in misdemeanor cases is one step that can provide a more impactful solution than the legal process in the justice system. In this context, misdemeanors can include a wide range of offenses such as petty theft, juvenile offenses, traffic offenses, and women's offenses. In these situations the use of restorative justice has many benefits, including improving the criminal justice system’s performance enabling offenders to be held accountable, and improving relationships between offenders, victims, and communities. The active involvement of offenders, victims, and groups is an important aspect, where they can dialogue directly about the impact of the actions that occurred. This process involves a meeting between encourage the victim and the offender to talk the emotional,

physical, or financial consequences, allowing for admissions of guilt, apologies, and compensation. In some cases family may also be involved as an additional form of support. These amicable settlements often avoid lengthy and costly court proceedings, such as in cases of petty theft where the offender simply returns the goods and apologizes, allowing judicial resources to be focused on more serious cases.

## 2. Legal Basis And Regulatory Policy Of Restorative Justice In Indonesia

The legal basis is the basis or reference used as legitimization or justification in making decisions or implementing an action based on applicable law. The foundation of restorative justice in law Indonesia raises many questions in the legal world, especially regarding its legal certainty. This is due to the absence of explicit provisions regarding the Criminal Code application implementation of restorative justice and KUHAP. However, the application of restorative justice unable to be executed in every criminal offense: there needs to be consideration and assessment to determine whether a criminal offense can be applied with this approach.<sup>14</sup> Restorative Justice in Indonesia itself is regulated in several regulations, each of which has its own requirements and mechanisms. Such as at attorney general of the republic of 2020 pertaining to restorative justice based prosecution termination. Where the requirements for implementing Restorative Justice based on Article 5 Point (1) of Regulation Number 15 of 2020 are:<sup>15</sup>

- a. The outcome is a first-time offender;
- b. The sole penalties for the criminal offense are a fine or the maximum penalty of five (five) years prison.
- c. The importance of the proof or the loss resulting from the criminal crime is equal to or less than Rp.2,500,000 (two million five hundred thousand rupiah)

Other requirements listed in Article 5 Point (6) of Regulation No. 15 of 2020 Are:

- a. There has been a recovery back returning to the initial state that the suspect carried conducted by means of:
  - 1) Make up for the victim's loss
  - 2) Returning to the victim the items acquired as a result of the criminal offense;

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<sup>14</sup> Alfano Ramadhan, "Diskresi Penyidik Polri Sebagai Alternatif Penanganan Perkara Pidana," (2021) *Lex Renaissance* 6:1 25-41, <https://doi.org/10.20885/JLR.vol6.iss1.art3>.

<sup>15</sup> Rizki Maulana Ahzar, "Keadilan Restorative Justice Sebagai Upaya Mewujudkan Peradilan Yang Humanis," (2022) *Amnesti: Jurnal Hukum* 4:2 109-19, <https://doi.org/10.37729/amnesti.v4i2.2192>.



- 3) Reimburse the expenses incurred due to criminal violation and/or
- 4) Fixing the harm due to the criminal offense.
- b. A peace agreement has been made between the Victim and the Suspect.
- c. The neighborhood responded in a positive.

In addition, it is also explained that there are criminal offenses Restorative Justice cannot be used to settle that which are listed in Article 5 point (8), namely

- a. Criminal against public order, decency, freindly nations, the President and Vice President dignity, friendly nation's heads and their delegates, and state security;
- b. Crimes for which a minimum penalty is applicable;
- c. Offenses involving drugs;
- d. Crime against the environment and
- e. Offenses committed by businesses.

Along with the prosecutor's rule Number 15 of 2020 regarding the dismissal of charges in light of Restorative Justice, the Number 8 of 2021 Indonesian Indonesian National Police regulations pertaining to Restorative Justice-based crime handling also contains Restorative Justice Mechanisms.<sup>16</sup> Policies and Regulations Related to Restorative Justice in Indonesia Restorative justice is governed and encouraged by several policies and regulations that aim to integrate this approach into the legal system in Indonesian. The following are some of the main policies and regulations that support indonesia's application of restorative justice:

- a. Law No. 11/2012 about the Criminal Justice System for juveniles<sup>17</sup>, which serves as the main lawful the foundation for using restorative justice, particularly in the context of juvenile criminal justice. This bill will prioritize the resolution of juvenile crime cases by diverting or redirecting criminal cases settlement that take place outside of court process. Diversion able to be executed at each stepof justice, from prosecution, investigation, to trial in court.
- b. The Prosecutor's rule No. 15 of 2020 on Prosecution Termination on the basis of Restorative Justice<sup>18</sup>, This rule serves as a guide for prosecutors

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<sup>16</sup> Moch Rizki Ramadhan dan Yana Indawati, "Penerapan Restorative Justice Berdasarkan Asas Cepat, Sederhana dan Biaya Ringan pada Masyarakat," (2024) *Jurnal Pendidikan Tambusai* 8:2 17927-40, <https://doi.org/10.31004/jptam.v8i2.14935>.

<sup>17</sup> "Undang-Undang Republik Indonesia Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak" (2012).

<sup>18</sup> Peraturan Kejaksaan Republik Indonesia Nomor 15 Tahun 2020 Penghentian Penuntutan Berdasarkan Keadilan Restoratif.

to terminate the prosecution of certain using a restorative justice strategy in this case. The regulation stipulates that termination of prosecution can be made if the defendant has apologized to the victim, provided compensation, and shown good faith to improve themselves. This measure aims to lessen the strain on the legal system and prioritize more responsive reso

- c. Circular Letter from the supreme court (SEMA) No. 4/2014 regulates how restorative justice is used methods in certain criminal proceedings<sup>19</sup>, especially those relating to children. The Supreme Court ruled that judges should prioritize restorative justice approach by encouraging diversion and penal mediation to achieve peace between parties in conflict.
- d. Presidential Instruction No. 2 of 2022 on Optimizing the use of Diversion and in the Juvenile court System<sup>20</sup>, Restorative Justice This instruction emphasizes the importance of optimizing the application of restorative justice in situations where children, as both the victim and the offender. It also directs relevant ministries and agencies to strengthen their support in providing the necessary facilities, training and resources to expedite how restorative justice is applied.
- e. National Policy Plan on Restorative Justice, The Government of Indonesia continues to work towards developing a more comprehensive national policy on restorative justice, including the expansion of the application of this approach to general criminal cases, such as minor crimes and non-violent offenses.

Despite the existence of various supporting regulations, restorative justice is still being used still has difficulties, such as limited comprehending and resources, as well as differences in acceptance among police officers. Support from the government, through clearer and more comprehensive regulations, is expected to strengthen the implementation of of restorative justice and its integration within indonesia's criminal judicial sytem.<sup>21</sup>

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<sup>19</sup> "Surat Edaran Mahkamah Agung Nomor 4 Tahun 2014 Tentang Penerapan Metode Keadilan Restoratif" (2014).

<sup>20</sup> "Instruksi Presiden Nomor 2 Tahun 2022 Tentang Optimalisasi Pelaksanaan Diversi dan Restorative Justice pada Sistem Peradilan Pidana Anak" (2022).

<sup>21</sup> Algifari Malhanie Muhdor dan Agung Adi Saputra, "Efektivitas Restorative Justice dalam Mengurangi Tindak Pidana di Tinjauan dari Perspektif Kejaksaan," (2024) *INNOVATIVE: Journal Of Social Science Research* 4:6 1242–51, <https://doi.org/10.31004.innovative.v4i6.16250>.

### **3. Effectiveness of Restorative Justice Implemntation In The Perspective Of The Prosecutor's Office**

The effectiveness of restorative justice in reducing crime can be defined as the ability regarding the restorative justice method to prevent or reduce the level of recidivism through conflict resolution involving perpetrators, victims, and the community directly.<sup>22</sup> Currently, efforts have begun to implement case managing using a restorative justice methodology as marked by the publication of the Indonesian the prosecutor's rule (restorative Justice) No.15 of 2020 concerning the prosecution termination on the basis of restorative justice. This prosecutor's regulation was issued as an implementing regulation of the provisions of article 140 paragraph (2) of the Code for Criminal Procedure where the public prosecutor has the authority to halt the case's prosecution. does not have enough evidence, does not constitute a criminal offense, or is legally closed.<sup>23</sup>

It is within the authority of the prosecutor of the republic to discontinue a criminal offense and refer the case to restorative justice with the consent of all parties involved. The public prosecutor can discontinue prosecution if the victim actively agrees to be involved in a restorative justice approach and all other parties agree. three requirements must be met at the very least for the use of restorative justice:<sup>24</sup>

- a. Recognizing damage and taking action to fix it;
- b. Including all parties involved; and
- c. A change from a system in which the and society and state punish the offender through the imposition criminal penalties to one in which the offender and the community / victim work together to resolve issues brought on by crime.

From the prosecutor's perspective, this effectiveness is assessed by to what degree restorative justice is successful in reducing the number of new crimes, increasing victim satisfaction, and accelerating case resolution efficiently compared to conventional justice processes. Restorative justice is considered effective in reducing crime because this approach does focus on mending

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<sup>22</sup> Apriyansan Pranata Ayuba et al., "Efektivitas Pelaksanaan Restorative justice Dalam Penyelesaian Kasus Tindak Pidana Penganiayaan di Kepolisian resor gorontalo utara," (2024) *jurnal Pengabdian masyarakat Nian Tana* 2:3 1242-51, <https://doi.org/10.59603/jpmnt.v2i3.431>.

<sup>23</sup> Andi Zainal Akhirin Amus, Sufirman Rahman, dan Askari Razak, "Efektivitas Implementasi Restorative Justice Oleh Kejaksaan Negeri Bone Dalam Penanganan Kasus Pidana," (2024) *Journal Of Lex Philosophy (JLP)* 5:2 749-64, <https://doi.org/10.52103/jlp.v5i2.1789>.

<sup>24</sup> Risnawati Br.Ginting et al., "Pengehentian Penuntutan Melalui Penerapan Restorative Justice di Tingkat Kejaksaan," *Locus Jurnal Of Academic Literature Review* 2, no. 10 (2023): 789-806, <https://doi.org/10.56128/ljoalr.v2i10.233>.

relationships as well as punishment between the community, offenders and victims. Restorative justice also has a significant impact on reducing recidivism.<sup>25</sup> This approach involves the community, victim and offenders, in the conflict resolution process, where the offender is required to understand the impact of his or her actions and be directly accountable to the victim. This differs from traditional punitive approaches, which often separate the offender from the real impact of his or her actions. From a prosecutorial viewpoint, the effectiveness of restorative justice lies in the following aspects:<sup>26</sup>

- a. Increased Victim Satisfaction and Involvement Restorative justice involves victims in the recovery process, enabling them to address the impact of the crime and hold offenders accountable.
- b. Research shows that restorative justice has the potential to reduce recidivism rates because offenders are encouraged to realize the impact of their actions, and receive support from the community in the reintegration process. From a prosecutorial viewpoint, the success of restorative justice in reducing recidivism is very important, as it contributes to reducing the strain on the field of criminal justice and increasing community safety.
- c. Efficient and Economical Settlement, Restorative justice processes often take less time than conventional justice processes, making them more resource efficient. Prosecutors can cut down on the quantity of cases that go to court, which in turn reduces the workload of prosecutors. In addition, with this approach, the cost of the legal process can be reduced because it does not have to go through lengthy trial procedures.
- d. From a prosecutorial perspective, restorative justice provides first-hand insight into the strengths and weaknesses of this approach.

Although police and prosecutors work under different legal regulations regarding restorative justice, they are within the same framework of using alternative mechanisms to resolve crimes without resorting to criminal punishment. The families of victims and suspects, each with their own interests, usually also apply for and accept or reject restorative justice. There are obstacles to Indonesia's application of restorative justice. The following are some of the

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<sup>25</sup> Natanael Rumimpunu, Friend Henry Anis, dan Prissila Worung, "Efektivitas Penegakan Hukum Oleh Kejaksaan Negeri Minahasa Selatan Dalam Penyelesaian Kasus Berdasarkan Prinsip Restorative Justice," (2024) *LEX PRIVATUM* 13:2.

<sup>26</sup> Muhdor dan Saputra, "Efektivitas Restorative Justice dalam Mengurangi Tindak Pidana di Tinjauan dari Perspektif Kejaksaan."

challenges and opportunities, efforts to overcome these obstacles include the following:<sup>27</sup>

- a. Challenges of restorative justice involving the family
  - 1) Disagreement and mistrust, lack of communication and family understanding can exacerbate the situation and often lingering resentment and trauma can make families reluctant to participate in restorative justice processes;
  - 2) Lack of support and resources, Lack of training and knowledge on restorative justice among families and professionals;
  - 3) Stigma and fear, Families may feel ashamed and afraid to participate in restorative justice or not want to;
  - 4) Case complexity, Cases involving serious violence or past trauma can be more difficult to resolve through restorative justice and cases with multiple parties involved can make the restorative justice process more complicated; and
  - 5) Uncertainty of Outcome, Sometimes although not always there is no guarantee that Restorative justice will result in a solution that satisfies all parties.
- b. Opportunities for increased effectiveness in restorative justice involve Family:
  - 1) Increase awareness and understanding Conduct education and training on restorative justice for families and communities and we can encourage communities and families to disseminate information about the benefits and processes of restorative justice and also encourage dialogue and discussion about restorative justice in the community;
  - 2) Strengthening Support and Resources Provide specialized training for mediators and facilitators to handle cases involving families and develop clear guidelines and protocols for restorative justice processes involving families and build a network of professionals who can support families through restorative justice processes;
  - 3) Building Trust and Safety Creating a safe and comfortable space for families to share their experiences, ensuring the privacy and confidentiality of family information and involving families in the decision-making process about restorative justice;
  - 4) Customizing Restorative Justice Approaches Develop restorative justice programs that are specifically designed for families and take into account the needs and culture of families in the restorative justice process and can provide flexibility in the

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<sup>27</sup> Yuni Priskila Ginting, Abednego Ozora, dan Fasya Tasya Marceliani, "Upaya Penyelesaian Tindak Pidana Melalui Upaya Restorative Justice Dengan Melibatkan Keluarga Pelaku/Korban," *Jurnal Pengabdian West Science* 3, no. 4 (2024): 410–28, <https://doi.org/10.58812/jpws.v3i04.1117>.

restorative justice process to accommodate different family situations.

Overall, restorative justice assists prosecutors in providing more humane solutions and reducing the incidence of crime. By strengthening relationships among victims, criminals, and communities, this method helps the justice system to be more fair and effective in the long run. Restorative justice has been shown to be effective in reducing crime rates and improving relationships between offenders, victims and communities. However, successful implementation in prosecutors' offices requires stronger policy support, adequate training, and a change in the legal culture that still tends to punish. By addressing these challenges, prosecutors can play a role in building a justice system that is fairer and more adaptable to the requirements of society. Thus, the effectiveness of from the standpoint of the workplace restorative justice of the prosecutor is not only measured by the reduction of criminal offenses, but also by the ability to create a system that is more responsive, fair, and has a positive impact on all parties.

#### **4. Optimization of Restorative Justice in Indonesia**

Optimization is the process of achieving expected results in an efficient and effective manner. Optimisation is the endeavour to maximise activities in order to get the desired or benefits.<sup>28</sup> Instead that dealing with criminal cases, restorative justice is implemented specifically for individuals who are first-time offenders.<sup>29</sup> Restorative justice itself has the goal of restoring social conditions damaged by criminal acts, as well as providing opportunities for offenders to take responsibility and improve chances for criminals to accept accountability and improve what they did. In Indonesia, although restorative justice has begun to be applied in several cases, its application has not been optimal.

In 2020-2023, Indonesia made significant progress in implementing restorative justice, although challenges remain. Some regions have begun to apply this approach in minor criminal cases such as theft and maltreatment, with the support of the Police and Prosecutors' Office through policies that allow out-of-court settlements. Restorative justice has been shown to reduce unnecessary detention and support social reintegration for offenders. Since the issuance of Perja No. 15 of 2020, the Head of the Attorney General's office's Legal Information Center, Ketut Sumedana, noted that 4,443 cases were successfully resolved through

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<sup>28</sup> Praysi Nataly Rattu, Novie R.Pioh, dan Stefanus Sampe, "optimalisasi kinerja bidang sosial budaya dan pemerintahan dalam perencanaan pembangunan (studi di kantor badan perencanaan daerah kabupaten minahasa)," (2022) *Jurnal Governance* 2:1 1-9.

<sup>29</sup> L. Alfies Sihombing, "Efektivitas Restoratif Justice? Suatu Kajian Upaya Optimalisasi Sistem Peradilan Pidana Di Indonesia," (2023) *Jurnal Hukum Mimbar Justitia* 9:2 273-304, <https://doi.org/10.35194/jhmj.v9i2.3952>.

this approach in the period 2020-2023. The following table illustrates the details regarding the use of restorative justice in Indonesian criminal cases settlement:

**Tabel 1** Number of Restorative Justice cases for the period 2020-2023

Year	Number of cases approved	Number of cases rejected
2020	192	44
2021	388	34
2022	1.456	65
2023	2.407	38

Source: *hukumonline.com*, 2024

Based on the table above, the details are that in 2020, 44 cases were denied and 192 cases were approved utilizing restorative justice. 388 cases utilizing restorative justice were accepted in 2021, while 34 cases were denied. Furthermore, in 2022 1,456 cases were approved and 65 were rejected. The use of this approach was highest in 2023 with 2,407 cases approved and 38 rejected. Additionally, 4,784 restorative justice houses and 111 rehabilitation centers have been established.<sup>30</sup> This data illustrates the restorative justice is often used in Indonesia's criminal court system of Indonesia, although challenges remain, particularly in cases that do not qualify for this approach. At present, specific information about the quantity of cases approved or rejected regarding Indonesia's use of restorative justice for 2024 is not publicly available. However, by 2024 it is not yet publicly available. However, in 2024, the Supreme Court issued a control (PERMA) number 1 of 2024 on rules for judging crimes using restorative justice. This regulation aims to provide guidelines for judges using restorative justice approaches in the field of Indonesia's criminal justice system.

In addition, in December 2024, the president of Indonesia, Prabowo Subianto, announced plans to grant amnesty to around 44,000 prisoners, including imprisoned activists and promote reconciliation in Papua. The Minister of Justice, Supratman and Agtas, explained that the amnesty would cover several categories of prisoners. Some cases related to insult cases or ITE related to the President's head of state requested that the President asked to be given amnesty. Then there are also several cases related to people who have been sick for a long time, besides that, the government also pays special attention to minor cases in Papua.<sup>31</sup> The successful implementation one can observe restorative justice from the number of

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<sup>30</sup> Ady Thea DA, "Capaian Kejaksaan 2023, dari keadilan restoratif hingga penyelamatan keuangan negara," Hukum Online.Com, 2024, <https://www.hukumonline.com/berita/a/capaian-kejaksaan-2023--dari-keadilan-restoratif-hingga-penyelamatan-keuangan-negara-lt6593c5a373485/>.

<sup>31</sup> Cahyo, "Pemberian Amnesti Untuk Kemanusiaan dan Rekonsiliasi," Presiden RI, 2024, <https://www.presidentri.go.id/siaran-pers/presiden-prabowo-setujui-pemberian-amnesti-untuk-kemanusiaan-dan-rekonsiliasi/>.

cases that law enforcement officers, including police and the prosecutors, have successfully resolved through collaborative efforts. This reflects a strong spirit of cooperation to implement restorative justice as a more effective effort to reduce crime rates <sup>32</sup>. Although, in Indonesia, how i restorative justice is applied has increased significantly, there are still various challenges that need to be examined more closely. There are several factors that affect its implementation. Actually, the primary issue with implementing restorative justice lies is several factors following it, specifically the legal aspects themselves, the law enforcement aspects, such as the individuals who create and implement the law, the infrastucture aspects that support law enforcement, the cultural elements and the communal context in which the law is implemented. that are remaining local to the neighborhood and yet apply now<sup>33</sup>.

## Conclusion

Restorative justice is an method of criminal justice that highlights victim recovery, criminal responsibility, and restoration of social relations through dialogue and mediation. In Indonesia, this concept is supported by regulations such as Attorney General's Regulation No. 15 of 2020, Police Regulation No. 8 of 2021, and Law No. 11 of 2012 on the Juvenile Justice System. However, its implementation is still constrained by the disharmony of regulations, the ignorance of legal officials, and community resistance to this approach. According to the prosecutor's perspective, the development of restorative justice has shown significant progress. The AGO has made significant progress in implementing restorative justice, resolving 4,443 cases and building 4,784 restorative justice houses and 111 rehabilitation centers since 2020. However, its effectiveness is still hampered by weak coordination, limited resources, and lack of supervision mechanisms. Therefore, harmonization of regulations, capacity building of legal officers, and public education are required in order for restorative justice to be applied widely and consistently, creating a balance between law enforcement and social recovery in a fairer criminal justice system.

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<sup>32</sup> Moh Suharto dan Umar Ma'ruf, "Effectiveness Of Law Enforcement Implementation In Case Of Middle Assistance Oriented On Restorative Justice," (2021) *Law Development Jounal* 3:3 546-554, <https://doi.org/10.30659/ldj.3.3.546-554>.

<sup>33</sup> Habibul Umam Taqiuddin dan Risdiana, "Penerapan Keadilan Restoratif (Restorative Justice) Dalam Praktik Ketatanegaraan," (2022) *Jurnal Ilmu Sosial Dan Pendidikan (JISIP)* 6:1 3596-3610, <https://doi.org/10.58258/jisip.v6i1.2972>.



## Suggestion

To optimize the application of restorative justice in Indonesia, in my opinion, requires a comprehensive approach, among others: First, legal factors need to be clarified and regulations need to be updated to support implementing restorative justice, so that the law does not only focus on punishment, but also regarding the restoration of the the victim perpetrator relationship. Secondly, law enforcers need more training and awareness about the concept of restorative justice among law enforcement officers, so that they can be more objective and open to this approach in the judicial process. Third, community factors, education to the community about the benefits and basic principles it is crucial to practice restorative justice to create broad social support for this concept. And fourth, cultural factors, it is necessary to take a sensitive approach to the local values prevailing in society, so that restorative justice can be integrated with local wisdom and accepted as part of a more humanist conflict resolution.

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