

## Restorative Justice Principles Serve as the Foundation of Criminal Justice Proceedings

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### ABSTRACT

Restorative justice offers the opportunity for criminal resolution through mediation between victims and offenders via family group discussions and community-based services. The implementation of restorative justice principles relies on a country's chosen legal framework. While it may not be the primary system, integrating restorative justice principles can still enhance justice, certainty, and the effectiveness of the law. In Indonesia, law enforcement faces numerous unresolved issues, particularly concerning criminal cases within society. The expected fairness from law enforcement remains elusive for many Indonesians. Additionally, the country's criminal justice system lacks adequate provisions for victim support, often sidelining their needs in favor of focusing solely on perpetrators. Protecting victims' rights is integral to upholding human rights standards; thus, ensuring their rights are safeguarded is paramount. In Indonesia's current system, victims often receive less protection compared to suspects, highlighting the need for a more balanced approach. Progress towards justice for both victims and perpetrators requires law enforcement to adopt a progressive mindset, allowing flexibility in rule interpretation to better align with societal justice expectations, as the law is not merely a set of texts but a tool for achieving desired justice outcomes. In a country that does not adhere to restorative justice because it does not rule out the possibility of applying a principle of restorative justice to obtain justice, certainty and benefits in law enforcement because it cannot resolve a problem in cases of criminal acts by one party against another to fulfill a sense of justice. For law enforcement that the public cannot yet experience in the criminal justice system in Indonesia. Implementing Restorative Justice will ensure that criminals will not repeat crimes in the future. Because progressive law is a law made by humans, institutions that make regulations must reflect an integration that reflects justice so that the law that is formed is expected to be right on target and create justice and order that is desired by victims and the community, a legal state that is transparent and creates a belief in the country in implementing restorative justice

**Keywords:** Law, Restorative Justice, Criminal Act

## ABSTRAK

Keadilan restoratif menawarkan kesempatan untuk penyelesaian pidana melalui mediasi antara korban dan pelaku melalui diskusi kelompok keluarga dan layanan berbasis komunitas. Penerapan prinsip-prinsip keadilan restoratif bergantung pada kerangka hukum yang dipilih oleh suatu negara. Meskipun mungkin tidak menjadi sistem utama, mengintegrasikan prinsip-prinsip keadilan restoratif masih dapat meningkatkan keadilan, kepastian, dan efektivitas hukum. Di Indonesia, penegakan hukum menghadapi banyak masalah yang belum terselesaikan, terutama terkait dengan kasus pidana dalam masyarakat. Keadilan yang diharapkan dari penegakan hukum masih belum dirasakan oleh banyak warga Indonesia. Selain itu, sistem peradilan pidana di negara ini kurang menyediakan ketentuan yang memadai untuk dukungan korban, sering kali mengabaikan kebutuhan mereka dan lebih fokus pada pelaku. Melindungi hak-hak korban adalah bagian integral dari penegakan standar hak asasi manusia; oleh karena itu, memastikan hak-hak mereka terlindungi adalah hal yang sangat penting. Dalam sistem Indonesia saat ini, korban sering kali menerima perlindungan yang lebih sedikit dibandingkan dengan tersangka, yang menyoroti perlunya pendekatan yang lebih seimbang. Kemajuan menuju keadilan bagi korban dan pelaku memerlukan penegak hukum untuk mengadopsi pola pikir progresif, memungkinkan fleksibilitas dalam interpretasi aturan agar lebih sesuai dengan harapan keadilan masyarakat, karena hukum bukan hanya sekumpulan aturan hukum tetapi alat untuk mencapai hasil keadilan yang diinginkan. didalam suatu negara tidak menganut restoratif justice karena tidak me, menutup kemungkinan menerapkan suatu prinsip keadilan restoratif untu mendapatkan suatu keadilan, kepastian dan kemanfaatan dalam penegakan hukum karena belum bisa menyelesaikan suatu masalah dalam kasus tindak pidana oleh satu pihak dengan pihak lainnya untuk memenuhi suatu rasa keadilan bagi penegakan hukum yang belum dapat dirasakan masyarakat didalam suatu sistem peradilan pidana di Indonesia. Didalam melaksanakan RestorativeJustice (Keadilan Restoratif) akan membuat pelaku kejahatan tidak akan mengulangi kejahatan dikemudian hari. karena hukum yang progresif merupakan hukum yang dibuat oleh manusia, sehingga untuk lembaga yang membuat regulasi harus mencerminkan suatu integrasi yang mencerminkan suatu keadilan sehingga hukum yang dibentuk diharapkan tepat sasaran dan menciptakan suatu keadilan dan ketertiban yang diinginkan oleh korban dan masyarakat,penegakan hukum yang transparan dan menciptakan suatu kepercayaan kepada negaranya didalam menerapkan restoratif justice.

Kata Kunci : Hukum,Keadilan Restoratif,Tindak Pidana

## A. BACKGROUND

In Indonesia's judicial system, there have been advancements in the concept of sentencing objectives. Initially, retribution, which seeks revenge without considering broader impacts, was prominent. Then came the idea of restraint, aiming to isolate offenders for community safety. Individual and general deterrence were also introduced to dissuade offenders and set examples for society. Another development is reformation or rehabilitation, focusing on the offender's improvement for their societal reintegration.

Restorative Justice principles emphasize shared responsibility between the state and the community in addressing crime. It aims for collaborative problem-solving among all involved parties to address future consequences. Restorative Justice prioritizes victim, perpetrator, and community restoration, relying heavily on community involvement to correct societal deviations. Recognizing and honoring victims through perpetrator restitution, such as compensation or community service, is crucial. The transition from traditional punishment models to community-focused justice characterizes Restorative Justice's emergence, signaling a shift in juvenile justice towards comprehensive resolution for all parties involved.

Restorative justice, or negotiation, prioritizes community protection, encourages perpetrator accountability towards victims and the community, and fosters collective agreements. In practice, consensus among all involved parties is sought. Empowerment lies at the core of restorative ideology, determining its success.<sup>1</sup>

In traditional contexts, victims are typically expected to remain silent, accept their situation, and refrain from interfering in the criminal process. However, the concept of restorative justice fundamentally aims to redefine the role of victims. Instead of passive observers waiting for the criminal justice system to handle their cases, victims are empowered to actively participate in the process. Restorative justice literature often emphasizes empowerment in criminal cases, involving victims, perpetrators, and the community.<sup>2</sup>

Progressive sentencing, rooted in restorative justice principles, incorporates a dual-

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<sup>1</sup> Eva Achjani Zulfa. *Keadilan Restoratif*, Badan Penerbit FH UI, Jakarta, 2009, hlm.17

<sup>2</sup> John Braithwaite, *Restorative Justice & Responsive Regulation*, (England: Oxford Universit Press, 2002)

track system that balances relative and retributive punishment. This system includes criminal sanctions, focused on punishing wrongful acts to deter offenders, and action sanctions, which aim to anticipate and address the underlying behavior of the offender. While criminal sanctions react to specific acts, action sanctions are more forward-looking, aiming to assist offenders in rehabilitation.

Law enforcement is intricately connected to the community it serves. The community's structure can either support law enforcement by providing social resources or present challenges that hinder its effectiveness. Dissatisfaction with formal justice systems in many countries has sparked a renewed interest in traditional and customary justice practices. This has led to calls for alternative approaches to crime and social disruption, which often involve active participation from affected parties and the community. Restorative justice programs operate on the principle that conflicts should be resolved collaboratively, with an emphasis on mitigating negative consequences. They also promote local decision-making structures and community involvement as means to foster peaceful conflict resolution, tolerance, inclusivity, appreciation for diversity, and responsible community practices.<sup>3</sup>

Restorative justice, a pivotal advancement in human thinking, traces its origins back to ancient justice traditions found in Arabia, Greece, Rome, and societies that embraced similar approaches. Even in cases as severe as murder, restorative methods from the Germanic Moots spread across Europe following the decline of Rome. Meanwhile, ancient Hindu India, under the Vedic Civilization, advocated for "forgiveness for the redeemer," while ancient Buddhist, Taoist, and Confucian traditions, now intertwined with Western influences in North Asia, also contributed to these principles.

Progressive law operates under the fundamental belief that law exists for the betterment of humanity, not the reverse. It rejects the notion of law as an absolute and final authority but instead views it as a moral and conscientious institution, profoundly influenced by its ability to serve humanity. The purpose of law is to guide individuals towards a just, prosperous life and happiness, with humanity and justice serving as the primary objectives within our legal framework. Consequently, the notion of "law for humans" equates to "law for justice," placing humanity and justice above the law itself. The essence lies in prioritizing the enforcement of just laws in Indonesia, leading to the

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<sup>3</sup> Lilik Mulyadi, *Penyelesaian Perkara DiLuar Pengadilan Melalui Dimensi Mediasi Penal (Penal Mediation Dalam Sistem Peradilan Pidana)*

establishment of societal well-being often described as a "fair and prosperous society."<sup>4</sup>

Characteristics of Restorative Justice according to Muladi<sup>5</sup>:

- a. Crime is formulated as one person's violation against another and is seen as a conflict;
- b. Attention is focused on resolving accountability and obligations for the future;
- c. Normative nature is built on dialogue and negotiation;
- d. Restitution as a means of repairing parties, reconciliation, and restoration is the primary goal;
- e. Justice is formulated as a relationship among rights, assessed based on outcomes;
- f. Attention is focused on addressing social wounds caused by crime;
- g. The community acts as a facilitator in the restorative process;
- h. The roles of victims and perpetrators are acknowledged, both in identifying issues and resolving the rights and needs of victims. Perpetrators are encouraged to take responsibility;
- i. Perpetrator accountability is formulated as understanding the impact of their actions and directed towards making the best decisions;
- j. Criminal acts are understood in a comprehensive context, moral, social, and economic;
- k. Stigma can be removed through restorative actions.

In Indonesia's judicial system, there have been advancements regarding sentencing objectives. It commences with retribution, representing absolute retaliation against offenders without considering broader impacts. Then, there's the concept of restraint, aiming to isolate offenders from community life to ensure safety and prevent disturbances. Additionally, there are individual deterrence and general deterrence, intending to deter offenders individually or serve as community examples to prevent similar crimes. Further development includes reformation or rehabilitation, aiming to improve offenders so they can reintegrate into society positively. These sentencing concepts evolve from traditional theories like retributive and rehabilitative justice to modern ones like alternative, transitional, and increasingly, restorative justice.

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<sup>4</sup> Lasmadi, Sahuri, Mediasi Penal Dalam Sistem Peradilan Pidana Indonesia. Journal Unja 2011, hm 6

<sup>5</sup> Muladi, Kapita Selekt Sistem Peradilan Pidana, (Semarang: BP Universitas Diponegoro, 2015), hlm. 127-129

Restorative Justice, endorsed by criminal law experts, psychologists, and child behavior specialists, is seen as suitable and beneficial in resolving conflicts involving juvenile offenders. It prioritizes justice within the community by not only punishing offenders but also restoring victims and stakeholders to their original conditions. It acknowledges that crimes cannot be justified legally while respecting individual rights. According to Restorative Justice, addressing crime is not solely the state's responsibility but also the community's. Thus, it emphasizes restoring losses suffered by victims and the community, requiring community involvement to correct errors and deviations. Recognizing victims involves obligating offenders to undergo restitution or face consequences for their actions. This restitution may include compensation, community service, or specific improvements agreed upon by all parties. The shift towards restorative justice signifies a move towards achieving justice for all involved parties within the criminal justice system.<sup>6</sup>

Based on the above description, the writer is interested in choosing the title: "Restorative Justice Principles Serve as the Foundation of Criminal Justice Proceedings." The research focuses on understanding the legal standing regarding the implementation of restorative justice and exploring how restorative justice is applied within the criminal justice system in Indonesia.

## **B. RESEARCH METHODOLOGY**

This research adopts a qualitative normative approach in legal studies. It perceives law as a set of rules dictating permissible and impermissible actions. Normative legal studies are conducted within various branches of law, including criminal, constitutional, and civil law, focusing on the theoretical aspect of law. Its domain lies in what should be, examining norms applicable at the time or outlined in legislation. The juridical-normative method is employed for this research, involving analyzing legal literature, principles, concrete laws, systematics, and vertical and horizontal synchronization to explore the application of restorative justice principles in Indonesia's criminal justice system. Legal materials are gathered through identifying and cataloging legislation, reviewing literature and scholarly works, and examining other relevant legal sources.

In this research, the analysis of legal issues employs mixed logical thinking, a blend of inductive and deductive reasoning patterns applied to concrete legal matters. It involves

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<sup>6</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana Prenada Media Group, 2015), hlm. 35

abstracting legal principles, values, concepts, and norms from positive legal rules to analyze the underlying legal issues comprehensively.

### C. FINDING & DISCUSSION

Restorative justice principles are fundamental in the criminal justice systems of developed nations. However, in Indonesia, these principles are often overshadowed by punitive approaches, neglecting the importance of restoring relationships between offenders and victims of crime, both during and after sentencing. Implementing restorative justice as a means of seeking peaceful conflict resolution outside the courtroom remains a challenge. Despite the potential for customary laws to serve as restorative justice mechanisms, their recognition and codification in national law are lacking in Indonesia. Nevertheless, customary law can effectively resolve conflicts within communities and satisfy conflicting parties.

The emergence of restorative justice ideas critiques the application of the criminal justice system, particularly the reliance on imprisonment, which is seen as ineffective in resolving social conflicts. This ineffectiveness stems from the failure to involve conflicting parties in conflict resolution. Victims continue to suffer, while imprisoned offenders often create new hardships for their families and others. Muladi, in his book "Selected Capital of the Criminal Justice System," argues that the criminal justice system is a complex network encompassing substantive criminal law, procedural criminal law, and criminal enforcement law. However, this institution must be understood within its social context. A purely formal approach, solely focused on legal certainty, can lead to injustices.<sup>7</sup>

Law enforcement in Indonesia still grapples with unresolved issues, particularly in criminal cases involving various parties within communities. The anticipated sense of justice from law enforcement remains elusive in the country. Furthermore, Indonesia's criminal justice system lacks comprehensive provisions for victim rights, often resulting in the oversight or neglect of victims due to the system's predominant focus on perpetrators. Protecting victims' rights is inherently linked to safeguarding human rights, necessitating adequate protection to ensure their rights are upheld. In this context, restorative justice emerges as a potential solution to address this situation. A renewal of restorative social justice that involves individuals, indirectly and involves society abstractly. In this process

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<sup>7</sup> Rudi Rizky (ed), *Refleksi Dinamika Hukum (Rangkaian Pemikiran dalam Dekade Terakhir)*, Perum Percetakan Negara Indonesia, Jakarta, 2008, hlm. 4

we can see from the situation how there is a process of dialogue and negotiation so that problems can be resolved because in the implementation of obtaining justice, an approach to justice is needed that involves the role of In society, there is a legal provision for criminal punishment where the perpetrator of a crime, to resolve the conflict that occurs as a result of a crime committed by the perpetrator as a result of mediation, must be agreed upon by both parties in order to fulfill the sense of justice in both the community and the victim.

Therefore, there is a pressing need for innovative approaches to achieve a sense of justice in case adjudication by embracing the concept of restorative justice. Restorative justice has gained global popularity as an alternative method for addressing and preventing unlawful acts within formal systems, offering holistic and efficacious solutions. Its objective is to empower victims, offenders, families, and communities to address unlawful behavior by fostering awareness and consciousness as the cornerstone for enhancing community cohesion. Thus, innovative approaches are imperative to instill a sense of justice in case adjudication by adopting restorative justice principles, which present comprehensive and effective solutions globally. Restorative justice endeavors to empower victims, offenders, families, and communities to address unlawful behavior by cultivating awareness and consciousness as the bedrock for advancing community well-being.<sup>8</sup>

Restorative justice's role in the criminal justice system is delineated into two categories: external to the system and within the application of restorative justice principles. However, current reality indicates that the majority of society continues to rely on national laws and established legal procedures. Furthermore, policymakers maintain their trust in and reliance on the existing criminal justice system. Consequently, the legislative and executive branches perceive restorative justice approaches merely as alternative models for resolving criminal cases within a different legal framework than the prevailing national law. Law enforcement, grounded in legislation, will ensure an independent and accountable judiciary. This can be achieved through a systemic approach to law enforcement, utilizing all elements involved as a unified entity. Explicit regulation of the position of restorative justice in Indonesia is necessary and can be found in various legislations, including the 1945 Constitution of the Republic of Indonesia, Law Number 48 of 2009 Regarding Judicial Authority, Law Number 14 of 1985 as amended by Law Number 5 of 2004, and lastly amended by Law Number 3 of 2009 Regarding the Supreme

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<sup>8</sup> Satjipto Rahardjo, *Masalah Penegakan Hukum Suatu Tinjauan Sosiologis*, (Jakarta: Badan Pembinaan Hukum Nasional Departemen Kehakiman, 1993), 116



Court.<sup>9</sup>

Therefore, considering that the Supreme Court (SC) is the state institution responsible for implementing judicial authority and serving as the highest judiciary, it is appropriate for the Supreme Court (SC) to embrace and apply the approach or concept of restorative justice. Moreover, the Judicial Authority Law, specifically Law Number 48 of 2009 Regarding Judicial Authority, stipulates in Article 5 that judges must explore societal values (the living law or local wisdom). Thus, judges are essentially obligated to apply the approach or concept of restorative justice in case resolutions, as it resonates with the spirit of the Indonesian nation, Pancasila, in alignment with customary and religious values.<sup>10</sup>

It is worth noting that the concept of restorative justice is not limited to the Supreme Court (SC) alone. In the broader context of criminal justice, including in Indonesia, various stages or processes must be navigated by seekers of justice at different levels, such as investigation, prosecution, courtroom trials, and the judicial decision-making stage. This extends even to the phase where seekers of justice pursue legal remedies (both regular and extraordinary). Hence, the author asserts that the adoption and implementation of the concept of restorative justice should be integrated into various levels or processes of justice, as mentioned above.

The concept of restorative justice applied in Indonesia serves as an alternative approach to resolving cases, shifting away from the mechanistic formality of punishment, which primarily focuses on imposing sanctions and instilling despair in the perpetrator. Instead, it promotes a dialogue and mediation process involving the perpetrator, victim, perpetrator's/family's, and other relevant parties. The aim is to collaboratively reach an agreement for fair and balanced case resolution, ultimately restoring the situation to its original state and fostering positive relationship patterns within society. Restorative justice is integrated into Indonesian law for minor criminal cases, cases involving women and children in conflict with the law, as well as narcotics cases.<sup>11</sup>

Moreover, the Public Prosecutor holds the authority to close cases for legal reasons, including the possibility of out-of-court settlements, as outlined in Article 3 paragraph (2) letter e of Perja Number 15 of 2020. The Attorney General's Regulation further elaborates on the provisions for settling cases out of court for specific criminal acts, particularly those

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<sup>9</sup> Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman

<sup>10</sup> Saut P. Panjaitan, *Dasar-Dasar Ilmu Hukum: Asas, Pengertian, dan Sistematisa*, (Palembang, Penerbit Universitas Sriwijaya, 2014), hlm. 158-159

<sup>11</sup> Setyo Utomo, *Sistem Pemidanaan Dalam Hukum Pidana Yang Berbasis Restorative Justice*, *Mimbar Justitia Fakultas Hukum Universitas Suryakencana*, Volume 5 Nomor 01, hlm. 86

involving a maximum fine paid voluntarily or those resolved through restorative justice, as stated in Article 3 paragraph (3). In this context, the prosecutor, acting as the *Dominus Litis* or the "controller of the case," can assess the urgency of case progression, considering whether an out-of-court resolution is feasible, as per the guidelines provided in Perja Number 15 of 2020.<sup>12</sup>

Efforts to reform national criminal law are aimed at aligning with the demands of national development across various sectors. This endeavor is guided by the evolving legal awareness and dynamics within society, ensuring integration and coherence with the evolving legal landscape.

The integration of Restorative Justice into Indonesia's Criminal Justice System. Concerning criminal cases, the Restorative Justice system in Indonesia strives, at its core, to mend or rectify the criminal actions committed by offenders by engaging them, victims, and their communities directly in resolving the issue. It diverges from the treatment of adults, which primarily centers on punitive measures, focusing on both "safeguarding society" and "rehabilitating individual offenders." Restorative justice emphasizes community reconciliation rather than punishment. Within criminal law, penal mediation serves noble objectives in resolving criminal cases within society.<sup>13</sup>

Conceptually, as articulated by Stefanie Trankle in Barda Nawawi Arief, the advanced penal mediation rests on the following ideas and operational principles<sup>14</sup>.

1. Conflict handling, or Conflict Management (*Konfliktbearbeitung*), involves the mediator's task of getting the parties to set aside legal frameworks and engage in communication processes. This is based on the idea that crime has caused interpersonal conflict, which is the target of the mediation process.
2. Process orientation (*Prozessorientierung*) in penal mediation prioritizes the quality of the process over the outcome, such as raising the offender's awareness of their wrongdoing, addressing conflict needs, and providing victims with peace from fear.
3. Informal proceedings (*Informalität*) characterize penal mediation as an informal process, devoid of bureaucracy and strict legal procedures.
4. Active and autonomous participation (*Parteiautonomie/Subjektivierung*) entails

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<sup>12</sup> Perja Nomor 15 Tahun 2020. Peraturan Jaksa Agung

<sup>13</sup> Teguh Prasetyo, *Filsafat, Teori dan Ilmu Hukum: Pemikiran Menuju Masyarakat yang Berkeadilan dan Bermartabat*, Jakarta: PT Raja Grafindo Persada, 2012, h. 312 Penerbit Universitas Sriwijaya, 2014), hlm. 158-159

<sup>14</sup> Yudha Bhakti Ardhiswatra, *Penafsiran dan Konstruksi Hukum*, (Bandung: Alumni, 2018), hlm. 9

viewing the parties (offenders and victims) not as objects of criminal legal procedures but as subjects with personal responsibilities and capabilities to act. They are expected to act of their own volition.

The main challenge in implementing the restorative justice approach or concept within a legal system in general, and within the criminal justice system in particular, lies in the resolution mechanisms offered by the restorative justice approach, which differ from the resolution mechanisms offered by the current criminal justice system. Therefore, it is still difficult to accept. This is because the mechanisms offered by the restorative justice approach or Penal Mediation for Out-of-Court Settlements are different.<sup>15</sup>

To implement the principles of restorative justice, it is necessary to understand the provisions contained in out-of-court dispute resolution, including<sup>16</sup>:

1. Mediators need to ensure that those involved in conflicts prioritize the communication process. In communicating that crime, if left unchecked, will lead to interpersonal conflict and may even escalate into societal conflict, mediators need to explain the importance of mediation in resolving hurt feelings.
2. Prioritizing the quality of the process is essential. Mediation should focus on the process rather than the outcome, avoiding a win-lose mentality.
3. Mediation should be informal, striving to avoid formal discussions so that all parties involved feel most valued.
4. It is hoped that everyone involved in the mediation process will take responsibility for the outcomes achieved in conducting penal mediation.

#### **D. CONCLUSIONS AND RECOMMENDATIONS**

The placement of restorative justice within Indonesia is clearly defined in various legislations, including the Constitution of the Republic of Indonesia of 1945, Law Number 48 of 2009 concerning Judicial Power, Law Number 14 of 1985 as amended by Law Number 5 of 2004, and further amended by Law Number 3 of 2009 concerning the Supreme Court. Hence, given that the Supreme Court (SC) functions as the state institution responsible for implementing judicial power and serves as the apex court, it is only fitting for the Supreme Court (SC) to embrace, adhere to, and apply the concept of restorative

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<sup>15</sup> Muhammad Zainul Arifin, Penerapan Prinsip Detournement De Pouvoir Terhadap Tindakan Pejabat Bumn Yang Mengakibatkan Kerugian Negara Menurut Undang-Undang Nomor 17 Tahun 2003 Tentang Keuangan Negara, Jurnal Nurani, <http://jurnal.radenfatah.ac.id/index.php/Nurani/article/view/2741/2070>

<sup>16</sup> Muhammad Zainul Arifin, Kajian Tentang Penyitaan Asset Koruptor Sebagai Langkah Pemberian

justice.

Moreover, the Judicial Power Law, particularly Article 5 of Law Number 48 of 2009 concerning Judicial Power, explicitly mandates that judges must explore the societal values (the living law or local wisdom). Therefore, fundamentally, judges must or should adopt the approach or concept of restorative justice in case resolutions because restorative justice aligns with the ethos of the Indonesian nation, Pancasila, in harmony with customary law values, and in accordance with religious values.

In Indonesia's criminal justice system, there are distinct stages that individuals seeking justice must navigate, including investigation, prosecution, trial, and the judgment phase overseen by the judge. Even during the stages where individuals pursue legal remedies, both ordinary and extraordinary, these processes are integral. Therefore, the author advocates for the adoption and integration of the restorative justice concept throughout the various levels and stages of the judicial process, as outlined.

Restorative justice posits that addressing crimes isn't solely the state's responsibility but also that of society. Consequently, the concept of restorative justice is rooted in the understanding that crimes causing harm necessitate restoration, encompassing both the harm endured by the victim and that borne by the community.

The integrated application of restorative justice is essential, starting from investigation through prosecution to the judicial stage. Failure to implement it in any of these stages undermines the achievement of restorative decisions. Conversely, full adherence to restorative justice principles across all components ensures effective realization of the concept. Therefore, innovative approaches are necessary to promote justice in resolving cases through restorative justice principles.

Examples of the application of restorative justice in Indonesia are:

- a. Application of Restorative Justice to Child Domestic Workers:
- b. The application of restorative justice in resolving criminal acts of violence against child domestic workers (PRTA) has been carried out in Indonesia. In this process, victims, perpetrators and the community play an active role in finding a just solution through dialogue and mediation.
- c. Application of Restorative Justice in Theft, Theft cases have been implemented using a restorative justice approach. Perpetrators must repair the harm done to victims and society, and admit the error of their behavior.
- d. Application of Restorative Justice in Persecution:

- e. Persecution has also been implemented using a restorative justice approach. Perpetrators must repair the harm done to victims and society, and admit the error of their behavior.
- f. Application of Restorative Justice in Eradicating Intellectual Property Crimes:
- g. The application of restorative justice in eradicating criminal acts of intellectual property rights has been carried out in Indonesia. In this process, victims and perpetrators play an active role in seeking a fair resolution through dialogue and mediation.
- h. Application of Restorative Justice in Education
- i. The application of restorative justice in education has been carried out in Indonesia. In this process, students play an active role in seeking a fair solution through dialogue and mediation, as well as repairing the harm done to teachers and society.

Thus, restorative justice has been applied in various cases in Indonesia, helping to achieve meaningful justice and reducing crime rates.

Restorative justice, a globally favored alternative for addressing and preventing unlawful behavior formally, offers comprehensive and effective solutions. It empowers victims, offenders, families, and communities to address wrongdoing by promoting awareness and consciousness, thereby enhancing societal well-being. Implementing restorative justice involves prioritizing peace, mediation, and reconciliation, with active participation from offenders, victims, law enforcement, and the broader community in resolving criminal cases. This contrasts sharply with the rigid and overly formalistic traditional criminal justice system, which prioritizes legal certainty over societal justice. An idea that is applied in restorative justice is a criticism in the implementation of the criminal justice system by not carrying out strict legal sanctions in implementing justice so that it gives rise to many pros and cons in society regarding the application of law which adheres to the principle of legality. We can see that the application of justice when there is a solution that is appropriate according to society and the victim and there is an agreement that the perpetrator will be responsible for his actions

Restorative justice principles must permeate all subsystems of the criminal justice system consistently and continuously, fostering an integrated system that promotes

restoration. It's crucial to socialize the concept and practice of restorative justice across law enforcement agencies. Judges should consistently apply restorative justice principles in their verdicts, The emphasis is on legal certainty rather than justice in society.

The concept or approach to restorative justice must be implemented comprehensively, consistently and sustainably by all criminal justice subsystems to create a criminal justice system that is victim-centered and integrated. To achieve peace, law enforcement officials will apply the concept of restorative justice. So that justice is achieved in decision making.

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Saut P. Panjaitan, *Dasar-Dasar Ilmu Hukum: Asas, Pengertian, dan Sistematika*, (Palembang, Penerbit Universitas Sriwijaya, 2014), hlm. 158-159

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