



## THE ESSENCE OF RESTORATIVE JUSTICE IN THE DEVELOPMENT OF INDONESIAN LAW

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### ABSTRACT

**Objective:** This study aims to explore the essence of Restorative Justice within the framework of Indonesian legal development. It seeks to understand how Restorative Justice principles are integrated into the Indonesian legal system, assess their impact on law enforcement and justice outcomes, and provide policy recommendations for enhancing their implementation.

**Theoretical Framework:** The theoretical framework of this research is rooted in Restorative Justice principles, emphasizing the repair of harmed relationships and the involvement of all stakeholders in conflict resolution. By adopting a normative legal approach and utilizing a case law methodology, this study analyzes the compatibility of Restorative Justice principles with Indonesian legal norms and evaluates their application in resolving legal cases.

**Methodology:** This research delves into Restorative Justice within Indonesian law by analyzing judicial decisions, legislative reforms, and historical precedents. It employs normative legal analysis, utilizing Restorative Justice principles to examine applicable norms and their implementation in resolving legal cases. Through a case law approach, the study aims to uncover the essence of Restorative Justice in Indonesian legal development. By scrutinizing judicial decisions, legislative reforms, and historical precedents, it seeks to demonstrate how Restorative Justice principles can be effectively integrated into the Indonesian legal system and assess their impact on law enforcement and justice outcomes. The research aims to contribute to a deeper understanding of Restorative Justice and provide evidence-based policy recommendations to enhance its implementation, considering both normative aspects and empirical observations from the field.

**Results and Conclusion:** Restorative Justice as an approach can realize legal compliance, justice and legal expediency simultaneously, therefore it is important for Indonesia to establish a special law regulating Restorative Justice. This will provide a solid and clear legal framework for the application of this concept in the justice system. With a specific law, there will be more detailed guidance on how Restorative Justice can be implemented effectively and equitably across law enforcement agencies. In addition, this law can also strengthen Indonesia's commitment to making Restorative Justice a mainstream approach in law enforcement, creating a justice system that is not only fair, but also equitable for all parties involved in the process. Thus, by regulating Restorative Justice through a separate law, Indonesia affirms its position as a leader in building a justice system based on human values and universal justice.

**Keywords:** Restorative Justice, Indonesian Law, Essence, Development.

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## A ESSÊNCIA DA JUSTIÇA RESTAURATIVA NO DESENVOLVIMENTO DA LEGISLAÇÃO INDONÉSIA

### RESUMO

**Objetivo:** Este estudo visa explorar a essência da Justiça Reparadora no âmbito do desenvolvimento jurídico indonésio. Procura compreender a forma como os princípios da justiça reparadora são integrados no sistema jurídico indonésio, avaliar o seu impacto nos resultados da aplicação da lei e da justiça e formular recomendações políticas para melhorar a sua aplicação.

**Estrutura teórica:** O quadro teórico desta pesquisa é baseado nos princípios da Justiça Restaurativa, que enfatizam a reparação de relacionamentos danificados e a participação de todas as partes interessadas na resolução de conflitos. Adotando uma abordagem jurídica normativa e usando uma metodologia jurisprudencial, este estudo analisa a compatibilidade dos princípios da Justiça Restaurativa com as normas jurídicas indonésias e avalia sua aplicação na resolução de processos judiciais.

**Metodologia:** Esta pesquisa aprofunda a Justiça Restaurativa dentro da legislação indonésia, analisando decisões judiciais, reformas legislativas e precedentes históricos. Utiliza uma análise jurídica normativa, utilizando os princípios da Justiça Reparadora para examinar as regras aplicáveis e a sua aplicação na resolução de processos judiciais. Através de uma abordagem da jurisprudência, o estudo visa descobrir a essência da Justiça Restaurativa no desenvolvimento jurídico indonésio. Ao examinar as decisões judiciais, as reformas legislativas e os precedentes históricos, procura demonstrar de que forma os princípios da justiça reparadora podem ser eficazmente integrados no sistema jurídico indonésio e avaliar o seu impacto nos resultados da aplicação da lei e da justiça. A investigação visa contribuir para uma compreensão mais profunda da Justiça Reparadora e fornecer recomendações políticas baseadas em dados concretos para melhorar a sua aplicação, tendo em conta tanto os aspectos normativos como as observações empíricas no terreno.

**Resultados e Conclusão:** A justiça restaurativa como abordagem pode realizar conformidade legal, justiça e conveniência legal simultaneamente, por isso é importante para a Indonésia estabelecer uma lei especial que regule a justiça restaurativa. Tal proporcionará um quadro jurídico sólido e claro para a aplicação deste conceito no sistema judicial. Com uma lei específica, haverá orientações mais detalhadas sobre como a justiça restaurativa pode ser efetiva e equitativamente implementada em todas as agências de aplicação da lei. Além disso, essa lei também pode fortalecer o compromisso da Indonésia de tornar a justiça restaurativa uma abordagem abrangente para a aplicação da lei, criando um sistema de justiça que não seja apenas justo, mas também equitativo para todas as partes envolvidas no processo. Assim, ao regular a Justiça Restaurativa através de uma lei independente, a Indonésia afirma sua posição como líder na construção de um sistema de justiça baseado em valores humanos e justiça universal.

**Palavras-chave:** Justiça Restaurativa, Direito Indonésio, Essência, Desenvolvimento.

## LA ESENCIA DE LA JUSTICIA REPARADORA EN EL DESARROLLO DEL DERECHO INDONESIO

### RESUMEN

**Objetivo:** Este estudio pretende explorar la esencia de la Justicia Restaurativa en el marco del desarrollo legal indonesio. Pretende comprender cómo se integran los principios de la Justicia Restaurativa en el sistema jurídico indonesio, evaluar su impacto en la aplicación de la ley y en los resultados de la justicia, y ofrecer recomendaciones políticas para mejorar su aplicación.

**Marco teórico:** El marco teórico de esta investigación se basa en los principios de la Justicia Restaurativa, que hacen hincapié en la reparación de las relaciones dañadas y en la participación de todas las partes interesadas en la resolución de conflictos. Adoptando un enfoque jurídico normativo y utilizando una metodología de jurisprudencia, este estudio analiza la compatibilidad de los principios de Justicia Restaurativa con las normas jurídicas indonesias y evalúa su aplicación en la resolución de casos judiciales.

**Metodología:** Esta investigación profundiza en la Justicia Restaurativa dentro de la legislación indonesia mediante el análisis de decisiones judiciales, reformas legislativas y precedentes históricos. Emplea el análisis jurídico normativo, utilizando los principios de la Justicia Restaurativa para examinar las normas aplicables y su aplicación en la resolución de casos judiciales. A través de un enfoque de jurisprudencia, el estudio pretende descubrir la



esencia de la Justicia Restaurativa en el desarrollo jurídico indonesio. Mediante el escrutinio de decisiones judiciales, reformas legislativas y precedentes históricos, pretende demostrar cómo los principios de la Justicia Restaurativa pueden integrarse eficazmente en el sistema jurídico indonesio y evaluar su impacto en la aplicación de la ley y en los resultados de la justicia. La investigación pretende contribuir a una comprensión más profunda de la Justicia Restaurativa y proporcionar recomendaciones políticas basadas en pruebas para mejorar su aplicación, teniendo en cuenta tanto los aspectos normativos como las observaciones empíricas sobre el terreno.

**Resultados y Conclusión:** La Justicia Restaurativa como enfoque puede realizar el cumplimiento legal, la justicia y la conveniencia legal simultáneamente, por lo tanto es importante para Indonesia establecer una ley especial que regule la Justicia Restaurativa. Esto proporcionará un marco legal sólido y claro para la aplicación de este concepto en el sistema judicial. Con una ley específica, habrá una orientación más detallada sobre cómo la Justicia Restaurativa puede ser implementada de manera eficaz y equitativa en todos los organismos encargados de hacer cumplir la ley. Además, esta ley también puede fortalecer el compromiso de Indonesia para hacer de la Justicia Restaurativa un enfoque general en la aplicación de la ley, la creación de un sistema de justicia que no sólo es justo, sino también equitativo para todas las partes involucradas en el proceso. Así, al regular la Justicia Restaurativa mediante una ley independiente, Indonesia afirma su posición de líder en la construcción de un sistema de justicia basado en los valores humanos y la justicia universal.

**Palabras clave:** Justicia Reparadora, Derecho Indonesio, Esencia, Desarrollo.

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## 1 INTRODUCTION

Restorative Justice is an approach to the justice system that focuses on restoring damaged relationships between offenders, victims, and society, rather than only considering punishment for offenders. In Restorative Justice, offenders are held accountable for their actions and repair the damage they have caused. Victims are also involved in the Restorative process to gain psychological healing and get justice, rather than just seeking revenge. The community is also involved in this process, as they play an important role in the recovery of victims and helping offenders reintegrate into society.<sup>5</sup>

Restorative Justice processes can involve mediation, Restorative conferences, and recovery programs. Mediation involves the offender and victim meeting with a mediator who helps them to talk about the incident and find solutions together. Restorative conferences involve various parties involved in the case, such as the offender, victim, family, friends, and community, to talk about the impact of the crime and find solutions together. Restorative programs can provide opportunities for offenders to change their behavior and improve themselves. Legal development in Indonesia cannot be separated from the objectives of national development, which is an effort to achieve a life that is prosperous physically and mentally, in

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<sup>5</sup> Menkel-Meadow, C. (2007). Restorative justice: What is it and does it work? *Annual Review of Law and Social Science*. <https://doi.org/10.1146/annurev.lawsocsci.2.081805.110005>



an atmosphere of a just and prosperous society, as the state's objectives contained in the second and fourth paragraphs of the Preamble to the 1945 Constitution (hereinafter abbreviated as the 1945 Constitution). To realize these state goals, the role of law in development is not only to maintain stability, but also to act as a means of renewal and development in society. In other words, the main task of legal institutions is to realize the ideals or goals of the country through law enforcement.<sup>6</sup>

As a legal state based on Pancasila and the 1945 Constitution, to provide protection to the community, it is necessary to have a professional legal service provider that is expected to be able to provide justice, truth, legal certainty, and the rule of law to clients in particular and the justice-seeking public in general.

The settlement of criminal offenses is currently being carried out using the Restorative Justice approach.<sup>7</sup> Currently, there are many settlements at all levels, namely the police, prosecutors and courts. This certainly shows positive things related to law enforcement in Indonesia. As a country that adheres to the European continental legal system (civil law) which uses written law in its law enforcement process. One of the characteristics of the civil law legal system is that judges in law discovery (*rechtsvinding*) prioritize laws (*begrifjuriprudence*). Thus, judges only make decisions based on positive law or written rules in statutory regulations.<sup>8</sup>

However, the paradigm of the civil law legal system adopted in Indonesia has begun to shift with the concept of progressive law put forward by Satjipto Rahardjo that progressive law enforcement is carrying out the law not only the black and white words of the legislation (according to the letter).<sup>9</sup> but according to the spirit and deeper meaning (to very meaning) of the law or the broader law. The success (or failure) of a criminal case is greatly influenced by the testimony of witnesses presented at the trial Law enforcement is not only intellectual intelligence, but with spiritual intelligence, as well as emotional intelligence. In other words,

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<sup>6</sup> Mochtar Kusumaatmadja, 2002. *Konsep Hukum Dalam Pembangunan*, Alumni: Bandung, h. 11, [Mochta Kusuma Atmaja & Teori Hk.Pembangunan \(dari wacana Pinggir menuju krtik teori dlm teks indukny15102019 - Copy - Copy.pdf \(unpas.ac.id\)](#)

<sup>7</sup> Sinaga, H. S. R. (2021). IMPLEMENTATION OF RESTORATIVE JUSTICE IN INDONESIAN GENERAL COURTS(BASED ON THE DECREE OF THE DIRECTOR- GENERAL OF THE SUPREME COURT OF THE REPUBLIC OF INDONESIA. *International Journal of Research -GRANTHAALAYAH*, 9(4), 424–434. <https://doi.org/10.29121/granthaalayah.v9.i4.2021.3886>

<sup>8</sup> Chandra Aulia Putra, Madiasa Ablisar, Mahmud Mulyadi, & Marlina. (2023). A Restorative Justice Approach to The Settlement of The Persecution Crime At Police Central Barumun. *Mahadi: Indonesia Journal of Law*, 2(1), 71-86. <https://doi.org/10.32734/mah.v2i1.11272>

<sup>9</sup> Aulia, M. Z. (2018). Hukum Progresif dari Satjipto Rahardjo: Riwayat, Urgensi, dan Relevansi. *Undang: Jurnal Hukum*, 1(1), 159–185. Retrieved from <https://ujh.unja.ac.id/index.php/home/article/view/20/8>



law enforcement that is carried out with determination, empathy, dedication, commitment to the suffering of the nation and accompanied by the courage to find another way.<sup>10</sup>

## **2 THEORETICAL FRAMEWORK**

This research adopts a theoretical framework rooted in Restorative Justice principles to conduct normative legal analysis within the Indonesian context. Employing a case law approach as evidence of legal behavior, it aims to uncover the essence of Restorative Justice in Indonesian legal development by examining applicable norms and their implementation in resolving legal cases. By scrutinizing judicial decisions, legislative reforms, and historical precedents, this study seeks to elucidate how Restorative Justice principles can be effectively integrated into the Indonesian legal system and assess their impact on law enforcement and justice outcomes. Through this analysis, the research endeavors to contribute to a deeper understanding of Restorative Justice and offer evidence-based policy recommendations to enhance its implementation, considering both normative aspects and empirical observations from the field.

## **3 THE ESSENCE OF RESTORATIVE JUSTICE IN THE DEVELOPMENT OF INDONESIAN LAW THE CONCEPT OF RESTORATIVE JUSTICE**

The concept focuses on restoring damaged relationships as the main focus, with the belief that conflict resolution depends not only on punishing the perpetrator, but also on repairing the damage caused by the criminal act. Traditional punitive approaches that emphasize punishment of offenders are considered ineffective in addressing the root of the problem and restoring the disturbed balance. Instead, the concept encourages the active involvement of all parties involved, including the victim, offender, and community, in finding a just and profound solution. It is important to note that Restorative Justice does not ignore the offender's responsibility for his or her criminal actions. Rather, it emphasizes understanding the consequences of their actions and how the offender can take responsibility and engage in the healing process.<sup>11</sup>

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<sup>10</sup> Amelia, Syinta. 2023. "Progressive Legal Approach to Modern Community Law Enforcement in Indonesia". *Pancasila and Law Review* 4 (1):1-14. <https://doi.org/10.25041/plr.v4i1.2729>.

<sup>11</sup> Sriwiyanti, S., Saefudin, W., & Aminah, S. (2021). Restorative Justice for Juvenile Offenders in Indonesia: A Study of Psychological Perspective and Islamic Law. *JIL: Journal of Islamic Law*, 2(2), 168–196. <https://doi.org/10.24260/jil.v2i2.335>



By establishing an open and constructive dialog, Restorative Justice creates space for reconciliation and rebuilds trust between all parties involved. Through this process, it is hoped that society can reach a sustainable solution, while encouraging social responsibility and creating a better balance in the legal system. Thus, Restorative Justice has an important role in shaping a legal paradigm that is more holistic, focused on recovery, and reconciliation. According to Satjipto Rahardjo, since modern law has been used, the court is no longer a place for searching of justice, but rather an institution that is concerned with rules and procedures. Law is then understood solely as a product of the state in the form of legislation. Therefore, for Satjipto Rahardjo, law is not a finite scheme, but is constantly moving, changing, following the dynamics of human life. Law must continue to be dissected and explored through progressive efforts to reach the light of truth in achieving justice.

Criminal law, which is part of public law, specifically contains legal norms and provisions that come with criminal sanctions. These sanctions, in the form of suffering or other punishments, are applied in response to individuals who are legitimately found to have violated such norms or provisions. This principle is the foundation for justice and order in society, with the hope of preventing and mitigating potential damage and lawlessness. Meanwhile, the concept of restorative justice has emerged as an alternative approach in the development of the legal system. This approach places the restoration of disrupted relationships as the main center of attention, changing the paradigm of crime handling from a focus on punishing perpetrators to efforts to repair the damage produced by criminal acts. In adopting restorative justice, the traditional punitive approach is considered less effective in addressing the root of the problem as well as restoring the disturbed balance in society. It is important to note that restorative justice does not ignore offenders' responsibility for their criminal acts.<sup>12</sup>

Instead, it emphasizes understanding the consequences of the act and how the offender can be held accountable and actively involved in the recovery process. The process involves the participation of all relevant parties, including victims, offenders, and the community, by establishing an open and constructive dialog. Through the Restorative Justice approach, creating space for reconciliation and rebuilding trust between all parties involved is prioritized. This process is expected to provide more sustainable solutions, while stimulating social responsibility and creating a better balance in the legal system. Thus, restorative justice is not

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<sup>12</sup> Elena Maculan, Alicia Gil Gil, *The Rationale and Purposes of Criminal Law and Punishment in Transitional Contexts*, *Oxford Journal of Legal Studies*, Volume 40, Issue 1, March 2020, Pages 132–157, <https://doi.org/10.1093/ojls/gqz033>



only an alternative, but also has an important role in shaping a legal paradigm that is more holistic, focused on healing, and reconciliation as the main foothold.

Braithwaite emphasizes that to achieve restorative justice, the first step from the offender's side is to offer an apology to the victim. Genuine remorse demonstrates the offender's understanding of the impact of his or her actions and recognition that the criminal act committed was a mistake in society. This attitude of remorse is important to repair the relationship between the perpetrator and the victim, and restore the role of the perpetrator in society. From the victim's perspective, the restorative justice conception emphasizes that the offender's remorse and apology must be met with acceptance by the victim. The victim needs to see the offender with understanding and sympathy as a fellow member of society. This principle recognizes that forgiveness can encourage reconciliation, which in turn can be the emotional basis for restoring the relationship between the offender and the victim, as well as the offender and the community.<sup>13</sup>

#### **4 THE REALIZATION OF RESTORATIVE JUSTICE IN INDONESIAN LEGAL DEVELOPMENT**

Restorative justice is a criminal justice system that seeks to listen to, reassure parties harmed by a conflict and to restore, as far as possible, the fractured relationships between opposing parties, focusing on problem solving through mediation, conciliation, dialogue and restitution, to reciprocally repair social harms and possibly express remorse and forgiveness. Restorative justice is an approach to justice based on the philosophies and values of responsibility, openness, trust, hope, healing and inclusiveness, which focuses on reparations for the harm caused by crime, while encouraging perpetrators to take responsibility for their actions, by enabling those directly affected by crime, namely victims, perpetrators and the community, to identify and address their needs in the aftermath of crime, and seek a solution to the problem of healing, reparation and reintegration and preventing further harm.<sup>14</sup>

The embodiment of this concept reflects the pursuit of solutions that not only emphasize punishment of offenders, but also highlight healing and reconciliation between offenders, victims and society. As the country continues to develop its legal system, Indonesia

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<sup>13</sup> Braithwaite, J. (2000). Survey Article: Repentance Rituals and Restorative Justice. *Journal of Political Philosophy*. <https://doi.org/10.1111/1467-9760.00095>

<sup>14</sup> Rochaeti, N., Prasetyo, M. H., Rozah, U., & Park, J. (2023). A Restorative Justice System in Indonesia: A Close View from the Indigenous Peoples' Practices. *Sriwijaya Law Review*, 7(1), 87–104. <https://doi.org/10.28946/slrev.Vol7.Iss1.1919.pp87-104>



increasingly recognizes the need for a more empowering approach that focuses on repairing social relationships damaged by criminal acts. One implementation of restorative justice in Indonesia is through the adoption of restorative mediation and settlement practices.<sup>15</sup>

In this context, the mediator facilitates dialogue between the perpetrator and victim, helping them to reach an agreement that is reconciliatory and promotes healing. This mediation approach is often used in less serious cases, creating space for open and constructive dialog. In addition, restitution and recovery programs are also an integral part of the realization of restorative justice in Indonesia. The Restorative Justice approach paradigm emerged as a response to criticism of the conventional criminal justice system that uses imprisonment, considered no longer effective in addressing various community problems. As an alternative, Restorative Justice presents a comprehensive approach between offenders and victims to find the best solution for both parties. The emphasis on repair focuses on replacing the harm caused by the offender. This approach is in line with the views of John Braithwaite, who states that the main objective of Restorative Justice is to repair the actions committed by the offender, without overriding the rights of the victim. The process of conciliation and reconciliation between offenders, victims and the community is the cornerstone of this approach, with alternative solutions focusing on peace that benefits all parties, creating substantive justice that goes beyond the legal text.

In the perspective of Indonesian law, the Restorative Justice approach has basically been implemented in various traditional societies, especially indigenous societies. Indigenous communities have historically used deliberation to reach consensus, which is the central value of the Restorative Justice concept, as a way of resolving problems that arise. Although this concept has been embedded in the culture and life of Indonesian society, during the Dutch colonial period, Indonesian customary law was subordinated to European (Dutch) law.

Restorative justice is concerned with rebuilding relationships after a crime, rather than exacerbating the rift between offender, victim and community that characterizes the modern criminal justice system. Restorative justice is a "victim-centered" response to crime that allows victims, offenders, families and community representatives to address the harm caused by crime. The center of attention is directed towards reparation, restoration of damage, loss suffered as a result of crime and initiating and facilitating peace. This is to replace and move away from adversarial decisions of winners and losers. Restorative justice seeks to facilitate

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<sup>15</sup> Rizanizarli, R., Mahfud, M., Pratama, R. C., & Fikri, F. (2023). The Application of Restorative Justice for Children as Criminal Offenders in the Perspective of National Law and Qanun Jināyat. *Samarah*, 7(1), 21–39. <https://doi.org/10.22373/sjhk.v7i1.15633>





dialogue between the various parties involved or affected by the crime, including victims, offenders, families and the community as a whole.<sup>16</sup>

**Table 1**

*Stages of Restorative Justice based on the Concept of Justice in a Series of Developments*

<b>Indicator</b>	<b>Can Be Restorative</b>	<b>Partial Restorative</b>	<b>Fully Restorative</b>
<b>Engagement</b>	Engagement is not the primary concern. Decisions made by those not directly affected. No option for dialog among those directly affected.	Stakeholders are key to providing information to a limited degree. Some stakeholders have some say and input but final decisions are made or approved by formal systems. In partial restorative, there are limited opportunities for dialogue between multiple stakeholders.	All parties (those who are injured those who are harmed and the community) are provided with opportunities
<b>Accountability</b>	Focus on the rule or law broken and the consequences of the action (passive liability).	The main concern is to pay compensation for material and immaterial losses and needs, but the main focus is the rule or law that was broken and any consequences that arise.	Focus on identifying recognizing and addressing hazards, needs and emerging causes. This creates opportunities for active accountability.
<b>Improvements</b>	Recovering the damage or loss suffered. The passive liability of the perpetrator usually focuses not on recovering	Some efforts are made to recover some of the very real losses. Often, the harm and efforts to recover are assigned to people other than those directly affected.	Focuses on healing the physical, emotional and social wounds of all affected parties and the need to address all parties involved as much as possible.

Based on the criteria for the development of the concept or approach of restorative justice (Restorative Justice) above, if it is related to the implementation of the concept or approach of restorative justice (Restorative Justice) in Indonesia, the implementation of the concept or approach of restorative justice (Restorative Justice) in Indonesia is only at the stage of "can be restorative" or at least at the stage of "partially restorative".

<sup>16</sup> Leanne Fiftal Alarid Leanne.alarid@utsa.edu & Carlos D. Montemayor (2012) Implementing restorative justice in police departments, *Police Practice and Research*, 13:5, 450-463, <https://doi.org/10.1080/15614263.2011.607654>



## **5 LEGAL BASIS FOR THE USE OF RESTORATIVE JUSTICE IN THE INDONESIAN POLICE, THE INDONESIAN SUPREME COURT, AND THE INDONESIAN ATTORNEY GENERAL'S OFFICE**

The use of Restorative Justice as an alternative approach in law enforcement has become a major focus for law enforcement agencies in Indonesia, including the Indonesian Police, the Indonesian Supreme Court, and the Indonesian Attorney General's Office. Each institution has a legal basis that regulates the use of Restorative Justice in order to achieve more comprehensive and sustainable justice. In the Indonesian National Police, Restorative Justice principles are implemented as part of the investigation and resolution of cases at the initial level. Although not explicitly mentioned in the law, the Police have the authority to conduct mediation or restorative approaches in case resolution. Meanwhile, the Indonesian Supreme Court supports the use of Restorative Justice as an alternative mechanism in dispute resolution, as stipulated in the Judicial Power Law. By developing this approach, the Supreme Court seeks to improve access to justice and the efficiency of case settlement at the judicial level. On the other hand, the Indonesian Attorney General's Office also recognizes the importance of Restorative Justice in law enforcement. Although not directly regulated in law, the AGO has the authority to conduct mediation or settlement of cases in a family manner, in line with the principles of Restorative Justice.

In Indonesia, Restorative Justice has become one of the increasingly accepted approaches in the justice system as an alternative that promotes reconciliation and healing for offenders, victims, and society as a whole. In this context, the Indonesian National Police, the Indonesian Supreme Court, and the Indonesian Attorney General's Office play an important role in implementing this approach as part of a more holistic law enforcement effort. The Indonesian National Police, as the frontline in law enforcement, integrates the principles of Restorative Justice in the investigation and resolution of cases at the initial level. Although not explicitly mentioned in the law, the Police have the authority to use mediation or restorative approaches in order to achieve more comprehensive justice. The Indonesian Supreme Court, as the highest judicial institution in Indonesia, supports the use of Restorative Justice as an alternative mechanism in dispute resolution, as stipulated in the Judicial Power Law. The Indonesian Attorney General's Office also recognizes the importance of Restorative Justice in law enforcement. Although not directly regulated in the law, the AGO has the authority to



conduct mediation or settlement of cases in a family manner, in line with the principles of Restorative Justice.<sup>17</sup>

With a strong legal basis in each institution, the use of Restorative Justice in the Indonesian Police, the Indonesian Supreme Court, and the Indonesian Attorney General's Office is a progressive step in strengthening a justice system that is responsive, inclusive, and just for all Indonesian people. The use of Restorative Justice has a Legal Basis, namely:

**Table 2**

*Legal Basis for the Use of Restorative Justice in the Indonesian Police, Indonesian Supreme Court, and Indonesian Attorney General's Office*

No.	Institution	Basic Law	Number of uses of Restorative Justice
1.	Indonesian Police	Regulation of the Indonesian National Police Number 8 of 2021 concerning Handling Criminal Offenses Based on Restorative Justice	15.809 Cases (2022)
2.	Supreme Court of Indonesia	<ul style="list-style-type: none"><li>- Perma No.2 Year 2012 on the Settlement of the Limitation of Minor Crimes (Tipiring) and the Amount of Fines in the Criminal Code</li><li>- Decree of Director General Badilum No.1691/DJU/DK/PS.00/12/2020 on the Implementation of Guidelines for the Application of Restorative Justice in 2020 (suspended and will be replaced by PERMA).</li><li>- Working Group on Case Handling Based on Restorative Justice in December 2021.</li></ul>	1510 Cases (2013-2023)
3.	Attorney of the Republic of Indonesia	Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 Termination of Prosecution Based on Restorative Justice	3121 Cases (Tahun 2023)
4.	Memorandum of Understanding between the Indonesian National Police, the Indonesian Supreme Court, and the Attorney General's Office	Memorandum of Understanding between the Chief Justice of the Supreme Court of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Minister of Law and Human Rights, and the Chief of Police of the Republic of Indonesia No.131/KMA/SKB/X/2012 dated October 17, 2012 on the Implementation of the Adjustment of the Limitation of Minor Crimes and the Amount of Fines, Rapid Examination Procedures and the Application of Restorative Justice.	-

The use of Restorative Justice in various law enforcement agencies (POLRI, AGO and MARI), has been regulated in different legal bases, resulting in a significant number of case settlements. In the Indonesian National Police, the use of Restorative Justice is regulated in the Indonesian National Police Regulation Number 8 of 2021 concerning Handling Criminal

<sup>17</sup> Wirawan, K. A. (2023). Restorative Justice as a Law Renewal in Indonesia: A Concept or Theory? In Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022) (pp. 742–751). Atlantis Press SARL. [https://doi.org/10.2991/978-2-494069-93-0\\_86](https://doi.org/10.2991/978-2-494069-93-0_86)



Offenses Based on Restorative Justice. Based on this regulation, the Police have handled 15,809 cases using the Restorative Justice approach by 2022. Meanwhile, in the Indonesian Supreme Court, the use of Restorative Justice is not explicitly regulated in one regulation, but is implemented through several regulations and policies. These include Supreme Court Regulation (Perma) No.2/2012 on the Settlement of the Limits of Minor Crimes (Tipiring) and the Amount of Fines in the Criminal Code, as well as Decree of the Director General of the General Justice Agency No.1691/DJU/DK/PS.00/12/2020 on the Implementation of Guidelines for the Application of Restorative Justice in 2020. In addition, by 2023, the Supreme Court has handled as many as 1510 cases using the Restorative Justice approach from 2013 to 2023, which is organized through the Working Group for Handling Cases Based on Restorative Justice. In the Attorney General's Office of the Republic of Indonesia, the use of Restorative Justice is regulated in the Regulation of the Attorney General's Office of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice.<sup>18</sup>

The AGO has resolved 3121 cases using the Restorative Justice approach by 2023. Regarding cooperation between law enforcement agencies, there is a Memorandum of Agreement issued by the Chief Justice of the Supreme Court of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Minister of Law and Human Rights, and the Chief of Police of the Republic of Indonesia with number 131/KMA/SKB/X/2012 dated October 17, 2012.

This memorandum of understanding aims to implement adjustments to the limits of minor offenses and the amount of fines, as well as applying the principles of Restorative Justice. Through these various regulations and joint agreements, the use of Restorative Justice has become an integral part of the justice system in Indonesia, providing an alternative to case settlement that is more oriented towards recovery and reconciliation and is deemed necessary to be regulated by a separate law on Restorative Justice.<sup>19</sup>

## 6 CONCLUSION

Restorative Justice as an approach can realize legal compliance, justice and legal expediency simultaneously, therefore it is important for Indonesia to establish a special law

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<sup>18</sup> Sukardi, S., & Purnama, H. R. (2022). RESTORATIVE JUSTICE PRINCIPLES IN LAW ENFORCEMENT AND DEMOCRACY IN INDONESIA. *Journal of Indonesian Legal Studies*, 7(1), 155–190.

<https://doi.org/10.15294/jils.v7i1.53057>

<sup>19</sup> Zulfa, E. A. (2011). RESTORATIVE JUSTICE IN INDONESIA: TRADITIONAL VALUE. *Indonesia Law Review*, 1(2). <https://doi.org/10.15742/ilrev.v1n2.81>



regulating Restorative Justice. This will provide a solid and clear legal framework for the application of this concept in the justice system. With a specific law, there will be more detailed guidance on how Restorative Justice can be implemented effectively and equitably across law enforcement agencies. In addition, this law can also strengthen Indonesia's commitment to making Restorative Justice a mainstream approach in law enforcement, creating a justice system that is not only fair, but also equitable for all parties involved in the process. Thus, by regulating Restorative Justice through a separate law, Indonesia affirms its position as a leader in building a justice system based on human values and universal justice.

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