

Article Title

**The Effectiveness of Restorative Justice in Judicial Decisions: The Transformation of the Sentencing Paradigm in Indonesia**

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How to cite:

Palimai, A.F.H., Pawennei, M. & Badaru, B. (2026). The Effectiveness of Restorative Justice in Judicial Decisions: The Transformation of the Sentencing Paradigm in Indonesia, 29(1), *Al-Ishlah: Jurnal Ilmiah Hukum*, 29(1), 30-41.

## ABSTRACT

This study examines the effectiveness of implementing restorative justice within Indonesia's sentencing system in light of recent criminal law reform. Restorative justice, which emphasizes victim recovery, offender accountability, and social reconciliation, reflects values long embedded in Indonesia's customary traditions. The enactment of Law Number 1 of 2023 concerning the Criminal Code marks a significant normative and philosophical shift from retributive punishment toward restoration and social balance. Despite the availability of various regulatory frameworks and institutional guidelines, challenges remain, particularly in procedural law, regulatory fragmentation, limited institutional capacity, and prevailing retributive legal culture. Using a normative juridical approach supported by conceptual and statutory analysis, this research evaluates the consistency between restorative justice principles and their practical application in judicial decisions. The findings indicate that restorative justice in Indonesia is in a transitional phase, with stronger implementation in juvenile and minor offense cases, while broader application still requires harmonization of criminal procedure law, enhanced judicial capacity, and systemic coordination among law enforcement agencies. Strengthening these aspects is essential to ensure that restorative justice becomes a substantive and consistent paradigm within Indonesia's modern sentencing system.

**Keywords:** Restorative Justice, Sentencing System, Criminal Law Reform, Judicial Practice

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## INTRODUCTION

Indonesia constitutionally affirms itself as a state based on law as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The conception of the rule of law (*rechtsstaat*) places law as the foundation of legitimacy for all exercises of state power (Rais, 2022). This principle implies that every use of authority must be subject to legal norms in order to prevent arbitrariness. Law functions to create order, certainty, and justice in social, national, and state life. Within this framework, the criminal justice system holds a strategic position in maintaining a balance between public protection and respect for individual human rights (Efendy, Hasan & Umar, 2023).

Law, in essence, is a system composed of various interrelated elements forming an integrated whole. Each component within the legal system has a functional relationship that cannot be separated from the others (Umar, (2014). The criminal law system, as part of the national legal system, consists of substantive criminal law, formal criminal law, and the law governing the execution of penalties. These three subsystems operate synergistically within the framework of law enforcement. This integration determines the direction and objectives of sentencing practices in Indonesian courts (Arsawati & Rusmana, 2026).

Moeljatno stated that criminal law is part of the overall legal system applicable within a state that determines which acts are prohibited and subject to criminal sanctions (Angraeni, *et al*, 2024). Criminal law also determines when and under what circumstances a person may be subjected to punishment. Furthermore, it regulates

how criminal sanctions are to be implemented for violations committed. This view emphasizes that sentencing is not merely an act of retaliation but a systematically regulated process. Therefore, sentencing paradigms continuously evolve in accordance with social dynamics and prevailing societal values of justice (Amalia, *et al*, 2025).

In the historical development of criminal law, the retributive approach once became the dominant paradigm in sentencing. Punishment was perceived as a means of retaliation for violations of legal norms. (Situmeang & Meilan, 2025). Crime was positioned as an attack against state authority, and the response was oriented toward punishing the offender. Within this paradigm, victims tended to be placed in a passive position and functioned primarily as instruments of proof. This model was later criticized for its inability to fully realize substantive justice addressing the needs of all parties involved (Flora, 2018).

Criticism of the retributive approach gave rise to the idea of a more humane sentencing model. Sentencing is no longer understood solely as a repressive mechanism but also as a process of restoration ((Suwardi & Abduh, S2025). This shift aligns with the development of modern victimology and criminology, which recognize victims as important subjects in the justice process. Justice is not measured merely by the severity of punishment but by the extent to which victims' losses can be restored. This paradigm shift forms the foundation for the emergence of restorative justice (Baihaky & Isnawati, 2024).

Restorative justice views crime as a violation against individuals and social relationships rather than merely against the state. Its resolution is oriented toward restoring victims' losses, ensuring offender accountability, and promoting social reconciliation. The process involves dialogue and active participation of the parties concerned. This approach encourages harmony and social balance within the community. Thus, justice is understood as an effort to repair relationships damaged by criminal acts.

Normatively, Indonesia has adopted restorative justice principles in various regulations. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System introduced diversion as a recovery-based settlement mechanism (Hambali, 2019). Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 governs the termination of prosecution based on restorative justice. Additionally, the Supreme Court, through its internal policies, encourages judges to consider proportional and benefit-oriented approaches. This reflects institutional recognition of a more restorative sentencing paradigm (Anggraini, 2024).

Despite the availability of a normative framework, the implementation of restorative justice in judicial practice remains inconsistent. Some judicial decisions still demonstrate the dominance of a retributive approach. Not all cases are assessed comprehensively by considering aspects of victim restoration. Differences in

understanding and interpretation among law enforcement officials constitute one of the inhibiting factors. This situation raises questions regarding the effectiveness of restorative justice within the national sentencing system (Sihombing, (2024).

Judges hold a central role in determining the direction of sentencing through their decisions. Judges are not merely the mouthpiece of the law but also guardians of the values of justice living within society. In carrying out their duties, judges are obliged to explore, follow, and understand legal values and the sense of justice in society. This principle requires intellectual courage and moral integrity in delivering judgments. Consequently, the implementation of restorative justice greatly depends on judicial perspective and sensitivity toward restorative values.

From the perspective of substantive justice, sentencing should create a balance between the interests of victims, offenders, and society. Sentencing oriented solely toward punishment often neglects the victim's need for restoration. Victims frequently lack adequate space to voice their interests in court proceedings. When the judicial process ends with a prison sentence, the victim's suffering may remain unresolved. This condition underscores the importance of a more inclusive approach in the criminal justice system (Asa, *et al*, 2025).

Reality shows that victims of crime often occupy a disadvantaged position in judicial proceedings. The right to restitution and compensation has not been fully implemented effectively. The justice system remains focused on proving the offender's guilt and imposing sanctions. As a result, justice achieved tends to be formalistic in nature. Restorative justice offers an alternative approach that is more responsive to victims' needs.

On the other hand, the application of restorative justice also presents conceptual and practical challenges. Not all types of criminal offenses are suitable for restorative settlement mechanisms. Clear limitations are necessary to prevent misuse and to ensure legal certainty. Furthermore, dialogue and agreements must be conducted voluntarily without coercion. Therefore, the effectiveness of restorative justice depends greatly on procedural integrity and adequate oversight.

The transformation of the sentencing paradigm from retributive to restorative is also closely linked to national criminal law reform. The enactment of Law Number 1 of 2023 concerning the Criminal Code reflects the state's commitment to a more humane approach (Hafrida & Usman, 2024). The new Criminal Code emphasizes proportionality, individualization of punishment, and broader sentencing objectives. This provides judges with greater room to consider solutions oriented toward restoration. Consequently, regulatory reform must be accompanied by a transformation in judicial mindset and practice.

Based on the foregoing discussion, examining the effectiveness of restorative justice in judicial decisions becomes both relevant and urgent. Such analysis is

essential to assess the extent to which the restorative approach is genuinely implemented in sentencing practices. This research also seeks to identify normative and empirical obstacles affecting its application. Through a comprehensive approach, an objective understanding of the transformation of Indonesia's sentencing paradigm can be achieved. Ultimately, this study is expected to contribute to strengthening a criminal justice system that is more just, humane, and oriented toward social restoration.

## METHOD

This study constitutes normative legal research or doctrinal legal research focusing on the examination of legal norms, principles, and doctrines related to the implementation of restorative justice within Indonesia's sentencing system. The approaches employed include the statute approach, conceptual approach, and case approach to analyze relevant regulations and judicial decisions. Primary legal materials consist of Law Number 8 of 1981 concerning the Criminal Procedure Code, Law Number 48 of 2009 concerning Judicial Power, Law Number 1 of 2023 concerning the Criminal Code, as well as various regulations related to restorative justice. Secondary legal materials such as textbooks, academic journals, and scholarly works are utilized to strengthen the theoretical analysis of sentencing theory and restorative justice. Meanwhile, tertiary legal materials, including legal dictionaries and encyclopedias, serve as supporting references in understanding relevant terms and concepts.

The technique for collecting legal materials is conducted through library research by examining statutory regulations, court decisions, and scientific literature relevant to the research topic. This study was carried out from January 20, 2026, to January 22, 2026, encompassing stages of identifying legal issues, inventorying legal materials, and systematizing legal arguments. The data analysis technique employs a qualitative method with a descriptive-analytical approach to interpret legal norms and assess the consistency of their application in judicial practice. The analysis is conducted systematically by linking statutory provisions with theories and doctrines developed in criminal law literature. Through this method, the study aims to produce comprehensive conclusions regarding the effectiveness of restorative justice implementation in judicial decisions in Indonesia.

## RESULT AND DISCUSSION

### A. The Effectiveness of Implementing Restorative Justice in Indonesia's Sentencing System

The concept of restorative justice is not new in Indonesian society. Various customary communities in Papua, Bali, Toraja, Minangkabau, Kalimantan, and Central Java have long relied on deliberation-based mechanisms to resolve conflicts. Case settlement is carried out by involving the offender, the victim, their families, and

community leaders to reach a fair agreement. The primary orientation of this mechanism lies in restoring social relationships disrupted by unlawful acts. Such practices demonstrate that restorative values have become embedded in Indonesia's legal culture.

The effectiveness of implementing restorative justice in the sentencing system needs to be analyzed through normative and empirical approaches. The normative perspective measures the compatibility between prevailing legal norms and the objectives of modern sentencing. The empirical perspective assesses the consistency of applying restorative principles in judicial practice. Developments in national criminal law policy following the enactment of Law Number 1 of 2023 on the Criminal Code constitute a pivotal point in this transformation. Philosophically, the new Criminal Code shifts the orientation of sentencing from retaliation toward restoration and social balance.

Conceptually, restorative justice views criminal acts as violations against individuals and social relationships. This paradigm differs from the retributive approach, which regards punishment as retaliation for violations of state norms. The restorative model provides victims with space to articulate their losses and restorative needs. Offenders are encouraged to take active responsibility for the consequences of their actions. The community is also involved as part of the social reconciliation process.

Law Number 1 of 2023 on the Criminal Code affirms that the purpose of sentencing is not merely to impose suffering. Sentencing is directed toward preventing crime, rehabilitating offenders, and resolving conflicts arising from criminal acts. This formulation aligns with restorative justice principles that emphasize the restoration of social balance. Judges are given room to consider aspects of utility and substantive justice when rendering decisions. This normative reinforcement reflects the direction of reform toward a more humane national criminal law system.

The new Criminal Code also introduces more flexible types of penalties and measures. Judges may impose supervisory sanctions, community service, or conditional sentences depending on the concrete circumstances of the case. These alternatives open broader opportunities for applying restorative approaches. Flexibility in sentencing supports the individualization of punishment. Imprisonment is no longer the sole primary instrument for responding to criminal acts.

The effectiveness of implementing restorative justice still faces procedural constraints within criminal procedure law. The current Criminal Procedure Code (KUHAP) does not explicitly grant judges the authority to terminate a case solely because a settlement has been reached. Termination of cases in the adult criminal justice system remains bound by the principle of legality and formal evidentiary requirements. The juvenile justice system is an exception because it explicitly regulates

diversion. This lack of synchronization indicates the need for harmonization between the new Criminal Code and criminal procedural law.

Judicial practice shows that settlement is often considered as a mitigating factor in sentencing. Judges take into account the restoration of losses as a consideration in determining the severity of punishment. Cases are still decided within the framework of conventional sentencing even when the parties have reached an agreement. Restorative approaches have not fully become the primary mechanism for resolving criminal cases. Their role remains complementary to the retributive system.

Decisions of the Muaro Sijunjung District Court Number 117/Pid.B/2025/PN Mrj and 110/Pid.B/2025/PN Mrj reflect the integration of restorative principles in minor criminal cases. The panel of judges considered the restoration of social relations and the parties' agreement before issuing the judgment. The orientation of the decision was not solely to punish the offender but also to restore community harmony. The decision was accepted without appeal by the parties. This phenomenon indicates a tendency toward strengthening restorative approaches in judicial practice.

The case of honorary teacher Supriyani in Southeast Sulawesi illustrates the dynamics of public perception regarding restorative justice. The case generated debate over the urgency of resolving the matter through dialogue rather than conventional sentencing. Some parties considered restorative approaches more appropriate for the character of a minor assault case. This public discourse indicates growing awareness of a more humane model of justice. Community perceptions also influence the effectiveness of restorative justice implementation.

Indonesia's normative framework for restorative justice is relatively comprehensive. Law Number 48 of 2009 on Judicial Power mandates judges to explore legal values living within society. Law Number 11 of 2012 explicitly regulates diversion in the juvenile justice system. National Police Regulation Number 8 of 2021 and Attorney General Regulation Number 15 of 2020 provide a basis for restorative-based case termination. The Director General of the General Courts' Decree Number 1691/DJU/SK/PS.00/12/2020 complements implementation guidelines within the general court environment.

Minor criminal cases are given room for restorative settlement based on Supreme Court guidelines. Cases with minor criminal threats and limited loss values may be resolved through deliberation. Judges play an active role in facilitating peace processes between the parties. Agreements that are reached are ratified in the form of a court decision. This model demonstrates the integration of restorative principles into court proceedings.

The juvenile justice system positions restorative approaches as a primary principle. Diversion must be pursued at every stage of the juvenile justice process. Judges consider the best interests of the child when issuing decisions. This approach

emphasizes rehabilitation and guidance rather than punishment. The effectiveness of restorative justice in juvenile cases is relatively stronger than in adult cases.

Cases involving women in conflict with the law also consider restorative approaches through a gender equality perspective. Judges are required to avoid discrimination and to take power relations into account in the case. Supreme Court Regulation Number 3 of 2017 provides specific guidelines for adjudicating cases involving women. This approach expands the scope of restorative justice in protecting vulnerable groups. Its effectiveness is measured by the extent to which decisions ensure equality and non-discrimination.

The implementation of restorative justice offers significant benefits in creating a more balanced sense of justice. This approach positions the interests of victims and offenders proportionally by prioritizing restoration. The cost of dispute resolution tends to be lower than conventional litigation processes. Non-elite communities gain more inclusive access to justice. The values of utility and social peace become the main objectives of this mechanism.

Challenges persist in the implementation of restorative justice in Indonesia. Some segments of society still believe that crime must be repaid with imprisonment. Such perceptions can generate the view that the state is not firm in enforcing law. Public education and policy consistency are crucial factors in increasing acceptance of the restorative paradigm. Transforming the sentencing system requires simultaneous changes in norms, procedures, and legal culture.

## **B. Factors Influencing Restorative Justice in Indonesia's Sentencing System**

The effectiveness of implementing restorative justice cannot be separated from the factors influencing law enforcement in general. Soerjono Soekanto identifies five principal factors affecting law enforcement: legal substance, law enforcement officers, facilities or infrastructure, society, and culture. These factors are interconnected and determine whether a legal policy succeeds in practice. Restorative justice, as part of modern criminal law policy, is likewise subject to these dynamics. An examination of these factors is essential to understand the level of effectiveness of its implementation within Indonesia's sentencing system.

The legislative factor occupies a central position in shaping the direction of restorative justice implementation. Legal substance that is not comprehensively integrated often generates uncertainty in practice. Fragmentation between the Criminal Code, the Criminal Procedure Code, and various internal regulations of law enforcement institutions may lead to inconsistency. Provisions regarding the scope of cases eligible for restorative settlement are not yet fully uniform. This condition results in variations in implementation across regions and cases.

The absence of a specific and comprehensive statutory regulation explicitly governing restorative justice constitutes a normative obstacle. Although numerous guidelines and internal regulations have been issued, their legal standing is not as strong as statutory law. Judicial discretion in applying restorative approaches often depends on individual interpretation. Procedural standards concerning mediation stages, agreement requirements, and the form of judicial considerations in verdicts remain insufficiently consolidated. This situation affects the consistency and effectiveness of restorative justice in court proceedings.

The law enforcement factor encompasses police officers, prosecutors, judges, defense counsel, and correctional officers. Judges occupy a particularly strategic position because they stand at the final decision-making stage. Judges assess the appropriateness of restorative approaches and incorporate them into legal reasoning and verdicts. The level of judicial understanding of restorative justice principles significantly determines the outcome of the process. A predominantly retributive orientation among judges may hinder the optimal application of restorative approaches.

Understanding of restorative justice among law enforcement officers is not always accompanied by internalization of its values. Some officers comprehend the term normatively but fail to apply it substantively. Principles such as victim restoration, meaningful participation, and offender accountability are often not fully implemented. Formalistic and repressive paradigms continue to influence judicial practice. This condition reduces restorative justice to a supplementary option rather than a primary approach.

Integrity and professionalism among law enforcement officers also significantly influence the effectiveness of restorative justice. Mediation and dialogue processes require neutrality and commitment to safeguarding the rights of all parties. Risks of abuse of authority may arise if officers fail to maintain independence. Pressure on victims to reconcile or manipulation of agreements can undermine the principle of voluntariness. The success of restorative justice largely depends on the moral and ethical quality of law enforcement personnel.

Technical competence represents another crucial factor. The implementation of restorative justice requires adequate communication, mediation, and negotiation skills. Not all officers have received specialized training in facilitating dialogue. Mediation processes may become merely procedural without addressing the substantive conflict. Capacity-building and professional training are therefore urgent needs to support effective restorative approaches.

Case workload and court management also influence the application of restorative justice by judges. A high volume of cases can limit the time available for meaningful dialogue and mediation. Restorative processes require sufficient space and

time to ensure optimal participation of the parties. Administrative pressures often encourage judges to choose conventional procedures considered more efficient. Such conditions contribute to inconsistent implementation of restorative approaches.

Inter-agency coordination plays a decisive role in the success of restorative justice. Restorative processes often involve police, prosecutors, probation officers, correctional institutions, and victim support services. A lack of systemic synchronization can hinder the achievement of comprehensive agreements. Effective communication among institutions is therefore essential. Institutional synergy is necessary to prevent restorative approaches from being implemented in a fragmented manner.

Facilities and infrastructure constitute essential prerequisites for substantive restorative processes. The availability of appropriate and secure mediation rooms affects the comfort of the parties. Support from social workers and probation officers is crucial in facilitating dialogue. Mechanisms for protecting victims from intimidation must function effectively. Without adequate facilities, restorative justice cannot achieve its intended substantive goals.

Budgetary support and human resources are equally significant. Restorative processes require professional facilitators and comprehensive social assessments. Courts need administrative support to manage settlement documentation systematically. Resource limitations may reduce restorative processes to mere formalities. Investment in legal infrastructure is therefore part of strengthening effectiveness.

The societal factor also influences the success of restorative justice. Participation of victims, offenders, and the community lies at the core of this approach. Public understanding of restorative mechanisms affects the quality of participation. Distrust in the legal system may hinder the achievement of agreements. Legal education thus becomes a strategic measure to enhance public acceptance.

Social pressure and stigma may create obstacles in restorative processes. Power imbalances between victims and offenders can undermine voluntariness. Group conflicts or social polarization may complicate dialogue. Such conditions reduce the effectiveness of restoring social relationships. Protection of vulnerable parties must therefore be prioritized.

Legal culture shapes perceptions regarding the purpose of punishment. The belief that every crime must be repaid with imprisonment remains strong in parts of society. This perception often frames restorative approaches as leniency. Values of deliberation and reconciliation actually exist within local cultural traditions. Tension between retributive and restorative cultural orientations presents a distinct challenge.

Institutional culture likewise affects the consistency of restorative justice implementation. Clear incentives, ethical standards, and evaluation mechanisms are

necessary to promote uniform application. Uncertainty regarding performance indicators may discourage officers from adopting restorative approaches. Oversight and accountability must operate in balance with judicial independence. Reform of the sentencing system requires simultaneous transformation of norms, procedures, and legal culture.

### CONCLUSION AND SUGGESTIONS

The effectiveness of implementing restorative justice within Indonesia's sentencing system demonstrates normative and philosophical progress, particularly following the enactment of Law Number 1 of 2023 concerning the Criminal Code, which shifts the orientation of punishment toward restoration and social balance. The supporting regulatory framework issued by various law enforcement institutions has created space for the application of restorative approaches, especially in cases involving juveniles and minor offenses. Procedural constraints within the Criminal Procedure Code, regulatory fragmentation, limited institutional capacity, as well as legal cultural factors and public perceptions, continue to hinder its optimal implementation. The effectiveness of restorative justice is strongly influenced by regulatory harmonization, the integrity and competence of law enforcement officers, adequate facilities and infrastructure, and meaningful community participation. Reform of criminal procedural law that explicitly integrates restorative justice principles, enhancement of professional training, strengthened inter-agency coordination, and sustained public legal education are necessary to ensure that this approach becomes a primary paradigm within a more just, humane, and socially restorative sentencing system.

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