

ANALYSIS OF RESTORATIVE JUSTICE IN THE RESOLUTION OF MINOR CRIMINAL OFFENSES AS AN EFFORT TO REFORM THE CRIMINAL JUSTICE SYSTEM IN INDONESIA (A Study at the Tanjungkarang District Court Class IA)

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Abstract

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The implementation of restorative justice in handling minor criminal offences represents a shift from a retributive approach toward the restoration of social relationships among offenders, victims, and communities. By providing a fair and participatory dialogue, restorative justice can reduce procedural inequalities, particularly for vulnerable groups, while maintaining legal certainty. This study examines the implementation of restorative justice in resolving minor criminal offences as an effort to reform Indonesia's criminal justice system and identifies the factors hindering its implementation. The research employs a normative and empirical juridical approach using primary and secondary data obtained through literature and field studies, which are analyzed through qualitative juridical analysis. The findings demonstrate that restorative justice has contributed to transforming punitive judicial practices into more humane, rational, and responsive processes by prioritizing the restoration of social conditions and addressing procedural inequalities. However, its implementation remains constrained by overlapping regulations among law enforcement institutions, performance targets oriented toward case resolution, limited mediation facilities, and a deeply rooted retributive legal culture. Therefore, criminal justice reform requires more than regulatory changes; it necessitates regulatory harmonization, institutional coordination, improved mediation facilities, and a paradigm shift among law enforcement officers and society. Strengthening restorative justice requires unified regulations, greater judicial sensitivity, and active community participation in resolving minor offences through dialogue and reconciliation.

INTRODUCTION

Indonesia is constitutionally established as a *rechtsstaat*, placing law as the fundamental instrument governing social, national, and state life(Jainah et al., 2020). This

principle requires all actions undertaken by state institutions and citizens to be based on applicable legal norms in order to ensure legal certainty, justice, and social utility. Such constitutional commitment is reflected in Article 1 paragraph (3) in conjunction with Article 27 paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Within this framework, the rule of law is not merely understood as the supremacy of written legislation but also as a mechanism for ensuring that the exercise of state power remains accountable and oriented toward the protection of citizens' rights (Harisman, 2021).

Jimly Asshiddiqie explains that the characteristics of a state based on the rule of law are reflected, among other things, in the clear separation of powers, ensuring that government is exercised through law rather than through the personal will of those in power. The state therefore has an obligation to establish a fair judicial system and guarantee that every individual has access to justice. This concept of *justice for all* requires constitutional arrangements that simultaneously protect individual interests and impose meaningful limitations on governmental authority. Accordingly, the administration of justice must ensure that legal procedures do not become instruments of discrimination or excessive state intervention (Raden, 2024).

The concept of the rule of law is inseparable from the existence and function of the state as an institution established to achieve collective objectives (Adygezalova et al., 2022). Lintje Anna Marpaung describes the state as an organizational product of political processes that may be manifested through policies, strategies, measures, and governmental decisions designed to achieve predetermined objectives. From this perspective, legal policy becomes an important instrument for directing the administration of the state toward the realization of public welfare. Criminal justice policy, therefore, must not merely pursue the punishment of offenders but must also respond to the social consequences of criminal conduct and the broader interests of justice (Jainah et al., 2020).

The concrete manifestation of the rule-of-law principle in protecting individual interests and limiting governmental power is particularly evident within the criminal justice system (Thontowi et al., 2024). Substantive and procedural criminal law constitute critical areas in which legal norms directly interact with citizens' constitutional rights. Every mechanism for resolving criminal cases must consequently reflect the principles of fairness and proportionality (Loeffler & Nagin, 2022). Justice should not be assessed solely from the perspective of procedural compliance but also from the extent to which the criminal justice system is capable of producing meaningful benefits, protecting victims, holding offenders accountable, and restoring social conditions affected by criminal conduct (Agus & Susanto, 2021).

Criminal law within a *rechtsstaat* essentially serves to realize substantive justice, protect fundamental rights, and maintain social order (Oliinyk et al., 2022). Philosophically, Indonesia's criminal justice system is rooted in Pancasila, particularly the principle of just and civilized humanity, which should serve as a moral foundation for the exercise of state coercive power (Akmal, 2023). This orientation requires criminal law to recognize the dignity of every person involved in the criminal justice process. Consequently, the exercise of criminal authority must remain proportionate and should not produce unnecessary suffering beyond what is required to achieve legitimate legal objectives (Fahrizal S. Siagian, 2023).

Criminal law should therefore not be understood exclusively as an instrument of retaliation or *lex talionis*. It should also function as a mechanism for restoring conditions, repairing harm, and resolving conflicts peacefully. The concept of *restitutio in integrum* emphasizes the restoration of rights and social relationships affected by criminal conduct. From this perspective, the consequences of an offence should not automatically be addressed by imposing additional suffering on the offender. Instead, criminal responsibility should be accompanied by efforts to restore victims' rights, encourage offender accountability, and facilitate reconciliation within the community.

The modernization of the national criminal justice system requires a paradigm that integrates the principles of balance, proportionality, and legal utility (*doelmatigheid*). This transformation involves moving beyond a rigidly retributive approach that focuses primarily on the formal classification of criminal conduct toward a restorative justice paradigm. Restorative justice conceptualizes crime not merely as an offence against the state but also as conduct that damages interpersonal relationships and the social order. Accordingly, criminal justice should provide meaningful opportunities for victims, offenders, and communities to participate in resolving the consequences of crime. Such participation is important for reducing the negative social effects of conventional criminal proceedings and promoting a more inclusive form of accountability (Shelley, 1995).

Nevertheless, Indonesian criminal law enforcement continues to encounter the influence of rigid legal positivism and formalistic approaches. Law enforcement officers may interpret the principle of legality, *nullum delictum sine lege*, primarily as an obligation to process every alleged offence through conventional criminal proceedings. Such an approach may overlook the degree of culpability, the actual magnitude of harm, the circumstances surrounding the offence, and the offender's willingness to repair the consequences of the conduct. Where these considerations are neglected, the criminal justice system risks prioritizing procedural completion over substantive justice (Zainudin Hasan et al., 2023).

An excessive emphasis on the *crime control model* may consequently cause formal and procedural mechanisms to dominate criminal case resolution. One of its systemic consequences is the accumulation of cases and increased reliance on imprisonment, which contributes to overcrowding in correctional institutions and places additional financial burdens on the state. More importantly, excessive reliance on punitive measures may undermine the rehabilitative and social functions of criminal justice. The criminal justice system must therefore develop mechanisms capable of differentiating between serious offences that require strong penal intervention and minor offences that may be more appropriately addressed through restorative mechanisms.

This issue is particularly relevant to the handling of minor criminal offences (*Tindak Pidana Ringan* or *Tipiring*). Examples include low-value theft, minor assault, and small-scale public-order offences. Although such offences generally have limited social and economic consequences, they may nevertheless proceed through lengthy formal procedures. Excessive adherence to conventional criminal procedure can overlook settlements that have already been reached voluntarily between the parties at the community level. As a consequence, criminal justice may lose its social sensitivity and generate disproportionate outcomes, particularly for economically disadvantaged and vulnerable members of society.

From a doctrinal perspective, *Tipiring* refers to criminal conduct characterized by a relatively low degree of seriousness and punishability (*strafwaardigheid*), for which

lighter sanctions and simplified examination procedures may be appropriate. The classification of an offence as minor or serious is generally associated with the applicable penalty and the nature and extent of the harm caused. The handling of minor offences should therefore emphasize procedural efficiency without compromising human rights protection. This approach is consistent with the broader objective of maintaining proportionality between the nature of the offence, the consequences produced, and the legal response imposed upon the offender.

Minor criminal offences also have strategic significance in preventing excessive case accumulation (*court congestion*) within the Indonesian criminal justice system. The principles of simple, speedy, and low-cost justice require law enforcement institutions to allocate resources proportionately. By resolving relatively minor cases through appropriate alternative mechanisms, judicial resources can be directed toward serious and complex offences. The development of alternative sanctions, including fines, supervision, and community service, may further reduce the stigmatizing consequences of imprisonment and contribute to addressing overcrowding in correctional institutions. Thus, the treatment of minor offences can become an important component of broader criminal justice reform.

In this context, restorative justice provides an appropriate framework for resolving minor criminal offences. Topo Santoso conceptualizes restorative justice as an approach to criminal law that resolves offences through deliberation and consensus involving victims, offenders, their respective families, and other relevant parties. Its primary objective is to restore the conditions affected by the offence rather than focusing exclusively on retaliatory punishment or imprisonment. Accountability may consequently take the form of compensation, community service, reconciliation, or other restorative measures agreed upon by the parties. This approach shifts the focus of criminal justice from punishment alone toward repairing harm and rebuilding social relationships.

The restorative justice approach reflects a broader philosophical movement from *state-centered justice* toward *victim-and-community-centered justice*. The emphasis on deliberation and consensus is closely connected to the values of Pancasila, particularly the Fourth Principle, which emphasizes deliberative decision-making. Nevertheless, restorative justice must operate within clear normative boundaries. The opportunity for reconciliation should not eliminate legal certainty or provide an avenue for avoiding criminal responsibility in serious offences. Therefore, the application of restorative justice to minor offences requires objective criteria concerning the nature of the offence, the extent of harm, the willingness of the parties, and the absence of coercion in the settlement process.

The implementation of restorative justice nevertheless faces a significant legal gap within Indonesia's criminal justice system. Although substantive criminal law increasingly recognizes proportionality and limitations on the use of punishment, procedural law has historically provided limited and fragmented mechanisms for terminating or resolving criminal cases through restorative approaches. The absence of a unified procedural framework may create uncertainty regarding the authority of law enforcement officers and judges to recognize settlements achieved through restorative processes. Consequently, formal procedural requirements may prevail over distributive and restorative considerations, particularly in minor criminal cases.

This legal gap is further complicated by the fragmentation of regulations governing restorative justice among law enforcement institutions. Different institutional

regulations may establish distinct requirements, procedures, and limitations for applying restorative mechanisms. Such regulatory fragmentation can generate disparities in implementation and make the availability of restorative justice dependent upon institutional interpretation and the discretion of individual law enforcement officials. Without harmonization and a common understanding among the police, prosecutors, courts, and other relevant institutions, restorative justice may produce inconsistent outcomes and potentially create opportunities for non-transparent case settlements.

These structural and normative problems demonstrate the urgency of restructuring the mechanism for resolving minor criminal offences within Indonesia's criminal justice system. Institutionalizing restorative justice should no longer be regarded merely as an optional procedural flexibility but as an important component of efforts to realize simple, speedy, and low-cost justice. Properly designed restorative mechanisms can contribute to reducing judicial backlog and limiting the dehumanizing effects of imprisonment for minor offences. At the same time, such mechanisms must maintain transparency, voluntariness, accountability, and judicial oversight to ensure that restorative justice does not become a means of undermining legal certainty.

The issue has become increasingly relevant amid Indonesia's ongoing national criminal law reform following the enactment of Law Number 1 of 2023 concerning the National Criminal Code and continuing efforts to reform criminal procedural law. The examination of restorative justice in minor criminal offences provides an opportunity to reconsider the limits of state intervention through criminal sanctions. It also raises the question of how principles of deliberative justice and community-based dispute resolution can be incorporated into the modern criminal justice system without compromising human rights and fair legal certainty. The integration of these principles requires a balanced approach that recognizes both the formal authority of criminal law and the social realities surrounding minor offences.

Academically, research on restorative justice in minor criminal offences can contribute to the development of criminal law scholarship, particularly in the fields of penal policy and the integrated criminal justice system. It can provide a theoretical basis for reconsidering the classification of minor offences and developing judicial discretion oriented toward restoration. Such research is also relevant to the development of Indonesian criminal law that is responsive to social justice, proportionality, and humanitarian values. Furthermore, examining the effectiveness of restorative justice within the judicial institution can contribute to identifying the institutional and normative conditions necessary for its consistent implementation.

From a practical perspective, research on restorative justice in minor criminal offences can provide policy recommendations for legislators and law enforcement institutions, particularly the judiciary. A transparent, measurable, and integrated model for resolving minor offences can help minimize disparities and strengthen public confidence in the criminal justice system. Judges, in particular, can play a significant role in ensuring that restorative mechanisms are implemented fairly and that agreements genuinely reflect the interests of victims, offenders, and communities. Therefore, restorative justice should not merely terminate a dispute procedurally but should seek to repair social relationships and prevent the recurrence of conflict.

RESEARCH METHODS

This research employs a normative and empirical juridical approach. The normative juridical approach is used to examine legal norms governing restorative justice, minor criminal offences, and criminal justice reform in Indonesia, including relevant legislation, regulations, legal doctrines, and principles of criminal law (Hakim & Ainita, 2023). The empirical juridical approach is used to examine the implementation of restorative justice in practice, particularly in the resolution of minor criminal offences at the Tanjungkarang Class IA District Court. Primary data are obtained through field research, particularly interviews with judges and other relevant law enforcement officers, while secondary data are obtained from legislation, books, scientific journals, court decisions, and other legal literature relevant to the research topic.

Data collection is conducted through library research and field research. Library research is carried out by reviewing and analyzing relevant legislation, legal literature, scholarly works, and judicial decisions concerning restorative justice and minor criminal offences (Utami, 2023). Field research is conducted through interviews with relevant respondents to obtain empirical information regarding the implementation, procedures, and obstacles in applying restorative justice at the Tanjungkarang Class IA District Court. The collected data are analyzed using qualitative juridical analysis, namely by systematically interpreting legal norms and connecting them with empirical findings obtained from the field. The analysis is directed toward evaluating the effectiveness of restorative justice in resolving minor criminal offences and identifying factors that influence its implementation as part of the reform of Indonesia's criminal justice system.

RESULTS AND DISCUSSION

a. Implementation of *Restorative Justice* in the Resolution of Minor Criminal Offences as an Effort to Reform the Criminal Justice System in Indonesia

The implementation of restorative justice in resolving minor criminal offences (Tipiring) essentially reflects a shift in the orientation of Indonesia's criminal justice system from a retributive approach toward an approach emphasizing restoration. A criminal justice system oriented toward punishment tends to position offenders as objects of sanction and victims primarily as parties who provide testimony regarding the criminal act. Such a framework provides limited opportunities for victims to obtain direct recovery or for offenders to understand and repair the consequences of their conduct. In minor criminal cases, this approach may be disproportionate because the conflicts involved generally have relatively limited levels of harm and social impact. Therefore, the application of restorative justice is relevant as an instrument of criminal justice reform that seeks to balance the interests of victims, offenders, and the community.

Conceptually, restorative justice changes the way criminal conduct is understood. A crime is not viewed solely as a violation of state authority or public order, but also as an event that causes harm to victims and disrupts social relationships within the community. Consequently, resolving a criminal case should not be directed exclusively toward determining the appropriate punishment, but should also consider the harm that has occurred and the measures necessary to restore the affected conditions. This approach provides victims with an opportunity to articulate the harm they have experienced, enables offenders to take responsibility for their actions, and allows the community to participate in resolving the conflict. Accordingly, restorative justice has a participatory character that distinguishes it from conventional punitive mechanisms.

The implementation of restorative justice within the judicial system has received normative reinforcement through Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. The regulation provides guidance for judges when considering the resolution of criminal cases from a restorative perspective. In the context of minor criminal offences, the regulation is significant because it provides a legal basis for judges to consider not only punishment but also the interests of victims, offender accountability, and the social circumstances underlying the offence. Consequently, restorative justice is no longer merely regarded as an informal method of conflict resolution but has increasingly become part of the development of Indonesia's national criminal law policy.

Based on an interview with Nelson Angkat, Chief Judge of the Tanjungkarang Class IA District Court, the application of restorative justice requires a change in the judicial perspective when handling minor criminal offences. According to him, courts should no longer be viewed merely as institutions whose primary function is to impose punishment, but also as institutions responsible for creating resolutions capable of restoring peace within society. This perspective demonstrates that judges have a strategic role in developing restorative practices through considerations that extend beyond strictly legal aspects and include the social circumstances of the parties. In minor criminal cases, imposing formal sanctions without considering the relationship between the victim and offender may resolve the case administratively but does not necessarily resolve the underlying conflict substantively.

Furthermore, Nelson Angkat explained that imposing criminal sanctions in minor cases is not always the most effective option when the relationship between the victim and offender can still be repaired through reconciliation. In such circumstances, judges are expected to provide an opportunity for communication that enables both parties to express their interests proportionately. Voluntary reconciliation may generate broader benefits because it not only resolves the legal dispute but also reduces the possibility of further conflict. This demonstrates that the success of restorative justice should not be measured solely by whether a case has been formally concluded, but also by its ability to restore social relationships and prevent similar conflicts from occurring in the future.

Access to justice is also an important component of implementing restorative justice. The availability of the Legal Aid Post (Posbakum) at the Tanjungkarang Class IA District Court, pursuant to Law Number 16 of 2011 concerning Legal Aid, provides support for members of the community who have limited economic resources and legal knowledge. The Posbakum does not merely assist with administrative matters but can also provide information concerning the procedural rights and obligations of the parties during judicial proceedings. In minor criminal cases, access to legal information is particularly important because some defendants come from socioeconomically vulnerable groups. Such assistance can reduce informational inequality and help ensure that any restorative agreement is reached based on adequate understanding and free consent.

Based on an interview with Firman Khadafi Tjindarbumi, a Judge at the Tanjungkarang Class IA District Court, the examination of minor criminal offences has dynamics that differ from ordinary criminal proceedings. Judges are not only required to perform an adjudicative function but also need communication skills and social sensitivity to identify the underlying problems between victims and offenders. This role enables judges to act as facilitators who encourage constructive communication between the parties. Through effective communication, judges can identify the respective interests

of the parties and ensure that the resolution achieved satisfies not only formal legal requirements but also provides a sense of justice to both victims and offenders.

The implementation of restorative justice is also influenced by the social characteristics of the Bandar Lampung community, where familial values and deliberative approaches to conflict resolution remain relevant. Under certain circumstances, the involvement of community leaders or individuals with recognized social influence can strengthen the legitimacy of the resolution reached by the parties. Their participation may serve as a bridge between formal legal proceedings and the social environment in which the conflict occurred. Nevertheless, such participation must remain within the framework of applicable law and cannot replace the authority of judicial institutions. Community-based values can therefore function as a supporting factor for the implementation of restorative justice when they are integrated appropriately with formal judicial mechanisms.

From the perspective of legal practitioners, however, the implementation of restorative mechanisms remains influenced by obstacles arising during the investigation and prosecution stages. Based on an interview with Fabian Boby, an advocate at FB & Legal Partners Law Office in Bandar Lampung, law enforcement practices remain strongly influenced by performance indicators oriented toward case settlement targets. Such an orientation may encourage investigators to prioritize the formal completion and submission of case files rather than exploring opportunities for restorative resolution at an early stage. Consequently, minor criminal cases that could potentially be resolved through reconciliation may continue through formal criminal proceedings. This condition demonstrates that the effectiveness of restorative justice depends not only on judicial policy but also on the consistency of restorative principles throughout the entire criminal justice process.

Fabian Boby further explained that differences in the interpretation of restorative discretion between police investigators and judicial institutions can create procedural uncertainty. Each institution may operate according to its own understanding of the scope and requirements of restorative resolution. The absence of an integrated framework governing interaction among law enforcement institutions can cause opportunities for reconciliation to be overlooked. In this respect, the implementation of restorative justice requires institutional coordination and a shared understanding among investigators, prosecutors, judges, advocates, and other relevant actors. Without such coordination, the restorative approach risks remaining fragmented and dependent upon the individual discretion of law enforcement officials.

The participation of offenders in minor criminal proceedings also represents an important element in assessing the implementation of restorative justice. In practice, offenders involved in minor criminal cases may come from socioeconomically vulnerable backgrounds and may demonstrate cooperative attitudes because of their concern about potential criminal sanctions. Such cooperation can become an important foundation for restorative dialogue because the willingness of the offender to acknowledge the conduct and accept responsibility facilitates communication with the victim. Nevertheless, cooperation must be assessed carefully to ensure that any admission or agreement is made voluntarily and without coercion. Restorative justice should therefore promote genuine accountability rather than merely provide an alternative mechanism for avoiding punishment.

From the victim's perspective, the expedited mechanism for handling minor

criminal offences provides an opportunity to transform the victim from a passive participant into an active subject within the justice process. Victims should not be limited to providing testimony concerning the criminal event but should also have an opportunity to communicate the material and emotional consequences they have experienced. Such participation allows the victim to express expectations regarding the form of restoration, including compensation, an apology, or other appropriate measures. The active involvement of victims is essential because restorative justice ultimately seeks to address the harm suffered by victims rather than merely determine the guilt and punishment of offenders.

The involvement of community correction officers (Pembimbing Kemasyarakatan) from the Correctional Center (Balai Pemasyarakatan) may also become relevant when minor criminal proceedings involve children or other vulnerable offenders. A Community Research Report (Laporan Penelitian Kemasyarakatan/Litmas) can provide information concerning the offender's social background, family circumstances, and other relevant conditions. Such information may assist judges in assessing the most appropriate response while ensuring that the interests of vulnerable offenders are adequately considered. At the same time, the restorative process must continue to protect the rights and interests of victims. This demonstrates that restorative justice requires an individualized approach based on the circumstances of each case rather than the mechanical application of predetermined sanctions.

Despite the existence of procedural and institutional foundations, physical facilities at the court level may still constitute a practical limitation. Restorative dialogue requires a private, secure, and conducive environment in which the parties can communicate without intimidation or unnecessary external pressure. Limited mediation facilities, particularly during periods of heavy court activity, may result in restorative discussions being conducted under time constraints or in spaces that do not adequately guarantee privacy. Such conditions can affect the psychological comfort of victims and offenders and reduce the effectiveness of communication. Therefore, improving court infrastructure should form part of the institutional strategy for strengthening restorative justice.

From the perspective of John Rawls's Justice as Fairness, the implementation of restorative justice in minor criminal cases can be understood as an effort to create a fairer distribution of procedural opportunities among the parties. Rawls's concepts of the original position and veil of ignorance emphasize that principles of justice should be formulated without allowing differences in social or economic status to determine the fairness of the outcome. In minor criminal proceedings, this perspective is relevant because vulnerable offenders and victims may face unequal access to legal resources and institutional power. A restorative process that provides equal opportunities for dialogue can reduce such procedural inequalities and create a more balanced environment for resolving disputes. The difference principle is also relevant because legal arrangements should pay particular attention to those who are least advantaged. Accordingly, restorative mechanisms may prevent minor offences from producing disproportionately severe social and economic consequences for vulnerable offenders while simultaneously ensuring that victims receive meaningful recovery.

Overall, the implementation of restorative justice in resolving minor criminal offences at the Tanjungkarang Class IA District Court demonstrates a significant movement toward reforming Indonesia's criminal justice system. The existence of

Supreme Court Regulation Number 1 of 2024, legal assistance through the Posbakum, the active role of judges, participation of victims and offenders, and potential involvement of community elements provide important foundations for a restorative model of justice. However, its effectiveness remains influenced by institutional coordination, infrastructure, the orientation of law enforcement performance, and the legal culture of practitioners and society. Viewed through Rawls's Justice as Fairness, restorative justice can strengthen substantive and procedural fairness by providing greater protection for vulnerable groups while ensuring that victims' interests are addressed. Therefore, restorative justice in minor criminal cases should be understood not merely as an alternative method of resolving cases, but as part of a broader transformation toward a criminal justice system that is humane, proportionate, participatory, and socially responsive.

b. Factors Hindering the Implementation of *Restorative Justice* in the Resolution of Minor Criminal Offences as an Effort to Reform the Criminal Justice System in Indonesia

The implementation of restorative justice in resolving minor criminal offences still encounters various juridical, institutional, infrastructural, and cultural obstacles. Although restorative justice has increasingly been recognized as an important component of criminal justice reform, its practical application has not developed uniformly across the criminal justice system. Minor criminal offences should theoretically provide considerable space for restorative resolution because the harm and social consequences are generally limited. However, formal procedural mechanisms and conventional patterns of law enforcement frequently cause such cases to continue through the ordinary criminal justice process. This condition demonstrates that the existence of restorative regulations alone does not automatically guarantee their effective implementation.

One of the fundamental obstacles is the fragmentation of regulations governing restorative justice among law enforcement institutions. The police, prosecution service, and judiciary have developed their respective regulatory instruments and institutional mechanisms for applying restorative justice. Differences in requirements, procedures, and institutional authority can create varying interpretations among law enforcement officers. In the context of minor criminal offences, this fragmentation may create uncertainty regarding when and how a case should be redirected toward a restorative mechanism. Consequently, the implementation of restorative justice remains dependent to a considerable extent on institutional discretion rather than on a completely integrated criminal justice framework.

The problem of regulatory fragmentation is particularly relevant when a case has already entered the formal judicial process. Based on the interview with Nelson Angkat, Chief Judge of the Tanjungkarang Class IA District Court, the obstacles encountered by the court do not primarily arise from a lack of willingness among judges to encourage reconciliation. Rather, difficulties may emerge because opportunities for restorative resolution have not been adequately explored during the earlier stages of investigation and prosecution. When a case reaches court after having passed through a predominantly formal process, the possibility of achieving reconciliation may become more difficult. This demonstrates the importance of implementing restorative justice consistently from the earliest stage of criminal case handling.

Another significant obstacle concerns the availability of adequate infrastructure to support restorative dialogue. Nelson Angkat explained that the physical facilities

available at the court can influence the effectiveness of the restorative process. Restorative justice requires an environment that is private, safe, and conducive to open communication. However, limited mediation facilities and the density of court schedules may result in restorative discussions being conducted under constrained circumstances. Insufficient facilities can reduce the quality of communication between victims and offenders and may prevent the parties from expressing their interests freely and comprehensively.

The same issue was identified through the interview with Firman Khadafi Tjindarbumi, a Judge at the Tanjungkarang Class IA District Court. According to him, proceedings involving minor criminal offences are often conducted within a limited timeframe because of the expedited nature of the examination. When restorative dialogue takes place amid a crowded courtroom schedule or in an environment that does not provide sufficient privacy, the psychological comfort of the parties may be affected. Victims may become reluctant to explain the harm they have experienced, while offenders may not have adequate opportunity to demonstrate genuine accountability. Therefore, the quality of restorative justice depends not only on legal authority but also on the practical conditions in which the dialogue occurs.

The absence of victims or relevant community representatives from the proceedings may constitute another obstacle. Firman Khadafi Tjindarbumi explained that victims or community figures may sometimes be reluctant to attend minor criminal proceedings because they perceive the matter as relatively insignificant compared with the time and costs required to participate. Their absence limits the ability of judges to facilitate direct communication and formulate a mutually acceptable restorative agreement. Since restorative justice is fundamentally participatory, the absence of the parties directly affected by the offence may substantially reduce the effectiveness of the process.

A further obstacle arises from the performance orientation of law enforcement institutions. Based on the interview with Fabian Bobby, an advocate at FB & Legal Partners Law Office in Bandar Lampung, law enforcement practices remain influenced by performance indicators that emphasize case settlement targets. When institutional success is primarily associated with the number of cases formally processed or completed, investigators may have fewer incentives to prioritize restorative solutions. Minor cases that could potentially be resolved through reconciliation may therefore continue toward formal prosecution. This situation illustrates the existence of a structural tension between conventional performance indicators and the objectives of restorative justice.

The orientation toward formal case completion is particularly problematic when it causes restorative opportunities to be overlooked during the investigation stage. Fabian Bobby explained that investigators may prioritize the preparation and submission of case files, while opportunities for dialogue between victims and offenders are not adequately explored. As a result, the restorative process may only be considered after the case has entered the court system. This reduces the flexibility available to the parties and places a greater burden on judges to resolve conflicts that could potentially have been addressed at an earlier stage. Effective reform therefore requires the integration of restorative principles throughout the criminal justice process rather than limiting them to the courtroom.

Another obstacle concerns unequal access to legal assistance, particularly for economically vulnerable defendants. Although the Tanjungkarang Class IA District Court

provides a Legal Aid Post (Posbakum) pursuant to Law Number 16 of 2011 concerning Legal Aid, legal assistance may not always be available at the earliest stages of the criminal process. Fabian Bobby emphasized that advocates working through the court's legal aid mechanism may become involved only after the case has been transferred to the court. Consequently, opportunities to identify and negotiate a restorative settlement during the investigation or prosecution stages may already have been lost. This condition demonstrates that access to legal assistance must be strengthened throughout the entire criminal justice process.

Power imbalance between victims and offenders also constitutes an important obstacle to restorative justice. Fabian Bobby noted that differences in economic position, social status, or bargaining power may influence the willingness of parties to participate in reconciliation. Restorative justice requires genuine and voluntary participation; therefore, an agreement cannot be regarded as restorative if it is produced through intimidation, manipulation, or economic pressure. The existence of unequal bargaining positions requires judges and other law enforcement officers to carefully examine whether the parties truly consent to the proposed resolution. Protecting the weaker party is essential to ensuring that restorative justice does not become a mechanism for legitimizing coercive settlements.

The limited participation of community members represents another cultural obstacle. Restorative justice places considerable importance on repairing relationships between the offender, victim, and surrounding community. However, when members of the community remain passive and delegate the entire resolution process to law enforcement institutions, the social dimension of restoration becomes weakened. Community participation is particularly important in supporting the reintegration of offenders after the resolution of a case. Without community acceptance, offenders may continue to experience social stigma even after their legal dispute has been resolved. Thus, strengthening community involvement is necessary to ensure that restoration extends beyond the formal conclusion of a criminal case.

The various obstacles can be analyzed using Lawrence M. Friedman's Legal System Theory, which explains the functioning of a legal system through three interrelated components: legal substance, legal structure, and legal culture. The legal substance concerns the rules and legal norms governing the operation of the system. The legal structure relates to the institutions and organizational mechanisms responsible for implementing the law, while legal culture concerns the attitudes, values, expectations, and patterns of behavior that influence how legal rules are understood and applied. This theoretical framework demonstrates that the obstacles to restorative justice cannot be attributed to a single factor but must be understood as the interaction of normative, institutional, and cultural problems.

From the perspective of legal substance, the principal problem lies in the fragmentation and lack of complete harmonization of restorative justice regulations. The existence of different institutional regulations may produce different interpretations regarding the requirements and procedures for restorative resolution. Although Supreme Court Regulation Number 1 of 2024 provides an important judicial framework, its effectiveness depends upon synchronization with the mechanisms operating within other law enforcement institutions. Without an integrated regulatory framework, restorative justice may remain vulnerable to procedural uncertainty. Consequently, criminal justice reform should seek to establish clearer and more harmonized rules governing restorative

resolution from investigation through adjudication.

From the perspective of legal structure, the main obstacle concerns the lack of integration among law enforcement institutions. Police investigators, prosecutors, courts, advocates, and correctional institutions may operate according to different institutional priorities and performance indicators. The case settlement target identified in the field research illustrates how organizational objectives may conflict with restorative principles. A genuinely integrated criminal justice system requires coordination mechanisms that encourage law enforcement officers to recognize successful restorative resolution as an achievement rather than as a failure to process a criminal case. Institutional restructuring should therefore include clearer coordination, integrated procedures, and performance indicators that recognize substantive justice and victim recovery.

From the perspective of legal culture, the strongest obstacle lies in the persistence of retributive perceptions among law enforcement officers and members of society. Justice is still frequently associated with punishment, imprisonment, and the formal declaration of guilt. Restorative approaches may consequently be perceived as being overly lenient toward offenders or as diminishing the seriousness of criminal conduct. Such perceptions can discourage both victims and law enforcement officers from considering reconciliation. Changing the legal culture therefore requires continuous education, professional training, and public awareness concerning the principles, objectives, and safeguards of restorative justice. The transformation must ensure that restorative resolution is understood not as an abandonment of criminal responsibility but as an alternative form of accountable and proportionate justice.

Overall, the factors hindering the implementation of restorative justice in resolving minor criminal offences at the Tanjungkarang Class IA District Court are interconnected and systemic. Regulatory fragmentation represents an obstacle within the legal substance component; institutional disconnection and performance orientations based on case settlement targets constitute problems within the legal structure; while retributive attitudes among law enforcement officers and society reflect weaknesses in the legal culture. Limited mediation facilities, unequal access to legal assistance, absence of victims or community representatives, and potential power imbalances further complicate implementation. Therefore, reforming the criminal justice system cannot depend solely on creating new legal rules. It requires harmonization of regulations, stronger inter-institutional coordination, improved restorative infrastructure, broader access to legal assistance, and a fundamental transformation of legal culture toward a model of justice that is humane, participatory, proportionate, and oriented toward restoring social relationships.

CONCLUSION

The implementation of restorative justice in resolving minor criminal offences as an effort to reform the Indonesian Criminal Justice System has successfully shifted the paradigm from retributive justice toward restoration. This is reflected in its ability to reduce procedural inequalities affecting vulnerable groups, thereby transforming minor criminal offence proceedings into a more humane, rational, and effective means of restoring social harmony.

The factors hindering the implementation of restorative justice in resolving minor criminal offences as an effort to reform the Indonesian Criminal Justice System stem from interconnected systemic problems, including overlapping regulations among institutions,

law enforcement practices focused on case settlement targets, inadequate mediation facilities, and the persistence of a retributive legal culture. These conditions demonstrate that the shift toward restorative justice cannot rely solely on written regulations but requires comprehensive reforms through regulatory harmonization, inter-agency coordination, and a transformation of legal mindsets to achieve responsive, humane, and socially equitable justice.

BIBLIOGRAPHY

- Adygezalova, G. E., Zhinkin, S. A., Kich, I. S., Butko, L. V., & Vysotskaya, L. P. (2022). Effectiveness of legislation and implementation of the rule of law. *Cuestiones Políticas*, 40(72), 774–784. <https://doi.org/10.46398/cuestpol.4072.46>
- Agus, M. A., & Susanto, A. (2021). The Optimization of the Role of Correctional Centers in the Indonesian Criminal Justice System. *Jurnal Penelitian Hukum De Jure*, 21(3), 369. <https://doi.org/10.30641/dejure.2021.V21.369-384>
- Akmal, D. U. (2023). Indonesian State of Law: The Essence of Human Rights Protection in the Establishment of Laws and Regulation. *Primagraha Law Review*, 1(1), 1–11. <https://doi.org/10.59605/plrev.v1i1.353>
- Fahrizal S.Siagian. (2023). Optimizing Lawrence Meir Friedman's Legal System Theory in the Authority to Investigate Corruption Crimes in Indonesia. *JUSTICES: Journal of Law*, 2(4), 185–201. <https://doi.org/10.58355/justices.v2i4.93>
- Hakim, L., & Ainita, O. (2023). IMPLEMENTATION OF GOVERNMENT REGULATION NUMBER 7 OF 2021 CONCERNING CONVICTION, PROTECTION, EMPOWERMENT, COOPERATIVES AND SMEs IN THE FRAMEWORK OF DEVELOPMENT NATIONAL ECONOMY. *Constitutional Law Society*, 2(2), 125–134. <https://doi.org/10.36448/cls.v2i2.53>
- Harisman, H. (2021). *Protection of Human Rights in the Amendment of the 1945 Constitution of The Republic of Indonesia*. <https://doi.org/10.2991/assehr.k.210506.050>
- Jainah, Z. O., Lintje, A. M., Erlina, B., & Sumbawaningrum, H. R. (2020). Exploring regional potential to strengthen income in the framework of welfare community. *Utopia y Praxis Latinoamericana*, 25(Extra 7), 207–215. <https://doi.org/10.5281/zenodo.4009676>
- Loeffler, C. E., & Nagin, D. S. (2022). The Impact of Incarceration on Recidivism. *Annual Review of Criminology*, 5(1), 133–152. <https://doi.org/10.1146/annurev-criminol-030920-112506>
- Oliinyk, O., Kolos, O. V., Servetsky, I. V., Golubitsky, S. G., & Amelin, O. Y. (2022). Criminal legal and administrative methods of ensuring the economic security of the state in the context of globalization and modernization of the economy. *International Journal of Agricultural Extension*, 10(2), 91–103. <https://doi.org/10.33687/ijae.010.00.3867>
- Raden, S. (2024). The theory of fairness with integrity in Indonesia's electoral justice system. *Fiat Justisia: Jurnal Ilmu Hukum*, 18(2), 185–202.

- Shelley, L. I. (1995). Transnational organized crime: an imminent threat to the nation-state? *Journal of International Affairs*, 463–489.
- Thontowi, J., Wati, E., Jamil, A., & Nurjihad, N. (2024). Transformation of Pancasila and the Rule of Law: A Comparative Study and Analysis of National Development Before and After Government Reformation. *SHS Web of Conferences*, 204, 07011. <https://doi.org/10.1051/shsconf/202420407011>
- Utami, D. N. (2023). Analisis Yuridis Pelaksanaan Pinjam Pakai Barang Bukti Perkara Tindak Pidana Ditinjau Dari Ketentuan Pasal 44 Kuhap. *Iblam Law Review*, 3(1), 138–149.
- Zainudin Hasan, Lukmanul Hakim, & Rudi Irawan. (2023). Judge's Consideration in Imposing the Death Penalty on Perpetrators of Narcotic and Narcotic Precursor Crimes. *Constitutional Law Society*, 2(2), 125–134.

