

Implementation of Restorative Justice in the Examination and Implementation of Criminal Decisions in Courts

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Abstract

The development of the criminal justice system in Indonesia demonstrates a shift from a retributive paradigm toward restorative justice, which emphasizes the restoration of victims, perpetrators, and social relationships. However, implementation at the court level continues to face various challenges, including inconsistencies in practice that depend heavily on judicial initiatives. The research method employed is normative juridical research using descriptive-analytical, evaluative, and prescriptive approaches. The data utilized consist of secondary data in the form of primary, secondary, and tertiary legal materials. The findings indicate that the regulation of restorative justice based on Law Number 20 of 2025 concerning the Criminal Code represents a progressive step toward a more substantive and humane criminal justice system by strengthening the role of judges and positioning victims as primary subjects in the judicial process. However, from an implementation perspective, several weaknesses remain, including procedural legal gaps, regulatory inconsistencies, and dependence on further technical regulations, resulting in a regulatory framework that remains transitional and has not yet been fully operationalized. At the stage of implementing and enforcing criminal judgments, the application of restorative justice remains limited and suboptimal. Despite its normative recognition, judicial practice continues to be dominated by a retributive paradigm, with imprisonment remaining the primary sanction and only a limited number of judicial decisions containing restorative obligations. The absence of detailed technical mechanisms, inadequate oversight systems, and the continued conventional role of prosecutors further hinder its implementation.

INTRODUCTION

The development of restorative justice principles within the Indonesian criminal justice system marks a transition from a retributive paradigm toward a more restorative-oriented sentencing approach. However, at the court level, both during the examination process and the implementation of criminal judgments, its application still lacks a consistent framework. Judges face limited operational guidelines, the absence of standardized restorative dialogue mechanisms, and insufficient institutional support to facilitate the integrated implementation of restorative

justice. Consequently, emerging practices remain sporadic and heavily dependent on individual judicial initiatives, resulting in limited legal certainty and inconsistent application across jurisdictions (Gavrielides, 2020; O'Mahony & Doak, 2017).

Under these conditions, the need for a comprehensive framework for implementing restorative justice has become increasingly urgent (Marder, 2020; Van Ness et al., 2022). Such an implementation framework must be aligned with positive law while accommodating the interests of victims, the restoration of affected social relationships, and the objectives of modern sentencing, which emphasize the reintegration of offenders into society. Without a structured framework, restorative justice risks remaining merely a theoretical discourse or being implemented through ineffective and fragmented policies (Abdulovna, 2024) *Advancing Criminal Justice Reform through Restorative Justice: A Narrative Review*. Therefore, a scientific framework is required to serve as an operational reference for judges and judicial institutions in systematically implementing restorative mechanisms.

Furthermore, developments in contemporary criminal law increasingly emphasize the urgency of this humanistic approach (Effendi et al., 2025; Nur et al., 2025). Retributive approaches that prioritize punishment have proven insufficient in addressing the complexity of social problems because they often neglect victim recovery and the restoration of damaged social relationships (Zulfa, 2011). Criticism of this approach continues to grow because criminal justice systems that excessively emphasize punishment frequently fail to address the underlying causes of criminal behavior and may even contribute to new conflicts and increased recidivism. This reality necessitates a criminal justice system that not only enforces legal provisions formally but also delivers substantive justice for all affected parties.

In response to these challenges, many countries have begun adopting restorative justice approaches, which conceptualize crime as an event that causes harm to victims, offenders, and communities (Muslikah & Rahman, 2026). This approach emphasizes restoration, dialogue, and accountability, as demonstrated through the implementation of Family Group Conferences in New Zealand, mediation and community justice programs in Canada, penal mediation mechanisms in the Netherlands, and peaceful dispute resolution practices in Japan (Rahmawati, 2022). This transformation highlights that the justice system is no longer solely focused on punishment but also functions as a mechanism for social restoration (Government of Canada, 2025). Indonesia has followed this development by reforming the Criminal Procedure Code, previously regulated under Law Number 8 of 1981, through Law Number 20 of 2025 concerning the Criminal Procedure Code, which positions restorative justice as an important framework within the criminal justice process.

In Indonesia, the need for more efficient, humane, and recovery-oriented case resolution mechanisms has become increasingly urgent as the number of cases handled by courts continues to rise across all levels of the judiciary (Hafrida & Usman, 2024). The public demands judicial processes that are fast, simple, and affordable, as mandated by Law Number 48 of 2009 concerning Judicial Power. However, in practice, the formal litigation system often struggles to fulfill these expectations. Investigation and trial processes frequently require considerable time and resources,

while courts continue to experience increasing caseloads each year. This condition demonstrates that the conventional adjudicatory system is becoming increasingly burdened and cannot always provide effective resolutions for victims, offenders, and society as a whole (Herul et al., n.d.).

The impact of this increasing caseload is reflected in Supreme Court data. Supreme Court Clerk Ridwan Mansyur reported that from January to September 2022, a total of 23,860 cases were recorded and submitted to the relevant courts, representing a 48.27% increase compared with the 16,092 cases recorded during the same period in 2021. Furthermore, the nine-month figure in 2022 exceeded the total of 21,586 cases recorded throughout 2021. The average case resolution rate in 2022 reflected a very high workload, reaching approximately 2,651 cases per month, significantly higher than the previous year's average of 1,788 cases per month. Of the total cases resolved in 2022, 60.16% were completed within a maximum period of 120 days, indicating improved efficiency while simultaneously demonstrating the substantial volume of cases requiring judicial attention (Nursobah, 2022). Monthly data further indicates that the acceleration of case resolution continued to demonstrate a consistent upward trend.

These data demonstrate that the Indonesian criminal justice system is experiencing significant pressure and cannot always accommodate the continuously increasing volume of cases. In this context, the need for adaptive, efficient, and recovery-oriented mechanisms, such as restorative justice, has become increasingly relevant, particularly during the stages of criminal investigation, examination, and sentencing. The restorative justice approach has the potential to reduce the burden on litigation systems, accelerate the resolution of minor criminal cases, and provide more substantive justice for all affected parties (Sarhini & Ma'arij, 2020). Therefore, it provides an important foundation for reformulating the implementation of restorative justice within the framework of Law Number 20 of 2025 concerning the Criminal Procedure Code.

Indonesia has a long tradition of peaceful dispute resolution through customary mechanisms and community deliberations practiced across regions such as Aceh, Papua, Bali, and West Nusa Tenggara. Practices such as *peusijek* and *gampong* peace mechanisms in Aceh, *tonowi* and tribal chieftainship meetings in Papua, *pasubayan* and the *desa pekraman* mechanism in Bali, and *begundem* within the Sasak community in West Nusa Tenggara (Nusa Tenggara Barat [NTB]) demonstrate that the principles of restoration, apology, compensation, and reconciliation have long been embedded in local cultures (Sutjiadi et al., 2025). These practices reflect the core elements of restorative justice, including acknowledgment of wrongdoing, reparation for victims, restoration of social relationships, and community participation, which have proven effective in maintaining social harmony, particularly in conflicts involving long-term relationships.

However, this richness of customary practices has not been systematically integrated into the formal justice system. Although Law Number 3 of 2024 concerning the Second Amendment to Law Number 6 of 2014 concerning Villages recognizes authority for customary-based dispute resolution, its application remains sporadic and lacks a strong legal foundation within criminal procedural law. Consequently, customary resolutions are often not recognized within the judicial system due to their limited basis in the Criminal Procedure Code, which remains predominantly influenced by a retributive paradigm (Zain & Siddiq, 2015). This gap reduces the potential

contribution of local wisdom in addressing minor criminal cases, resulting in continued court proceedings that increase the burden on the judiciary and delay victim recovery (Hasan et al., 2025). Therefore, integrating local wisdom into restorative justice mechanisms is crucial for strengthening the modern criminal justice system and is relevant for further research in developing future implementation frameworks.

The concept of restorative justice in Indonesia has developed rapidly over the past two decades, particularly through initiatives undertaken by the National Police (Kepolisian Negara Republik Indonesia [Polri]) and the Prosecutor's Office (Kejaksaan Agung Republik Indonesia [AGO]) in handling minor criminal cases. At the investigation stage, Indonesian National Police Regulation (Peraturan Kepolisian Negara Republik Indonesia [Perpol]) Number 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice provides a legal basis for investigators to terminate cases through reconciliation between offenders and victims when specific requirements are fulfilled, thereby creating opportunities for restorative processes within positive law. At the prosecution stage, the AGO has also implemented similar mechanisms through various regulations and circular letters issued by the Attorney General, allowing prosecutors to discontinue or divert certain cases from formal judicial proceedings.

Despite the existence of regulations at the police and prosecution levels, the implementation of restorative justice in Indonesia continues to demonstrate a fundamental weakness: the process often ends before cases reach the court stage. Most restorative justice practices occur only during the investigation phase (Fikarudin & Sumanto, 2025). National Police data indicates that in recent years, more than 2,000 cases annually have been resolved through restorative justice mechanisms at the police level (Rahmani, 2025). However, this figure also highlights the lack of continuity in restorative justice processes once cases proceed to prosecution or trial stages. Within the judicial context, no formal mechanism previously existed to continue or initiate restorative justice proceedings, particularly before the enactment of Law Number 20 of 2025 concerning the Criminal Procedure Code (Ady Thea, 2025).

Before the enactment of the 2025 Criminal Procedure Code, restorative justice implementation was primarily based on Police Regulation Number 8 of 2021, Attorney General Regulation Number 15 of 2020, and internal Supreme Court policies, including Supreme Court Regulation (Peraturan Mahkamah Agung [PERMA]) Number 1 of 2024. However, these regulations did not provide an adequate procedural legal framework for District Courts to fully implement restorative justice during judicial proceedings. PERMA Number 1 of 2024 only provides general guidelines and applies to specific categories of cases, without establishing operational mechanisms such as penal mediation within court proceedings, suspension of examination procedures to facilitate restorative justice processes, or procedures for incorporating restorative justice agreements into judicial decisions (Rahmathoni, 2024). This limitation places District Courts in a challenging position, as they are encouraged to accommodate recovery-oriented approaches but are not yet supported by comprehensive procedural regulations (Safa'at, 2023).

The absence of restorative justice mechanisms within courts also affects the lack of synchronization among law enforcement institutions. When investigators or prosecutors have applied restorative approaches, but court proceedings continue to follow a retributive paradigm, restorative efforts become unsustainable (Kumala et al., 2024). Offenders who have reached reconciliation may still receive criminal sanctions, victims who have received compensation may still experience lengthy judicial proceedings, and restored social relationships may be disrupted. This condition indicates that restorative justice implementation in Indonesia remains fragmented and has not yet been fully integrated into the criminal justice system as a whole.

Law Number 20 of 2025 concerning the Criminal Procedure Code introduces a significant innovation in the Indonesian criminal justice system by explicitly institutionalizing restorative justice as part of criminal procedural law. For the first time, the restorative approach is positioned not merely as a discretionary policy of law enforcement officials but as a formal mechanism within the criminal adjudication process (Kaligis, 2025). Law Number 20 of 2025 concerning the Criminal Procedure Code regulates two channels for applying restorative justice, representing a significant legal development. First, restorative justice may be applied during court proceedings through judicial considerations, such as victim forgiveness, to support more humane judgments. Second, it may be applied after the judgment through the execution stage, allowing restorative efforts to continue after a decision has been issued. This approach shifts the orientation of criminal justice from retaliation toward corrective and restorative justice, emphasizing the restoration of relationships and protection of victims' interests rather than solely imposing punishment on offenders (Irfani, 2025).

Within Indonesian criminal procedural law, there has been a transition from a retributive paradigm toward a more humane approach that views punishment not only as retaliation but also as an effort to restore social relationships, reintegrate offenders, and protect victims (Tirtayasa & Purnomo, 2025). The existence of two restorative justice mechanisms under Law Number 20 of 2025 concerning the Criminal Procedure Code demonstrates state recognition that restoration may occur both before and after a judgment is issued, thereby expanding opportunities for more comprehensive conflict resolution (Zarkasi, 2025).

In examining the implementation of restorative justice at the court level, this study analyzes ten (10) judicial decisions that represent criminal sentencing practices across various offenses, including embezzlement, theft, assault, receiving stolen property, vandalism, and traffic accidents resulting in death. In general, decisions such as Decision No. 124/Pid.B/2025/PN Rta (embezzlement), No. 103/Pid.B/2025/PN Liw (aggravated theft), No. 75/Pid.B/2025/PN Mna (joint assault), No. 95/Pid.Sus/2025/PN Bbu, and No. 15/Pid.Sus/2025/PN Bnt (traffic negligence resulting in death) demonstrate that judges continue to impose imprisonment as the primary sanction, with sentences ranging from four months to one year. There was no application of conditional sentencing, penal mediation, or diversion mechanisms, which are among the essential characteristics of restorative justice approaches.

The only element that partially reflects restorative principles is the determination of evidence, where judges in almost all decisions order the return of items related to the offense to

victims or rightful owners. However, such restitution primarily represents a procedural consequence within criminal procedural law rather than a reparative mechanism developed through dialogue and agreement between offenders and victims.

Therefore, the overall judicial decisions demonstrate that the implementation of restorative justice at the court level remains highly limited. The prevailing approach remains oriented toward retribution and deterrence rather than restoration of relationships between offenders and victims. This situation illustrates a gap between the normative framework of restorative justice developed within Indonesian criminal law policy and its practical implementation in judicial proceedings.

Accordingly, the novelty expected from this research is the development of a restorative justice implementation framework that can be systematically applied during the trial phase and the execution of criminal judgments. This framework is intended to establish a balance between legal certainty, substantive justice values, and social benefits, thereby bridging the tension between the retributive approach that has historically dominated judicial practice and the need for a more humane reparative mechanism. Based on the above description, this dissertation research is entitled “Implementation of Restorative Justice in the Examination and Execution of Criminal Decisions in Court.

METHOD

This research employed a normative legal research approach supported by limited empirical data. The study examined legal norms related to the formulation, application, and enforcement of restorative justice principles within judicial practice. The data consisted of secondary and limited primary data. Secondary data were obtained through literature studies involving primary, secondary, and tertiary legal materials, while limited primary data were collected through interviews with judges, advocates, prosecutors, and police officers, as well as through the analysis of relevant District Court decisions.

Data collection was conducted through two approaches. First, library research was carried out by reviewing legal literature, including books, journals, legal theories, statutory regulations, and court decisions relevant to the research topic. Second, field research was conducted through interviews with legal practitioners and law enforcement officials, including judges, advocates, prosecutors, police officers, and legal policymakers.

The collected data were analyzed using qualitative analysis techniques to identify patterns, relationships, and legal interpretations relevant to the implementation of restorative justice. The conclusions were formulated using a deductive approach, moving from general legal principles to specific findings, in order to provide clarity in addressing the research problems and developing appropriate conclusions.

RESULTS AND DISCUSSION

Implementation of Restorative Justice at the Examination Stage of Criminal Cases in Court

The practice of implementing restorative justice during the criminal trial phase of court proceedings demonstrates a developing pattern of implementation in judicial practice, although its provisions in the 2025 Criminal Procedure Code remain general. The application of a restorative approach during the trial phase is generally carried out in certain cases deemed to meet the substantive requirements for resolution through restoring the relationship between the perpetrator and the victim.

During trial proceedings, restorative justice mechanisms generally begin with indications of reconciliation between the defendant and the victim, either existing before the case is heard in court or emerging during the trial process. The judge, as the primary authority in the trial, plays a role in identifying the possibility of implementing a restorative approach by considering the background of the case, the defendant's attitude, and the victim's wishes. In practice, this approach is not always implemented from the outset of the trial but may emerge at certain stages, such as after witness examination or before the reading of the charges (Taqiyya, 2026).

The judge's role in the restorative justice mechanism during the criminal trial phase is both facilitative and judicial. The judge provides a dialogue space for the parties to express their views, attitudes, and desires regarding a peaceful resolution of the case. This dialogue can be facilitated directly during the trial or through a court-facilitated meeting. In developing practice, judges not only accept the parties' agreement but also ensure that it is voluntary and does not conflict with applicable legal provisions (Barda, 2018).

Agreements reached through restorative justice mechanisms are then formalized in writing and incorporated into the legal considerations in court decisions. In some cases, judges' decisions reflect that reparations for the victim have been made or agreed upon, so that the criminal justice approach is not solely focused on punishment but also considers restoring social relationships disrupted by the crime. Therefore, restorative justice mechanisms at the court hearing stage are implemented through an integration of the dialogue process, the parties' agreement, and judicial legitimacy through court decisions.

In the practice of implementing restorative justice during the criminal trial phase, the involvement of the victim and perpetrator is a crucial element in determining the success of the restorative process. Based on reported practices in the judicial system, victims are generally directly involved in restorative dialogue or meetings, either by appearing in person in court or through authorized representatives. The victim's presence is intended to provide an opportunity to express their perspectives, feelings, and hopes for recovery from the crime they experienced (Barda, 2018).

The perpetrator or defendant is also actively involved in the restorative justice mechanism during the trial. This involvement is demonstrated through the defendant's willingness to admit their actions, apologize, and express a commitment to fulfilling the form of reparation agreed upon with the victim. The perpetrator's participation is not merely formal but is manifested in their willingness to fulfill obligations stipulated in the settlement agreement, such as compensation or other forms of reparation.

The participation of victims and perpetrators in restorative justice practices in court is generally outlined in a written settlement agreement. This agreement reflects the results of the dialogue between the parties and serves as the basis for the judge to determine whether reparation has occurred. In the practice of examination, the peace agreement is then included or referred to in the legal considerations of the court's decision as a relevant fact in the decision-making process.

Implementation of Restorative Justice at the Execution and Implementation Stage of Criminal Decisions

In criminal justice practice, a restorative approach is reflected in the types and forms of criminal decisions handed down by judges, as well as in the decision-enforcement mechanisms that emphasize restoration, perpetrator responsibility, and protection of the victim's interests.

Based on criminal justice practice, several forms of criminal decisions reflect a restorative justice approach in their implementation. One frequently used form of decision is the conditional sentence. In a conditional sentence, the judge imposes a prison sentence or other sentence with the stipulation that the sentence need not be served if the convict meets certain conditions within a specified time period. In practice, these conditions are often linked to the convict's behavior, efforts to restore the victim, and obligations to maintain order and refrain from reoffending. Conditional sentences reflect a restorative approach because the implementation of punishment is directed at behavioral improvement and social recovery, rather than solely retribution (Hardiyanti et al., 2024; Wangga, 2022).

In addition to conditional sentences, criminal decisions in the form of fines also demonstrate a restorative approach in their implementation. Fines are imposed with the aim of holding the perpetrator accountable for their actions without requiring imprisonment. In certain cases, fines are chosen because they are considered more proportional and beneficial for social recovery, especially when the crime committed does not have widespread or severe impacts. In practice, fines are often associated with peaceful conflict resolution and reparation for the victim's losses.

Another form of punishment that reflects a restorative approach is community service. This punishment is imposed by requiring the convict to perform specific work beneficial to the community for a specified period. In practice, community service is intended to foster a sense of social responsibility in the convict and restore the relationship between the perpetrator and the community affected by the crime. The implementation of community service as part of a criminal decision demonstrates a criminal orientation that is not only punitive, but also educational and restorative.

Furthermore, criminal decisions that include restitution obligations to victims also represent a concrete form of the restorative justice approach. Restitution in criminal decisions is manifested in the form of an obligation for the convict to compensate for material losses or specific costs incurred as a result of the crime. In practice, restitution is positioned as part of the restoration of victims' rights and serves as an indicator that criminal decisions are not solely oriented towards the interests of the state but also directly consider the interests of the victims.

The implementation of restorative criminal decisions involves several law enforcement institutions with authority in accordance with criminal procedure law. In practice, the execution of

criminal decisions remains under the authority of the prosecutor, who executes court decisions that have permanent legal force. The prosecutor is responsible for ensuring that the contents of the decision, including restorative obligations, are carried out by the convict in accordance with the verdict.

In the implementation of conditional sentences, supervision of the fulfillment of the conditions of the decision is carried out through a supervisory mechanism involving law enforcement officials and, under certain circumstances, government officials or related institutions. The convict is required to comply with the provisions set by the judge, and violation of these conditions can result in the suspension of the principal sentence. This mechanism demonstrates that the implementation of conditional sentences simultaneously contains elements of control and restoration.

Fines and restitution are enforced through a payment mechanism in accordance with the court's ruling. The prosecutor ensures that fines are deposited into the state treasury, while restitution is distributed to the victim in accordance with the verdict. In practice, the implementation of restitution obligations is a crucial part of victim recovery and an indicator of the success of the restorative approach in the execution phase of criminal sentences.

For community service sentences, the implementation of the sentence involves coordination between the prosecutor's office, the court, and the agency or institution designated as the location for the community service. Supervision of the community service implementation is carried out to ensure that the convict fulfills their obligations according to the specified timeframe and form of work. This mechanism demonstrates that the implementation of criminal sentences is not merely administrative but also requires substantial oversight to achieve the goal of social recovery (Barda, 2016).

Thus, the implementation of restorative justice in the execution and enforcement of criminal decisions is realized through a recovery-oriented decision and an implementation mechanism that involves the active participation of the prosecutor's office, the court, and related institutions. This entire process demonstrates that the restorative approach does not stop at the case examination stage but continues through to the final stage of the criminal justice process, through the implementation of the court's decision.

Obstacles in the Implementation of Restorative Justice at the Examination and Implementation Stage of Decisions

The implementation of restorative justice during the criminal case examination phase in court and during the execution of criminal decisions still faces various normative, institutional, social, and cultural obstacles. These obstacles emerged with the enactment of the 2025 Criminal Procedure Code, which introduced a new paradigm into the criminal justice system, but has not yet been fully accompanied by regulations and readiness for implementation in practice.

A prominent problem found in this research is the lack of clear regulations regarding restorative justice mechanisms during the examination phase in court. In the 2025 Criminal Procedure Code, restorative justice mechanisms during the examination phase are only limitedly regulated in two articles, without comprehensive regulations regarding implementation

procedures, the role of judges in facilitating the restorative process, and the relationship between these mechanisms and the stages of evidence and sentencing. This situation has resulted in various obstacles in the implementation of restorative justice, both during the examination phase and during the execution of criminal decisions.

The research results indicate that the implementation of restorative justice during the examination phase and the execution of criminal decisions still faces three main groups of obstacles: normative, institutional, and social and cultural. Normative barriers include incomplete and unsynchronized provisions in the 2025 Criminal Procedure Code (KUHP) with various other regulations, such as the New Criminal Code, Supreme Court Regulations, Prosecutor's Office Regulations, and Police Regulations. This has led to overlapping authority, unclear mechanisms, and differing interpretations regarding the application of restorative justice. Furthermore, the lack of technical guidelines regarding the scope of judicial discretion means that reconciliation and victim recovery are still positioned more as mitigating factors for punishment than as a basis for recovery-oriented solutions.

Institutional barriers relate to the unequal understanding of the concept of restorative justice among law enforcement officials, limited resources and facilities in correctional institutions, and weak coordination between the police, prosecutors, courts, and correctional institutions in the implementation and oversight of restorative decisions. Meanwhile, social and cultural barriers arise from the persistent paradigm of society and officials viewing justice as synonymous with punishment, low victim trust in the effectiveness of restorative mechanisms, social and economic inequalities that can influence victim voluntariness, and potential bias against perpetrators with greater economic capacity to meet restitution demands.

The study also found that during the early implementation of the 2025 Criminal Procedure Code, differing interpretations emerged regarding the authority of the Chief Justice of the District Court to authorize the termination of prosecution under restorative justice mechanisms. The absence of clear regulations regarding the limits of authority, assessment standards, forms of determination, and follow-up procedures after a request is rejected indicates a continuing gap in norms that could potentially lead to legal uncertainty and inconsistent practice. Therefore, a more comprehensive regulatory framework, along with operational guidelines, is needed to ensure that the implementation of restorative justice at the examination and execution stages of criminal decisions can be carried out consistently, integratedly, and provide legal certainty.

Analysis of Restorative Justice Regulations in the Criminal Case Examination Process in Court as Regulated in Law Number 20 of 2025 concerning the Criminal Procedure Code

The 2025 Criminal Procedure Code (KUHP) presents a significant update by making restorative justice an official part of the criminal procedural law system, eliminating its reliance on the discretion of law enforcement officials. This paradigm shifts the judicial orientation from merely punishing perpetrators to victim rehabilitation, improving social relations, and achieving substantive justice. This change also expands the role of judges as facilitators of restorative resolutions that consider the interests of victims, perpetrators, and the community, although this requires high integrity and clear technical guidelines to prevent subjectivity. Furthermore, the 2025

Criminal Procedure Code strengthens the position of victims as subjects with the right to be heard, involved, and receive redress. However, its implementation still faces challenges in the form of regulatory inconsistencies with Supreme Court Regulation No. 1 of 2024, the lack of implementing regulations, and potential legal gaps that can create uncertainty in practice. Furthermore, the application of restorative justice is limited to certain crimes with minor penalties and non-recidivism, while serious crimes such as terrorism, corruption, sexual violence, and crimes against life remain exempt to maintain a balance between individual and public interests.

When analyzed based on the three theories used, from the perspective of Sociological Jurisprudence, law is viewed as a tool of social engineering that must balance various interests within society. In this context, the 2025 Criminal Procedure Code (KUHAP), which integrates restorative justice, demonstrates the state's effort to shift the function of law from merely a repressive tool to one that is responsive to social needs, particularly in restoring relationships between perpetrators, victims, and the community. This approach reflects a legal orientation that is no longer rigid and formalistic, but rather adaptive to social realities, where the resolution of criminal conflicts is directed towards creating sustainable social harmony.

However, the strengthening of the victim's position in the 2025 Criminal Procedure Code remains normative and not yet fully operational. The absence of a monitoring mechanism for the implementation of restorative agreements and the absence of strong legal guarantees if perpetrators fail to fulfill their obligations indicate that victim protection is suboptimal. From a critical victimology perspective, this situation has the potential to give rise to secondary victimization, a situation where victims are again harmed by the justice system itself due to the failure to fulfill their promised right to restitution. Thus, although conceptually the 2025 Criminal Procedure Code (KUHAP) has adopted a victim-centered approach, its implementation still requires strengthening to truly meet victims' needs substantively.

Meanwhile, when viewed from the restorative justice theory proposed by Albert Eglash, the provisions in the 2025 Criminal Procedure Code clearly demonstrate the adoption of the concept of creative restitution, namely a form of perpetrator accountability that is not merely passive, but active in repairing the harm caused by the crime. Eglash distinguishes three approaches to the criminal justice system: retributive justice, distributive justice, and restorative justice, with the latter emphasizing restoration and reconciliation. The 2025 Criminal Procedure Code has normatively adopted this approach by establishing an agreement between the victim and the perpetrator as a legitimate part of the judicial process and recognizing forms of restitution such as compensation, apologies, and community service.

The implementation of Eglash's restorative justice concept in the 2025 Criminal Procedure Code (KUHAP) still faces structural and normative obstacles. The absence of detailed technical regulations regarding the mechanism of restorative dialogue in court and the lack of synchronization with other regulations, such as the Supreme Court Regulation, mean that the concept of creative restitution cannot be optimally implemented. Consequently, there is a risk that restorative justice will become merely a normative symbol without substantive realization in judicial practice. This contradicts the essence of Eglash's theory, which emphasizes that the success

of restorative justice lies in the active involvement of the parties and the achievement of real recovery, not merely a procedural formality.

Analysis of the Implementation of Restorative Justice in the Implementation of Criminal Court Decisions Based on Law Number 20 of 2025 concerning the Criminal Procedure Code

The discussion of the implementation of restorative justice in the execution and enforcement stages of criminal decisions in the previous subchapter emphasized that the success of the restorative justice approach does not stop at the judge's decision, but is largely determined by how the decision is actually implemented during the execution stage. In this context, justice is no longer measured solely by the formal aspect of the verdict, but rather by the extent to which restitution is actually achieved for the victim, the perpetrator fulfills his or her responsibilities, and disrupted social relationships are repaired. Thus, the execution stage becomes a crucial arena for determining whether restorative justice remains merely a normative concept or truly functions as a substantive restorative mechanism in criminal justice practice.

However, an analysis of judicial practice in several decisions outlined in the previous chapter reveals a significant gap between normative construction and the reality of implementation. Although theoretically, restorative justice is recognized as a recovery-oriented approach, in practice, restorative justice is often positioned merely as a mitigating factor for punishment. Judges continue to impose imprisonment as the primary sanction, while the restorative element is merely a supplementary element that lacks significant transformative power towards the goals of punishment. This situation indicates that the retributive paradigm remains dominant in practice, hampering the full internalization of restorative justice values within the criminal justice system.

The implementation of restorative justice at the execution stage also faces serious structural challenges, particularly related to the weak oversight mechanism for perpetrators' implementation of restorative obligations. The 2025 Criminal Procedure Code (KUHAP) does not yet provide a clear and integrated monitoring system to ensure that perpetrators fulfill their obligations, such as paying compensation, performing community service, or other forms of restitution. The absence of this mechanism implies a high risk that restorative agreements will not be implemented optimally, leaving victims in a disadvantaged position despite a court ruling recognizing their right to restitution. From this perspective, the weakness in oversight is not merely an administrative issue but also touches on the substantive aspect of protecting victims' rights.

On the other hand, the implementation of restorative justice relies heavily on the role of prosecutors as executors of court decisions. Within the framework of the 2025 Criminal Procedure Code, prosecutors have the authority to enforce verdicts, including the restorative obligations imposed on convicts. However, conceptually and practically, the role of prosecutors tends to be understood within the traditional framework of merely executing punishment, rather than facilitating recovery. This lack of role redefinition often results in inadequate attention being paid to the implementation of restorative obligations, as the primary focus remains on the execution of conventional punishments, such as imprisonment. Consequently, the restorative dimension, which should be at the core of restorative justice, is less than optimal in its implementation.

The implementation of restorative justice at the execution stage is also influenced by three main factors: legal substance, legal structure, and legal culture. While the 2025 Criminal Procedure Code recognizes restorative justice, it does not yet provide detailed and operational regulations regarding its implementation mechanisms. From a legal structural perspective, law enforcement officials, including judges and prosecutors, do not yet fully possess the capacity and orientation to support a restorative approach. Meanwhile, from a legal culture perspective, society and authorities still tend to view criminal justice as a means of retribution, thus the restorative approach has not been fully accepted as a legitimate form of justice. The disharmony of these three factors has resulted in the implementation of restorative justice remaining at a potential stage, not yet actual.

When analyzed based on the three theories used, within Roscoe Pound's framework, law is understood as a tool of social engineering that must be able to bridge norms and social reality. In this context, the implementation of restorative justice is measured not only by the existence of norms in court decisions, but also by the extent to which these norms are able to produce real social change, namely victim recovery, perpetrator accountability, and the restoration of social balance. However, the fact that restorative justice in practice is still often positioned as a mitigating factor for criminal penalties indicates that the law has not fully functioned as a tool of social engineering, but remains trapped in a formalistic pattern that emphasizes punishment. This reflects a gap between the law on the books and the law in action, which, from Roscoe Pound's perspective, indicates the failure of the law to effectively fulfill its social function.

From a victimology theory perspective, the implementation of restorative justice at the execution stage should be measured by the fulfillment of the victim's right to real and sustainable reparation. Victimology places the victim at the center of the criminal justice system, so the success of a decision is not solely determined by the punishment of the perpetrator, but also by the extent to which the victim's losses are truly redressed. The 2025 Criminal Procedure Code (KUHP) normatively recognizes the importance of such reparation, but the absence of a robust oversight mechanism for the implementation of restorative obligations leaves victims potentially experiencing further harm. In this situation, victims can experience secondary victimization, which is the continued suffering caused by the legal system's inability to guarantee the implementation of the right to reparation promised in the verdict. Therefore, from a victimology perspective, the implementation of restorative justice at the execution stage remains weak because it fails to guarantee concrete and sustainable protection for victims.

Although restorative justice offers a more humane and recovery-oriented approach, its implementation also has the potential to violate victims' rights if not accompanied by adequate protection mechanisms. One risk that often arises is an imbalance in the position between the victim and the perpetrator, particularly when the perpetrator possesses economic, social, or influential power that can influence the case resolution process. In such circumstances, victims may potentially agree to a restorative resolution not of their own free will, but rather due to direct or indirect pressure.

Furthermore, pressure on victims can come from various parties, not only from the perpetrator but also from the perpetrator's family, social environment, or specific interests seeking

a peaceful resolution. This situation can create the risk of a coerced settlement, an agreement that arises not from voluntary consent but from fear, economic dependence, power relations, or concern about the social consequences the victim may face if they refuse a restorative resolution (Bazelon & Green, 2019). Such conditions contradict the basic principles of restorative justice, which require the voluntary participation of all parties involved.

Therefore, the implementation of restorative justice must be accompanied by effective victim protection mechanisms, including voluntary assessments, legal and psychological assistance, and verification by a judge or restorative mediator to ensure that the victim's consent was given freely, consciously, and without coercion. With these mechanisms in place, restorative justice can continue to function as a means of restoration without compromising the rights and interests of victims.

Analysis of the Ideal Implementation of Restorative Justice at the Examination and Implementation Stage of Criminal Decisions in Courts in the Future

The discussion regarding the ideal implementation of restorative justice in the future, as outlined in the previous subchapter, formulates an ideal model for the implementation of restorative justice that is integrated, systematic, and sustainable as a direction for reforming criminal procedural law in Indonesia. This model is built on a synthesis of three main theoretical foundations: sociological jurisprudence, victimology, and restorative justice theory. From Roscoe Pound's perspective, the law should function as a means of social engineering capable of creating a balance of interests within society. Meanwhile, victimology emphasizes the importance of focusing on the victim as the party most impacted by the crime, and the restorative justice theory developed by Albert Eglash emphasizes the need for restoration through the active participation of the perpetrator, victim, and community. The synthesis of these three theories produces an implementation paradigm that is not only normative but also operational and oriented towards substantive justice (Faisal et al., 2024; Rifaid, 2025).

Within this framework, restorative justice in the future should no longer be positioned as a merely optional or alternative mechanism but must become an integral part of the trial process. Therefore, the development of a "restorative trial mechanism" that is institutionally recognized within the criminal justice system is necessary. This mechanism must involve a professional mediator competent in facilitating dialogue between the victim and the perpetrator in a safe, equal, and non-coercive manner. By providing a structured dialogue space within the courtroom, the judicial process serves not only as a forum for proving guilt but also as a means of reconciliation and social restoration.

The ideal implementation of restorative justice must also be based on fundamental principles that guarantee justice for all parties (Anderson et al., 2025). The principle of voluntariness is a key requirement, with no coercion, pressure, or manipulation of either the victim or the perpetrator in the restorative resolution process. Furthermore, a balance of interests between the victim, the perpetrator, and the community must be maintained to prevent dominance by one party. Protecting the victim from the risk of secondary victimization is also crucial, ensuring that the restorative

process does not create new suffering for the victim due to social pressure or uncertainty about the implementation of the agreement.

In this ideal model, the judge's decision must explicitly include restorative obligations as a central component of the verdict, not merely an accessory or mitigating factor. These obligations can take the form of restitution, rehabilitation, conditional sentences, or community service designed to restore the victim's losses and encourage the perpetrator to take constructive responsibility. Thus, court decisions are not only repressive, but also transformational, because they are oriented towards restoring and improving social relations.

CONCLUSION

The restorative justice provisions in the 2025 Criminal Procedure Code (Kitab Undang-Undang Hukum Acara Pidana [KUHAP]) demonstrate a fundamental reform in Indonesian criminal procedural law by advancing toward substantive and humanistic justice. These provisions position judges as key actors in promoting case resolution oriented toward victim recovery, offender accountability, and the restoration of social harmony. However, the implementation of restorative justice in the execution of criminal judgments under the 2025 Criminal Procedure Code has not yet been optimal. Although it has been normatively recognized as part of the objectives of sentencing, its application remains dominated by a retributive paradigm, lacks effective implementation and oversight mechanisms, and continues to depend heavily on regulatory strengthening, institutional readiness, coordination among law enforcement officials, and a shared understanding of its practical application. The future implementation of restorative justice should be realized through an integrated and sustainable model that incorporates restorative dialogue mechanisms from the examination stage through the execution of restorative-based judgments. Such a model requires the active involvement of judges, mediators, prosecutors, and courts to ensure victim protection, offender accountability, and concrete social restoration.

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