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RESTORATIVE JUSTICE WITHIN THE INDONESIAN CRIMINAL JUSTICE SYSTEM FOLLOWING THE ENACTMENT OF THE CRIMINAL PROCEDURE CODE

Fadli Setiawan[1], Mohd. Din [2], Ilyas Yunus[3], Iskandar A. Gani[4]
[1,2,3,4] Faculty of Law, Universitas Syiah Kuala, Indonesia, Banda Aceh, Indonesia.
Email Correspondence: f4dli.s@mhs.usk.ac.id

Abstract
Restorative Justice was only regulated under Law Number 1 of 2026 concerning the Criminal Procedure Code, under the term "restorative justice." Article 88 of the Criminal Procedure Code stipulates that further provisions concerning the implementation of the Restorative Justice mechanism shall be regulated by a Government Regulation. However, to date, the relevant implementing regulation has not yet been enacted. As a result, Law Enforcement Officers, in applying the restorative justice mechanism, rely on varying and inconsistent regulations. The purpose of this research is to examine, analyze, and formulate the essential nature of restorative justice that ought to be applied in Indonesia, the regulation of restorative justice within Indonesia's criminal justice system, and the formulation of statutory provisions on restorative justice in the termination of case proceedings within Indonesia's criminal justice system. The research method employed in this study is normative juridical research, namely legal research conducted through the examination of library materials (literature review). This research adopts conceptual, statutory, and comparative approaches. The data for this research were collected from secondary data comprising primary, secondary, and tertiary legal materials. The collected data were analyzed qualitatively through prescriptive analysis. The findings indicate that the essential nature of restorative justice that ought to be applied in Indonesia is one that prioritizes the restoration of relationships among victims, offenders, victims' families, and the community. The regulation of restorative justice within Indonesia's criminal justice system is provided for under the Criminal Procedure Code; however, no implementing regulation (Government Regulation) currently exists to provide clearer and more detailed provisions on restorative justice as mandated by the Criminal Procedure Code. The formulation of statutory provisions on restorative justice in the termination of criminal case proceedings within Indonesia's criminal justice system encompasses the material, psychological, and social dimensions of victim recovery. Recovery is understood not merely as financial restitution, but also as encompassing psychological, social, and relational dimensions.

Keywords: *Restorative Justice*, Indonesian Criminal Justice System, Criminal Procedure Code.

Introduction

Law Number 1 of 2026 concerning the Criminal Procedure Code has established the concept of Restorative Justice (RJ) in the handling of criminal cases through the Restorative Justice Mechanism (RJM). This mechanism is set forth in several articles of the Criminal Procedure Code. The RJM is carried out to restore the original state of affairs (restitutio in integrum). The Restorative Justice Mechanism is implemented at every stage of the criminal justice system in Indonesia, commencing from the inquiry stage through to the examination stage at trial. At the inquiry and investigation stages, the RJM is carried out through an agreement to settle the case

before the inquiry officer or investigator. On the basis of an agreement between the offender and the victim, the Inquiry Officer or Investigator shall issue a letter terminating the Inquiry or Investigation. Where the RJM is carried out at the investigation stage and an agreement has been reached between the offender and the victim, the Investigator is obliged to notify the Public Prosecutor of the determination to terminate the investigation, for the purpose of seeking a ruling from the Chairman of the District Court.

Subsequently, at the Prosecution stage, the RJM is carried out through an agreement to settle the case before the Public Prosecutor. Such agreement is evidenced by a letter of case settlement agreement, signed by the Suspect, the Victim, and the Public Prosecutor. On the basis of the letter of case settlement agreement, the Public Prosecutor shall issue a decree terminating the Prosecution, which shall thereafter be submitted to the Chairman of the District Court for a ruling. Upon the ruling of the Chairman of the District Court, the Public Prosecutor is entitled to convey the same to the Investigator.

Finally, in the handling of criminal cases, the RJM is also applied at the trial examination stage. Where no agreement is reached among the parties involved in a criminal offense during the inquiry, investigation, or prosecution stages, the application of the Restorative Justice mechanism shall be carried out at the trial examination stage, through the Court's Decision and the execution thereof. The restorative justice mechanism, in its entirety and at all stages of the criminal justice system, remains in need of implementing regulations to be set forth in a Government Regulation. This is in line with Article 88 of the Criminal Procedure Code, which provides that further provisions concerning the implementation of the Restorative Justice mechanism shall be regulated by a Government Regulation.

With reference to the foregoing norms, it is evident that the implementation of the RJM continues to face several obstacles in restoring the original state of affairs, such as compensation for other losses suffered by the Victim as a result of the criminal offense, and the payment of damages arising therefrom. The determination of such matters constitutes a distinct impediment for inquiry officers, investigators, and public prosecutors in handling criminal cases that would otherwise be eligible for application of the RJM.

This legal vacuum has yet to be resolved by the regulations already in place at each law enforcement institution, such as Regulation of the Indonesian National Police No. 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice, Regulation of the Attorney General's Office of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice, and Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. These regulations would only give rise to divergent interpretations of the RJM, which has only recently been introduced under the Criminal Procedure Code; accordingly, the enactment of implementing regulations for the RJM is urgently required to address legal issues that may arise in the future in the handling of criminal cases.

In addition to such divergent interpretations, the implementation of the RJM at the inquiry stage, as provided for under the Criminal Procedure Code, constitutes a fundamental legal inconsistency, given that the ultimate purpose of applying the RJM in criminal cases is to achieve a peaceful settlement between the victim and the offender. The inquiry stage, however, is the stage at which it is determined whether or not an event constitutes a criminal offense. This means that, at the inquiry stage, no suspect or offender has yet been identified. The application of the RJM at the inquiry stage will therefore give rise to legal problems in the future, owing to the incompleteness of the parties (victim and offender) required to reach a peaceful settlement.

Several prior studies have been conducted in relation to restorative justice. As undertaken by (Nnawulezi et al., 2025), this study focuses on the principles of restorative justice that have been integrated for convicted offenders into the Indonesian criminal justice process, particularly at the investigation stage. The limitation of this study lies in the fact that the legal argumentation constructed therein focuses solely on convicted offenders at the investigation stage. Next, the study conducted by (Wibowo et al., 2024). focuses on the ideal restorative justice policy, with an emphasis on the actualization of rehabilitative criminal law enforcement at the prosecution stage of offenders. Finally, the study conducted by (Wulandari et al., 2025), examines the role of the Restorative Justice House (Rumah Restorative Justice) in the City of Yogyakarta in resolving criminal cases through a restorative justice approach. Each of these three studies has its own respective limitations; in general, the limitation common to the prior studies is that they examine the application of restorative justice principles only at a particular stage within Indonesia's criminal justice system. This study, by contrast, examines restorative justice in its entirety, following the enactment of the new Criminal Procedure Code, which is regarded as capable of transforming the legal landscape in Indonesia, particularly with respect to restorative justice. Accordingly, this study contributes a comprehensive explanation of the restorative justice framework applicable in Indonesia, which continues to be governed by several regulations that remain in force. As such, this study serves to address the limitations of the prior studies.

Based on the foregoing, the research questions of this study are directed at 3 (three) principal aspects, namely:

1. What is the essential nature of restorative justice that ought to be applied in Indonesia?
2. How is restorative justice regulated within Indonesia's criminal justice system?
3. What is the formulation of statutory provisions on restorative justice within Indonesia's criminal justice system?

Research Method

This research was conducted using the normative juridical research method, namely legal research carried out through the examination of library materials, that is, research on secondary data comprising primary, secondary, and tertiary legal materials. Normative research is confined solely to the scope of legal conceptions, norms or principles, legal doctrines, and rules of regulation. It does not extend to the conduct of individuals in implementing such regulations(Syafliansah et al., 2025). This research is prescriptive in nature, namely "research

aimed at obtaining recommendations as to what ought to be done in order to resolve particular problems" (Rifa'i et al., 2023). The data analysis employed in this research is qualitative analysis. Data analysis is the process of searching for and systematically organizing the data obtained (Rifa'i et al., 2023). The process of analyzing legal materials is a process of finding answers to the principal issues under examination (Syafliansah et al., 2025). In this research, data analysis was carried out by identifying legal facts and eliminating matters that are not relevant, in order to establish the legal issues to be resolved. Thereafter, conclusions were drawn in the form of argumentation that answers the research questions. The analysis conducted is qualitative in nature, namely analysis through prescriptive elaboration.

Results and Discussions

1. Hakikat dan prinsip *restorative justice* yang seharusnya diterapkan di Indonesia

The term "restorative justice" was first introduced by a psychologist, Albert Eglash, in 1958 (Hudson & Galaway, 1977), and was subsequently employed more frequently in 1977 in his writings, which classified three types of criminal justice systems, namely retributive, distributive, and restorative (Maruna, 2014). Restorative Justice, or which may literally be construed as "keadilan restoratif," is a term that has been recognized within Indonesian law since the 1960s as one of the stages within the conventional criminal justice system. At its inception, restorative justice constituted a case-settlement concept that had already been employed by indigenous/customary communities (masyarakat adat) in Indonesia as a method of resolving disputes arising within the community concerned, without the involvement of state authorities (Alowi & Durahman, 2022).

Miriam Liebman, as cited in(Rida Ista Sitepu & Yusona Piadi, 2019) states that *"Restorative Justice has become the term generally used for an approach to criminal justice (and other justice systems such as a school diclipinary system) that emphasizes restoring the victim and community rather than punishing the offender".* t may thus be stated that Restorative Justice is a justice-based approach that engages both the offender and the victim in a familial/amicable settlement process (*penyelesaian secara kekeluargaan*) in order to obtain justice and restoration for the harm arising from the offense, in the form of compensation from the offender to the victim, by affording the victim an opportunity to participate in the resolution of the offense.

Furthermore, (Nurhaliza et al., 2021) posits that "Restorative Justice constitutes a criminal law concept that takes into account the interests of both the offender and the victim, and seeks means of maintaining a more just and balanced criminal justice system, functioning as a mechanism for achieving outcomes resolved through peaceful means." The theory of restorative justice holds that justice may prevent crime by inducing the offender to feel empathy toward the victim. The offender tenders an apology grounded in sincere good faith and genuine intent arising from conscience, following which the victim extends forgiveness free from any coercion or intimidation. Bocharova maintains that, within the innermost depths of human nature, there exists a basic goodness capable of preventing human beings from harboring a desire for revenge through acts of violence (Tridiatno, 2015).

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Restorative justice develops a response to crime that respects the dignity and equality of every individual, fosters understanding, and promotes social harmony through the healing of the victim, the offender, and the community or society (*Restorative Justice*, n.d.). Furthermore, the Annex to the Basic Principles provides an understanding that the restorative justice approach affords the victim an opportunity to obtain reparation and to experience an enhanced sense of security, enables the offender to gain insight into the causes and effects of their conduct and to assume meaningful responsibility therefor, and enables the community to comprehend the underlying factors giving rise to crime.

The view expressed by (Sukardi, 2022) that "restorative justice may be applied to all types of criminal offenses, because when discussing restorative justice, the issue is not one of determining the appropriate/commensurate punishment, but rather one of finding a solution as to how to achieve restoration and provide a sense of justice" would appear appropriate to serve as guidance for the direction of restorative justice reform in Indonesia, subject to the qualification that the application of restorative justice in Indonesia should properly be confined to certain types of criminal offenses only, having regard to a number of factors, including, among others, the condition of the victim, the moral values and principles of justice inherent within Indonesian society, and the characteristics of the particular restorative justice program to be applied.

The active participation of all parties is likewise of critical importance in the application of restorative justice. The active involvement of all parties in the resolution of a matter constitutes the principal foundation for the realization of justice for all parties concerned. The physical presence of all parties affords due respect to every element involved, enabling them to convey their wishes and to jointly formulate solutions until a win-win solution is achieved, rather than a lose-lose solution or a win-lose solution (Waluyo, 2016). It is therefore of vital importance to establish a mechanism capable of guaranteeing the participation of all parties in the resolution of cases through restorative justice.

The essential nature of restorative justice may, in practical terms, be understood as the process by which the victim and the offender of a criminal offense arrive at a middle ground, whereby both parties come to accept the circumstances that have befallen them through mutual forgiveness. Accordingly, the "Original State of Affairs" referred to herein may be realized once a peaceful settlement has been agreed upon. However, this essential nature of restorative justice cannot be applied within Indonesia's criminal justice system, particularly at the inquiry stage. The Criminal Procedure Code, in its provisions, stipulates that the RJM may be applied at the inquiry stage. This is based on the provision of Article 83 of the Criminal Procedure Code, which states that the RJM at the Inquiry stage is carried out through an agreement to settle the case before the Inquiry Officer. The meaning of the term "agreement," when considered in light of the concept of restorative justice previously described, denotes the mutual will of both parties, namely the victim and the offender of the criminal offense. Inquiry, however, constitutes a series of actions undertaken by the Inquiry Officer to search for and ascertain the occurrence of an event suspected of constituting a criminal offense, meaning that, at this stage, no suspect or offender has yet been identified.

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Based on the foregoing, the Criminal Procedure Code, in general, as the body of procedural law governing the handling of criminal cases in Indonesia, requires adjustment in line with the direction of criminal law policy, which favors restorative justice over retribution in the handling of cases. The application of restorative justice at the inquiry stage is inconsistent with the essential nature of restorative justice, which requires a peaceful agreement between both parties. In addition, it has the potential to blur the function of the inquiry, to create opportunities for the abuse of authority, and to give rise to risks to the protection of victims' rights and to the application of the due process of law principle. The paucity of supervisory mechanisms over the implementation of restorative justice at the inquiry stage may likewise give rise to problems in law enforcement practice (Rahmad, 2026).

The aspiration underlying the implementation of restorative justice is the creation of a robust understanding of justice, affirmed within a particular society, so as to maintain discipline and social order occurring within a specific time and place (Vaandering, 2013). The application of restorative justice may be regarded as a manifestation of the principle of social justice propounded by Rawls, namely the basic principle of equality, which holds that every person is entitled to an equal right to fundamental liberties (Rawls, 2005). Restorative justice constitutes an approach to law enforcement that focuses on the repair of relationships damaged as a result of conflict.

This approach engages the offender, the victim, and the community in a process of reconciliation and restoration, with the aim of creating a more just and equitable society. Restorative justice ensures that all parties involved in a conflict, including the offender and the victim, are afforded an equal opportunity to participate in the settlement process. It is by no means a straightforward matter to comprehend and apply the restorative justice paradigm of law enforcement, whether conceptually, theoretically, or practically, owing to the numerous obstacles impeding its implementation in the realization of just law enforcement (Koto, 2023). Nevertheless, in Indonesia, this concept is becoming increasingly relevant and important to apply, given the cultural diversity and local wisdom (*kearifan lokal*) values that have long existed and constitute an integral part of the life of the community.

Indonesia is a legally pluralistic state, recognizing three bodies of law in force, namely Western law, religious law, and customary law (*hukum adat*). In practice, a great many people continue to rely upon customary law to govern their daily lives and to resolve disputes. Each region of Indonesia possesses its own distinct customary law governing the life of its respective community, the greater part of which remains unwritten. One instance thereof is the application of restorative justice within the Banjar community. In resolving criminal cases, the Banjar community customarily draws upon local wisdom (*kearifan lokal*), whereby the families of both parties convene together with community leaders or village elders, and thereafter conduct a communal ritual of thanksgiving (*selamatan*), engage in mutual forgiveness, and enter into an agreement so as to prevent feelings of vengeance and enmity from persisting (Syaufi et al., 2021).

Indonesia may develop a criminal justice system that is more just, humane, and effective. Restorative justice not only provides justice for both the victim and the offender, but also contributes to the building of a more harmonious and peaceful society. The successful implementation of restorative justice may serve as an example for other nations and contribute to the development of a better criminal justice system at the global level (Putra et al., 2024).

2. The Regulation of Restorative Justice within Indonesia's Criminal Justice System

Several regulations govern restorative justice within Indonesia's criminal justice system, among others as follows:

a. Regulation of the Attorney General's Office of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice

In principle, this regulation restricts the scope of the application of restorative justice to the mechanism of terminating prosecution (at the pre-adjudication stage). It may be stated that the application of restorative justice will be regarded as successful where the prosecution of a case is terminated; conversely, the application of restorative justice will be regarded as having failed where the prosecution of a case proceeds to trial (i.e., where the case file is transmitted to the court).

This regulation places emphasis on the process of terminating prosecution on the basis of a restorative justice approach. That is to say, the application of restorative justice will be regarded as successful where the prosecution of a case is terminated, whereas it will be regarded as having failed where the prosecution proceeds to trial (i.e., the case is referred to court proceedings). Accordingly, the juridical basis of this regulation cannot be divorced from the legal framework governing the termination of cases under prevailing statutory provisions.

b. Regulation of the Indonesian National Police Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice.

The application of restorative justice within the sphere of the police is governed by Regulation of the Indonesian National Police Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice. Under this regulation, the handling of criminal offenses on the basis of restorative justice must satisfy general requirements, comprising both substantive and formal conditions, as well as specific requirements. The substantive conditions that must be satisfied include, among others, that the case does not give rise to public unrest and is not met with objection from the community, does not result in social conflict, is not likely to cause national division, is not of a radicalist or separatist nature, does not involve an offender who has repeated the commission of a criminal offense pursuant to a court decision, and does not constitute corruption, an offense against state security, or an offense against human life.

A criminal case may be handled through the restorative justice approach at the police level only where the letter of commencement of investigation (SPDP) has not yet been submitted to the public prosecutor's office. Not all cases may be resolved in this

manner; the formal requirements must also be satisfied, namely that an agreement between both parties must exist, together with the fulfillment of the victim's rights and the offender's responsibilities.

c. Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice

This regulation serves as a guideline for judges within the general judicature in handling cases through the restorative justice approach. It is anticipated that these technical guidelines will encourage the optimal implementation of restorative justice at the court level, such that the focus is no longer confined to the imposition of punishment. This reflects a shift in the resolution of criminal cases toward a mechanism of dialogue and mediation involving all parties concerned namely the victim/family, the offender/family, and other relevant parties acting jointly to reach an agreement on a balanced resolution of the criminal case for all parties, through the restoration of the community to its original state.

The resolution of criminal cases before the District Court is governed by Supreme Court Regulation (*Perma*) Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. Under this provision, it is stipulated that the following categories of cases fall within its scope: minor criminal offenses, or offenses in which the victim's loss does not exceed Rp2,500,000.00 (two million five hundred thousand rupiah) or does not exceed the applicable provincial minimum wage; offenses that constitute complaint offenses (*delik aduan*); offenses carrying a maximum penalty of 5 (five) years' imprisonment under any one of the charges, including *jinayat* offenses under *qanun*; offenses committed by a Child offender in respect of whom diversion has failed; and traffic offenses of a criminal nature (Article 6, Paragraph (1) of the Perma).

This Perma further imposes certain limitations upon judges in adjudicating criminal cases through restorative justice, namely: a judge shall not be authorized to apply the guidelines for adjudicating criminal cases based on Restorative Justice where the Victim or the Defendant refuses to enter into a peaceful settlement, where a power imbalance (*Relasi Kuasa*) exists between the parties, or where the Defendant has repeated the commission of a similar criminal offense within a period of 3 (three) years from the date on which the Defendant completed serving a court decision having final and binding legal force (Article 6, Paragraph (2) of the Perma).

The objectives of adjudicating criminal cases based on Restorative Justice are as follows: to restore the victim of the criminal offense; to restore the relationship between the Defendant, the Victim, and/or the community; to encourage the Defendant's accountability; and to prevent any person, particularly a Child, from being deprived of their liberty. The application of the principle of Restorative Justice is not, however, intended to eliminate criminal liability (Article 3, Paragraphs (1) and (2) of the Perma). A judge adjudicates a criminal case based on Restorative Justice with the aim of remedying the loss suffered by the Victim or restoring the relationship between the Defendant, the Victim, and the community through the decision rendered.

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An examination of the various regulations governing restorative justice indicates that the objectives of sentencing in Indonesia have begun to undergo transformation. The resolution of criminal cases under the specific provisions applied within the above regulations has been carried out by way of implementing or agreeing upon a peaceful settlement between the offender and the victim. Nevertheless, the current regulations remain focused on the completion of the case rather than on the restoration of the condition of the offender or the victim.

Based on the provisions that have thus far governed the application of restorative justice, the principal guidelines for the implementation of the criminal justice system are the restorative justice provisions falling within the respective domains of the police, the public prosecutor's office, and the judiciary. However, the regulations governing restorative justice have yet to achieve uniformity in their application. Discrepancies persist among the restorative justice practices applied by the police, the public prosecutor's office, and judges at trial. Consequently, legal uncertainty arises in the application of restorative justice.

Legal certainty, in this context, refers to the absence of inconsistency among legal norms within the operative legal system; furthermore, legal certainty provides assurance that the law is not subject to multiple interpretations, whether in concept or in implementation. Restorative justice constitutes a new legal norm within the sentencing paradigm, and accordingly, clarity as to both its concept and its practice must be duly observed in order to guarantee legal certainty. Although the most recent regulation has been established under the Criminal Procedure Code as the fundamental law governing the handling of criminal cases, under the term Restorative Justice Mechanism (RJM), its implementation remains non-uniform, as each law enforcement institution in Indonesia continues to apply its own respective institutional regulations. This is attributable to the fact that no Government Regulation has yet been established as the implementing regulation for the RJM.

The urgency of a Government Regulation concerning the RJM lies precisely in addressing the ongoing problem of legal uncertainty that persists in the application of the RJM at every stage of law enforcement within Indonesia's criminal justice system. As a state adhering to the civil law legal system, legal certainty constitutes the foundation for the conduct of law enforcement, particularly in the handling of criminal cases through restorative justice.

3. The Formulation of Statutory Provisions on Restorative Justice within Indonesia's Criminal Justice System

Based on the positive law provisions (*ius constitutum*) governing the application of restorative justice currently in force at each law enforcement institution (the Police, the Public Prosecutor's Office, and the Judiciary), several significant observations and shortcomings may be noted in respect of each of the prevailing regulations. In normative terms, Attorney General's Office Regulation Number 15 of 2020 defines restorative justice as the resolution of a criminal case through the involvement of the offender, the victim, the families of the offender/victim, and other relevant parties, acting jointly to seek a just resolution that emphasizes the restoration of the original state of affairs, rather than retribution. However, the technical provisions contained within that regulation place emphasis on a benchmark of success for the restorative

justice process that is, in fact, determined by whether or not the prosecution of a case is successfully terminated.

This would appear to place undue emphasis on a specific target namely, the attainment of a "peace agreement" irrespective of its substantive content. Moreover, the emphasis placed on the restoration of the victim by the offender remains focused primarily on the restoration of material losses, whereas the restoration of the relationship between the victim and the offender (through conferencing) has not been articulated with sufficient clarity. A further observation is that, whereas one of the mandatory (imperative) requirements for the termination of a case based on restorative justice is a positive response from the community, the involvement of the family of the victim/suspect, community leaders or representatives, or other relevant parties is, in fact, undertaken only where deemed necessary (i.e., on a discretionary/optional basis).

Attorney General's Office Regulation Number 15 of 2020 provides that the termination of prosecution based on restorative justice shall be carried out having regard to the cost and benefit of handling the case. It is indeed generally accepted that the application of the restorative justice approach at the pre-adjudication stage such as at the prosecution stage (whether at the pre-charge or the post-charge, pre-conviction stage) is regarded as the most cost-effective as compared with other stages.

This is because the implementation of restorative justice at the adjudication stage would introduce a new stage that entails greater expense in handling the case and a substantially longer period for case resolution than would the application of restorative justice programs at the pre-adjudication stage. It is generally accepted that the restorative justice approach at the pre-adjudication stage, which may culminate in the termination of a case, will indeed give rise to the logical consequence of cost savings (efficiency) in case handling.

It should be noted, however, that the implementation of restorative justice on the basis of a cost-and-benefit rationale is not entirely appropriate still less so where the cost-and-benefit approach is treated as one of the prerequisites to be considered in determining whether or not to adopt the restorative justice approach. Returning to its underlying philosophy, the concept of restorative justice arose out of a concern to strengthen the role of the victim within the criminal justice system, a concern that must be construed more broadly as an effort to fulfill the sense of justice for all parties involved (the victim, the offender, the community, and other relevant parties). This means that any resulting cost-effectiveness in case handling that the restorative justice approach may achieve ought properly to be regarded merely as a "bonus effect," rather than as a prerequisite for the implementation of restorative justice.

The application of restorative justice within the Police institution likewise warrants significant observation. Pursuant to Regulation of the Indonesian National Police Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice, restorative justice is defined as the resolution of a criminal offense through the involvement of the offender, the victim, the victim's family, community leaders, religious leaders, customary leaders, or other

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stakeholders, acting jointly to seek a just resolution through peaceful settlement, with emphasis on the restoration of the original state of affairs. A significant observation in this regard is that there exists a problem, or a degree of procedural ambiguity, concerning the restorative justice program insofar as it may be applied at both the inquiry and investigation stages. This is, in fact, not properly justifiable. Inquiry constitutes a series of actions undertaken to search for and ascertain whether or not a given event constitutes a criminal offense, whereas investigation is intended to search for evidence in order to clarify the criminal offense that has occurred, with a view to identifying the suspect. In this connection, restorative justice ought not, in principle, to be applicable during the inquiry process, since the restorative justice process presupposes that the parties the offender, the victim, and the community already share a common understanding that a given event constitutes a form of injustice. During the inquiry process, however, it remains unclear whether or not a criminal offense has, in fact, occurred.

This stands in contrast to the investigation stage. At the investigation stage, the event under examination has already been ascertained to constitute a criminal offense, while the series of processes undertaken within the investigation seek to search for and gather evidence so as to clarify the criminal offense that has occurred and to identify the suspect. The existence of a mechanism for terminating an inquiry/investigation on the basis of the principle of restorative justice warrants reconsideration, so as to ensure that its regulatory mechanism accords with the principles and mechanisms established at the statutory level. The restorative justice process, as currently configured, risks running contrary to the spirit of victim restoration, or indeed risks assuming a repressive character.

The regulation of restorative justice constitutes one of the significant innovations within the reform of the Criminal Procedure Code. This approach places the restoration of the victim, social reconciliation, and the reintegration of the offender at the forefront of the objectives of criminal case resolution. The restorative justice perspective regards a criminal offense as a violation against both the individual and social relationships, giving rise to tangible harm to the victim and to society. This conceptual framework creates the opportunity for the victim to participate actively in the case-resolution process and to obtain restoration for the harm suffered, both materially and psychologically (Sihombing & Nuraeni, 2023).

The presence of the restorative justice mechanism carries strategic significance within Indonesia's criminal justice system, in that it holds the potential to correct the orientation of the previous system, which has tended to marginalize the interests of the victim. The conventional criminal justice system has, to date, placed greater emphasis on the relationship between the state and the offender. The position of the victim has frequently been confined to the role of witness within the evidentiary process, without being afforded adequate scope to articulate their restorative needs. Restorative justice introduces a new perspective by positioning the victim as a subject possessing the right to obtain recognition of the suffering endured, as well as the right to participate in determining the form of case resolution regarded as just (Arsyad et al., 2023).

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Restoration, from the perspective of restorative justice, in fact encompasses a broader dimension, including the psychological, social, and moral restoration of the victim. Such conceptual ambiguity carries the potential to reduce the essence of restorative justice to a mere administrative mechanism for terminating cases in the interest of efficiency in case handling (Saputra, 2025). The restorative justice approach emphasizes the importance of the direct involvement of the offender, the victim, and the community in the process of resolving criminal cases. Through a process of dialogue, mediation, and mutual agreement, case resolution is aimed not merely at imposing sanctions upon the offender, but also at restoring the losses suffered by the victim and repairing the social relationships disrupted as a result of the criminal offense. This approach further encourages the offender to assume moral and social responsibility for the act committed, such that the process of case resolution yields not only a legal decision, but also a more sustainable reconciliation within society.

Law Number 1 of 2026 concerning the Criminal Procedure Code represents a new stage in the reform of Indonesia's criminal justice system. Such reform extends beyond the procedural aspects of law enforcement to encompass a reconstruction of the philosophical orientation of the criminal justice system itself. The punitive paradigm that had previously dominated criminal procedural law has undergone a transformation toward an approach more oriented toward restoration. The explicit regulation of the restorative justice mechanism within this Law constitutes a significant indicator that Indonesia's criminal justice system has begun to integrate the principle of victim restoration as part of the objectives of law enforcement.

Restorative justice, within the framework of the new Criminal Procedure Code, is grounded in the understanding that a criminal offense constitutes a social conflict that gives rise to harm to the victim and disrupts the equilibrium of relationships within society. The resolution of a criminal case need not invariably culminate in formal punishment through litigation. Resolution may instead be directed toward a process of dialogue between the offender and the victim, aimed at restoring the losses suffered by the victim and repairing the social relationships damaged as a result of the criminal offense. This approach positions the victim as an active subject within the process of criminal case resolution.

The normative construction of the restorative justice mechanism within the Criminal Procedure Code is systematically formulated under Articles 79 through 82 of the Criminal Procedure Code. These provisions establish the legal framework governing the forms of restoration, the procedure for reaching agreement, the requirements for application, and the limitations as to which cases may be resolved through the restorative approach. Article 79 of the Criminal Procedure Code affirms that the restorative justice mechanism is aimed at restoring the victim to their original state through a number of concrete forms of restoration, including forgiveness by the victim, the return of proceeds derived from the criminal offense, reimbursement of medical or psychological treatment costs, payment of compensation for losses suffered by the victim, repair of damage caused by the criminal offense, and payment of such other compensation as may be relevant to the impact of the offense committed.

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This normative formulation demonstrates that the concept of restoration under the new Criminal Procedure Code carries a broader scope than that of the conventional compensation approach. Restoration is understood not merely as financial restitution, but also as encompassing psychological, social, and relational dimensions. This orientation affirms that restorative justice functions as a mechanism for the reconstruction of social relationships damaged as a result of a criminal offense. The successful implementation of the restorative justice mechanism nonetheless remains contingent upon the quality of its execution in practice. Detailed technical guidelines, the enhancement of the capacity of law enforcement officers, and the strengthening of the role of community supervisors (*pembimbing kemasyarakatan*) and victim advocates constitute critical factors in ensuring that this mechanism is not reduced to a mere administrative procedure for the termination of cases. The orientation toward victim restoration must remain the core objective in the application of restorative justice within Indonesia's criminal justice system.

The following sets forth, in tabular form, the Stages of the Restorative Justice Mechanism under the Criminal Procedure Code:

Table 1. Stages of the Restorative Justice Mechanism under the Criminal Procedure Code

Stage	Legal Basis	Mechanism	Implication for the Victim
Inquiry	Article 83 of the Criminal Procedure Code	Agreement to settle the case before the Inquiry Officer	The victim may obtain restoration before the case proceeds to the investigation stage
Investigation	Articles 83–84 of the Criminal Procedure Code	Agreement between the offender and the victim resulting in the termination of the investigation	Restoration of the victim may occur more expeditiously through restitution or a peaceful settlement
Prosecution	Articles 85–86 of the Criminal Procedure Code	Agreement before the Public Prosecutor resulting in the termination of prosecution	The victim obtains certainty of restoration before the case is brought to trial
Trial	Article 87 of the Criminal Procedure Code	Application of the restorative mechanism through the Court's Decision	The judge ensures that restoration of the victim remains guaranteed notwithstanding that the case has been examined at trial

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This normative structure demonstrates that Indonesia's criminal justice system has opened wide scope for the application of the restorative approach. The mechanism for resolving cases through agreement between the victim and the offender is no longer confined to a particular stage, but may instead be undertaken at various stages throughout the criminal justice process. This approach affords the victim a greater opportunity to obtain expeditious restoration without having to await the criminal justice process, which frequently proves protracted. Nevertheless, the success of this mechanism depends significantly upon the readiness of law enforcement institutions and the capacity of officers to conduct the restorative process in a fair and transparent manner.

Notwithstanding that this normative framework represents significant progress, the implementation of restorative justice in practice continues to face a number of structural challenges capable of affecting the effectiveness of victim protection. These challenges relate not only to the normative regulation itself, but also extend to the legal culture of law enforcement officers, the availability of resources, and institutional integration within the criminal justice system.

In addressing these various challenges, the strengthening of the implementation of restorative justice under the Criminal Procedure Code requires a comprehensive policy strategy. The establishment of detailed implementing regulations constitutes an essential step in ensuring the consistent application of the restorative mechanism throughout the territory of Indonesia. Reform of the legal culture of law enforcement officers, through education and training on the restorative approach, likewise constitutes a key factor in driving a paradigm shift in law enforcement.

The strengthening of the victim support system, through the integration of the roles of Community Supervisors (*Pembimbing Kemasyarakatan*), social workers, and victim protection institutions, may enhance the quality of the restorative process. Harmonization of regulations among law enforcement institutions is likewise necessary to ensure that the restorative justice mechanism is applied consistently throughout every stage of the criminal justice process. Such an integrated approach is expected to establish restorative justice as an instrument that not only reduces the caseload burden upon the courts, but also affords more substantive protection to victims and strengthens the legitimacy of the criminal justice system in the eyes of the public

Conclusion

Based on the foregoing discussion, it may be concluded that the essential nature of restorative justice that ought to be applied in Indonesia is one that prioritizes the restoration of relationships among the victim, the offender, the victim's family, and the community. This restoration of relationships is carried out through a mechanism that upholds the rights of the victim, the accountability of the offender, and social reintegration. Restorative justice, in its essential nature, constitutes a peace agreement between the offender and the victim, reached through deliberation, consensus, and mediation, so as to arrive at a peaceful settlement imbued with the values of justice.

The regulation of restorative justice within Indonesia's criminal justice system is provided for under the Criminal Procedure Code; however, no Government Regulation currently exists to provide clearer and more detailed provisions on restorative justice, as mandated under the Criminal Procedure Code. Consequently, the regulation of restorative justice continues to rely upon 3 (three) principal, mutually distinct regulations, namely: Regulation of the Indonesian National Police Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice; Regulation of the Attorney General's Office of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice; and Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. These regulations serve as the reference points for the application of restorative justice at every level of Indonesia's criminal justice system; as a result, the application of the restorative justice mechanism within Indonesia's criminal justice system lacks legal certainty.

The formulation of statutory provisions on restorative justice in the termination of criminal case proceedings within Indonesia's criminal justice system encompasses the material, psychological, and social dimensions of victim restoration. Restoration is understood not merely as financial restitution, but also as encompassing psychological, social, and relational dimensions.

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