

## Restorative Justice Policy on the Reduction of Crime Rates in Indonesia: A Narrative Review

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### **Abstract**

*Introduction: The concept of restorative justice is a popular alternative in various parts of the world for addressing unlawful acts (unlawful in the formal sense) because it offers comprehensive and practical solutions. Restorative justice aims to empower victims, offenders, families, and communities to rectify an unlawful act using awareness and remorse as the foundation for improving community life. Methods: This research employs a literature review approach, wherein the researcher collects relevant articles and literature to be examined and summarized descriptively to achieve comprehensive results and conclusions. Result: Restorative Justice is fundamentally a philosophy (a basic guideline) in out-of-court settlements using mediation or deliberation to achieve the justice desired by the parties involved in criminal law. However, more substantive rules are needed in practice to lead to a fair resolution through reconciliation, emphasizing restoration to the original state. Conclusion: Educational and awareness campaigns that can create harmonious reintegration for former offenders to return to society must be enhanced. Law enforcement officers also need to review regulations regarding implementing restorative justice to uphold the principle of justice.*

**Keywords:** Restorative Justice, Crime, Regulation, Literature Review.

### **INTRODUCTION**

One form of justice that has recently become a subject of discourse, particularly in addressing criminal acts, is restorative justice. Settling cases through litigation in court often presents several problems. Harwanto (2021) states that the resolution of cases through litigation sometimes proceeds differently than expected. The traditional criminal justice system, which relies on litigation, often generates new issues such as retributive sentencing patterns, case backlog, insufficient attention to victims' rights, lengthy, complex, costly processes, and rigid and formalistic resolutions. Additionally, inadequate correctional facilities that fail to reflect justice for the community pose a significant issue. Law, after all, is intended to deliver justice and benefit humanity. In light of these phenomena, a new concept called restorative justice has emerged. Restorative justice is a popular alternative worldwide for addressing unlawful acts because it offers comprehensive and practical solutions. Restorative justice empowers victims, offenders, families, and communities to rectify an unlawful act using awareness and remorse as a foundation for improving community life. Flora (2018) states that restorative justice represents a new approach to resolving criminal cases. This approach has been used in several countries, focusing on the offender, the victim, and the community in resolving legal cases. Although this approach is still widely debated theoretically by scholars, it continues to grow, exist, and influence legal policies and practices in many countries. The increasing complexity and intense competition in societal life tend to escalate or at least have the potential to create various problems. The emergence of numerous cases or disputes within the community, if not correctly handled, will undoubtedly disrupt societal balance, especially when these issues relate to criminal acts. This research article aims to discuss the existing literature on restorative justice and its implementation impact and to provide recommendations for future improvements. This study employs a literature review method by collecting relevant articles and literature, which are then examined and summarized descriptively to achieve comprehensive results and conclusions.

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## **METHODS**

This study employs a literature review approach, sourcing references from academic journals. This method outlines several previous studies to identify similarities and uncover differences that enable the development of more practical recommendations for implementing restorative justice law. The literature reviewed includes studies relevant to the topic of restorative justice, with a focus on descriptive analysis to achieve comprehensive and evidence-based conclusions.

## **RESULT AND DISCUSSION**

### **Restorative Justice in Handling Criminal Acts**

According to Harwanto (2021), the concept of restorative justice represents a new approach to resolving criminal cases. Unlike the traditional criminal justice system, the restorative justice approach emphasizes the direct participation of the offender, the victim, and the community in resolving criminal cases. Therefore, this approach is often called the "non-state justice system," where the state's role in resolving criminal cases is minimal or nonexistent. The mechanisms offered by the restorative justice approach prioritize the concepts of peace, mediation, and reconciliation. In this approach, offenders, victims, law enforcement officers, and the broader community directly resolve criminal cases, contrasting with the traditional criminal justice system that has long been in place and remains in effect.

In the context of state governance, based on data analysis conducted by Taqiudin and Risdiana (2022), it can be concluded that:

Implementing restorative justice in state governance is based on deliberation and consensus, where parties are asked to compromise to reach an agreement. Each individual is expected to yield and place the community's interests above personal interests to maintain collective harmony.

Although several legal regulations have been issued as a legal framework for implementing restorative justice, one of the main challenges is developing and strengthening the implementation of restorative justice in legislation, particularly at the comprehensive level of laws (Undang-Undang). Other challenges include preparing human resources (HR) among law enforcement officers who understand the significance of restorative justice and challenges in disseminating information to the community as subjects of restorative justice.

### **Restorative Justice Policy in Indonesia**

According to the Republic of Indonesia National Police Regulation Number 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice, a criminal act is defined as an unlawful act constituting a crime or violation punishable by imprisonment, detention, or fines. On the other hand, restorative justice entails resolving criminal acts by involving offenders, victims, the families of both parties, community leaders, religious figures, customary leaders, and stakeholders to collectively seek a fair resolution emphasizing restoration to the original state through peaceful means. The requirements for handling criminal acts based on restorative justice are as follows:

General Requirements: Applicable to handling criminal acts during criminal investigation, inquiry, or investigation. General requirements encompass material and formal aspects.

Material: (a) Does not cause unrest and rejection from the community; (b) Does not lead to social conflicts; (c) Does not have the potential to divide the nation; (d) Is not associated with radicalism and separatism; (e) Does not involve repeat offenders based on court decisions; (f) Is not terrorism-related, threatening national security, involving corruption, or causing loss of life.

Formal: (a) Mutual agreement between both parties, except for drug-related crimes; (b) Fulfillment of victim rights and offender responsibilities, except for drug-related crimes. A signed agreement by all parties must evidence peace agreements.

Specific Requirements: Applicable only to handling criminal acts during investigation or inquiry. Specific requirements are additional for crimes involving (a) Information and electronic transactions, (b) Drugs, and (c) Traffic offenses. According to Ferdiles (2019) and Grace (2020), Indonesia's criminal justice system does not yet substantively regulate restorative justice, except as stipulated in Article 5 paragraph (3) and Article 8 paragraph (1) of Law Number 11 of 2012 concerning the Juvenile Justice System. However, before this law, there were judicial decisions based on restorative justice principles. Restorative justice has been reintroduced in criminal law, particularly by the Criminal Code Draft Bill (RKUHP), which allows for "non-punishment." Rochaeti and Muthia (2021) explore restorative justice as a method of addressing juvenile delinquency, focusing more on the specific needs of children. Handling juvenile justice through restorative justice is a choice to address the shortcomings and dissatisfaction with retributive and rehabilitative approaches in the criminal justice system. Siagian et al. (2020) indicate that restorative justice involves stakeholders identifying losses, fulfilling obligations and needs, and facilitating changes as rights that must be received. This approach is part of criminal law reform in Indonesia, as evidenced by the inclusion of restitution for victims of criminal acts (Article 133 RKUHP). Mohammad (2020) emphasizes the need to prepare society to assume responsibility, including providing training to equip skills and knowledge. Such training requires resources from various institutions, particularly the judicial system. Rochaeti and Muthia (2021) find that the resolution mechanisms through restorative justice follow customary law processes, integrating criminal justice mechanisms with community participation in mediation and deliberation. Aprilliandi (2022) argues that the current regulation of restorative justice in the criminal justice system prioritizes "right relationships" over "right rules." The fundamental task of justice is to restore the balance of relationships damaged by crime rather than strictly enforcing legal supremacy. Despite the importance of restorative justice philosophy, its implementation in Indonesia's criminal justice system has yet to address criminal issues optimally and fully.

## **CONCLUSION**

Mohammad (2020) notes that societal perceptions of offenders still contain stigma and prejudice. This research indicates that educational and awareness campaigns can create harmonious reintegration for former offenders to return to society. The gaps highlighted in this study pertain to effective strategies that can achieve this goal. Therefore, further understanding through future research efforts is required. Restorative justice has garnered attention in resolving criminal cases in Indonesia but has not yet been codified in the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP). This concept is only regulated through regulations established by law enforcement agencies within the criminal justice system. Restorative justice at the investigation level is governed by Police Regulation Number 6 of 2019 concerning Criminal Investigation, while at the prosecution level, it is regulated by Police Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. The judiciary also enacted the Decision of the Director General of the General Judiciary Body of the Supreme Court of the Republic of Indonesia Number 1691/DJU/SK/PS.00/12/2020 regarding implementing Restorative Justice Guidelines. Restorative justice has been applied in indigenous communities in various regions of Indonesia, such as the Balinese, Bajawa (Flores, East Nusa Tenggara), Lampung, and Batak Karo communities. The restorative justice model adopted by Indonesian society is the Safeguard System, designed to handle case resolution through a restorative approach. The government must formulate clear laws on restorative justice to create justice for all parties involved. In some instances, such as handling children in conflict with the law, restorative approaches, and diversion are still not optimal. Many juvenile offenders still receive prison sentences (55.30%), while the percentage of cases handled through diversion is relatively tiny (22.80% returned to parents and 1.32% to social institutions or others). This indicates that law enforcement officers' commitment to handling juvenile cases still needs to be improved, prioritizing restoration over retribution. Therefore, research on the weaknesses of restorative justice policies in juvenile offenders' cases and formulating fair policies is crucial.

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