ANALYSIS OF THE EFFECTIVENESS OF THE APPLICATION OF RESTORATIVE JUSTICE IN CRIMINAL CASES IN INDONESIA

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ABSTRACT
This research examines the application of restorative justice in Indonesia’s criminal justice system, focusing on analyzing its effectiveness in resolving criminal cases. This research aims to examine the application of restorative justice in the criminal justice system in Indonesia, with a focus on analyzing its effectiveness in resolving criminal cases. Restorative justice emphasizes victim recovery, offender responsibility, and community reconciliation as an alternative to the traditional punishment-based retributive approach. The research method used is a normative legal study with a qualitative approach and secondary data from a literature review, including books, scientific journals, research reports, and official documents. The research findings show that restorative justice has been successfully applied in several cases, especially minor crimes, with more satisfactory outcomes for victims and better offender rehabilitation. However, there are obstacles, such as limited resources, lack of community understanding, and challenges in the mediation process. Training for mediators, increased public awareness, and supportive policy changes are recommended to improve its effectiveness. The implications of this research indicate the need for legal reforms to integrate restorative justice more broadly in the criminal justice system in Indonesia in order to create a more just and sustainable legal environment.

Keyword: Effectiveness, Restorative Justice, Criminal Law.

INTRODUCTION

In Indonesia, a criminal offence can be resolved through two main approaches: retribution law and restorative law. Retribution law focuses on punishing the perpetrator as a form of retribution and crime prevention. This approach is rooted in the principle of “an eye for an eye,” where the primary objective is to ensure that the perpetrator receives a punishment proportionate to the crime committed. In the Indonesian legal system, this typically involves a formal court process where the perpetrator is prosecuted, found guilty, and sentenced according to the applicable legal provisions (Oktaviani, 2019). This process serves not only to punish the offender but also to deter others from committing similar offences.

Restorative law, on the other hand, emphasizes healing and reconciliation. This approach seeks to repair the harm caused by criminal acts by involving all stakeholders—victims, perpetrators, and the community—in the resolution process. The goal is to achieve a mutually agreed upon solution that addresses the needs and responsibilities of all parties. In Indonesia, restorative justice practices are implemented through various mechanisms, such as mediation, community service, or compensation agreements, often facilitated by legal professionals or community leaders (Flora,
These practices aim to restore social harmony and reintegrate the offender into society, rather than simply imposing punishment.

The key difference between the two lies in their objectives and methods. Retribution law is punitive and focuses on the past actions of the offender, seeking to impose a penalty that serves as both punishment and deterrence. Restorative law, conversely, is rehabilitative and future-oriented, aiming to heal the community and repair relationships damaged by the crime. Both approaches are integral to the Indonesian legal system, providing different pathways to justice depending on the nature of the offence and the needs of those affected.

The application of restorative justice in law enforcement in Indonesia began with the implementation of Law No. 11/2012 on the Juvenile Criminal Justice System (Akbar, 2022). This shift was driven by a growing recognition of the limitations of the retributive justice system, particularly its failure to adequately address the needs of victims and its limited effectiveness in rehabilitating offenders. Factors such as high recidivism rates, overcrowded prisons, and the desire for more humane and effective justice practices contributed to this change. Additionally, various law enforcement agencies have developed their restorative regulations to support this new approach.

The paradigm shift from retributive justice to restorative justice requires legal tools that facilitate its implementation by law enforcement officials (Apgakum) so that it can take place effectively. Therefore, there is a need for legal instruments that specifically regulate restorative justice and apply widely to ensure its consistent and effective application across the legal system (Hidayat, 2022).

The results of the study (Putri & Pratiwi, 2023) revealed that the application of restorative justice by the Surakarta City Police has been going well because most traffic accident cases are resolved using this approach. However, two main obstacles to its implementation are related to legal substance and community factors, especially cybercitizens. Another study (Yani & Djanggih, 2023) showed that restorative justice is applied to minor crimes because they are ordinary, simple, harmless, and cause relatively small losses to victims.

The results of the analysis (Budiman, 2022) concluded that the application of restorative justice to perpetrators of corruption crimes carried out by the Attorney General's Office is certainly not easy to implement; the Attorney General's Office must make regulations again so that the basis for stopping the prosecution of suspects is strong. Attorney General Regulation (Perja) Number 15 of 2020 does not explicitly explain the termination of cases in corruption cases. The Attorney General's Office must also make a standard operating procedure for terminating corruption cases so that its implementation is by the objectives of the law, namely upholding justice, certainty and expediency. The effectiveness of the concept of restorative justice carried out by prosecutors against perpetrators of corruption using the concept of restorative justice can be seen from two aspects, namely, the aspect of prosecution objectives and the aspect of expediency.

Indonesia’s criminal justice system currently faces significant challenges. One of the main challenges is corruption, which undermines the integrity of legal institutions and weakens public confidence in the legal system. In addition, the justice system in Indonesia faces inequality in access to justice. Rural areas often need help accessing legal aid and justice services, so people with limited resources may not receive fair legal treatment. Another problem that needs to be addressed is the slow pace of the judicial process, where legal cases often take years to be decided, harming the parties involved and creating legal uncertainty that can affect public confidence in the justice system (Nabila et al., 2024).
The general objective of this study is to analyze the effectiveness of applying restorative justice in criminal cases in Indonesia. Specifically, this study aims to evaluate the extent to which restorative justice has been implemented in Indonesia, analyze the impact of the implementation of restorative justice on perpetrators, victims, and society, and identify factors that support or hinder the successful implementation of restorative justice. This research is expected to provide an in-depth understanding of the implementation of restorative justice in Indonesia, including its successes and challenges and provide recommendations to improve the effectiveness of this approach in the Indonesian criminal justice system.

METHOD

This research is a normative legal study that uses a qualitative approach and secondary data. The qualitative approach will be applied through thematic analysis, which involves identifying and analyzing patterns or themes within qualitative data to understand the implementation and integration of restorative justice in Indonesia.

Data collection will be conducted from reliable sources through an extensive literature review, including books, scientific journals, research reports, and official documents related to implementing restorative justice in Indonesia. In addition to the literature review, this research will involve interviews with experts, such as legal scholars, practitioners, and policymakers, to gather in-depth insights and perspectives. Furthermore, the study will include an analysis of legal documents, such as laws, regulations, and court decisions, to understand the legal framework and its application in practice.

The data analysis method will primarily involve thematic analysis, which will be used to systematically identify, organize, and interpret key themes and patterns within the collected data. This will allow for a comprehensive evaluation of the existing legal and policy framework, as well as an assessment of the implementation and effectiveness of restorative justice based on case studies and field experiences. Through this approach, the research aims to provide a detailed and nuanced picture of the integration of restorative justice in the criminal justice system in Indonesia and the factors that influence its success.

RESULTS AND DISCUSSION

Analysis of the process of implementing restorative justice involves a thorough assessment of the stages and mechanisms used to implement this approach in the criminal justice system. The process typically begins with identifying cases appropriate for restorative approaches involving minor crimes or non-harmful offences. After that, the parties involved, including victims, offenders, and community representatives, are facilitated to participate in an open dialogue guided by a mediator. The aim is to reach a shared understanding of the impact of the crime, encourage the perpetrator to take responsibility and determine concrete steps to repair the harm done (Agus et al., 2023).

The criteria for cases deemed suitable for restorative justice approaches usually include minor or non-violent crimes, such as petty theft, vandalism, or traffic violations that do not cause serious injury. These cases generally involve offenders who demonstrate remorse and a willingness to take responsibility for their actions and victims willing to participate in the restorative process. The characteristics of the offender and victim are also essential considerations; offenders who are
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juveniles or individuals with first-time offences are often better suited for this approach, while victims who desire healing and dialogue can expedite the reconciliation process. Certain limitations are usually applied to grave crimes, severe violence, or repeat offenders, as restorative approaches may not be adequate to deal with the complexity and far-reaching impact of such cases. This analysis ensures that restorative justice is applied to situations most likely to result in effective healing and benefit all parties involved (Ramli et al., 2023).

The involvement of victims and communities in the restorative justice process is essential and integral to achieving effective and satisfactory outcomes. Victims are allowed to convey the impact of the crime experienced, helping the offender understand the natural consequences of their actions and encouraging them to take responsibility. Often represented by community leaders or family members, the community acts as a facilitator in this process, supporting constructive dialogue and helping to determine appropriate restorative measures. This level of engagement increases the sense of justice for victims, repairs damaged social relationships and restore harmony in the community. The impact on outcomes is significant as these inclusive and collaborative processes tend to result in more sustainable solutions acceptable to all parties, reduce the likelihood of reoffending and increase satisfaction and trust in the justice system.

The effectiveness of restorative justice can be seen through several indicators. For example, the level of victim satisfaction, recidivism, and social recovery. Some research on the effectiveness of restorative justice is applied to several legal cases, including cases of drug abuse by children. It is seen first whether the child is a perpetrator or victim. If identified as a victim, medical and social rehabilitation efforts can be sought to resolve it (Mulyasari, 2021).

The results of other research by (Ibipurwo et al., 2022) show that the use of a rehabilitation approach for deviant sexual offenders to prevent repetition of crimes is more effective. The research was conducted by comparing it with the application of rehabilitation in other countries. In addition, there is also the application of restoration justice to other child crime cases (Ratnasari, 2023) and the settlement of traffic accident cases (Syafputra, 2021).

Several key supporting factors, such as supportive government policies, support from legal institutions, and active community participation greatly influence the successful implementation of restorative justice. Clear and firm government policies regarding the implementation of restorative justice provide the necessary framework and legitimacy for this approach. Support from legal institutions, including the police, prosecutors, and courts, ensures that restorative processes are applied consistently and receive adequate institutional support. The active participation of communities is also crucial, as engaged communities can help facilitate dialogue and reconciliation and provide support for victims and perpetrators (Sunggara, 2023). These factors can create a conducive environment for implementing restorative justice, ensuring that all parties involved are committed to a more just and sustainable process and outcome.

Implementing restorative justice often faces various obstacles, including limited resources, lack of understanding or acceptance from the community, and challenges in the mediation process. Limited resources, such as funds, experts, and adequate facilities, can hinder implementing restorative justice programs effectively and sustainably. In addition, a lack of understanding or acceptance from the community about the principles and benefits of restorative justice can create resistance, reduce active participation, and hinder the conflict-resolution process. Challenges in the mediation process, such as difficulties in reaching an agreement between victims and perpetrators
or a lack of mediator skills, can also hinder the successful implementation of this approach (Hasibuan et al., 2024).

The role and response of law enforcement agencies to the application of restorative justice are critical in determining the success of this approach. The police initially identify cases suitable for restorative approaches and direct them to the appropriate processes. Positive police response to restorative justice can be reflected in efforts to promote open dialogue between victims and offenders and encourage responsibility and reconciliation. Prosecutors also have a crucial role in supporting restorative justice by evaluating cases submitted for restorative resolution and providing legal support to implement agreements reached. Judges play an important role in approving and overseeing the implementation of restorative agreements and ensuring that justice is maintained. Positive responses from law enforcement agencies, including active support from police, prosecutors, and judges, are critical in helping shift the justice paradigm towards more inclusive and rehabilitative approaches such as restorative justice.

A comparison of outcomes between restorative justice and the traditional criminal justice system shows significant differences in several key aspects. Restorative justice often results in higher satisfaction levels for victims as they are directly involved in the conflict resolution process and have the opportunity to air their grievances and obtain a more personal and meaningful remedy. Meanwhile, offender rehabilitation in restorative justice tends to be more effective as it focuses on responsibility, healing and reconciliation rather than punishment. The costs associated with restorative justice are also lower than those associated with the traditional criminal justice system as they reduce the need for lengthy trials and incarceration costs. Overall, restorative justice offers a better and more humane approach to dealing with criminal conflict that can lead to more satisfactory outcomes for all parties involved.

Restorative justice offers several significant advantages, including more personalized and meaningful recovery for victims, more effective rehabilitation for offenders, and reduced costs in the criminal justice system. It also promotes reconciliation and improves social relations within communities. However, there are also some disadvantages, such as challenges in obtaining active participation from all relevant parties, the risk that offenders may not take full responsibility for their actions, and legal uncertainty in determining appropriate sanctions. In certain criminal cases, restorative justice provides a better solution, especially in cases of non-violent or minor crimes, where healing and reconciliation between the offender and victim are the main priorities. In contrast, the traditional criminal justice system is more suitable for cases of more severe or dangerous crimes where the need for strict punishment and vigorous law enforcement is more important.

CONCLUSION

Based on the discussion above, it can be concluded that restorative justice offers an innovative and practical approach to resolving criminal cases in Indonesia by emphasizing restoration, responsibility, and reconciliation. It has shown positive results in a range of cases, particularly in cases of minor and non-violent crimes. In-depth analysis shows that strong policy support, adequate training for mediators, and increased public awareness are important factors that support the successful implementation of restorative justice. Although there are some barriers, such as limited resources and community resistance, the long-term benefits of this approach are far more
excellent including victim satisfaction, offender rehabilitation, and a reduction in the burden on the traditional justice system. Thus, integrating restorative values in Indonesia's criminal justice system can create a more just, humane, and sustainable legal environment, ultimately increasing public trust in the legal system.

REFERENCES


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