



## JLPH: Journal of Law, Politic and Humanities

E-ISSN: 2962-2816  
P-ISSN: 2747-1985<https://dinastires.org/JLPH> ✉ [dinasti.info@gmail.com](mailto:dinasti.info@gmail.com) ☎ +62 811 7404 455DOI: <https://doi.org/10.38035/jlph.v5i2>  
<https://creativecommons.org/licenses/by/4.0/>

# The Challenges and Potential of Implementing Restorative Justice for Minor Criminal Offenses in Indonesia

Mimi<sup>1</sup>, Muhamad Adystia Sunggara<sup>2</sup>.

<sup>1</sup>Pertiba University, Pangkalpinang, Indonesia, [mimiasri.1986@gmail.com](mailto:mimiasri.1986@gmail.com).

<sup>2</sup>Pertiba University, Pangkalpinang, Indonesia, [dr.m.adystiasunggara@gmail.com](mailto:dr.m.adystiasunggara@gmail.com).

Corresponding Author: [mimiasri.1986@gmail.com](mailto:mimiasri.1986@gmail.com)<sup>1</sup>

**Abstract:** Indonesia, as a nation of law, faces challenges in integrating the restorative justice approach into the resolution of minor criminal offenses. This approach is considered more humane as it prioritizes the restoration of harm to victims and the accountability of offenders rather than mere punishment. This study aims to identify the main obstacles in the implementation of restorative justice, particularly in cases of minor criminal offenses, and to provide recommendations for improving its effectiveness. The research method employs a normative approach with an analysis of legal documents and related literature. The results of the study show that although restorative justice has been adopted in several policies, such as Attorney General Regulation Number 15 of 2020 and Police Regulations, its implementation is still hindered by regulatory factors, the capacity of law enforcement, public perception, limited resources, and local cultural dynamics. The conclusion of this study emphasizes the importance of integrated legal policy reform, continuous training for law enforcement, and public education about the benefits of this approach. By overcoming these obstacles, restorative justice has the potential to be an effective and inclusive solution in reforming Indonesia's criminal justice system.

**Keyword:** Restorative Justice, Minor Criminal Offenses, Obstacles, Solutions.

## INTRODUCTION

As a country that upholds the principle of the rule of law, Indonesia is expected to enforce justice holistically. However, the legal approach applied often remains rigid, focused on formal rules without considering the surrounding social context (Sudirman A., 2007). This has the potential to create obstacles in dispute resolution and foster dissatisfaction within society. Therefore, a more adaptive legal paradigm is needed, one that not only relies on legalistic aspects but also accommodates the evolving social values within society, as advocated by the concept of restorative justice.

The conventional judicial process, with its adversarial nature, often fails to provide a comprehensive sense of fairness (Sudewo, F. A., 2021). In such situations, the losing parties often feel disadvantaged and disappointed, particularly in cases involving minor offenses.

available statistical data shows a significant imbalance between the number of criminal cases registered and the number of cases resolved through a restorative justice approach (Hakim, I., 2020). This fact indicates that the approach has not yet been optimally implemented, despite its great potential for peacefully resolving disputes.

One of the key reasons for this underutilization is the prevailing reliance on punitive measures in the criminal justice system, which emphasizes punishment rather than rehabilitation and reconciliation. This approach fails to address the root causes of criminal behavior and leaves many issues unresolved, further deepening social divides. Restorative justice, on the other hand, provides a more holistic approach by fostering dialogue, healing, and accountability, which could greatly contribute to reducing recidivism rates and improving public trust in the justice system.

Furthermore, restorative justice has the advantage of considering the impact felt by victims, offenders, and society. This approach not only seeks to restore the parties affected but also provides an opportunity for offenders to take meaningful responsibility (Adiesta, I. D. I., 2021). Thus, this concept offers a solution in line with the need for criminal law reform in Indonesia, especially to address the challenges arising from the application of the long-standing Penal Code (KUHP), which no longer aligns with the realities of modern society. Restorative justice's focus on reintegration, rather than stigmatization, aligns with the growing call for a more rehabilitative and restorative approach to criminal justice in Indonesia and globally.

Efforts to integrate restorative justice into Indonesia's legal system have been made through various initiatives, including collaboration between law enforcement agencies. However, the successful implementation of this approach is still hindered by the lack of specific and integrated regulations. Therefore, strategic policies are needed that not only accommodate local values but also respond to social dynamics and the challenges of the times (Amiroch, 2024). These policies should provide clear guidelines for the application of restorative justice, establish support systems for victims and offenders, and foster a culture of reconciliation and community involvement.

This research aims to identify the main barriers in implementing restorative justice, particularly in resolving minor criminal offenses. Furthermore, this study will provide policy recommendations to support the effectiveness of restorative justice as a more humane and comprehensive approach within Indonesia's criminal justice system. The ultimate goal is to advocate for a shift in how the justice system addresses crime shifting from punishment to a system that emphasizes healing, responsibility, and reconciliation.

## **METHOD**

This research uses a normative legal approach, focusing on the analysis of relevant legal norms. The study is conducted through various approaches, namely the statute approach, conceptual approach, and analytical approach (Suhaimi, S., 2018). The statute approach involves examining existing legislation and regulations to understand how they apply to the research topic. The conceptual approach focuses on the interpretation and application of legal concepts, while the analytical approach critically analyzes the underlying assumptions and implications of these legal norms.

The data sources for this research are derived from document studies obtained through online literature searches, ensuring a comprehensive review of existing legal frameworks and scholarly perspectives. By analyzing qualitative data, this study aims to deeply explore the meaning and implications of the legal norms that are the focus of the research, shedding light on their relevance and application in contemporary legal contexts. The ultimate goal is to offer valuable insights into how these norms shape legal practices and outcomes in the given jurisdiction.

## RESULTS AND DISCUSSION

### The Application of Restorative Justice in Resolving Minor Criminal Offenses

The Indonesian National Police (Polri), as a law enforcement institution, plays a role that extends beyond the enforcement of laws, encompassing its responsibilities as a servant, protector, and guardian of society. The tasks of Polri include ensuring safety and protecting the community from the potential physical, psychological, and material harm caused by criminal activities. In carrying out its role, Polri aims to maintain social order, enforce the law, and ensure the realization of justice based on the applicable legal framework. Criminal law is one of the foundations used to carry out this duty (Hia, N., Simanjuntak, B., Marpaung, R., & Sitanggang, T., 2021).

Mulyadi (2023) explains that criminal law is a branch of public law (*algemene belangen*), functioning as a state instrument in addressing criminal acts. With this characteristic, the impact of a crime not only affects the individual rights of the victim but also evolves into a collective responsibility, involving the family, society, and ultimately becoming a part of the state's obligations. The enforcement of criminal law in Indonesia has been officially regulated through Law No. 8 of 1981 concerning the Indonesian Criminal Procedure Code (KUHP), which positions the state as the main actor in the process of enforcing justice. However, this approach often limits the role of individuals or society in resolving cases, which can lead to a gap between the formal justice provided by the state and the substantive justice felt by the public.

Minor criminal offenses (*Tipiring*) are violations of the law that are not considered severe, including light crimes listed in Book II of the Indonesian Penal Code (KUHP). Examples include minor insults, light assaults, petty theft, and minor vandalism. In Indonesia's criminal justice system, there are four main components that form the integrated criminal justice system: the Police, the Prosecutor's Office, the Court, and the Correctional Institutions. The collaboration of these four elements aims to create an integrated criminal justice system to ensure justice is administered comprehensively.

According to Dermawan (2015), the criminal justice system faces challenges in determining the purpose of sentencing, whether it focuses on retribution against offenders or aims at preventing antisocial behavior. The restorative justice approach emerges as an alternative solution, shifting the focus from mere punishment to the restoration of social conditions through the active involvement of offenders, victims, and society. In this framework, restorative justice seeks to repair the damage caused by crime by prioritizing peace, engagement, and the restoration of social balance (Flora, H. S., 2018).

Polri has adopted the restorative justice approach through the Police Regulation on Handling Criminal Cases Based on Restorative Justice. This policy emphasizes the importance of restoring the original condition and ensuring balanced protection for both the victims and offenders. This approach is in line with the mandate of Articles 16 and 18 of Law No. 2 of 2002 on the Indonesian National Police. By emphasizing societal norms and values, this approach addresses the increasingly complex legal needs of the community and supports the creation of a sense of justice and benefit.

The implementation of restorative justice requires both material and formal requirements. Material requirements include the absence of societal unrest, social conflict, or potential threats to national security, as well as ensuring that the offender is not a recidivist or involved in serious crimes such as corruption or terrorism. Formal requirements involve the existence of a peace agreement signed by both parties, the fulfillment of the victim's rights, and the offender's responsibility through compensation, return of goods, or other forms of restitution (Wagiu, J. D., & Toloh, P. W. Y., 2023).

For example, in the Bangka Belitung Islands Regional Police, a case of suspected fraud in a vehicle sale in May 2022 was successfully resolved through a restorative justice mechanism. Through mediation, the complainant and the accused reached a peace agreement.

This resolution shows that restorative justice not only provides solutions for the victim but also encourages the offender to rectify their wrongdoings. This approach supports short-term objectives such as legal socialization, medium-term objectives like crime prevention, and long-term goals, including societal well-being.

As a rule-of-law country, Indonesia upholds the principle of equality before the law as stated in Article 27, Paragraph (1) of the 1945 Constitution. This principle affirms that every citizen is equal before the law, without exception. In practice, law enforcement aims not only to impose sanctions but also to create benefits for all parties involved. Therefore, restorative justice becomes one of the relevant approaches to address legal issues in modern society.

### **Challenges in the Application of Restorative Justice in Minor Criminal Offenses**

As a country based on the rule of law, Indonesia recognizes the importance of fair law enforcement as a fundamental pillar in creating an orderly and harmonious society. The government of Indonesia aims to ensure legal certainty, justice, and order as part of efforts to establish a safe and prosperous nation. Law enforcement, in essence, is the process of actualizing legal values into social realities, so that the law applied reflects the desires of society. In this context, the police institution plays a pivotal role in the criminal justice system. Its role as the gateway for various legal mechanisms in criminal law requires the police to prioritize three fundamental principles: justice, benefit, and legal certainty (Pramono, D., Rohadi, S., Wijaya, G. A., & Zulkarnain, A., 2023).

The law not only aims to create order but also must be able to deliver justice to all layers of society. This sense of justice cannot emerge automatically but must be fought for through consistent and systematic efforts. In its application, justice must be safeguarded and protected from being distorted by certain interests (Hamidi, J., et.al, 2012). The ideal legal system is one whose values align with social norms and the real actions of society. Since law and society are interconnected, law plays a primary role in maintaining social order and the stability of community life.

The high crime rates in Indonesia place the police in a very strategic position, yet this also increases their responsibility in protecting society from various criminal threats. The fight against crime is not a simple matter, as criminal acts always emerge in human life in various forms and levels. The process of resolving criminal offenses is often accompanied by complex challenges, both from technical and social perspectives. In this context, the restorative justice approach becomes a relevant alternative, particularly in the investigation and prosecution of minor offenses. This approach aims to prioritize public interest and create a more substantive sense of justice.

According to Samsul (2016), the implementation of restorative justice within the Indonesian National Police presents significant challenges. One of the challenges is the vast scope of the police's juridical duties, which cover various legal and social aspects. The main principle of restorative justice is to utilize local wisdom that has been passed down through generations. For instance, in some regions, conflict resolution still relies on deliberation to reach a consensus. This shows that the concept of restorative justice has long existed in Indonesian culture and is a part of local wisdom. In its application, resolving minor criminal offenses through this approach must consider the interests of the victim, the offender, and the social impact on the surrounding community.

The restorative justice approach provides space for victims to actively participate in the resolution process. Victims are not only positioned as parties providing testimony but also as individuals entitled to compensation and restitution. This system emphasizes dialogue between the offender and the victim to achieve mutually beneficial resolution. The offender is given the opportunity to take responsibility for their actions through restitution or corrective actions, without having to serve a prison sentence. This approach results in a mutually beneficial

situation (mutual symbiosis), where the victim gets their rights while the offender does not lose their freedom.

However, the implementation of restorative justice does not entirely eliminate the obligation for formal legal procedures. Although the case resolution is carried out peacefully, the final decision remains in the hands of the judge through the public prosecutor. The peace reached between the offender and the victim can only relieve the obligation to prosecute if it complies with the applicable legal conditions.

According to Anggara and Mukhlis (2019), there are several factors that hinder the implementation of restorative justice, including:

a. Legal Factors

The absence of laws that explicitly regulate the mechanism of case resolution through restorative justice. Attorney General Regulation No. 15 of 2020, which serves as the legal basis for this approach, provides a broad scope for interpretation, causing different leaders to have varying policies in its application.

b. Law Enforcement Factors

In practice, the implementation of restorative justice requires the agreement of all parties involved. If the agreement is not reached, the legal process will proceed to prosecution. Additionally, the success of this approach also depends on the ability of law enforcement officials to act impartially and professionally.

c. Facilities and Infrastructure Factors

Limited legal facilities, such as adequate mediation spaces, often pose a challenge in implementing restorative justice. Prosecutors, for example, play an important role in educating the parties about the benefits of peaceful resolution, but limitations in time and resources make this effort difficult to carry out optimally.

d. Community Factors

The public's perception of certain criminal offenses often becomes an obstacle in resolving cases through restorative justice. In cases that are considered disruptive to public order, such as those regulated in Article 170 of the Penal Code, this approach is difficult to apply, even though there is peace between the offender and the victim.

e. Cultural Factors

While local wisdom supports the application of restorative justice, certain cultures can also become obstacles. In some cases, family ties or the influence of community leaders often affect the mediation process, so the resolution does not fully align with the principles of justice.

The implementation of restorative justice in Indonesia is a progressive effort to create a more inclusive form of justice. By overcoming existing obstacles, this approach is expected to become a solution that is not only effective but also aligned with local cultural values. Its success requires support from various parties, including policy reforms, improved capacity of law enforcement, and changes in public perceptions of the law.

### **Strategies to Overcome Barriers in the Implementation of Restorative Justice for Minor Criminal Offenses**

When a person commits an unlawful act, they must be held accountable for their actions in accordance with the applicable legal provisions. In the criminal justice system, cases are typically resolved through the court. However, there are many cases where resolution is done outside the court, such as through mediation or other peace-making institutions. In this context, the police play a key role in criminal law enforcement, including the application of restorative justice mechanisms. Restorative justice is one form of resolving criminal cases outside of court, prioritizing deliberation to achieve peace. Through this approach, it is hoped that minor criminal offenses can be resolved without going to trial, providing a quick solution to meet the public's need for fair and effective case resolution.

Law No. 2 of 2002 on the Indonesian National Police, specifically Article 4, outlines the police's objective to ensure order and law enforcement, promote community tranquility, and achieve domestic security. This task is carried out while upholding human rights, which ultimately supports the realization of national goals and the maintenance of social stability.

However, in practice, the implementation of restorative justice mechanisms is not without challenges, especially in resolving minor criminal offenses. Therefore, law enforcement officials must make maximum efforts. Several steps that can be taken to overcome these challenges are as follows:

a. Human Resources

Adequate human resources are crucial in the implementation of restorative justice. Increasing the number of personnel is necessary for the optimal handling of minor criminal cases. Additionally, improving personnel quality through advanced training is also essential to strengthen their ability to handle restorative justice cases. In this way, task division within the organization can be carried out more effectively, and trained personnel will be able to perform their roles better.

b. Facilities and Budget

Providing sufficient facilities and allocating appropriate budgets are essential for the successful implementation of restorative justice. Additional funding is necessary to provide facilities that meet the requirements and support operational activities. Additionally, incentives for personnel who receive recognition from the public or superiors can increase motivation. The role of prosecutors is also critical in educating the parties and offering resolution through restorative approaches without having to bring the case to trial.

c. Resolution Methods

The methods used in implementing restorative justice, whether through penal or non-penal mediation, are key to the success of this approach. With the right methods, minor criminal cases can be resolved amicably, thus increasing the number of cases resolved without going to court. Moreover, good methods can motivate the personnel involved, create a positive working environment, and open opportunities for career development and promotion for those who perform their duties well.

By overcoming these obstacles and optimizing available resources, restorative justice mechanisms can become an effective solution for resolving minor criminal offenses. This approach not only reduces the burden on the judicial system but also creates a more substantive sense of justice for society.

## CONCLUSION

Restorative justice offers a new paradigm in resolving minor criminal offenses, focusing more on restoration than punishment. This approach, which emphasizes dialogue and the restoration of relationships, provides an opportunity for victims to obtain a more humane form of justice, while helping offenders to reform. However, the implementation of restorative justice in Indonesia still faces a number of challenges, such as the lack of comprehensive regulations, limited mediation facilities, and suboptimal human resource capacity. In addition, public perception and cultural factors also influence the success of its application. To overcome these obstacles, integrated policy reforms, intensive training for law enforcement officers, and widespread legal education efforts for the public are needed. With the support of various stakeholders, restorative justice is expected to become an effective alternative in achieving a more equitable justice system that is relevant to the needs of contemporary society.

## REFERENCE

- Adiesta, I. D. I. (2021). Penerapan restorative justice sebagai inovasi penyelesaian kasus tindak pidana ringan. *Interdisciplinary Journal on Law, Social Sciences and Humanities*, 2(2), 143-170.
- Amiroch, I. (2024). Rekonstruksi regulasi hak waris anak hasil perkawinan di bawah tangan berbasis nilai keadilan (Doctoral dissertation, Universitas Islam Sultan Agung, Indonesia).
- Anggara, P., & Mukhlis, M. (2019). Penerapan keadilan restoratif pada tindak pidana pencurian ringan. *Jurnal Ilmiah Mahasiswa Bidang Hukum Pidana*, 3(3), 468-477.
- Dermawan, M. K., & OLI, M. I. (2015). *Sosiologi peradilan pidana*. Yayasan Pustaka Obor Indonesia.
- Flora, H. S. (2018). Keadilan restoratif sebagai alternatif dalam penyelesaian tindak pidana dan pengaruhnya dalam sistem peradilan pidana di Indonesia. *University of Bengkulu Law Journal*, 3(2), 142-158.
- Hakim, I. (2020). Peran advokasi pekerja sosial dalam menangani anak berhadapan dengan hukum: Studi kasus kekerasan terhadap anak pada lembaga perlindungan anak NTB (Doctoral dissertation, UIN Mataram).
- Hamidi, J., Arrsa, R. C., Fadhilah, N. L., Mauntie, Y., Annafi, B. U., & Iswara, D. B. (2012). *Teori dan hukum perancangan perda*. Universitas Brawijaya Press.
- Hia, N., Simanjuntak, B., Marpaung, R., & Sitanggung, T. (2021). Peran kepolisian dalam menangani pelanggaran tindak pidana kekerasan secara bersama-sama dalam Pasal 170 KUHP di Kota Medan (Studi Kasus Polrestabes Medan). *Jurnal Mutiara Hukum*, 4(2), 32-44.
- Mulyadi, D. L., & SH, M. (2023). *Bunga rampai hukum pidana, perspektif, teoretis dan praktik*. Penerbit Alumni.
- Pramono, D., Rohadi, S., Wijaya, G. A., & Zulkarnain, A. (2023). Penyelesaian tindak pidana ringan melalui upaya nonpenal. *Legitimasi: Jurnal Hukum Pidana dan Politik Hukum*, 12(1), 68-87.
- Samsul, I. (2016). Penguatan lembaga adat sebagai lembaga alternatif penyelesaian sengketa (Studi terhadap lembaga adat di Kabupaten Banyu Asin, Sumsel dan di Provinsi Papua). *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan*, 5(2), 127-142.
- Sudewo, F. A. (2021). *Pendekatan restorative justice bagi anak yang berhadapan dengan hukum*. Penerbit Nem.
- Sudirman, A. (2007). *Hati nurani hakim dan putusannya: Suatu pendekatan dari perspektif ilmu hukum perilaku (behavioral jurisprudence) kasus hakim Bismar Siregar*. PT. Citra Aditya Bakti.
- Suhaimi, S. (2018). Problem hukum dan pendekatan dalam penelitian hukum normatif. *Jurnal Yustitia*, 19(2).
- Undang-Undang No. 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia..
- Undang-Undang No. 8 Tahun 1981 tentang Kitab Undang-Undang Hukum Acara Pidana (KUHAP).
- Wagiu, J. D., & Toloh, P. W. Y. (2023). *Restorative justice: Dalam penyelesaian tindak pidana perbankan badan usaha milik negara*. Nas Media Pustaka.