



The Application of Restorative Justice To Fraud Cases In The Palangkaraya District Attorney's Office

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Abstract: The purpose of this study is to explore the implementation and challenges of restorative justice in resolving fraud cases at the Palangkaraya District Prosecutor's Office. This research adopts an empirical legal method, involving fieldwork and interviews to gather data. The findings indicate that the application of restorative justice in fraud cases at the Palangkaraya District Prosecutor's Office reflects a shift from a repressive penal system toward a more recovery-oriented, reconciliatory, and socially responsible approach. However, its implementation remains limited to minor offenses and depends on voluntary restitution and mutual agreement. Of the 27 fraud cases recorded between 2023 and 2025, only two were resolved through restorative justice, highlighting the need for a thorough evaluation to broaden and optimize its application.

Keyword: Restorative Justice, Fraud, Prosecutor

INTRODUCTION

Background of the Problem

The Republic of Indonesia is a constitutional state (*rechtsstaat*) in which the law essentially aims to achieve peaceful coexistence, which is a harmony between order and tranquility, with the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as "UUD NKRI 1945") as the main pillar of the state constitution (Sinaga, 2020). According to Article 1 paragraph (3) of the 1945 Constitution, law as a collection of regulations possesses both general and normative characteristics. The term general implies that the law applies universally to all individuals, while normative refers to its function in determining what actions are required, prohibited, or permitted, as well as the manner in which these legal norms should be observed. Therefore, the law should not be viewed as a single rule or provision, but rather as an integrated set of norms that operate collectively as a coherent system. Consequently, it is impossible to understand the law by looking at only one provision. In general, every legal rule has the objective of creating a harmonious social order, both on a small and large scale, so that order, harmony, and legal certainty can be achieved. However, criminal law has characteristics that distinguish it from other branches of law. The difference lies in the element of intent in determining legal sanctions in the form of specific suffering (*bijzondere leed*) as a form of

punishment imposed on individuals who are proven to have violated obligations or prohibitions that have been normatively established in criminal law regulations (Renggong, 2015). General criminal law is a part of criminal law that applies universally to all citizens, regardless of the character or background of the individual as a subject of the law. The material aspects of general criminal law are regulated in the Criminal Code (KUHP), while the formal aspects are regulated in the Criminal Procedure Code (KUHP) (Chandra & Putra, 2022).

Considering that the law encompasses two essential components formal law and substantive law (Taimenas, 2020). Formal law primarily emphasizes procedural aspects and the explicit provisions contained within legal texts. In contrast, substantive law pertains to the rules or norms that govern patterns of human behavior in society, reflecting the community's sense of justice within the legal framework. Nonetheless, the ultimate purpose of both is not merely procedural compliance but the attainment of justice as the core objective of the legal process. In order for justice in law to be achieved, the reference point should not be solely on the formal aspects of law, but also on conscience and morality. Criminal law consists of a set of norms that regulate behavior in society. In this context, criminal law doctrine and even legal doctrine in general play a significant role, as they often form the basis for the formation of criminal law norms. Therefore, the role of criminal law science is to identify, formulate, and explain the fundamental principles underlying the application of these norms, both general and specific. Furthermore, these principles are systematically organized into a coherent whole so that they can be used as a framework for understanding the criminal law norms that currently apply. This approach is part of the classical study of criminal law (Mukhlis & Ainal, 2018). General criminal law, also known as national criminal law, is a set of criminal laws established by the central government and applicable to all individuals as legal subjects throughout the territory of the state. This law regulates acts that are considered criminal offenses without distinguishing the geographical location of the offense. In contrast, local criminal law is a form of criminal law formulated by local governments and applied to violations that occur within the scope of the administrative authority of the region. These local criminal law provisions are generally contained in local regulations, whether at the provincial, regency, or city level (Hartanto, 2019).

The process of resolving criminal cases through legal channels is often considered to be unjust. It should be noted that in discussions of criminal procedure law, particularly those related to human rights, there is a tendency to focus more on the rights of suspects without considering the rights of victims. In order to address these legal issues, a new method has been developed, namely the use of non-litigation criminal case resolution outside of court, known as restorative justice (Sugiarso, 2024). Restorative justice is an effort to resolve criminal cases without trial and prison sanctions, which seeks to restore the situation to what it was before the crime and prevent further crimes by prioritizing consensus between the two parties, accompanied by law enforcement officials and upholding the values of justice, as regulated in Attorney General Regulation Number 15 of 2020 concerning the Termination of Prosecution based on Restorative Justice (hereinafter referred to as "PERJA 15/2020"), which is expected to bring about due process of law in the criminal justice system in Indonesia.

Restorative justice is a mechanism for resolving criminal cases outside the judicial process that aims to restore relationships between the parties and address the losses suffered by victims of crime (Jaenudin & Rasyida, 2025). In this context, the principle of restorative justice emphasizes the importance of understanding the possibility of a shift in the approach to criminal resolution, from one that previously focused on the rights of suspects, convicts, or perpetrators, to an approach that also prioritizes the protection and restoration of victims' rights (Rahmawati, et al., 2022). In this case, the law plays a role in protecting the rights of every victim of crime. Legal regulations on the implementation of restorative justice are stipulated in several regulations, namely:

1. Law Number 11 of 2012 concerning the Criminal Justice System for Children (SPPA);
2. Decree of the Director General of the General Court of the Supreme Court of the Republic of Indonesia Number 1691/DJU/SK/PS.00/12/2020 on the Implementation of Guidelines for the Application of Restorative Justice.
3. Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice; and
4. Circular Letter of the Chief of Police Number 8 of 2018 concerning the Application of Restorative Justice in the Settlement of Criminal Cases.

Restorative justice cannot be applied to all types of criminal offenses. Crimes that cannot be subject to restorative justice include terrorism and crimes that threaten national security. Criminal acts of business fraud and other criminal acts are handled by the prosecutor's office during the prosecution process. Business fraud is a series of lies committed by a person to influence or persuade others to act in accordance with the perpetrator's wishes. The root of business fraud is regulated in Article 378 of the Criminal Code. Business fraud is a criminal act, and the authority to handle such acts lies with the prosecutor's office as the public prosecutor. Common types of fraud in business include fraud in the buying and selling process, especially in the sale of building materials, fraud in money lending, and so on (Apriyanto, 2016).

The criminal justice process, which was once centered on punishment, has evolved into a system emphasizing dialogue and mediation. This shift aims to achieve a fairer and more balanced resolution of criminal cases for both victims and offenders. The restoration of relationships between the parties is pursued through mutual agreement, fostering reconciliation and accountability rather than mere retribution (Chandra, 2023). The victim is given the opportunity to express the harm or losses they have experienced, while the perpetrator is allowed to make amends through various mechanisms such as compensation, reconciliation, community service, or other mutually agreed-upon arrangements. Restorative justice aims to restore the condition of crime victims, perpetrators, and stakeholders through a case resolution process that does not only focus on prosecuting and punishing perpetrators.

This study was conducted at the Palangkaraya District Attorney's Office. Data collected through interviews showed the number of fraud cases reported and handled using a restorative justice approach by the Palangkaraya District Attorney's Office in the last three years. From 2023 to 2025, there were 27 fraud cases, and 2 cases were reported to have used restorative justice based on the principle of shifting the settlement of criminal cases from litigation to a dialogical approach. However, this approach cannot be applied to all types of criminal offenses, but it is still possible to apply it to fraud cases. Therefore, this study focuses on the implementation of Restorative Justice in the settlement of fraud cases at the Palangkaraya District Attorney's Office and the obstacles to the application of restorative justice.

Problem Statement

Based on the background of the problem, the research questions in this study can be formulated as follows:

1. How is restorative justice implemented in the settlement of fraud cases at the Palangkaraya District Attorney's Office in 2023-2025?
2. What are the obstacles to the implementation of restorative justice in the settlement of fraud cases at the Palangkaraya District Attorney's Office in 2023-2025?

The scope of this study focuses on the implementation of restorative justice in fraud cases handled by the Palangkaraya District Attorney's Office during the period 2023-2025.

Purpose of Writing

The purpose of this research is to analyze the issues outlined in the problem statement, namely:

1. To determine the implementation of *restorative justice* in the settlement of fraud cases at the Palangkaraya District Attorney's Office in 2023-2025.
2. To identify the obstacles to the implementation of *restorative justice* in the settlement of fraud cases at the Palangkaraya District Attorney's Office in 2023-2025.

The originality of the research used as a reference source is based on the results of legal material research, namely:

1. Journal Research by Adrian Achmad Hartadi, Laely Wulandari, and Idi Amin, Faculty of Law, Mataram University, research title "Implementation of Restorative Justice in Cases of Fraud and Embezzlement (Case Study of Mataram Police)," with the following problem statements: (1). How is restorative justice implemented in cases of fraud and embezzlement (a case study of the Mataram Police)? (2). What are the obstacles faced by investigators in handling the settlement of criminal acts of fraud and embezzlement through restorative justice? The results of the research explain that (1). The implementation of restorative justice in handling cases of fraud and embezzlement at the Mataram Police has been carried out well. This approach involves the perpetrator, victim, and community to reach a mutual agreement in order to meet the needs and restore the losses caused by the crime. The reconciliation process is carried out amicably and is documented in a reconciliation letter and a statement letter from each party. The number of cases resolved through restorative justice at the investigation stage was recorded at 55 cases in 2020, 58 cases in 2021, and 61 cases in 2022, with a total of 174 cases. (2). Although the implementation went well, investigators from the Mataram Police Criminal Investigation Unit identified obstacles in the application of restorative justice. These obstacles were divided into two categories: internal and external. Internal obstacles included a lack of understanding and training among investigators, as well as limited resources. Meanwhile, external obstacles include rejection from victims, pressure from the community, and low public awareness of the law regarding peaceful case resolution (Hartadi, et al., 2023).
2. Journal research by Ahmad Muhajir, Marwan Mas, and Ruslan Renggong, Faculty of Law, Bosowa University, titled "The Application of Restorative Justice to Crimes of Fraud and/or Embezzlement in the South Sulawesi Regional Police Area," with the following problem formulation: (1). How is the restorative justice approach applied in the settlement of alleged fraud and/or embezzlement cases in the South Sulawesi Regional Police jurisdiction? (2). What are the factors that hinder the implementation of restorative justice? The results of the study explain that (1). The application of restorative justice in the settlement of criminal acts in the form of restorative justice views that the settlement of a case involves the parties concerned (victims, perpetrators, and the community) in order to reach an agreement in fulfilling the needs of victims and the community for compensation for losses arising from the criminal acts that occurred and the application of restorative justice to fraud and embezzlement crimes in the South Sulawesi Regional Police, (2). The factors hindering the realization of restorative justice are community factors, infrastructure factors, law enforcement factors, and legal culture factors (Muhajir, et al., 2022).

Based on the originality used as a reference source, there are similarities with this study, namely that it will discuss the application and obstacles to the implementation of restorative justice, but with a different focus in terms of the location of the research, whereby the above research was conducted at the Mataram Police Headquarters and the South Sulawesi Regional Police, while this study was conducted at the Palangkaraya District Attorney's Office.

METHOD

This study uses empirical legal research methods with field research by conducting direct research at the location through interviews to obtain data (Jonaedi & Ibrahim, 2018), this study examines the implementation of restorative justice in fraud cases in the Palangkaraya District Attorney's Office. The research was conducted at the Palangkaraya District Attorney's Office, located at Jalan Diponegoro No. 13, Langkai, Pahandut Subdistrict, Palangka Raya City, Central Kalimantan. The research was conducted on June 13, 2025. The data sources consisted of two types of data, namely primary data in the form of interviews with informants and respondents, secondary data in the form of the number of cases studied, and tertiary data in the form of legal dictionaries, legal encyclopedias, legal magazine indexes, and other legal scientific works (Salim, 2016). This study uses legal materials, namely the Criminal Code (KUHP) Number 1 of 1946, the Criminal Procedure Code (KUHP) Number 8 of 1981, and the Attorney General Regulation of the Republic of Indonesia (PERJA) Number 15 of 2020.

RESULTS AND DISCUSSION

The Implementation of Restorative Justice in the Settlement of Fraud Cases at the Palangkaraya District Attorney's Office in 2023-2025

Restorative justice aims to achieve a more substantial form of justice for both victims and perpetrators by seeking to restore conditions as close as possible to those before the crime occurred. This approach stems from the idea that the traditional penal system is not fully capable of addressing the social impact of crime. As an alternative approach, restorative justice emphasizes the importance of dialogue and active involvement from all affected parties. Through this mechanism, victims are given the opportunity to express their feelings and expectations, while perpetrators are encouraged to understand the consequences of their actions and take responsibility by repairing the damage they have caused (Ronaldi & Saraswati, 2024).

Restorative justice is an effort to resolve criminal cases without trial and prison sentences, focusing on restoring the situation to what it was before the crime and preventing further crimes by prioritizing consensus between the two parties, accompanied by law enforcement and upholding the value of justice (Rumimpunu, 2024). Restorative justice is not an entirely new concept in the Indonesian criminal justice system, as it has long been recognized in the traditional practice of resolving criminal cases through customary mechanisms and deliberation that emphasize the restoration of relationships between perpetrators, victims, and the community (Zulfa, 2011). although its normative regulation has only recently been explicitly and systematically incorporated into legislation and law enforcement institutional guidelines since its initial adoption in Law No. 11 of 2012 on the Criminal Justice System for Children (Satria, 2018), then expanded through the National Police Chief Circular Letter Number SE/8/VII/2018, Attorney General Regulation Number 15 of 2020, and Attorney General Guideline Number 24 of 2021, until finally obtaining more comprehensive legal legitimacy and technical guidance in Supreme Court Regulation Number 1 of 2024, and systematically accommodated in Indonesia's latest Criminal Code, namely Law Number 1 of 2023 concerning the Criminal Code (hereinafter referred to as the "New Criminal Code"), as part of the transformation of Indonesian criminal law from a repressive punishment system to restorative justice.

Although the New Criminal Code does not explicitly mention the concept of restorative justice, this concept can be found in the body of the New Criminal Code (Zulfa, 2007). For example, Article 54 paragraph (1) letters h, i, and j of the New Criminal Code stipulate that in imposing a sentence, the judge must consider the future impact of the sentence on the perpetrator (letter h), the psychological and social impact on the victim or the victim's family (letter i), and the forgiveness of the victim and/or the victim's family (letter j). These three considerations reflect the spirit of punishment that is not only repressive but also restorative,

as it takes into account the balance between the interests of the perpetrator and the victim and opens up space for peaceful and dignified settlement of cases.

In addition to Article 54, the concept of restorative justice can also be found in Article 70 of the new Criminal Code, which stipulates that judges should, as far as possible, not impose prison sentences if there are circumstances that reflect the offender's potential for rehabilitation, the low impact on the victim, and the existence of good faith to restore the damage. This provision reinforces the principle that justice does not always have to be achieved through conventional punishment, but can be achieved through social restoration mechanisms that actively involve perpetrators, victims, and communities in the settlement of cases.

Based on the New Criminal Code, Restorative Justice is further regulated in Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice (hereinafter referred to as "Perma No. 1/2024"), which is the derivative legal basis of the New Criminal Code. Perma No. 1/2024 explains in Article 1 paragraph (1) that restorative justice is an approach to handling criminal cases that involves all parties, including victims, victims' families, the defendant/child, the defendant's/child's family, and/or other related parties, with a process and objective that seeks restoration, not just retribution.

The implementation of restorative justice in handling fraud cases at the Palangka Raya District Attorney's Office during the 2023–2025 period shows that this instrument has been applied, although its success rate is still relatively limited. Based on an interview with Mrs. Dessy Mi'rajiah, S.H., M.Kn., as Head of Subdivision I of Intelligence at the Palangka Raya District Attorney's Office, recorded 27 fraud cases that were submitted to the prosecution stage during that period, but only 2 cases were successfully resolved through the restorative justice mechanism. This implementation is based on the provisions of Article 5 paragraph (1) of the Indonesian Attorney General's Regulation Number 15 of 2020, which regulates substantive requirements in the form of a criminal penalty of less than five years in prison and losses not exceeding IDR 2,500,000, with the possibility of application still possible if the perpetrator compensates for the losses and the victim agrees to a settlement. This data shows that although restorative justice has obtained a legal basis and has begun to be practiced at the Palangka Raya District Attorney's Office, its implementation is still not optimal when compared to the number of cases filed during the same period.

Fraud Cases at the Palangkaraya District Attorney's Office (2023-2025)	<i>Restorative Justice</i> in Fraud Cases at the Palangkaraya District Attorney's Office (2023-2025)
27 Cases	2 Cases

Data Source: Interview with Mrs. Dessy Mi'rajiah S.H., M.Kn., Head of Subdivision I of Intelligence at the Palangka Raya District Attorney's Office, on Friday, June 13, 2025, at the Palangka Raya District Attorney's Office

The determination of cases that can be submitted through the restorative justice mechanism is based on two main indicators, namely (1) the victim's willingness to settle the case peacefully without coercion or intervention, either from the suspect or other parties, and (2) the subjective condition of the perpetrator. Profiling the perpetrator is essential in determining the suitability of restorative justice. The prosecutor will conduct interviews with community leaders in the perpetrator's neighborhood, such as neighbors, neighborhood association leaders, and village heads, to find out the perpetrator's background and daily behavior. If the perpetrator has no previous criminal record and shows a cooperative attitude and remorse, the restorative justice process can proceed. The restorative justice process is carried out directly in the perpetrator's neighborhood with the involvement of local community leaders. This mechanism demonstrates social involvement in the settlement of criminal cases

and promotes family values in the spirit of deliberation. This procedure reflects the general principles of restorative justice, in which law enforcement officials not only pursue repressive punishment but also the restoration of social relations.

Obstacles to the Implementation of *Restorative Justice* in the Settlement of Fraud Cases at the Palangkaraya District Attorney's Office in 2023-2025

Restorative justice is part of a progressive legal approach that aims to reform the criminal justice system. The issue of reform in the field of criminal law has always been an important concern in contemporary legal studies. In Indonesia, the implementation of restorative justice still faces various obstacles. Broadly speaking, there are two fundamental problems. First, the understanding of the concept of restorative justice is often narrowed down to merely a means of settling cases through peaceful efforts, with a greater focus on the end result than on the settlement process. Second, within the framework of the national criminal justice system, there is still no comprehensive regulation at the legislative level that contains a comprehensive definition, principles, and procedures for implementing restorative justice. These two issues raise concerns about the potential for injustice, both to victims and perpetrators of crime (Adisti, et al., 2025).

Restorative Justice as an alternative approach to criminal case resolution in Indonesia is part of a new phase in the development of the national criminal justice system. This approach emerged as a response to the need to restore social relations between perpetrators and victims, replacing the retributive justice paradigm that focuses solely on punishment (Lestari, et al., 2023). Within the framework of legal reform, restorative justice reflects a shift towards the principle of corrective justice, which focuses on compensation and reconciliation through direct involvement between perpetrators, victims, and the community. However, the implementation of restorative justice still faces multidimensional challenges, ranging from legal structures and legal culture to technical operations. The formal criminal process, which tends to be lengthy and rigid, the dominance of the public prosecutor's authority, the limited participation of victims in decision-making, and the lack of integration of restorative principles into the standard procedures of law enforcement agencies are the main obstacles. In fact, public perception of restorative justice is often negative because it is considered to only "cover up" cases without resolving them completely. Other challenges include limited operational budgets, overlapping jurisdictions between agencies, and the lack of integrated guidelines and comprehensive training for law enforcement officials to apply restorative justice consistently and professionally (Ali, et al., 2024).

Based on research results confirmed through interviews with Mrs. Dessy Mi'rajiah, S.H., M.Kn., as Head of Subdivision I of Intelligence at the Palangka Raya District Attorney's Office, the implementation of restorative justice in handling criminal fraud cases in the 2023-2025 period recorded 27 cases, but only 2 cases were successfully resolved through this mechanism, while the other 25 cases were still processed through the formal court system. The application of restorative justice at the Palangka Raya District Attorney's Office can basically be carried out in accordance with applicable regulations, as it is supported by the internal commitment of the attorney's office to encourage non-litigation case resolutions and the positive acceptance of the concept of restorative justice by the community. However, an evaluation shows that the limitations in its application are mainly due to the normative requirements as stipulated in Regulation of the Attorney General's Office of the Republic of Indonesia Number 15 of 2020, namely a criminal penalty of less than five years imprisonment and damages not exceeding IDR 2,500,000. Based on available data, most cases cannot meet these requirements because the value of the loss exceeds the nominal limit, or because the suspect has a previous criminal record. In addition, in a number of cases, victims have refused restorative resolution and preferred to have the case proceed to trial in order to provide a deterrent effect. Thus, even

though regulations and legal instruments are in place and institutional support is adequate, the implementation of restorative justice at the Palangka Raya District Attorney's Office is still limited, as evidenced by the low percentage of cases that can be resolved through this mechanism, which is only about 7.4% of the total cases handled during the research period.

In addition, when reviewing the practice of *restorative justice* in other regions such as Pontianak, various systemic obstacles were found that also have the potential to arise in the context of implementation in Palangkaraya. First, the implementation of restorative justice is still sectoral and has not been functionally integrated into the integrated criminal justice system. Each of the police, prosecutor's office, and court institutions has different rules and approaches that are not operationally connected, thereby hindering the continuity of the *restorative justice* process. Second, the multi-level administrative procedures in the prosecutor's office, which require approval up to the Attorney General's Office, often cause the restorative justice process to fail due to time constraints in the criminal procedure system. Third, the lack of optimal coordination between investigators and public prosecutors causes inconsistencies in data reporting and disrupts the principle of *dominus litis*, whereby prosecutors should have full control over the continuation of cases. Fourth, at the macro level, Indonesia's criminal justice system is still heavily influenced by the retributive paradigm, as reflected in the dominance of prison sentences in the Criminal Code and various sectoral laws. This has implications for law enforcement officials' preference to continue using a punitive approach rather than a restorative approach. Fifth, the low level of public literacy regarding the concept of restorative justice is also a cultural obstacle that cannot be ignored, as the public tends to judge justice through a punitive perspective (Fadhil, 2023).

Considering these various obstacles, the application of restorative justice in fraud cases in Palangkaraya and other regions in Indonesia requires a more comprehensive and structured strategy. This strategy includes harmonizing regulations between law enforcement agencies to avoid jurisdictional overlap, simplifying administrative procedures, especially in the reporting and decision-making systems, and involving prosecutors earlier in the investigation stage to ensure that the *dominus litis* principle is effectively implemented. In addition, a more realistic reformulation of the loss threshold is needed so that restorative justice can cover fraud cases with significant social impacts even if the amount of loss is not large. Finally, public literacy campaigns on the concept of restorative justice need to be promoted so that the public no longer perceives restorative justice as a means of avoiding punishment, but rather as a fair and reconciliation-oriented instrument of recovery. Thus, the restorative justice approach can be transformed into an integral part of a national criminal justice system that is more humane and responsive to the needs of substantive justice.

CONCLUSION

The implementation of restorative justice in the settlement of criminal fraud cases in the jurisdiction of the Palangkaraya District Attorney's Office for the period 2023–2025 shows that the level of implementation is still not optimal. Based on case handling data for that period, there were 27 fraud cases brought to prosecution. Of these, only 2 cases were resolved through a restorative justice approach. This phenomenon shows that, although restorative justice has been normatively recognized as an alternative instrument for resolving criminal cases, its implementation at the practical level is still not optimal.

The obstacles to the implementation of restorative justice in the handling of 27 criminal fraud cases at the Palangkaraya District Attorney's Office in the 2023–2025 period meant that only 2 cases could be resolved through this mechanism. Based on available data, the other 25 cases could not apply restorative justice because they did not meet the provisions set out in PERJA 15/2020. The unmet requirements included the suspect's history of previous criminal offenses and the amount of losses exceeding IDR 2,500,000. In addition to legal obstacles,

barriers also arose from non-legal factors, namely public demands that the perpetrators be prosecuted through the judicial mechanism in order to impose appropriate penalties and create a deterrent effect.

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