

# RESTORATIVE JUSTICE IN POLICE AUTHORITY AS PART OF THE RESTORATION PARADIGM IN THE INDONESIAN CRIMINAL JUSTICE SYSTEM

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## ABSTRACT

The evolution of criminal law in recent times has marked a transition from a punitive approach to one that prioritizes the repair of harm and the rebuilding of relationships between offenders, victims, and society. This shift is reflected in the growing emphasis on restorative justice, which promotes dialogue, mutual understanding, and resolution outside of traditional legal proceedings. In the context of Indonesia, the role of the police in implementing restorative justice reflects both legal empowerment and operational challenges. While their authority is rooted in existing legal instruments such as Law No. 2 of 2002, which provide the legal foundation for discretionary action, inconsistencies in regulation, lack of coordination among legal actors, and limited oversight mechanisms hinder effective application. Moreover, public trust and participation remain weak, and institutional readiness varies across regions. For restorative justice to function optimally within Indonesia's criminal justice system, it is essential to build legal coherence, enhance police capabilities, and ensure stronger supervision, transparency, and community involvement. These improvements would support the broader objective of transforming the justice system into one that prioritizes human dignity, fairness, and social harmony.

**Keywords:** Restorative Justice, Police Authority, Recovery Paradigm, Criminal Justice System Indonesia

## INTRODUCTION

In recent years, criminal justice systems have undergone a notable transformation, moving away from punitive frameworks that prioritize retribution toward more compassionate, community-centered models. Restorative justice has gained prominence as a meaningful alternative to traditional punitive approaches, focusing on repairing the damage caused by crime through participatory processes that engage offenders, victims, and the broader community. This model highlights the value of dialogue, shared responsibility, and healing, offering a contrast to conventional legal approaches that often neglect the emotional and social needs of victims while alienating offenders. Particularly relevant in cases of youth misconduct or non-violent crime, restorative practices seek to foster accountability and empathy, aiming not merely to punish, but to rebuild trust and cohesion within communities [1].

In recent years, Indonesia has begun to embed the values of restorative justice into its legal framework and law enforcement procedures. This shift is especially evident in how the police operate, as they play a pivotal role in handling criminal matters—starting from the preliminary inquiry all the way to handing over cases to the prosecuting authorities. However, under the restorative justice framework, their authority has been broadened to allow for the resolution of certain criminal matters through non-litigation methods. This includes facilitating peaceful settlements grounded in mutual agreement between the involved parties. Such an approach not only aims to ease the burden on the formal justice system but also to promote reconciliation, prevent reoffending, and restore trust within communities by focusing on dialogue, accountability, and the needs of both victims and offenders [2]. Restorative justice offers a different perspective on handling criminal offenses by emphasizing repair and recovery instead of retribution. This approach encourages collaborative involvement from the offender, the victim, and the broader community to address the consequences of the wrongdoing, encourage responsibility, and rebuild mutual understanding and trust. Because the process emphasizes informal dialogue and mutual agreement over formal legal procedures, it is often referred to as a form of “non-state justice.” In this model, the role of the state, particularly the court system, is significantly reduced or even absent, allowing communities and individuals to take a more central role in restoring relationships and addressing the root causes of conflict. This approach not only humanizes justice but also helps prevent the negative consequences of formal punishment, such as social stigma and institutionalization, especially in cases involving minor offenses [3].

In resolving criminal cases, restorative justice highlights the importance of repairing harm by involving everyone impacted—the victim, the offender, and the wider community. This inclusive method frequently brings in

community volunteers as mediators, fostering communication and shared understanding between parties. In the Indonesian context, this approach has led to greater victim participation in the justice process, moving the emphasis away from punishment and toward cooperative efforts that aim to support all stakeholders. A key prerequisite for this approach is the offender's acknowledgment of guilt, which serves as the foundation for meaningful dialogue and reconciliation. By seeking outcomes that are fair and acceptable to all parties, restorative justice promotes healing, accountability, and social cohesion beyond what traditional legal mechanisms typically offer [5].

This regulation underscores the discretion granted to investigators to terminate criminal investigations in the interest of achieving justice and social restoration. As a result, the role of the police is no longer confined to repressive law enforcement but has expanded to include a more holistic, problem-solving approach. This shift aligns with the foundational values of Pancasila and emphasizes the pursuit of substantive justice that prioritizes harmony, reconciliation, and community well-being over punitive measures. Through this framework, law enforcement becomes a vehicle for social healing and resolution, particularly in cases where formal prosecution may do more harm than good [6].

However, the application of restorative justice at the police level in Indonesia faces a range of significant challenges, particularly from normative, institutional, and cultural perspectives. One of the key issues lies in the varying interpretations among law enforcement personnel regarding the essence and objectives of restorative justice, which can lead to inconsistent implementation. Additionally, the broad discretionary powers granted to police officers raise concerns about potential misuse or deviation from restorative principles, especially in the absence of clear oversight mechanisms. Another pressing concern is the inadequate legal protection afforded to victims, which may undermine their trust in the process and discourage participation. These challenges highlight the need for a deeper and more critical examination of how police authority can be optimized within the restorative justice framework. By addressing these limitations, this study contributes to the broader goal of advancing the recovery-oriented paradigm within Indonesia's criminal justice system, ensuring that restorative justice is implemented not only effectively but also in a way that upholds fairness, accountability, and the rights of all parties involved.

#### **Formulation of the Problem**

Based on the description in the background section above, the formulation of the problem is:

1. What is the form of the police's authority in implementing the principle of restorative justice according to current positive Indonesian law?
2. What is the ideal formulation of police authority in implementing restorative justice within the framework of the paradigm of restoring the Indonesian criminal justice system in the future?

### **RESEARCH METHOD**

This research utilizes a normative juridical approach, focusing on the study of legal norms, theories, and doctrines to propose appropriate legal solutions in line with the discipline of legal science [7]. As a doctrinal method, it centers on the interpretation of statutory provisions and authoritative legal texts to assess how established laws relate to the issue under examination. The study adopts a descriptive-analytical framework, offering a detailed portrayal of the legal setting while identifying key legal elements relevant to the topic. It further explores both domestic and international legal instruments governing the application of restorative justice within the scope of police powers, framing this within a broader recovery-based perspective of Indonesia's criminal justice system. All data are sourced from secondary materials, including legal documents, statutory regulations, judicial decisions, and academic literature.

The approach used in this writing is the statutory approach, conceptual approach and comparative approach. These three approaches can be used simultaneously in normative legal research to enrich the analysis and produce more comprehensive recommendations. The legal material analysis technique in this study was carried out with qualitative analysis through collecting, selecting and interpreting legal materials and non-legal materials obtained through library sources and also events that become legal issues, so that conclusions or prescriptions are obtained. The legal material analysis technique used is by using legal interpretation, legal argumentation, legal logic analysis, legal discovery, evaluation and legal consistency. The legal material analysis technique in this dissertation uses qualitative normative analysis that combines statutory, conceptual, historical and comparative approaches.

### **RESULT AND DISCUSSION**

#### **Form of Police Authority in Implementing the Principles of Restorative Justice According to Current Indonesian Positive Law**

Restorative justice represents a fundamental shift in the way criminal justice is conceptualized and practiced, positioning itself as a humane alternative to traditional retributive systems. Instead of prioritizing punishment, this approach emphasizes addressing the consequences of criminal behavior by fostering reconciliation among the individuals involved—the offender, the victim, and the wider community. At its core, restorative justice upholds the principles of empathy, inclusive communication, and shared responsibility, aiming to promote healing, restore trust, and prevent future harm through meaningful engagement [8]. In the context of Indonesian positive law, the Indonesian National Police (Polri) holds a progressively strategic role in applying this principle. Beyond its traditional function of repressive law enforcement, Polri is now positioned to act in preventive and solution-oriented capacities, integrating restorative practices as part of a broader effort to humanize justice and enhance social harmony within the legal system.

Article 18 paragraph (1) of the same law grants Polri discretionary powers, stating that: "For the public interest, officials of the Indonesian National Police in carrying out their duties may act according to their own judgment." This provision provides a legal foundation for police discretion, enabling officers to make context-based decisions, including the application of restorative justice mechanisms. Such discretion is particularly relevant in situations that require flexible, community-based resolutions rather than strict legalistic responses, aligning Polri's role with modern restorative and preventive approaches in criminal justice. Perkapolri Number 8 of 2021 marks a significant step forward for the Indonesian National Police in formally adopting and institutionalizing the principles of restorative justice. Through this regulation, the police are encouraged to prioritize resolution methods that are more humanistic, participatory, and responsive to the needs of all parties involved.

The Regulation outlines specific criteria that must be met for a criminal case to be resolved through a restorative justice approach. These include: (1) the suspect must be a first-time offender; (2) the offense must carry a criminal penalty of no more than five years; (3) a peace agreement must have been reached; and (4) the act must not have triggered widespread public unrest. These conditions are intended to ensure that restorative justice is applied selectively and responsibly, focusing on cases where reconciliation is feasible and does not compromise public order. As such, the role of the police in resolving criminal cases extends beyond merely enforcing the law in a normative sense; it also embodies a commitment to achieving more humane and substantive justice that takes into account the interests of all parties involved.

The process aims to achieve a peaceful, equitable settlement focused on repairing the harm and restoring social harmony. This definition is consistent with that found in UU SPPA and is further reinforced by the Attorney General's Guidelines No. 15 of 2020 and No. 18 of 2021, which adopt a similar understanding of restorative principles. Notably, Perpol No. 8 of 2021 introduces a broader policy perspective by referencing Presidential Regulation No. 18 of 2020 concerning the 2020–2024 RPJMN. This connection elevates restorative justice beyond a legal framework, positioning it as a national strategy aimed at cultivating a justice system that is more humane, inclusive, and oriented toward sustainable conflict resolution.

Regarding its authority based on Article 2 of the Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, the contents are:

(1) Handling of Criminal Acts based on Restorative Justice is carried out in the following activities:

**1. Implementation of the Criminal Investigation function;**

The Criminal Investigation function within the structure of the Indonesian National Police serves as one of the core components in the enforcement of criminal law. This function holds a pivotal role in the criminal justice process, overseeing critical stages such as investigation, arrest, detention, examination, and the transfer of case files to the public prosecutor. The decisions made during this stage—whether to proceed with prosecution or to pursue alternative resolutions such as restorative justice have significant implications for the outcomes of criminal proceedings and the broader pursuit of justice.

**2. Investigation**

Investigation represents the initial stage in the process of handling criminal cases, aimed at gathering preliminary information to assess whether a criminal offense may have occurred. As defined in Article 1 point 5 of KUHP. With the purpose of determining whether the case warrants a formal investigation in accordance with legally prescribed procedures. This stage is crucial, as it forms the foundation for subsequent legal processes and influences the direction of law enforcement responses, including the possibility of applying restorative justice when the situation permits.

**3. Investigation**

Investigation is a vital and decisive stage within the Indonesian criminal justice system, conducted after the preliminary investigation indicates the presence of a suspected criminal offense. In police practice, this investigative function falls under the authority of the Criminal Investigation Unit (Reskrim) and is executed by investigators who are formally empowered to use coercive legal measures. These measures include issuing summons, making arrests, conducting searches, and performing seizures all of which are essential for building a legal case and ensuring procedural justice within the framework of law enforcement.

At the institutional level, the application of restorative justice during the investigation phase encounters significant coordination challenges across agencies. One major issue is the lack of a unified information system connecting the National Police, which hampers the ability to track and confirm whether certain cases have been resolved amicably at the investigative stage. Moreover, the absence of a robust oversight mechanism for the issuance of restorative SP3 (order to stop investigation) creates potential for procedural abuse and may contribute to public distrust, particularly if such resolutions are perceived as granting undue leniency or fostering a culture of impunity. Addressing this issue requires a reformulation of the national criminal procedure framework to establish clear and authoritative legal grounds. The ongoing revision of the Criminal Procedure Code should explicitly incorporate provisions that affirm the investigator's discretion to terminate investigations in the interest of justice. In addition, investigators must be equipped with special training in the restorative approach, as well as a special restorative resolution unit under the Investigation function that can work collaboratively with community leaders, traditional institutions, and victim organizations. Article 183 which states "A judge may not impose a sentence on a person unless with at least two valid pieces of evidence he obtains the conviction that a crime actually occurred and that the defendant is guilty of committing it".

Notably, Article 1, paragraph 4 of Law No. 2 of 2002 characterizes police regulations as any rules enacted by the National Police aimed at maintaining public order and security, in compliance with applicable laws and statutes. From this perspective, if restorative justice is applied in a manner that appears to circumvent formal legal processes or lacks a clear legal basis rooted in higher legislation, it may be viewed as contradictory to the intent and limits of police regulatory authority. Therefore, it is crucial to ensure that such internal regulations remain consistent with the hierarchy of laws and legal principles, particularly in safeguarding legal certainty and upholding the rule of law in Indonesia.

The authority of the Police in implementing the principle of restorative justice is essentially a form of using discretion in the realm of law enforcement. Police discretion is a legal instrument that allows police officers to make the right decisions based on concrete situations, without having to be rigidly bound by existing formal legal procedures. However, the implementation of this discretion must remain within the corridor of the principles of proportionality, accountability, and legality, so as not to cause abuse of authority. From an administrative law perspective, discretion is defined as the authority to choose or determine an action in circumstances that are not clearly regulated by laws and regulations. In this context, the discretion exercised by investigators in choosing to resolve cases through restorative mechanisms must be legally and ethically accountable.

It is evident that the authority of the Police in applying the principle of restorative justice must be understood within the context of an integrated criminal justice system, which requires close coordination among key institutions namely the police, prosecutors, courts, and correctional agencies. In actual practice, the effectiveness of restorative justice at the investigative stage largely depends on the willingness and support of other institutions within the justice system chain. While the Police are granted the authority to terminate an investigation based on a peace agreement between the involved parties, the legitimacy and continuity of such a decision demand alignment with the prosecutor's office to prevent potential conflicts of interest or procedural inconsistencies. The existence of such regulations reflects a shared policy direction and demonstrates an institutional commitment among law enforcement bodies to uphold restorative justice as a valid and coordinated approach within Indonesia's criminal justice framework.

Empirically, the implementation of the Polri's authority in implementing restorative justice has shown a number of positive achievements, such as reducing the burden of cases in court, increasing public satisfaction with legal services, and restoring social relations between residents. However, there are still challenges in terms of standardization of implementation, accountability of decisions, and limitations in the capacity of Polri's human resources in implementing the penal mediation approach effectively and fairly. Standardization of operational procedures, increasing special training for penal mediation, integrating external monitoring systems, and strengthening cooperation networks with community leaders, civil society organizations, and traditional institutions are crucial steps that must be taken immediately. This approach will not only increase the effectiveness of the implementation of restorative justice, but also build public trust in Polri as a responsive, humane, and just law enforcement institution.

Thus, restorative justice will not stop as a mere normative slogan, but will truly be realized as a practical framework that encourages the transformation of the law enforcement culture, from a repressive approach to a participatory, reflective, and restorative approach. In some cases, the restorative justice approach is still considered an informal alternative and lacks substantive recognition in formalistic legal structures. Therefore, strengthening regulations and institutions is an important prerequisite so that the authority of the Police in implementing the principles of restorative justice can function optimally and not cause legal uncertainty.

#### **Ideal Formulation of Police Authority in the Implementation of Restorative Justice in the Framework of the Paradigm of the Restoration of the Indonesian Criminal Justice System in the Future**

The transformation of Indonesia's criminal justice system toward a more humanistic and recovery-oriented approach demands a fundamental redesign of the authority and role of law enforcement agencies, particularly the



Police. In this context, the ideal formulation of police authority in implementing the principle of restorative justice must be rooted in a restorative paradigm that goes beyond procedural discretion. This paradigm should emphasize the integration of three key elements: the legal substance, by ensuring that restorative justice is clearly and coherently regulated within the broader legal framework; the institutional structure, by promoting inter-agency coordination and accountability; and the legal culture, by fostering public awareness, trust, and participation in restorative practices. Such a holistic approach is essential to ensure that restorative justice is not merely an option, but a legitimate and sustainable mechanism within Indonesia's justice system that truly reflects the values of justice, dignity, and social harmony [9].

From a substantive legal standpoint, it is crucial that legislation clearly establishes the authority and legal certainty for police officers to apply restorative justice in criminal case resolution. This requires a solid normative basis empowering investigators to discontinue investigations, promote constructive dialogue between offenders and victims, and safeguard the rights of all parties involved. Although the issuance of the Chief of Police Circular No. SE/8/VII/2018 represented a significant early endorsement of restorative justice within the police force, its status as a non-binding directive limits its legal effectiveness. Consequently, there is a pressing need for more robust and cohesive legal frameworks that are harmonized both vertically across different legislative levels and horizontally among various law enforcement agencies within the national criminal justice system. Such regulatory reinforcement is crucial to ensure consistency in application, avoid legal uncertainty, and elevate restorative justice from a discretionary practice to a formally recognized component of law enforcement [10].

In terms of institutional structure, the National Police need to develop a special unit or division tasked with managing the restorative justice mechanism. This unit should be equipped with professional staff, such as mediation facilitators, psychologists, and legal counselors, and have standardized work procedures to ensure accountability and effectiveness of the non-litigation resolution process. Strong institutions will prevent arbitrary practices and ensure that restorative justice is not manipulated into a means of impunity or intervention of power. Meanwhile, in terms of the legal culture of society, the formulation of ideal authority requires an approach that is sensitive to local values and community participation. The National Police cannot simply rely on formal legal instruments, but must also be able to build public trust and open up space for dialogue that reflects local wisdom. A strong legal culture is an important foundation so that restorative justice is not only imposed from above, but is born as a community need in responding to crime in a more humane and collective manner.

Thus, the ideal formulation of Polri's authority in restorative justice is based on a comprehensive recovery paradigm, namely one that guarantees harmony between the positive legal framework, institutional capacity, and civil society participation. This is part of the transformation of Indonesian criminal law that leads to a humanistic, adaptive, and social justice-oriented justice system. The recovery paradigm in the criminal justice system is not merely an alternative approach to conventional criminal law, but is a systemic model that places social relations and relationship restoration at the core of the legal process. In this context, justice is not only interpreted as punishment or retribution, but as a dialogical process that prioritizes the responsibility of the perpetrator, strengthening the role of the victim, and social reconciliation [11].

In this framework, the perpetrator's responsibility is not only measured by the criminal sanctions imposed, but by his/her willingness to admit mistakes, understand the impact of his/her actions on the victim and the community, and actively contribute to the recovery process. This responsibility is moral and social, not merely formal, thus encouraging the perpetrator to realize the consequences of his/her actions in an empathetic and transformative manner. On the other hand, strengthening the role of the victim is an essential element in the restorative justice process. In the conventional criminal justice system, victims are often positioned as objects of the legal process without space to voice their experiences and needs. In contrast, the restorative approach provides victims with space for active participation, the opportunity to express their suffering, and the right to negotiate a form of recovery that is considered fair to them. This contributes to the victim's psychological healing process and restores the sense of self-esteem lost due to the crime.

Furthermore, this dialogical process is directed at social reconciliation, namely the restoration of relations between perpetrators, victims, and society that have been fractured by crime. Reconciliation does not mean unconditional forgiveness, but is a process of rebuilding social trust and creating harmony in the community through a shared awareness of the importance of responsibility, respect, and justice [12]. This process requires neutral and safe facilitation, ideally carried out by police officers who have been trained in the principles of restorative mediation. Thus, the success of restorative justice is highly dependent on the quality of the dialogic process that is implemented fairly, transparently, and humanely. The state, especially the police, is required to develop institutional capacity to support this dialogic mechanism systematically and sustainably as an alternative to more constructive and socially just punishment [13].

This oversight mechanism is vital to guarantee that the Police's application of restorative justice is not only procedurally valid but also accountable and aligned with the principles of a democratic rule of law. Horizontal supervision by the Prosecutor's Office plays a crucial role, given its function as the overseer of both the investigation and prosecution stages. This supervisory role corresponds with the principle of *dominus litis*, which

positions the prosecutor as the authority controlling criminal cases, thereby ensuring that the resolution of cases through restorative justice remains integrated within the formal criminal justice system.

An effective framework must ensure seamless coordination and legal alignment across the Police, the Prosecutor's Office, and the Judiciary. These institutions should operate on a shared legal foundation when addressing restorative justice within the criminal law system. To achieve this, the development of integrated, cross-institutional guidelines alongside a centralized national database for tracking restorative justice case resolutions is essential. The police as the front guard must be equipped with technical regulations that are in line with the SEJA and the PERMA, so that there is no procedural inconsistency and potential conflict of authority between law enforcement agencies.

The implementation of the principle of restorative justice within the Police institution must be reinforced by comprehensive, systematic, and harmonized technical regulations that align with the policies of other law enforcement agencies. This harmonization is essential to ensure consistency and legal certainty across all stages of the criminal justice process. These regulations demonstrate a shared commitment across institutions to promote restorative approaches, especially in cases involving minor offenses or juvenile offenders. Therefore, technical regulations within the Police must not only provide operational clarity but also reflect an integrated policy direction that upholds restorative justice as a legitimate and coordinated alternative to conventional punitive measures.

Disharmony or lack of synchronization between regulations between institutions can create legal uncertainty which ultimately has implications for ineffective case handling and has the potential to cause conflicts of authority. This can hinder the main objective of restorative justice, namely creating complete justice and restoring social conditions as a whole.

Thus, regulatory harmonization is an essential requirement in the implementation of restorative justice comprehensively and consistently. The National Police need technical operational regulations that are aligned and integrated, both in the form of the Chief of Police Regulation, internal SOPs, and joint regulations across institutions, in order to encourage effective coordination and avoid overlapping authority. This institutional coordination is also important in creating a shared understanding of the limitations, stages, indicators of success, and monitoring mechanisms for the implementation of restorative justice. In Friedman's view, effective law must operate in a system that is aligned between institutional structure, legal substance, and community culture. Disharmony between the structures of law enforcement institutions indicates weak system integration, which will systematically hinder the effectiveness of the implementation of restorative justice as a modern legal approach that is responsive to contemporary social needs.

Therefore, it is necessary to establish a cross-sectoral coordinating mechanism, as well as formulate integrated regulations (a kind of grand policy framework) that can be a technical and normative reference for all law enforcement agencies in implementing restorative justice consistently and accountably. The absence of such strategic steps will not only hamper criminal law reform in Indonesia, but can also widen the gap of distrust between the community and law enforcement institutions.

## CONCLUSION AND SUGGESTION

### Conclusion

Based on the description above, the following conclusions can be drawn:

1. The authority of the Police in implementing restorative justice based on positive Indonesian law is based on Law No. 2 of 2002 and Perkap No. 8 of 2021 as a form of legal discretion. Although it has normative legitimacy, its implementation still faces regulatory obstacles, supervision, and the risk of deviation. Therefore, it is necessary to strengthen norms and institutions to ensure that its implementation is in accordance with the principles of the rule of law and the protection of human rights.
2. The ideal formulation of the Police's authority in implementing restorative justice in the future must be realized by strengthening the role of the Police as a facilitator of non-litigative criminal case resolution that is oriented towards recovery. This authority needs to be explicitly institutionalized in law as part of criminal justice reform. To ensure effectiveness and accountability, regulatory codification, increased human resource capacity, public involvement, and transparent external supervision are needed.

### Suggestion

The suggestions that researchers can convey in this writing are:

1. Strengthening the authority of the Police in implementing restorative justice requires regulation in the law to ensure legal certainty and prevent overlapping norms. Its implementation must be supported by technical guidelines, increased investigator capacity, and effective internal and external supervision. Thus, the Police can carry out law enforcement functions that are humanistic, proportional, and oriented towards restoration and respect for human rights.

2. The ideal formulation of the authority of the Police in restorative justice requires the formation of a special law that regulates the principles, authority, procedures, and supervision. Professional and human rights-based restorative institutions are also needed, supported by training, technical guidelines, and adequate facilities. Collaboration between institutions in integrated policies is the key to integrating restorative justice into the national criminal justice system.

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