

## The Humanistic Form of Law in the Role of the Police and the Prosecutor's Office in the Implementation of Restorative Justice

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### Abstract

Restorative Justice one of the efforts to reform Indonesian criminal law in recent years has begun to resonate in courtrooms, emphasizing the restoration of the original state between perpetrators, victims, and the community, rather than simply punishment. Restorative justice's aims sound noble, as a "revolutionary" and collaborative policy, but its implementation in practice often falls short of its theoretical rosy. Restorative justice is a sweet promise, but the reality is not always ideal. The police and prosecutors, as subsystems of the criminal justice system, are competing to implement it. What is the role of the prosecutors and police in implementing restorative justice? It is urgent to explore this using a normative legal research approach, based on qualitative data analyzed from legal materials. Restorative justice is implemented through the process of terminating investigations and inquiries in the police and prosecutors' offices, in the form of a decree terminating prosecution. The application of restorative justice embodies a more humane approach to law enforcement; restorative justice is a solution, not an illusion, for justice itself.

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**Abstrak**

*Restorative Justice salah satu upaya pembaharuan hukum pidana Indonesia dalam beberapa tahun ini mulai bergema di ruang-ruang sidang penyelesaian kasus hukum yang menekankan pemulihan keadaan semula antara pelaku, korban dan masyarakat, bukan semata dengan penghukuman. Restorative justice tujuannya terdengar mulia sebagai suatu kebijakan “revolusioner” dan kolaboratif yang sering kali implementasi di lapangan tidak seindah teori. Restorative Justice seperti janji manis yang faktanya tidak selalu ideal. Kepolisian dan kejaksaan sebagai sub sistem dari sistem peradilan pidana berlomba-lomba menerapkannya. Seperti apa peran lembaga kejaksaan dan kepolisian dalam menerapkan restorative justice. Menjadi urgen untuk menggantinya dengan pendekatan riset hukum yuridisi normative, berbasis data kualitatif yang dianalisis dari bahan hukum. Restorative justice terimplementasi lewat pada proses penghentian penyidikan dan penyelidikan di kepolisian dan kejaksaan berupa ketetapan penghentian penuntutan. Penerapan restorative justice wujud penegakkan hukum yang lebih humanis, restorative justice menjadi solusi bukan ilusi bagi keadilan itu sendiri.*

## A. Introduction

Indonesia, one of the world's largest democracies, has adopted the principle of a state based on the rule of law in its governance system. The concept of a state based on the rule of law emphasizes the importance of the rule of law, where the law applies equally to all citizens and state institutions must operate within the law.<sup>1</sup>

According to Satjipto Raharjo, the enormous task of realizing a state based on law will be of little significance if it is only understood that all social problems must be resolved legally. In this regard, legal experts and law enforcers, Satjipto Rahardjo said, often “*hypnotized*” In practical law, violating a law is considered a violation of the law and must be punished (criminal) or undergo criminal proceedings. This understanding traps people in written regulations (statutes) and they forget about other sources of law in Indonesia that existed even before the existence of laws in the form of statutory regulations.<sup>2</sup>

The police and the Prosecutor's Office, as law enforcement institutions, certainly hold a central and strategic

position in Indonesia, a nation governed by the rule of law, acting as a filter between the investigation and trial process. According to 2024 data, the police resolved 21,063 cases through a restorative justice approach, up from 18,175 in 2023.<sup>3</sup> This is also up from 2022 when only 15,809 cases were resolved with RJ.<sup>4</sup> Meanwhile, since the issuance of Prosecutor's Regulation Number 15 of 2020 concerning the termination of Prosecution Based on Restorative Justice, the number of cases successfully resolved using a restorative approach is 4,443 cases.<sup>5</sup>

Resolving cases using a restorative justice approach (hereinafter referred to as RJ) also impacts the problems in correctional institutions (abbreviated as Lapas). There are at least two problems with prisons in Indonesia: overcrowding, *over capacity* or *overcrowding* and secondly the poor facilities of the prison itself (*bad facilities*). Prison overcrowding causes inmates to be crowded into one cell. For example, a six-person room is filled with up to 12 prisoners, and they even have to sleep on top of each other.<sup>6</sup> This makes it difficult

<sup>1</sup> Kadek Putra Yasa et al., “Implementasi Keadilan Restoratif Terhadap Penyelesaian Tindak Pidana Pencurian Dalam Lingkup Keluarga Di KejaksaanN,” *Jurnal Ilmu Hukum Sui Generis* 3, no. 3 (2023): 135–45, <https://doi.org/10.23887/jih.v3i3.2608>.

<sup>2</sup> “Restorative Justice Sebagai Pendekatan Penyelesaian Perkara Pidana Oleh Kejaksaan RI | The Prosecutor Law Review,” accessed October 25, 2025, <https://prolev.kejaksaan.go.id/kejaksaan/article/view/23>. Dalam Satjipto Raharjo, 1980. *Hukum dan Masyarakat*. Bandung: Angkasa, hlm. 15.

<sup>3</sup> “Polri Klaim Keberhasilan Penerapan Restorative Justice Pada 2024 | tempo.co,” *Tempo*, Desember | 15.48 WIB 2024, <https://www.tempo.co/arsip/polri-klaim-keberhasilan-penerapan-restorative-justice-pada-2024-1188218>.

<sup>4</sup> “Kapolri: Selama 2022, 15.809 Perkara Telah Selesai Dengan Re,” *Tribrata News*, 05:54:32., <https://tribratanews.polri.go.id/blog/nasional-3/kapolri-selama-2022-15-809-perkara-telah-selesai-dengan-restorative-justice-56691>.

<sup>5</sup> Ady Thea DA, “Capaian Kejaksaan 2023, dari Keadilan Restoratif hingga Penyelesaian Keuangan Negara,” *hukumonline.com*, accessed October 25, 2025, <https://www.hukumonline.com/berita/a/capaian-kejaksaan-2023--dari-keadilan-restoratif-hingga-penyelesaian-keuangan-negara-lt6593c5a373485/>.

<sup>6</sup> Ombudsman RI, “Dampak Over Kapasitas Pada Lapas,” accessed October 23, 2025, <https://ombudsman.go.id:443/perwakilan/news/rp/wkinternal--dampak-over-kapasitas-pada-lapas>.

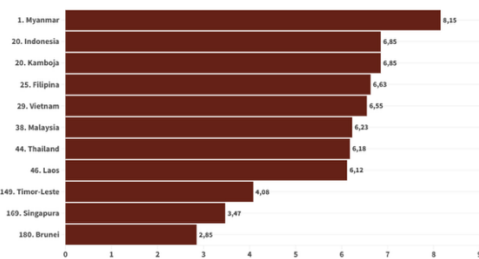
to take action in an emergency, such as in the event of a fire. Poor prison facilities make it difficult for inmates to carry out activities such as sanitation.<sup>7</sup>

A general overview of the condition of prisons in Indonesia is shown in the graph below:



Over capacity has led to problems within the prison itself, such as a decline in supervision and security. The original purpose of the prison as a place to reform inmates has instead given rise to new levels of crime. Crimes occurring in prisons include inmate-on-inmate abuse, drug trafficking, riots, and more.<sup>8</sup> Over capacity also includes a criminal justice system that is still prison-oriented, harmonized between law enforcement agencies, and a rapid increase in crime rates. Indonesia itself has the second-highest crime rate in ASEAN, with a low level of resilience.

Skor Kriminalitas Negara ASEAN (2024)



Several studies have shown the effectiveness of RJ. The approach restorative justice can be used as an option in criminal law enforcement.<sup>9</sup> Restorative justice is part of criminal policy in addressing the capacity of prisons.<sup>10</sup> Although initially there was much debate about the need for restorative justice in criminal law enforcement among academics, law enforcers, and the general public.<sup>11</sup> Another issue is that the public is often disappointed with the practice of criminal justice through litigation, which they perceive as failing to uphold a sense of justice. This article will discuss how humanistic law can be implemented in the implementation of restorative justice within the police and prosecutors' offices, as well as the factors that hinder this harmonization. Restorative justice in its application it is seen as having disharmony at the level of legal regulations themselves.<sup>12</sup>

## B. Research Methods

This legal research is a normative legal research using qualitative data. What is meant by normative legal research

<sup>7</sup> "Website DJKN," accessed October 18, 2025, <https://www.djkn.kemenkeu.go.id/kpknl-pekanbaru/baca-artikel/14256/Menakar-Kebutuhan-Penambahan-Kapasitas-Penjara.html>.

<sup>8</sup> RI, "Dampak Over Kapasitas Pada Lapas."

<sup>9</sup> Henny Saida Flora, *Keadilan Restoratif Sebagai Alternatif Dalam Penyelesaian Tindak Pidana Dan Pengaruhnya Dalam Sistem Peradilan Pidana Di Indonesia*, n.d.

<sup>10</sup> Safaruddin Harefa, "Kebijakan Kriminal Dalam Menanggulangi Kelebihan Kapasitas Lembaga Pemasyarakatan," *Jurnal Yuridis* 5, no. 2

(2018): 294–311, <https://doi.org/10.35586/v5i2.773>.

<sup>11</sup> M. Alvi Syahrin, "Penerapan Prinsip Keadilan Restoratif Dalam Sistem Peradilan Pidana Terpadu," *Majalah Hukum Nasional* 48, no. 1 (2018): 97–114, <https://doi.org/10.33331/mhn.v48i1.114>.

<sup>12</sup> Fahmi Arif and Nur Hamida Kholif as Syaffi, "Disharmoni Peraturan Kepolisian Dengan Peraturan Kejaksaan Dalam Pelaksanaan Keadilan Restoratif," *Legacy: Jurnal Hukum Dan Perundang-Undangan* 3, no. 2 (2023): 161–80, <https://doi.org/10.21274/legacy.2023.3.2.161-180>.

qualitative research that describes, explains, analyzes, and develops the legal construction of restorative justice in the criminal justice system. The data used are legal materials by identifying and inventorying legislation, library materials (research results and scientific works), and other legal materials that are relevant to the legal issues of this research.<sup>13</sup>

Data analysis techniques on legal issues by using a deductive thinking pattern, the nature of the analysis carried out is prescriptive, namely by providing arguments for the results of the research carried out.<sup>14</sup>

### C. Discussion

To discuss how the police and prosecutors work together in enforcing restorative justice and its impact on correctional institutions in Indonesia, this research paper will be divided into four parts.

#### 1. Understanding the Concept of Restorative Justice

Draft *restorative justice* It is a very popular alternative for resolving criminal offenses worldwide because it is seen as offering a comprehensive and effective solution. Restorative justice aims to empower victims, perpetrators, families, and communities to correct an unlawful act using an awareness and repentance approach as a foundation for improving the social situation impacted by the unlawful act. *restorative justice* different from the criminal justice system because it prioritizes the principles of mediation and reconciliation as a mechanism for resolving criminal cases.<sup>15</sup> This means that this is the

opposite of retributive, which emphasizes giving punishment as a form of revenge against perpetrators of crimes.

Related to ontology *restorative justice* according to Jim Consedine as quoted by M. Alvi Syahrin:

*"We need to discover a philosophy that move punishment to reconciliation, from vengeance against offenders to healing for victims, from negativity and destructive justice. ... A positive philosophy that embrace as wide range of human emotions including healing, forgiveness, mercy and reconciliations, as well as sanction where appropriate, has much to offer." ... its aim is to restore the wellbeing of community by having the offenders face up to their responsibility for their crime. Victim, who are normally shut out of the process, are offered and opportunity of being involved in the follow up.*<sup>16</sup>

This opinion broadly states how restorative justice aims to transform punishment into peace, healing people's lives from punishment, with greater emphasis on forgiveness and generosity, and greater emphasis on reconciliation. As many people consider RJ as *"a philosophy, a process, an idea, a theory and intervention"*.<sup>17</sup>

Another opinion from the United Nations Office on Drugs and Crime (UNODC) *"Restorative justice can therefore be understood as a response to dissatisfaction and frustration with the formal justice system"*.<sup>18</sup>

<sup>13</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, vol. 1 (Prenada Media Group, 2015):35

<sup>14</sup> "Metode Penelitian Hukum.Pdf," n.d., accessed October 24, 2025, <https://eprints.unram.ac.id/20305/1/Metode%20Penelitian%20Hukum.pdf>.

<sup>15</sup> Ribut Hari Wibowo, "Pendekatan Keadilan Restorative Dalam Penghentian Penuntutan Berdasarkan Keadilan Restoratif," *Jurnal Hukum Progresif* 9, no. 2 (2021): 146–57,

[https://ejournal.undip.ac.id/index.php/hukum\\_progresif/article/view/37774](https://ejournal.undip.ac.id/index.php/hukum_progresif/article/view/37774).

<sup>16</sup> Syahrin, "Penerapan Prinsip Keadilan Restoratif Dalam Sistem Peradilan Pidana Terpadu."

<sup>17</sup> "Laporan akhir pengkajian restorative justice anak.Pdf," n.d., accessed October 26, 2025, [https://bphn.go.id/data/documents/laporan\\_akhir\\_pengkajian\\_restorative\\_justice\\_anak.pdf](https://bphn.go.id/data/documents/laporan_akhir_pengkajian_restorative_justice_anak.pdf).

<sup>18</sup> Destri Tsurayya Istiqamah, "Analisis Nilai Keadilan Restoratif Pada Penerapan Hukum



Settlement of criminal cases with the concept restorative justice has principles that focus on:

1. Recovery; restoring relationships and repairing the losses experienced by victims, perpetrators and society, often referred to as “*a meeting place for people*”
2. Participation; involving all related parties (perpetrators, victims, families and the community) in the resolution. This means the concept restorative justice is in three dimensions; encounter (meeting), reparative (empathetic attitude, recovery and solutions), transformative (change that emphasizes the common good)
3. Responsibility; The perpetrator is expected to be responsible for his actions and make efforts to repair the damage caused.
4. Putting more emphasis on the values of balance, harmony, harmony, peace, tranquility, equality, brotherhood and family in society rather than punishment or imprisonment.
5. All parties must be willing to comply with no coercion, safe, fair and transparent procedures.

From these principles, it can be concluded that in implementing the interests of the victim, there must be certainty:

- a. Victims receive assistance for recovery
- b. The victim received compensation;
- c. The victim is given the opportunity to express what he or she feels;

- d. The victim had the opportunity to see the perpetrator while he was in training.<sup>19</sup>

Meanwhile, the implementation of RJ from the perpetrator's side must pay attention to:

- 1) The perpetrator is responsible for;
- 2) The perpetrator apologized;
- 3) The perpetrator received support from his family;
- 4) The perpetrator was accepted back into society
- 5) The perpetrator has hope for his future
- 6) The perpetrators received support from the community during coaching;
- 7) The perpetrators conveyed to the victims the reasons for committing the crime.<sup>20</sup>

In simple terms, restorative justice can be defined as a model for resolving cases outside the courts or often called out of settlement (non letigasi) and shifting the traditional punishment model (retribution and rehabilitation) to a punishment model that provides justice to society at large.<sup>21</sup> In other words, the shift of law from law of retaliation or retributive justice to restorative recovery. And it can be said restorative justice offer to respect, to protect, to fulfil the human rights of perpetrators and victims. As John Locke argued, every human being has inherent original rights from birth, namely life (right to life), liberty (right to freedom), and the right property (right of ownership).<sup>22</sup>

Adat Di Indonesia,” *Veritas et Justitia* 4, no. 1 (2018): 201–26, <https://doi.org/10.25123/vej.v4i1.2914>.

<sup>19</sup> Leopold Sudaryono Et Al., *Penerapan Keadilan Restoratifdi Indonesia*, n.d.

<sup>20</sup> Sudaryono et al., *Penerapan Keadilan Restoratifdi Indonesia*.

<sup>21</sup> Flora, *Keadilan Restoratif Sebagai Alternatif Dalam Penyelesaian Tindak Pidana Dan*

*Pengaruhnya Dalam Sistem Peradilan Pidana Di Indonesia*.

<sup>22</sup> Muhammad Rif'an Baihaky and Muridah Isnawati, “Restorative Justice: Pemaknaan, Problematika, Dan Penerapan Yang Seyogianya,” *Unes Journal of Swara Justisia* 8, no. 2 (2024): 276–89, <https://doi.org/10.31933/4mqgaj17>.

As Tony F. Marshall argues, he formulates the concept of restorative justice as a process where all parties who have an interest in a particular violation come together to collectively resolve the conflict that occurred regarding the consequences of the violation and its implications for the future.<sup>23</sup>

Legal basis for implementation RJ in Indonesia:

1. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Article 1, Number 6.
2. Law Number 31 concerning Protection of Witnesses and Victims.
3. Law Number 1 of 2023 concerning the Criminal Code.
4. Government Regulation Number 35 of 2020 concerning Amendments to Government Regulation Number 7 of 2018 concerning the Provision of Restitution Compensation and Assistance to Witnesses and Victims.
5. Government Regulation Number 65 of 2015 concerning Guidelines for the Implementation of Diversion and Handling of Children Under 12 Years of Age.
6. Regulation of the Chief of the Republic of Indonesia Police Number 6 of 2019 concerning Criminal Investigation.
7. Republic of Indonesia Prosecutor's Office Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice.
8. Republic of Indonesia Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice.
9. Attorney General's Guideline Number 18 of 2021 concerning the Settlement of Narcotics Crime Cases Through Rehabilitation with a Restorative Justice Approach as Implementation of the Principles Lord of the Disputes Prosecutor.
10. Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice.

The important thing is to pay attention to the criminal justice system often abbreviated as SPP is a network which uses material criminal law, formal criminal law or law that regulates the implementation of the criminal law itself or in other words criminal justice systems as a law enforcement system. According to Muladi it must be integrated criminal justice system or an integrated criminal justice system, in the implementation of which there must be synchronization or uniformity and harmony, which consists of:<sup>24</sup>

- a. Structural synchronization It is the synchronization or harmony in the relationship between law enforcement agencies.
- b. Substantial synchronization Is the simultaneousness or vertical and horizontal in relation to positive law; and
- c. Cultural synchronization it is harmony in internalizing the views, attitudes and philosophies that as a whole underlie the running of the criminal justice system.

As a criminal justice system, the three elements above are an inseparable whole, but in its implementation restorative justice cannot run well.

<sup>23</sup> Wibowo, "Pendekatan Keadilan Restoratif Dalam Penghentian Penuntutan Berdasarkan Keadilan Restoratif." Lihat juga P.A.F Lamintang, *Dasar-dasar Hukum Pidana Indonesia*, (Bandung: Citra Aditya Bakti, 1996).

<sup>24</sup> Ahmad Faizal Azhar, "Penerapan Konsep Keadilan Restoratif (Restorative Justice) Dalam Sistem Peradilan Pidana di Indonesia," *Mahkamah: Jurnal Kajian Hukum Islam* 4, no. 2 (2019): 134-43, <https://doi.org/10.24235/mahkamah.v4i2.4936>.

## 2. The Role of the Police and Prosecutors in Implementing Restorative Justice

Law enforcement institutions in Indonesia's integrated criminal justice system initially consisted of the police, prosecutors, courts and correctional institutions, but since the enactment of Law Number 18 of 2003 concerning advocates, one more has been added to make five known as the *Panca Wangsa*, namely the power of investigation, the power of prosecution, the power to judge, the power of execution or implementation of criminal acts and advocates or lawyers.<sup>25</sup>

Without ignoring the importance of elements "*panca wansa*" in other words, only two institutions are described below: the Police and the Prosecutor's Office. These two institutions are the main gateways to the criminal justice system. Both institutions are part of the criminal justice system, but they have different legal frameworks as guidelines for their implementation restorative justice.

### 1. Police

The resolution of cases through RJ in the Police is based on Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts based on Restorative Justice which was promulgated on August 20, 2021. Based on this regulation, the police must implement, succeed, harmonize and implement restorative justice.

The police are a state institution that carries out government duties in the field of national defense and security based on Article 30 paragraph (2) and paragraph (4) of the 1945

Constitution. The Indonesian National Police are a government institution as a tool which is responsible for controlling public order and security and as a law enforcement agency at the lower level before entering the court realm.<sup>26</sup>

According to Warsito Hadi Utomo, "a state based on law has law enforcement apparatus, including the state police, which universally has the duty and function of maintaining public security and order in accordance with applicable legal provisions to realize legal certainty and justice."<sup>27</sup>

According to Police Regulation Number 1 of 2021, restorative justice is the resolution of criminal acts by involving the perpetrator, victim, the perpetrator's family, the victim's family, community leaders, religious leaders, traditional leaders or stakeholders to jointly seek a just resolution through peace with an emphasis on restoring the situation to its original state.<sup>28</sup>

Based on this Perpol restorative justice implemented with various provisions, for its implementation itself in the criminal investigation and investigation and inquiry functions. The intended investigation function is one of the police's functional duties to carry out investigations in criminal cases carried out by the National Police's

<sup>25</sup> Lilik Mulyadi, *Pergeseran Perspektif Dan Praktik Dari Mahkamah Agung Republik Indonesia Mengenai Putusan Pemidanaan*, n.d.

<sup>26</sup> Arif and Syafii, "Disharmoni Peraturan Kepolisian Dengan Peraturan Kejaksaan Dalam Pelaksanaan Keadilan Restoratif."

<sup>27</sup> Edi Saputra Hasibuan, *Hukum Kepolisian dan Criminal Policy dalam Penegakan*

*Hukum* (PT. Raja Grafindo Persada - Rajawali Pers, 2021), hlm. 5.

<sup>28</sup> "Perpol No. 8 Tahun 2021," Database Peraturan | JDIH BPK, accessed October 27, 2025, <http://peraturan.bpk.go.id/Details/225020/perpol-no-8-tahun-2021>. pasal 1 ayat (1)



Samapta.<sup>29</sup> Based on this Regulation, RJ in the Police has material, formal, and special requirements. The material requirements based on Article 5 consist of:

1. Does not cause unrest and/or rejection from the community;
2. Does not impact social conflict;
3. No potential to divide the nation.
4. Not radical or separatist;
5. Not a repeat offender based on a court decision and;
6. Not only terrorism crimes, crimes against state security, corruption crimes and crimes against people's lives.

Meanwhile, the formal requirements are in Article 6, consisting of:

1. Peace from both parties, except for drug crimes; and
2. Fulfillment of victims' rights and perpetrators' responsibilities, except for drug crimes.

The special requirements are additional requirements contained in Article 7, specifically for criminal acts: 1) Electronic information and transactions; 2) Drugs; and 3) Traffic.

If all these requirements are met, then the settlement of the case using restorative justice can be continued by submitting a petition to the Regional or Resort Police Chief according to their level, in submitting the petition letter the parties must attach a peace statement and evidence showing that the perpetrator has fulfilled the victim's rights as a form of recovery. Based on this petition letter, investigators at the investigation level will conduct research to check

the appropriateness of the petition letter whether it has met all the provisions. If the investigators at both the investigation and investigation levels assess the petition letters submitted are appropriate, a letter of termination of investigation and a letter of termination determination for legal reasons (in accordance with Article 7 of the Criminal Procedure Code) will be issued.

According to National Police Chief General Listyo Sigit Prabowo, the number of cases resolved through restorative justice tends to increase. In 2021, there were 14,137 cases, in 2022 there were 15,809 cases, in 2023 there were 18,175 cases, and in 2024 there were 21,063 cases.<sup>30</sup> In its implementation, the Police will issue a Letter of Order to Terminate Investigation.

## **2. The Role of the Prosecutor's Office in the Implementation of Restorative Justice**

Under Law Number 16 of 2004, the Prosecutor's Office is a law enforcement agency within the criminal justice system. The Prosecutor's Office of the Republic of Indonesia is a law enforcement agency mandated to be more assertive in upholding the rule of law and protecting the public interest.

The implementation of restorative justice in the Prosecutor's Office is based on Prosecutor's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. In addition, there are also regulations regarding Prosecutor's Guidelines Number 1 of 2021 concerning Access to Justice for Women and Children in Handling Criminal Cases and Attorney General's Guidelines Number 18 of 2021 concerning Settlement of

<sup>29</sup> Arif and Syafii, "Disharmoni Peraturan Kepolisian Dengan Peraturan Kejaksaan Dalam Pelaksanaan Keadilan Restoratif."

<sup>30</sup> "Kapolri: Selama 2022, 15.809 Perkara Telah Selesai Dengan Re," Tribrata News,

05:54:32.629728,  
<https://tribrataneews.polri.go.id/blog/nasional-3/kapolri-selama-2022-15-809-perkara-telah-selesai-dengan-restorative-justice-56691>.

Narcotics Abuse Criminal Cases Through Rehabilitation with a Restorative Justice Approach as an implementation of the principle *Mr. Litigation Attorney*. These three rules form the legal basis for implementation for service institutions and prosecutors to resolve cases using a restorative justice approach.

Restorative justice applied in criminal resolution is not without authority. Article 35 of Law Number 16 of 2002 concerning the Indonesian Prosecutor's Office regulates this authority. This authority was then amended with the issuance of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Indonesian Prosecutor's Office, which also amended Article 35, which reads:<sup>31</sup>

- a. determine and control law enforcement and justice policies within the scope of the prosecutor's duties and authority.
- b. Make the law enforcement process provided by law more effective
- c. Putting aside matters for the sake of public interest
- d. Submitting an appeal for legal reasons to the Supreme Court in cases within the scope of general courts, state administrative courts, religious courts, and military courts.
- e. Can submit technical legal considerations to the Supreme Court within the scope of general courts, state administrative courts, religious courts, and military courts.
- f. Prevent or prevent certain people from entering or leaving the territory of the Republic of

Indonesia due to their involvement in criminal cases in accordance with statutory regulations.

- g. Coordinate, control and conduct investigations, inquiries and prosecutions of criminal acts committed jointly by persons subject to general justice and military justice.
- h. As investigators and public prosecutors and implementing court decisions that have obtained permanent legal force in cases of serious human rights violations.
- i. Delegating some of the prosecution authority to the Prosecutor General to carry out prosecution;
- j. Delegating the authority to prosecute to the Public Prosecutor to carry out the prosecution; and
- k. Handle criminal acts that cause losses to the state economy and can use peace fines in economic crimes based on statutory regulations.
- l. Further provisions regarding the delegation of authority as referred to in paragraph (1) letters I and j are regulated by prosecutorial regulations.

Based on the Republic of Indonesia Attorney General's Office, there has been a very significant increase since the implementation of Prosecutor's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, there were 6,168 cases as of November 12, 2024.<sup>32</sup> Termination of prosecution based on restorative justice is a form of prosecutorial discretion.<sup>33</sup> The increased implementation of RJ in the

<sup>31</sup> "UU No. 11 Tahun 2021," Database Peraturan | JDIH BPK, accessed November 3, 2025, <http://peraturan.bpk.go.id/Details/195550/uu-no-11-tahun-2021>.

<sup>32</sup> M. Agus Yozami, "Kejagung Sebut 6.168 Kasus Selesai Melalui Restoratif Justice," [hukumonline.com](https://www.hukumonline.com/berita/a/kejagung-sebut-6168-kasus-selesai-melalui-restoratif-justice-lt673564009c8aa/), accessed November 2, 2025, <https://www.hukumonline.com/berita/a/kejagung-sebut-6168-kasus-selesai-melalui-restoratif-justice-lt673564009c8aa/>.

<sup>33</sup> Reda Manthovani, "Tantangan Mengharmonisasi Restorative Justice dalam Ius Constituendum Antar Penegak Hukum," [hukumonline.com](https://www.hukumonline.com/berita/a/tantangan-mengharmonisasi-restorative-justice-dalam-ius-constituendum-antar-penegak-hukum-lt6684ef9454254/), accessed November 4, 2025, <https://www.hukumonline.com/berita/a/tantangan-mengharmonisasi-restorative-justice-dalam-ius-constituendum-antar-penegak-hukum-lt6684ef9454254/>.

Prosecutor's Office has increased public trust in this law enforcement agency. A survey released by Indikator Politik (IPI) found that public trust in the Prosecutor's Office reached 74.5 percent in 2022. Meanwhile, the Indonesian Survey Institute (LSI) on October 20, 2022, showed a positive trend, with public trust in the Prosecutor's Office at 60 percent. The performance of its prosecutors has also received awards from international organizations. Association of Prosecutor (IAP), in the form of Special Achievement Awards on the implementation of the RJ given at the opening ceremony 27th Annual Conference & General Meeting IAP on September 26, 2022 at Kavkasioni Ballroom Sheraton Tbilisi, Georgia.<sup>34</sup>

The implementation of RJ is being held by the Prosecutor's Office, with the prosecution being stopped for legal reasons in the event that there has been a settlement of the case outside the trial, is carried out by pursuing reconciliation efforts offered by the public prosecutor to the victim and suspect without pressure, coercion, or intimidation. The public prosecutor's role is as a facilitator. At a minimum, reconciliation efforts continue until a peace agreement is agreed upon between the two parties. Once a peace agreement has been reached, the results are recorded in a report signed by the perpetrator, victim, victim's family, perpetrator's family, and the public prosecutor. Then, the public prosecutor, through the Head of the District Attorney's Office (Kajari), submits a request to the Head of the High Prosecutor's Office to terminate the prosecution.

Based on the request from the Chief Prosecutor, the High Prosecutor immediately followed up on the request to the Deputy Attorney General for General Crimes. After the request letter is issued, the High Prosecutor and the Chief

Prosecutor must present it to the Japimдум and their staff within three working days. In practice, Jampidum will accept the request as long as it meets the specified requirements. If the request is accepted, the High Prosecutor is ordered to issue a Letter of Decision to Terminate Prosecution, with a copy to the investigator.

There is a fundamental difference between the application of RJ in the police, where the investigation stage begins with the submission of a written request by the applicant, drawn up by the perpetrator, the perpetrator's family, the victim's family, and/or other parties. In the prosecutor's office, the public prosecutor offers a settlement to the victim and suspect without pressure, coercion, or intimidation.

In the new Criminal Code, it not only regulates restorative justice but there is also Legal Pardon or judicial pardon. The presence of both demonstrates a shift from a retributive to a restorative paradigm. This marks a new era in Indonesian criminal law that prioritizes humanity and further demonstrates that Indonesian law continues to evolve in line with current developments and universal values of justice and humanity. In the future, this humanistic approach to law will be even more pronounced.

#### **D. Conclusion**

Restorative justice as a form of non-litigation criminal case resolution by offering to respect, to protect, to fulfil the human rights of both perpetrators and victims. This is implemented in the role of the Police in the form of a Termination of Investigation and Investigation policy and in the role of the Prosecutor's Office in the form of a Decree to Terminate Prosecution. The most important aspect of restorative justice is how the perpetrator, the

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<sup>34</sup> Reda Manthovani, "Melihat Urgensi Terbitnya UU Keadilan Restoratif," *hukumonline.com*, accessed November 4, 2025,

<https://www.hukumonline.com/berita/a/melihat-urgensi-terbitnya-uu-keadilan-restoratif-lt63d752f9bad03/>.

perpetrator's family, the victim, and the family can offer forgiveness, which is reflected in a material attitude of recovery, namely an agreement in the form of compensation, an attitude of regret, and respect.

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