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IMPLEMENTATION OF A RESTORATIVE JUSTICE-BASED CRIMINAL SYSTEM IN THE REFORM OF NATIONAL CRIMINAL LAW BASED ON LAW NUMBER 1 OF 2023 CONCERNING THE CRIMINAL CODE OF THE RIAU REGIONAL POLICE

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Abstract

The settlement of criminal acts does not solely focus on the punishment of the perpetrator, but also on the recovery of victims' losses, social harmony, and dignified conflict resolution. Therefore, judges in imposing crimes need to consider the impact of the crime on the victim and the wider community. The formulation of the problem in this study is How to Implement a Restorative Justice-Based Criminal System in the Reform of the National Criminal Law Based on Law Number 1 of 2023 concerning the Criminal Code of the Riau Regional Police and What are the Obstacles and Efforts in the Implementation of the Restorative Justice-Based Criminal System in the Reform of the National Criminal Law, Based on the results of the research, the implementation of restorative justice within the Riau Police has basically reflected the fundamental principles of restorative justice theory In the theoretical framework, restorative justice is understood as a participatory process, where all parties who have an interest in a criminal act, both victims, perpetrators, and affected communities are actively involved to jointly identify the impact of the criminal act and formulate the most appropriate form of settlement, then the implementation of the restorative justice system within the Riau Police is in fact still faced with various challenges that are quite complex and multidimensional. These challenges can be seen from three main aspects in the legal system, namely the legal structure, legal substance, and legal culture

Keywords: Criminal Law Reform, Penal System, Restorative Justice

A. Introduction

In the criminal justice system, the concept of justice that is generally applied is retributive justice. However, what is desired is restorative justice. The retributive paradigm that emphasizes retribution against perpetrators has been widely criticized for not taking into account the recovery of the

victim's condition and the reintegration of the perpetrator into society. Restorative justice is a process in which all parties involved jointly discuss how to deal with future consequences after a violation occurs. The application of restorative justice has become a hot topic to discuss in the justice system in Indonesia.[1] In line with social changes, criminal law is now starting to shift to an approach that pays more attention to the balance between victims' rights, perpetrators' responsibilities, and community recovery. Restorative justice emphasizes conflict resolution and pays attention to the interests of victims, perpetrators of crime and society.[2]

Through the framework of Law Number 1 of 2023 concerning the Criminal Code (hereinafter referred to as the 2023 Criminal Code), there is an alternative criminal system approach that involves social work punishments and supervised punishments as a form of sanction. This change has gained momentum in the 2023 Criminal Code, where there are clearer provisions regarding the application of Restorative Justice, both in the pre-trial stage and at trial. The 2023 Criminal Code recognizes the importance of mediation and the active role of victims in determining the settlement of cases, as well as providing space for perpetrators to correct their mistakes directly to the victim. This concept not only prevents overpenalization, but also seeks to reduce the burden on correctional institutions that have been overcrowded. In this context, rechterlijke pardon or forgiveness by judges is one of the legal instruments that accommodates restorative

[1] Muladi. (2019). Implementation of the Restorative Justice Approach in the Juvenile Justice System. Journal of Criminal Law Reform. 2 Vol 2

[2] Parningotan Malau, "Review of the New Criminal Code (KUHP) 2023," Al-Manhaj: Journal of Islamic Law and Social Institutions, 2023 2 Law No. 1 of 2023 concerning the U Code

justice values. The 2023 Criminal Code introduces the concept of rechterlijke pardon or judge's forgiveness, which can be seen as a form of implementing restorative justice in the Indonesian criminal justice system. This concept gives judges the authority to grant pardons to perpetrators of minor crimes, taking into account various factors, such as the condition of the victim, the good faith of the perpetrator, and the recovery efforts that have been made.[3]

In the development of national criminal law reform, restorative justice is one of the approaches that has received serious attention in the formulation of criminal law policies in Indonesia. Criminal law reform is no longer directed solely at retaliation against perpetrators of criminal acts, but seeks to create a balance between community protection, victim interests, perpetrator accountability, and restoration of social relations disrupted by criminal acts. This paradigm is reflected in Law Number 1 of 2023 concerning the Criminal Code (KUHP) which provides a firmer normative foundation for the application of restorative justice principles in the Indonesian criminal system. One form of recognition of the concept of restorative justice can be found in the provisions of Article 51 of the Criminal Code which regulates the purpose of punishment. Article 51 letter c states that punishment aims to "resolve conflicts caused by criminal acts, restore balance, and bring a sense of security and peace in society". This formulation shows a fundamental change in the orientation of punishment in Indonesia. If previously the penal system focused more on

[3] Rahmawati, Maidina, Adery Ardhan Saputro, Opportunities and Challenges: The Implementation of Restorative Justice in the Criminal Justice System in Indonesia. Jakarta: Institute for Criminal Justice Reform. 2020, p, 35

the aspects of retributive justice and deterrence, then through these provisions punishment is also directed at efforts to restore the losses and imbalances caused by criminal acts.[4]

In this context, restorative justice is seen as an approach that is able to provide more substantive justice because it provides space for participation to victims, perpetrators, and the community in the criminal case settlement process.[5] In addition to being reflected in the purpose of the crime, the principles of restorative justice are also seen in the provisions of Article 54 of the Criminal Code regarding sentencing guidelines. The article specifies that in sentencing the judge is obliged to consider various factors, including the level of the perpetrator's mistake, the motive and purpose of committing the crime, the perpetrator's inner attitude, the perpetrator's life history and socioeconomic circumstances, the criminal impact on the perpetrator's future, the impact of the crime on the victim or the victim's family, forgiveness from the victim and/or his family, and the value of law and justice that lives in society. This provision shows that the criminal sentencing process is no longer based solely on the acts committed by the perpetrator, but also pays attention to the humanitarian aspects and concrete conditions surrounding the occurrence of criminal acts.[6]

The regulation of forgiveness from victims or their families as one of the judges' considerations is an important development in Indonesian criminal law. So far, the position of victims in the criminal justice

[4] Moeljatno, *Principles of Criminal Law*, (Jakarta: Rineka Cipta, 2008), p. 153.

[5] Muladi and Barda Nawawi Arief, *Criminal Theories and Policies*, (Bandung: Alumni, 2010), p. 15.

[6] Eva Achjani Zulfa, *Restorative Justice in Indonesia*, (Jakarta: Faculty of Law, University of Indonesia, 2009), p. 58.

system tends to be marginal because it is more focused as a means of proof in the judicial process. Through the new Criminal Code, victims are beginning to be placed as subjects who have an interest to be heard and considered in the settlement of criminal cases. This is in line with the essence of restorative justice which emphasizes the importance of victim recovery, dialogue between perpetrators and victims, and the achievement of agreements that can repair the losses caused by criminal acts.[7] The role of the Police, Prosecutor's Office, and the Court to reduce imprisonment for perpetrators of criminal acts through restorative justice is a positive breakthrough in the world of criminal law enforcement. In a sense, the enforcement of criminal law at the practical-operational level no longer completely makes imprisonment an instrument of legal settlement from time to time, but with restorative justice, efforts are made to dialogue or mediation between the victims and their families of each party, as long as the mediation does not violate the human rights (HAM) of the victims and perpetrators, and does not violate the applicable laws and regulations. Therefore, the implementation of restorative justice by the Police, the Prosecutor's Office, and the Court, whether as part of the criminal law enforcement policy that has legal force through internal regulations issued or is only part of the authority of law enforcement agencies so that the settlement of criminal cases that occur is not fully oriented towards imprisonment which has left many problems of its own, but restorative justice does not

[7] Tony F. Marshall, *Restorative Justice: An Overview*, (London: Home Office Research Development and Statistics Directorate, 1999), hlm. 5.

have legal force that can be questioned in the future.[8]

In practice, the National Police of the Republic of Indonesia, especially within the Riau Regional Police, has a strategic role in the implementation of restorative justice at the investigation stage through a mechanism for stopping cases based on peace and recovery. However, the implementation of restorative justice at the police level still faces various obstacles, such as differences in understanding of law enforcement officials, suboptimal regulatory synchronization, limited supervision, and the potential for legal uncertainty in the application of investigator discretion. In addition, the birth of the new National Criminal Code also poses challenges to how the concept of restorative justice is integrated into the national criminal system effectively and consistently. On the one hand, restorative justice is seen as able to create humanist and restorative-oriented justice, but on the other hand, legal certainty is needed so that its application does not cause abuse of authority or disparity in case handling, In addition, the reform of the national criminal law must also be able to answer the challenges of technological development, cybercrime, and the social dynamics of modern society that continue to develop. In these conditions, a penal approach that is too formalistic is considered no longer effective in creating substantive justice.[9] Therefore, the implementation of a restorative justice-based criminal justice system is very important as part of the reform of the Indonesian criminal law system.[10] One of the important legal issues to be studied in

[8] Mulyadi, M. Police in the Criminal Justice System. Medan: USU Press, 2009, p. 87

[9] Chandra Satriana, I.M.Y. & Dewi, N.M.L. (2021). The Criminal Justice System From a Restorative Justice Perspective. Denpasar-Bali: Udayana University Press.

[10] Marfuatul Latifah and Prianter Jaya Hairi, "The Regulation of the New Criminal Code Guidelines and Its Implications on Judges'

the implementation of the restorative justice-based criminal system is the condition when restorative settlement is not carried out or is not achieved in the law enforcement process, especially at the investigation level at the Riau Regional Police Even though the reform of the national criminal law through Law Number 1 of 2023 concerning the Criminal Code (KUHP) has placed conflict resolution, balance restore, and the creation of a sense of security and peace in society as one of the goals of punishment. If restorative justice is not sought or fails to be realized, then the goal of punishment as referred to in Article 51 letter c of the Criminal Code has the potential to not be achieved optimally.[11]

The absence of restorative justice efforts also has the potential to reduce victims' access to substantive justice. In the conventional criminal justice system, victims are often placed only as witnesses for the sake of proof, while the victim's need to obtain recovery, apology, compensation, and guarantees so that the crime does not recur is less noticed. In fact, Article 54 of the Criminal Code has mandated that judges consider the impact of the criminal act on the victim and the existence of forgiveness from the victim or his family in imposing the crime. Therefore, when the restorative mechanism is not implemented, the interests of the victim have the potential to be neglected so that the goal of victim protection is not achieved optimally. From the perspective of the perpetrator, failure to resolve restoratively can eliminate the opportunity for the perpetrator to take direct responsibility for the victim and correct the

Decisions," The State of Law: Building Law for Justice and Welfare 15, no. 2 (2025): 25–51, https://doi.org/10.22212/jnh.v15i2.4573.

[11] M. Sholehuddin, *Sanctions System in Criminal Law*, (Jakarta: RajaGrafindo Persada, 2004), p. 72

mistakes he has committed. [12] Criminalization that is solely oriented towards imprisonment risks strengthening stigmatization of perpetrators and hindering the process of social reintegration. In the long term, these conditions can affect the effectiveness of the purpose of punishment to foster perpetrators to become better individuals and not repeat their actions in the future.[13] Based on these conditions, this study is important to examine how the implementation of the restorative justice-based criminal justice system in the reform of national criminal law is carried out, including the obstacles faced and their relevance to the goal of national criminal law reform that is just, certain, and beneficial to society. Based on the background that has been stated above, it can be concluded that the focus of this research is with the title "Implementation of a Restorative Justice-Based Criminal System in the Reform of National Criminal Law Based on Law Number 1 of 2023 concerning the Criminal Code in the Riau Police".

B. Problem Statement

Based on the description presented by the author above, the author takes on several problems as follows : How to Implement a Restorative Justice-Based Criminal System in the Reform of the National Criminal Law Based on Law Number 1 of 2023 concerning the Riau Criminal Code. And what are the Obstacles and Efforts in the Implementation of the Restorative Justice-Based Criminal System in the Reform of the National Criminal Law.

[12] Nindy Putri Nur; Zulfa Efendi Eva Achjani, "Synergy or Conflict: Article 2 of the 2023 Criminal Code in Law Enforcement in Indonesia," Nagari Law Review 4, no. Vol 8 No 2 (2024)

[13] Muladi and Barda Nawawi Arief, *Criminal Theories and Policies*, Bandung: Alumni, 2010, p. 91.

C. Research Objectives

Referring to the background of the main problem above, the purpose of this study is to analyze and reconstruct the policy of the penal system for children of cyber crime perpetrators based on restorative justice in the reform of national criminal law in order to realize a juvenile criminal justice system that is oriented towards child protection, legal certainty, justice, and social recovery for victims and perpetrators.

D. Research Methods

In accordance with the author's title, the type of research is sociological law research. Sociological Law Research is research that is carried out by conducting a legal identification of how the effectiveness of the Law applies in society that discusses the Implementation of a restorative justice-based criminal system in the reform of the national criminal law based on Law number 1 of 2023 concerning the Criminal Law Code" The empirical[14] approach method, in this case examines and examines secondary data related to the Legal Settlement approach to the restorative justice-based criminal system and the approach This research is descriptive, that is, the author tries to provide a complete and clear picture of a reality about the problem being studied.

E. Research Results and Discussion

1. Implementation of a Restorative Justice-Based Criminal System in the Reform of the National Criminal Law Based on Law Number 1 of 2023 concerning the Criminal Code of the Riau Regional Police Department.

The presence of the concept of restorative justice in the National Criminal Code is one of the important manifestations of the criminal law reform process that seeks

[14]Bambang Sungguno. *Legal Research Methodology*. (Jakarta: Publisher: PT Raja Grafindo Persada, 2011), P, 23

to integrate the legal values that are alive and developing in Indonesian society into the formal legal system. In this framework, restorative justice no longer views criminal acts solely as violations of state norms that must be retaliated with sanctions, but rather understood as a form of social conflict that causes damage to relationships between individuals and between individuals and the wider community, thus requiring comprehensive recovery efforts. Thus, the main orientation of this approach shifts from mere punishment to the reconstruction of social harmony that is disturbed by the occurrence of a criminal act.[15]

The legal norms that are the juridical basis in the implementation of restorative justice in this study refer to the provisions of Article 51 and Article 54 of Law Number 1 of 2023 concerning the Criminal Code (KUHP). These two articles represent the direction of national criminal law policy that places criminal considerations not solely oriented to the punishment aspect, but also consider the social, moral, and humanitarian dimensions inherent in a criminal case. In particular, Article 54 of the Criminal Code emphasizes that judges in imposing sentences are obliged to pay attention to various comprehensive factors, including forgiveness from the victim and/or the victim's family, the level of impact caused by the crime on the victim, and the legal values and sense of justice that lives and develops in society. This provision shows that the criminal process cannot be separated from the social context that surrounds it, so the judge's decision is expected to be able to reflect the balance

[15]Robbi Fahmi and Margo Hadi Pura, "The Application of Positive Criminal Law Sanctions and Customary Criminal Law Against Unlawful Acts of Pembu

between the interests of the perpetrator, the victim, and the community.[16]

Philosophically, restorative justice places criminal acts as a social conflict that causes losses not only to the state, but also to the victim, perpetrator, family, and society. Therefore, the settlement of criminal cases is no longer solely aimed at providing suffering to the perpetrator, but rather seeks to restore social relations that have been disrupted due to the occurrence of criminal acts. In this context, Articles 79 to 88 of Law Number 20 of 2025 concerning Our Criminal Procedure Law are legal instruments that strengthen the implementation of the principles of restorative justice in the national criminal justice system.

Based on this description, it can be understood that Articles 79 to 88 of Law Number 20 of 2025 are very closely related to Article 51 and Article 54 of the Criminal Code. All of these provisions show the synchronization of national criminal law policies that are oriented towards victim protection, loss recovery, perpetrator responsibility, and the restoration of social harmony.[17] Thus, the implementation of restorative justice in the Indonesian criminal justice system has obtained an increasingly strong juridical basis, both from the aspect of the purpose of the criminal justice and from the aspect of the case settlement mechanism that places substantive justice as the main orientation.

Based on the results of interviews conducted with the General Criminal Investigation Investigator of the Riau Police, information was obtained that the application

[16] Andi Hamzah, Principles of Criminal Law (Jakarta: Sinar Grafika, 2008), 26

[17] Rina Rohayu Harun, Mualimin Mochammad Sahid, and Bahri Yamin, "Problems of Criminal Applications Law on The Life of Indonesian Communities and Cultures," IUS Journal: Legal and Justice Studies 11, no. 1 (April 2023): 140

of the concept of restorative justice has developed into one of the alternative mechanisms that is quite effective in resolving criminal cases at the police level. This practice is especially applied to types of crimes with a low level of seriousness, such as misdemeanor crimes, cases of misdemeanor, defamation, and other cases that show that the losses suffered by the victim have been or can be recovered by the perpetrator. In this context, restorative justice is seen as a more adaptive approach because it considers the aspect of restoring the situation rather than solely imposing criminal sanctions. Furthermore, the resource person explained that the resolution of cases through the restorative justice mechanism has a number of positive impacts both institutionally and socially. From the perspective of law enforcement officials, this approach is able to speed up the case resolution process and significantly reduce the workload of investigations, which have been quite high. Meanwhile, from the perspective of the parties involved, especially victims and perpetrators, this mechanism tends to result in a more acceptable peace agreement because it is built through a process of deliberation and mutual agreement. Thus, the outcome of the settlement is not only formal juridical, but also has a stronger social legitimacy because it reflects a sense of justice that is directly felt by the parties to the conflict[18].

In the practice of handling cases, the General Criminal Investigation Investigator explained that the initial stage carried out is to conduct a comprehensive assessment

[18]Results of an interview with Mr. AKP Faisal Aliza, General Criminal Investigation Investigator of the Riau Police, in the Directorate of General Criminal Investigation Room of the Riau Police, Pekanbaru, June 25, 2026

process on each report or case that comes in. This assessment aims to assess whether a case has met the formal and material requirements as stipulated in the National Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. The assessment includes the characteristics of the criminal act, the level of loss caused, and the suitability of the case with criteria that allow it to be resolved through the restorative justice mechanism. If the results of the assessment show that the case meets the required conditions and the parties, both the perpetrator and the victim, express their willingness to take the path of peace, and the losses suffered by the victim have been recovered or the recovery mechanism has been agreed, then the investigator will act as a facilitator in the mediation process. This process is carried out through a meeting between the parties facilitated by investigators in order to reach a voluntary peace agreement without coercion. The results of the agreement are then officially documented in the form of minutes as administrative evidence that there has been a settlement of the case through a restorative justice mechanism in accordance with applicable provisions[19].

The results of the interview with the Riau Regional Police Special Criminal Investigation Investigator show that the implementation of restorative justice in certain types of crimes that are within the scope of handling by the Directorate of Special Criminal Investigation is still applied selectively and very carefully. This is due to

[19]Results of an interview with Mr. AKP Faisal Aliza, General Criminal Investigation Investigator of the Riau Police, Room of the Directorate of General Criminal Investigation of the Riau Police, Pekanbaru, June 25, 2026.

the characteristics of the cases handled generally related to aspects that have a broader impact on the public interest, including potential losses to state finances, economic sectors, and greater social stability.[20] Therefore, not all cases can be automatically resolved through restorative justice mechanisms, as careful consideration is required of the level of urgency and impact caused. However, under certain conditions, a restorative justice approach is still possible to be applied if a case meets the predetermined criteria and does not cause significant harm to the state or society at large. In this situation, the investigator considers that settlement through restorative mechanisms can be a more proportionate and fair alternative, especially if there is recovery of losses and there is an agreement between the parties involved. Thus, the application of restorative justice within the scope of the Directorate of Criminal Investigations remains directed selectively, by balancing the interests of law enforcement, protection of the public interest, and efforts to resolve cases that are more humane and [21]recovery-oriented.

The implementation of the concept of restorative justice in the police environment can be seen as a concrete form of actualization of the spirit of national criminal law reform as reflected in the new Criminal Code. From an academic perspective, this policy shows a shift in the orientation of the criminal justice system towards a more progressive approach, which is not only

[20] Law No. 20 of 2025, Article 79; see also Tony F. Marshall, *Restorative Justice: An Overview* (London: Home Office Research Development and Statistics Directorate, 1999), p. 5.

[21] Results of an interview with Mr. AKP Koko Ferdinand Sinuraya, Investigator of the Riau Regional Police Special Criminal Investigation, Room of the Directorate of Special Criminal Investigation of the Riau Police, Pekanbaru, June 25, 2026.

focused on punishment, but also on restoring social conditions disturbed by criminal acts. Thus, restorative justice is one of the important instruments that strengthens the direction of criminal law transformation that is more adaptive to the needs of modern society. However, the speakers also emphasized that the effectiveness of the implementation of restorative justice is highly determined by the integrity of law enforcement officials and the uniformity of understanding of the substantive goals of the mechanism. Without a comprehensive understanding, there is a risk that restorative justice could be misinterpreted as a means to "buy the case" or as a shortcut to avoid the proper criminal justice process. Therefore, it is important to emphasize that restorative justice must be appropriately positioned as an instrument for restoring legal, social, and psychological relations between the parties involved, not just an administrative mechanism to stop the case. Within this framework, the success of its implementation depends heavily on the consistency of professional ethics, strict supervision, and a deep philosophical understanding of the main goal of restorative justice itself.[22]

Based on the results of the study, it can be seen that the implementation of restorative justice within the Riau Police has basically reflected the fundamental principles of the restorative justice theory put forward by Tony F. Marshall. In this theoretical framework, restorative justice is understood as a participatory process, in which all parties who have an interest in a criminal event, both victims, perpetrators, and affected

[22]M. Sholehuddin, *Sanctions System in Criminal Law*, Jakarta: RajaGrafindo Persada, 2025, p. 118

communities, are actively involved to jointly identify the impact of the criminal act and formulate the most appropriate form of settlement. This approach places criminal acts not only as a violation of state law, but also as a disturbance of social relations that require comprehensive restoration through mechanisms of dialogue, responsibility, and mutual agreement.[23]

The main essence of the approach put forward by Tony F. Marshall is clearly seen in the practice in the Riau Regional Police which focuses more on efforts to restore the situation than simply giving punishment or retribution to the perpetrator. The main focus of restorative justice is not on the retributive aspect, but on how the losses suffered by victims can be restored, both materially and immaterially, as well as how social relations disrupted by criminal acts can be restored to a more harmonious condition. Thus, this approach also contributes to creating a new balance in society, where perpetrators are given the opportunity to take direct responsibility, victims obtain more real recovery, and society as a whole can return to more stable and just social conditions[24].

The implementation of restorative justice within the Riau Police also has a strong connection with Bagir Manan's view that the substance of restorative justice is essentially an effort to build collective participation between perpetrators, victims, and the community in order to formulate solutions for resolving cases that are fair and provide balanced benefits for all parties involved. In this perspective, the settlement of criminal acts is no longer positioned as

[23] Eva Achjani Zulfa, *Restorative Justice in Indonesia*, Depok: Publishing Board, Faculty of Law, University of Indonesia, 2025, p. 42.

[24] Tony F. Marshall, *Restorative Justice: An Overview*, Home Office Research Development and Statistics Directorate, London, 1999, hlm. 5.

state dominance solely through criminal mechanisms, but as a space for social dialogue that allows the creation of agreements that are constructive and oriented towards restoring the situation.

Furthermore, the empirical findings in this study show that the mediation mechanism facilitated by investigators at the Riau Regional Police is actually able to produce a peace agreement that is voluntarily agreed upon by the parties to the conflict. This process not only results in a formal settlement of criminal cases, but also reflects the achievement of the win-win solution principle as stated in the theory, where both victims and perpetrators receive benefits proportionate to their respective needs. Thus, the main goals of restorative justice, namely the restoration of social relations, the recovery of losses, and the re-creation of harmony in society, can be achieved more effectively through the participatory and dialogical approach applied in the practice of the investigation[25].

Viewed from the perspective of criminal law theory, the implementation of restorative justice within the Riau Police shows a significant change in orientation in the penal system, namely from the classic paradigm with a retributive character to a more comprehensive modern criminal paradigm. In this new paradigm, criminalization is no longer understood solely as a form of retribution against the perpetrators of criminal acts, but is also directed to achieve broader goals, such as community protection, rehabilitation of perpetrators, and recovery of losses

[25]Bagir Manan, *Restorative Justice (An Introduction),* in Varia Peradilan, Indonesian Judges Association, Jakarta, 2008, p. 12.

experienced by victims. This shift in orientation shows that criminal law not only functions as a repressive instrument, but also as a means of social engineering that aims to create balance and order in society.

In line with that, Barda Nawawi Arief emphasized that the purpose of punishment in a modern perspective is no longer limited to providing suffering to the perpetrator, but must also consider aspects of social utility and protection of the interests of victims as an integral part of the criminal justice system. In this context, the application of restorative justice can be understood as a tangible manifestation of a progressive criminal law policy, because it prioritizes a more humanistic, participatory, and recovery-oriented approach. Thus, the implementation of restorative justice in the Riau Police is not only in line with the principles of national criminal law reform, but also reflects the direction of the transformation of the National Criminal Code which places a balance between the interests of perpetrators, victims, and the community as the main goal in criminal law enforcement[26].

2. Obstacles and Efforts in the Implementation of the Restorative Justice-Based Criminal System in the Reform of the National Criminal Law

The legal norms that are the basis for this discussion include the provisions of Article 51 of the Criminal Code of 2023 regarding the purpose of punishment, Article 54 of the Criminal Code of 2023 regarding penal guidelines, and the National Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice. Normatively, the entire regulation has in

[26] Barda Nawawi Arief, *Bunga Rampai Políticas Kriminal Law*, Kencana, Jakarta, 2017, p. 45.

principle provided sufficient space for the application of the restorative justice approach in the criminal justice system in Indonesia. This provision shows a formal recognition of the importance of resolving criminal cases that is not only oriented towards the punishment aspect, but also on the recovery of victims' losses, resolving social conflicts, and recreating balance in society.[27]

At the implementation level, there is still a considerable gap between the ideal conditions regulated in legal norms (das sollen) and the reality of its implementation in the field (das sein), especially at the investigation level. This gap can be seen in the variation in the implementation of restorative justice mechanisms that are not fully consistent between cases and between law enforcement officials, resulting in differences in case settlement practices. This condition shows that although normatively the legal foundation has been quite strong and progressive, the effectiveness of its implementation still depends heavily on operational factors, such as the understanding of the apparatus, interpretation of regulations, and consistency in the application of procedures at the practical level. Thus, it is necessary to strengthen the harmonization between legal norms and implementation in the field so that the goal of restorative justice can be achieved optimally and sustainably.[28]

From the perspective of the Riau Police Special Criminal Investigation Investigator, it was explained that the main obstacle in handling certain cases, especially those related to economic crimes and crimes that have a wide impact, lies in the limited space

[27] Romli Atmasasmita, *Reconstruction of the Principle of No Crime Without Error* (Jakarta: Gramedia Pustaka Utama, 2017), pp. 152–167.

[28]Harkristuti Harkrisnowo, "Indonesian Criminal Law Reform: New Directions of the Criminal System in the National Criminal Code," *Journal of Law & Development*, Vol. 53, No. 2 (2023), pp. 211–229.

for the application of restorative justice. This is due to the characteristics of cases that not only involve individual interests, but also concern the interests of the state and the broader public interest. In this context, every form of case resolution cannot be based solely on the agreement of the parties, but must consider aspects of public interest protection and the potential systemic impact caused by the criminal act. Furthermore, the resource person also highlighted that there are no explicit and firm limitations on the classification of the types of cases that can and cannot be resolved through restorative justice mechanisms, which also creates uncertainty in the practice of investigation. This condition has implications for the emergence of excessive caution among investigators in making decisions, due to concerns about the potential for misapplication of authority. Thus, the absence of a truly rigid standard in the categorization of restorative justice cases leads to variations in interpretation in the field, which can ultimately affect the consistency and effectiveness of the implementation of restorative justice in the criminal justice system[29].

Based on the results of an interview with a victim of a crime whose case was resolved through the restorative justice mechanism at the Riau Police, information was obtained that the settlement of the case through restorative justice provides an opportunity for the victim to convey the losses experienced directly to the perpetrator. However, the victim assessed that the implementation of the mechanism still faces

[29] Interview results with Mr. IPTU Irwan Samson, Investigator of the Riau Regional Police's Special Criminal Investigation, Directorate of Special Criminal Investigation of the Riau Police, Pekanbaru, June 25, 2026.

several obstacles. The victim revealed that one of the main obstacles is the lack of public understanding of the purpose of restorative justice. According to the victim, some of the victim's family considers that the settlement of the case through peace means that the perpetrator is released from legal responsibility. This perception had led to rejection of the mediation process facilitated by investigators.[30]

The main obstacles in the implementation of restorative justice in Indonesia can be traced mainly to two important aspects in the legal system, namely the legal structure and legal culture. In terms of legal structure, not all law enforcement officials have a uniform level of understanding, capacity, and experience in interpreting and applying restorative justice principles. This condition has implications for variations in practice in the field, where the application of restorative mechanisms is highly dependent on the individual competence of the apparatus, so that consistent and measurable implementation standards have not been fully formed at all levels of law enforcement. Meanwhile, from the perspective of legal culture, the dominance of the retributive paradigm in the Indonesian criminal justice system is still a significant inhibiting factor.[31] The mindset that places criminalization as a form of retribution against the perpetrators of criminal acts causes the restorative justice approach to often be perceived as something that deviates from the formal legal procedures that should be. As a result, the paradigm shift towards a system that is more

[30] The results of an interview with AR, Victims of Crime who obtained a settlement through Restorative Justice, Pekanbaru, May 25, 2026.

[31] Nur Aripkah, Kalen Sanata, Khairunnisa Noor Asufie, and Reza Pramasta Gegana, "Reform of the Criminal Law Concept in Law No. 1 of 2023 concerning the Criminal Code," *Journal of Fundamental Justice* 6, no. 2 (2025): 209–226

oriented towards recovery not only faces normative and institutional challenges, but also cultural resistance inherent in the perspective of the authorities and society towards the meaning of justice itself.[32]

From the perspective of victims of crimes, it was found that not all victims have a tendency to accept the settlement of cases through restorative justice mechanisms. Some victims still want the imposition of criminal sanctions in the form of prison sentences against the perpetrators as a concrete form of justice for the acts that have been committed, especially in cases that cause significant psychological impact or deep emotional trauma. In this situation, criminalization is seen as an instrument that is able to provide a sense of justice as well as moral restoration for the victim, so it cannot always be replaced by a peace mechanism alone.[33] This condition shows that emotional, psychological, and the level of impact of the loss experienced by the victim have a very important role in determining the success or failure of the application of restorative justice in a case. The difference in victims' responses to the offer of a peaceful settlement reflects that the concept of justice is not always understood singularly, but is subjective and influenced by the victim's personal experience of the crime experienced. Therefore, in its implementation, the restorative justice approach requires a high sensitivity to the psychological condition of the victim so that the case settlement process

[32]Kharisma Wulan Fadhila, "Criminal Law Reform and Corporate Accountability in the 2023 Criminal Code Law," *Action Research Literate* 8, no. 3 (2024): 320–332.

[33]Harkristuti Harkrisnowo, "Reform of the Penal System in the National Criminal Code," *Journal of Law & Development*, Vol. 53, No. 2 (2023), pp. 214–228.

can continue to run fairly, proportionately, and can be accepted by all parties involved[34].

If analyzed using Lawrence M. Friedman's legal system theory, the obstacles in the implementation of restorative justice in the Riau Police can be classified into three main components that are interrelated in determining the effectiveness of the work of a legal system. First, in the aspect of legal structure, obstacles arise from the uneven uniformity of understanding among law enforcement officials, especially investigators, in implementing restorative justice principles. This condition causes variations in practice in the field, because the application of case resolution mechanisms is highly dependent on the interpretation and capacity of individual officers handling cases.

The efforts made to overcome various obstacles in the implementation of restorative justice in the Riau Regional Police include a number of strategic steps that are structural and cultural. One of the main efforts is to increase the capacity of human resources through continuous training and socialization to investigators regarding the concepts, principles, and techniques of restorative justice implementation. This step aims to equalize perceptions and increase the understanding of law enforcement officials so that implementation in the field can run more consistently, directed, and in accordance with applicable regulations.[35] Another effort made is to strengthen the internal supervision mechanism in the implementation of restorative justice, especially to ensure that the discretionary

[34] Results of an interview with SA, Victim of a minor persecution crime, Pekanbaru, June 29, 2026.

[35] Syifa Fauziyathu Rohmah, Yuliana Suryagalih, Wildan Sany Prasetiya, and Dudung Mulyadi, "Juridical Comparison of Criminal Liability for Persons with Mental Disorders in the Old Criminal Code and Law Number 1 of 2023 concerning the Criminal Code," *Pustaka Galuh Justisi* 4, no. 1 (2025): 120–135.

authority possessed by investigators is not abused in practice. This supervision is an important instrument in maintaining the integrity of the case settlement process, considering that restorative justice provides a relatively wider space of flexibility than conventional criminal justice mechanisms. Without adequate control, the discretionary space has the potential to cause irregularities that can harm one party in the law enforcement process.[36]

The implementation of a restorative justice-based criminal system within the Riau Police is in fact still faced with various challenges that are quite complex and multidimensional. These challenges can be seen from three main aspects in the legal system, namely the legal structure related to the readiness and consistency of law enforcement officials, the substance of the law that still opens up room for interpretation in the application of norms, and the legal culture that shows that the retributive paradigm is still quite dominant in the perspective of the public and some officials towards the concept of criminal justice. These three aspects simultaneously affect the effectiveness of the implementation of restorative justice at the operational level.[37]

These efforts also reflect the direction of legal policy development that increasingly emphasizes a more humanistic, just, and oriented approach to restoring social relations between perpetrators, victims, and affected communities. In this context, justice is no longer solely understood as a form of punishment, but rather as a recovery process that places social balance as the main goal.

[36] M. Sholehuddin, *Sanction System in Criminal Law: The Basic Idea of the Double Track System and Its Implementation* (Jakarta: RajaGrafindo Persada, 2014), pp. 143–159.

[37] Diah Gustiniati Maulida, "Justice Orientation in the Renewal of the National Criminal Code," *Journal of Ius Quia Iustum*, Vol. 31, No. 1 (2024), pp. 88–105.

Thus, restorative justice not only functions as an alternative in resolving criminal cases, but is also positioned as a strategic instrument in realizing a criminal justice system that is more adaptive to substantive justice values, the social needs of modern society, and the dynamics of changing the criminal law paradigm at the national level.

F. Conclusion

The restorative justice mechanism has been applied in the settlement of certain cases, its implementation is still partial, casuistic, and highly dependent on the discretion of investigators, so it has not become the main paradigm in criminal law enforcement. This condition shows that there is a gap between legal norms (*das sollen*) and law enforcement practices (*das sein*). Therefore, it is necessary to strengthen regulations, harmonize policies, increase the capacity of law enforcement officials, and supervise sustainable implementation so that restorative justice truly becomes the main paradigm in the national criminal system in accordance with the mandate of Law Number 1 of 2023.

The main obstacles not only stem from regulatory disharmony and the lack of uniform operational standards, but are also influenced by the limited capacity of law enforcement officials and the strong legal culture that is still oriented towards punishment (retributive justice). Efforts to overcome these obstacles that have been carried out through socialization, inter-agency coordination, and the implementation of internal police guidelines have not been able to overcome the obstacles comprehensively. Therefore, it is necessary to harmonize regulations, prepare national operational standards, improve the competence of law enforcement officials on an ongoing basis, strengthen supervision and

evaluation mechanisms, and change the paradigm of law enforcement from a retributive approach to restorative justice.

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