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## **Effectiveness of Implementing Restorative Justice in the Indonesian Criminal Law System Opportunities and Challenges**

**Manase Putra Tarigan <sup>\*1</sup>, Yasmirah Mandasari Saragih <sup>\*2</sup>, T Riza Zarzani <sup>\*3</sup>**

<sup>123</sup>Panca Budi Development University

*E-mail:* [manasetarigan81@gmail.com](mailto:manasetarigan81@gmail.com) [yasmirahmandasari@gmail.com](mailto:yasmirahmandasari@gmail.com) [rizazarzani@dosen.pancabudi.ac.id](mailto:rizazarzani@dosen.pancabudi.ac.id)

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### **Abstract**

Restorative Justice (RJ) is an alternative approach in the criminal law system that emphasizes the restoration of relationships between perpetrators, victims, and the community. In Indonesia, the implementation of RJ has been accommodated through regulations such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. This approach has proven effective in reducing overcapacity in correctional institutions, accelerating case resolution, and providing more substantive justice for all parties. RJ also offers a more humane solution, by providing space for perpetrators to correct their mistakes and victims to obtain emotional and material recovery.

However, the implementation of RJ in Indonesia is not free from challenges. Limited regulations that only cover certain cases, lack of public understanding, and limited capacity of law enforcement officers are the main obstacles. In addition, the lack of supporting infrastructure, such as mediation facilities and professionals who understand the concept of RJ, also hampers the effectiveness of its implementation. To overcome these challenges, strategic steps are needed, including expanding the RJ legal framework, increasing training for law enforcement officers, and educating the public about the benefits of RJ in creating more inclusive justice.

This study concludes that RJ has great potential to improve the Indonesian criminal justice system by creating more humane and meaningful justice. With regulatory strengthening, capacity building, and community support, RJ can be an effective solution to overcome the weaknesses of the conventional criminal justice system.

**Keywords:** Restorative Justice, Criminal Law System, Social Justice

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### **INTRODUCTION**

Restorative Justice (RJ) has become a concept that is increasingly gaining attention in the criminal law system in various countries, including Indonesia. As an alternative to the retributive approach that focuses on punishment, RJ offers a more humane approach, emphasizing the resolution of conflicts between perpetrators and victims, as well as the restoration of social relations. This concept is considered relevant in the Indonesian context, where local wisdom values such as deliberation and consensus have long been part of the community's culture. The implementation of RJ is expected to reduce the overcapacity of correctional institutions, accelerate the resolution of cases, and provide more meaningful justice for all parties involved. (Rado and Badillah 2019)

In the Indonesian criminal law system, RJ is explicitly accommodated in several regulations, such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA), which prioritizes this approach in handling children in conflict with the law. In addition, in certain cases, law enforcement officers, such as the police, prosecutors, and courts, have begun to implement the RJ mechanism as an alternative resolution effort. However, the implementation of RJ in Indonesia still faces various challenges, both in terms of regulations, human resources, and public perception of justice.

The effectiveness of RJ implementation in Indonesia is highly dependent on the readiness of the criminal justice system to accommodate this approach comprehensively. One of the main obstacles is the inconsistency in regulations. Although the SPPA Law has provided a legal basis for the implementation of RJ in cases of children, a similar legal framework is not yet fully available for other cases, such as minor crimes or crimes involving parties with strong social ties. As a result, the implementation of RJ often relies on the discretion of law enforcement officers, which can lead to inconsistencies in its implementation. In addition, the public perception that still tends to be retributive is a challenge in itself in changing the paradigm of handling crime.(Rado and Badilla, n.d.)

The RJ approach also requires active involvement from all parties, including perpetrators, victims, and the community. However, in practice, not all cases can meet these requirements. For example, in cases with victims who are reluctant to get involved or perpetrators who do not show good faith to correct their mistakes, the implementation of RJ becomes difficult. On the other hand, the gap in human resource capacity, especially law enforcement officers who understand the concept of RJ in depth, is another obstacle that needs to be overcome. Adequate legal training and education are needed to ensure that law enforcement officers not only understand the concept of RJ, but are also able to implement it effectively.

In addition to the challenges, the implementation of RJ also offers various opportunities. One of the main opportunities is the potential of RJ to reduce the burden on the criminal justice system which has tended to be oriented towards punishment. By focusing on recovery and reintegration, RJ can reduce the rate of recidivism, which ultimately contributes to a decrease in the number of correctional inmates. This is in line with the Indonesian government's efforts to address the problem of overcapacity in correctional institutions, which has become a chronic problem in the criminal justice system.

RJ also has the potential to strengthen the sense of justice in society. In many cases, victims of crime often feel that the criminal justice system does not pay enough attention to their needs, such as an apology or compensation from the perpetrator. With the RJ mechanism, victims have the opportunity to express their feelings directly to the perpetrator, which can help the emotional healing process. On the other hand, the perpetrator is also given the opportunity to understand the impact of his actions and take concrete steps to correct his mistakes.(Hutagalung and Zarzani 2022)

However, to realize the effectiveness of RJ in Indonesia, strategic steps are needed. First, the government needs to strengthen the legal framework that supports the implementation of RJ, not only for child cases but also for other categories of crimes that allow the application of this approach. Second, intensive training is needed for law enforcement officers to improve their understanding and ability to implement RJ.(Fatmawati et al. 2023)Third, public awareness of RJ must be increased through educational campaigns, so that a more humanistic paradigm of justice can be widely accepted.

In the midst of efforts to strengthen the implementation of RJ, it is important to examine various case studies and best practices from other countries that have successfully integrated RJ into their criminal justice systems. For example, New Zealand and Canada have been examples of countries that have successfully implemented RJ at various levels of their justice systems. Lessons from these countries can be a guide for Indonesia to develop RJ mechanisms that are appropriate to its unique social, cultural, and legal context.

As an initial conclusion, the implementation of RJ in the Indonesian criminal law system is a progressive step that requires support from various parties. By overcoming existing obstacles and utilizing available opportunities, RJ has the potential to bring about significant changes in the way the Indonesian criminal law system functions. This study aims to explore the extent to which the implementation of RJ in Indonesia is effective, identify the obstacles faced, and formulate recommendations that can improve its implementation in the future.

## METHOD

This research uses a juridical-normative method with a statute approach and a conceptual approach.(Indra Utama Tanjung 2024)The legislative approach is used to analyze the legal basis governing the implementation of Restorative Justice (RJ) in Indonesia, such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, as well as other relevant legal policies. The conceptual approach is applied to understand the principles of RJ and their relevance in the context of the Indonesian criminal law system. This study will also utilize secondary data in the form of literature, journals, research reports, and official documents related to the implementation of RJ.

The data obtained were analyzed descriptively-analytically, namely describing the existing legal phenomena and analyzing them based on legal theory and RJ principles. The results of the analysis will be used to evaluate the effectiveness of the implementation of RJ in Indonesia, identify existing opportunities and challenges, and formulate strategic recommendations for strengthening the implementation of RJ in the future. This approach is expected to provide a comprehensive picture of the implementation of RJ in the Indonesian criminal law system.

## RESULTS AND DISCUSSION

### The Effectiveness of Restorative Justice in the Indonesian Criminal Law System

Restorative Justice (RJ) is an alternative approach in criminal law enforcement that aims to create a balance between perpetrators, victims, and the community in finding solutions to criminal acts. In the context of the Indonesian criminal law system, RJ has begun to be integrated, especially through regulations that focus on child protection, such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). However, the implementation of RJ has not been fully consistent and comprehensive, so its effectiveness is still being debated.(Hutagalung and Zarzani 2022)

The SPPA Law is an important milestone in the implementation of RJ in Indonesia, especially in handling cases involving children as perpetrators of crimes. This law emphasizes the importance of resolving cases through diversion, namely the transfer of the settlement of children's cases from the criminal justice process to a process outside the court. Diversion can only be carried out for minor crimes with a prison sentence of less than seven years, and if the perpetrator is not a recidivist. The diversion process involves the perpetrator, victim, perpetrator's family, and other related parties to reach a settlement agreement that is fair for all parties.

This process reflects the basic principles of RJ, namely the restoration of relationships and the responsibility of the perpetrator towards the victim. However, its effectiveness is often hampered by the lack of understanding and capacity of law enforcers in implementing the principles of RJ correctly. In addition, the absence of RJ mechanisms for certain cases outside the scope of children makes this approach limited in practice.

The implementation of RJ in Indonesia faces several challenges that hinder its effectiveness. One of the main challenges is the inconsistency in regulations. Although the SPPA Law has regulated the implementation of RJ for child cases, equivalent regulations for adult cases or other minor crimes are not yet fully available. This makes the implementation of RJ dependent on the discretion of law enforcement officers, which often creates legal uncertainty.(Saragih and Hadiyanto 2021)

In addition, public perception of RJ is also an obstacle. Indonesian society's culture, which still tends to be oriented towards retributive punishment, makes the implementation of RJ difficult to be widely accepted. Victims or families of victims often feel that justice has not

been achieved if the perpetrator is not punished severely, even though the perpetrator has corrected his mistake through the RJ mechanism. This shows the need for an educational campaign to increase public understanding of the benefits of RJ.

Another challenge is the limited human resources and infrastructure. Not all law enforcement officers have an adequate understanding of the concept and implementation of RJ. Comprehensive training and education are needed to increase their capacity to implement RJ effectively. In addition, mediation facilities or forums that support the RJ process are still very limited in many regions. On the other hand, RJ offers various opportunities to improve the quality of the criminal justice system in Indonesia. One of the main opportunities is the ability of RJ to reduce the rate of recidivism. By providing perpetrators with the opportunity to take responsibility and correct their mistakes, RJ helps encourage the rehabilitation of perpetrators and prevents them from repeating criminal acts. This is especially relevant in the Indonesian context, where overcrowding of correctional institutions is a chronic problem.(Kenedi 2017)

In addition, the implementation of RJ can accelerate the resolution of criminal cases. By resolving conflicts outside the court, RJ reduces the workload of the court and accelerates the case resolution process. It also reduces the costs that must be borne by the perpetrator, victim, and state in the formal criminal justice process.

Another opportunity offered by RJ is the enhancement of social justice. By involving victims in the case resolution process, RJ provides a space for victims to voice their needs and hopes. This is different from the conventional justice system, where the main focus is often only on punishing the perpetrator without considering the needs of the victim in depth. Several case studies have shown the success of the implementation of RJ in Indonesia. For example, in cases of minor crimes such as petty theft, mediation between the perpetrator and victim managed to resolve the conflict without having to involve the court process. In some cases, the perpetrator was asked to compensate or apologize directly to the victim. This process not only restores the relationship between the perpetrator and victim but also reduces the potential for conflict in the community.

However, not all cases can be easily resolved through RJ. In cases involving perpetrators who do not show good faith or victims who are reluctant to engage in the RJ process, this approach becomes difficult to implement. Therefore, there needs to be a flexible mechanism but still based on legal principles to overcome these obstacles.

To improve the effectiveness of RJ in Indonesia, several strategic steps can be taken. First, the government needs to strengthen the legal framework that supports the implementation of RJ, including by developing specific regulations for certain crimes that allow the implementation of RJ. Second, intensive training for law enforcement officers, such as police, prosecutors, and judges, is essential to ensure that they understand and are able to implement RJ consistently. Third, public education about the benefits of RJ needs to be improved through public campaigns involving the mass media, civil society organizations, and educational institutions.

Fourth, it is necessary to develop an integrated monitoring and evaluation mechanism to assess the effectiveness of the implementation of RJ at various levels of the criminal justice system. This is important to ensure that the implementation of RJ is in accordance with the principles of justice and provides real benefits to all parties involved. The implementation of RJ in the Indonesian criminal law system has great potential to bring positive changes in the way crimes are handled. However, to achieve maximum effectiveness, collective efforts from all parties are needed to overcome existing challenges and take advantage of available opportunities. With a comprehensive and sustainable approach, RJ can be an effective solution to create a more just and humane criminal law system.

## Research result

The implementation of Restorative Justice (RJ) is not only measured by how the criminal law system adopts it, but also by the impact it has on the various parties involved in the process, including perpetrators, victims, and the wider community. RJ has great potential to answer the challenges that have been faced by the conventional criminal justice system, which is often trapped in a retributive approach and does not provide long-term solutions. (Meliala and Sahlepi 2024)

One important aspect in measuring the effectiveness of RJ is how this approach provides a solution to the problem of overcapacity in correctional institutions. The criminal justice system in Indonesia is known for its high level of punishment, even for minor cases. As a result, many perpetrators of minor crimes have to serve prison sentences, even though alternative solutions, such as RJ, can provide better results. RJ allows perpetrators to be directly responsible to victims without having to serve a prison sentence, which not only helps reduce the burden on correctional institutions but also provides an opportunity for perpetrators to rehabilitate themselves in society.

Furthermore, RJ also plays a vital role in repairing the relationship between the perpetrator and the victim. The conventional criminal justice system often neglects the emotional needs of the victim, which can create a sense of dissatisfaction with the outcome of the trial. In the RJ approach, the victim is given space to express their feelings to the perpetrator and gain recognition for the harm they have experienced. For the perpetrator, this process also provides an opportunity to understand the impact of their actions and make concrete improvements. As a result, both parties can achieve a more comprehensive recovery compared to the traditional justice approach.

However, the implementation of RJ in Indonesia also faces significant obstacles, especially in terms of regulatory consistency. Until now, the use of RJ is still limited to certain cases, as regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Although there are initiatives to expand the application of RJ in adult cases or minor crimes, regulations supporting this are not yet clearly available. As a result, the implementation of RJ often relies on the discretion of law enforcement officers, which has the potential to cause inconsistencies in its practice. (Hamza 2017)

In addition, public understanding of RJ is also a challenge in itself. Indonesian society in general still holds the view that justice can only be achieved through appropriate punishment for perpetrators of criminal acts. This paradigm often makes RJ considered a form of compromise that does not provide a deterrent effect. To overcome this, massive educational efforts are needed to change the public's perspective on justice and show the benefits of RJ in creating more substantial justice.

No less important is the limited capacity of law enforcement officers in understanding and implementing RJ. Many law enforcement officers are still unfamiliar with the concept of RJ and tend to use a traditional approach in handling cases. This indicates the need for more intensive training and education to ensure that law enforcement officers have an adequate understanding of RJ and are able to apply it consistently. Such training should also include learning about how to communicate with victims and perpetrators effectively, as well as how to facilitate a constructive mediation process.

On the other hand, RJ also requires adequate infrastructure support. The mediation or dialogue process between the perpetrator and the victim requires a safe and comfortable place and facilities for both parties. In addition, trained facilitators are also needed to lead this process so that the results achieved truly meet the needs of all parties involved. Unfortunately, this kind of infrastructure and supporting facilities are still very limited in Indonesia, especially in remote areas.



However, the implementation of RJ in Indonesia still offers great opportunities, especially in the context of strengthening social justice. In many cases, perpetrators of criminal acts come from economically disadvantaged groups, so serving a prison sentence often has a greater impact on their families. With the RJ approach, perpetrators can complete their obligations without having to lose the opportunity to support their families economically. This is also in line with the values of social justice which are one of the main pillars of the Indonesian criminal law system.

Furthermore, RJ also has the potential to strengthen social relations in society. In many cases, criminal acts occur due to broader conflicts in society, such as conflicts between families or groups. By facilitating dialogue and peaceful resolution, RJ can help reduce the potential for future conflict and create a more harmonious social environment. In this context, RJ not only functions as a mechanism for resolving criminal acts but also as a tool for building peace in society.

Based on the discussion that has been described, it can be concluded that the application of Restorative Justice (RJ) in the Indonesian criminal law system has great potential to create more humane and substantive justice. RJ not only provides solutions for perpetrators and victims, but also has a broader positive impact on society, such as reducing the overcapacity of correctional institutions, accelerating the case resolution process, and strengthening social relations. (Fatmawati et al. 2023)

However, the effectiveness of RJ in Indonesia still faces significant challenges, such as limited regulations, lack of public understanding, limited capacity of law enforcement officers, and minimal supporting infrastructure. Therefore, strategic steps need to be taken to overcome these challenges, including strengthening the legal framework, improving training for law enforcement officers, and educating the public about the benefits of RJ. (Saragih and Zarzani, nd)

With a comprehensive and sustainable approach, RJ can be an effective solution to create a criminal law system that is fairer, more efficient, and in accordance with the values of social justice in Indonesia. This research provides a foundation for the development of future RJ policies and practices, which will ultimately support the creation of more inclusive and meaningful justice.

## **CONCLUSION**

The implementation of Restorative Justice (RJ) in the Indonesian criminal law system is a progressive step that offers an alternative approach to resolving criminal acts. This approach does not only focus on punishment but also on restoring relationships between perpetrators, victims, and the community. RJ has been integrated through regulations such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, although its use in other crimes is still limited. RJ has shown its effectiveness in reducing overcapacity in correctional institutions, accelerating case resolution, and increasing social justice by involving victims in the resolution process.

However, the implementation of RJ in Indonesia still faces challenges, such as limited consistent regulations, public understanding that tends to be retributive, inadequate capacity of law enforcement officers, and lack of supporting infrastructure. To overcome these obstacles, strategic steps are needed such as strengthening the legal framework, intensive training for law enforcement officers, and educating the public about the benefits of RJ. With a strong commitment from various parties, RJ has great potential to create a more just, humane, and inclusive criminal law system in Indonesia.

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