

ANALYSIS OF THE APPLICATION OF RESTORATIVE JUSTICE IN RESOLVING CRIMINAL CASES IN INDONESIA

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Abstract

This research analyzes the application of Restorative Justice (RJ) in resolving criminal cases in Indonesia. RJ is an alternative approach in the criminal justice system that focuses on victim recovery, perpetrator responsibility, and reconciliation between both parties. This research uses a normative-empirical method by examining related regulations and conducting interviews with law enforcement officials, victims and perpetrators. Data sources consist of primary data obtained through interviews and observations, as well as secondary data originating from literature, journals and statutory regulations. The research results show that the application of RJ has provided significant benefits in resolving minor criminal cases and cases involving minors. RJ is proven to be more efficient than conventional justice, because it is able to speed up the resolution of cases, reduce the burden on correctional institutions, and minimize negative impacts for perpetrators and victims. However, the implementation of RJ still faces various challenges, such as differences in understanding among law enforcement officials, community resistance to non-retributive approaches, and the lack of strict monitoring mechanisms in its implementation. Therefore, clearer regulations, training for officers, and increased outreach to the public are needed so that RJ can be implemented optimally and sustainably in the Indonesian criminal justice system.

Keywords: Restorative Justice, Criminal Cases, Legal Settlement, Judicial System, Indonesia.

INTRODUCTION

The criminal justice system in Indonesia has so far been more oriented towards a retributive approach, namely punishing criminals as a form of retaliation for their actions. This approach focuses on repressive punishment, with the main aim of providing a deterrent effect on perpetrators and upholding justice in accordance with applicable legal regulations. However, this system often ignores the interests of victims and the community in the process of resolving criminal cases (Runtunuwu & Hs, 2023). Therefore, alternative approaches have emerged in resolving criminal cases, one of which is Restorative Justice (RJ).

Restorative Justice is a concept for resolving criminal cases that emphasizes restoration of losses experienced by victims, accountability of perpetrators, and reconciliation between the two parties. This approach focuses not only on punishment, but also on improving relationships between victims, perpetrators and society. The basic principles of RJ include restorative justice, active participation of all parties involved, and case resolution that benefits all parties by avoiding unnecessary punishment (LUBIS, 2023).

In Indonesia, the application of Restorative Justice is growing along with the awareness that punishment that is too repressive is not always the best solution in handling criminal cases. The application of this concept is further strengthened by the existence of various supporting regulations, such as Supreme Court Regulation (PERMA) Number 2 of 2012 concerning Settlement of Cases with a Restorative Justice Approach and National Police Chief Regulation Number 8 of 2021 concerning Handling of Crimes with a Restorative Justice Approach. This regulation shows a commitment from the government and law enforcement officials to adopt a more humane approach in resolving certain criminal cases (Wahyuningsih et al., 2023).

However, the implementation of Restorative Justice in Indonesia still faces various challenges. One of the main obstacles is the still strong retributive paradigm among law enforcement officials and the community. Many people still think that criminal punishment, especially imprisonment, is the only form of justice that can provide a deterrent effect for perpetrators. Apart from that, not all cases can be resolved through RJ, because this approach is more suitable for minor cases or those that have a high humanitarian aspect, such as criminal acts involving children, cases of domestic violence, as well as cases involving complaints (Syarifuddin et al., 2024).

Apart from legal factors, social and cultural factors also influence the implementation of Restorative Justice in Indonesia. In some areas, the practice of peaceful dispute resolution has become part of local culture, such as in customary law and conflict resolution mechanisms based on local wisdom. However, in some cases, peaceful settlement of cases is actually misused by certain parties to avoid legal accountability that should be undertaken by the perpetrator (Andiko et al., 2024). Therefore, it is important to ensure that the implementation of RJ truly meets the principles of justice and is not exploited for one-sided interests.

The success of implementing Restorative Justice also relies heavily on support from various parties, including law enforcement officials, the

community, and parties in authority in the mediation process. A broader understanding of the RJ concept is needed, both among law enforcement and the public, so that this approach can be implemented more optimally. Apart from that, the active involvement of victims in the case resolution process is also an important factor in ensuring that victims' rights remain protected and they receive proper justice (Saefudin & Nasirudin, 2022).

With the various challenges and opportunities that exist, it is important to conduct more in-depth research regarding the implementation of Restorative Justice in the criminal justice system in Indonesia. This research aims to analyze how the RJ concept has been applied in resolving criminal cases, identify obstacles and factors that support its implementation, and evaluate the effectiveness of this approach in achieving justice goals that are more recovery-oriented (Hawalia & S, 2022).

Through this research, it is hoped that recommendations can be found that can be used to increase the effectiveness of implementing Restorative Justice in Indonesia. In this way, the criminal justice system in Indonesia can be more oriented towards the principles of justice which does not only focus on punishment for perpetrators, but also provides space for recovery for victims and harmony in society.

RESEARCH METHOD

This research uses a qualitative approach with normative-empirical methods. A normative approach is used to examine legislation and policies related to the implementation of Restorative Justice in the criminal justice system in Indonesia. Meanwhile, an empirical approach was taken by collecting field data through interviews and observations of parties involved in implementing Restorative Justice, such as law enforcement officers, victims and perpetrators of criminal acts. The data collected consists of primary data, which was obtained directly through interviews with relevant sources, as well as secondary data, which was obtained from relevant literature, journals and legal documents.

The data analysis technique used in this research is descriptive and normative analysis. Descriptive analysis aims to describe how the implementation of Restorative Justice takes place in Indonesia based on the empirical data collected. Meanwhile, normative analysis is used to evaluate the suitability of the implementation of Restorative Justice with applicable legal provisions and identify deficiencies and challenges in its implementation. With this method, research can provide a comprehensive picture of the

effectiveness of Restorative Justice in resolving criminal cases in Indonesia as well as recommendations that can support optimizing its implementation (Carey, 2010; Kurkchiyan et al., 2005).

RESULT AND DISCUSSION

Implementation of Restorative Justice in Indonesia

Restorative Justice (RJ) has been applied in various criminal cases in Indonesia, especially in cases involving children as perpetrators, minor crimes, and certain cases that have a strong humanitarian aspect. Several cases that have been successfully resolved through the RJ approach include cases of minor theft, minor abuse, and domestic conflicts that did not result in serious injury (Akhsya, 2023). One real example is the case of a minor who committed petty theft and was successfully resolved through mediation between the victim and the perpetrator, so that the child did not need to undergo a judicial process which could have a negative impact on his future.

The application of RJ has also been applied in cases of domestic violence (KDRT) where the perpetrator and victim still have a strong family relationship. In several cases, the mediation process carried out succeeded in reaching an agreement between the victim and the perpetrator, provided that the perpetrator was willing to take part in a rehabilitation program or guidance from the authorities (Husaini, 2024). This allows for a fairer settlement without having to end up in prison which could worsen the family's condition.

Apart from that, Restorative Justice has also been applied in cases at the police, prosecutor's office and court levels. Based on National Police Chief Regulation Number 8 of 2021, the police can resolve certain criminal cases through RJ provided there is peace between the victim and the perpetrator, and there are no objections from both parties. With this mechanism, many minor criminal cases can be resolved without having to go to the trial stage, thereby reducing the burden on the justice system and speeding up the legal settlement process (Nasution et al., 2022).

The case resolution mechanism using the RJ approach begins with a mediation process involving the victim, perpetrator, family, and authorized parties, such as the police, prosecutor's office, or traditional institutions in certain cases (Flora, 2023). In this mediation, the victim is given the opportunity to convey his feelings and losses, while the perpetrator is given space to take responsibility for his actions. If both parties reach an agreement,

the case can be resolved without having to go through the conventional judicial process.

In the criminal justice system, the prosecutor's office also has an important role in implementing Restorative Justice. Based on Attorney General Regulation Number 15 of 2020, prosecutors have the authority to stop the prosecution of certain criminal cases if peace has been reached between the victim and the perpetrator. This is a progressive step in efforts to adopt restorative justice in the Indonesian legal system, especially for cases that do not have a wide impact on society (Suparno & Pone, 2023).

However, the implementation of RJ in Indonesia still faces various challenges, such as a lack of understanding among law enforcement officials and the public, as well as the stigma that justice can only be served through imprisonment. In addition, in some cases, victims may experience pressure to forgive the perpetrator, which can lead to injustice for the victim (Akbar et al., 2022). Therefore, it is important to ensure that the implementation of RJ is carried out transparently, voluntarily, and taking into account the interests of all parties involved.

As the application of Restorative Justice continues to develop, it is hoped that this approach can become a more effective solution in resolving criminal cases in Indonesia. Apart from reducing the burden on the justice system, RJ also provides an opportunity for perpetrators to take responsibility and correct their mistakes, as well as for victims to obtain more meaningful recovery. However, for the implementation of RJ to run optimally, there needs to be synergy between law enforcement officials, the community and regulations that support its implementation in a sustainable manner.

Supporting and Inhibiting Factors for Implementing RJ

The implementation of Restorative Justice (RJ) in Indonesia is supported by various legal, social and cultural factors. From a legal aspect, regulations that support RJ have been issued, such as Supreme Court Regulation (PERMA) Number 2 of 2012, Attorney General Regulation Number 15 of 2020, and National Police Chief Regulation Number 8 of 2021. These regulations provide a basis for law enforcement officials to apply a restorative justice approach in handling certain cases, especially those that are minor in nature or involve minors (Permata et al., 2024). With increasingly clear regulations, the criminal justice system can be more flexible in resolving cases without having to always use a retributive approach.

From a social aspect, society is starting to accept the concept of RJ as an alternative resolution of criminal cases that prioritizes peace and recovery rather than mere punishment. Public awareness of the importance of justice which is not only oriented towards punishment, but also towards restoring social relations, is an important factor in supporting the implementation of RJ (Umam et al., 2022). Apart from that, several civil society organizations and legal aid institutions are also active in educating the public about the benefits of RJ and assisting in the mediation process between victims and perpetrators.

Culturally, Indonesia has local wisdom values that are in line with RJ principles, such as deliberation and peaceful conflict resolution which have long been implemented in customary law. In various regions, such as in the practice of Acehnese customary law (Gampong Customary Court), Balinese customary law (Pakraman Village Court), as well as dispute resolution mechanisms in the Dayak community, a mediation and peace-based conflict resolution system is already known. The practice of familial dispute resolution shows that RJ is not a completely new concept for Indonesian society, so it is easier to accept and implement (Madjid & Istiqomah, 2023).

However, even though it is supported by various factors, the implementation of RJ also faces significant challenges. One of the main challenges is the legal paradigm that is still dominant among law enforcement officials. Many officials are still oriented towards a retributive approach, where justice is thought to only be enforced through punishment, especially in the form of imprisonment. Lack of understanding and training for officials regarding the RJ mechanism often causes the implementation of this concept to not be optimal (SH, 2022).

Apart from that, social factors such as pressure from society or certain parties can also become obstacles in implementing RJ. In some cases, the victim or their family may feel pressured to forgive the perpetrator even though they are not ready to reconcile. This can lead to injustice, especially if the agreement produced in mediation is not completely voluntary (Maximoff & Taylor, 2022). Therefore, in implementing RJ, there needs to be a guarantee that the mediation process is fair, transparent and does not compromise the rights of victims.

From a legal perspective, even though there are supporting regulations, there is still a legal vacuum in several aspects of RJ implementation, especially in operational standards and monitoring mechanisms for agreements reached through the mediation process. The

absence of a clear mechanism to ensure that perpetrators actually carry out their obligations after mediation can be a loophole that causes injustice for victims (Widodo, 2024). In addition, not all law enforcement officials have the same understanding in interpreting regulations related to RJ, so implementation still varies in various regions.

Given these various supporting and inhibiting factors, more serious efforts are needed to develop and strengthen the implementation of Restorative Justice in Indonesia. One step that can be taken is to increase socialization and training for law enforcement officers so they have a better understanding of RJ (Mamonto, 2022). Apart from that, there needs to be a stricter monitoring mechanism to ensure that every case resolution through RJ truly meets the principles of justice for all parties. Thus, RJ can be an effective solution in resolving criminal cases, reducing the burden on the justice system, and realizing more humane justice in Indonesia.

Evaluation of the Effectiveness of Restorative Justice in Resolving Criminal Cases

The implementation of Restorative Justice (RJ) in the criminal justice system in Indonesia has had a significant impact on victims, perpetrators and society. For victims, RJ allows them to obtain more meaningful recovery compared to the conventional justice system. Victims are given the opportunity to convey their feelings directly to the perpetrator and receive appropriate forms of redress, whether in the form of compensation, an apology, or a commitment by the perpetrator not to repeat the same mistake. This process can help reduce the trauma experienced by victims and speed up their psychological recovery process (Raharja & Saptomo, 2024).

For perpetrators, RJ provides an opportunity to take responsibility for their actions without having to serve a sentence that could damage their future, especially in minor criminal cases or those involving minors. In the conventional justice system, perpetrators sentenced to prison often experience prolonged social stigma and difficulty returning to society. Through RJ, perpetrators can understand the impact of their actions on victims and society and get the opportunity to correct their mistakes through more rehabilitative mechanisms (Murdiyambroto, 2023).

RJ's impact on society is also quite positive. This approach helps create social harmony by encouraging reconciliation between victims and perpetrators, as well as reducing prolonged conflict. By resolving cases through peaceful means, society can see that justice does not always have to

be achieved through harsh punishment, but also through a process of dialogue and recovery (Warzuk et al., 2024). Apart from that, RJ can also reduce the burden on the justice system and correctional institutions, because many cases can be resolved without having to go to trial or end up with a prison sentence.

When compared with conventional judicial processes, RJ has advantages in terms of efficiency and flexibility. The mediation process carried out in RJ is generally faster than the judicial process which often takes a long time because it has to go through various stages, starting from investigation, prosecution, to trial (Leonardo & Firmansyah, 2023). Apart from that, the costs incurred in resolving cases through RJ are also lower, both for the state and for the parties involved, because there is no need to go through a lengthy legal process.

However, the effectiveness of RJ still depends on the type of case being handled. For certain cases, such as serious crimes or criminal acts that have a wide impact on society, the RJ approach may not be effective enough in providing a deterrent effect for perpetrators and protection for victims (Ihsan, 2024). In cases such as corruption, murder, or sexual violence, the conventional justice system remains the main approach that must be used to uphold the law and provide balanced justice.

Even though it has many advantages, the implementation of RJ still faces challenges, such as a lack of understanding by law enforcement officials regarding the RJ mechanism and the strong retributive paradigm in society. Therefore, to increase the effectiveness of RJ, wider outreach is needed, training for law enforcement officers, as well as clearer regulations in determining the types of cases that can be resolved through RJ (Talay, 2022). Apart from that, the monitoring mechanism must also be strengthened to ensure that the resolution of cases through RJ is truly carried out fairly and is not exploited for certain interests.

By considering these various factors, RJ can be an effective approach in resolving certain criminal cases in Indonesia. Although it cannot completely replace the conventional justice system, RJ can be a complement that helps create justice that is more oriented towards healing and reconciliation. With optimal implementation, RJ can contribute to creating a criminal justice system that is more humane and responsive to community needs (Sangjaya & Supardi, 2024).

CONCLUSION

Based on this research, it can be concluded that the application of Restorative Justice (RJ) in resolving criminal cases in Indonesia has had a positive impact on victims, perpetrators and society. RJ allows for quicker, more efficient and recovery-oriented resolution of cases, especially in minor criminal cases and those involving minors. Supporting factors for implementing RJ include increasingly developing regulations, social acceptance of deliberation-based solutions, and local wisdom which has long applied the principles of restorative justice. However, in its implementation there are still challenges, such as the retributive paradigm which is still strong among law enforcement officials, unequal understanding of RJ, and the need for stricter monitoring mechanisms to ensure justice for all parties.

Although RJ cannot completely replace the conventional justice system, this approach has proven to be an effective alternative solution in handling certain criminal cases. A comparison between RJ and the conventional justice system shows that RJ is more flexible and provides a more humane solution, especially in building reconciliation between victims and perpetrators. Therefore, further efforts are needed to develop and strengthen regulations and socialize the RJ, so that its implementation is more optimal and provides broader benefits for the criminal justice system in Indonesia.

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