



## The Enforcement of Restorative Justice in Indonesia Criminal Law

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Article Info	Abstract
<p><b>Keywords:</b> Criminal Law; Law Enforcement; Restorative Justice</p> <p><b>Article History</b> Received: Dec 22, 2019; Reviewed: Jan 2, 2020; Accepted: Feb 20, 2020; Published: Mar 31, 2020.</p> <p><b>DOI:</b> 10.22219/ljih.v28i1.10680</p>	<p><i>Restorative Justice is a philosophy, process, ideas, theories, and interventions that emphasize the improvement of the harm caused or expressed by criminal behaviour. This process is in sharp contrast to the standard way of handling crime, as is commonly carried out in criminal law in Indonesia. The research used in formulating this material is doctrinal research, in which this research uses a normative legal research method. Restorative justice finds a foothold in the underlying philosophy of the fourth principle of Pancasila, namely deliberation on priorities in decision making. The purpose of this study of the settlement by mediating victims of violators is to humanize the justice system, justice that can answer the real needs of victims, perpetrators and the community. Contribution of this research about restorative justice programs are based on the belief that the parties to the conflict should be actively involved in restoring and mitigating the negative impacts</i></p>

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### INTRODUCTION

Law is a system that is closely related to people's lives (Prayitno 2012). In fact, with the development of the dynamics of an increasingly complex society, the law should also develop the following requirements that should be part of every age (Disemadi & Roisah 2019). The development of human civilization is not only a positive impact on human life, but inevitably also inevitably raises the seeds of a new crime which requires a brisk and effective treatment towards all parties to all parties. Reflecting on this, then in any law enforcement, legal awareness and values that grow in the community is very important. As revealed by Mochtar Kusuma Atmadja, that laws is made to be appropriate or notice of public perception (Salman 2010) Deviations written above have created the conditions upon the rule of law (law enforcement), which has become stagnant (Hipan, Nur, & Djanggih 2018).

The justice system is a good and healthy course that will be able to ensure fairness the security and safety of citizens, and the capability to generate trust and respect from society, essentially a derivation of non-physical power that needs to be preserved to achieve the sustainability for future generation. Law enforcement systems constitute a unified system that incorporates the judicial system and the system of judicial power. The criminal Justice System is a reasonability long stage which would be implemented by law enforcement agencies according to their respective authorities.

According to Soerjono Soekanto, law enforcement is an attempt to realize the ideas and concepts of law, which is expected of the citizen to become a reality,. therefore, the rule of law is a process that involves and also influenced by many factors such as legal, law enforcement, facilities or support facilities, society and the customs of the people (Soekanto 2002). Law enforcement (especially criminal law) can be said to be a reaction to an unlawful act. The efforts of law enforcement officers in responding to a tort, and addressing the problems of other law enforcement is the core when discussing law enforcement. When viewed as functional, the law enforcement system is a system of action, because in it there are the many activities undertaken in the framework of equipment of state law enforcement, including police, legislators, government agencies (*bestuur*), as well as execution apparatus (Mansur & Gultom 2007), so in the law enforcement from she establishment phase of the legislation (to prevent *onrecht in potentie*), and also the prevention of *nrecht in actu* by law enforcement officials. Thus, the function of the law as a matter of achieving justice, and also refers to the renewal of society is also an action system, which since the order of law information to law enforcement, state officials have to provide the necessary actions and reactions to the achievement of the objectives of the law (Mansur & Gultom 2007).

Policies or efforts to tackle crime are necessarily an integral part of efforts to protect society as asocial defence and efforts to achieve social welfare. However, by tackling corruption and crime by illegal means, in fact, it has not yet given the maximum effect for the perpetrators of crime. The truth is often found, that the perpetrator is merely carrying out his sentence, without reflecting on what he has done, what impact it has had on the victim and himself. There has not been a *profer demeanor* as a self besides from repeating the act.

Law enforcement is often interpreted as an act of criminal punishment or sanctions. Beside the identical to the application of procedural law, law enforcement is also based on the regulation made. Bagir Manan said that Indonesian law enforcement can be said to "*communis opinio doctorum*", which means that law enforcement is now considered to have failed in achieving the goals implied by the Act (Rizki 2008).Therefore, an alternative law enforcement is chosen, namely, the

Restorative Justice System, where the approach used is a socio-cultural approach and not a normative approach.

Ironically, almost all crimes handled by the Indonesian criminal justice system always end up in prison (Sirait & Cahyaningtyas 2019). However, prison is might not be the best solution in solving crime problems, especially crime where “damage” caused to victims and the community can still be restored so that conditions that have been “damaged” can be returned to its original state. As well as eliminating the adverse effects of prison. Responding to the crimes which possibly can be restored, a concept of punishment known as restorative justice is introduced, which encouraged the perpetrator to repair the harms that have been caused to the victim, his family, and the community. For this reason, the main program is “a meeting place for people” to find solutions to repair relationships and damage due to crime (peace) (Disemadi, Hipan, & Rais 2014).

In some countries in the world, dissatisfaction and frustration with the formal justice system or regeneration of the interest in preserving and strengthening the customary law and traditional justice practices have led the authorities to call for alternative responses to crime and social disorder. Many of these alternatives provide the parties involved, and often also the surrounding community, which leads to the opportunity to participate in resolving the conflict and overcome the consequences. Based on those facts, the purpose of this study of the settlement by mediating victims of violators is to humanize the justice system, justice that can answer the real needs of victims, perpetrators and the community. Contribution of this research about restorative justice programs are based on the belief that the parties to the conflict should be actively involved in restoring and mitigating the negative impacts.

## **METHOD**

The research used in formulating this material is doctrinal research, in which this research uses a normative legal research method. The data used are secondary, i.e., data were obtained indirectly from its source or research object in the form of primary, secondary and tertiary legal materials (Disemadi, Sutra, & Roisah 2019). The data collecting method used in solving this problem was done by library research, which was then analysed qualitatively. This analysis technique is a technique in which the materials or legal literature will be studied so that it can provide an overview of the research topic so that it helps the writer on making correct conclusions.

## **RESULTS AND DISCUSSION**

### **The Development Concept of Restorative Justice in Indonesia**

The problem of mediation in criminal cases, has already been on discussed at the international level, which was known as The 9th Congress of the United Nations in 1995 and The 10th Congress in 2000 on Prevention of Crime and also Treatment of Offenders and the International Conference on Reform of Criminal Law (Penal

Reform international Conference) in 1999. The international meetings that encourage the emergence of three international documents related to the issue of restorative justice and mediation in criminal cases, namely:

- a. The Recommendation of the Council of Europe 1999 No. R (99) 19 on “Mediation in Penal Matters”;
- b. The EU Framework Decision 2001 on the Standing of Victims in Criminal Proceedings; and
- c. The UN Principles 2002 (draft ESC) on “Basic Principles on the Use of Restorative Justice Programs in Criminal Matters”.

The background of his thinking was associated with ideas of criminal law renewal (penal reform), and there was a problem associated with pragmatism (Sirait & Cahyaningtyas 2019). Background ideas of “penal reform” among other ideas were the victim safeguarding, the idea of harmonization, the idea of restorative justice, the idea of overcoming the rigidity/formalities in the existing system, the concept of avoiding the adverse effects of the criminal justice system, and penal system that exists today, especially in the search for alternatives to imprisonment as an alternative to imprisonment/alternative to custody and so on. Background pragmatism, among others, to reduce stagnation or accumulation of matter (the problems of court case overload) to simplify the judicial process (Arief 2008).

Restorative Justice that is often known as “reparative justice,” is an approach to justice that focuses on the needs of the victims, the preparatory themselves, and also involves the community participation and not merely complies with legal requirements or solely of sentences. In this case, the victim was also involved in the process. While offenders are also encouraged to take responsibility for his actions, in order to fix the mistakes, which usually be done by apologizing, refunding the stolen money, or by performing community service/social work (Rofiq, Disemadi, & Jaya 2019).

Restorative Justice Approach focuses on the needs of both victims and perpetrators. Beside addition, this approach Restorative Justice helps criminals to avoid other crimes in the future. It is based on a theory of justice that considers crime and offense, in principle, as a violation of the individual or community and not to the state. Restorative Justice fosters dialogue between victims and perpetrators will demonstrate the highest level of satisfaction of the victim and offender’s accountability. Restorative Justice Concept is basically simple. Size of justice is no longer based on retaliation in kind from the victim to the perpetrator (whether physical, or psychological); however, a painful act was healed by providing support to victims and required offenders to take responsibility to help families and communities when needed. Simply, Restorative Justice itself means just solution

involving the perpetrator, the victim, the family and other parties involved in a crime and jointly seek solutions to the criminal offense and its implications by emphasizing the restoration of the original state of justice for victims and perpetrators, is good when law enforcement officials to think and act progressively that does not apply the rules textually but need to break through rule (rule-breaking) because in the end it was not the text of the law on justice that is desired by the community. Bagir Manan, in one of his article, said that "Building joint participation between perpetrators, victims, and community groups resolve an incident or crime. Placing the perpetrator, the victim, and the community as "stakeholders" who work together and immediately tried to find a settlement that is perceived to be fair to all parties (win-win solutions) (Arief 2008).

In the current criminal law in Indonesia, criminal cases cannot be settled outside the court trial but in some instances it is possible to implement them. So far, what is understood from the criminal law is that the criminal is an absolute consequence that must exist as a retaliation to the person who committed the crime (Ansori 2014). So the justification of the criminal lies in the existence of the crime itself. In criminal law there is an *ultimum remedium* principle, which means that criminal sanctions are used when other sanctions are already helpless, it can be understood that criminal law could be the last solution, from the content of these principles implied the recommendation of a caution- caution when trying to apply the criminal law to take justice, why is that because the model of criminal sanctions are applied to date (capital punishment, imprisonment, confinement, fines, revocation of certain rights, announcements of judges' decisions and) is not only felt severe when lived, but on the other hand it was also felt heavy during the criminal proceedings, the whole investigation and prosecution process that allows the perpetrators to be arrested, detained, searched, confiscated property related to criminal acts committed (even which allows law enforcement sometimes to use violence valid), but also at the time the crime was handed down.

Currently, in the legal system in Indonesia has begun to lead to the adoption of the concept of Restorative Justice. But for now, still applied partial and looked urgent very fundamental level. That can be found in Law Number 11 of 2012 on Juvenile Justice System. As defined in Article 1, item 6 of Juvenile Justice System Law, which states: "Restorative Justice is the completion of the criminal case involving the perpetrator, the victim, the perpetrator's family/victim, and other relevant parties to work together to find a fair settlement with the emphasis on restoring back to the original condition, and not retaliation".

As a form of application of Restorative Justice, the Law System of Juvenile Justice provides institutions Diversion, as stipulated in Article 1 paragraph 7, which asserts that "Diversion is the transfer of the settlement Son of the criminal justice

process to a process outside of criminal justice.” Introduction to Restorative Justice in Indonesia's legal system still partial and not comprehensive, scattered in various laws and regulations as well as some of the practices that have ever appeared, in some law enforcement policies, including:

- a. Supreme Court Circular (SEMA) No. 6 In 1959, states that the hearing child must be conducted in private;
- b. Supreme Court Circular (SEMA) No. 6 of 1987, 16 November 1987 concerning the Child Assembly Rules of Conduct;
- c. Circular of the Attorney General SE-002/ja/4/1989 concerning the prosecution of the Child;
- d. The jurisprudence of the Supreme Court No. 1644 K/Pid/1988 dated May 15, 1991, where the *ratio decidendi* verdict mentioned that if someone is violating customary law, then Head and The Leaders of Indigenous reacted *adat* (customary sanctions) then the question cannot be filed again (for the second time) as a defendant in the trial Courts State (District Court) with the same charges in violation of the law exists and imposed imprisonment under the provisions of the Criminal Code (Article 5 (3) sub b of law DRT No. 1 of 1951) that in such circumstances the devolution file Prosecutor demands in the case, as well as the District Court should be declared unacceptable (*niet ontvankelijke verklaard*);
- e. Letter of the Attorney General for General Crimes B-532 / E / 11/1995, 9 Nov 1995 on Technical Guidelines for Prosecution Against Children;
- f. Presidential Decree No. 8 of 2002 on Providing Guarantee Legal Certainty to Debtor Has Completed Its obligations or Legal Action to Debtor Not Finish His task Based Shareholder Settlement Obligations;
- g. Memorandum of Understanding No. 20/PRS-2/KEP/2005 DitBinRehSos MOSA RI and RI Depkumham DitPas about coaching outside the institution for children in conflict with the law;
- h. Circular of the Supreme Court Chief Justice MA / Kumdil/31/I/C/2005 on the duty of every District Court held a special hearing room and lounges for children to be tried;
- i. Appeal Chairman MARI to avoid arrest in children and prioritize action decision rather than prison, July 16, 2007;
- j. Police Regulation 10/2007, July 6th, 2007 on the Unit for Women and Children (PPA) and 3/2008 on the Establishment of RPK and Witness Examination Procedures and / Victims of Crime;
- k. TR / 1124 / XI / 2006 of Kabareskrim Police, 16 Nov 2006 and TR /395/ VI / 2008, 9 June 2008, on the Implementation of Diversion and Restorative Justice In Case Handling Child Actors And Fulfilment Best Interests of the Child In Case of Children Good As Perpetrators, Victims or Witness;

- l. Agreement between the Ministry of Social Affairs Decree No. 12 / PRS-2 / KPTS / 2009, the Ministry of Justice and Human Rights of the Republic of Indonesia Number: M.HH.04.HM.03.02 FY 2009, the Ministry of National Education No. 11 / XII / KB / 2009, the Ministry of Religious Affairs Decree No. 06 / XII / 2009, and the RI State Police No. B / 43 / XII / 2009 on the Protection and Social Rehabilitation of Children in Conflict with the Law, dated December 15, 2009;
- m. Chairman of the Joint Decree of the Supreme Court, Attorney General, Chief of the National Police, Minister of Justice and Human Rights, the Minister of Social Affairs, Minister of Women and Child Protection of Indonesia, 166 / KMA / LCS / XII / 2009, 148 A / A / JA / 12/2009, NO. B / 45 / XII / 2009, NO.M.HH-08 HM.03.02 2009, NO. 10 / PRS-2 / KPTS / 2009, NO. 02 / Men PP and PA / XII / 2009 dated December 22, 2009 on the Handling of Children against the Law;
- n. National Police Chief Pol letter No: B / 3022 / XII / 2009 / SDEOPS 14 December 2009 on the Handling of Cases Through the Alternative Dispute Resolution (ADR);
- o. Police Chief Regulation of the Republic of Indonesia Number 7 of 2008 on Basic Guidelines and Implementation Strategy Community Policing in the Implementation of the Police Duties;
- p. Law Number 11 of 2012 on Juvenile Justice System; and
- q. Law No. 12 of 1995 concerning Corrections.

### **Forms of Law Enforcement in Providing Restitution to Trafficking Victims**

According to Satjipto Raharjo, law enforcement is an attempt to realize the ideas of the rule of law; Social benefit and justice become a reality. The process of the third embodiment of this idea which is the essence of law enforcement. Law enforcement also be interpreted also the administration of justice by law enforcement officers and every person who has an interest and in accordance with their respective authorities under applicable law (Hardjaloka 2015).

Thus the rule of law is a system that involves the compatibility of values and norms as well as the real behaviour of Indonesian society. The rules then serve as guidelines for the behaviour of the people of Indonesia is considered appropriate (Gukguk & Jaya 2019). The existence of such guidelines aims to create, maintain and sustain peace in social life. According to law enforcement, Soerjono Soekanto not merely means the implementation of the legislation. In fact, there is a tendency to interpret the rule of law as the implementation of judicial decisions. This understanding contains a weakness, for the implementation of the law or a court decision can disturb the balance in the social life of Indonesian society.

The use of criminal law in combating crime, merely curing the symptoms (*kurieren am symptoms*) and not as a factor that eliminates the causes of crime. The existence of criminal sanctions is an attempt to address the symptom or result of the disease and not as a drug (*remedium*) to resolve the cause of the disease (Arief 2005), and the criminal law has a limited capacity in the fight against crime is so diverse and complex. In connection with the weakness of the criminal law, then Ruslan Saleh (Saleh 1983), state that:

The indecision community towards greater criminal law in connection with the implementation of criminal law practice is too normative-systematic. The limits of criminal law as a means of criminal policy in crime prevention are:

- a. Because these complex crimes that are beyond the scope of criminal law;
- b. The criminal law is only a small part (sub-system) of the means of social control that is not possible to overcome the problem of evil as a humanitarian issue and very civil complex (as socio-psychological, socio-political, socio-economic, socio-cultural, and so on);
- c. The use of criminal law in tackling crime is only a “kurieren am symptom”, therefore the criminal law is only a symptomatic treatment, and not a causative treatment;
- d. Criminal law sanctions are “remedium” containing the contradictory nature / paradoxical and contain elements and negative side-effects;
- e. Criminal system is fragmentary and individual / personal, non-structural / functional;
- f. The limited range of criminal sanctions and criminal sanctions formulation system that is rigid and imperative; and
- g. The working/functioning of the criminal law requires a means of support are more varied and more demanding of high fees.

Based on the theory, Barda Nawawi Arief (Arief 2005) explained that: Prevention and control of crime must be done with an integrated approach; No balance penal and non-penal. Seen from the point of criminal politics, the most strategic policy is through non-penal facilities because it is preventive, and because of the limitations or weaknesses penal policy, which is fragmentary/ simplistic/ no structural-functional; symptomatic / no causative/ not eliminative; individualistic/ Offender-oriented / not victim-oriented; more repressive / no prevention; must be supported by infrastructure with high costs.

The approach with non-penal facilities which cover an area of prevention of crime (crime prevention) is vast. Prevention of crime is the main purpose of criminal policy. The statement that is often expressed in the UN Congress on “the prevention of crime and the treatment of offenders,” namely:



- a. Crime prevention and criminal justice should not be treated/viewed as a separate problem and dealt with a simplistic and *fragmentair* method, but should be seen as a more complex problem and dealt with policies/actions extensive and thorough;
- b. Crime prevention should be based on the elimination of the causes and conditions that cause crime. Efforts to eliminate such causes and conditions that should be a “basic strategy / fundamental in the prevention of crime (the basic crime prevention strategy)”; and
- c. The leading cause of crime in many countries is social inequality, racial discrimination and discrimination national, low standard of living, unemployment and its relationship with economic development, political systems, values, socio-cultural and societal changes, also concerning the world economic order / international new. Based on the statement in the UN Congress on the above, it appears that the policy of crime prevention will not only cure or fostering the convicts (criminals), but crime prevention.

The emergence of the concept of criminal law enforcement with non-penal facility here which is still yet to be developed further in the process of resolving criminal matters in Indonesia. Most people still often misinterpret the concept of “Indonesia is a State of Law” to consider all legal issues must be resolved through legal channels especially criminal law. The concept of retaliation in retributive theory is now too old-fashioned, it will be applied continuously in Indonesia because of the law enforcement process should not only think in narrow to resolve the legal problems that occurred at that moment (Candra 2013). Criminal law enforcement process that is still based on the Criminal Code / WvS, which is inherited from the Dutch still uplift and allow the rise in non-penal law enforcement in particular the principles of Restorative Justice.

In fact, the law may not be straight if the law itself or not reflect the feelings or values of justice in the society. Law is not possible to ensure justice if the material is largely a legacy of the past, or who are born and realized in the form of legislation because it is based on the interests of a particular group or because of pressure from outsiders/ foreigners who did not reflect the value of justice that live and thrive in society if the law itself or not reflect the feelings or values of justice in the society. Law is not possible to ensure justice if the material is largely a legacy of the past, or who are born and realized in the form of legislation because it is based on the interests of a particular group or because of pressure from outsiders/foreigners who did not reflect the value of justice that live and thrive in society if the law itself or not reflect the feelings or values of justice in the society (Marzuki 2017). Law is not possible to ensure justice if the material is largely a legacy of the past, or who are born and realized in the form of legislation because it is based on the interests of a

particular group or because of pressure from outsiders/ foreigners who did not reflect the value of justice that live and thrive in society.

The concept of Restorative Justice is a process law enforcement even though the process is not touching the sides of criminal law at all, but more emphasis on the needs of the victims, the perpetrators, and also involves the participation of the community, and not merely comply with legal requirements or solely of sentences (Pratiwi 2019). In this case, the public would assume that the process is non-penal law enforcement is not going to bring about justice for those who judged guilty but should be analysed further that criminal punishment is also not always provide justice for both parties.

Call it the case of an accident resulting in a person lost his life. If such cases are reported and handled by the authorities, the offender will be sentenced to prison (for example) for several years and may be sentenced to a fine. If the offender does not pay the fine, he could have added criminal penalties only in jail a maximum of 6 (six) months and so he is free, what happens? Criminal liability has been completed, the process of criminal punishment is over and she could live her life, as usual, forget what has happened. He might not going to feel guilty anymore owing to the fact that it could have been counted as a compensation to pay for his crime. What might he repeated the same thing might happen? Of course, it is very possible. While restorative justice concept, the accident victim's family could solve this problem by considering any losses in the suffering due to the death of the victim. For example, the responsibility of what carried the victim during his lifetime (eg, the victim is a father who finance their children) can then intervene with offenders, requires the offender to apologize to the families of the victims, asked for compensation to the perpetrator as a liability for the actions that have been done, such as a sum of money whose value is measured in a certain period of time, and several other activities. In our opinion, something like this would be an impression on the perpetrator because he has new responsibilities as a result of negligence does. Actors who have an obligation like this is undoubtedly a conscious effort to make amends and be careful so that one day he did not make the same mistake, so it does not result in a fatal thing for himself and others.

However, if the competent authorities still process the offense, did not rule on the application of the concept of Restorative Justice, as in the concept design of the draft of Criminal Law or *Rancangan Kitab Undang-Undang Hukum Pidana* (RKUHP) several articles stating the possibility "of a punishment without crime" that in Article 95 RKUHP which reads:

- (1) Criminal social work can be imposed on the defendant Crime punishable by imprisonment of less than 5 (five) years and the judge handed down

imprisonment of not more than six (6) months or fined not more than Category I.

- (2) Social work in criminal punishment as referred to in paragraph (1), the judge shall consider:
  - a. recognition of the defendant against Crime committed;
  - b. working ability of the defendant;
  - c. approval after the defendant explained about the purpose and all matters relating to criminal social work;
  - d. social history of the accused;
  - e. Safety protection of the defendant;
  - f. political and religious beliefs of the defendant; and
  - g. the ability of the defendant to pay a fine.
- (3) The implementation of social work criminals should not be commercialized.

The renewal of the material criminal law in the form of the RKUHP is an effort to realize the ideals of the rule of law. So that the RKUHP is an embodiment of the personality of the Indonesian nation which not only prioritizes individual interests or prioritizes the interests of the state. Renewal of criminal law is to improve existing law by replacing existing law with a better law. So that the RKUHP is not just making changes deemed necessary, but is a manifestation of the true independence and sovereignty of the nation. Even legal reforms determine the values that form the basis of the Indonesian nation so that the RKUHP is a planned tool of the social and cultural transformation of society. One such development is the emergence of a conflict resolution idea that is not only focused on litigation process but is resolved by the parties to the conflict by recovering the existing situation. The emergence of this concept is mainly to provide a balance of attention between criminal law stakeholders, namely the perpetrators, victims, the community and the state. This balance can also be seen in the regulation of crime with the regulation of actions and the possibility of a combined sanction between criminal acts and acts considering the diversity of crime issues, as well as awareness of the importance of appropriate therapy for victims of crime.

Actually, the concept of restorative justice is a form of customary law that has existed for a long time ago in Indonesian society. So that the recognition of customary law in the RKUHP aims to fulfil a sense of justice that lives in the community by restoring conditions that have been damaged or the process by which the parties concerned jointly solve ways of reaching an agreement after a criminal act including its implications in the future. Thus, restorative justice in handling crime is not only seen from the perspective of the law but is also associated with aspects of moral, social, economic, religious and local customs and various other considerations.

With the arrangement of the Restorative Justice in RKUHP, the possibility of achieving justice for all parties, both the victim and the perpetrator is not impossible, because once again the criminal law should be the last bullet used in tackling legal issues that exist in Indonesia. Law enforcement should not just be seen as retaliation and as a matter of punishment towards the perpetrator, but also have to come to the stage of prevention and control of symptoms so that no similar things in the future.

## CONCLUSION

The concept of Restorative Justice in Indonesia already exists in some legislation, but the most known to the public before the diversion concept adopted in Law Number 11 Year 2012 on Juvenile Justice System, by enabling the transfer of children from the settlement of the criminal justice process to outside the criminal justice process. Penal Code as the basis for the implementation of law enforcement in Indonesia are still not embracing the concept of restorative justice so that people still always bound within the paradigm that all legal issues must be resolved with the criminal law. The criminal law is the main way to solve problems.

No law enforcement process that is both penal and non-penal. The concept of criminal law enforcement with non-penal facility is still not developed further in the process of resolving criminal matters in Indonesia, because it is inefficient and can't provide justice. In fact when examined further, not all problems are solved through penal criminal law, guarantee the achievement of justice. Restorative Justice here can be used as a new alternative in solving a crime problem, in a form of non-penal enforcement. Notably, the concept of Restorative Justice itself has been reappointed in the realm of criminal law nowadays according to RKUHP which allowing a "no criminal convictions" concept".

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