



## Collocation of Restorative Justice with Human Rights in Indonesia

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Article	Abstract
<p><b>Keywords:</b> Collocation; Restorative Justice; Human Rights.</p> <p><b>Article History</b> Received: Jul 28, 2024; Reviewed: Aug 9, 2024; Accepted: Sep 19, 2024; Published: Sep 20, 2024.</p>	<p><i>Applying restorative justice in Indonesia is beset by obstacles like a lack of knowledge, inadequate infrastructure, and opposition from law enforcement, especially when human rights considerations are incorporated into the process. For this reason, the relationship between these two elements is worth examining. This paper explores and analyses the integration or synthesis of restorative justice with human rights in Indonesia. This paper employs a normative approach with prescriptive analysis based on studies of legislation and cases that integrate the principles of restorative justice with human rights. The findings indicate that collocation helps understand how grammatical structures can reflect and influence the interpretation of restorative justice in human rights, particularly in legal texts and policy reports. In Indonesia, restorative justice can be used in conjunction with the enforcement of human rights laws, particularly when addressing grave human rights breaches, since it emphasizes balanced reconciliation, recovery, and reintegration between offenders, victims, and society. In conclusion, although it has several implementation and legal issues, restorative justice can be an alternate strategy for resolving grave human rights breaches. The recommendations are for a stronger and more comprehensive legal framework to support the implementation of restorative justice in Indonesia's human rights context.</i></p>



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### INTRODUCTION

Restorative justice is an alternative approach in the criminal justice system that focuses on restoring losses and relationships between perpetrators, victims and society (Flora, 2018; Ismail et al., 2023). This idea places a strong emphasis on communicating

and mediating conflicts in order to come to a decision that serves the interests of all parties (Wibowo & Srijadi, 2023). This method's primary objectives are to punish the offender as well as to heal the victim's wounds, mend strained social ties, and reintegrate the offender into society (Flora, 2023). Restorative justice recognizes that criminal activity damages relationships between people and communities in addition to breaking the law (Bakhtiar et al., 2023). Therefore, this approach seeks to resolve conflicts by involving all affected parties, including perpetrators, victims and the community (Beritno, 2021).

Restorative justice has become an increasingly relevant concept in the modern legal system, offering a more comprehensive alternative approach in handling criminal cases (Risal, 2023). This approach emphasizes recovery of losses, reconciliation between perpetrators and victims, and reintegration of perpetrators into society (Afifah, 2024). In a contemporary legal system typically centered on retribution and punishment, restorative justice offers a more humanistic perspective that emphasizes recovery (Silalahi et al., 2024). This concept is also in line with the global trend to reduce prison overcapacity (Triana & Erowati, 2022a), minimize the stigmatization of perpetrators of minor crimes, and provide space for victims to actively participate in the case resolution process (Machmud et al., 2024).

The importance of studying restorative justice from various perspectives, one of which is human rights, lies in efforts to create an inclusive and fair legal system for all individuals, without discrimination or exceptions (Riswandie, 2023). From a human rights perspective, a restorative approach emphasizes rehabilitation and reconciliation rather than purely punitive punishment (Prayoga & Rinaldi, 2023). This aligns with the values of justice, freedom, and human dignity upheld in international declarations. Such principles aim to prevent incidents like the case of Deli Suhandi, a 14-year-old who was confined to the Pondok Bambu Detention Center. Deli was accused of stealing a cellphone simcard near his home in the Johar Baru area, Central Jakarta. In fact, the card was only worth IDR 10,000 (ten thousand rupiah), which Deli found on the street while returning home from school with two of his friends. A similar case occurred with AAL, a 15-year-old boy who was accused of stealing flip-flops worth IDR 30,000 (thirty thousand rupiah) belonging to Brigadier Ahmad Rusdi Harahap and Brigadier Simon in Palu, Central Sulawesi. This incident resulted in AAL's imprisonment after interacting with the National Police Headquarters. Many similar incidents in small villages have provoked empathy and support from the wider community (Lewerissa et al., 2023). This emphasizes the importance of implementing restorative justice (Afifah, 2024). Thus, the combination of a human rights perspective can provide a solid foundation for building a more humane and responsive justice system to the needs of society as a whole (Marshall, 2020).

The application of restorative justice in the Indonesian legal system has gone through significant developments in recent years. This concept is starting to be

integrated into various statutory regulations, such as the Juvenile Criminal Justice System Law and the Supreme Court Regulation concerning Guidelines for the Implementation of Restorative Justice, the Attorney General's Regulation concerning Termination of Prosecution Based on Restorative Justice, the National Police Regulation of the Republic of Indonesia concerning Handling Criminal Acts Based on Justice Restorative, and so on (Sihombing & Nuraeni, 2023). Its implementation includes various forms, including penal mediation, diversion in children's cases, and settlement of cases outside of court (Ningtias et al., 2020). This approach aims to achieve more justice comprehensive with attention interest perpetrators, victims, and society (Murhula & Tolla, 2021).

Despite progress, the implementation of restorative justice in Indonesia still faces several challenges. One significant issue is the lack of understanding and skills among law enforcement officers in applying this approach (Hasibuan et al., 2024a). In addition, there are still doubts in society about the effectiveness of restorative justice in dealing with serious crimes (Machmud et al., 2024). Continuous efforts are needed in terms of outreach, training and development of legal infrastructure to optimize the implementation of restorative justice (Hobson & Payne, 2022). It is also important to ensure that its implementation still takes into account applicable legal principles and human rights.

In recent years, Indonesia has seen a rise in the application of restorative justice in various criminal cases. According to a release by the Prosecutor's Office, 1,990 cases have been resolved using the restorative justice mechanism since its implementation in 2020 through Prosecutor's Regulation Number 15 of 2020 on Termination of Prosecution Based on Restorative Justice until May 2023 (MediaIndonesia.com, n.d.). A notable example is the resolution of petty theft cases in various areas, where perpetrators and victims are facilitated to reach a peaceful agreement without having to go through a formal judicial process (Aries, 2013). Other cases involve resolving conflicts between citizens, such as fights between teenagers or small-scale land disputes (Christha Auli, 2022) which were settled through mediation involving community leaders and law enforcement authorities (Sriwidodo, 2014; Lalu Ahmad, 2023).

The application of restorative justice is also evident in handling cases involving children as perpetrators of criminal acts. In many instances, diversion is employed as an alternative solution, where the child offender is brought together with the victim and their family to reach an agreement that aims to restore the situation (S. Putri et al., 2023). Additionally, several reviews and articles suggest that small-scale corruption cases could be resolved through a restorative approach, where the perpetrator returns state losses and issues a public apology as part of the recovery process (Adhi Sulantoro, 2021; Rida Ista Sitepu & Yusona Piadi, 2019). This approach is considered more effective in recovering losses and preventing stigmatization (Zahrulyani et al., 2024).

There are numerous important obstacles that Indonesia must overcome before implementing restorative justice. First, there is still resistance from some law enforcement officers who are used to the retribution approach (Hasibuan et al., 2024b). Second, There is a common misconception that restorative justice is too forgiving of offenders due to a lack of public awareness of the advantages and philosophy of the practice (Hobson et al., 2022; Sunggara, 2023). Third, limited human resources and adequate infrastructure to carry out the restorative justice process effectively (Silalahi et al., 2024). Fourth, Inconsistencies in practice can arise from the application of restorative justice in the absence of defined criteria and regulated procedures, particularly when it comes to children who are in legal conflict (Sudewo, 2021). Fifth, the difficulty of striking a balance in the restorative justice process between the interests of offenders, victims, and society (Taqiuddin & Risdiana, 2022).

Human Rights (HAM) are the basic rights inherent in every human being from birth, regardless of race, gender, religion or social status (Nawawi, 2023; United Nations, 2024). It is universal, inalienable and indivisible (Adamu, 2023; Sudirman et al., 2024). This concept includes fundamental rights such as the right to life, freedom, equality and dignity (May & Daly, 2020). It is accepted globally by a number of declarations and conventions, and it serves as the norm for protecting individuals from states or other parties abusing their power (Nanulaitta et al., 2021).

Human rights and restorative justice are strongly related and reinforce one another. Restoring the rights of victims, offenders, and the community is the main goal of the restorative justice approach, which strongly relates to human rights concepts like justice and dignity (Rikiansyah et al., 2024). Through dialogue and mediation processes, it offers all parties the chance to be heard and actively engage in resolving conflicts (Afifah, 2024), which is an embodiment of the right to justice and participation (Triyudiana & Neneng, 2024). In addition, restorative justice promotes offenders' rehabilitation and reintegration into society, which is consistent with their right to humane treatment and their freedom from torture and other cruel or degrading practices (Polavarapu, 2023).

Benefits of human rights integration into restorative justice include more thorough protection of the rights of victims, offenders, and society at large, as well as the promotion of more equitable and compassionate conflict resolution (Pali & Maglione, 2023). This approach can also increase community participation and empowerment in the judicial process (Flora, 2023). However, the challenges faced include potential conflicts between human rights principles and traditional practices in restorative justice as stated by Rifqi Sjarief Assegaf, *Director of Democracy, Justice, Governance and Regionalization* (Kemitraan, 2022), difficulties in balancing the interests of various parties, this was confirmed in research conducted by Marije van Barlingen in the Netherlands in 2000 which concerned *restorative mediation* (Syahrin, 2018), as well as paradigm changes among law enforcement officers (Nuroini, 2024). Furthermore,

in order to guarantee that the values of justice and legal certainty are not compromised in the process of integrating human rights into restorative justice, a robust legal framework is necessary (Sahbani, 2021).

Collocation in the context of this paper refers to the combination or synthesis of various concepts and theories to produce a more comprehensive understanding of a phenomenon (Sun & Park, 2023). When writing about Restorative Justice and Human Rights, the concept of collocation is highly relevant. It enables the author to merge the restorative justice perspective, which focuses on mending relationships and addressing harms, with human rights principles that emphasize the dignity and equality of individuals, and advocate for justice, peace, and reconciliation (Putra et al., 2023). This collocational approach allows research to produce a more holistic and in-depth analysis, enabling a better understanding of how restorative justice and human rights can complement and strengthen each other in the context of a more just and humane justice system.

In the Indonesian context, the implementation of Restorative Justice by considering Human Rights faces several significant legal and regulatory obstacles. First, the legal framework governing restorative justice implementation lacks clarity, leading to varied and inconsistent interpretations at the execution level. M. Fakri Vilano Putra's thesis research brought attention to this problem, concluding that "in Indonesia, the resolution of criminal acts through restorative justice is still hindered by limited information and unclear regulations" (Fakhri, 2024). Second, conflicts between restorative justice principles and existing positive law provisions often pose obstacles, as positive law typically emphasizes sanctions and punishment rather than reconciliation and the restoration of relationships (Hasibuan et al., 2024). Furthermore, there are worries that the restorative justice process, which largely focuses on bringing the parties together, may disregard individual rights in the context of human rights (Chandra, 2023). Overall, greater harmonization between Indonesia's numerous legal precepts and regulations is necessary for the collocation of restorative justice with human rights to be effective.

Research into the collocation of restorative justice with human rights within the Indonesian context is a crucial issue that blends contemporary legal methods with traditional values. Restorative justice presents an alternative approach to conflict resolution centered on healing and reconciliation, aligning with fundamental human rights principles. Merging restorative justice with human rights values holds the potential to enhance a more inclusive and equitable legal system, addressing the social and cultural challenges faced by Indonesian society today.

## METHOD

The article "Collocation of Restorative Justice with Human Rights in Indonesia" employs a normative approach coupled with prescriptive analysis derived from a study of relevant laws and court cases (Fatih, 2023). This method combines human rights with the restorative justice tenets. First, a restorative justice perspective which prioritizes mending societal ties between individuals will be used to study the statute. Second, in order to guarantee the defense of each person's fundamental rights within an inclusive legal framework, human rights principles will be incorporated. It is anticipated that this research will help bring the ideals of restorative justice and the concepts of universal human rights into harmony, resulting in the creation of an equitable and inclusive legal framework for a variety of groups.

## RESULTS AND DISCUSSION

### Understanding Collocation and the Relationship between Restorative Justice and Human Rights

The concept of collocation was first introduced by Firth, who defined it as "the interrelationship of grammatical categories within syntactic structures." Collocations involve the specific grammatical patterns that certain words or types of words require (Bui, 2021). This concept received wider attention after research revealed that lexical elements (words) always acquire meaning and convey ideas through combination with other words.

According to Palmer, the concept of collocation refers to a combination of words that should be understood as a unified whole rather than individually (H. Al-Shammari, 2022). Sinclair defines it as a combination of two lexical elements that adhere to natural language usage patterns. Generally, collocations are seen as word pairings that occur with statistical significance (Copp et al., 2021). Crystal defines it as "the common coexistence of certain lexical units" (Khaled, 2020). In a more specific sense, the concept of collocation involves two aspects: lexical and grammatical, both of which influence qualitative and quantitative standards in research (Rasool et al., 2023).

Understanding how grammatical structures and linguistic patterns can reflect and influence understanding in understanding how restorative justice and human rights are discussed and implemented in the context of law enforcement, particularly in Indonesia, is necessary in order to connect the concept of collocation with these two concepts. Collocations can be used to examine how particular linguistic constructs frequently mention human rights and restorative justice together. For instance, "restorative justice" is frequently the subject of a sentence that ends with a verb that

indicates strengthening or support for "human rights," such as when the Deputy Minister of Law and Human Rights, Prof. Edward Omar Sharif Hiariej, is addressing serious human rights violations from the past (antaranews.com, 2021) .

Examining how Restorative Justice and Human Rights are used together in Indonesia allows one to see how grammatical context affects how these ideas are interpreted in a variety of texts, including scholarly writing, policy papers, and legal documents. Common grammatical constructs employed in talks of restorative justice within the human rights framework can be identified by this analysis. For example, according to Edward Omar Sharif Hiariej, Deputy Minister of Law and Human Rights (Wamenkumham), "the application of the principles of restorative justice can make criminal law more humane" (antaranews.com, 2022). This can, of course, help understand how these two concepts are interrelated in law enforcement thinking and practice.

### **Restorative Justice in the Context of Human Rights**

Worldwide, restorative justice is practiced, and a wealth of literature, including case studies, practice guides, evaluation studies, descriptive reports, empirical articles, and theoretical works, has been written about it. But as Ward and Durrant point out, there are still few complete practice frameworks in the criminal justice sector that incorporate norms, values, treatment theories, explanatory theories, and practical guidelines and restorative justice is no different. (Ward & Durrant, 2021).

There are many ways to define restorative justice, but Tony Marshall's definition "Restorative Justice is a process where the parties involved in an offense come together to address the impact of the offense and its future implications"—is one of the most well-known (Kirkwood , 2022). This explanation focuses on the process and identifies key elements that are necessary to comprehend restorative justice. People who were impacted by the violation or who have an interest in the outcome are directly involved in restorative justice. This covers the offender, those who are directly impacted by the offense, and other people, such as those who are impacted indirectly. For instance, the victim's or offender's family, those who are close to or care about the individuals involved, and perhaps even members of the community who are related to those involved (Menon, 2020).

Restorative justice is an approach that places recovery and reconciliation as the main focus in resolving legal cases (Bakhtiar et al., 2023). Basic human rights principles relevant to restorative justice include the protection of human dignity and individual fundamental rights (Telaumbanua & Citra, 2024) . Human dignity includes the recognition that every individual has intrinsic value that must be respected, even when they commit unlawful acts (Junaide et al., 2023; Nur et al., 2023). In this situation,

restorative justice allows offenders to confront the consequences of their conduct while maintaining the protection of their human rights (Nampewo et al., 2022).

In addition, the principle of non-discrimination in human rights is also relevant in the context of restorative justice (Grau et al., 2023). This principle ensures that all individuals, regardless of their social, economic or cultural background, have the same right to justice and recovery (Matviichuk et al., 2022). By adopting this approach, the legal system can address structural injustices that frequently impact traditional legal processes. Restorative justice emphasizes not just punishment but also social transformation, fostering collective healing and encouraging inclusion and respect for diversity (Lodi et al., 2022).

Several court rulings in agrarian conflict cases, particularly those involving indigenous communities, have sought to integrate human rights principles with a restorative justice approach to resolve conflicts inclusively and with respect for diversity. This approach is supported by various regulations such as Law No. 39 of 1999 on Human Rights, Law No. 7 of 2012 on the Handling of Social Conflicts, and Constitutional Court Decision No. 35/PUU-X/2012 on Customary Forests. This integration aims to ensure that the rights of indigenous communities to land and natural resources are respected while seeking solutions that restore relationships between conflicting parties. By applying restorative justice principles, the courts strive to create a dialogue space that allows all parties, including indigenous communities, the government, and private entities, to participate in the conflict resolution process. This not only promotes recognition of traditional rights and local wisdom but also facilitates sustainable and harmonious development by taking into account social, cultural, and environmental aspects.

Furthermore, the principle of accountability in human rights emphasizes the importance of proportional and transparent accountability for the actions of criminals (Nowak, 2021). In the context of restorative justice, this means ensuring that the conflict resolution process involves a clear understanding of the consequences of the perpetrator's actions as well as a commitment to repairing the harm caused to the victim and society as a whole. By building mechanisms that incorporate these human rights principles, restorative justice can become an effective tool in building a more just and empathetic society, where individual rehabilitation and social reconciliation are the main goals in responding to violations of the law (Flora, 2023).

Restorative justice is an approach in the legal system that focuses on restoring losses and reconciliation between criminals, victims and the community, compared to emphasizing punishment alone (Cintya & Firmansyah, 2023). In the context of human rights, this approach prompts essential questions about safeguarding individual rights. One of the advantages of restorative justice is that it pays attention to victims' needs to obtain comprehensive justice, encompassing not just material compensation but also emotional and psychological healing. Nevertheless, from human rights viewpoint,



restorative justice must ensure that the process upholds core principles, including the right to justice, non-discrimination, and protection from cruel, inhuman, or degrading treatment (Zufar, 2023).

Furthermore, assessments of restorative justice from the standpoint of human rights emphasize the significance of voluntary participation and open communication throughout the entire procedure (Shapland et al., 2022). This avoids the potential for abuse of power or pressure on vulnerable parties, which can often occur in authoritarian or less transparent legal systems (Syamsidar et al., 2023). Furthermore, another important aspect is that restorative justice must take into account procedural justice, namely that all parties involved have equal access to the legal process, the right to be heard, and the right to influence the outcome (Sofyan Nugroho, 2024). In this context, human rights emphasize the need for a fair and open system to ensure that restorative justice not only provides a conciliatory solution, but also complies with the basic principles of universal justice (Setiaji & Cahyaningtyas, 2023).

Delivering justice for victims is the goal of restorative justice, which is especially important in situations involving flagrant violations of human rights. Restorative justice, a crucial element of reconstructive justice, allows offenders to demonstrate their readiness to make apologies and permits victims to accept and gain from that reparation. In doing so, it symbolizes peace. The main goal of the reform period's reforms is to establish a more compassionate legal system that places an emphasis on the welfare of the individual by recognizing and defending freedoms and human rights. According to international law, states have an obligation to provide proper remedy when their responsibilities are violated, which is the basis for restorative justice. Therefore, even though restorative justice isn't specifically included in conventions, it nonetheless plays a vital role in their implementation. It is necessary.

### **Restorative Justice Approach in Resolving Human Rights Violations in Indonesia**

An adaptable and informal legal system can offer a forum where offenders can openly voice their opinions and accept accountability for their deeds (Walgrave, 1998). According to Radzik, because restorative justice views offenders as morally responsible individuals, it provides ethical advantages over traditional criminal justice systems: "By acknowledging that offenders have moral responsibilities, we acknowledge their status as engaged people rather than as 'things' or objects (Johnstone & Ness, 2007). It is crucial to treat them with the decency that all people are entitled to." He underlined that respect and dignity are fundamental human rights and that restorative justice, as a concept, has the capacity to address these rights. Braithwaite concurs, saying that "what restores dignity is the space that gives the offender the opportunity to repair wrongdoing." The decision to make amends for

wrongdoing is what best upholds the continuous dedication to upholding the truth, which aids in the healing process (Braithwaite, 1999).

According to Braithwaite and Radzik's remarks, restorative justice procedures permit offenders to maintain their own autonomy and gain societal acceptance. These two human rights objects highlight how crucial it is to defend one's right to autonomy, choice, and self-determination. Initiatives aimed at promoting restorative justice must only involve voluntary participation from offenders in order to preserve their autonomy and really uphold their rights (Gang et al., 2023). As envisioned by Braithwaite and Radzik, voluntary involvement would likely promote criminals' personal freedom and social recognition by creating a forum in which they may freely address the reasons behind and ramifications of their unlawful behavior.

By forcing criminals to participate in restorative procedures, restorative justice has the potential to undermine the agency of offenders and treat them with respect and dignity as moral agents. According to the author, this conflict results from a failure to explicitly recognize or resolve the conflicting interests of victims, offenders, and communities. Finding solutions that satisfy all parties can be difficult when dealing with the varied interests involved in restorative practices. The possibility exists that the victim's and the community's demands could override the offender's will, turning the decision to comply with the ruling or go back to court into a subtly coercive act (Ward & Langlands, 2008). These criticisms highlight the potential prejudice that restorative procedures may have against the rights of victims and the welfare of the community. The author makes the case that it's critical to recognize and resolve any potential conflicts between restorative techniques and human rights, particularly when there are notable differences in viewpoints between the people involved.

Significant advancements in restorative justice have occurred in Indonesia in recent years. The government and legal experts are beginning to view this strategy as a competitive substitute inside the criminal justice system. Restorative justice is seen as a viable answer to a number of issues facing the traditional legal system, such as the acute overcrowding in prisons, which reached 89.35% in March 2023, per data (Triana & Erowati, 2022b; Widi, 2023), stigmatization towards perpetrators of criminal acts (Almy, 2020), and lack of recovery for victims (Nabila et al., 2024). In Indonesia, the use of restorative justice started with the juvenile justice system and was progressively extended to other categories of criminal offenses. The use of restorative justice in Indonesia has proven effective in settling disputes and restoring social balance, despite the fact that it still confronts many obstacles.

Numerous important legislation and regulations have strengthened the legal foundation for the application of restorative justice in Indonesia. With its diversionary system for cases involving minors, Law Number 11 of 2012 on the Juvenile Criminal Justice System represents a significant step in restorative justice.

Furthermore, the Guidelines for Implementing Diversion in the Juvenile Criminal Justice System, outlined in Supreme Court Regulation Number 4 of 2014, provide judges with technical assistance in properly implementing diversion. Prosecutor's Regulation Number 15 of 2020 on Termination of Prosecution Based on Restorative Justice, which broadens the use of restorative justice in ordinary criminal cases, was published in 2020, marking the most recent advancement. This legal framework serves as the foundation for the expansion of restorative justice practices in Indonesia and gives law enforcement officers legitimacy and direction when applying a restorative justice strategy (Syaputra, 2021).

The legal framework stated by the author is currently effective for resolving minor legal violations but falls short when applied to gross human rights violations (Nasrullah et al., 2023). Consequently, there are initiatives to address these severe cases using *restorative justice mechanisms*. For instance, Deputy Minister of Law and Human Rights RI, Edward Omar Sharif Hiariej, has emphasized the government's commitment to resolving past gross human rights violations through a restorative justice approach (antaranews.com, 2021).

The population at large, along with the relatives of the victims, has great expectations for the resolution of the numerous incidents of egregious human rights breaches that have taken place in Indonesia (mediaindonesia.com, 2021). Several cases have been investigated by the Indonesian National Human Rights Commission and it was stated that there were allegations of gross human rights violations, including:

**Table 1.** Incidents of Gross Human Rights Violations Awaiting Legal Certainty (Chrisbiantoro, 2023)

No	Incident	First Submitted to JA	Finally Submitted back to JA
1	1965 – 1966	July 23, 2012	December 27, 2018
2	Mysterious Shooting Incidents 1982-1985	July 23, 2012	December 27, 2018
3	Talangsari 1989	September 16, 2008	December 27, 2018
4	Trisakti, Semanggi I and II (1998-1999)	April 29, 2002	December 27, 2018
5	May 1998 riots	06 January 2005	December 27, 2018
6	Enforced Disappearances 1997-1998	November 21, 2006	December 27, 2018

7	Wasior (2001) Wamena 2003	03 September 2004	December 27, 2018
8	Murder of the Witch Doctor 1998	September 12, 2018	December 27, 2018
9	KAA intersection 1999	June 13, 2016	December 27, 2018
10	Jambu Keupok 2003	March 14, 2016	December 21, 2018
11	Guedong House 1989 - 1998	August 28, 2018	December 27, 2018
12	Paniai	February 2020	-

Source: *www.komnasham.co.id*

At least three lawsuits were registered following the passage of Law No. 26 of 2000 on Human Rights Courts, one of which occurred within President Joko Widodo's administration. This case, which took place in Paniai on December 7-8, 2014, is suspected of being a flagrant violation of human rights. By the end of 2021, the Attorney General of the Republic of Indonesia, ST Burhanuddin, gave a statement reviving optimism for the resolution of egregious human rights crimes by promising to carry out a comprehensive inquiry into the Komnas HAM case (News.com, 2021).

There are several challenges in the way of resolving cases of grave human rights violations in Indonesia through the Truth and Reconciliation Commission as part of restorative justice initiatives. The Constitutional Court's decision to completely annul Law Number 27 of 2004 on the Truth and Reconciliation Commission suggests that the government and the DPR are not serious about resolving and implementing the legal basis for the TRC's formation (Abdurrahman & Susanto, 2016). The Truth and Justice Advocacy Team requested judicial review of several articles in the Truth and Reconciliation Law (UUKKR) (Article 1 paragraph 9, Article 27, and Article 44), which they believed to be in conflict with the 1945 Constitution. This request served as the basis for the Constitutional Court's decision (Rasyid et al., 2023). However, in its decision, the Constitutional Court actually considered that the material uncertainties of the TRC Law were contradictory and did not provide adequate legal certainty, making it impossible to reveal the truth and carry out reconciliation (Sofyan & Syatar, 2020). This indicates that, despite the TRC Law's 10-year constitutional court annulment, there hasn't been any notable advancement in the current state of resolving human rights abuses. The TRC Bill, in actuality, was just added to the national legislative programs (Prolegnas) for the years 2007–2010, 2010–2014, and 2015–2019 without ever undergoing a meaningful discussion (Abdurrahman & Susanto, 2016).

There are currently several barriers in the way of attempts to use external court systems to remedy grave human rights breaches (E. A. Putri et al., 2023), leading to a reliance on transitional justice primarily through court proceedings or restorative justice. However, human rights courts have encountered substantive weaknesses that impede holding the most responsible perpetrators accountable, resulting in a systematic increase in impunity within the national legal system. According to a research report from the *ad hoc* human rights court trials led by Professor David Cohen, the human rights court was created and designed in a way that ensured its failure to effectively prosecute gross human rights crimes (Sofyan & Syatar, 2020).

The restorative justice approach in handling human rights violations is referred to as an external court mechanism that prioritizes the disclosure of truth, requests for forgiveness from the perpetrator, and recovery for the victim (Wantu, 2023). Unlike the retributive approach outside the criminal process, this approach, as noted by Muladi, shifts the concept of justice in criminal case resolution from punishment to one that emphasizes restoration and community-based justice, with a greater focus on the healing process for crime victims (Nashir et al., 2024).

The idea of restorative justice can be used in situations involving egregious human rights violations, such as war crimes, according to a number of earlier studies compiled by Juliet S. Sorensen under the title "restorative justice for victims of war crime" and by Thomas M. Antkowiak under the title "An Emerging Mandate for International Courts: Victim-Centered Remedies and Restorative Justice." But the main goal of restorative justice is to help victims heal as they hold the state accountable for these flagrant abuses of their human rights (Eviani et al., 2024; Sefriani, 2013).

Achmad Ali explains that types of restorative justice used to address gross human rights violations demonstrate that upholding human rights in Indonesia does not necessarily rely solely on retributive justice, which focuses on punishing perpetrators (Ali, 2013). Human rights claims have been successfully settled in several nations by prioritizing reconciliation through restorative justice as opposed to going through the legal system (Yassine et al., 2024). A restorative justice approach addresses not only the perpetrator but also focuses on the interests and needs of the victim. Achmad Ali further stated that restorative justice creates opportunities for victims and offenders to meet, acknowledge the truth, take steps to repair harm, and reintegrate both victims and offenders as contributing members of society (Ali, 2013). This approach allows all parties to actively participate in the process (Sofyan & Syatar, 2020).

Despite being regarded as a feature of living law in Indonesia, restorative justice did not first surface in the country's positive legislation until about 2020, especially after the Prosecutor and Police Regulations on restorative justice were released. Restorative justice inherently emphasizes an informal process where it is hoped that

there will be discussion between the victim and the offender regarding a restorative justice resolution that seeks to proportionately restore the victim's rights. This is why there is no orientation towards the implementation of restorative justice in the Criminal Procedure Code (KUHAP). In this context, the existence of Prosecutor and Police Regulations on restorative justice essentially affirms that restorative justice has become one of the criminal resolution orientations recognized in Indonesia's positive law, even though there is no explicit mention of restorative justice in KUHAP.

The author feels that there are three shortcomings in the restorative justice regulations that have not been addressed at the legislative level and still exist as sectoral institutional regulations, despite the fact that this is a positive step that has made room for the implementation of restorative justice. Among these flaws are: First off, the lack of restorative justice provisions in KUHAP is a serious problem since, as a procedural legislation inside the criminal justice system, the inclusion of restorative justice practices would strengthen the law's standing within Indonesia's criminal justice system. Second, as each institution is free to interpret and apply restorative justice in accordance with its own needs and preferences, laws pertaining to the practice that are limited to sectoral institutional regulations may not give the public legal clarity. Third, efforts to create substantive criminal law by putting the Draft Criminal Code (RUU KUHP) into law are just as vital as regulating restorative justice procedures in KUHAP (Matrutty & Saimima, 2023). So far, national criminal law reform has only focused on the enactment of RUU KUHP, whereas comprehensive criminal law reform should also include revisions to formal criminal law, in this case, the need to revise KUHAP by incorporating restorative justice practices.

Considering the three aforementioned weaknesses, there is a need to include restorative justice provisions in KUHAP (Marikar, 2023). Besides being part of the global legal development, the concept of restorative justice can also revive the noble values of the nation that have grown in restorative justice practices within the community, in accordance with locally applicable laws. Moreover, this concept can substantially reduce recidivism among some offenders, alleviate post-traumatic stress symptoms in crime victims, and lower related costs. Both victims and offenders would also feel more satisfied with the justice process. The implementation of restorative justice in KUHAP not only provides legitimacy but also fosters a spirit of reintegration within the legal process. This is because both victims and criminal offenders will receive the support they need to reintegrate into their communities. This support can come from mental health professionals, religious leaders, social workers, and/or peers, who form networks to reduce the negative impact of being a victim or help offenders change their behavior.

In conclusion, the restorative justice approach to addressing human rights violations in Indonesia demonstrates that a flexible and informal justice system allows perpetrators to express their perspectives and take responsibility for their actions. This concept emphasizes the importance of recognizing perpetrators as individuals with moral accountability rather than mere objects of punishment, ensuring they are treated with the respect they deserve. Restorative justice not only addresses the interests of the perpetrator but also prioritizes the needs and interests of the victim. It emphasizes efforts to reintegrate all parties as contributing members of society through reconciliation and mutual healing. However, it is crucial to ensure that participation in the restorative process is voluntary to protect the autonomy and social recognition of the perpetrator. This approach ensures that the process truly respects human rights and the principles of universal justice.

## CONCLUSION

This paper concludes that understanding the relationship between human rights and restorative justice in Indonesia requires an understanding of collocation. A linguistic pattern known as collocation illustrates how these two concepts frequently occur together in sentence structure. With an emphasis on healing and reconciliation, restorative justice seeks to uphold human rights via inclusive, individual-dignity-preserving procedures. While there are still obstacles to overcome in its execution, particularly in cases of egregious human rights breaches, this strategy provides an option that advances more comprehensive and compassionate justice in Indonesia. Human rights principles are being integrated into restorative justice practices in Indonesia, despite obstacles like misunderstanding and opposition. These principles serve as a strong basis for a more equitable and responsive justice system.

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