



## The Implementation of Restorative Justice In Criminal Proceedings At The Cirebon District Court

Muslikah <sup>1</sup>, Alip Rahman <sup>2</sup>

<sup>1</sup> Faculty of Law, Swadaya Gunung Jati University, Cirebon, West Java, Indonesia. Email alip.rahman@ugj.ac.id

<sup>2</sup> Faculty of Law, Swadaya Gunung Jati University, Cirebon, West Java, Indonesia. Email muslikahmillenia@gmail.com

Corresponding Author. Email muslikahmillenia@gmail.com

### Abstract

**Background.** Specific criminal offenses may be addressed within a restorative justice framework. Judges utilize rules for adjudicating criminal cases rooted in restorative justice, focusing on the restitution of the victim's losses and/or the reconciliation of relationships among the perpetrator, the victim, and the community through their decisions.

**Methods.** The approaches used in this research are the philosophical-juridical and normative-juridical approaches, employing a positivist paradigm—that is, using an objective, data-driven scientific approach to seek accurate truth. The philosophical-juridical approach is a legal research method that examines the enforcement of law from a philosophical perspective, analyzing the interplay between criminal law and restorative mechanisms.

**Conclusion.** The Restorative Justice process in criminal court proceedings is governed by Law No. 1 of 2023 in conjunction with Law No. 20 of 2025, and is further delineated in Government Regulation, namely PERMA No. 1 of 2024. Judges adjudicate criminal cases utilizing Restorative Justice, adhering to principles of situational restoration, reinforcement of rights, consideration of the victim's needs and interests, defendant accountability, criminal punishment as a last resort, consensuality, transparency, and accountability. The implementation of Restorative Justice ideas is not designed to abolish criminal culpability.

**Implementation.** The application of Restorative Justice practices in various rulings at the Cirebon District Court aligns with PERMA No. 1 of 2024 regarding Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, specifically in Chapter III: Procedures for Adjudicating Criminal Cases Based on Restorative Justice.

**Keywords:** Criminal offense, Restorative Justice, Sentencing



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### INTRODUCTION

Perma No. 1 of 2024 establishes a framework for resolving cases outside the criminal justice system by reconciling the interests of victim recovery and defendant accountability, while considering the social circumstances of all parties. This serves as an alternative to formal

court proceedings, contingent upon the conditions outlined in Perma No. 1 of 2024 Regarding Guidelines for Adjudicating Criminal Cases Based on Restorative Justice and Article 5 of Law No. 11 of 2012 on the juvenile criminal justice system. This is particularly applicable in cases involving the elderly and children, where a more favorable resolution can be attained through a restorative justice approach—specifically, deliberation among all parties aimed at reconciliation and providing redress to the victim. Implementing restorative justice will transition the focus from retribution to restoration. Employing a restorative justice technique to resolve disputes fosters security and tranquility for all involved; additionally, it diminishes the jail population, thereby lightening the state's load. The methods of restorative justice in court differ from those at the preliminary inquiry and investigation stages, as well as from those at the prosecution stage.

The Indonesian judicial system is predominantly characterized by a retributive paradigm, emphasizing punishment for offenders over the rehabilitation of victims, which does not mend societal divisions. As a result, the comprehensive application of restorative justice is challenging, and the lack of thorough provisions in the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP) results in inconsistencies in its implementation. Limitations on case categories hinder the full implementation of restorative justice, resulting in criminal punishment being the predominant approach. When disagreements do not achieve resolution, they default to the formal judicial process, resulting in restorative justice encountering opposition from the entrenched legal system. The implementation of restorative justice, focused on victim healing, is at odds with the tenets of traditional criminal law, which prioritize punishment. The deficiency in knowledge and comprehension among law enforcement officials and the public concerning restorative justice and its advantages results in a preference for national criminal law, perceiving restorative justice merely as a constrained alternative, as its regulations have not been fully incorporated into the Criminal Procedure Code (KUHAP) or the Criminal Code (KUHP). The previous Criminal Code did not explicitly regulate restorative justice; however, its principles were incorporated in the Child Criminal Justice Act (SPPA) concerning the Juvenile Criminal Justice System, as well as in the Regulation of the Attorney General's Office of the Republic of Indonesia No. 15 of 2020 and the Regulation of the National Police of the Republic of Indonesia No. 8 of 2021. This was followed by the enactment of Law No. 1 of 2023, which presents a more comprehensive Criminal Code that establishes sentencing guidelines while considering the victim's forgiveness. The implementation of the new Criminal Procedure Code (KUHAP) and Law No.

20 of 2025, Article 80, which delineates the mechanisms of restorative justice with greater clarity, signifies a significant transformation in Indonesia's legal system.

In light of the aforementioned context, it is crucial to examine this research to ascertain the degree of implementation of Perma No. 1 of 2024 regarding Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, the application of restorative justice in various rulings of the Cirebon District Court (Negeri Cirebon), and the extent to which restorative justice has been realized in practice. The author intends to produce an academic paper titled “The Implementation of Restorative Justice in Criminal Proceedings: A Case Study at the Cirebon District Court.”

This study presents a unique addition by analyzing the application of restorative justice throughout the trial phase at the Cirebon District Court, specifically through judicial considerations in accordance with Supreme Court Regulation No. 1 of 2024. This study emphasizes the application of restorative justice in court proceedings, in contrast to prior studies that mostly examine it during the investigation or prosecution stages, where criminal culpability persists but punishment may be mitigated by restorative factors.

Although restorative justice has been widely discussed in Indonesian criminal justice reform, most existing studies focus on its application at the investigation and prosecution stages. Limited attention has been paid to how judges implement restorative justice during court proceedings, particularly after the enactment of PERMA No. 1 of 2024. This creates a research gap concerning the practical role of judicial discretion in incorporating restorative justice principles into criminal judgments. Therefore, this study addresses that gap by examining the implementation of restorative justice in criminal proceedings at the Cirebon District Court.

## **METHODS**

The approaches used in this research are the philosophical-juridical and normative-juridical approaches, employing a positivist paradigm—that is, using an objective, data-driven scientific approach to seek accurate truth. The philosophical-juridical approach is a legal research method that examines the enforcement of law from a philosophical perspective, analyzing the interplay between criminal law and restorative mechanisms. Consequently, this study will explore how the law operates in theoretical terms and in practice. This study aims to understand the mechanisms of the restorative justice process in court proceedings, and it is hoped that this research will enhance public knowledge and education regarding restorative justice mechanisms, particularly in relation to sentence reduction. Data collection techniques

included literature review and interviews. Data analysis was conducted using a descriptive-analytical approach, involving the legal materials collected—including primary legal sources, legislation, judicial decisions, and secondary legal materials obtained from research related to the role of the values of *legal certainty* and *substantive justice* in restorative justice in court, which are discussed from normative, realistic, and holistic perspectives, presented in a systematic and structured manner oriented towards descriptive-analytical writing.

## **DISCUSSION**

### **The Handling of Criminal Offenses from a Restorative Justice Perspective at the Cirebon District Court**

Eva Achjani Zulfa says that restorative justice is a conceptual framework that addresses the evolution of the criminal justice system by highlighting the necessity of engaging the community and victims who perceive themselves as disenfranchised within its processes. Moreover, Bagir Manan asserts that restorative justice entails reforming the prison system to enhance equity among offenders, victims, and society. Emilia Susanti, *Criminal Mediation as an Alternative to the Resolution of Criminal Cases Based on Local Wisdom*, Pustaka Ali Imron, Bandar Lampung, 2021, pp. 22–23.

The Restorative Justice mechanism begins at the Investigation and Inquiry stages and continues through the Prosecution stage; if it cannot be applied during these phases, it is implemented at the trial stage via a Court Judgment and its enforcement. Perma No. 1 of 2024 delineates the guidelines for adjudicating criminal cases in accordance with restorative justice principles.

A judge shall apply the guidelines for adjudicating criminal cases based on Restorative Justice if one of the following criminal offenses is committed:

1. The Offense Committed Is A Minor Offense, Or The Victim's Loss Amounts To No More Than Rp2,500,000.00 (Two Million Five Hundred Thousand Rupiah) Or No More Than The Local Provincial Minimum Wage;
2. The Criminal Offense Is A Complaint-Based Offense;
3. The Criminal Offense Carries A Maximum Sentence Of 5 (Five) Years' Imprisonment In One Of The Charges, Including Criminal Offenses Under The Qanun;
4. A Criminal Offense Where The Perpetrator Is A Child And Diversion Has Failed;
5. A Traffic offense constituting a criminal offense.

The judge shall lack the authority to implement the rules for adjudicating criminal cases based on Restorative Justice under the following conditions:

1. The victim or the defendant declines to engage in a settlement;
2. A power disparity exists; or
3. The defendant has committed a similar criminal conduct within three years of completing a final and binding court sentence.

### **Mechanism of the Restorative Justice Process**

Guidelines for Adjudicating Criminal Cases Based on Restorative Justice in Offences Resulting in Victims, namely, on the first day of the hearing, after the Public Prosecutor has read out the examination record, the indictment, or the charge sheet, and the Defendant has stated that they understand the examination record, the indictment, or the contents of the Public Prosecutor's charge, the Judge shall give the Defendant the opportunity to admit or deny the acts charged against them. (Perma No. 1 of 2024, Article 7). Where the Defendant admits to all the acts charged as referred to in paragraph (1) and does not file a notice of objection, the trial proceedings may proceed directly in accordance with the mechanisms of Restorative Justice. However, in the event that the Defendant does not admit to the alleged acts, admits only to part of them, and/or lodges an objection to the charges brought, the examination of the case shall proceed in accordance with the rules of criminal procedure.

Subsequently, the Judge asks the Public Prosecutor regarding the Victim's presence in court. If the Victim is present in court, the Judge begins the examination of the Victim's testimony by first asking the Victim about the chronology of the criminal offence suffered by the Victim, the losses incurred and/or the Victim's needs arising from the criminal offence, whether or not a settlement had been reached between the Defendant and the Victim prior to the hearing, and the implementation of any agreement or arrangement arising from such a settlement, where a settlement had been reached. If the Victim is not present at the hearing, the Judge shall adjourn the hearing for a maximum of 7 (seven) days and order the Public Prosecutor to bring the Victim and other evidence to the next hearing. In the event of the victim's death, the victim's interests in the trial shall be represented by the victim's heirs. (Perma No. 1 of 2024, Article 8). In the event the victim states in court that a settlement has taken place prior to the trial, the judge shall have the authority to examine the agreement made between the defendant and the victim. Where a settlement has been reached between the Defendant and the Victim or their heirs prior to the hearing and the entire agreement has been

implemented, the Judge may take this into account in the judgment and proceed with the examination. (Perma No. 1 of 2024, Article 9). Where the Victim states that a settlement has been reached between the Defendant and the Victim prior to the trial but part or all of the agreement has not been fulfilled by the Defendant, the Judge shall ask the Defendant the reason for the failure to fulfil the agreement. Where the Defendant states that they are unable to fulfil the agreement, the Judge shall ask the Victim whether they are willing to enter into a new agreement that the Defendant is able to fulfil. Where the Victim is willing to enter into a new agreement with the Defendant, the Judge shall endeavour to facilitate the conclusion of a new agreement to which both the Defendant and the Victim consent. (Perma No. 1 of 2024, Article 10). Where the Defendant or the Victim has a physical, intellectual, mental or sensory disability but, based on expert testimony, is legally responsible, they may be accompanied by a family member or a Disability Support Worker at the request of the Defendant, the Victim or their family. (Supreme Court Regulation No. 1 of 2024, Article 11). Where a new agreement is reached, such agreement shall be taken into account in the Judge's decision.

The judge shall ensure, based on information from both parties, that the conciliation efforts under this Supreme Court Regulation are achieved without any error, coercion, or fraud on the part of either party. In the case of a complaint-based offence, the agreement may involve the Defendant undertaking or refraining from undertaking a certain act, and the Victim withdrawing their complaint provided this is done within the timeframe prescribed by law. The agreement to withdraw the complaint, as formulated in the legally binding settlement agreement, is deemed to have been fulfilled upon the agreement being signed in the presence of the judge, thereby empowering the judge to declare the prosecution dismissed or inadmissible. Where the victim states that no settlement has yet been reached between the defendant and the victim, the judge shall advise the defendant and the victim to enter into or make a settlement agreement. If the defendant and the victim are willing to make a settlement agreement, the Judge shall exercise his authority as referred to in Article 12. The Judge, by order, shall have the authority to instruct the Public Prosecutor to summon Other Relevant Parties to the hearing to give evidence. The provisions of Articles 7 to 14 shall be implemented during the examination of the case, at the latest before the criminal charges are brought. The examination referred to in Articles 7 to 14 must take into account the period of the Defendant's detention and the timeframe for the resolution of the criminal case. (Perma No. 1 of 2024, Article 17).

## **The Implementation of Restorative Justice in Several Judgments at the Cirebon District Court**

The judge conducted the hearing conventionally; following the Public Prosecutor's recitation of the allegations and the defendant's unqualified admission, the hearing advanced promptly, including restorative justice techniques. In contrast to the resolution of cases through a restorative justice approach during the investigation and prosecution stages, which necessitates a prior application from either the perpetrator or the victim, the trial stage employing this restorative justice mechanism does not require an application from either party. The judge has already reviewed cases eligible for resolution via a restorative justice approach, contingent upon specific conditions delineated in Perma No. 1 of 2024. Upon the initial receipt of the case referral from the Public Prosecutor within the SIPP (Case Tracking Information System), the judge will designate a particular option indicating the feasibility of resolving the case through restorative justice.

Subsequently, during the trial, the judge asks the victim about the criminal act, the losses suffered by the victim and whether a settlement has been reached prior to the trial; if a settlement has been reached between the defendant and the victim, the restorative justice mechanism in the trial has been achieved, in return for which the judge will impose a more lenient sentence in accordance with Supreme Court Regulation No. 1 of 2024 and the judge will include the provisions of this Supreme Court Regulation in their judgment. However, at this trial stage, the application of restorative justice is not intended to eliminate criminal liability; this differs from the resolution of cases using a restorative justice approach carried out at the investigation stage, where the perpetrator may be released through a settlement and the case is not proceeded to the trial stage.

In the ruling of Case No. 75/Pid.Sus/2025/PN Cbn, the Restorative Justice Mechanism is incorporated into the judge's deliberations, as articulated in the judgment's considerations: On Monday, 4 August 2025, Restorative Justice was implemented by the Panel of Judges in accordance with Supreme Court Regulation (PERMA) No. 1 of 2024, indicating that Restorative Justice serves as a framework for judges in adjudicating criminal cases within the criminal justice system, emphasizing rehabilitation and the restoration of relationships harmed by criminal acts. The victim in this case is an individual who has misused narcotics for personal consumption and is neither a dealer nor a trafficker. The objective is to enhance and rehabilitate the victim's situation, specifically addressing the repercussions of personal drug abuse. This aims to mend the fractured relationship between the Defendant and the Community, as well as

with his Family, while preventing further substance misuse through the support of Family, Community, Law Enforcement, and Rehabilitation Institutions, thereby enabling the Defendant to lead a conventional life.

Given that the Defendant has not objected to the Public Prosecutor’s indictment, and the penalty is under five years as stipulated in Article 6(1)(b) of Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2024 regarding Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, the Panel of Judges examined this case in accordance with Article 7(2) of the same regulation. In the Judgment of Case No. 66/Pid.Sus/2025/PN Cbn, the Restorative Justice Mechanism is incorporated into the Judges’ deliberations as articulated in the judgment’s rationale. Given that the Defendant did not contest the Public Prosecutor’s indictment and the penalty is less than five years, as stipulated in Article 6(1)(b) of the Supreme Court of the Republic of Indonesia Regulation No. 1 of 2024 regarding Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, the Panel of Judges subsequently examined this case in accordance with Article 7(2) of the same regulation.

Aspects	Academic Description
<b>State of the Art</b>	A recent study on <i>restorative justice</i> in Indonesia's criminal justice system emphasizes a paradigm shift from retributive punishment to victim recovery, perpetrator accountability, and social reconciliation. This article places <b>PERMA No. 1 of 2024</b> as an important instrument in the guideline for judges to adjudicate criminal cases in accordance with restorative justice at the court level.
<b>Research Gap</b>	Most restorative justice studies discuss its application at the investigation and prosecution stages. There is still limited research that specifically analyzes the implementation of restorative justice at the trial stage, especially how judges incorporate the mechanism into their decision-making in the District Court.
<b>Novelty</b>	The novelty of this article lies in the analysis of the implementation of <b>PERMA No. 1 of 2024</b> in the practice of criminal verdicts at <b>the Cirebon District Court</b> , especially in cases No. 75/Pid.Sus/2025/PN Cbn and No. 66/Pid.Sus/2025/PN Cbn. This article shows that restorative justice at the trial stage does not remove criminal liability but is the basis for the judge's consideration of lighter sentences.

## CONCLUSION

The process of applying restorative justice mechanisms at the Cirebon District Court is essentially in accordance with Supreme Court Regulation No. 1 of 2024, specifically Chapter III on Procedures for Adjudicating Criminal Cases Based on Restorative Justice, Articles

7 to 20, and its application does not conflict with the theory of restorative justice.

In the Judges' Judgments at the Cirebon District Court, the trial proceedings using the Restorative Justice Mechanism are included in the Judges' considerations and also cite the provisions of Perma No. 1 of 2024 on Guidelines for Adjudicating Criminal Cases Based on Restorative Justice; similar considerations are found in several judgments that employ a restorative approach to the same criminal offenses. However, the implementation of the theory of Restorative Justice in court differs from the application of Restorative Justice during the investigation/and prosecution stages, where at these stages the case may be concluded and not proceed to trial—meaning the offender may be released through reconciliation—whereas at the trial stage, the implementation of restorative justice does not halt sentencing; as stated in the judge's reasoning in the judgment, the defendant is still sentenced, but the sentence is reduced through this restorative justice approach.

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