



Juridical Analysis Of The Implementation *Of Restorative Justice* In The Settlement Of Fraud Cases At The Cirebon District Court

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Abstract

Background. This study examines the implementation of *restorative justice* in the settlement of fraud crimes at the Cirebon District Court and its conformity with the Criminal Code and the New Criminal Code. The research problem focuses on how the mechanism is applied and the factors that encourage its use.

Aims. The purpose and objectives of this study are to conduct a juridical analysis of the implementation mechanism, identify supporting factors, and assess the effectiveness and harmony of restorative justice practices in realizing restoration-oriented justice. This research method uses normative and empirical legal approaches.

Methods. Normative to analyze legal regulations and theories, while empirical to examine practices in the Cirebon District Court through interviews, observations, and document studies. The analysis was carried out in a descriptive-analytical manner.

Result. The findings of the study show that *restorative justice* has been achieved substantially through the return of losses, peace, and the restoration of social relations. However, its application remains partial, as it continues to lead to criminal convictions. RJ is only a consideration of the judge, reflecting the transition from a retributive to restorative paradigm that is not optimal.

Conclusion. This study shows that the application of *restorative justice* in the fraud case at the Cirebon District Court has been substantially carried out through the recovery of losses and the achievement of peace. However, its application remains limited because it is used only as a consideration in criminal prosecutions.

Implementation. Although it has been in accordance with legal and theoretical provisions, its implementation has not been optimal due to the still-dominant retributive paradigm.

Keywords: New Criminal Code, Indonesian Criminal Court, Fraud Crimes, Restorative Justice



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INTRODUCTION

Changes in Indonesia's criminal law system reflect a significant conceptual evolution from a retributive, or purely retaliatory, legal approach to one that leaves more room for recovery and social harmony between perpetrators and victims. Since the enactment of Law

Number 1 of 2023 concerning the Criminal Code (New Criminal Code) and Law Number 20 of 2025 concerning the Criminal Procedure Code (**New Criminal Procedure Code**), there has been a shift in the juridical paradigm that places the principle of *restorative justice* as one of the normatively recognized pillars of criminality in Indonesia's national criminal justice system. This transformation involves changing the purpose of punishment, which no longer aims only to cause suffering to the perpetrator, but also to restore social relations, protect the victim's interests, and provide opportunities for the perpetrator's reintegration into society after resolving conflicts peacefully. This approach is in line with studies that affirm a paradigm shift in Indonesia's criminal law following the ratification of the new Criminal Code, which integrates the principles of restorative justice across various articles related to the purpose of criminalization and the resolution of criminal cases.¹

In Indonesia, the application of restorative justice is increasingly gaining a clear legal basis through various regulations and the development of academic discourse. Through a juridical-normative approach, the concept of *restorative justice* is understood as a case-resolution mechanism that is not only oriented towards criminalization but also emphasizes the participation of perpetrators, victims, families, and communities in achieving recovery and a harmonious settlement. Furthermore, the latest literature indicates efforts to more comprehensively integrate restorative justice into the Indonesian criminal justice system. For example, the textbook "*Restorative Justice in the Criminal Justice System*" (2024) presents the concepts, principles, and procedures of *restorative justice* in the Indonesian legal context.²

The normative basis and academic foundation of this concept continue to develop; empirical and academic studies in Indonesia, in general, still focus on the investigation and prosecution processes rather than on implementation at the trial stage. For example, the article "*Implementation Of Restorative Justice In The Authority Of The Prosecutor's Office As The Public Prosecutor In The Principle Of Dominus Litis Of The Criminal Justice System In Indonesia*" examines how *restorative justice* is carried out at the prosecutor's level.³

¹ Padlah Riyadi, "Reconstruction of Restorative Justice Regulations Within the Indonesian Penal System Post-Law No . 1 of 2023," no. 1 (2023).

² "Restorative Justice," 2019.

³ Ella Agusti Nawangsari et al., "IMPLEMENTATION OF RESTORATIVE JUSTICE IN CRIMINAL JUSTICE IN INDONESIA and has the power to limit human freedom in suffering due to these crimes, as well as not obtaining," *YURIJAYA, Scientific Journal of Law* 7, no. 1 (2025): 18–31.

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Studies that directly discuss the application of *restorative justice* at the trial stage, especially in the district court environment, are still relatively rare⁴. This condition indicates a research gap, particularly in the local context, such as the Cirebon District Court. In fact, the court, as a first-instance judicial institution, plays an important role in adjudicating criminal cases. Without adequate analysis at this level, the effectiveness and legitimacy of the application of *restorative justice* at the trial stage will be difficult to evaluate both empirically and juridically. Some conceptual studies even confirm that the harmonization of *restorative justice practices* among law enforcement agencies, ranging from the police and the prosecutor's office to the courts, is still not consistent.⁵

The crime of fraud is a form of crime against property that reflects a concrete conflict between the perpetrator and the victim, where the victim suffers material and psychological losses. In the context of criminal law, fraud regulated in the New Criminal Code needs to be understood not only as an unlawful act that may be criminally prosecuted, but also as a social and legal issue that may be addressed through restitution mechanisms, including the recovery of losses and reconciliation. The application of the restorative approach in the settlement of fraud cases is possible because the character of the episode is a factual material loss and can be recovered through an agreement between the perpetrator and the victim, so that *restorative justice* can be a fairer and more effective alternative to a fairer and more effective settlement than just conventional criminal imposition. Empirical research by Gayatri & Sulistyanta (2024) shows that the restorative justice approach to handling fraud crimes at the police level can return losses to victims, thereby eliminating the need for prosecution, as long as normative and procedural requirements are met.⁶

As part of the national criminal law reform, the New Criminal Code has established provisions that provide legal space for the peaceful settlement of criminal cases through peaceful mechanisms and out-of-court settlements. These provisions are contained in several articles that explicitly or implicitly affirm the importance of restitution and conflict resolution through deliberation and consensus, including through articles that open the possibility of stopping prosecution if a peaceful agreement is reached between the parties to the conflict. The

⁴ Ismayana (2025). Juridical Analysis of the Criminal Act of Sexual Violence of Children from the Perspective of Criminal Law in Indonesia. *Journal of Gender Studies* 190 (2025): 174–90, <https://doi.org/10.28918/muwazah.v17i2.10252>.

⁵ Eko Syahputra, "Application of Restorative Justice Concepts in the Criminal Justice System in the Future," *Lex Lata* 3, no. 2 (2021): 235–47, <http://journal.fh.unsri.ac.id/index.php/LexS/article/download/1209/511>.

⁶ Justice Di, Resort Police, and Ratna Sary Gayatri, "Settlement of Fraud Crimes Through a Restorative Approach" 2, no. 2 (2024).

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study of *Restorative Justice* Norms in the New Criminal Code reveals that integrating this principle is an important normative step in criminal law reform, but its implementation still faces technical and human-resource regulatory challenges within law enforcement agencies.⁷

The role of the court, especially the District Court as a first-instance judicial institution, is crucial to the operationalization of the principle of *restorative justice*. Judges no longer function solely as arbitrators who impose criminal sentences, but also as facilitators of the dialogue and reconciliation process between perpetrators and victims, in accordance with applicable legal provisions. The existence of Supreme Court Regulation (Perma) Number 1 of 2024 further strengthens judges' position in implementing *restorative justice* by clarifying procedures and establishing criminal case settlements based on this principle. Thus, the court not only decides the criminal aspect but also provides an opportunity for the parties to reach a peaceful agreement that respects victims' rights and addresses perpetrators' social reintegration.⁸

The community's social and cultural context is also an important factor in assessing the relevance of selecting restorative justice as a method for resolving fraud-related criminal cases. Academic studies on restorative justice affirm that this approach positions victims, perpetrators, families, and communities as active subjects in the conflict resolution process, which, in turn, can strengthen social cohesion and reduce the potential for further conflict. This perspective shows that *restorative justice* is not just a model of legal settlement but also a sociocultural approach that provides space for social norms, family values, and customary mechanisms to resolve disputes fairly.⁹

The implementation of restorative justice has significant potential, but it still faces a number of empirical and structural obstacles¹⁰. Various studies show that these problems arise in practice. One of them can be seen in the article "*The Effectiveness of the Implementation of Tiered Restorative Justice in the Prosecutor's Office in the Indonesian Criminal Justice System*", which shows that a legal framework alone is not sufficient to ensure its effectiveness. In the field, implementation is often stalled due to a strong retributive orientation among law

⁷ Riyadi, "Reconstruction of Restorative Justice Regulations Within the Indonesian Penal System Post-Law No. 1 of 2023."

⁸ L E X Journal, Legal Studies, and D A N Justice, "Description," n.d.

⁹ Tegar Ishmat Abdullah et al., "Protection of Victims of Drug Abuse in the Perspective of Restorative Justice," *Indonesian Journal of Advanced Research* 4, no. 5 (2025): 485–96, <https://doi.org/10.55927/ijar.v4i5.14537>.

¹⁰ Devi Ratnasari et al., "Edunity" 4, no. 7 (2025): 313–21.

enforcement officials, weak coordination among related agencies, and a lack of comprehensive technical guidelines for operational reference.¹¹

The lack of empirical and juridical studies focusing on district court practice in criminal research cases, as well as the emergence of the latest regulations and literature, creates a gap that makes this research highly urgent and relevant. The selection of the Cirebon District Court as a research site provides added value by both expanding academic research on restorative justice in Indonesia and offering more context-specific policy recommendations for its implementation in local courts.

Research on the application of restorative justice in the settlement of fraudulent crimes under the Criminal Code and the New Criminal Code is of high urgency, from both normative and empirical perspectives. Normatively, this study helps assess the Indonesian legal system's readiness to adopt a new paradigm of restorative punishment. Meanwhile, this study will provide an empirical picture of the dynamics of case settlement in judicial institutions in accordance with applicable regulations, as well as the background of fraud cases resolved through *restorative justice*. A comprehensive understanding of this phenomenon is expected to contribute to the development of contemporary criminal law theory and to the formulation of criminal law policies that are more responsive to the needs of modern society.

LITERATURE REVIEW

Basic Concept of Restorative Justice

Restorative Justice (RJ) is an approach in the criminal justice system that places victims, perpetrators, and the community as the primary actors in resolving criminal conflicts, rather than relying solely on the state to impose punishment. In this paradigm, conflict resolution still prioritizes the recovery of losses, reconciliation between parties, and the reintegration of perpetrators into society. The concept is not only to eliminate punishment, but to seek a fair and humane solution for all parties involved.¹²

¹¹ Mohamad Raihan Prayoga and Diandra Preludio Ramada, "The Effectiveness of the Implementation of Tiered Restorative Justice in the Prosecutor's Office in the Indonesian Judicial System," *Title: Journal of Islamic Law and Jurisprudence* 12, no. 3 (2025): 106–14.

¹² Ica Karina et al., "Journal of Legal Profile Journal," *Journal Profile of Law Faculty of Law, Saint Thomas Catholic University Medan* 3, no. 1762 (2025): 101–10, <https://ejournal.ust.ac.id/index.php/JPH/article/view/3554>.

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The *restorative justice* approach is understood as a paradigm shift from the retributive criminal justice system, which focuses on punishment as retribution, to a model that prioritizes the recovery of losses and the restoration of social relations between the parties involved.¹³

Normative Foundations of Restorative Justice in Indonesia

The implementation of *restorative justice* in Indonesia is supported by several regulations that provide legitimacy to the settlement of criminal cases through a peaceful approach. *The New Criminal Code* (Law No. 1 of 2023) and the New Criminal Code (Law No. 20 of 2025) provide space for resolving cases through peace and the fulfillment of restitution, thus opening up opportunities for non-litigation settlements for certain types of cases. A number of implementing regulations that strengthen the implementation of restorative approaches include:

Relevant rules:

New Criminal Code (Law No. 1 of 2023)

The Criminal Code does not regulate *restorative justice* procedures in detail, but instead grounds the principles of restorative justice in the basis for criminalization. The reasons are as follows:

- A. Article 51 of the Criminal Code-Purpose of Crime.
- B. Article 52 of the Criminal Code-Humanist Crime.
- C. Article 53 of the Criminal Code-Justice Is Prioritized.
- D. Article 54 of the Criminal Code-Criminal Code.¹⁴

New Criminal Procedure Code (Law No. 20 of 2025)

Unlike the Criminal Code, the Criminal Code explicitly regulates the *restorative justice mechanism*. In the Criminal Procedure Code No. 20 of 2025, Chapter IV (Restorative Justice Mechanism), there are several relevant regulations, such as:

- A. Article 79 of the Criminal Code-Purpose of *Restorative Justice*.
- B. Article 80 of the Criminal Procedure Code - Requirements for cases that can be resolved through *restorative justice*.
- C. Article 81 of the Criminal Code-How to start *restorative justice*.

¹³ Taufiq Yulianto, "Restorative Justice as an Alternative to Solving Criminal Cases," *Orbith: Scientific Magazine of Engineering and Social Development* 19, no. 2 (2023): 154–59, <https://doi.org/10.32497/orbith.v19i2.4999>.

¹⁴ President of the Republic of Indonesia, "Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code," *Main Directorate of Development and Development of State Financial Audit Law of the Financial Audit Agency*, no. 16100 (2023): 1–345.

D. Article 82 of the Criminal Code-Cases that cannot be resolved through restorative justice.¹⁵

Research-Relevant Legal Theories

Criminal Purpose Theory

In the criminal law tradition, the purpose of punishment includes two major approaches:

- a) Retributive, which is punishment as retribution for unlawful acts;
- b) Utilitarian, which is that punishment aims to prevent crime and protect society.

Restorative justice is considered an alternative to criminal theory because its focus is not on retribution, but on *restoration* and *reconciliation*. This approach emphasizes the social function of the law rather than just a deterrent or retaliatory effect.¹⁶

Victim Protection Theory

Victim protection theory focuses on fulfilling the rights and needs of victims, not just placing them as witnesses in the criminal justice process. Through the *restorative justice approach*, victims are given the opportunity to convey the losses they have experienced and participate in formulating the form of recovery that is considered the fairest with the perpetrator.¹⁷

Legal Effectiveness Theory

Meanwhile, the theory of legal effectiveness (Soerjono Soekanto) teaches that the implementation of law is not just a matter of rules, but also of how the rules are applied effectively in the socio-cultural context of society. RJ is considered to increase effectiveness because it reduces the burden of legal process formalities and adapts it to social realities.¹⁸

Concept and Categories of Fraud Crimes

The crime of fraud in the *New Criminal Code* is qualified as a crime against property committed through a series of manipulative actions, such as deception, lies, or concealment of facts that result in the victim suffering losses. In the perspective of modern criminal law, fraud is not only seen as a violation of legal norms, but also as a form of social conflict that damages

¹⁵ UUDNR Indonesia and UDNR Indonesia, "Year 1945 (1945)," *Jakarta: Constitution*, no. 116287 (1945).

¹⁶ Yulianto, "Restorative Justice as an Alternative to Criminal Case Resolution."

¹⁷ Journal of Civilized Law, "The Urgency of Resolving Petty Crimes Through Restorative" 1, no. 2 (2025): 56–66.

¹⁸ Dwi Anggriani, Rahmattullah Lihawa, and Roy Marthen Moonti, "The Concept of Restorative Justice in the Settlement of Misdemeanor Crimes: Relevance to the Social Justice Agenda," 2025, 163–71.

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the relationship of trust between individuals. Therefore, the solution approach does not always have to be repressive, but can be directed at the recovery of losses and social reconciliation.¹⁹

Legal Basis of Fraud in the New Criminal Code

Regulations regarding fraud crimes in *the New Criminal Code (Law No. 1 of 2023)* are reflected in the provisions of Articles 492 to 495, which in principle contain elements of misleading acts, the purpose of benefiting oneself or others, and the existence of losses caused to the victim. In addition, the New Criminal Code expands the criminal justice system's orientation by emphasizing the importance of victim recovery through restitution and peaceful settlement mechanisms.

In the context of the purpose of punishment, Article 52 of the New Criminal Code emphasizes that punishment is not only aimed at inflicting suffering on the perpetrator, but also restoring balance, bringing a sense of justice, and improving social relations. This principle aligns with restorative justice, which prioritizes recovery.²⁰

In addition, the existence of Supreme Court Regulation Number 1 of 2024 provides an operational basis for judges to seek to resolve criminal cases through a restorative approach, including in cases with recoverable-loss characteristics, such as fraud. This regulation marks a shift in the criminal justice paradigm from retributive to a more substantive, justice-oriented approach.

Fraudulent Characteristics Relevant to Restorative Settlement

The criminal act of fraud has certain characteristics that make it relevant to be resolved through the mechanism of *restorative justice*. First, the losses incurred are generally material and can be calculated concretely, so that there can be a return through restitution or compensation. Second, in many cases, there are social relationships between perpetrators and victims, such as business relationships or friendships, that create opportunities for dialogue and peaceful agreements. Third, the possibility of the perpetrator acting in good faith to repair the losses incurred is an important factor in the success of the restorative settlement. Fourth, fraud generally does not have a direct physical impact, so dialogue-based settlement processes are more likely to be carried out without additional risks to victims. Research on the practice of

¹⁹ Muh Naim, Patahillah Asba, and Bakhitiar Tijjang, "Fraud and Restorative Justice from a Criminological Perspective" 9 (2022): 310–19.

²⁰ Restorative Justice et al., "The Rule of Law: A Journal of Legal Studies" 13, no. 2 (2024): 157–72, <https://doi.org/10.14421/hnqvvpv26>.

restorative justice in fraud cases shows that these characteristics support the effectiveness of settlements outside of the formal judicial process.²¹

The Role of District Courts in the *Restorative Justice Scheme*

The District Court is not only an institution that imposes sentences but also one that integrates the principles of restorative justice into its decisions when the conditions are met. The functions of the court in the RJ scheme include:

- a. Assess the feasibility of *restorative justice* based on the facts of the case, evidence of losses, and the agreement of the parties.
- b. Facilitate the mediation process between the parties as part of the case examination.
- c. Include the results of the agreement in the decision or determination, so that it has permanent legal force.²²

Previous research on the application of restorative justice in fraud cases shows that studies on implementation at the trial stage remain very limited. Most of the research only examines the settlement of cases at the investigation or prosecution level, so it has not provided an overview of how judges apply restorative mechanisms based on the Criminal Code and the New Criminal Code. There are several relevant studies that are related to the research topic, but still leave room for renewal so as to clarify the novelty of this research.

Application of *Restorative Justice* by the District Court

Research by Meliala, Ismaidar, & Sahlepi (2024) discusses the application of *restorative justice* in the Medan District Court. The study confirms that judges play an important role in facilitating penal mediation and ensuring that the conditions for restorative settlement are met. However, this study does not specifically discuss the crime of fraud or the local context of the Cirebon District Court.²³

Effectiveness of *Restorative Justice* in Fraud Cases

Research by Ndruru & Esther (2024) examines the effectiveness of restorative approaches in resolving criminal cases, including fraud. The results of the study show that this

²¹ Naim, Asba, and Tijjang, "Fraud and Restorative Justice from a Criminological Perspective."

²² Nugraha Manuella Meliala, Ismaidar, and Muhammad Arif Sahlepi, "The Application of Restorative Justice by the Medan District Court to Realize Legal Certainty in Criminal Settlement," *Journal of Law, Humanities and Politics* 4, no. 3 (2024): 459–70, <https://doi.org/10.38035/jihhp.v4i3.1961>.

²³ Meliala, Ismaidar, and Sahlepi.

approach can strike a balance between the interests of victims and perpetrators and improve the efficiency of case resolution. However, this study is general in nature and does not specifically review implementation at the trial stage.²⁴

Application of *Restorative Justice* by the Prosecutor's Office

Research by Prayoga & Ramada (2025) discusses the application *of restorative justice* by the prosecutor's office in the termination of prosecutions. The results show the efficiency of case handling, but do not examine the implementation at the trial stage.²⁵

Research Novelty

Based on the 3 studies above, the novelty of this research lies in:

1. Focus on *the implementation of restorative justice* in specific fraud crimes.
2. The emphasis is on the trial stage in the District Court, not just investigation or prosecution.
3. The taking of the locus in the Cirebon District Court as an empirical context that has not been widely researched.
4. The use of the New Criminal Code (Law No. 1 of 2023) and the New Criminal Code (No. 20 of 2025) as the basis for normative analysis.
5. A combination of normative and empirical juridical approaches to obtain a comprehensive picture.

This research provides a more specific and applicable scientific contribution to the development of criminal law studies, particularly regarding the application of *restorative justice* in fraud cases at the judicial level.

METHODS

Types of Research

This study employs normative legal research methods alongside empirical legal research. The normative model is used to examine positive legal provisions governing the application of restorative justice in both the Criminal Code and the Criminal Code. Meanwhile, an empirical approach was used to examine how these provisions were applied in practice in the settlement of fraud cases at the Cirebon District Court. The combination of these two types

²⁴ Law Perspectives et al., "Law, Development & Justice Review Law, Development & Justice Review," 2024, 158–74.

²⁵ Justice et al., "The Rule of Law: A Journal of Legal Studies."

of research allows researchers to examine theoretical and normative aspects, as well as test real implementation in the judicial process²⁶.

Research Approach

This research uses two main approaches, namely:

Normative Juridical Approach

This approach is used to:

1. To study legal norms, principles, theories, and laws and regulations relevant to the mechanism of restorative justice,
2. Assessing the legal construction that is the basis for resolving fraud crimes through *restorative justice*,
3. Analyze the relationship between regulation and theoretical concepts in the legal literature.

The sources analyzed include the new Criminal Code and Criminal Code, internal regulations of law enforcement agencies, and other regulations governing the use of restorative mechanisms.

Empirical Juridical Approach

The empirical approach is used to:

1. Describe the factual conditions regarding the process of applying *restorative justice* in fraud cases.
2. Assessing whether the implementation of the mechanism is running in accordance with the provisions of the law
3. Identify factors that support the successful implementation.

Empirical data was obtained through interviews and tracing of case documents in the Circuit Court of Appeals.

Research Data Sources

Primary Data

Primary data were collected from:

1. Interviews with judges, clerks, or relevant law enforcement officials.
2. The study of official court documents is in the form of a file of fraud case decisions processed with a restorative approach.

²⁶ Endang Sutrisno Ratu Mawar Kartina, Alip Rahman, Sanusi, Diky Dikrurahman, "Guidelines for Thesis Writing for Law Study Program," 2021.

3. Observation of case settlement practices at the Cirebon District Court.

This data provides an authentic picture of the practice of applying restorative justice.

Secondary Data

Secondary data comes from:

1. Laws and regulations related to fraud and *restorative justice*.
2. Relevant scientific books and academic works.
3. Previous research and journals that review similar topics.
4. Scientific articles and other supporting references.

Legal Material Analysis

The research analysis was carried out through descriptive-analytical methods, which include:

1. Inventory and organization of legal materials, both primary and secondary, that are relevant to the application of restorative justice in fraud crimes.
2. Interpretation of legal provisions to understand how laws and regulations regulate the case resolution mechanism through restorative channels.
3. A comparison between the rule of law and practice in the field, in order to assess the level of consistency in the implementation of *restorative justice* in the Cirebon District Court with normative provisions.
4. The drawing of juridical conclusions is based on the results of normative analysis and empirical findings, so as to produce an objective assessment of the success and obstacles to the implementation of restorative justice in fraud crimes.

RESEARCH RESULTS

Overview of the Matter

Reconstruction of Criminal Events

A Verdict based on Number 159/Pid.B/2025/PN Cbn, this case began with the defendant's action of asking for a sum of money from the victim for improper reasons. The defendant said that the funds would be used for certain purposes and promised to return them in a short time. The victim, who had a close relationship with the defendant, believed the

explanation and handed over the requested money. After the money was received, the defendant did not return the funds as promised and instead used the money for his personal interests²⁷.

The victim's attempt to request a refund did not receive an adequate response, so the victim felt that he had been lied to and decided to report the case to the police. Through investigation and investigation, law enforcement officials found strong indications that the defendant deliberately submitted false information to get the victim's money. The case was transferred to the prosecutor's office after it was declared complete and proceeded to the trial stage.

Identification of Parties Involved

The parties to this case consist of:

1. The defendant, a man who had no previous criminal history. It is classified as a community with a middle to lower economic condition. His cooperative attitude and remorse then became one of the things considered by the panel of judges.
2. Victim, an individual who suffered material losses due to the defendant's actions. The close social relationship makes it easy for the victim to believe in the reasons given by the defendant.
3. The Public Prosecutor, who still chose to continue the prosecution process even though there had been peace between the two parties.
4. The Panel of Judges of the Cirebon District Court, which assesses the case based on the evidence and facts of the trial and considers the peace efforts that have been taken.

Elements of Loss

Based on the verdict, the element of loss in this case is in the form of real material losses experienced by the victim, namely the loss of money of Rp87,267,000.00 which was handed over to the defendant as capital for cooperation in the procurement of school uniforms. The money was not returned according to the agreed time, causing direct losses for the victims. In addition, there is a potential loss in the form of non-realization of the defendant's promised profits of Rp20,507,000.00. This loss arose as a result of the defendant's actions using a series of lies and tricks to move the victim to hand over his money.

²⁷ "SURAT putusanpnecbn2025Pid," n.d.
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Handling Process at the Conference

After the case officially entered the Cirebon District Court, the trial followed the standard criminal justice procedure. The stages include:

1. Reading of the indictment by the Public Prosecutor.
2. Examination of witnesses, including the victim's statement about how the loss occurred.
3. The examination of the defendant who admitted his actions and expressed regret.
4. Examination of proof of letters and supporting documents.
5. Reading of the charges by the Public Prosecutor.
6. Submission of defense by the defendant.
7. Reading of the verdict by the judge.

In the final stage, the Panel of Judges sentenced him to **3 months and 15 days** in prison. Interestingly, the judge stated that the elements of restorative justice had been met, but this did not preclude the court's obligation to impose a penalty.

Peace Mechanisms and Restorative Efforts

Efforts towards restorative justice in this case include:

1. recovery of losses by the defendant,
2. the defendant's apology and remorse,
3. the existence of a declaration of peace,
4. The willingness of the victim to forgive and not want a burdensome criminal process.

These four elements show that material and relational recovery have occurred. However, peace did not stop the case, as investigators, public prosecutors, and judges still chose the formal judicial route. This means that RJ works only as an aspect of criminal consideration.

Analysis of *Restorative Justice Implementation*

Fulfillment of Restorative Elements Based on Decision

Based on the considerations in the decision, the Panel of Judges considered that the peace process had gone well. The defendant admitted his actions, and the victim voluntarily forgave the defendant. The losses were fully recovered. This shows that the essence of restorative justice has been achieved.

However, the judge also emphasized that fraud is an act that can harm the community. Therefore, although peace is a mitigating factor, it does not preclude the court's authority to

continue issuing criminal sentences. Thus, the implementation of restorative justice in this case can be categorized as *restorative justice*, which is applied in the sentencing stage, not in the form of termination of the case.

Conformity with the New Criminal Code (Law No. 1 of 2023)

The New Criminal Code brings a more humane orientation to punishment. The new articles emphasize the importance of conflict resolution, recovery of losses, and the restoration of social relations. Prison sentences are placed as a last resort.

In this case, the judge has adopted this spirit by recognizing peace. Prison sentences are imposed within a minimum limit and are relatively short, so it can be said to be in line with the principles of proportionality and effectiveness of punishment in the New Criminal Code.

However, because fraud is still considered a criminal act that has a fairly wide impact, law enforcement officials feel the need to continue the judicial process. This shows that the Indonesian legal system has not fully accommodated the termination of cases through the RJ for this kind of crime.

Conformity with the New Criminal Code (Law No. 20 of 2025)

There has been peace between the perpetrator and the victim

In the trial, the victim, Siti Saripah, stated:

"The defendant has handed over money of Rp87,270,000.00 to the victim," and

"The victim has reconciled and forgiven his deeds."

This is in accordance with the principle of Article 79 of the 2025 Criminal Code, which requires that:

- recovery of casualty losses;
- forgiveness of the victim;
- restoration of the condition.

Thus, the restorative elements in the form of **restitution and peace** have been fulfilled.

Loss of Victims Has Been Recovered

The Panel of Judges stated:

"The defendant has returned Rp87,270,000 to the victim."

Article 79 of the New Criminal Code states:

- indemnification;

- return of goods;

As a form of restorative justice, the core of restorative justice is.

The final facts show that the victim's losses have been fully compensated.

Criminal Threats Meet RJ Criteria

The defendant was found to have violated Article 378 of the Criminal Code, which carries a maximum penalty of 4 years.

Article 80 of the 2025 Criminal Code requires that RJ be applied to criminal acts punishable by imprisonment for a maximum of 5 years.

Because Article 378 of the Criminal Code is threatened with 4 years, this case meets the requirements for the purpose of *restorative justice*.

1. Perpetrators have never been punished

The judge explicitly stated:

"The defendant has never been convicted."

This is in accordance with Article 80 of the New Criminal Code which prioritizes the application of restorative justice to first-time perpetrators (first offenders).

2. The judge recommended Restorative Justice

In its deliberations, the Panel of Judges stated:

"Criminalization is not the best solution," and there has been a "paradigm shift from retributive to restorative punishment."

The judge also referred:

- Perma No. 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice.

This means that philosophically, this decision has adopted the *restorative justice paradigm* as required by the New Criminal Procedure Code.

Comprehensive Assessment of RJ Implementation

Overall, the implementation of restorative justice in this case can be understood as follows:

1. RJ managed to recover the victim's losses,
2. The social relationship between the defendant and the victim was successfully restored,
3. Law enforcement officials do not use RJ as a basis for stopping criminal proceedings,

4. The judge considered RJ in reducing the sentence.

Thus, the application of restorative justice here does not serve as a full alternative solution, but rather as a moral and social factor in criminal decision-making.

Juridical Assessment of the Judge's Decision

Application of the Ultima Ratio Principle

The prison sentence imposed is relatively short. This can be linked to the principle that criminalization should be carried out as a last resort. The judge seems to have chosen to continue imposing a prison sentence, but for a minimum period, so it can be said that it is still in line with the principle of ultima ratio in modern punishment.

Modern Crime Objectives

The goals of modern punishment include rehabilitation, reintegration, and special prevention. In this ruling, recovery and social reconciliation between perpetrators and victims are very prominent aspects. The prison sentence was imposed not to retaliate in a repressive manner, but to affirm the defendant's legal responsibility.

Restorative Rate of Judgment

This decision can be categorized as a partial restorative decision because, although the recovery aspect is recognized, the state still affirms the role of public law by imposing prison sentences. This model is known as an integrative approach to punishment, which combines restorative and retributive elements within a single decision-making framework.

Factors Driving Restorative Settlement

The application of restorative justice practices in the settlement of fraud cases based on Decision Number 159/Pid.B/2025/PN Cbn did not occur suddenly but was the result of several supporting factors that played an important role during the case-handling process. These factors come from the perpetrator, the victim, law enforcement officials, and the judge, who makes the final decision.

Factors from the Perpetrator

One of the most important variables that affects the implementation of restorative settlement is the defendant's cooperative attitude during the examination process. The defendant showed a willingness to take responsibility by compensating the victim for damages

of Rp87,270,000.00 as evidenced at the time of the trial. This step indicates that the defendant is aware of the consequences of his actions and demonstrates a commitment to restoring the situation to its pre-crime state.

In addition to compensating for damages, the defendant also admitted his mistake and expressed regret. This recognition is very relevant in the context of *restorative justice* because the recovery process can only proceed if the perpetrator admits their actions and is willing to address the impact they caused. The defendant also presented a personal reason, namely the presence of family dependents, including young children, as the basis for his application for leniency consideration.

Not only that, but the defendant was also recorded as having never served a criminal sentence before. In the literature, the perpetrator's track record factor is an important consideration in choosing a restorative settlement mechanism, because perpetrators who are not recidivists are considered to still have rehabilitative capacity. This reinforces the argument that traditional penal approaches are not always the best option, especially when the perpetrator shows good intentions to change.

Factors from the Victim

Victim acceptance of recovery efforts is an important factor in determining the success of restorative completion. In this case, the victim stated that his losses had been fully compensated, that he had forgiven the defendant, and that he was willing to settle the case through peace. This statement is proof that the victims' main needs, namely the recovery of material losses, have been met.

The social relationship between the victim and the defendant also affects the creation of a space for dialogue. The defendant is the head of the neighborhood (RW), so their close relationship facilitates communication and reconciliation. Although the initial beliefs of the victims were abused, the social closeness that still exists provides an opportunity to create peace without prolonging the conflict.

The victim's decision to reconcile shows that the orientation is no longer on retaliation, but on a constructive settlement. This is in line with the principle of *restorative justice*, which prioritizes the restoration of relationships and the needs of the victim, not just the punishment of the perpetrator.

Factors of Law Enforcement Officers

The role of law enforcement officials, especially judges, also has a great influence in encouraging restorative settlements. In the ruling, the Panel of Judges emphasized that current legal developments no longer place criminalization as the only way to achieve justice. There is a tendency to shift the paradigm towards a rehabilitation-oriented approach to punishment, as regulated in the Supreme Court Regulation of 2024.

The judge also played an active role in facilitating the peace process between the parties and considered the agreement a legitimate part of the settlement process. There are no objections from the public prosecutor to the peace process, so that the restorative mechanism can run without institutional barriers. This indicates that law enforcement officials have understood and supported the implementation of a more progressive penal policy.

Factors from the Judge's Consideration

The judge's consideration is the last but very decisive element in deciding whether the case can be resolved restoratively. In the verdict, the judge paid attention to a number of important aspects, such as:

1. The defendant has recovered the entire loss of the victim;
2. The victim stated directly that he had reconciled.
3. The defendant had no prior criminal record;
4. Criminal threats in the article used are under 5 years.
5. The defendant showed remorse for his actions.

All of these aspects were considered comprehensively and formed the basis for the judge's conclusion that the restorative approach was the right choice.

Thus, the success of the restorative justice implementation in this case is a combination of the perpetrator's good faith, the victim's willingness to reconcile, and the understanding of law enforcement officials and judges toward a more humane, recovery-oriented criminal policy.

Conformity of the Implementation of Restorative Justice with Positive Law and Legal Theory

The study of the suitability of *the restorative justice mechanism* in this case requires a comparison with applicable regulations, as well as a theoretical understanding of the concepts of criminalization and conflict resolution.

Conformity with Positive Legal Provisions

Supreme Court Regulation Number 1 of 2024 stipulates several basic requirements that must be met for the implementation of *restorative justice*, namely: (1) criminal threats of no more than five years; 2) non-recidivist perpetrators; (3) the existence of a peace agreement; (4) the recovery of the victim's losses.

All of these requirements are met in this case. Article 378 of the Criminal Code carries a maximum penalty of 4 years, so it meets the criteria. The defendant is also not a repeat offender, so he is not subject to the requirements of re-legality. A peace deal had been declared at the trial by the victim, and the recovery of the losses was proven through the return of the full amount of the damages. Thus, legally positive, the settlement mechanism adopted is within the corridor in accordance with applicable regulations.

Analysis of Objective and Subjective Conditions

Objective requirements in the context of *restorative justice* relate to the nature of criminal acts and the consequences they cause. Fraudulent crimes that cause financial losses are included in the category that can be recovered through restitution. Therefore, this criminal act falls within the scope of a case that can be resolved restoratively.

Subjective conditions focus more on the parties' will, namely the perpetrator and the victim. In this case, the perpetrator admitted his actions, showed remorse, and was willing to compensate for the damages. The victim accepted the restoration and publicly expressed agreement to reconcile. With the fulfillment of these two conditions, the restorative process can take place legitimately.

Alignment with Legal Theory

From the perspective of modern criminal theory, the application of *restorative justice* reflects a criminal orientation that is not only repressive but also rehabilitative and restorative. This theory seeks to balance the interests of the perpetrator, the victim, and the community, so that redress is considered more effective than retaliation.

In addition, victim protection theory shows that victims have an important need for the restoration of their rights, especially when the losses are material. In this case, the victim's needs have been met through the return of losses.

Furthermore, from the perspective of legal effectiveness theory, settlement through restorative mechanisms can be considered more efficient because it resolves conflicts directly

between perpetrators and victims, without going through a lengthy criminal process that does not always lead to recovery.

CONCLUSION

Based on the overall findings of the research on the application of *restorative justice* in the settlement of fraud crimes at the Cirebon District Court, it can be emphasized that there has been a paradigm development in the Indonesian criminal justice system. This shift can be seen in the change in orientation from a retributive approach to an approach that emphasizes substantive restoration and justice. This change is in line with the direction of national criminal law reform as stipulated in the Criminal Code and the New Criminal Code, as well as various supporting regulations that provide space for the application of restorative justice in the settlement of criminal cases.

In the case under study, the implementation of *restorative justice* has been substantially realized, although it has not formally replaced the conventional criminal justice mechanism. This can be seen in the fulfillment of the main elements of restorative justice, such as the perpetrator's admission of wrongdoing, the complete restitution of the victim's losses, and the achievement of a peace agreement between the two parties. These facts show that the main goals of restorative justice, namely the recovery of losses and the improvement of social relations, have been successfully achieved in practice. The relationship between the perpetrator and the victim, who was previously disturbed by the crime, can be restored through dialogue and mutual understanding based on good faith.

However, the study's results show that the application of restorative justice at the trial stage remains limited. This approach has not been used as the primary mechanism for resolving cases, but is only considered when making a decision. This is reflected in the continuation of the judicial process until the final verdict stage and the imposition of prison sentences on the defendants, even though all requirements for the application of restorative justice have been met. Thus, the application of *restorative justice* in this case can be categorized as partial: it only complements the criminal process, not replaces it completely.

This phenomenon shows that law enforcement officials still tend to be cautious in applying a restorative approach, especially in fraud cases. Although there is a strong normative legal basis for implementing restorative justice, in practice, there remains a tendency to maintain formal justice mechanisms as the primary option. This indicates that there is a gap

between the development of legal norms and implementation in the field, which is still influenced by the traditional criminal paradigm.

From a juridical point of view, the application of *restorative justice* in this case is in accordance with the applicable law. All normative requirements, both objective and subjective, have been met, including relatively light criminal threats, no history of recidivism, a peace agreement, and the recovery of victims' losses. In addition, judges have also accommodated the principles in the New Criminal Code that emphasize the importance of more substantive restoration and justice. The verdict reflects the application of the principles of proportionality and ultimum remedium, with prison sentences imposed at the minimum limit as a form of legal accountability without ignoring the humanitarian aspect.

From a theoretical perspective, this study shows that the concept of restorative justice is highly relevant to the settlement of fraud cases. This is due to the characteristics of fraud, which generally cause material losses that can be recovered, thereby allowing settlement through restitution and reconciliation mechanisms. In addition, the active involvement of victims and perpetrators in the conflict resolution process provides space for the realization of more comprehensive justice. In this case, modern criminal purpose theory, victim protection theory, and legal effectiveness theory have been proven to support the application of restorative approaches in practice.

Furthermore, this study revealed that the success of restorative justice implementation is influenced by various factors, including those related to perpetrators, victims, and law enforcement officials. The perpetrator's cooperative attitude, the victim's willingness to forgive, and the judge's active role in facilitating the peace process are the main factors that facilitate the achievement of a restorative settlement. In addition, the existence of social relationships between perpetrators and victims supports effective communication and sustainable reconciliation. This shows that the success of *restorative justice is determined not only by normative factors* but also by the social and psychological conditions of the parties involved.

However, this study also identified obstacles to the implementation of restorative justice, particularly the lack of effective coordination between law enforcement agencies and the persistent dominance of the retributive paradigm in judicial practice. This condition causes the application of restorative justice to be carried out optimally as an alternative to case settlement, but it is still limited as a supporting factor in the criminal process. Thus, it can be said that Indonesia's criminal justice system is still in transition towards the implementation of a more restorative paradigm.

Overall, it can be concluded that the application of restorative justice in the settlement of fraud cases at the Cirebon District Court has shown a positive direction of development, especially in accommodating aspects of recovery and reconciliation within the criminal justice process. However, its implementation remains suboptimal and has not fully replaced the conventional judicial mechanism. Therefore, more comprehensive steps are needed, both through strengthening regulations, increasing the capacity of law enforcement officials, and changing the paradigm in the criminal justice system, so that *restorative justice* can be applied more effectively and consistently as part of criminal law reform in Indonesia.

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