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Material Requirements for The Police's Retorative Justice Mechanism Under Law No. 20 of 2025 of The Code of Criminal Procedure

Meliana

Faculty of Law, Universitas Bangka Belitung, Bangka, 33172,

Bangka Belitung Islands Province, Indonesia

corresponding author email: meliana.fasya@gmail.com

ABSTRACT

Restorative justice in Indonesia is no longer just an alternative to resolving cases, but has become part of the debate on the reform of the criminal procedure law, especially at the stage of police investigations, the impulse in this direction mostly arises from dissatisfaction with the retributive paradigm that prioritizes punishment over the recovery of victims or the improvement of disturbed social relations. This article examines the material requirements and mechanisms of restorative justice by the police based on Law Number 20 of 2025 concerning the Criminal Code, taking into account the urgency of its implementation, dynamics in the field, as well as normative formulations and obstacles to their implementation, using normative juridical methods with legal and conceptual approaches sourced from scientific journals, books, policy documents, and media reports. Normatively, restorative justice at the police level must be treated as a selective mechanism, not a default path that requires the fulfillment of the interests of the victim, the consent of the parties, the character of the crime that does not cause broad social impacts, recognition and recovery from the perpetrator, and the certainty that the termination of the case does not conflict with the public interest or the principles of due process of law. However, in practice, implementation standards still vary between regions, dependence on the discretion of the apparatus is quite high, access is uneven, and

it is not uncommon for this approach to be used just to reduce the number of cases; As long as operational guidelines remain vague, oversight is weak, and documentation is minimal, restorative justice risks changing its function from a justice mechanism to an administrative shortcut that ignores substantive justice

Keywords: Restorative Justice, Police, Criminal Code , Law Enforcement, Restorative Justice.

INTRODUCTION

Background

Criminal law enforcement in Indonesia has traditionally positioned the police as both the spearhead and the primary gateway to the criminal justice system. However, in practice, the emphasis on retributive punishment often gives rise to a range of serious problems, ranging from prison overcrowding and high social costs to a failure to restore relationships between offenders and victims.¹ According to a report by the Indonesian National Police's Criminal Investigation Agency, more than 400,000 criminal cases were filed nationwide in 2022, the majority of which were minor offenses or stemmed from personal disputes between citizens.²

These conditions have spurred a discourse on legal reform that no longer relies solely on the logic of retribution. The relevance of the conventional criminal justice system has come under scrutiny, particularly as it has proven incapable of restoring social relationships fractured by criminal acts or addressing the real needs of victims. It is here that restorative justice finds its footing in contemporary legal discourse. Unlike the retributive model, which positions the state as the primary prosecutor, this approach creates space for victims, offenders, and the community to be directly involved in the healing process. It is not merely a procedural alternative but a paradigm shift regarding what criminal law truly aims to achieve. Conceptually, restorative justice is a philosophy of resolving criminal cases that prioritizes the restoration of victims, the restoration of social relationships, and the genuine accountability of the perpetrator rather than punishment alone.³ Local wisdom values such as consensus-based deliberation and customary justice have long practiced similar principles, but their formalization in positive law has only seen significant development in the past decade.⁴

The urgency of restorative justice in the context of law enforcement becomes particularly evident when examining data on the caseload of criminal cases handled by

¹Prasetyo, T. (2021). Restorative Justice sebagai Upaya Penanggulangan Kejahatan dalam Sistem Pemidanaan di Indonesia. *Jurnal Yudisial*, 14(1), 63–82.

²Bareskrim Polri. (2023). Laporan Tahunan Penanganan Tindak Pidana Melalui Mekanisme Restorative Justice Tahun 2022. Jakarta: Bareskrim Polri.

³Zehr, H. (2015). *The Little Book of Restorative Justice: Revised and Updated*. Good Books.

⁴Marlina. (2022). *Peradilan Pidana Anak di Indonesia: Pengembangan Konsep Diversi dan Restorative Justice*. Bandung: Refika Aditama.

the Indonesian National Police. The Kompas daily reported that the Indonesian National Police successfully resolved more than 8,500 cases through restorative justice mechanisms throughout 2022, thereby conserving law enforcement resources while restoring relationships between the disputing parties.⁵ National Police Chief Listyo Sigit Prabowo has strongly advocated for the implementation of restorative justice as a priority approach, particularly since the issuance of Police Regulation No. 8 of 2021 on the Handling of Criminal Offenses Based on Restorative Justice.⁶

However, prior to the enactment of Law No. 20 of 2025 on the new Criminal Procedure Code, the legal basis for restorative justice at the police level still relied on technical regulations issued by the National Police, which are hierarchically subordinate to laws. This has sparked academic and practical debates regarding the validity of terminating investigations on the basis of restorative justice without a legal framework at the level of a law.⁷ With the enactment of the new Criminal Procedure Code through Law No. 20 of 2025, restorative justice is now explicitly recognized in the supreme law governing criminal procedure, with its mechanisms, requirements, and procedures regulated in a more comprehensive manner.⁸

Research Questions

Based on the background, this study formulates the following two main research questions:

1. What are the substantive requirements for the implementation of restorative justice mechanisms by the Police under Law No. 20 of 2025 on the Criminal Procedure Code?
2. How is restorative justice implemented by the Police under Law No. 20 of 2025 on the Criminal Procedure Code?

Research Objectives

This study aims to:

1. Analyze the implementation of restorative justice by the Police based on Law No. 20 of 2025 on the Criminal Procedure Code.
2. Examine the implementation of restorative justice by the Police based on Law No. 20 of 2025 on the Criminal Procedure Code.

⁵Kompas. (2023, 14 Maret). Polri Selesaikan 8.500 Perkara Lewat Restorative Justice Sepanjang 2022. *Harian Kompas*, hlm. 3.

⁶Detik.com. (2022, 15 Agustus). Kapolri Tekankan Restorative Justice Solusi Utama Perkara Pidana Ringan.

⁷Siburian, R. J. (2022). Legitimasi Penghentian Penyidikan Berbasis Restorative Justice oleh Kepolisian. *Jurnal Legislasi Indonesia*, 19(3), 301–320.

⁸Hiariej, E. O. S. (2025). Pembaruan Hukum Acara Pidana Indonesia: Telaah Kritis atas KUHP 2025. *Jurnal Hukum Ius Quia Iustum*, 32(1), 1–28.

Literature Review

1.The Theory of Restorative Justice

The theory of restorative justice did not emerge out of thin air. It developed as an intellectual response to the repeated failures of the conventional criminal justice system, particularly in case resolution models based on a repressive approach. In practice, this approach places the state as the party dominating the legal process, while the perpetrator and the victim are nothing more than objects of a procedure whose outcome is determined by others. As a result, the resolution of the case is merely formal. A verdict is handed down, a sentence is served, but the social wounds are never truly addressed. The issue becomes even more profound when it comes to the reintegration of offenders. After completing their prison sentences, offenders often face a social barrier that is no less formidable than the prison walls themselves. The stigma attached to them hinders their reintegration into their original communities; in many cases, it fails entirely. This situation not only harms the offenders but also has the potential to create a new cycle of criminality that further burdens the judicial system itself.

From the victims' perspective, the shortcomings of the repressive approach are no less serious. Victims are excluded from decision-making processes that directly affect their interests. There is no space to convey the impacts they have experienced, no structured mechanisms for recovery, and no guarantee that the resulting rulings reflect their actual needs. In fact, justice in criminal cases should not be measured solely by the length of the sentence imposed, but by the extent to which the legal process is able to restore the damaged relationships between the perpetrator, the victim, and the community in which they live together.⁹

Bagir Manan defines restorative justice as an effort to restructure the criminal justice system toward a more just framework not only for the perpetrator, but also for the victim and the community as a whole. This definition is compelling because it implicitly critiques the architecture of the criminal justice system, which has traditionally tended to separate these three parties within the legal process, as if their interests were unrelated. By placing the offender, the victim, and society within a single, holistic framework of justice, Bagir Manan effectively asserts that legitimate criminal punishment is not merely about imposing sanctions, but about rebuilding the social balance disrupted by the criminal act. This perspective aligns with the progressive legal thought that views law not as an instrument of retribution, but as a means of restoration that exists within society.¹⁰ Bagir Manan specifically chose the term "restorative justice" to describe this concept, and this terminological choice was not without reason. The term reflects his view that restorative justice is essentially a mechanism for resolving criminal offenses that operates outside the formal criminal justice system, or at the very least does not fully adhere to standard criminal procedures. In other words, the space for restorative justice is found

⁹ Mansyur Kartayasa, "Restorative Justice dan Prospeknya dalam Kebijakan Legislasi" makalah disampaikan pada Seminar Nasional, Peran Hakim dalam Meningkatkan Profesionalisme. Menuju Penelitian yang Agung, Diselenggarakan IKAHI dalam rangka Ulang Tahun IKAHI ke- 59, 25 April 2012, hlm. 1-2.

¹⁰ Majalah Varia Peradilan, Tahun XX. No. 247, (Penerbit Ikatan Hakim Indonesia, Juni 2006), hlm. 3

precisely in the gaps left by the conventional justice system gaps that have long been left vacant because they were not considered part of legitimate legal mechanisms.¹¹

In a broader context, restorative justice has evolved into a recognized technical term in contemporary criminal justice discourse. Its orientation differs fundamentally from the retributive paradigm; rather than punishing the offender as The ultimate goal is not merely to punish the offender, but to restore the victim and the surrounding community to the state they were in before the crime occurred. It is this shift in focus that makes restorative justice not merely a procedural variation of the existing system, but a different perspective on what criminal law should truly aim to achieve.

1. The Concept of Restorative Justice from a Global Perspective

The idea of restorative justice as a distinct paradigm in criminal law began to gain a solid academic footing in the late 1970s. This momentum was inseparable from the widespread dissatisfaction with the conventional criminal justice system, which was seen as too preoccupied with the relationship between the state and the offender, while victims and the community were left on the margins of the legal process. Howard Zehr is one of the thinkers who has most consistently articulated this critique. For Zehr, crime is not primarily about the state being violated or laws being broken, but rather about damaged human relationships. The offender, the victim, and the community are the three parties harmed when a criminal act occurs, and therefore all three must be involved in the restorative process. Punishment without restoration, in Zehr's logic, merely resolves the administrative aspects of a case without addressing the substance of justice. Braithwaite takes it a step further by establishing a sociological foundation for the restorative approach through the theory of reintegrative shaming. The core of this theory lies in the sharp distinction between two forms of social response to offenders. Reintegrative shaming encourages offenders to acknowledge their wrongdoing while still leaving the door open for their return to the community. In contrast, stigmatizing shame shuts that door tightly, locking the offender into a criminal identity that is difficult to shed. Braithwaite argues that it is this second model that has long been practiced by the conventional criminal justice system, and that is one reason why recidivism continues to be an unresolved problem. This thesis is not merely theoretical speculation; a number of empirical studies conducted in Australia, New Zealand, and North America provide strong data supporting the claim that restorative approaches result in lower recidivism rates compared to conventional sentencing models.¹²

International recognition of restorative justice as a legitimate instrument of criminal policy is enshrined in United Nations Economic and Social Council Resolution No. 2002/12 on the Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters. This resolution does not provide a single definition, but rather establishes the minimum conditions that must be met for a program to be truly restorative not merely appear to be restorative. The principle of voluntariness requires that the participation of all parties must stem from free will, not be the result of pressure or

¹¹ R. Wiryono, *Sistem Peradilan Pidana Anak*, Jakarta Sinar Grafika, 2016, hlm. 39.

¹² Braithwaite, J. (2020). Restorative Justice and De-Professionalization. *The Good Society*, 29(1-2), 1-17.

coercion. The principle of impartiality requires that the facilitator of the process remain neutral and unbiased toward all parties. The principle of confidentiality ensures that a party's willingness to speak openly will not be used against them in formal judicial proceedings.¹³

Indonesia is among the countries that have responded to this international framework through legislation. Through Law No. 20 of 2025 on the Criminal Procedure Code, these principles have been formalized into national positive law a step that marks a shift in the orientation of Indonesia's criminal justice system from an approach focused solely on punishment toward a model that allows for the restoration of relationships between the offender, the victim, and society.

2. The Development of Restorative Justice in the Indonesian Legal System

Restorative justice is not a foreign legal concept that has been forcibly transplanted into the Indonesian legal system. Long before this concept was formally articulated in Western legal literature, its underlying values were already alive and practiced within the traditions of customary justice in various communities across the Indonesian archipelago. The customary institutions of Aceh and the Minangkabau customary courts, for example, have long placed deliberation and the restoration of social relations at the core of dispute resolution rather than unilateral punishment by authorities standing outside the community.¹⁴ In this regard, the formalization of restorative justice in modern Indonesian positive law is not merely a matter of adopting international standards, but also of rediscovering legal wisdom that is already deeply rooted in the social practices of the community itself.

This formalization in positive law begins with the most vulnerable group: children in conflict with the law. Through Law No. 11 of 2012 on the Juvenile Criminal Justice System, the state mandates diversion mechanisms as a tool to shield children from the long-term impacts of formal judicial proceedings.¹⁵ The relative success of this model subsequently prompted the National Police to explore a similar approach for adult offenders. The National Police Chief's Circular Letter No. SE/8/VII/2018 marked the first step toward internal formalization, although its status as a circular letter makes its legal binding force tenuous.¹⁶ Police Regulation No. 8 of 2021 was enacted to fill this gap by providing more detailed provisions regarding the requirements, procedures, and

¹³United Nations. (2002). Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters. ECOSOC Resolution 2002/12.

¹⁴Irianto, S., & Shiraishi, T. (Eds.). (2022). *Hukum yang Bergerak: Tinjauan Antropologi Hukum*. Jakarta: Yayasan Obor Indonesia.

¹⁵Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak. Lembaran Negara RI Tahun 2012 Nomor 153.

¹⁶Nasution, B. J. (2021). Rekonstruksi Kebijakan Hukum Pidana dalam Implementasi Keadilan Restoratif. *Jurnal Penelitian Hukum De Jure*, 21(4), 487–504.

mechanisms for the implementation of restorative justice by investigators for certain categories of criminal offenses.¹⁷

However, the underlying issues remain unresolved. All existing regulations from circulars to police regulations rest on a foundation that, in terms of the hierarchy of norms, is not robust enough to bear the weight of a paradigm shift. A legal basis that is merely at the level of internal police regulations lacks the legitimacy commensurate with the magnitude of the changes it seeks to bring about. This structural weakness has only This issue was addressed with the enactment of Law No. 20 of 2025 on the Criminal Procedure Code, which, for the first time, provides restorative justice with a solid legislative foundation within the Indonesian legal system.¹⁸

4. Restorative Justice Theory as a Paradigm of Criminal Law

Theoretically, restorative justice stands as a paradigm that is fundamentally different from both the retributive and rehabilitative paradigms. While the retributive paradigm emphasizes punishment as a proportional response to crime, and the rehabilitative paradigm focuses on reforming the offender's character, the restorative paradigm emphasizes the holistic restoration of the harm caused by the crime.

Christie argues that crime is a conflict "stolen" by the state from the parties who are actually most concerned namely, the victim and the offender. Restorative justice, within this framework, is an effort to "return" the conflict to the parties so that they can resolve it through participatory means.¹⁹ This concept is consistent with the principles enshrined in Law No. 20 of 2025, which allows the parties to actively participate in the case resolution process through the facilitation of investigative authorities.

5. Legal Framework Prior to Law No. 20 of 2025

Before the new Criminal Procedure Code (KUHAP) officially took effect, the implementation of restorative justice at the police level lacked a coherent and comprehensive legal framework. The absence of a single legal foundation meant that existing policies were scattered across a number of legal instruments that did not systematically complement one another. These instruments include the old Criminal Procedure Code (KUHAP) based on Law No. 8 of 1981, which in its entirety does not accommodate the concept of restorative justice at all, Police Regulation No. 8 of 2021, which, although substantively relevant, has limited binding force because it is merely an internal police regulation; and a number of sectoral laws that stand alone without adequate coordination mechanisms among them. This fragmentation of regulations ultimately has a significant impact in practice. The absence of uniform, nationally binding guidelines has led to striking inconsistencies in how individual regional units of the National Police

¹⁷Perpol Nomor 8 Tahun 2021 tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif. Berita Negara RI Tahun 2021 Nomor 947

¹⁸Harahap, M. Y. (2021). Penerapan Restorative Justice dalam Sistem Peradilan Pidana Indonesia. *Jurnal Hukum dan Peradilan*, 10(2), 215–240.

¹⁹Christie, N. (1977). Conflicts as Property. *British Journal of Criminology*, 17(1), 1–15. Dikutip dalam Wahyudi, S. (2021), op. cit.

implement restorative justice approaches. Some regional units apply it actively and in a structured manner, while others tend to ignore or even fail to recognize the mechanism as part of their legitimate discretionary authority. This disparity not only has the potential to create injustice for the parties involved in a case but also reflects the weak alignment between legal policies at the central level and their implementation at the operational level.

Research methods

Legal research methods are scientific approaches or procedures used to systematically collect, process, analyze, and draw conclusions regarding legal issues. This method is used to uncover scientific truths in the field of law, whether related to legal norms, legal principles, or the application of law in society. Through legal research methods, researchers can identify legal issues, formulate hypotheses or research questions, select appropriate approaches, and produce findings that are academically sound.²⁰

This study is based on the normative legal method, a tradition of legal research that focuses on norms as the primary object of study, rather than social behavior or field data. The choice of this method is not merely an academic convention, but a logical consequence of the research questions formulated: if the aim is to answer how the law regulates and how those regulations should be understood coherently, then normative analysis is the most appropriate instrument. As emphasized by Marzuki, normative legal research operates using the criterion of coherence to test whether legal rules align with the underlying norms and whether those norms form a consistent system, rather than contradicting one another.²¹

The two approaches are used in a complementary manner, not as standalone procedures. The statutory approach systematically examines the regulations that form the backbone of this study: Law No. 20 of 2025 on the Criminal Procedure Code as the primary regulation, Police Regulation No. 8 of 2021 as the technical implementation instrument, and Law No. 2 of 2002 on the National Police of the Republic of Indonesia as the institutional foundation. The conceptual approach operates at a different level; it does not examine the text of the regulations but rather maps out the concepts, theories, and doctrines of restorative justice as developed and debated in criminal law literature, to then be compared with the normative constructs found in these laws and regulations.

All materials used in this study are secondary data, classified into three tiers. Primary legal materials include national legislation and relevant international legal instruments. Secondary legal materials include academic journals, legal textbooks, and research reports discussing restorative justice from both theoretical and policy perspectives. Tertiary legal materials include legal encyclopedias as well as articles from

²⁰ Derita Prapti Rahayu dan Sulaiman, *Metode Penelitian Hukum, Edisi Revisi* (Yogyakarta: Thafa Media, t.t.), hlm. xx.

²¹ Marzuki, P. M. (2021). *Penelitian Hukum (Edisi Revisi, Cet. Ke-14)*. Jakarta: Kencana Prenada Media.

reputable media outlets containing empirical data regarding the implementation of restorative justice within the police force.²²

Data collection was conducted through a systematic literature review, involving searches of the Sinta-accredited national scientific journal database, the international databases Scopus and Google Scholar, the National Digital Library collection, and relevant online mass media archives. All collected materials were analyzed using a qualitative content analysis method. This method does not merely inventory the content of legal texts but operates at the level of meaning understanding, interpreting, and constructing the relationship between the norms under study and the research questions that have been formulated. In this way, the research does not stop at describing what is written, but seeks to discern what the norms actually intend and to what extent that intent is coherently realized within the existing legal system.

RESEARCH RESULTS AND DISCUSSION

1. Restorative Justice Principles in Law No. 20 of 2025 on the Criminal Procedure Code

Law No. 20 of 2025 on the Criminal Procedure Code bridges a gap of more than four decades since the last codification of Indonesian criminal procedure law through Law No. 8 of 1981. That time span is not merely a historical footnote; it reflects how slow the legal system's response has been to fundamental shifts in how society understands criminal justice. For over forty years, Indonesia's criminal procedure law operated within a procedural framework designed long before the concept of restorative justice gained normative recognition at the international level, let alone the national level. Law No. 20 of 2025 fundamentally changes that situation. For the first time in the history of the codification of Indonesian criminal procedure law, case resolution mechanisms based on restorative justice are explicitly recognized and regulated in a law that holds equal standing with the Criminal Procedure Code (KUHAP) no longer merely an internal institutional policy that can easily be revoked or ignored.

Structurally, this law distributes the authority to implement restorative justice across three points in the criminal justice system: during the investigative stage by the police, during the prosecution stage by the Public Prosecutor's Office, and during the trial stage by the court. This distribution reflects a legislative design choice that does not centralize restorative mechanisms at a single point but rather opens the possibility of intervention at every stage before a case ultimately results in a criminal conviction. This study limits its analysis to the authority of the Police at the investigative stage, and this limitation is not a choice made solely for academic convenience. The National Police

²²Soekanto, S., & Mamudji, S. (2021). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: Raja Grafindo Persada.

occupy the position of the first gatekeeper of the criminal justice system the earliest agency to determine whether a case will proceed through a lengthy formal process or be resolved through restorative channels before entering the criminal justice system further. Decisions made at the investigative stage are, in many ways, the most decisive and the most difficult to correct at subsequent stages. That is why an examination of police authority within the context of the new Criminal Procedure Code is of an urgency that cannot be postponed.

2. Material Requirements for Restorative Justice by the Police Under Law No. 20 of 2025

Substantive requirements are those related to the substance or content of a legal action, as opposed to formal requirements, which relate to procedures and protocols. In the context of restorative justice by the Police under Law No. 20 of 2025, there are five groups of material requirements that are cumulative in nature; this means that all of these requirements must be met simultaneously for this mechanism to be applied lawfully.

First, the requirement regarding the nature and category of the criminal offense. Law No. 20 of 2025 limits the application of restorative justice only to criminal offenses punishable by imprisonment for a maximum of five years or criminal offenses that do not cause widespread public unrest and are not committed by repeat offenders. This categorization aligns with the philosophy of restorative justice, which distinguishes between criminal offenses with personal impact and those with structural or massive impact on society.²³ Criminal offenses that are expressly excluded include, among others, corruption, terrorism, and narcotics offenses excluding those involving users.

Second, the requirement regarding the offender's acknowledgment of responsibility. This is the core of the entire philosophy of restorative justice: the offender must acknowledge that they have committed an act that caused harm to the victim and be willing to take responsibility for the harm caused. Law No. 20 of 2025 explicitly requires that the offender's willingness must be voluntary and must not be obtained through coercion, pressure, or improper persuasion by investigative officials.

Third, the requirement regarding the victim's voluntary participation. Restorative justice is not an obligation for the victim; it is a right that may be exercised or waived at the victim's discretion. Law No. 20 of 2025 explicitly prohibits investigators from pressuring or coercing the victim into agreeing to a settlement. In cases where the victim is a child or a person lacking legal capacity, consent must be provided by a parent, guardian, or legal curator.²⁴

Fourth, the requirement regarding the provision of adequate reparation to the victim. A restorative justice agreement must specifically outline the forms of reparation

²³Arief, B. N. (2022). *Bunga Rampai Kebijakan Hukum Pidana (Edisi Revisi)*. Jakarta: Kencana.

²⁴Wahyudi, S. (2021). *Perlindungan Hak Korban dalam Penyelesaian Perkara Melalui Restorative Justice*. *Jurnal Dinamika Hukum*, 21(3), 355–372

that the perpetrator has committed to providing to the victim, whether in the form of material compensation, a sincere apology, the fulfillment of certain obligations, or a combination of these forms of reparation. Law No. 20 of 2025 requires that the form of reparation must be proportional to the harm suffered by the victim and must be fully implemented, not merely a promise.²⁵

Fifth, requirements regarding the public interest and non-recidivism. Law No. 20 of 2025 grants investigators discretionary authority to assess whether resolving a case through restorative justice conflicts with the broader public interest. Furthermore, restorative justice may only be applied to offenders who have not previously benefited from this mechanism for similar cases. This provision is intended to prevent the “moral hazard” associated with restorative justice a situation where offenders repeatedly commit crimes in the hope that each instance can be resolved through reconciliation.

3. Supporting Formal Requirements: Implementation Procedures

In addition to the substantive requirements above, Law No. 20 of 2025 also establishes a number of formal requirements. These formal requirements include, among others: (a) the restorative justice process must be facilitated by an investigator possessing the prescribed competencies; (b) the deliberation process must be documented in writing in a meeting minutes; (c) the agreement reached must be set forth in a peace agreement that outlines the rights and obligations of each party; (d) said agreement serves as the basis for issuing a Letter of Decision on the Termination of Investigation (SKPP), which differs from the conventional SP3; and (e) an SKPP based on restorative justice may be challenged through a pre-trial review mechanism.

4. Comparative Analysis: Before and After Law No. 20 of 2025

The differences between the legal framework for restorative justice before and after the enactment of Law No. 20 of 2025 can be observed from several perspectives. In terms of the hierarchy of norms, the previous regulations (Police Regulation No. 8 of 2021 and the National Police Chief’s Circular Letter) were at the level of technical regulations, which hierarchically fall below laws, making them vulnerable to being overturned. The new Criminal Procedure Code places the legal basis for restorative justice at the level of formal law, which is far stronger constitutionally.

In terms of substantive scope, Police Regulation No. 8 of 2021 regulates restorative justice within a relatively limited framework and is more of an internal guideline, while Law No. 20 of 2025 regulates it as an integral part of the criminal justice system with more comprehensive mechanisms. In terms of accountability, the new Criminal Procedure Code reinforces oversight and review mechanisms for restorative justice decisions, including clarifying the right to pre-trial review for dissatisfied parties.

²⁵UNODC. (2020). Handbook on Restorative Justice Programmes (Second Edition). Vienna: UNODC.

5. The Implementation of Restorative Justice by the Police: Between Regulation and Reality

During the period prior to the enactment of the new Criminal Procedure Code but following the issuance of Police Regulation No. 8 of 2021, data indicates a significant upward trend in the use of restorative justice by the Indonesian National Police. The National Police's Criminal Investigation Agency (Bareskrim) noted that in 2021, approximately 5,800 cases were resolved through restorative justice at the police level, rising to over 8,500 cases in 2022, and continuing to increase in 2023.²⁶ This figure indicates that this mechanism is beginning to gain broader institutional acceptance, although it remains small compared to the total volume of cases filed.

The cases most frequently resolved through restorative justice within the Indonesian National Police include: minor assaults, theft involving small amounts of property, neighborhood disputes that lead to criminal complaints, and minor domestic violence cases where the victim seeks reconciliation. This pattern aligns with the philosophy of restorative justice, which positions this mechanism as the optimal solution for cases with a personal nature that do not have a broad impact on public order. However, a number of critical observations need to be made.

First, there are reports that the implementation of restorative justice has not sufficiently prioritized the quality of the deliberation process, where investigators have functioned more as mediators urging victims to accept a settlement rather than as neutral facilitators maintaining a balance of interests.

Second, there are indications that in some cases, the fulfillment of the conditions for compensating the victim's losses was not ensured before the decision to terminate the investigation was issued, resulting in the victim ultimately not receiving the promised compensation.

Third, and most problematic from a human rights perspective, are findings regarding cases in which victims particularly female victims of domestic violence feel pressured by their families or law enforcement officials to agree to a settlement even though they do not wish to do so. This practice directly contradicts the requirement of voluntariness, which is at the core of restorative justice. Fourth, disparities in the investigative capacity of police personnel between district police stations in major cities and sub-district police stations in remote areas create inequalities in the quality of restorative justice implementation. Investigators who are trained and have a deep understanding of the concept of restorative justice tend to be concentrated in urban areas.

6. Legal Challenges in the Implementation of the New Criminal Procedure Code

Although Law No. 20 of 2025 provides a stronger legal foundation, a number of potential legal challenges need to be anticipated. The first issue concerns the relationship

²⁶Bareskrim Polri. (2023). *op. cit.*

between restorative justice mechanisms and the principle of legality in criminal law. The termination of an investigation on the basis of restorative justice is essentially a decision not to apply criminal law that has been formally violated; thus, the question of the limits of the investigator's discretion vis-à-vis the principle of legality becomes relevant.

The second issue concerns the potential for double jeopardy. If a case has been resolved through restorative justice and a decision to terminate the investigation has been issued, the question of whether the investigation can be resumed if the perpetrator fails to fulfill the agreement must be clearly addressed by regulations derivative.²⁷ The third issue concerns the protection of the state's interests in cases where a criminal offense involves a public interest, even if the victim personally wishes to settle the matter amicably.

7. Restorative Justice and the Protection of Victims' Rights

One of the biggest criticisms of restorative justice as a mechanism for resolving criminal cases is the concern that it may harm victims, particularly those who are in a vulnerable position or who are in an unequal power dynamic with the perpetrator. This concern is particularly relevant in the Indonesian context, where unequal gender relations, economic inequality, and the dominance of extended families still frequently influence the dynamics of conflict resolution.

Law No. 20 of 2025 seeks to address these concerns through several protective provisions, requiring investigators to ensure victims have access to legal counsel or a support person; excluding certain categories of criminal offenses that are not suitable for resolution through restorative justice (such as human trafficking and sexual exploitation); and granting victims the right to withdraw their consent to a restorative justice agreement if the process is based on coercion or incomplete information.

8. The Role of Investigators as Facilitators: Required Competencies

Law No. 20 of 2025 positions investigators as facilitators of the restorative justice process, not as judges who render decisions. This role demands specific competencies, including a deep understanding of the concepts and philosophy of restorative justice; techniques for facilitating communicative and neutral dialogue; an understanding of the dynamics of trauma and the psychology of victims; and knowledge of the legal provisions governing this mechanism.

A major challenge in this regard is that the National Police's education and training curriculum has not yet adequately incorporated these components. Educational programs at the Police Academy (PTIK) and the Police Command and Staff College (Sespimpolri) remain dominated by conventional investigative materials using an adversarial approach, rather than a restorative one. Therefore, reforming the police education curriculum has become an urgent agenda that must proceed in tandem with the implementation of the

new Criminal Procedure Code (KUHAP). In the medium term, the National Police need to develop a specialized certification system for investigators who will be appointed as restorative justice facilitators, as has been successfully implemented in New Zealand.

9. Restorative Justice as a Tool for Renewing Legal Culture

At a broader level, the implementation of restorative justice in the new Criminal Procedure Code is not merely about technical regulatory changes, but is also part of a comprehensive process of transforming legal culture. The success of legal reform depends on the harmony between legal structure, legal substance, and legal culture.

Law No. 20 of 2025 has updated legal substance. However, the greatest challenge may lie in the dimension of legal culture: both the institutional legal culture of the National Police, which has tended to measure the success of investigations by the number of arrests and cases referred to court, and the public's legal culture, which often measures justice solely by the length of time a perpetrator spends in prison. Changing this legal culture requires time and investment far exceeding regulatory changes, as well as massive and sustained public communication programs.

Conclusion

1. Conclusion

Based on the comprehensive analysis conducted, this study has yielded several key conclusions. First, Law No. 20 of 2025 on the Criminal Procedure Code represents a highly significant normative advancement in the regulation of restorative justice by the Indonesian National Police, as this mechanism is, for the first time, grounded in legislation at the level of a law, providing far greater certainty, legitimacy, and accountability compared to previous technical regulations of the National Police.

Second, the material requirements for restorative justice under Law No. 20 of 2025 are cumulative and include: (a) the categorization of criminal offenses that meet the criteria of a maximum criminal penalty and do not cause widespread public alarm; (b) the offender's voluntary acknowledgment and willingness to take responsibility; (c) the victim's voluntary willingness to participate in the restorative justice process with a full understanding of their rights; (d) the fulfillment of a form of restitution that is proportional and tangible for the victim; and (e) the resolution not conflicting with the public interest and the absence of a history of applying similar mechanisms in similar cases by the same perpetrator.

Third, the implementation of restorative justice by the police shows an encouraging trend in terms of the number of cases resolved, but faces various substantial challenges related to the quality of the process, the protection of victims' rights, disparities in capacity across regions, and the potential for abuse of the mechanism by parties acting in bad faith. These challenges will not be addressed solely by the existence of Law No. 20 of 2025, but require comprehensive implementing regulations, structured training programs, and effective oversight mechanisms.

Fourth, from a theoretical perspective, the application of restorative justice as regulated in the new Criminal Procedure Code aligns with the internationally adopted paradigm of restorative justice; however, its long-term success will be largely determined by the extent to which a genuine transformation of legal culture occurs within the police institution and in society at large.

2. Recommendations

Based on the conclusions above, this study proposes several recommendations. First, the government and the Indonesian National Police (Polri) need to immediately draft technical regulations derived from Law Number 20 of 2025 that more specifically regulate standard operational procedures, forms and documentation, oversight mechanisms, and complaint handling systems related to the implementation of restorative justice at the police level. These derivative regulations should consider input from academics, civil society organizations, and especially vulnerable groups such as women and children.

Second, the Indonesian National Police (Polri) must reform its personnel education and training system to systematically incorporate restorative justice curriculum, cross-cultural communication, victim psychology, and dialogue facilitation into basic education programs and advanced training for investigators. Special certification for restorative justice facilitator investigators needs to be immediately developed and made mandatory.

Third, the government needs to establish a data-driven monitoring and evaluation system to measure the quality (not just the quantity) of case resolution through restorative justice, including the level of victim satisfaction, the level of perpetrator fulfillment of obligations, and the rate of recidivism after restorative justice. This data will be used as an evidence based policy making basis.

Fourth, a massive and sustained public communications program needs to be carried out jointly by the Indonesian National Police (Polri), the Ministry of Law and Human Rights, and civil society organizations to build public understanding and acceptance of restorative justice as a legitimate and dignified form of justice, not as a "pardon" for perpetrators of crimes.

Fifth, a more in-depth comparative study is needed on the experiences of other countries, such as New Zealand, Australia, and the Nordic countries, in implementing restorative justice systematically, to learn lessons and identify best practices that can be adapted to the Indonesian context.

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