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Considering Restorative Justice in Criminal Cases Involving Indonesian National Armed Forces Personnel

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Original Article

Abstract

This study is motivated by the evolving paradigm in criminal justice, which is no longer solely oriented toward punishment but increasingly emphasizes the restoration of social relationships through a restorative justice approach, including within the military justice system. The research aims to analyze the implementation of restorative justice in military criminal cases adjudicated by the Madiun III-13 Military Court and to examine the legal considerations of the panel of judges in applying this approach in Decision Number 26-K/PM.III-13/AD/VII/2025 concerning fraud committed by a member of the Indonesian National Armed Forces (TNI). This study employs a normative legal research method using statutory and case-based approaches, supported by the analysis of judicial decisions and relevant empirical data related to military justice practices. The findings indicate that restorative justice was implemented through a mutual agreement between the perpetrator and the victim, accompanied by a mechanism for compensating the victim's losses, while maintaining the principles of military discipline. Accordingly, restorative justice can be proportionally integrated into the military criminal justice system.

Keywords: *Restorative Justice, Military Justice, Judicial Considerations, Fraud*

Abstrak

Penelitian ini dilatarbelakangi oleh perkembangan paradigma penyelesaian perkara pidana yang tidak lagi semata-mata berorientasi pada pemidanaan, tetapi juga pada pemulihan hubungan sosial melalui pendekatan restorative justice, termasuk dalam sistem peradilan militer. Penelitian ini bertujuan untuk menganalisis pelaksanaan restorative justice dalam perkara pidana militer di Pengadilan Militer III-13 Madiun serta mengkaji pertimbangan hukum majelis hakim dalam menerapkannya pada Putusan Nomor 26-K/PM.III-13/AD/VII/2025 terkait tindak pidana penipuan yang dilakukan oleh prajurit TNI. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan dan pendekatan kasus, yang didukung oleh analisis terhadap putusan pengadilan dan data empiris terkait praktik peradilan militer. Hasil penelitian menunjukkan bahwa penerapan restorative justice dilakukan melalui kesepakatan antara pelaku dan korban dengan mekanisme pemulihan kerugian korban, tanpa mengabaikan prinsip disiplin militer. Oleh karena itu, pendekatan ini menunjukkan bahwa keadilan restoratif dapat diintegrasikan secara proporsional dalam sistem peradilan pidana militer.

Kata kunci: *Keadilan Restoratif, Peradilan Militer, Pertimbangan Hakim, Tindak Pidana Penipuan*

1. INTRODUCTION

The criminal justice system in Indonesia has traditionally been constructed upon a law enforcement paradigm that prioritizes the imposition of criminal sanctions on individuals proven guilty of committing criminal offenses through judicial proceedings. Within this framework, criminal law functions as an instrument of the state to maintain social order, enforce legal norms, and deter potential offenders. Any act classified as a criminal offense, whether regulated under the Indonesian Criminal Code (KUHP) or under statutes outside the code, may in principle be subject to criminal liability if it is established through legally valid evidence and adjudicated through a fair judicial process.¹ Consequently, the criminal justice system operates not only as a mechanism for enforcing legal rules but also as a means of achieving justice, legal certainty, and broader social welfare.

As a constitutional state grounded in the rule of law, Indonesia places the supremacy of law at the core of its governance structure. This principle requires that all actions undertaken by the state, including law enforcement activities, be conducted transparently, accountably, and in accordance with fair legal procedures. The Constitution of the Republic of Indonesia, particularly Article 28D paragraph (1) of the 1945 Constitution, guarantees that every individual has the right to recognition, protection, and certainty of a fair legal process, as well as equal treatment before the law. This constitutional guarantee implies that judicial proceedings must ensure balanced protection for all parties involved, including the accused, the victim, and society at large.

In line with the evolution of modern criminal law theory, increasing criticism has been directed toward the traditional sentencing paradigm, which relies heavily on a retributive approach. Critics argue that such an approach often fails to address the underlying causes of criminal behavior and does not adequately restore the losses suffered by victims. In response to these limitations, the concept of restorative justice has emerged as an alternative model for resolving criminal disputes. This approach emphasizes the restoration of relationships among offenders, victims, and the community through processes of dialogue, deliberation, and mutual agreement aimed at repairing the harm caused by criminal conduct.² Rather than focusing exclusively on punishment, restorative justice prioritizes recovery, reconciliation, and the moral responsibility of offenders toward victims and the wider community.

In Indonesia, the concept of restorative justice has gradually gained formal recognition within the national legal framework. One important regulatory milestone is

¹ Lalu Saipudin et al., "The Concept of Corporate Criminal Liability in the Indonesian Criminal Law System," *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 2 (2025): 475–499, <https://doi.org/10.29303/ius.v13i2.1817>.

² Eva Achjani Zulfa, "Restorative Justice in Indonesia: Traditional Value," *Indonesia Law Review* 1, no. 2 (2011): 33–43, <https://doi.org/10.15742/ilrev.v1n2.81%0A%0A>.

Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. This regulation provides practical guidance for judges in applying restorative principles during criminal proceedings while considering factors such as the interests of the victim, the responsibility of the offender, and the broader social impact of the crime. The adoption of this regulation reflects a significant shift in the orientation of the Indonesian criminal justice system, moving beyond a purely punitive model toward an approach that also emphasizes restoration and substantive justice.

Nevertheless, the application of restorative justice presents particular challenges in legal systems that possess distinctive institutional characteristics, such as the military justice system. Unlike the general criminal justice system, military justice serves not only to enforce legal norms but also to preserve discipline, hierarchy, and institutional integrity within the armed forces. In this regard, members of the Indonesian National Armed Forces (TNI), as central actors in national defense, carry a strategic responsibility to safeguard state sovereignty, maintain territorial integrity, and ensure national security.

The legal status of TNI personnel as state defense officials places them within a specialized legal framework. Under Indonesian law, military personnel are subject to two principal legal regimes: military disciplinary law and military criminal law. Military disciplinary regulations are governed by Law Number 25 of 2014 concerning Military Disciplinary Law, while the procedural and institutional aspects of military justice are regulated by Law Number 31 of 1997 concerning Military Justice. Together, these legal instruments reflect the distinctive nature of the military legal system, which places strong emphasis on adherence to the chain of command, the enforcement of discipline, and the moral development of soldiers.

These characteristics fundamentally distinguish the military justice system from the general criminal justice system. In the military context, the enforcement of court decisions is not merely understood as a mechanism for upholding the law but also as an integral component of maintaining discipline and professional conduct among soldiers. Consequently, policies related to military law enforcement must carefully balance the objectives of legal accountability, institutional interests, and the protection of individual rights of military personnel. The emergence of the restorative justice paradigm raises important questions regarding the extent to which such an approach can be integrated into the military justice system. Restorative justice emphasizes dialogue, reconciliation, and the restoration of harm, whereas the military legal system traditionally prioritizes discipline, hierarchy, and the broader interests of national defense.

This potential normative tension necessitates a comprehensive examination of whether restorative justice can be implemented without undermining the fundamental

principles that govern military institutions. Moreover, the application of restorative justice in military criminal proceedings carries significant implications for safeguarding the rights of all parties involved in the judicial process. These include not only the offender and the victim but also the military institution itself, which possesses a legitimate interest in maintaining discipline, integrity, and public trust. Therefore, the incorporation of restorative justice principles within military justice requires a cautious and well-balanced approach in order to prevent conflicts between legal norms, institutional responsibilities, and the pursuit of justice for victims.

An illustrative example of this approach can be found in Decision Number 26-K/PM.III-13/AD/VII/2025 rendered by the Military Court III-13 in Madiun. The case involved a member of the Indonesian National Armed Forces charged with fraud. In its ruling, the panel of judges considered not only the imposition of criminal sanctions but also the broader dimension of restoring the relationship between the offender and the victim, as well as addressing the social consequences of the offense. This decision is particularly significant because it demonstrates the dynamic interaction between restorative justice principles and the obligation to preserve discipline and institutional honor within the military framework.

Based on this background, the application of restorative justice within the military justice system represents a complex legal issue that warrants thorough academic examination. Research on this subject is essential for assessing the extent to which Supreme Court Regulation Number 1 of 2024 can be effectively implemented within military courts and how judicial reasoning integrates restorative principles into sentencing practices. Furthermore, such research is expected to contribute to the development of more adaptive and equitable military law enforcement policies that align with the evolving paradigm of modern criminal law emphasizing restoration and substantive justice.

Research conducted by Yusniadi et al. emphasized the implementation of Law Number 25 of 2014 concerning Military Disciplinary Law within the Regional Military Command. Using a qualitative approach, the study combined primary data obtained through in-depth interviews with secondary data derived from policy documents and relevant regulations. The findings indicate that, in practice, military discipline is predominantly enforced through internal mechanisms handled by superiors with the authority to punish (*Ankum*). Minor violations are generally resolved through disciplinary procedures rather than being prosecuted before military courts, often resulting in administrative sanctions such as short-term disciplinary detention. These findings suggest that the military legal system frequently relies on internal corrective measures that indirectly resemble restorative justice principles.³

³ Aditia Yusniadi et al., "Implementasi Sanksi Administrasi Terhadap Anggota Militer Yang Melanggar Aturan Disiplin Militer Berdasarkan Undang-Undang Nomor 25/2014 Tentang Hukum Disiplin Militer (Studi Di Kumdam I/Bb)," *Iuris Studia: Jurnal Kajian Hukum* 5, no. 2 (2024): 504–18, <https://doi.org/10.55357/is.v5i2.644>.

Furthermore, research conducted by Ismail and Maysarah examined the legal foundation for implementing restorative justice in the military justice system following the issuance of Supreme Court Regulation Number 1 of 2024 and Supreme Court Circular Letter Number 2 of 2024. Using a normative legal research method, the study concluded that the application of restorative justice in military criminal cases possesses a relatively strong normative basis. The regulation establishes both general and specific requirements that must be satisfied for a case to be resolved through a restorative approach. The study highlights that these regulatory developments represent an important step toward transforming the military criminal justice system into a more humane and socially restorative framework.⁴

Another study by Rizki Z et al. analyzed the potential implementation of restorative justice within the Indonesian military justice system through a comparative legal approach. The research examined restorative justice models applied in several countries, including victim–offender mediation in the United States and dual-track restorative justice mechanisms in Belgium. The findings indicate that implementing restorative justice in the Indonesian military context is feasible through several institutional mechanisms, such as strengthening the authority of the Criminal Investigation Agency within military disciplinary structures, enabling case dismissal by the Case Referring Officer (Papera), and applying the principle of judicial forgiveness (*rechterlijk pardon*). However, the study also emphasizes the necessity of developing a more comprehensive and integrated regulatory framework involving military law enforcement institutions and the Supreme Court.⁵

Previous research conducted by Feriyanti et al. examined the application of restorative justice principles in domestic violence cases involving members of the Indonesian National Armed Forces. Employing a normative juridical approach supported by case studies of military court decisions in Jakarta and Bandung, the study found that although no explicit regulation governs restorative justice in the military justice system, judges have occasionally incorporated restorative considerations in their decisions. This finding indicates that judicial interpretation provides opportunities for integrating reconciliation and restorative values within military sentencing practices.⁶

Meanwhile, research conducted by Saleh et al. focused on the application of restorative justice in sentencing military crime perpetrators. Using a normative juridical method and qualitative analysis of legal materials, the study concluded that restorative

⁴ Ismail Ismail and Andi Maysarah, “Tinjauan Yuridis Restorative Justice Dalam Tindak Pidana Militer,” *Jurnal Warta Dharmawangsa* 19, no. 1 (2025): 466–77, <https://doi.org/10.46576/wdw.v19i1.5881>.

⁵ Zakiah Rizki Z, Mulyono Mulyono, and Budi Purnomo, “Konsepsi Restorative Justice Pada Sistem Peradilan Militer Perspektif Keadilan,” *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 3 (2025): 2258–2266, <https://doi.org/10.61104/alz.v3i3.1509>.

⁶ Nentin Feriyanti, Ramlani Lina Sinaulan, and Moch Haris, “Implementation of Restorative Justice in the Settlement of Violent Criminal Actions in the House of Tni Servants in the Military Justice System,” *Journal of Industrial Engineering & Management Research* 4, no. 2 (2023): 14–21, <https://doi.org/10.7777/jiemar.v4i2.455>.

justice can promote a balanced resolution that accommodates legal interests, institutional military concerns, and the rights of victims. This approach facilitates dialogue between offenders, victims, and relevant stakeholders, thereby encouraging outcomes that prioritize accountability and social restoration.⁷

Another relevant study by Widonarko highlighted the limitations of military disciplinary law in accommodating contemporary developments in criminal justice, including restorative justice principles. The study demonstrated that regulatory provisions governing minor offenses within military disciplinary law remain limited and have not fully adapted to modern criminal law trends that emphasize benefit, reconciliation, and restoration. This condition illustrates a regulatory gap between existing military legal norms and the evolving paradigm of contemporary criminal justice systems.⁸

Rahman examined the potential implementation of restorative justice for military personnel involved in drug abuse offenses. The study indicates that the military legal system remains largely oriented toward a punitive and repressive approach, particularly in narcotics-related cases. Consequently, opportunities to apply rehabilitative or restorative measures are still relatively limited compared with those available in the general criminal justice system.⁹ Furthermore, Rini and Suprpto analyzed the jurisdiction of military courts in handling general crimes committed by members of the Indonesian National Armed Forces (TNI). Their research highlights ongoing debates regarding accountability, transparency, and the protection of victims' rights, particularly when the victims are civilians. For this reason, reform of the military justice system is considered essential to ensure substantive justice and equality before the law.¹⁰

The existing scholarship on restorative justice within Indonesia's military justice system is still predominantly normative, focusing mainly on regulatory analysis and theoretical perspectives. Although several studies have discussed the possible application of restorative principles in specific contexts, few have examined the concrete implementation of Supreme Court Regulation Number 1 of 2024 in actual military court practices. In particular, empirical analyses based on detailed examinations of military court decisions remain limited. Consequently, most prior research has not

⁷ Muhammad Saleh, Agus Salim, and Yotham Th. Timbonga, "Analisis Penerapan Tindak Pidana Militer Dengan Pendekatan Restorative Justice," *Paulus Legal Research* 2, no. 2 (2024): 1–19, <https://ojs.ukipaulus.ac.id/index.php/plr/article/view/578>.

⁸ Janur Widonarko, "Hubungan Restorative Justice Terhadap Tindak Pidana Yang Sedemikian Ringan Sifatnya Dalam Hukum Disiplin Militer," *Jurnal Hukum Militer* 14, no. 2 (2022): 1–24, <https://jurnal.sthm.ac.id/index.php/hukummiliter/article/view/82>.

⁹ Ilham Rahman, "Rehabilitasi Terhadap Anggota TNI Yang Melakukan Tindak Pidana Penyalahgunaan Narkotika," *Lex Positivis* 2, no. 9 (2024): 1066–83, <https://jtamfh.ulm.ac.id/index.php/jtamfh/article/view/137>.

¹⁰ Suprobo Rini and Suprpto Suprpto, "Kewenangan Peradilan Militer Dalam Menindak Anggota Tni Yang Melakukan Tindak Pidana Umum," *Jurnal Kolaboratif Sains* 8, no. 8 (2025): 5113–23, <https://doi.org/10.56338/jks.v8i8.8018>.

explored how restorative justice principles are practically interpreted and applied by military judges in resolving criminal cases involving military personnel.

This study seeks to address that gap by analyzing the legal application of restorative justice in Decision Number 26-K/PM.III-13/AD/VII/2025 issued by the Military Court III-13 in Madiun. By examining this decision, the study provides an empirical perspective on judicial reasoning and the practical dynamics involved in implementing restorative justice within the military criminal justice system. This approach enables a deeper understanding of how restorative principles interact with the institutional objectives of maintaining discipline and integrity within the armed forces.

Based on this background, the study aims to analyze the implementation of the restorative justice concept within the Indonesian military justice system following the enactment of Supreme Court Regulation Number 1 of 2024. Specifically, the research seeks to examine the application of restorative justice in military criminal cases adjudicated by the Military Court III-13 in Madiun and to analyze the legal considerations of the panel of judges in applying a restorative justice approach in Decision Number 26-K/PM.III-13/AD/VII/2025 concerning fraud committed by a member of the Indonesian National Armed Forces.

2. RESEARCH METHODOLOGY

This study employs a normative legal research approach that focuses on analyzing legal norms governing the application of restorative justice within the Indonesian military justice system. The approach is selected because the research primarily examines statutory regulations, legal doctrines, and judicial decisions relevant to restorative justice in military criminal cases. Through normative analysis, the study evaluates the consistency between existing legal frameworks and their practical implementation in military court decisions, thereby assessing the extent to which these legal policies contribute to achieving substantive justice.

The research applies several analytical approaches, including the statute approach, conceptual approach, and case approach. The statute approach involves examining relevant legal instruments such as Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, Law Number 31 of 1997 concerning Military Justice, and Law Number 25 of 2014 concerning Military Disciplinary Law. The conceptual approach explores theoretical perspectives and fundamental principles of restorative justice in contemporary criminal law scholarship. Meanwhile, the case approach focuses on analyzing Decision Number 26-K/PM.III-13/AD/VII/2025 in order to examine judicial reasoning in applying restorative justice principles within military criminal proceedings.

The legal materials utilized in this research consist of primary, secondary, and tertiary sources collected through library-based research methods. These materials

include legislation, court decisions, scholarly literature, and relevant legal references. All collected legal materials are subsequently analyzed qualitatively using a normative juridical method through systematic legal interpretation. This analytical process aims to develop a comprehensive understanding of how restorative justice principles are interpreted and implemented within the Indonesian military justice system.

3. RESEARCH RESULT AND DISCUSSION

3.1. Implementation of Restorative Justice in Military Criminal Cases at the Madiun III-13 Military Court

This study analyzes the implementation of restorative justice in military criminal cases adjudicated by the Madiun III-13 Military Court following the enactment of Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. The analysis focuses on how restorative justice norms are applied in military judicial practice and evaluates the extent to which this approach can restore the interests of victims and other parties while maintaining the distinctive characteristics of the military legal system, including discipline, hierarchical command structures, and the institutional interests of national defense.

The adoption of Supreme Court Regulation Number 1 of 2024 reflects a significant paradigm shift in Indonesia's criminal justice system, including the military justice sector. This regulatory framework broadens the orientation of criminal adjudication from a predominantly punitive approach toward one that also emphasizes restoration and reconciliation. Accordingly, the resolution of criminal cases is no longer limited to imposing sanctions on offenders but also aims to restore social relationships disrupted by criminal conduct and to provide meaningful justice for victims. In practice, judges at the Madiun III-13 Military Court are granted discretion to determine whether a particular military criminal case is suitable for resolution through restorative justice mechanisms. Such assessments consider various factors, including the nature and seriousness of the offense, the circumstances of the offender, the magnitude of harm experienced by the victim, and the willingness of the involved parties to pursue dialogue and reconciliation. Therefore, the application of restorative justice is not automatic but requires comprehensive legal and sociological considerations.

In 2025, two military criminal cases at the Madiun III-13 Military Court were resolved through a restorative justice approach. The first case involved fraud and was adjudicated in Decision Number 26-K/PM.III-13/AD/VII/2025, while the second case concerned a disciplinary violation in the form of absence without permission, decided in Decision Number 34-K/PM.III-13/AU/X/2025. These cases illustrate that restorative justice may be applied not only in offenses involving individual victims but also in violations that affect the institutional interests of the military organization.

Table 1.*Cases Resolved Through a Restorative Justice Approach at the Madiun III-13 Military Court in 2025*

Case	Case Number	Offense	Defendant	Victim/Aggrieved Party
A	26-K/PM.III-13/AD/VII/2025	Fraud	Arick Surya Putra	Erna Tri Wahyuni
B	34-K/PM.III-13/AU/X/2025	Unauthorized Absence (THTI)	Ahmad Puji Hartono	Air Squadron 15, Air Wing 3, Iswahjudi Air Force Base

In the first case, the defendant Arick Surya Putra was found legally and convincingly guilty of committing fraud against the victim, Erna Tri Wahyuni. The panel of judges initially imposed a one-year imprisonment sentence; however, the execution of this sentence was suspended on the condition that the defendant repay the victim's financial losses amounting to IDR 384,000,000 within a four-month probationary period. This decision reflects the application of restorative justice principles by prioritizing compensation and the restoration of the victim's losses.

In the second case concerning unauthorized absence (THTI), the defendant Ahmad Puji Hartono was sentenced to three months of imprisonment. Nevertheless, the sentence was suspended under the condition that the defendant perform community service within his military unit, Air Squadron 15, Air Wing 3 at Iswahjudi Air Force Base, under the supervision of authorized officers. This approach demonstrates that restorative justice in the military context not only seeks to repair harm but also aims to restore discipline and reinforce the offender's responsibility toward the military institution.

The findings of this study indicate that the implementation of restorative justice within the military justice system cannot be separated from the distinctive characteristics of military law as regulated in Law Number 31 of 1997 concerning Military Justice. Unlike the general criminal justice system, military justice has an additional objective, namely maintaining discipline among soldiers and preserving the stability of the military organization. Consequently, the adoption of a restorative approach must continue to consider the institutional interests of the military as an integral component of the national defense system.

An interview with Betty Novita Rindarwati, Deputy Chief of the Madiun III-13 Military Court, revealed that the application of restorative justice in military courts currently relies primarily on Supreme Court Regulation Number 1 of 2024 as a normative guideline. This reliance exists because restorative justice principles are not explicitly regulated in Law Number 31 of 1997 concerning Military Justice. Therefore, the Supreme Court regulation functions as an important normative bridge that enables military judges to incorporate restorative justice principles when adjudicating military criminal cases.

The application of this approach provides broader benefits compared with conventional punitive mechanisms. In fraud cases, victims can obtain direct restitution

through the offender's obligation to compensate for financial losses. This differs from conventional sentencing, which often focuses solely on punishing the offender without ensuring that the victim receives compensation.¹¹ Moreover, in cases involving unauthorized absence, the imposition of community service sanctions within military units produces a more constructive rehabilitative effect for the offender.¹² Through this mechanism, the offender not only serves a sanction but is also given an opportunity to improve behavior and demonstrate responsibility through direct contributions to the military institution.¹³

The results of this study are consistent with several previous studies suggesting that restorative justice may serve as a more humane and effective alternative in resolving criminal cases. Prior research has demonstrated that restorative approaches can enhance victim satisfaction while encouraging offenders to assume greater responsibility for their actions.¹⁴ However, this study also differs from a number of earlier normative studies that concluded the practical application of restorative justice within military justice remains limited. The evidence that the Madiun III-13 Military Court has applied this approach in several decisions indicates that restorative justice is gradually being adopted in military judicial practice.

This research confirms that the application of restorative justice in military criminal cases at the Madiun III-13 Military Court represents a progressive step toward integrating restorative values into the military justice system. This approach not only benefits victims through restitution but also provides offenders with opportunities to correct their behavior and reintegrate into the military environment. Nevertheless, the effectiveness of restorative justice implementation depends heavily on the consistency and integrity of law enforcement officials in applying these principles.

Without a comprehensive understanding of restorative justice, there is a risk that the approach could be reduced to a mere procedural formality without producing genuine recovery for the parties involved. Therefore, strengthening regulatory frameworks and developing more comprehensive technical guidelines within the military justice system are necessary to ensure the consistent implementation of

¹¹ Muhammad Bakri, *Pengantar Hukum Indonesia Jilid I: Sistem Hukum Indonesia Pada Era Reformasi*, 1st ed. (Malang: Universitas Brawijaya Press, 2011).

¹² Reno Renaldi, Syahrudin Nawi, and Nasrullah Arsyad, "Analisis Yuridis Penerapan Tindak Pidana Ketidakhadiran Tanpa Izin Paling Lama Empat Hari Di Dalam Kitab Undang-Undang Hukum Pidana Militer," *Innovative: Journal Of Social Science Research* 4, no. 3 (2024): 199–209, <https://j-innovative.org/index.php/Innovative/article/view/7394>.

¹³ Yusniadi et al., "Implementasi Sanksi Administrasi Terhadap Anggota Militer Yang Melanggar Aturan Disiplin Militer Berdasarkan Undang-Undang Nomor 25/2014 Tentang Hukum Disiplin Militer (Studi Di Kumdam I/Bb)."

¹⁴ Feriyanti, Sinulan, and Haris, "Implementation of Restorative Justice in the Settlement of Violent Criminal Actions in the House of Tni Servants in the Military Justice System"; Ismail and Maysarah, "Tinjauan Yuridis Restorative Justice Dalam Tindak Pidana Militer"; Rizki Z, Mulyono, and Purnomo, "Konsepsi Restorative Justice Pada Sistem Peradilan Militer Perspektif Keadilan"; Widonarko, "Hubungan Restorative Justice Terhadap Tindak Pidana Yang Sedemikian Ringan Sifatnya Dalam Hukum Disiplin Militer."

restorative justice. Through such efforts, the Indonesian military justice system can maintain discipline among soldiers while also delivering justice that is more humane, responsive, and oriented toward recovery for all parties involved in military criminal cases.

3.2. Legal Considerations of the Panel of Judges in Applying a Restorative Justice Approach to Indonesian National Armed Forces (TNI) Soldiers

This study examines the legal considerations of the panel of judges in applying a restorative justice approach to members of the Indonesian National Armed Forces (TNI), particularly in Decision Number 26-K/PM.III-13/AD/VII/2025 concerning the criminal offense of fraud. The primary objective is to understand how military judges interpret and apply restorative justice principles within the framework of military criminal law, which traditionally emphasizes discipline, order, and obedience to the military chain of command. Accordingly, the analysis not only focuses on the normative legal reasoning contained in the judgment but also evaluates the relevance of implementing restorative justice within the military justice system, which possesses institutional characteristics distinct from those of the general criminal justice system.

In this case, the panel of judges initially examined the fulfillment of the elements of the criminal offense of fraud as stipulated in Article 378 of the Indonesian Criminal Code. This provision establishes that any person who, with the intention of unlawfully benefiting themselves or another person by using a false name, false position, deception, or a series of lies to persuade another individual to transfer property or money, may be subject to a maximum penalty of four years' imprisonment. Based on the evidence presented during the trial, the defendant, a TNI soldier, was found legally and convincingly guilty of committing fraud. The defendant promised the victim that the victim's child could obtain a specific job through a particular channel, which ultimately proved to be a false representation. Through this deceptive conduct, the defendant successfully obtained a substantial sum of money from the victim.

The proof of this offense was supported by several forms of legally admissible evidence, including witness testimony, the defendant's own statement during the proceedings, and documentary evidence in the form of financial transaction records indicating the transfer of money from the victim to the defendant. The panel of judges concluded that the defendant's conduct constituted an unlawful act because it was intentionally carried out to obtain personal financial gain through deceptive means. Furthermore, the series of false statements made by the defendant clearly influenced the victim's decision to transfer the money. Accordingly, the judges determined that all elements of the offense of fraud under Article 378 of the Criminal Code were cumulatively fulfilled.

However, the legal reasoning of the panel of judges did not end with the formal verification of the criminal elements. In the judgment, the judges also considered the broader objectives of military criminal law by incorporating the principles of justice, utility, and humanity into the sentencing process. Normatively, military criminal law is designed to preserve discipline, order, and professionalism among soldiers performing national defense duties. Violations committed by military personnel are therefore often perceived as threats to the integrity and credibility of the military institution. Nevertheless, the panel of judges determined that the defendant's criminal conduct in this case was not directly related to the execution of military duties and did not significantly disrupt the operational stability of the military organization.

Based on these considerations, the panel of judges concluded that the application of a restorative justice approach could be justified as part of responsible judicial discretion. During the trial proceedings, following the reading of the indictment by the Military Prosecutor under Order Number Sdak/27/K/AD/OM.III12A/II/2025 dated July 14, 2025, the judges informed the parties that the case could potentially be resolved through a restorative justice mechanism if an agreement could be reached between the defendant and the victim. This initiative was intended to provide the parties with an opportunity to pursue a resolution that prioritized the restoration of the victim's losses rather than relying solely on punitive sanctions.

Subsequently, a restorative agreement was successfully reached during the judicial proceedings. The victim requested that the defendant return the entire amount of financial loss suffered as a result of the fraudulent act. The total loss amounted to IDR 384,000,000, representing the funds transferred by the victim to the defendant in exchange for the promised employment opportunity for the victim's child. In the agreement reached before the court, the defendant formally committed to repaying the full amount of the loss within four months following the issuance of the court's decision.

This agreement constituted a crucial consideration for the panel of judges in rendering their decision. The judges viewed the defendant's willingness to compensate the victim's losses as evidence of good faith and acknowledgment of wrongdoing. Likewise, the victim's willingness to resolve the dispute through a restorative mechanism reflected reconciliation and the restoration of social relations. From the perspective of restorative justice, the restoration of the victim's losses represents a primary objective in resolving certain criminal cases.

The findings of this study indicate that the panel of judges proportionally integrated restorative justice principles with the framework of military criminal law. The judges emphasized that not all military offenses are suitable for resolution through restorative mechanisms, particularly those involving serious disciplinary violations, breaches of the chain of command, or conduct that threatens national security.

Consequently, the application of restorative justice in this case represents a case-specific judicial policy that remains within the boundaries of applicable law.¹⁵

Compared with previous research on restorative justice in the Indonesian criminal justice system, the results of this study demonstrate an important development in military judicial practice. Earlier studies generally focused on the implementation of restorative justice in the general criminal justice system, particularly in cases involving minor offenses or crimes that cause individual harm.¹⁶ Within that context, restorative justice is frequently regarded as an alternative mechanism capable of reducing the burden on courts while providing more effective recovery for victims.

Research examining restorative justice in the military justice system remains relatively limited. The military legal framework traditionally prioritizes discipline and obedience to orders, which has often led to the perception that restorative approaches are less compatible with military institutions. Therefore, the findings of this research contribute significantly by demonstrating that restorative justice can still be implemented in military judicial processes, provided that it does not conflict with the fundamental objectives of military law.

In deciding this case, the panel of judges attempted to balance the three classical objectives of law: legal certainty, justice, and utility. From the perspective of legal certainty, the judges ensured that the elements of fraud under Article 378 of the Criminal Code were legally and convincingly proven. From the perspective of justice, the victim was provided with an opportunity to obtain restitution through the defendant's obligation to compensate the losses incurred. Meanwhile, from the perspective of utility, the restorative approach reduced broader social impacts while allowing the defendant an opportunity to acknowledge wrongdoing and improve future conduct.

Moreover, the adoption of a restorative approach in this decision reflects the broader development of modern criminal justice paradigms that no longer rely solely on retributive punishment but increasingly emphasize social recovery and reconciliation.¹⁷ Within the military justice context, this approach offers a constructive alternative for resolving certain cases without undermining the essential principles of military discipline and institutional integrity.

¹⁵ Ishaq Ishaq, *Dasar-Dasar Ilmu Hukum*, ed. Yunasril Ali (Jakarta: Sinar Grafika, 2009); Zainal Arifin Mochtar, *Dasar-Dasar Ilmu Hukum: Memahami Kaidah, Teori, Asas Dan Filsafat Hukum* (Depok: PT. RajaGrafindo Persada, 2021), <https://www.rajagrafindo.co.id/produk/dasar-dasar-ilmu-hukum-memahami-kaidah-teori-asas-dan-filsafat-hukum-zainal-arifin-mochtar/>.

¹⁶ Feriyanti, Sinaulan, and Haris, "Implementation of Restorative Justice in the Settlement of Violent Criminal Actions in the House of Tni Servants in the Military Justice System"; Rizki Z, Mulyono, and Purnomo, "Konsepsi Restorative Justice Pada Sistem Peradilan Militer Perspektif Keadilan"; Saleh, Salim, and Timbonga, "Analisis Penerapan Tindak Pidana Militer Dengan Pendekatan Restorative Justice"; Widonarko, "Hubungan Restorative Justice Terhadap Tindak Pidana Yang Sedemikian Ringan Sifatnya Dalam Hukum Disiplin Militer"; Zulfa, "Restorative Justice in Indonesia: Traditional Value."

¹⁷ Nurini Aprilianda, *Sistem Peradilan Pidana Indonesia: Teori Dan Praktik* (Malang: Universitas Brawijaya Press, 2017).

The legal reasoning of the panel of judges in Decision Number 26-K/PM.III-13/AD/VII/2025 demonstrates a deliberate effort to harmonize the provisions of military criminal law with the evolving, more humanistic concept of justice in contemporary criminal law. The judges did not rely exclusively on a rigid formalistic interpretation of legal norms but also considered humanitarian values and restorative objectives as integral elements of criminal justice. These findings confirm that the application of restorative justice in military courts does not constitute a deviation from existing law but rather represents a progressive interpretation that remains firmly grounded in the principles of legality, justice, and legal development.

4. CONCLUSION

This study analyzes the implementation of restorative justice in a military criminal case adjudicated by the Madiun III-13 Military Court and examines the legal considerations of the panel of judges in applying this approach to a member of the Indonesian National Armed Forces (TNI) in Decision Number 26-K/PM.III-13/AD/VII/2025 concerning fraud. The findings indicate that the restorative justice approach was implemented after the panel of judges confirmed that the legal elements of fraud under Article 378 of the Indonesian Criminal Code had been fully satisfied. Subsequently, the judges facilitated a settlement process between the defendant and the victim aimed at restoring the victim's financial losses and repairing social relations between the parties. Through this process, the defendant agreed to provide restitution amounting to IDR 384,000,000 to the victim within a specified period determined during the judicial proceedings.

The research findings further demonstrate that the panel of judges applied restorative justice proportionally while still maintaining the essential characteristics of military criminal law, particularly the principles of discipline, hierarchy, and order within the armed forces. The adoption of a restorative approach in this case did not disregard the normative framework of military law but rather reflected a form of judicial discretion aimed at balancing the three fundamental objectives of law: legal certainty, justice, and social utility. In this respect, the decision illustrates how restorative justice can function as a complementary mechanism within the military justice system while preserving institutional integrity and disciplinary standards.

From an academic perspective, this research contributes to the growing body of literature concerning the application of restorative justice in specialized judicial systems, particularly military courts. The study enriches scholarly discussions on how restorative principles can be integrated into legal systems that traditionally emphasize command structures and strict disciplinary enforcement. From a practical standpoint, the findings may serve as a reference for military law enforcement authorities, including judges, military prosecutors, and disciplinary officers, in developing case resolution mechanisms that are more humane, constructive, and oriented toward recovery for victims and offenders alike. Nevertheless, this study has certain limitations. The analysis

is based on a single military court decision and therefore may not fully represent broader patterns of restorative justice implementation within the Indonesian military justice system. Consequently, the findings should be interpreted as an initial exploration rather than a comprehensive representation of military judicial practice.

Future research is therefore recommended to conduct comparative analyses of multiple military court decisions involving restorative justice mechanisms. Such studies could also explore regulatory and institutional aspects more comprehensively in order to formulate a systematic policy model for implementing restorative justice within military courts. Additionally, policymakers should consider developing clearer normative guidelines and technical regulations to ensure that the application of restorative justice remains consistent with the fundamental principles of military discipline, professionalism, and institutional accountability.

REFERENCES

Journals

- Feriyanti, Nentin, Ramlani Lina Sinaulan, and Moch Haris. "Implementation of Restorative Justice in the Settlement of Violent Criminal Actions in the House of Tni Servants in the Military Justice System." *Journal of Industrial Engineering & Management Research* 4, no. 2 (2023): 14–21. <https://doi.org/10.7777/jiemar.v4i2.455>.
- Ismail, Ismail, and Andi Maysarah. "Tinjauan Yuridis Restorative Justice Dalam Tindak Pidana Militer." *Jurnal Warta Dharmawangsa* 19, no. 1 (2025): 466–77. <https://doi.org/10.46576/wdw.v19i1.5881>.
- Rahman, Ilham. "Rehabilitasi Terhadap Anggota TNI Yang Melakukan Tindak Pidana Penyalahgunaan Narkotika." *Lex Positivis* 2, no. 9 (2024): 1066–83. <https://jtamfh.ulm.ac.id/index.php/jtamfh/article/view/137>.
- Renaldi, Reno, Syahrudin Nawi, and Nasrullah Arsyad. "Analisis Yuridis Penerapan Tindak Pidana Ketidakhadiran Tanpa Izin Paling Lama Empat Hari Di Dalam Kitab Undang-Undang Hukum Pidana Militer." *Innovative: Journal Of Social Science Research* 4, no. 3 (2024): 199–209. <https://j-innovative.org/index.php/Innovative/article/view/7394>.
- Rini, Suprobo, and Suprpto Suprpto. "Kewenangan Peradilan Militer Dalam Menindak Anggota Tni Yang Melakukan Tindak Pidana Umum." *Jurnal Kolaboratif Sains* 8, no. 8 (2025): 5113–23. <https://doi.org/10.56338/jks.v8i8.8018>.
- Rizki Z, Zakiah, Mulyono Mulyono, and Budi Purnomo. "Konsepsi Restorative Justice Pada Sistem Peradilan Militer Perspektif Keadilan." *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 3 (2025): 2258–2266. <https://doi.org/10.61104/alz.v3i3.1509>.

- Saipudin, Lalu, Salim H S, Rodliyah Rodliyah, and Laely Wulandari. "The Concept of Corporate Criminal Liability in the Indonesian Criminal Law System." *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 2 (2025): 475–499. <https://doi.org/10.29303/ius.v13i2.1817>.
- Saleh, Muhammad, Agus Salim, and Yotham Th. Timbonga. "Analisis Penerapan Tindak Pidana Militer Dengan Pendekatan Restorative Justice." *Paulus Legal Research* 2, no. 2 (2024): 1–19. <https://ojs.ukipaulus.ac.id/index.php/plr/article/view/578>.
- Widonarko, Janur. "Hubungan Restorative Justice Terhadap Tindak Pidana Yang Sedemikian Ringan Sifatnya Dalam Hukum Disiplin Militer." *Jurnal Hukum Militer* 14, no. 2 (2022): 1–24. <https://jurnal.sthm.ac.id/index.php/hukummiliter/article/view/82>.
- Yusniadi, Aditia, Mospa Darma, Elyani Elyani, and Karolina Sitepu. "Implementasi Sanksi Administrasi Terhadap Anggota Militer Yang Melanggar Aturan Disiplin Militer Berdasarkan Undang-Undang Nomor 25/2014 Tentang Hukum Disiplin Militer (Studi Di Kumdam I/Bb)." *Iuris Studia: Jurnal Kajian Hukum* 5, no. 2 (2024): 504–18. <https://doi.org/10.55357/is.v5i2.644>.
- Zulfa, Eva Achjani. "Restorative Justice in Indonesia: Traditional Value." *Indonesia Law Review* 1, no. 2 (2011): 33–43. <https://doi.org/10.15742/ilrev.v1n2.81%0A%0A>.

Books

- Aprilianda, Nurini. *Sistem Peradilan Pidana Indonesia: Teori Dan Praktik*. Malang: Universitas Brawijaya Press, 2017.
- Bakri, Muhammad. *Pengantar Hukum Indonesia Jilid I: Sistem Hukum Indonesia Pada Era Reformasi*. 1st ed. Malang: Universitas Brawijaya Press, 2011.
- Ishaq, Ishaq. *Dasar-Dasar Ilmu Hukum*. Edited by Yunasril Ali. Jakarta: Sinar Grafika, 2009.
- Mochtar, Zainal Arifin. *Dasar-Dasar Ilmu Hukum: Memahami Kaidah, Teori, Asas Dan Filsafat Hukum*. Depok: PT. RajaGrafindo Persada, 2021. <https://www.rajagrafindo.co.id/produk/dasar-dasar-ilmu-hukum-memahami-kaidah-teori-asas-dan-filsafat-hukum-zainal-arifin-mochtar/>.