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Aligning Recovery and Legal Certainty in Restorative Justice for Theft Offenses

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Original Article

Abstract

The paradigm shift in Indonesian criminal law following the enactment of Law Number 1 of 2023 on the Criminal Code has strengthened the restorative justice approach in resolving theft offenses by emphasizing restoration rather than punishment. This study aims to analyze legal protection and legal certainty in the implementation of restorative justice for theft offenses under the new Criminal Code. The research employed a normative juridical method using statutory, conceptual, and case approaches and was analyzed qualitatively. The findings indicate that restorative justice provides more comprehensive protection for victims, offenders, and society through compensation for losses, offender accountability, and the restoration of social relationships. Nevertheless, legal certainty continues to face challenges arising from regulatory fragmentation and differing interpretations among law enforcement authorities. This study concludes that regulatory harmonization and the strengthening of implementation mechanisms are essential to achieving a fair, humane, and restorative criminal justice system.

Keywords: *Restorative Justice, Theft Offenses, Legal Protection, Legal Certainty*

Abstrak

Pergeseran paradigma hukum pidana Indonesia melalui Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana mendorong penguatan pendekatan restorative justice dalam penyelesaian tindak pidana pencurian yang lebih berorientasi pada pemulihan dibandingkan penghukuman. Penelitian ini bertujuan menganalisis perlindungan hukum dan kepastian hukum dalam penerapan restorative justice pada tindak pidana pencurian pasca berlakunya KUHP Nasional. Penelitian menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan kasus, serta dianalisis secara kualitatif. Hasil penelitian menunjukkan bahwa restorative justice memberikan perlindungan yang lebih komprehensif bagi korban, pelaku, dan masyarakat melalui pemulihan kerugian, pertanggungjawaban pelaku, dan pemulihan hubungan sosial. Namun, kepastian hukumnya masih menghadapi kendala berupa fragmentasi pengaturan dan perbedaan interpretasi antarpemerintah penegak hukum. Penelitian ini menyimpulkan perlunya harmonisasi regulasi dan penguatan mekanisme implementasi guna mewujudkan sistem peradilan pidana yang berkeadilan, humanis, dan berorientasi pada pemulihan.

Kata kunci: *Restorative Justice, Tindak Pidana Pencurian, Perlindungan Hukum, Kepastian Hukum*

1. INTRODUCTION

The enactment of Law Number 1 of 2023 concerning the Criminal Code (KUHP) marks a significant milestone in the reform of Indonesian criminal law. The new Criminal Code not only represents an effort to decolonize the legal system but also reflects the reconstruction of criminal law based on the values of Pancasila, substantive justice, and the socio-cultural characteristics of Indonesian society. This reform demonstrates a paradigm shift from a punishment-oriented approach toward a criminal justice system that balances legal certainty, utility, community protection, and social restoration. Consequently, the resolution of criminal cases through a restorative justice approach has gained increasing legal recognition.

Criminal law functions not merely as a repressive instrument but also as a means of maintaining social order and restoring the balance disrupted by criminal acts.¹ The development of modern criminal justice theory indicates that the retributive approach often fails to address the underlying causes of social problems and may even generate adverse consequences, such as the stigmatization of offenders, prison overcrowding, and the failure to satisfy victims' needs for meaningful reparations.²

One of the most prevalent offenses in Indonesian law enforcement practice is theft. This offense encompasses a wide range of characteristics, from petty theft to theft causing substantial losses and broader social consequences. The high incidence of theft suggests that it is not merely a violation of formal legal norms but is also influenced by social and economic factors, including poverty, unemployment, economic inequality, and weak social control mechanisms.

The resolution of theft cases generally relies on formal criminal justice mechanisms involving the police, prosecutors, and the courts. Although these mechanisms are essential for ensuring legal certainty, litigation does not always produce substantive justice. In many cases of petty theft, victims are more concerned with the return of their property or compensation for losses than with the imprisonment of offenders. Conversely, the incarceration of offenders frequently leads to social marginalization and impedes their reintegration into society.³

This condition illustrates a gap between the objectives of criminal law and the actual needs of society. Therefore, there is a need for a case resolution approach that places greater emphasis on recovery, dialogue, and shared responsibility. Restorative justice has emerged as a mechanism that positions victims, offenders, and the

¹ Ananda Tharikh Wildan Pratama and Iwan Harry Winarto, "Keadilan Restoratif Sebagai Bentuk Pemulihan Korban Pada Perkara Pidana Narkotika," *Hukum Dan Keadilan* 1 (2025): 1–14.

² Sitti Munawwarah et al., "Perbandingan Pendekatan Pidana Restoratif Dan Retributif Dalam Penyelesaian Kasus Kejahatan Di Indonesia Secara Hukum Dan Sosial," *Khatulistiwa: Jurnal Pendidikan Dan Sosial Humaniora* 5, no. 4 (2025): 325–41, <https://doi.org/10.55606/khatulistiwa.v5i4.7626>.

³ Rachmat Andika Prasetyo et al., "Penerapan Keadilan Restoratif Sebagai Alternatif Penyelesaian Pada Tindak Pidana Pencurian," *Sinergi: Jurnal Riset Ilmiah* 3, no. 1 (2026): 391–403, <https://doi.org/10.62335/sinergi.v3i1.2307>.

community as the primary stakeholders in conflict resolution through reconciliation, restitution, and social reintegration.

However, the implementation of restorative justice in theft cases continues to face various challenges, particularly concerning regulatory fragmentation, inconsistent standards of application, and legal uncertainty. Moreover, the protection of the rights of victims, offenders, and the community within the restorative process has not yet been comprehensively regulated. Accordingly, research on legal protection and legal certainty in the application of restorative justice to theft offenses is essential to support the development of a more equitable, legally certain, and socially rehabilitative criminal justice system in Indonesia.

Studies on the application of restorative justice in resolving theft offenses have expanded alongside the paradigm shift in Indonesian criminal law toward restoration rather than punishment. This approach is regarded as more humane because it seeks to restore relationships among offenders, victims, and the community while promoting dispute resolution through dialogue and mutual agreement.

Previous studies have demonstrated that the implementation of restorative justice continues to encounter both normative and practical challenges. Research by Caturiwani found that restorative justice provisions are dispersed across various sectoral regulations, thereby failing to provide adequate legal certainty.⁴ Similarly, Al-Irsyad showed that the application of restorative justice in aggravated theft cases can reduce the burden on correctional institutions and promote dispute resolution through deliberation and consensus.⁵

Research by Sudrajat revealed that the implementation of diversion in theft cases involving children remains suboptimal because most cases continue to be processed through formal judicial mechanisms.⁶ Meanwhile, Reza et al. emphasized that the integration of restorative justice and customary law can produce solutions that are more acceptable to the community, although the lack of cooperation among the parties involved remains a major obstacle.⁷

Faisal et al. demonstrated that a restorative approach can provide a more humane method of dispute resolution; however, its implementation is constrained by limited

⁴ Helly Caturiwani, "Penerapan Restorative Justice Dalam Penyelesaian Perkara Tindak Pidana Pencurian Di Kejaksaan Negeri Muara Enim," *Lex Lata: Jurnal Ilmiah Hukum* 5, no. 3 (2023): 357–77, <https://doi.org/10.28946/lexl.v5i3.2595>.

⁵ Muhammad Ainul Yaqin Al-Irsyad, "Analisis Kebijakan Restorative Justice Dalam Upaya Penyelesaian Tindak Pidana Pencurian Dengan Pemberatan Di Polres Bojonegoro Tahun 2022" (Universitas Islam Negeri Sunan Kalijaga Yogyakarta, 2023), <https://digilib.uin-suka.ac.id/id/eprint/62109/>.

⁶ Imam Sudrajat, "Analisis Yuridis Penanganan Tindak Pidana Pencurian Yang Dilakukan Oleh Anak Dibawah Umur Dengan Restorative Justice: Studi Kasus Di Satreskrim Polres Batang" (Universitas Islam Sultan Agung Semarang, 2024), <https://repository.unissula.ac.id/38058/>.

⁷ Rizka Azwa Reza et al., "Pelaksanaan Restorative Justice Dalam Perkara Tindak Pidana Pencurian Ringan Menurut Qanun Aceh Nomor 9 Tahun 2008 Tentang Pembinaan Kehidupan Adat Dan Adat Istiadat: Studi Penelitian Gampong Blang Talon Kecamatan Kuta Makmur Kabupaten Aceh Utara," *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh* 6, no. 4 (2024): 1–25, <https://doi.org/10.29103/jimfh.v6i4.12926>.

public understanding and regulatory shortcomings.⁸ Furthermore, Pratiwi et al. concluded that restorative justice constitutes a fairer and more effective alternative for resolving theft cases than conventional criminal sanctions.⁹

More recent studies conducted by Aziz et al., Ruanda, and Shar et al. indicate that the implementation of restorative justice provides a meaningful framework for victim recovery and facilitates faster case resolution. Nevertheless, its effectiveness continues to be influenced by administrative, psychological, and cultural barriers.¹⁰

Previous studies have primarily focused on the effectiveness of restorative justice and the obstacles to its implementation, including analyses at the levels of the police, prosecution, and judiciary. However, no comprehensive study has specifically examined legal protection and legal certainty in the application of restorative justice to theft offenses following the enactment of Law Number 1 of 2023 concerning the Criminal Code. Accordingly, this study offers a novel contribution by developing a conceptual framework concerning the guarantees of legal protection and legal certainty for victims, offenders, and law enforcement officials in the implementation of restorative justice. Based on this research gap, the study aims to: (1) analyze the forms of legal protection in the application of restorative justice to theft offenses; and (2) examine the legal certainty of implementing restorative justice following the enactment of Law Number 1 of 2023 concerning the Criminal Code.

2. RESEARCH METHODOLOGY

This study employs a normative legal research method, which conceptualizes law as a set of norms, principles, and systems governing social and state life. This method was selected because the research focuses on the legal framework governing the application of restorative justice to theft offenses, particularly with respect to legal protection and legal certainty following the enactment of Law Number 1 of 2023 concerning the Criminal Code.

The study adopts four research approaches: the statutory approach, the conceptual approach, the case approach, and the comparative approach. These approaches are utilized to analyze the harmonization of regulations governing

⁸ Rizki Faisal et al., "Analisis Implementasi Restorative Justice Dalam Penyelesaian Kasus Pencurian Ringan Di Kota Bandung," *Petita* 6, no. 2 (2024): 70–74, <https://doi.org/10.33373/pta.v6i2.7527>.

⁹ Dinda Adelia Pratiwi et al., "Penyelesaian Tindak Pidana Pencurian Melalui Pendekatan Restorative Justice: Studi Kasus Putusan Pengadilan Negeri Bojonegoro No.148/Pid.C/2025/Pn Bjn," *Jurnal Penelitian Serambi Hukum* 19, no. 1 (2025): 351–61, <https://doi.org/10.59582/sh.v19i01.1446>.

¹⁰ Moehamad Abdul Aziz et al., "Analisis Restorative Justice Dalam Putusan Nomor 498/Pid.B/2024/PN Blb Tentang Tindak Pidana Pencurian Dengan Pemberatan Perspektif Hukum Pidana Islam," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 6, no. 4 (2026): 2990–3006, <https://doi.org/10.38035/jihhp.v6i4.8400>; Airell Azra Putra Ruanda, "Analisis Yuridis Normatif Penyelesaian Tindak Pidana Pencurian Ringan Melalui Mekanisme Restorative Justice Oleh Kepolisian Republik Indonesia," *Causa: Jurnal Hukum Dan Kewarganegaraan* 16, no. 6 (2026): 1071–80, <https://doi.org/10.6679/2k11f257>; Ahmad Qayyim Torilangi Shar et al., "Analisis Yuridis Terhadap Restorative Justice Dalam Tindak Pidana Pencurian Pada Kejaksaan Negeri Makassar," *Legal Dialogica* 1, no. 2 (2026): 1–14.

restorative justice, examine relevant legal concepts and doctrines, review judicial decisions, and compare restorative justice provisions across various national legal instruments.

The legal materials used in this study consist of primary, secondary, and tertiary legal sources. All legal materials were collected through library research involving the identification, inventory, and classification of relevant legal sources. The data were analyzed qualitatively using a juridical approach and a deductive reasoning method through grammatical, systematic, teleological, and historical interpretation. Through this methodology, the study seeks to formulate an ideal framework for the application of restorative justice in theft cases that ensures both legal protection and legal certainty within the Indonesian criminal justice system.

3. RESEARCH RESULT AND DISCUSSION

3.1. Legal Protection in the Application of Restorative Justice to Theft Offenses

The application of restorative justice to theft offenses provides a more comprehensive form of legal protection than resolution through conventional criminal justice mechanisms. Such protection not only focuses on the state's interest in punishing offenders but also accommodates the rights of victims, the interests of offenders, and the community's need to restore the social balance disrupted by criminal conduct.

Restorative justice mechanisms provide victims with greater opportunities to participate in determining the form of case resolution. In conventional criminal justice systems, victims are generally positioned merely as witnesses whose role is to strengthen the evidentiary process, while their need for restitution is often inadequately addressed. In contrast, the restorative approach allows victims to directly communicate the material and immaterial losses they have suffered, express their expectations regarding restitution, and participate in determining a resolution that they consider fair and appropriate.

Based on Police Regulation Number 8 of 2021 and Prosecutor Regulation Number 15 of 2020, legal protection for victims in the implementation of restorative justice is realized through several mechanisms, including the return of stolen property, compensation, an apology from the offender, and assurances that the offense will not be repeated. These mechanisms demonstrate that restorative justice is more responsive to victims' needs than imprisonment, which often fails to provide concrete forms of reparation.

This perspective is consistent with the view of Reksodiputro, who argues that a criminal justice system that is excessively state-centered has the potential to neglect the interests of victims.¹¹ The present study also confirms the findings of Faisal et al. (2024),

¹¹ Mardjono Reksodiputro, *Sistem Peradilan Pidana* (Rajawali Pers, 2020).

who concluded that restorative justice offers a more humane solution because it enables victims to receive more tangible forms of compensation.¹² This study provides broader findings by demonstrating that victim protection extends beyond compensation and also encompasses psychological recovery, recognition of victims' suffering, and the restoration of their sense of justice.

From the perspective of offender protection, restorative justice provides offenders with the opportunity to take direct responsibility for their actions without necessarily undergoing imprisonment. Legal protection for offenders in this context should not be interpreted as an elimination of criminal liability; rather, it represents an effort to provide a more proportionate response that is tailored to the characteristics and circumstances of the offense.

Such protection is particularly relevant in cases involving petty theft, first-time offenders, juvenile offenders, and individuals who commit offenses due to economic hardship or other specific circumstances. Imprisonment for these groups may result in consequences that are more severe than the offense itself, including loss of employment, social stigmatization, and an increased risk of recidivism arising from interaction with other offenders in correctional institutions.

The findings of this study reinforce those of Al-Irsyad and Ruanda, who demonstrated that the implementation of restorative justice can reduce the burden on correctional institutions while providing offenders with opportunities to rectify their actions through reconciliation and recovery mechanisms.¹³ Nevertheless, the present study reveals a broader dimension, namely that legal protection for offenders also constitutes an integral part of the principle of proportionality in modern criminal law. Not every theft offense should be addressed through imprisonment if the objectives of punishment can be achieved through restorative mechanisms.

Furthermore, the community also receives legal protection through the implementation of restorative justice. Theft offenses not only harm individual victims but also create social tensions, generate feelings of insecurity, and disrupt relationships among community members. Consequently, case resolution that focuses solely on punishing the offender often fails to restore the social harmony that has been disturbed.

Through a restorative approach, the community is actively involved in the case resolution process through deliberation, mediation, and the monitoring of peace agreements. Such community participation facilitates social reconciliation and reduces the potential for prolonged conflict between offenders and victims. This finding is consistent with the study by Reza et al., which demonstrated that integrating the values

¹² Faisal et al., "Analisis Implementasi Restorative Justice Dalam Penyelesaian Kasus Pencurian Ringan Di Kota Bandung."

¹³ Al-Irsyad, "Analisis Kebijakan Restorative Justice Dalam Upaya Penyelesaian Tindak Pidana Pencurian Dengan Pemberatan Di Polres Bojonegoro Tahun 2022"; Ruanda, "Analisis Yuridis Normatif Penyelesaian Tindak Pidana Pencurian Ringan Melalui Mekanisme Restorative Justice Oleh Kepolisian Republik Indonesia."

of reconciliation embedded within indigenous communities can lead to more effective and socially acceptable resolutions of criminal cases.¹⁴

Nevertheless, legal protection in the implementation of restorative justice has not yet been fully optimized. Several potential issues may hinder the realization of effective legal protection for the parties involved. First, there remains the possibility of an imbalance of power between victims and offenders, particularly when the offender possesses greater social or economic influence. Second, some law enforcement officials tend to encourage amicable settlements for the sake of procedural efficiency without adequately considering the willingness of the parties involved. Third, there is a lack of uniform procedural standards to ensure that victims fully understand their rights before consenting to a resolution through restorative justice mechanisms.

This study reinforces the view of Rahardjo, who argued that legal protection does not merely refer to the existence of legal rules but also to the assurance that individual rights are genuinely protected in practice.¹⁵ Therefore, the implementation of restorative justice must be based on the principles of voluntariness, equality of the parties, transparency, and adequate oversight. A settlement achieved through coercion, threats, or unequal bargaining positions cannot be regarded as a genuine form of legal protection.¹⁶

Restorative justice in theft cases represents a dispute resolution model capable of providing more comprehensive legal protection than the retributive approach. Victims receive tangible reparations, offenders are given the opportunity to acknowledge and rectify their wrongdoing and undergo social reintegration, and the community benefits from the restoration of social relationships and social order. However, the effectiveness of such legal protection can only be achieved if restorative justice is implemented voluntarily, proportionately, and transparently and is supported by adequate oversight mechanisms and guarantees of legal certainty. Consequently, restorative justice should be viewed not merely as an alternative mechanism for resolving criminal cases but also as a crucial instrument for realizing a more humane, equitable, and recovery-oriented criminal justice system in Indonesia.

3.2. Legal Certainty in the Application of Restorative Justice to Theft Offenses Following the Enactment of Law Number 1 of 2023 on the Criminal Code

Following the enactment of the new Criminal Code, the direction of Indonesian criminal law policy has increasingly embraced the paradigm of restorative justice. This

¹⁴ Reza et al., "Pelaksanaan Restorative Justice Dalam Perkara Tindak Pidana Pencurian Ringan Menurut Qanun Aceh Nomor 9 Tahun 2008 Tentang Pembinaan Kehidupan Adat Dan Adat Istiadat: Studi Penelitian Gampong Blang Talon Kecamatan Kuta Makmur Kabupaten Aceh Utara."

¹⁵ Satjipto Rahardjo, *Ilmu Hukum Di Tengah Arus Perubahan* (Surya Pena Gemilang, 2016).

¹⁶ Akhmad Budi Cahyono, "Default and Termination of Contract: A Comparative Study between Indonesia and The United Kingdom," *Yuridika* 35, no. 3 (2020): 469, <https://doi.org/10.20473/ydk.v35i3.17679>.

development is reflected in Article 51 of Law Number 1 of 2023, which identifies conflict resolution, the restoration of social balance, and the creation of a sense of security as integral objectives of sentencing. This provision signifies a fundamental transformation in the Indonesian criminal justice system, shifting from a paradigm that emphasizes retributive justice toward one that is more oriented to restoration and reconciliation.

However, the recognition of restorative values in the new Criminal Code has not been accompanied by comprehensive procedural regulations governing their implementation. Normatively, restorative justice mechanisms continue to be regulated on a sectoral basis through Prosecutor Regulation Number 15 of 2020 and National Police Regulation Number 8 of 2021. This situation indicates that legal certainty in the implementation of restorative justice remains dependent upon the synchronization of the new Criminal Code with the implementing regulations adopted by each law enforcement institution.

The existence of clear legal regulations constitutes a fundamental prerequisite for enabling the public to understand their rights and obligations and to predict the legal consequences of their actions. Legal certainty requires uniform standards concerning the types of cases eligible for restorative resolution, the applicable procedures, and the legal consequences arising from such settlements. In the absence of clear standards, the implementation of restorative justice may result in inconsistent practices and create opportunities for subjective interpretations by law enforcement officials.

Prosecutor Regulation Number 15 of 2020 and National Police Regulation Number 8 of 2021 essentially provide normative parameters regarding the requirements for the implementation of restorative justice. Both regulations stipulate that cases eligible for restorative resolution generally involve relatively minor losses, first-time offenders, voluntary reconciliation, and the availability of tangible forms of restitution. In addition, the offense must not have caused widespread public unrest or social conflict.

The existence of these substantive and procedural requirements provides a sufficient basis for law enforcement officials to determine whether a particular case is suitable for resolution through restorative mechanisms. Restorative justice should not be interpreted as a form of abandoning criminal responsibility; rather, it constitutes a legal mechanism that is subject to specific conditions and implemented through accountable procedures.

Nevertheless, problems of normative synchronization persist. Although the new Criminal Code recognizes the importance of restitution as one of the objectives of sentencing, it does not contain provisions that explicitly integrate restorative justice mechanisms into the criminal justice system as a whole. Consequently, the implementation of restorative justice continues to vary across different regions. Theft

cases with similar characteristics may be resolved through restorative mechanisms in one jurisdiction, whereas comparable cases in another jurisdiction may still proceed through formal judicial processes.

This observation is consistent with the argument advanced by Caturiwani, who maintained that restorative justice provisions in Indonesia remain dispersed across various sectoral regulations and lack an integrated normative framework.¹⁷ The present study also supports the findings of Faisal et al., who identified regulatory limitations and inconsistencies in implementation across regions.¹⁸ However, this study makes a more specific contribution by demonstrating that the principal problem lies not in the absence of legal norms but rather in the inadequate harmonization between the new Criminal Code and the various sectoral regulations governing restorative justice.

In addition to the issue of normative harmonization, there is also potential for legal uncertainty arising from differing interpretations among law enforcement officials. In practice, assessments concerning what constitutes relatively minor losses, the degree of public unrest, and the extent of public interest remain inherently relative and largely dependent on the discretion of individual officials. This situation has the potential to create disparities in case handling and undermine public confidence in the implementation of restorative justice.

On the other hand, legal certainty is not merely related to the clarity of legal norms but also encompasses certainty regarding the legal status of a case once a settlement has been reached. In this regard, National Police Regulation Number 8 of 2021 and Prosecutor Regulation Number 15 of 2020 have provided procedural certainty through mechanisms for the termination of investigations and prosecutions based on restorative justice. These formal decisions provide assurance to both victims and offenders that the case has been resolved through a legally valid process and is no longer subject to legal uncertainty.

The orderly administration of investigations and the proper conduct of case reviews constitute important instruments for ensuring legal certainty. Every case resolved through restorative justice must be documented through a peace agreement, evidence of restitution or recovery of losses, withdrawal of the complaint when necessary, and a formal decision concerning the termination of the case. Such documentation serves not only as administrative evidence but also as a monitoring mechanism to prevent abuses of authority and transactional practices in case resolution.

This finding reinforces the view of Rahardjo (2016), who argued that legal certainty cannot be separated from the principles of consistency and accountability in the

¹⁷ Caturiwani, "Penerapan Restorative Justice Dalam Penyelesaian Perkara Tindak Pidana Pencurian Di Kejaksaan Negeri Muara Enim."

¹⁸ Faisal et al., "Analisis Implementasi Restorative Justice Dalam Penyelesaian Kasus Pencurian Ringan Di Kota Bandung."

implementation of the law.¹⁹ Well-formulated legal norms cannot produce legal certainty if their implementation is inconsistent and beyond effective supervision. Therefore, the successful implementation of restorative justice in theft cases depends heavily on the existence of uniform guidelines, the enhancement of law enforcement capacity, and the strengthening of internal monitoring mechanisms.

The application of restorative justice to theft offenses following the enactment of Law Number 1 of 2023 has acquired both philosophical and normative legitimacy through the reorientation of sentencing objectives toward recovery and conflict resolution. Nevertheless, legal certainty in its implementation continues to face challenges in the form of regulatory fragmentation, divergent interpretations, and inadequate harmonization between the new Criminal Code and sectoral regulations.

Accordingly, there is a need to reconstruct criminal law policy through a more comprehensive integration of restorative justice provisions into the national criminal justice system. Such integration is essential to establish uniform standards of implementation, guarantee the protection of the rights of all parties, and ensure that restorative justice is implemented consistently, transparently, and accountably. With strong legal certainty, restorative justice becomes not merely an alternative mechanism for resolving criminal cases but also an effective instrument for realizing a humane and socially restorative criminal justice system in Indonesia.

4. CONCLUSION

The application of restorative justice provides more comprehensive legal protection than the retributive approach because it accommodates the interests of victims through restitution, provides offenders with opportunities to assume responsibility and undergo social reintegration, and restores social relationships within the community. Although legal certainty in its implementation has gained normative legitimacy through the new Criminal Code and various sectoral regulations, it continues to face challenges arising from regulatory fragmentation, differing interpretations among law enforcement officials, and the inadequate harmonization of legal norms.

Restorative justice constitutes a crucial instrument for realizing a just, humane, and recovery-oriented criminal justice system. From a practical perspective, the findings of this study may serve as a foundation for the development of more integrated criminal law policies. However, this study is limited by its reliance on a normative juridical approach, which does not provide empirical evidence regarding the implementation of restorative justice across different regions. Therefore, a more comprehensive harmonization of restorative justice regulations within the legislative framework is necessary, along with further empirical research examining its effectiveness, consistency of implementation, and impact on victim recovery and the prevention of recidivism.

¹⁹ Rahardjo, *Ilmu Hukum Di Tengah Arus Perubahan*.

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