

Restorative Justice in Addressing Environmental Crimes: A Viable Alternative or a Legal Threat?

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ABSTRACT

The enforcement of criminal law against environmental crimes in Indonesia remains largely dominated by a retributive approach that emphasizes punitive sanctions, often neglecting ecological restoration and substantive justice. This article examines the relevance and implementation of restorative justice as an alternative approach to addressing environmental crimes. Using a normative-juridical method supplemented by semi-structured interviews, the study analyzes the legal foundations, opportunities, challenges, and implications of applying restorative justice within Indonesia's environmental legal framework. Findings indicate that while restorative justice offers potential as a more responsive mechanism to environmental harm and victims' rights, its implementation faces significant obstacles, such as regulatory ambiguity, risks of impunity for corporate offenders, and limited community and victim participation. Therefore, strengthening a more specific legal framework, building law enforcement capacity, and ensuring active public involvement are essential to effectively, transparently, and fairly applying restorative justice in resolving environmental crimes.

Kata kunci: *Restorative Justice; Environmental Crime; Criminal Law; Ecological Restoration; Human Rights*

INTRODUCTION

Environmental crimes are acts that clearly harm the public interest and violate legal norms regulating environmental preservation and protection. Environmental offenses have distinctive characteristics, being multisectoral in nature, involving social, economic, and ecological aspects, and causing broad and lasting impacts. Within the criminal justice system, environmental crimes require handling that is not only repressive and preventive but also incorporates restorative elements to recover the losses inflicted on the environment and society. However, in practice, the enforcement of environmental law in Indonesia is still dominated by a retributive justice paradigm, which emphasizes imposing criminal sanctions in the form of imprisonment and fines. This approach often

fails to accommodate comprehensive ecological restoration needs, thus frequently leaving environmental damage unresolved in a substantive manner.¹

In line with the development of modern criminal law theory and practice, restorative justice has begun to be introduced as an alternative paradigm for resolving criminal cases, including environmental crimes. The concept of restorative justice focuses on repairing social relationships and damage caused by criminal acts by prioritizing the active involvement of all relevant parties, namely offenders, victims, and affected communities. This approach seeks to shift the focus from mere punishment toward a process of dialogue and reconciliation that results in mutual agreements for loss recovery.² In the environmental law context, restorative justice can be realized through mechanisms such as restoring environmental functions, ecosystem rehabilitation, and providing socio-economic compensation to affected communities. This approach is believed to offer a more comprehensive and substantively just legal solution by placing environmental protection and human rights at its core.³

Nevertheless, the application of restorative justice in environmental crimes also raises complex legal challenges and normative implications. Within the framework of law enforcement that must uphold the principle of legal supremacy, the presence of restorative mechanisms potentially creates a dilemma between the need for recovery and the necessity of imposing criminal sanctions that provide deterrence effects. Moreover, environmental crimes often involve perpetrators with substantial political and economic resources such as corporations who may exploit restorative approaches as a means to avoid criminal penalties that should be imposed, thereby risking impunity and undermining legal certainty. This situation results in an imbalance in legal protection for victims and communities and threatens the sustainability of legal environmental protection.

From a juridical perspective, although regulations such as the Indonesian National Police Regulation Number 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice provide legal legitimacy for applying restorative approaches, these provisions remain general and lack specific rules regarding application in environmental cases.⁴ The absence of procedural standards and stringent oversight mechanisms creates opportunities for abuse and inconsistency in practice. Therefore, comprehensive studies are necessary to examine the normative, conceptual, and practical aspects of implementing restorative justice in the handling of environmental crimes in Indonesia, ensuring that this approach can be implemented effectively, fairly, and in accordance with applicable legal principles.⁵

¹ Saputra, E. F., & Firmansyah, H. (2023). Politik Hukum dalam Upaya Pemberantasan Tindak Pidana Korupsi melalui Pembaharuan Pengaturan Tindak Pidana Korupsi sebagai Extraordinary Crime dalam KUHP Nasional. *UNES Law Review*, 6(2), 4493-4504.

² Risal, M. C. (2023). Analisis Kritis Terhadap Implementasi Restorative Justice Dalam Sistem Peradilan Pidana. *Jurnal Al Tasyri'Iyyah*, 55-70.

³ Ricardo, R. (2024). *PENERAPAN KONSEP RESTORATIVE JUSTICE JAKSA SEBAGAI PARADIGMA PEMIDANAAN KEADILAN* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

⁴ Yuwita, O. S. (2024). *POLITIK HUKUM OLEH KEPOLISIAN DALAM MEWUJUDKAN KEADILAN RESTORATIF PADA PROSES PENYIDIKAN PIDANA* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

⁵ Hardinata, P. (2022). *PERTANGGUNGJAWABAN PIDANA KORPORASI DALAM PEMULIHAN KERUGIAN KEUANGAN NEGARA PADA TINDAK PIDANA KORUPSI= CORPORATE CRIMINAL LIABILITY IN THE RECOVERY OF STATE FINANCIAL LOSS ON CRIMINAL ACTS OF CORRUPTION* (Doctoral dissertation, Universitas Hasanuddin).

Against this background, this article aims to comprehensively examine the position and relevance of restorative justice within Indonesia's environmental criminal justice system, as well as to analyze the extent to which this approach can serve as either an alternative that strengthens or a threat that weakens legal protection efforts for the environment. The discussion will focus on reviewing legal concepts, juridical foundations, implementation practices, and potential challenges and risks arising from the application of restorative justice in environmental criminal cases. Through this study, a deep and critical understanding is expected, enabling strategic recommendations for policymakers, law enforcement officers, and legal practitioners in formulating a just, effective, and sustainable model for resolving environmental criminal cases.

Beyond normative and juridical aspects, the implementation of restorative justice in environmental crimes must also be viewed from the perspectives of human rights protection and social justice principles. Environmental offenses often directly impact the community's right to a healthy environment, which is an integral part of the right to a decent and dignified life. In this context, restorative justice mechanisms must guarantee the active involvement of victims and affected communities in the resolution process, thus preventing their marginalization or neglect of their rights. Furthermore, the application of restorative justice must bridge the offender's responsibility with the needs for ecosystem recovery and social justice, without compromising the principles of legal certainty and criminal accountability. This requires a clear legal framework, effective oversight mechanisms, and capacity building for law enforcement officers and civil society to carry out restorative approaches transparently and accountably.⁶

Moreover, global dynamics promoting stronger environmental law and sustainable development make restorative justice increasingly relevant to be contextually adapted in Indonesia. At the international level, restorative justice principles have been recognized as an innovative effort to address transnational and multisectoral environmental crimes, including in the framework of protecting indigenous rights and preserving natural resources. Therefore, Indonesia, as a country rich in natural resources and vulnerable to environmental damage, faces significant challenges in integrating restorative justice principles into its criminal law system. Such integration must be supported by harmonization of legislation, increased legal awareness among the public, and multisectoral collaboration between government, law enforcement, academia, and civil society organizations.⁷

In this context, research and academic inquiry play a crucial role in providing data-driven and critically analytical input that focuses not only on theory but also on practical field applications. Through in-depth studies on legal implications, implementation challenges, and strategies to strengthen restorative justice mechanisms in environmental crimes, it is hoped that a law enforcement system can be developed which is not only effective and just but also responsive to the needs of environmental recovery and community welfare. Thus, this article seeks not only to address the dilemma between restorative justice as an alternative or threat but also to contribute strategically

⁶ Meliala, N. M., & Sahlepi, M. A. (2024). Penerapan Restorative Justice oleh Pengadilan Negeri Medan untuk Mewujudkan Kepastian Hukum dalam Penyelesaian Tindak Pidana. *Jurnal Ilmu Hukum, Humaniora dan Politik (JIHHP)*, 4(3).

⁷ Kurniawan, A. (2023). *Konstruksi Ideal Asesmen Terpadu Bagi Pecandu dan Penyalahguna Narkotika Berbasis Kepastian Hukum dalam Kerangka Sistem Peradilan Pidana* (Doctoral dissertation, UNS (Sebelas Maret University))

to the development of an adaptive and sustainable environmental legal system in Indonesia.

METHOD

This research employs a normative-juridical qualitative approach, focusing on the analysis of legislation, legal doctrines, and legal principles governing the application of restorative justice in the resolution of environmental crimes. Primary data, including positive legal provisions such as laws, implementing regulations, and court decisions, are critically analyzed to identify the normative framework and relevant legal boundaries. In addition, secondary data drawn from academic literature and policy documents are utilized to strengthen the theoretical and conceptual foundation of the study. To gain empirical insights, this research also incorporates semi-structured interviews with law enforcement officials, legal scholars, and environmental practitioners to explore the practical dynamics and challenges encountered in the implementation of restorative justice on the ground. The analytical approach is descriptive-critical, aiming not only to describe the existing legal conditions but also to critically assess the effectiveness and implications of restorative justice as both a potential alternative and a possible threat to the enforcement of environmental law.

RESULTS AND DISCUSSIONS

1. The Concept and Legal Basis of Restorative Justice in Environmental Crimes

Restorative justice, as a legal paradigm, represents a normative innovation marking a fundamental shift from the *retributive justice* model that has long dominated the criminal justice system. *Retributive justice* tends to focus on the imposition of criminal sanctions as a form of punishment for legal violations, with the primary aim of law enforcement and penalty imposition. In contrast, restorative justice emphasizes the restoration of damaged relationships between the offender, the victim, and the community, as well as efforts to repair the harm caused by the offense. In the context of environmental crimes, this approach becomes increasingly relevant given that the damage affects not only individual victims directly but also ecosystems and broader communities that depend on the environment for their survival and well-being.⁸

This restorative approach is grounded in principles that emphasize active participation of all relevant parties through open dialogue, mediation, and reconciliation mechanisms. These processes aim to reach agreements that restore both material and non-material losses, while also repairing and maintaining social and environmental balance.⁹ Restorative justice recognizes that environmental crimes are complex and multidimensional violations, requiring not only formal legal sanctions but also holistic ecological and social recovery processes. From a legal standpoint, the application of restorative justice is accommodated in the Indonesian National Police Regulation No. 8 of 2021 on the Handling of Criminal Cases through a Restorative Justice Approach. This regulation provides space for law enforcement to resolve cases through restorative mechanisms. However, the regulation remains general and does not specifically regulate the implementation of restorative justice in the context of environmental crimes, which

⁸ SH, K. T. W. (2021). *Plea Bargaining Sebagai Pembaharuan Hukum Dalam Sistem Peradilan Pidana Indonesia*. Pustaka Aksara.

⁹ Irawan, D., Bawole, H., & Rorie, R. (2022). Tinjauan Hukum Atas Keadilan Restoratif Sebagai Perlindungan Hukum Bagi Korban Tindak Pidana Di Indonesia. *Lex Administratum*, 10(5).

possess unique and complex characteristics, such as damage involving multiple parties and scientific-technical aspects. This indicates an urgent need to develop a more specific and operational legal framework to address particular challenges in handling environmental cases, including stakeholder involvement, monitoring mechanisms, and effective environmental restoration procedures.¹⁰

Moreover, strengthening the legal foundation of restorative justice must align with human rights principles, particularly the right to a healthy environment as stipulated in national and international legal instruments. Integrating these principles is crucial to ensure that the implementation of restorative justice does not compromise the rights of victims and affected communities while upholding the rule of law and substantive justice. Therefore, the development of comprehensive regulations and policies is key to positioning restorative justice as an effective, fair, and sustainable legal instrument in resolving environmental crimes while reinforcing environmental protection in Indonesia.¹¹

2. The Potential of Restorative Justice as an Alternative to Resolving Environmental Crimes

The restorative justice approach holds significant strategic potential as an alternative mechanism for resolving environmental crimes, particularly in addressing the inherent limitations of the conventional criminal justice system. Traditional legal processes are often seen as unresponsive to the distinctive nature of environmental crimes, which encompass not only legal but also complex social, ecological, and economic dimensions. Through restorative justice, case resolution can proceed more efficiently via negotiation and dialogue involving the offender, victims, and affected communities. This allows for faster resolution and reduces the burden on the judiciary, which is often hindered by lengthy and bureaucratic procedures, thus enabling more flexible and locally adaptive case handling.¹²

Beyond efficiency, restorative justice offers offenders the opportunity to acknowledge their wrongdoing and assume moral and legal responsibility through mechanisms such as environmental damage compensation, ecological rehabilitation, and concrete, measurable corrective actions. This approach positions the offender not merely as an object of punishment but as an active participant in the recovery process, thereby enhancing legal awareness and social accountability. Moreover, the active involvement of victims and communities in the restorative process strengthens the social legitimacy of case resolution, as the interests and voices of affected parties are genuinely heard and accommodated. This participatory nature fosters a culture of collaboration and environmental stewardship, forming a crucial foundation for sustainable development.¹³

¹⁰ Yuniarto, B. (2013). *Membangun kesadaran warga negara dalam pelestarian lingkungan*. Deepublish.

¹¹ Budiyono, B., Wahyudi, S., & Retnaningrum, D. H. (2024). Kompatibilitas Restorative Justice dengan Nilai-Nilai Pancasila dalam Sistem Peradilan Pidana Anak. *Pancasila: Jurnal Keindonesiaan*, 4(1), 38-47.

¹² Hakim, E. M. D. (2024). *TINJAUAN YURIDIS TENTANG PENERAPAN RESTORATIVE JUSTICE DALAM SISTEM PERADILAN PIDANA ANAK DI INDONESIA* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

¹³ Haryanto, T. (2024). *EKSPLORASI KONSEP RESTORATIVE JUSTICE OLEH KEPOLISIAN DALAM PROSES PENEGAKAN HUKUM (Studi Penelitian di Kepolisian Resor Purbalingga)* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

From the perspective of substantive justice, restorative justice aims not only to repair material and non-material damages but also to foster a culture of legal compliance and long-term ecological responsibility. This approach enables environmental law enforcement to move beyond a purely repressive model, incorporating preventive and educational dimensions that create more meaningful and lasting deterrence. Consequently, restorative justice may be viewed as an innovative legal instrument capable of integrating environmental protection, social recovery, and legal enforcement in a synergistic manner contributing meaningfully to efforts in environmental risk mitigation and adaptation.

3. Challenges and Threats in Applying Restorative Justice to Environmental Crimes

The application of restorative justice in environmental crime resolution presents various challenges and threats that warrant serious attention from policymakers, law enforcement officials, and the broader public. Substantively, these challenges stem from the unique nature of environmental crimes, which often involve collective damage, complex dimensions, and perpetrators with significant economic and political influence. In such contexts, restorative justice centered on dialogue, reconciliation, and restoration runs the risk of being misused as a tool to evade the formal legal accountability that should be enforced.¹⁴

One of the primary threats is the potential for impunity, especially when perpetrators are large corporate entities or influential officials. These actors may exploit restorative mechanisms to negotiate outcomes that disproportionately favor them, undermining the interests of victims and environmental protection. Such situations can erode the rule of law and create perceptions that legal accountability is negotiable based on power and influence, ultimately harming legal certainty and public justice.¹⁵ Another significant hurdle lies in the regulatory framework, which remains limited and insufficiently tailored to environmental crime cases. The lack of clear procedures, standard implementation guidelines, and oversight mechanisms may result in non-transparent practices that harm victims and affected communities. This regulatory gap can lead to unequal treatment and inconsistency in case resolutions, reducing the effectiveness and legitimacy of restorative justice as a judicial alternative.

Limited community and victim participation also presents a major obstacle. Restorative justice requires the active involvement of all parties in dialogue and resolution, yet in practice, victims and communities are often marginalized due to unequal access to information, limited capacity, or intimidation by more powerful perpetrators. These conditions hinder the realization of genuine restorative justice and may ignore communities' rights to a healthy environment and proper redress.¹⁶

Addressing these challenges necessitates comprehensive efforts, including the strengthening of a clear and integrated regulatory framework with standard operating procedures and effective oversight. Empowering victims and communities is equally vital,

¹⁴ Yunus, A. S. (2021). *Restorative Justice Di Indonesia*. Guepedia.

¹⁵ Nugraha, R. S., Rohaedi, E., Kusnadi, N., & Abid, A. (2025). The Transformation of Indonesia's Criminal Law System: Comprehensive Comparison between the Old and New Penal Codes. *Reformasi Hukum*, 29(1), 1-21.

¹⁶ Telaumbanua, F. F., & Citra, H. (2024). Perlindungan Hukum Terhadap Perempuan Korban KDRT (Kajian Terhadap Implementasi Keadilan Restoratif). *Jurnal Kajian Hukum Dan Kebijakan Publik* [E-ISSN: 3031-8882, 1(2), 121-131.

enabling them to participate actively and receive adequate protection throughout the restorative justice process. Enhancing the capacity of law enforcement and related institutions is also key to ensuring that resolutions are carried out fairly, transparently, and accountably. Thus, restorative justice can evolve into a mechanism that is not only responsive to the nature of environmental crimes but also upholds the principles of substantive justice and the rule of law.¹⁷

4. The Role of Corporations and Communities in Environmental Restorative Processes

In the application of restorative justice to environmental crimes, the roles of corporations and communities are crucial in ensuring that the restorative process is both effective and equitable. Corporations, often the main actors in environmental degradation, bear significant responsibility not only legally, but also socially and ecologically to actively participate in recovery efforts.¹⁸ Corporate involvement in restorative mechanisms is not merely about fulfilling legal obligations, but also about taking proactive steps in providing compensation, rehabilitating damaged environments, and repairing social relationships harmed by their business operations. Transparency and goodwill on the part of corporations can contribute to sustainable solutions and prevent prolonged conflicts that harm all stakeholders.¹⁹

On the other hand, communities especially local ones directly affected by environmental crimes hold a vital role in restorative justice processes. Their active participation in dialogue and negotiation ensures that their voices and needs as environmental victims are heard and addressed fairly.²⁰ Communities are not only objects of recovery but also subjects with rights to be fully involved in determining appropriate forms of reparation and ecological restoration. Empowering communities through legal education and capacity building is key to enabling them to advocate for their rights and participate effectively in restorative justice processes.²¹

A harmonious synergy between corporations and communities in restorative justice has the potential to produce solutions that are not only remedial but also preventive—fostering collective awareness about environmental conservation and corporate social responsibility. However, for these roles to be fully realized, support from law enforcement and related institutions is essential to ensure that the restorative process is transparent and fair and that resulting agreements reflect substantive justice and sustainable environmental protection. Thus, active and balanced engagement from corporations and communities

¹⁷ Rasiwan, H. I., & SH, M. (2025). *Pengantar Tindak Pidana Kekerasan Seksual*. Takaza Innovatix Labs.

¹⁸ Naibaho, R. B., Barutu, S. P., & Sitanggang, A. (2025). Analisis Peran Jaksa Dalam Penuntutan Kasus Pidana Lingkungan Di Indonesia. *SUPREMASI: Jurnal Hukum*, 7(2).

¹⁹ Jaya, I. E. E., SH, M., Maslina, I., MM, M., Press, T. U., & Pertama, C. (2024). *HUKUM LINGKUNGAN DAN TATA RUANG-EKONOMI LINGKUNGAN*.

²⁰ KUSNADI, F. (2024). *REKONSTRUKSI PENGATURAN PERANAN KEPOLISIAN DALAM PENERAPAN RESTORATIVE JUSTICE TERHADAP PELAKU TINDAK PIDANA PECANDU NARKOBA BERDASARKAN KONSEP KEADILAN BERMARTABAT* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

²¹ Arisaputra, M. I. (2013). Penerapan prinsip-prinsip good governance dalam penyelenggaraan reforma agraria di Indonesia. *Yuridika*, 28(2), 188-216.

forms the cornerstone of restorative justice as an effective mechanism for resolving environmental crimes.²²

5. Legal Implications and Policy Recommendations

The implementation of restorative justice in resolving environmental crimes carries significant and complex legal implications, which must be carefully addressed to ensure effective and just law enforcement. Legally, the restorative approach requires a paradigm shift from a retributive criminal justice model toward one that is more holistic and inclusive. This demands legal reform that specifically and structurally accommodates restorative mechanisms, especially in the context of multidimensional environmental damage involving multiple stakeholders. Without a robust and clear legal foundation, the implementation of restorative justice risks becoming inconsistent, prone to abuse, and potentially undermining the rule of law and legal certainty.²³

From a regulatory perspective, harmonization and integration are necessary between environmental laws and existing regulations on restorative justice found in police and criminal statutes. Clear procedures, defined scopes of application, and strict monitoring mechanisms must be explicitly regulated to ensure that restorative justice processes are conducted transparently, accountably, and with respect for all parties' rights, including those of victims and affected communities. Moreover, the development of standard operating procedures (SOPs) and technical guidelines for the restorative resolution of environmental crimes is crucial as a reference for law enforcement, mediators, and other relevant actors.²⁴

In terms of policy, the government should develop programs for community empowerment and legal education to raise awareness and capacity for active participation in restorative justice processes. This includes environmental advocacy training, mediation facilitation, and strengthening civil society organizations that function as social watchdogs. Policy recommendations should also emphasize the need to enhance the capacity of law enforcement and related institutions to implement restorative justice professionally and fairly through specialized training and adequate resource allocation.²⁵

Another strategic policy priority is the development of balanced incentive and sanction mechanisms for environmental offenders engaging in restorative justice. This ensures their commitment and compliance in environmental restoration while preventing potential abuses of the process. Incentives may include sentence reductions or recognition for tangible contributions to ecological rehabilitation, while strict penalties should remain in place for intentional violations or attempts to manipulate the restorative process. Overall, these legal implications and policy recommendations constitute a comprehensive effort to establish restorative justice as an effective, fair, and sustainable tool for resolving environmental crimes. This approach not only addresses the limitations of conventional justice systems but also strengthens human rights protection and environmental

²² Maulana, D. (2024). *EFEKTIVITAS PERLINDUNGAN HUKUM KORBAN SALAH TANGKAP DALAM PROSES PERADILAN PIDANA* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

²³ Waluyo, B. (2022). *Penegakan hukum di Indonesia*. Sinar Grafika.

²⁴ Ritonga, I. M. S. (2024). Kritik Restorative Justice dalam Kasus Pelecehan Seksual di Pesantren: Analisis Undang-Undang No. 12 Tahun 2022. *Legalite: Jurnal Perundang Undangan Dan Hukum Pidana Islam*.

²⁵ Tarigan, R. S. (2024). *Reformasi Hukum Tata Negara: Menuju Keadilan dan Keseimbangan*. Ruang Berkarya.

sustainability, thereby supporting more responsive and progressive environmental law enforcement and sustainable development.²⁶

CONCLUSIONS

Restorative justice holds significant potential as a substantive alternative approach to resolving environmental crimes by focusing on ecosystem restoration and inclusive participation of affected parties. However, its effectiveness depends heavily on regulatory clarity, the integrity of implementers, and active involvement of victims and communities. Just, transparent, and sustainable law enforcement requires integrated legal reform and multisectoral collaboration to prevent misuse and strengthen long-term environmental protection.

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²⁶ Sudewo, F. A. (2021). *Pendekatan Restorative Justice Bagi Anak Yang Berhadapan Dengan Hukum*. Penerbit Nem.

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