



Restorative Justice in Civil Disputes: A Progressive Approach to Civil Law

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ABSTRACT

Restorative justice is an approach to dispute resolution that emphasizes the restoration of relationships between conflicting parties rather than prioritizing punitive outcomes or adversarial judgments. In the context of civil law, this approach offers a more humane, participatory, and solution-oriented alternative, focusing on achieving mutually beneficial and sustainable agreements. This article aims to examine and analyze the application of restorative justice in civil disputes as part of the development of a progressive legal paradigm in Indonesia. The research employs a normative legal method using both conceptual and statutory approaches, supported by a comprehensive review of relevant academic literature. The analysis is conducted qualitatively to explore the relevance of restorative justice principles in civil law practices and their contribution to achieving substantive justice. The findings indicate that the implementation of restorative justice in civil disputes holds significant potential to enhance the effectiveness of dispute resolution mechanisms. It not only provides legally acceptable outcomes but also helps preserve social relationships between the parties involved. Furthermore, this approach aligns with the principles of progressive law, which prioritize justice, fairness, and social benefit over rigid procedural formalities. However, its implementation still faces several challenges, including the lack of explicit regulatory frameworks, limited understanding among legal practitioners, and low public awareness regarding non-litigation dispute resolution mechanisms. Therefore, strengthening both regulatory support and practical implementation is necessary to optimize the role of restorative justice within Indonesia's civil law system.

INTRODUCTION

The increasing complexity of modern society has led to a growing number of disputes, including those within the realm of civil law. Civil disputes arise not only from contractual and business relationships but also extend to broader aspects of social life, such as family matters, inheritance, land ownership, and employment relations. In Indonesia, the resolution of civil disputes is still predominantly conducted through litigation in courts, which tends to be formalistic, procedural, and adversarial in nature. This model often positions disputing parties against each other in a win-lose framework, which may fail to fully satisfy the need for substantive justice and the restoration of social relationships (Safira, 2025).

The rigid nature of litigation is frequently viewed as inadequate in addressing society's demand for dispute resolution mechanisms that are efficient, timely, and solution-oriented. While court decisions may provide legal certainty, they do not always resolve the underlying causes of disputes. In some cases, such decisions may even intensify conflicts and further damage the relationship between the parties involved

(Danialsyah, 2023). This condition reflects a gap between the normative objectives of law and the social realities experienced by the community.

In response to these challenges, there is a growing need for alternative approaches to dispute resolution that are more adaptive and responsive to the interests of the parties. One such approach that has gained increasing attention is restorative justice. Originally developed within the field of criminal law as a response to retributive systems focused on punishment, restorative justice has gradually expanded into other areas of law, including civil law.

Within the context of civil disputes, restorative justice emphasizes dialogue, active participation of the parties, and the pursuit of solutions that not only resolve legal issues but also restore disrupted social relationships. This approach is grounded in the understanding that disputes are not merely legal problems but also involve social and emotional dimensions that require comprehensive solutions. Therefore, restorative justice seeks to create a constructive communication space in which parties can reach fair and sustainable agreements (Shafira et al., 2024).

This perspective aligns closely with the principles of progressive law, a legal paradigm that has developed in Indonesia. Progressive law advocates that law should not be seen as rigid and static but must adapt to societal dynamics while prioritizing substantive justice. From this viewpoint, law functions not only as a tool of social control but also as an instrument to achieve social welfare and justice (Siroj & Marzuki, 2017).

Furthermore, progressive law critiques legal practices that are overly focused on procedures and formalities without adequately considering broader humanitarian and justice-oriented values. In this regard, the application of restorative justice in civil disputes can be viewed as a concrete manifestation of progressive law, as both approaches place human interests at the center of the legal process. Dispute resolution, therefore, is no longer merely about winning a case, but about achieving comprehensive and meaningful justice for all parties involved.

In Indonesia, efforts to incorporate restorative justice principles into civil dispute resolution have begun to emerge, particularly through court-annexed mediation mechanisms. The Supreme Court regulation mandating mediation prior to litigation represents an initial step toward promoting amicable settlement. Mediation provides a platform for parties to negotiate and seek mutually beneficial solutions with the assistance of a neutral mediator. In practice, mediation has often proven effective in resolving disputes without resorting to lengthy and exhausting litigation processes (Ahmad, 2025).

Nevertheless, the implementation of restorative justice in civil disputes in Indonesia still faces significant challenges. One of the main obstacles is the absence of explicit and comprehensive legal regulations governing restorative justice within civil law. So far, its application has been limited to alternative mechanisms such as mediation, which do not fully reflect the broader principles of restorative justice. Additionally, resistance persists among legal practitioners who tend to adhere to formalistic and legalistic approaches in dispute resolution (Suartini et al., 2023).

Beyond regulatory issues, challenges also arise from cultural and societal factors. Many people still perceive court litigation as the only legitimate and authoritative means of resolving disputes. Alternative methods such as mediation or negotiation are often regarded as secondary options with weaker legal certainty. This indicates the need for a paradigm shift not only among law enforcement officials but also within society as a whole (Kurniawan et al., 2025).

On the other hand, global developments indicate a growing adoption of restorative justice across various legal systems, including in civil dispute resolution. This trend reflects an increasing awareness of the importance of achieving substantive justice while maintaining sustainable social relationships. In this context, Indonesia has a significant opportunity to develop restorative justice as part of a broader legal reform aimed at creating a more responsive and people-centered legal system.

Therefore, the study of restorative justice in civil disputes becomes highly relevant, particularly within the framework of progressive law. This research is expected to contribute to both theoretical and practical developments in Indonesian civil law, especially in fostering a dispute resolution system that is more just, humane, and oriented toward the interests of the parties.

Based on this background, the main issues addressed in this article are how restorative justice can be applied in civil disputes and to what extent it aligns with the principles of progressive law. In addition, this study examines the challenges and opportunities in implementing restorative justice within Indonesia's civil law system.

RESEARCH METHOD

This study employs a normative legal research method, which focuses on examining existing legal norms as well as legal principles developed within doctrines and scholarly literature. This approach is selected because the research aims to analyze the concept of restorative justice in civil disputes from a theoretical and normative perspective, particularly within the framework of progressive law in Indonesia.

Accordingly, this study does not rely on empirical or field data collection, but rather emphasizes the analysis of relevant legal materials to address the research issues (Soekanto, 2007).

The research applies both a conceptual approach and a statutory approach. The conceptual approach is conducted by exploring various theories, concepts, and scholarly opinions related to restorative justice, civil law, and progressive legal thought. Meanwhile, the statutory approach is utilized to examine legal regulations governing civil dispute resolution, particularly those concerning alternative mechanisms such as mediation within the Indonesian judicial system.

The legal materials used in this study consist of primary and secondary sources. Primary legal materials include statutory regulations relevant to civil dispute resolution, while secondary legal materials encompass national academic journals, legal textbooks, and previous research findings related to restorative justice and progressive law. All materials are collected through a systematic and structured library research process.

The data are analyzed using a qualitative method with a descriptive-analytical approach. This analysis involves systematically describing, interpreting, and critically examining the collected legal concepts and norms, and then relating them to the research problems. Through this method, the study aims to provide a comprehensive understanding of the application of restorative justice in civil disputes and its relevance within the framework of progressive law in Indonesia.

DISCUSSION

The Concept of Restorative Justice in Civil Law

Restorative justice fundamentally represents an approach to dispute resolution that prioritizes the restoration of harm caused by conflict, encompassing both material and immaterial losses, as well as the repair of relationships between the disputing parties. In contrast to conventional litigation, which tends to position parties in an adversarial setting and results in win-lose outcomes, restorative justice emphasizes dialogue, active participation, and the pursuit of collaborative and mutually beneficial solutions (Pranata & Robekha, 2022).

From a civil law perspective, this approach is highly relevant, as most civil disputes involve private and ongoing legal relationships, such as those found in family, business, and broader social interactions. Consequently, dispute resolution should not merely aim to determine legal rights and liabilities, but also to preserve and restore relationships that may have been disrupted by the conflict. In this regard, restorative justice provides an opportunity for the parties to reach agreements that are not only legally valid but also socially and emotionally acceptable.

The application of restorative justice in civil law can be facilitated through various forms of alternative dispute resolution (ADR), including mediation, negotiation, and conciliation. These mechanisms encourage open and honest communication between the parties in order to identify their respective interests and find common ground that accommodates mutual needs. The involvement of a neutral third party, such as a mediator, plays a crucial role in ensuring that the dialogue process remains constructive, balanced, and productive (Mareta et al., 2018).

Moreover, restorative justice extends beyond formal dispute settlement by addressing the substantive dimension of justice. Its focus is not limited to the rigid application of legal norms, but rather on achieving outcomes that deliver tangible benefits to the parties involved. In other words, the justice sought is not merely procedural, but also substantive, reflecting a broader sense of fairness as perceived within society.

In practice, this approach offers greater flexibility compared to litigation. The parties are given the autonomy to formulate solutions tailored to their specific needs, without being strictly bound by formal procedural constraints. Such flexibility enables the development of creative and innovative resolutions that are often unattainable through court judgments.

Additionally, restorative justice contributes to reducing the burden on the judiciary by encouraging out-of-court settlements. This is particularly significant given the high volume of civil cases handled by courts, which often leads to prolonged resolution processes. By promoting more efficient and simplified mechanisms, restorative justice supports faster and more effective access to justice.

However, the successful implementation of restorative justice in civil law requires a sufficient level of understanding among both the disputing parties and legal practitioners. Without adequate knowledge and awareness, this approach may not function optimally and could even be subject to misuse. Therefore, strengthening legal capacity and awareness is essential to ensure that restorative justice principles are applied appropriately and consistently.

Several studies indicate that the use of restorative justice in civil disputes tends to produce more sustainable outcomes, as it focuses on the interests and needs of the parties rather than merely on formal legal rules. Furthermore, this approach is often associated with higher levels of satisfaction, as the parties are directly involved in the decision-making process (Sihombing, 2024).

Restorative Justice as a Progressive Legal Approach

Progressive law represents a legal paradigm that positions law as a means to achieve substantive justice, rather than merely as an instrument for enforcing formal rules. Within this perspective, law is understood as dynamic and adaptable, capable of responding to social changes and the evolving needs of society (Sahputra, 2022). Therefore, law should not be narrowly interpreted as a rigid set of written norms, but rather as a tool for promoting welfare, justice, and humanity.

In this context, restorative justice can be seen as a concrete manifestation of progressive legal thought, particularly in the resolution of civil disputes. This is because restorative justice emphasizes human values, dialogue, and the active participation of the parties in seeking fair solutions. Accordingly, the approach is not solely outcome-oriented in terms of legal decisions, but also process-oriented, fostering constructive and equitable social interaction.

Restorative justice also reflects the core principle of progressive law in prioritizing human interests. In many civil disputes, formalistic litigation often overlooks the social and emotional dimensions underlying the conflict. As a result, even though court decisions may provide legal certainty, they do not always deliver a genuine sense of justice to the parties involved. In this regard, restorative justice serves as an alternative mechanism that bridges the gap between legal certainty and perceived justice within society.

Furthermore, this approach challenges the dominance of procedural justice as the sole focus of legal resolution. Progressive law emphasizes the importance of substantive justice—justice that is truly experienced and felt by the parties. Through restorative justice, individuals are directly involved in the dispute resolution process, allowing outcomes to emerge from mutual agreement and to better reflect the sense of fairness that exists within the community.

In addition, restorative justice contributes to strengthening key social values such as trust, accountability, and reconciliation. It encourages parties not only to resolve disputes, but also to understand the consequences of the conflict and to take responsibility for restoring damaged relationships. This aligns with the broader objectives of progressive law, which seeks not only short-term dispute resolution but also long-term social harmony.

The application of restorative justice within the framework of progressive law also demonstrates the need for a responsive legal system. In increasingly complex societies, dispute resolution can no longer rely on rigid and uniform approaches. Instead, flexible and context-sensitive methods are required to accommodate the unique characteristics of each case. In this regard, restorative justice provides the necessary space for parties to formulate solutions that best suit their specific circumstances.

Nevertheless, the implementation of this approach is not without challenges, particularly in terms of shifting the legal paradigm among law enforcement officials and society at large. There remains a tendency to perceive law as a formal system that must be strictly enforced according to established procedures. Therefore, efforts are needed to promote a broader understanding that law also encompasses essential human and social dimensions beyond its normative framework.

Various studies have demonstrated that restorative justice is consistent with the principles of progressive law, which emphasize that law should provide solutions that are fair, humane, and beneficial to society. This approach not only resolves disputes in a formal sense but also seeks to repair social relationships disrupted by conflict, thereby producing outcomes that are more comprehensive and sustainable (Wijaya, 2022).

The Implementation of Restorative Justice in Civil Disputes in Indonesia

The application of restorative justice in civil disputes in Indonesia reflects a gradual shift in the dispute resolution paradigm, moving from a predominantly litigation-based approach toward one that is more collaborative and participatory. Although restorative justice is traditionally associated with criminal law, its underlying values have increasingly been incorporated into civil dispute resolution practices, particularly through alternative dispute resolution (ADR) mechanisms.

One of the most tangible forms of implementing restorative justice in civil law is through court-annexed mediation. The requirement to undergo mediation prior to the adjudication of a case represents a strategic effort to promote amicable settlements (Maulana & Agusta, 2021). During mediation, the parties are given the opportunity to engage in direct dialogue facilitated by a neutral mediator. This process not only aims to reach a mutually acceptable agreement but also seeks to restore communication that may have been disrupted by the conflict.

Beyond mediation, restorative principles are also evident in negotiation and conciliation processes conducted outside the court system. These mechanisms provide parties with greater autonomy in determining how their disputes should be resolved, in accordance with their respective interests. This aligns with the core principle of restorative justice, which positions the parties as central actors in the resolution process rather than passive recipients of judicial decisions.

In judicial practice, there is also a growing tendency among judges to incorporate restorative values into their legal reasoning. In certain cases, judges go beyond formal legal considerations by taking into

account substantive justice and the broader social implications of their decisions. This is reflected in judicial efforts to encourage reconciliation between disputing parties, even during court proceedings. Such an approach indicates a transformation in the role of the judiciary from merely adjudicating disputes to facilitating comprehensive conflict resolution (Rahmawati & Bulqis, 2026).

Despite these developments, the implementation of restorative justice in civil disputes in Indonesia remains far from optimal. A primary challenge lies in the absence of explicit and comprehensive legal regulations governing its application within civil law. At present, the integration of restorative principles tends to be partial and largely dependent on the *инициатив* of the parties and legal practitioners. As a result, there is no uniform standard guiding its practical implementation.

In addition to normative limitations, structural and cultural challenges also persist. Structurally, the limited availability of qualified mediators and the lack of adequate training for legal professionals hinder the effectiveness of mediation processes. From a cultural perspective, many members of society still perceive court litigation as the only legitimate and authoritative means of resolving disputes. This perception contributes to the underutilization of alternative mechanisms such as mediation (Satria, 2026).

Moreover, there is a potential risk of misuse in the application of restorative justice if it is not accompanied by proper oversight. In certain situations, agreements reached through non-litigation processes may fail to reflect genuine fairness, particularly when there is an imbalance of power between the parties. Therefore, the active involvement of mediators and legal authorities is essential to ensure that the dispute resolution process remains fair and does not disadvantage any party.

Nevertheless, despite these challenges, the future prospects for implementing restorative justice in civil disputes remain promising. This optimism is supported by increasing awareness of the need for dispute resolution mechanisms that are efficient, effective, and responsive to the interests of the parties. Furthermore, advancements in technology and digitalization have created opportunities for the development of online dispute resolution (ODR), which can enhance access to justice for a broader segment of society.

Several studies suggest that the application of restorative justice in civil disputes can improve the overall effectiveness of dispute resolution, particularly by reducing court caseloads and increasing compliance with settlement outcomes. This is largely because the parties are directly involved in the resolution process, fostering a greater sense of ownership and responsibility toward the agreed results (Prayoga et al., 2025).

Challenges and Prospects for the Development of Restorative Justice in Civil Disputes

The implementation of restorative justice in the resolution of civil disputes in Indonesia is confronted with a range of challenges encompassing normative, structural, and cultural dimensions. Although, in theory, this approach is considered capable of delivering more substantive and humane forms of justice, its practical application still faces significant obstacles that must be addressed to ensure its effectiveness.

One of the primary challenges lies in the normative framework, particularly the absence of explicit and comprehensive legal regulations governing the application of restorative justice in civil law. To date, restorative principles have only been partially accommodated through alternative dispute resolution mechanisms such as mediation. However, existing regulations do not fully reflect the core values of restorative justice, resulting in fragmented implementation that has yet to be fully integrated into the broader civil law system (Rahmadani, 2025).

From a structural perspective, limitations in human resources and institutional support also pose significant barriers. The number of professional and well-trained mediators remains limited, especially in regional areas. Furthermore, not all legal practitioners possess a sufficient understanding of restorative justice concepts and practices, leading to inconsistent application in civil dispute resolution. This situation underscores the need for continuous capacity building and specialized training for legal professionals.

Cultural factors present an equally complex challenge. Many individuals still perceive litigation as the only legitimate and authoritative means of resolving disputes. In contrast, out-of-court mechanisms such as mediation and negotiation are often viewed as lacking binding legal force. This perception contributes to the relatively low level of public trust in restorative justice approaches (Karjono & Malau, 2024). Therefore, extensive legal awareness campaigns and public education initiatives are necessary to enhance understanding of the benefits and effectiveness of restorative justice.

In addition, the implementation of restorative justice carries potential risks, particularly in situations involving unequal bargaining power between the parties. In such cases, economically or socially dominant parties may influence the negotiation process, resulting in agreements that do not fully reflect fairness. Consequently, the role of a neutral mediator becomes crucial in maintaining balance and ensuring that the resolution process is conducted in a fair and transparent manner.

Despite these challenges, restorative justice holds considerable promise for further development within Indonesia's civil law system. Its advantages include the ability to provide faster, more efficient, and more satisfactory dispute resolution outcomes. Moreover, this approach helps preserve social relationships

and prevent the escalation of conflicts—outcomes that are often difficult to achieve through formal court judgments.

Advancements in information technology also create new opportunities for the application of restorative justice, particularly through online dispute resolution (ODR) mechanisms. By leveraging digital platforms, mediation and negotiation processes can be conducted more flexibly and can reach a wider segment of the population. This is particularly relevant in modern societies where technology plays an increasingly central role in various aspects of life, including dispute resolution.

Furthermore, support from key stakeholders including government institutions, academics, and legal practitioners is essential for advancing restorative justice. Legal reforms aimed at strengthening alternative dispute resolution mechanisms should continue to be pursued, including the development of more comprehensive regulations that provide legal certainty for agreements reached through restorative processes.

A growing body of research indicates that restorative justice has significant potential to produce more sustainable and equitable outcomes in civil disputes. This approach not only resolves conflicts in the short term but also contributes to fostering more harmonious social relationships in the long run (Maulana & Agusta, 2021). These findings suggest that restorative justice can serve as an important pathway toward a more responsive and people-oriented legal system.

CONCLUSION

Restorative justice represents an alternative paradigm in resolving civil disputes by emphasizing the restoration of relationships, participatory processes, and the achievement of substantive justice. Unlike conventional litigation, which typically results in win-lose outcomes, this approach provides space for the parties to actively engage in dialogue and collaboratively reach agreements that are fair, balanced, and sustainable.

From the perspective of progressive law, restorative justice holds strong relevance as both frameworks place human interests at the center of legal processes. This approach goes beyond merely addressing normative and procedural aspects, as it also takes into account social, emotional, and practical dimensions of justice. In this regard, restorative justice can be understood as a concrete expression of progressive legal principles within the practice of civil dispute resolution in Indonesia.

In practice, the application of restorative justice in civil disputes has begun to emerge through alternative dispute resolution mechanisms, particularly court-annexed mediation. However, its implementation remains limited and has not yet reached its full potential due to various challenges, including regulatory gaps, institutional constraints, and the prevailing legal culture within society. The lack of comprehensive legal frameworks, limited resources, and insufficient awareness of non-litigation approaches continue to hinder its broader adoption.

Despite these limitations, restorative justice offers significant potential as part of the ongoing reform of Indonesia's civil law system. With stronger regulatory support, enhanced capacity among legal practitioners, and continuous public education, this approach can contribute to the development of a dispute resolution system that is more effective, efficient, and just. Ultimately, restorative justice should not only be viewed as an alternative mechanism for resolving disputes, but also as a means of fostering a more humane, responsive, and socially oriented legal system.

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