

# Dynamics of Criminal Law Enforcement Through Restorative Justice

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**Abstract.** As depicted in the Handbook on Helpful Equity Projects distributed by the Unified Countries, it is expressed that: "Restorative justice is an approach to problem-solving that, in its various forms, involves the victim, the offender, their social networks, justice agencies, and the community." Rigorously talking, the connection between helpful equity and criminal policing, equity is a way to deal with taking care of criminal issues including casualties, culprits, and components of society for the making of considerable equity. The extraordinary law enforcement framework positively has explicit goals for what's to come interests of an individual and society in which the standards of helpful equity are contained. The meaning of supportive equity itself isn't uniform, on the grounds that numerous varieties of models and structures have created in its application. In this way, numerous phrasings are utilized to portray the idea of supportive equity, for example, communitarian equity, positive equity, social equity, reparative equity, and local area equity.

**Keywords:** Dynamics; Law enforcement; Criminal; restorative justice.

## 1. Introduction

Indonesia as a country is bound by the obligation to protect all its citizens. The Handbook on Supportive Equity Projects distributed by the UN additionally expresses that: "Helpful equity is a way to deal with critical thinking that, in its different structures, includes the person in question, the guilty party, their informal communities, equity organizations, and the local area".[1] Concerning criminal policing, equity is a way to deal with tackling criminal issues including casualties, culprits, and components of society for the making of meaningful equity.

The law enforcement framework unquestionably has a particular reason for what's in store interests of kids, culprits of criminal demonstrations, and society which contains the standards of helpful equity. The meaning of supportive equity itself isn't uniform, on the grounds that numerous varieties of models and structures have created in its application. Accordingly, numerous phrasings are utilized to depict the idea of helpful equity, for example, communitarian equity, positive equity, social equity, reparative equity, and local area equity. [2]

Bagir Manan, in his compositions depicts the substance of "helpful equity" which contains standards, including: "Building joint cooperation between culprits, casualties, and local gatherings in settling an episode or wrongdoing. Putting culprits, casualties, and the local area as "partners" who cooperate and quickly attempt to find arrangements that are viewed as fair for all gatherings (mutual benefit arrangements).[3] In examples of bad behaviors completed by adolescents, the steady value structure essentially hopes to fix/restore (to restore) criminal

showings executed by messes around with exercises that are helpful to young people, setbacks, and their ongoing situation that incorporate them clearly (reintegration and rebuilding). in handling issues, and not exactly equivalent to the way to deal with dealing with adults,[4] which will then, lead to the target of the real bad behavior which as demonstrated by Barda Nawawi Arief the goal of discipline starts with "protection of society" and "security/course of individual guilty parties of infringement". [5]

Indonesia as a safeguarded state has a couple of kinds of guideline to coordinate the exercises of its inhabitants, including Criminal Guideline and Criminal Procedure Code. These two guidelines have a very comfortable relationship, because for the most part the law of criminal system is associated with the meaning of criminal guideline.[6] It's simply that criminal procedural regulation or what is otherwise called conventional criminal regulation is more centered around arrangements overseeing how the state through its instruments practices its all in all correct to convict and force sentences. In the mean time, criminal regulation (material) is more centered around the law that controls what violations or activities can be rebuffed with still up in the air by the law and against whom such discipline can be forced.[7]

Criminal procedural regulation is the whole legitimate rule in regards to how to carry out criminal regulation arrangements, on the off chance that there is an infringement of the standards alluded to by this arrangement. With the goal that the criminal procedural regulation was made as a method in the structure of policing equity in understanding an organized and quiet life in the public eye. The exemplification of Indonesia as a rule of peace and law country is to make lawful rules in which one of these guidelines is the Criminal Strategy Code which is a standard for searching for and getting material truth, to be explicit the all out truth of a convict case by applying genuine plans. really and unequivocally, to sort out who the guilty parties are who can be blamed for an encroachment of the law and a while later solicitation an evaluation and court decision to choose if it is exhibited that a bad behavior has been completed and whether the charged individual can be denounced.

John Braithwaite, Howard Zehr, and Imprint Umbreit as figures of supportive equity put forth helpful equity an attempt to abrogate discipline for bad behavior by giving liability to the culprit and including the interest of the defendants (culprits, casualties, and the local area). Helpful equity gives the idea of conciliatory sentiment, compensation, and acknowledgment of errors that have been put forth and attempts to recuperate and reintegrate the culprit back into society regardless of extra discipline which permits the culprit to work on himself. The ideal type of supportive equity incorporates fixing, reestablishing, accommodating, and reintegrating culprits and casualties with each other and their common local area.[8]

Existing improvements show that there is another viewpoint on discipline which has moved to equity that should be gotten by the defendants by giving open doors to culprits to work on themselves and be acknowledged again by society.[9] In Indonesia, the demonstration of settling criminal cases using strong value has been finished, especially for the settlement of criminal cases that fall under minor bad behaviors. In its new development, steady value has begun to help a legitimate umbrella through the Police Manager Rule Number 6 of 2019 concerning Assessments of Criminal Exhibitions and the Republic of Indonesia Analyst's Office Rule Number 15 of 2020 concerning End of Prosecution considering Supportive Value.

A criminal demonstration is a showing that is limited by a rule of peace and law, which prohibition is joined by risks (sanctions) as unambiguous disciplines, for any person who dismisses the refusal.[10] The effect of a wrongdoing/infringement is criminal obligation, while the meaning of criminal obligation is criminally liable for somebody who carries out a lawbreaker act or criminal demonstration.[11]

In Indonesia, the exhibit of settling criminal cases utilizing consistent worth has been done, particularly for the settlement of criminal cases that fall under minor terrible ways of behaving. In its development, strong value has begun to help a legal umbrella through the Police Manager Rule Number 6 of 2019 concerning Assessments of Criminal Exhibitions and the Republic of Indonesia Analyst's Office Rule Number 15 of 2020 concerning End of Arraignment Considering Supportive Value. Taking care of cases in view of helpful equity can make discipline a final hotel with the goal that it can thwart the collection of cases in court and diminish overcapacity in Restorative Foundations.[12] There are such countless benefits presented in the settlement of criminal cases in light of supportive equity, so analysts are keen on examining more about the elements of criminal policing helpful equity in the advancement of regulation in Indonesia.

## **2. Problem**

The issue in this paper is the manner by which are the elements of criminal policing helpful equity in the improvement of regulation in Indonesia?

## **3. Method and Approach**

### **3.1 Method**

Recorded as a printed duplicate this applied paper, it is utilizing the enchanting genuine framework, explicitly by utilizing information that obviously depicts the issues straightforwardly in the field, then, the evaluation is done to relax an issue. Approaches for information gathering through acumen and making study to get conclusive thinking in the arrangement of this paper. As per the investigation objectives to be achieved, the space of this assessment is associated with the area of emotional investigation, thus an abstract philosophy method will be used. According to Petrus Soerjowinoto et al., an emotional method is a procedure that burdens the most well-known approach to understanding researchers on the itemizing of issues to construct an unpredictable and complete genuine characteristic.[13]

### **3.2 Approach**

The normalizing juridical procedure, to be explicit the juridical philosophy strategy used to check out at issues from a legitimate and lawful perspective, with the rule approach, in particular looking at the issues to be examined involving legitimate guidelines as optional information as essential, optional, and tertiary lawful materials.[14]

The normalizing juridical system is finished on unambiguous guidelines and rules or created guideline, which are associated with the components of criminal policing accommodating value in the headway of guideline in Indonesia.[15] The review portrays the state of the article, in particular zeroing in on the elements of criminal policing supportive equity in the improvement of regulation in Indonesia by and by.

## **4. Discussion**

### **4.1 Diversion as an Effort to Enforce Restorative Justice in Child Narcotics Crimes**

Law 11 of 2021 concerning Amendments to Law 16 of 2004 concerning the Indonesian Attorney General's Office amended as many as 39 provisions from the old Prosecutor's Law. For example, CHAPTER I General Provisions was abolished and only became Article 1. The Principal legal officer's Office is an administration organization whose capability is connected with legal power that activities state power in the field of arraignment and different powers in light of the law.

There is a view that the utilization of criminal regulation for the purpose of conquering wrongdoing can't be connected with the comprehension that its utilization should in any case be auxiliary in nature. That is, as long as the utilization of means outside the law enforcement framework is viewed as more successful, the utilization of law enforcement is stayed away from however much as could be expected. Moreover, if criminal (regulation) is to be utilized as a way to arrive at the total Indonesian person, then a humanistic methodology should likewise be thought of. This is significant not just in light of the fact that wrongdoing is basically a helpful issue, yet additionally in light of the fact that generally the criminal regulation itself contains a component of experiencing that can go after the most important interests or upsides of human existence. In this way the utilization of criminal regulation for of conquering wrongdoing can't be connected, as a matter of fact its utilization should be coordinated with instruments/implies outside the law enforcement framework.

Basically, redirection likewise has the objective of staying away from the adverse consequence of criminal discipline on kids. Redirection additionally has the quintessence of guaranteeing that youngsters develop and create both genuinely and intellectually. According to a hypothetical perspective, from the idea of condemning purposes, the pertinence of moving cycles and legal cycles to non-legal cycles against kids who commit opiates misuse will be seen. By and large, the reason for discipline basically comprises of endeavors to safeguard society from one perspective and safeguard people (culprits) then again; 2. The importance of moving legal endlessly cycles to non-legal cycles in managing opiates maltreatment by kids for the two primary parts of the reason for discipline, specifically the part of local area security and the part of individual insurance can be made sense of as follows:

a. With this redirection, kids will be saved from the utilization of criminal regulation which in numerous hypotheses has been proposed as one of the criminogenic factors. The adverse consequence of applying criminal regulation, including to youngsters, will bring about derision and dehumanization which can become criminogenic factors. In this way, keeping away from kids and the utilization of criminal regulation (depenalization) can forestall criminogenic factors, which likewise implies keeping away from youngsters and the chance of them becoming abhorrent once more (recidivism), hence it additionally implies keeping away from society and the chance of becoming casualties of wrongdoing.

b. With this redirection/move, it will likewise give two benefits simultaneously for individual kids. In the first place, with this exchange, the youngster can in any case speak with his current circumstance, so along these lines, the kid never again needs to do social variation after a wrongdoing has happened. Second, with this move the kid will likewise stay away from the conceivable adverse consequences of detainment which is much of the time a method for "moving" wrongdoing.

Guideline Number 11 of 2012 concerning the Juvenile Policing changed the view that discipline should be the last lodging for young people who battle with the law so the method for managing discipline has furthermore changed. This Regulation on the Adolescent Law

enforcement Framework advances a model of retributive equity discipline. The model of retributive equity discipline is reclamation to its unique condition and discipline if all else fails so different techniques are focused on external the court. One of them is through redirection, to be explicit the trading of settlement of youngster cases from processes in policing processes outside policing. Redirection is the most appropriate way out so kids are not brought to court. Accordingly, this redirection ought to be the responsibility of the police in each dealing with, both at the level of assessment, and arraignment, up to the appraisal of cases in court.

The primary rule of carrying out the redirection idea is convincing activity or a non-punitive methodology that gives an open door to somebody to address botches. One reason for the significance of redirection strategies in dealing with youngsters in struggle with the law is done in light of the great number of kids who enter law enforcement and are condemned to jail and experience viciousness while going through a progression of cycles in the law enforcement framework. Redirection is completed with the motivation to give an open door to crooks to turn out to be great individuals again through non-formal channels including local area assets. Redirection looks to furnish equity to kids who struggle with the law. Execution of Redirection Against Offspring of the Culprits of Opiates Wrongdoing In view of Guideline Number 11 of 2012 concerning the Juvenile Policing, as a feature of a work to acknowledge helpful equity.

#### **4.2 Restorative Justice at the Investigative Level**

Based on the Chief of Police Letter No. Pol.: 16/B/3022/XII/2009/Sde Ops which was then followed up with the Kabareskrim Telegram Letter Number: ST/110/V/2011, it is regulated that one form of a pattern of solving social problems is through alternative routes, including through efforts to settle cases out of court by applying the Alternative Dispute Resolution (ADR) concept. Settlement of cases with the application of ADR is carried out with conditions, including the settlement of minor crimes or criminal acts in the form of complaint offenses; a request from the litigants to reconcile; involving social institutions (community leaders); taking into account the factors of intention, age, social and economic conditions, the amount of loss, family/kinship relationships and not being a recidivist; the action begins with an agreement/agreement (leading to civil law); revocation of reports/complaints; dissatisfaction with ADR resolution continues to open opportunities for settlement of cases through litigation; and if there is a repetition of a crime then it will be processed according to the existing law.

In accordance with the Head of Police's Letter, during the time spent settling criminal cases separated from utilizing ADR, in the event that a case meets the material necessities and formal prerequisites as expressed in Article 12 Passage (1) of the Police Boss' Guidelines concerning Examination of Criminal Demonstrations then it tends to be settled in view of helpful equity. The punitive ADR/intervention component depends on a nonaggression treaty in the examination cycle, through the Polmas system by Bhabinkamtibmas.[12] Material requirements and formal requirements in the investigation process through restorative justice efforts are in line with the possibility of stopping the investigation to provide legal certainty, justice, and legal benefits (Article 30 paragraph (2) of the Police Headquarters Regulations Number 6 of 2019 concerning Investigations of Criminal Acts)

#### **4.3 Restorative Justice at the Prosecution Level.**

On top of the Republic of Indonesia Public Police giving Principle of the Head of Police of the Republic of Indonesia Number 6 of 2019 concerning Appraisal of Criminal Appearances, gave the Really genuine authority's Office Rule of the Republic of Indonesia Number 15 of 2020 concerning End of Arraignment thinking about Strong Worth. Strong Value is portrayed as a sort of settlement of criminal cases including guilty parties, losses, gatherings of guilty

parties/setbacks, and other related social events to search for plans by zeroing in on recovery of the situation and not response (Article 1 point 1 of the Republic of Indonesia Examiner's Office Rule Number 15 of 2020).

Considering Article 2 (Rule of the Analyst's Office of the Republic of Indonesia Number 15 of 2020 concerning End of Arraignment considering Accommodating Value, 2020) it is finished taking into account the principles of respectability, public premium, proportionality, discipline if all else fails, and the standards of quick, straightforward and minimal expense. The Public Examiner has the position to close cases for regulation, one of which is on the grounds that there has been a settlement of cases outside the court/connecting buiten process, this is controlled in Article 3 section (2) letter e Perja Number 15 of 2020. In the Head legal officer's Guideline alluded to in Article 3 section (3) there are arrangements if you need to privately address any outstanding issues for specific violations with a greatest fine paid deliberately or there has been reclamation of the first circumstance through helpful equity.

Settlement of cases outside the court utilizing the helpful equity approach as above legitimately stops the indictment. End of indictment should be completed by the Public Examiner in a dependable way and submitted in stages to the Top of the Great Investigator's Office as specified in Article 3 Passage (4) and Section (5).

The most common way of halting arraignment in light of supportive equity needs to focus on a few arrangements as expressed in Perja Number 15 of 2020 including a few contemplations for halting arraignment (Article 4), conditions for halting arraignment (Article 5), harmony steps that can be done by the Public Examiner about harmony system (Article 7 to Article 15). In the viewpoint of supportive equity, the interests of the casualty are the primary concentration by empowering the culprits to understand their slip-ups and the outcomes of the activities they have committed. Culprits are urged to have the option to get a sense of ownership with the violations they have committed and fix the harm that has been made so they can have the open door be acknowledged by the people in question and society.[16]

## **5. Conclusion**

In Indonesia, the exhibition of settling criminal cases utilizing obliging worth has been done, particularly for the settlement of criminal cases that fall under minor terrible ways of behaving. In its new development, steady value has begun to help a genuine umbrella through the Police Manager Rule Number 6 of 2019 concerning Assessments of Criminal Showings and the Republic of Indonesia Analyst's Office Rule Number 15 of 2020 concerning End of Prosecution Considering Supportive Value. Handling cases based on restorative justice can make punishment a last resort so that it can hinder the accumulation of cases in court and reduce overcapacity in Correctional Institutions.

Supportive equity gives the idea of conciliatory sentiment, compensation, and acknowledgment of errors that have been put forth and attempts to recuperate and reintegrate the culprit back into society regardless of extra discipline which permits the culprit to work on himself. The ideal type of helpful equity incorporates fixing, reestablishing, accommodating, and reintegrating culprits and casualties with each other and their common local area.

## References

- [1] United Nations, *Handbook on Restorative Justice Programmes*. New York: United Nations Publication, 2006.
- [2] eEva A. Zulfa, "Mendefinisikan Keadilan Restoratif," 2009. .
- [3] B. Manan, *Beberapa Masalah Hukum Tata Negara Indonesia, Cetakan ke 2*. Jakarta: Alumni, 1997.
- [4] D. Dewi, "Restorative justice, Diversionary Schemes and Special Children's Courts in Indonesia," 2010.  
[https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/expert\\_consultations/restorative\\_justice/dewi1.pdf](https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/expert_consultations/restorative_justice/dewi1.pdf) (accessed Apr. 04, 2023).
- [5] Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan*. Bandung: PT. Citra Aditya Bakti, 2001.
- [6] S. Mertokusumo, *Hukum Acara Perdata Indonesia*. Yogyakarta: Liberty, 1977.
- [7] E. Effendi, *Hukum Pidana Indonesia*. Bandung: Refika Aditama, 2011.
- [8] C. Menkel-Meadow, "Restorative justice: What is it and does it work?," *Annu. Rev. Law Soc. Sci.*, vol. 3, pp. 161–187, 2007, doi: 10.1146/annurev.lawsocsci.2.081805.110005.
- [9] R. Yulia, "Penerapan Keadilan Restoratif Dalam Putusan Hakim: Upaya Penyelesaian Konflik Melalui Sistem Peradilan Pidana," *J. Yudisial*, vol. 5, no. 2, pp. 224–240, 2012.
- [10] A. Chazawi, *Pelajaran Hukum Pidana*. Jakarta: PT Raja Grafindo Persada, 2002.
- [11] R. Saleh, *Perbuatan dan Pertanggung Jawaban Pidana Baru*. Jakarta: Aksara Baru, 1981.
- [12] C. Wulandari, "Dinamika Restorative Justice Dalam Sistem Peradilan Pidana Di Indonesia," *J. Jurisprud.*, vol. 10, no. 2, pp. 233–249, 2021, doi: 10.23917/jurisprudence.v10i2.12233.
- [13] D. Petrus Soerjowinoto, *Buku Panduan Metode Penulisan Karya Hukum (MPKH) dan Skripsi*. Semarang: Fakultas Hukum, UNIKA Soegijapranata, 2006.
- [14] G. Suteki, & Taufani, *Metodologi Penelitian Hukum (Filsafat, Teori Dan Praktek)*. Depok: RajaGrafindo Persada, 2018.
- [15] R. H. Soemitro, *Metodologi Penelitian Hukum dan Jurimetri*. Jakarta : Ghalia Indonesia, 1988.
- [16] D. H. J. Hermann, "Restorative Justice and Retributive Justice: An Opportunity for Cooperation or an Occasion for Conflict in the Search for Justice," *Seattle J. Soc. Justice*, vol. 16, no. 1, p. 11, 2017, [Online]. Available: <https://digitalcommons.law.seattleu.edu/sjsj> Available at: <https://digitalcommons.law.seattleu.edu/sjsj/vol16/iss1/11>.