BULLETIN OF ENGINEERING SCIENCE, TECHNOLOGY AND INDUSTRY
(BESTI Journal) | ISSN(e): 3025-5821
Website: https://bestijournal.org/index.php/go/index | Volume 4 No. 4 (2026)

PEACE AGREEMENTS NOT IMPLEMENTED IN THE CONTEXT OF RESTORATIVE JUSTICE: A LEGAL REVIEW OF MAJOR REGULATION NUMBER 1 OF 2024

Adam Barnini [1] * , Milda Istiqomah [2] , Abdul Madjid [3]
Master of Law Program, Faculty of Law / Universitas Brawijaya, Malang
Faculty of Law / Brawijaya University, Malang Faculty of Law / Universitas Brawijaya, Malang
E-mail: adambarnini@gmail.com [1] *, milda.istiqomah@ub.ac.id [2] , majid@ub.ac.id [3]

Received: 06/09/2026 | **Revised:** 11/09/2026 | **Accepted:** 30/09/2026 | **Published:** 29/10/2026

Abstract

The Supreme Court issued Supreme Court Regulation Number 1 of 2024 to address the legal vacuum regarding guidelines for adjudication based on restorative justice within the Supreme Court and lower courts. In an effort to fill the legal vacuum, Regulation 1 of 2024, on the other hand, allows new problems to arise. There are legal loopholes that can be exploited by irresponsible parties due to the lack of regulations regarding follow-up actions if a peace agreement is not implemented. This study aims to analyze the validity of the issuance of direct decisions that can be implemented in small claims court cases through a legal aspect. The research method used is normative juridical with a normative legal research approach and a conceptual approach. The data used include relevant laws and regulations, court decisions, and relevant legal literature. The results of this study indicate that the absence of follow-up regarding the non-implementation of a peace agreement has several negative impacts, both for victims, perpetrators, and the community. Victims and the community can lose confidence in the effectiveness and fairness of legal processes using a restorative justice approach. Furthermore, the defendant may not be given the opportunity to account for their actions and make reparations to the victim and the community. Therefore, further legal provisions are needed to implement the settlement agreement if it is not implemented.

Keywords: Criminal, Perma 1 of 2024, restorative justice, implementation of peace agreement, recovery

INTRODUCTION (TNR, 12 BOLD)

One manifestation of a state based on the rule of law is the enactment of criminal law. Criminal law itself is a legal regulation enforced in a country, containing orders, prohibited acts, and criminal sanctions if these orders and/or acts are violated, as well as when and in what cases the criminal sanctions are imposed and how the punishment is implemented, the implementation of which is enforced by the state. [1]Criminal law is always synonymous with imprisonment, where sometimes the impression arises that there is no choice but to imprison the perpetrator of the crime. This condition does not occur by chance, but by legislation, both in the Criminal Code and Criminal Acts outside the Criminal Code, the majority of crimes are punishable by imprisonment.[2]

Over time, the paradigm of sentencing, which involves imposing prison sentences on perpetrators, has shifted its focus to rehabilitating the perpetrators, victims, and communities affected by the crimes committed by the perpetrators. The paradigm of retributive justice has shifted from a paradigm of retributive justice to restorative justice. Punishment, which was oriented toward retribution and focused more on the act, has begun to be abandoned and shifted to restorative punishment, particularly rehabilitating the victims. In the retributive concept, victims of criminal acts are not only victims of the perpetrator's actions, but also victims of a rigid criminal justice system that excludes victims from determining the outcome of the criminal act committed against them. However, in recent

[1]Eddy OS.S Hiariej, Principles of Criminal Law (Yogyakarta: Cahaya Atma Pustaka, 2016). P. 16
[2]Bagus Sujatmiko Milda Istiqomah, "Encouraging the Implementation of Conditional Sentences Following the Decree of the Directorate General of General Courts Number 1691/DJU/SK/PS.00/12/2020 as an Alternative to Restorative Justice," Jurnal Bina Mulia Hukum Volume 7 Number 1 (September 2022). P. 47

years, victims have been given the opportunity to participate, particularly in recovering their condition after the crime, [3]and defendants have been given the opportunity to account for their actions by rehabilitating the consequences of their actions, a concept that has become known as restorative *justice* .

Restorative justice began with the concerns of an American psychologist, Albert Eglash, who worked in correctional institutions . From his interactions in correctional institutions, Albert Eglash saw a need for his clients to be held accountable for their behavior that had harmed others through rehabilitation and restitution. Furthermore, it also required an awareness from the perpetrator to be responsible for recovering from the consequences of their actions that harmed the victim, so that the interests of both the perpetrator and the victim were equally considered. From the perpetrator's side , the perpetrator was obliged to be responsible for the consequences of his actions , and from the victim's side , the victim was rehabilitated from the consequences of the criminal act committed by the perpetrator .[4]

In Indonesia, the concept of restorative justice has long been alive and well in society. The strong familial principle inherent in Indonesian culture supports the idea that before a problem is resolved by the authorities, it is recommended that a problem be resolved peacefully by involving relevant parties, such as community or religious leaders, with the aim of achieving a solution that benefits all parties and maintains harmony. [5]However, the concept of restorative justice was only formally and institutionally introduced in 2012 through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which was then followed by the emergence of new regulations issued by the Police, the Prosecutor's Office, and the Supreme Court regarding the handling of criminal cases based on restorative justice.

Seeing the paradigm shift in the purpose of punishment and paying attention to the needs in the practical order, the Supreme Court as a high state institution which by law is given the authority to make regulations issued Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice (“Restorative Justice Regulation”) to address legal problems and fill the legal vacuum regarding guidelines for adjudicating based on restorative justice within the Supreme Court and the lower courts, considering that the Criminal Procedure Code which is the reference rule in the procedures for implementing criminal law has not yet regulated it.

In an attempt to fill the legal vacuum, Supreme Court Regulation 1 of 2024, on the other hand, has actually allowed for new problems. A systematic article-by-article review reveals a new legal loophole that irresponsible parties can exploit to reduce or even exonerate themselves from criminal liability. This is evident in the absence of further legal provisions that can be implemented if the Peace Agreement is not implemented.

Based on the background of the problem described above, the author finds a legal vacuum regarding the follow-up actions that can be taken if the convict does not implement the peace agreement, even though the peace agreement has been taken into consideration by the judge/panel of judges in mitigating his sentence. Therefore, the author feels the need to examine in more depth the consequences that can occur if the convict does not implement the peace agreement as agreed.

LITERATURE REVIEW

Restorative justice, commonly known as restorative justice, is a concept within criminal law that has recently gained attention among law enforcement officials. Restorative justice has become a hot topic because it shifts the paradigm of criminal justice from its conventional focus on punishment and retribution to a humanistic approach focused on restoration. Restorative justice itself consists of two English words: " *restorative* ," meaning to restore, heal, or strengthen, and " *justice* ," meaning justice. [6]Based on this understanding, the Indonesian definition of restorative justice is restorative justice or justice that is restorative.

---

[3]La Ode Rinaldi Muchlis, " Restorative Justice for Adult Offenders as a Momentum for Criminal Law Reform", Article by the Ministry of Immigration and Corrections of the Republic of Indonesia, Directorate General of Corrections, February 15, 2022, accessed through https://www.ditjenpas.go.id/restorative-justice-pelaku-dewasa-sebagaimomentum-pembaharuan-hukum-pidana

[4] Armawan, 'Quo Vadis Restorative Justice Policy at the Supreme Court of the Republic of Indonesia' (*JDIH Supreme Court* , 2024) 1 <https://jdih.mahkamahagung.go.id/legal-product/quo-vadis-kebijakan-restorative-justice-pada-mahkamah-agung-republik-indonesia/detail>.

[5]Muhammad Zayyin Al-Islam, Dudung Mulyadi and R. Yenni Muliani, “Resolution of Immoral Crimes in a Family Way Linked to Article 4 Paragraph (1) in conjunction with Article 29 of Law Number 44 of 2008 Concerning Pornography at Ciamis Station, Ciamis District” Jurnal Pustaka Galuh Justisi, Vol. 2 No. 1, October 2023, pp. 41-56.

[6]M Echols John and Shadily Hassan, *An English Indonesian Dictionary* (Jakarta: Gramedia Pustaka Utama, 2005).

Conceptually, Howard Zehr, one of the pioneers who formulated an integrated and comprehensive restorative justice model, views restorative justice as a process that emphasizes restoration by involving stakeholders to collectively identify impacts, needs, and obligations, then placing everything as fairly as possible. Zehr calls it an "alternative justice paradigm" that contradicts in almost every major aspect the principles of retributive justice. His thinking emphasizes the benefits for victims while encouraging perpetrators to take active responsibility for repairing the harm caused, rather than simply accepting punishment from the courts. This view is in line with Tony Marshall, a British criminologist, who defines restorative justice as a process of handling crime in which stakeholders collectively seek solutions to the consequences of the crime and its implications for the future. In Restorative Justice *: An Overview* , Marshall criticized the previous criminal justice system which only achieved its goals partially and was not directed, did not pay attention to victims and their needs, only took limited steps for the reintegration of perpetrators, and only demanded passive compliance from perpetrators who were not expected to take the initiative to correct their actions other than undergoing punishment. According to him, such a system distances itself from society and does not encourage its role in crime prevention. Both perspectives demonstrate that restorative justice focuses on three aspects: victim recovery, active responsibility for the perpetrator, and the involvement of all parties and the community in resolving the case.

In the Indonesian context, this approach is accommodated at the judicial level through Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. This regulation was issued in response to the development of the criminal justice system, which initially focused on sentencing the defendant to punishment and is now moving towards aligning victim recovery with defendant accountability. In its considerations, the Supreme Court assessed that the restorative justice approach has not been sufficiently regulated in the criminal justice system, particularly regarding the types of cases, requirements, and procedures for its application at the trial level, including its content in decisions. Therefore, the Supreme Court deemed it necessary to issue guidelines for the Supreme Court and lower courts in implementing the restorative justice approach in the process of adjudicating criminal cases.

However, a review of the substance of this Supreme Court Regulation reveals problems with Article 19, which is a key instrument for successful case resolution through a restorative justice approach. In its application, this article only uses a peace agreement as a mitigating factor for a sentence or as a consideration for conditional or supervised sentences. The Regulation does not regulate the time limit for implementing the agreement, the implementation mechanism, or the legal consequences if the agreement is not implemented. As a result, defendants can still obtain reduced sentences without fulfilling their obligations, creating legal uncertainty and harming victims. This situation contradicts the basic concept of restorative justice put forward by Zehr and Marshall, namely that perpetrators are required to actively repair the victim's losses, not simply undergo formal processes. The provisions in this Supreme Court Regulation are also considered weaker than the SPPA Law and the 2025 Criminal Procedure Code, which provide a more stringent implementation framework.

Based on this description, this literature review reveals a gap between the ideal concept of restorative justice, which emphasizes victim recovery and active responsibility for perpetrators, and the norm of Article 19 of Supreme Court Regulation No. 1 of 2024, which does not guarantee the implementation of a peace agreement. This gap forms the basis for further study regarding the need to refine regulations to align with the principles of restoration and legal certainty.

METHOD

This type of research is normative legal research or juridical normative research, which is legal research conducted by conducting document studies, statutory regulations, and also conducting literature reviews (Soerjono Soekanto, 2006). The approach methods used in this research are the statute approach and the conceptual approach. The statutory regulation approach is carried out by examining all statutory regulations and regulations related to the legal issues being handled, while the conceptual approach is carried out by studying views and doctrines in legal science which will then find relevant legal meanings, concepts, and principles to the issues faced (Peter Mahmud, 2024).

The data collection method used in this research is library research, which is research conducted by reading and studying a number of books, literature, scientific journals, and internet websites related to the problem being studied to obtain references that can be used as a theoretical basis in the research and then identified and studied as a whole unity. The data analysis method used in this research is qualitative analysis, which is data processing based on the facts obtained, then arranged systematically and then analyzed qualitatively to obtain answers to the problems being studied (Soerjono Soekanto, 2001).

OPEN ACCESS

RESULTS AND DISCUSSION

Consequences of Not Implementing the Peace Agreement as Perma 1 of 2024

The application of restorative justice in Supreme Court Regulation No. 1 of 2024 shares similarities with the diversion mechanism in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System ("SPPA Law"), emphasizing the resolution of cases through reconciliation between the perpetrator and victim, prioritizing restoration over retribution. However, there are important differences regarding the implementation regulations and the legal consequences if the reconciliation agreement is not implemented.

In the child case diversion system under the Child Protection and Child Protection Law, regulations regarding diversion agreements are more clearly and systematically regulated. Diversion agreements are not only viewed as a form of reconciliation between children and victims, but also have clear legal consequences. Once a diversion agreement is approved, the results are formalized in a court order, giving it formal legal force.[7]

Furthermore, the Juvenile Justice and Child Protection Law also stipulates that if a diversion agreement is not implemented, the criminal justice process for children can continue. [8]Thus, there is a direct link between the implementation of the diversion agreement and the continuation of the termination of the criminal process. In contrast, in PERMA Number 1 of 2024, a peace agreement in restorative justice at the trial stage is only used as a consideration by the judge to reduce the sentence or impose a conditional/supervised sentence. [9]The PERMA does not regulate the mechanism for implementing the agreement, monitoring the implementation of the peace agreement, the implementation deadline, or the legal consequences if the agreement is not implemented. Therefore, the goal of restorative justice, which essentially prioritizes the recovery of the victim and the fulfillment of responsibilities by the defendant, is not achieved. The victim will be greatly disadvantaged because even though they have agreed to the peace agreement and become the basis for the defendant to obtain a reduced sentence or a conditional/supervised sentence, the victim's rights promised in the peace agreement are not necessarily implemented by the defendant. Thus, the peace agreement in PERMA Number 1 of 2024 tends to have the potential for abuse compared to the diversion agreement in the Juvenile Justice and Child Protection Law.

This certainly presents a legal loophole that the Defendant can exploit to reduce his sentence. Initially, the Defendant admitted guilt and then requested reconciliation by reaching an agreement with the victim regarding possible remedies. However, in the end, this agreement was merely an agreement that the Defendant failed to actualize. Under these circumstances, the victim, who should have been rehabilitated, must instead face the consequences of not implementing the reconciliation agreement. Furthermore, the Supreme Court Regulation does not provide any guidance on what the victim can do.

This gap has numerous impacts on victims, perpetrators, and the community. For victims and the community, when peace agreements within *restorative justice* are not implemented, they can lose confidence in the effectiveness and fairness of the legal process. They may feel that the judicial system is incapable of enforcing the agreements reached, thus diminishing the sense of justice in the community. The community may begin to doubt the effectiveness of the *restorative justice model* and prefer conflict resolution through more formal and conventional legal processes. The parties involved in the peace agreement, both victims and perpetrators, may feel disappointed or betrayed if the agreed-upon agreements are not upheld. This can worsen relationships between them and create further distrust. Yet, one of the primary goals *of restorative justice is to offer an alternative to more formal judicial processes, emphasizing peaceful and rehabilitative resolution. When peace agreements fail, the effectiveness of the restorative justice model* itself, which should be a more humane way of resolving disputes, is diminished .

For perpetrators, a peace agreement within *restorative justice* provides the defendant with an opportunity to take responsibility for their actions and undertake reparatory measures, such as paying compensation, apologizing, or performing community service. Failure to comply with this agreement constitutes a misuse of the opportunity granted by law to mitigate the defendant's sentence, even if the defendant has not fulfilled his or her obligations as previously agreed. Furthermore, one of the primary goals of *restorative justice* is to provide the defendant with the opportunity to improve themselves through a process of recovery and accountability. Failure to comply with the agreement deprives the defendant of the opportunity to restore damaged relationships and risks returning to criminal behavior or failing to receive the rehabilitation necessary for healthy reintegration into society.

[7]Article 52 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.
[8]Article 13 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.
[9]Article 19 of Supreme Court Regulation 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice.

OPEN ACCESS

In fact, in principle, Perma 4 of 2014 and Perma 1 of 2024 have a similar approach concept, namely prioritizing a restorative justice approach in resolving criminal disputes. In line with the considerations of Perma 1 of 2024 which states that the development of the criminal justice system is not only based on the punishment of the accused but has moved towards aligning the interests of victim recovery and the accountability of the accused by using a restorative justice approach. Therefore, the author believes that it is appropriate that provisions regarding follow-up if the peace agreement is not implemented are also regulated in Perma 1 of 2024 so that the consequences as explained above can be followed up for the sustainability of criminal case resolution.

Furthermore, the author sees other alternatives that can be implemented to minimize the issues described above by the judge. In addition to imprisonment, the defendant can be sentenced with conditions. Conditional sentences mean that the convict does not need to serve the sentence as long as he meets certain conditions stipulated in the judge's decision. Article 19 of Supreme Court Regulation 1 of 2024 regulates general and special conditions. In general conditions, a conditional sentence can only be imposed if the sentence imposed is under 3 (three) years. And in special conditions, the judge can include other provisions that must be carried out by the convict while being sentenced with conditions, in this case implementing all the peace agreements that have been made. In connection with the above problem, the judge can include things that can be done if the peace agreement is not implemented by the defendant, such as ordering the convict to serve the prison term imposed. Therefore, the imposition of a conditional sentence is one alternative that can be implemented in order to protect the rights of victims and ensure that the convict is accountable for his actions.

Moreover, the consequence of changing the character of the peace agreement into a special condition in a conditional criminal sentence is that supervision of it must not stop when the sentence is issued. In cases that contain certain obligations for the defendant, such as payment of compensation or fulfillment of social obligations, the existence of special conditions in the verdict will only be meaningful if accompanied by continuous monitoring of the implementation of these obligations throughout the probationary period. Without consistent monitoring, the special conditions formulated by the judge risk returning to being merely normative provisions, just like the weakness that is intended to be corrected in the formulation of Article 19 paragraph (1) of Perma 1 of 2024 itself.

This monitoring can be conducted through reports from victims, public prosecutors, legal counsel, and other parties involved in the implementation of the agreement. This is in line with the supervisory role that has been institutionally carried out by prosecutors as the executors of decisions and community counselors as the parties providing guidance, as is customary in the implementation of conditional sentences and supervision sentences. [10]If the defendant does not fulfill their obligations as agreed, this condition is not only an indicator that the goals of restorative justice have not been optimally achieved, but also provides a factual basis for the court to follow up on violations of the special conditions through the mechanism of revocation of the conditional sentence, so that the originally suspended principal sentence can be ordered to be served. Thus, the series between the determination of special conditions, monitoring of implementation, and the consequences of revocation form a unified supervisory system that closes the gap previously left by Perma 1 of 2024, while ensuring that the victim's right to recovery does not remain a promise on paper, but can actually be collected and enforced.

CONCLUSION

Based on the provisions in Article 13 and Article 14 Paragraphs (3) and (4) of the SPPA Law and Perma 4 of 2014, it has been stipulated that if the diversion or peace agreement is not implemented by the perpetrator, then the juvenile criminal justice process can be continued. However, in Perma 1 of 2024 which focuses on restorative justice, there are no clear regulations regarding follow-up if the peace agreement is not implemented by the Defendant, especially in general criminal cases. The absence of these regulations has the potential to create legal loopholes that can be exploited by perpetrators to avoid responsibility, as well as harm victims who should be restored. This can also reduce public trust in the justice system and the effectiveness of the restorative justice model.

Therefore, it is crucial to include provisions regarding mechanisms or firm legal consequences if the peace agreement is not implemented in Supreme Court Regulation 1 of 2024, to ensure justice for victims, the effectiveness of the legal system, and the credibility of the restorative justice approach. One alternative that judges can use is to impose a conditional sentence, where specific conditions contained in the decision can include the perpetrator's obligation to implement the entire terms of the peace agreement. If the perpetrator still fails to implement the

[10] Angelita Eunike Marbun and Debora, "Implementation of Restorative Justice in Resolving Abuse Cases: A Justice Perspective (Case Study of Decision Number: B-15/L.2.21.8/Eoh.2/01/2023)" *Judge: Journal of Law* 6, no. 9 (2026): 1677-1686.

OPEN ACCESS

agreement, the judge can order that the imposed sentence be fully served. Therefore, strengthening regulations regarding the legal consequences of not implementing a peace agreement is essential to provide legal certainty, protect victims' rights, and maintain the integrity and primary objectives of the restorative justice approach.

REFERENCES

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

Supreme Court Regulation 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice.

Eddy OS. S Hiariej. (2016). Principles of Criminal Law. Yogyakarta: Cahaya Atma Pustaka.

M Echols John and Shadily Hassan. (2005). An English-Indonesian Dictionary. Jakarta: Gramedia Pustaka Utama.

Tony E. Marshall. (1999). Restorative Justice: An Overview. Queen Anne's Gate London: Research Development and Statistics Directorate.

Bagus Sujatmiko, Milda Istiqomah. (2022), "Encouraging the Implementation of Conditional Sentences Following the Decree of the Directorate General of General Courts Number 1691/DJU/SK/PS.00/12/2020 as an Alternative to Restorative Justice," Jurnal Bina Mulia Hukum, Vol. 7 No. 1 pp. 47

Angelita Eunike Marbun and Debora. (2026). "Implementation of Restorative Justice in Resolving Abuse Cases: A Justice Perspective (Case Study of Decision Number: B-15/L.2.21.8/Eoh.2/01/2023)" Judge: Journal of Law , Vol. 6 No. 9 pp. 1677-1686

La Ode Rinaldi Muchlis. (2022), " Restorative Justice for Adult Offenders as a Momentum for Criminal Law Reform", Article by the Ministry of Immigration and Corrections of the Republic of Indonesia, Directorate General of Corrections, February 15, 2022, accessed through https://www.ditjenpas.go.id/restorative-justice-pelaku-dewasa-sebagaimomentum-pembaharuan-hukum-pidana

Armawan, (2024), "Quo Vadis Restorative Justice Policy at the Supreme Court of the Republic of Indonesia", (*JDIH Supreme Court* , 2024) pp.1

Muhammad Zayyin Al-islam, Dudung Mulyadi and R. Yenni Muliani, (2023), "Resolution of Immoral Crimes in a Family Way Linked to Article 4 Paragraph (1) in conjunction with Article 29 of Law Number 44 of 2008 Concerning Pornography at Ciamis Station, Ciamis District" Jurnal Pustaka Galuh Justisi, Vol. 2 No. 1, pp. 41-56.

OPEN ACCESS