



INSTITUTE FOR  
CRIMINAL JUSTICE  
REFORM



Lembaga Kajian & Advokasi  
Independensi Peradilan



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Kementerian PPN/  
Bappenas

# Opportunities and Challenges for “right” RJ Implementation in Indonesia’s criminal justice system

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# RJ Consortium Works

Research on Opportunities and Challenges of RJ Implementation in Indonesia's criminal justice system

Roadmap to strengthen RJ Implementation  
"Road Map RJ"

Guideline Book on the implementation of "suspended sentence with probation period"

# The Biggest Challenge of RJ in Indonesia

- Misconception RJ merely seen as a “mechanism” and limited to “**settlement**” or “**agreement**” to drop a case/stop the criminal process

Perpol 8/2021	PERJA 15/2020	SK Badilum MA RI	UU SPPA	Nota Kesepakatan Bersama Tipiring 2012
<p><u>penyelesaian</u> tindak pidana dengan melibatkan <b>pelaku, korban, keluarga korban, tokoh masyarakat, tokoh agama, tokoh adat atau pemangku kepentingan</b> untuk bersama-sama mencari penyelesaian yang adil melalui perdamaian dengan menekankan pemulihan kembali pada keadaan semula</p>	<p><u>penyelesaian</u> perkara tindak pidana dengan melibatkan pelaku, Korban, keluarga pelaku/korban, dan pihak lain yang terkait untuk bersama-sama mencari penyelesaian yang adil dengan menekankan pemulihan kembali pada keadaan semula, dan <b>bukan pembalasan</b></p>	<p><u>penyelesaian</u> perkara tindak pidana dengan melibatkan pelaku, korban, keluarga pelaku/korban dan pihak lain yang terkait untuk bersama-sama mencari penyelesaian yang adil dengan menekankan pemulihan kembali pada keadaan semula</p>	<p><u>penyelesaian</u> perkara tindak pidana dengan melibatkan pelaku, korban, keluarga pelaku/korban, dan pihak lain yang terkait untuk bersama-sama mencari penyelesaian yang adil dengan menekankan pemulihan kembali pada keadaan semula, dan bukan pembalasan</p>	<p><u>penyelesaian</u> perkara <b>tindak pidana ringan</b> yang dilakukan oleh penyidik pada tahap penyidikan atau hakim sejak awal persidangan dengan melibatkan <b>pelaku, korban, keluarga pelaku/korban, dan tokoh masyarakat terkait untuk</b> bersama-sama mencari penyelesaian yang adil dengan menekankan pemulihan kembali pada keadaan semula</p>

# In the research: key component as the definition of RJ

- Keadilan restoratif adalah pendekatan penanganan perkara tindak pidana yang dilakukan dengan melibatkan para pihak baik korban, pelaku, atau pihak yang terkait, dengan proses dan tujuan yang mengupayakan pemulihan, dan bukan pembalasan.

*Restorative Justice is an approach in criminal justice process which involves party impacted to the crimes, whether victims, offenders, or related parties, with the process and purpose/objective of recovery/restoration, and not retaliation.*

# Other challenges: unclear principles

- There are no core principles respected in the internal regulation on what the key principles of RJ. **Therefore, in the research, we recommend key principles of RJ**
  - The objective of RJ is not merely to stop/drop a criminal case
  - RJ can be implemented throughout the criminal process (every stage of the criminal process) (investigation and up to after the conviction) (with the process and purpose to restore) restoration measures mainstreamed throughout all the processes
  - Respect for gender equality and the principles of non-discrimination (consider the imbalance power-relation between parties involved, and consider the vulnerabilities based on age, and social-economic background
  - Guarantee the active participation from the parties
  - Volunteer participation without any intimidation
  - Respect for the best interest of the children in the cases of involving children as parties

# Opportunities in current legal framework

- RJ is “not a new approach” in Indonesia. There are some legal mechanisms that can adopt RJ approach in its implementation **and some of them have been implemented**
  - Suspended sentence with a probation period (Article 14a-f Penal Code) with the condition to compensate victims or involved in a program of behavior changes
  - Compensation for the victims as the criminal verdict from the judge (Article 98-100 CCP)
  - Mainstreaming rehabilitation for people who use drugs as step to decriminalization

# Best Practices



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Suspended sentence with the condition to compensate victims and declare apology (7/Pid.C/2021/PN Lbs, minor abuse)

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Financial crimes: fraud case, judge considered the victims loss, incorporate it to the criminal sanction (1090/Pid.B/2010/ PN. Bwi)

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Financial crimes: fraud case, there is an opportunity in trial process, the parties (victim and offenders) discussed the amount of loss and how the best they settle the compensation (2096/Pid/B/2013/PN.Mdn)

We also advocate this mechanism to be strengthened in Penal Code Bill, and Revision of Criminal Procedural Code

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Narcotics cases: the ideal mechanism is decriminalization of People Who Use Drugs, however current advocacy: mainstreaming rehabilitation that in lines with RJ principles, combined it to suspended sentence mechanism

# Upcoming Advocacy



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Develop Consolidated Regulation on RJ: to consolidate the definition, principles, and scope of RJ

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by the establishment of RJ Working Group across Government institutions including National Police and AGO, (also to implement RJ Roadmap)

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Most Important aspect in the consolidated regulation: How to hold the RJ approach and mechanism across criminal justice actors accountable

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Mainstreaming the use of the current legal framework that support the “right” implementation of RJ and ensure in the Penal Code Bill and Revision (RKUHP) Criminal Procedural Code (RKUHAP)

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