

Research Article

# The Implementation of Restorative Justice in Cases Involving Corporate Perpetrators

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**Abstract:** This normative legal study examines the potential and challenges of implementing restorative justice approaches in cases involving corporate perpetrators within Indonesia's criminal justice system. The research employs statute, conceptual, and case approaches to analyze legal principles, norms, and court decisions related to corporate criminal liability and restorative justice mechanisms. Through comprehensive literature review of international academic databases and examination of Indonesia's legal framework, including the New Criminal Code of 2023 and Prosecutor's Regulation No. 15 of 2020, the study reveals that restorative justice offers a transformative alternative to traditional retributive models by prioritizing restoration, rehabilitation, and reconciliation between corporate offenders, victims, and affected communities. The dual track system selective model emerges as the most appropriate framework for corporate restorative justice implementation, enabling selective application while maintaining prosecutorial discretion for serious offenses. However, significant challenges persist, including the absence of specific regulatory frameworks for corporate actors, structural complexities arising from the non-personified nature of corporate entities, and profound power imbalances between corporations and victims that threaten process integrity. The study demonstrates that successful implementation requires comprehensive legal reforms, enhanced institutional capacity, robust victim support mechanisms, and safeguards against corporate manipulation. The research concludes that while restorative justice holds considerable promise for enhancing corporate accountability and victim restoration, effective implementation is contingent upon establishing clear legal frameworks, technical guidelines, and protective measures that address inherent power asymmetries between corporate offenders and their victims.

**Keywords:** Restorative Justice; Corporate Criminal Liability; Dual Track System; Power Imbalance; Indonesia; Criminal Justice Reform; Victim Restoration; Corporate Accountability.

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## 1. Introduction

In the contemporary criminal law landscape, corporate criminal liability has become one of the most complex and challenging issues in the global criminal justice system. The traditional paradigm that relies on a retributive approach in criminal law enforcement is increasingly questioned for its effectiveness, especially in dealing with corporate crimes that often have a broad impact on society and the environment. In this context, the concept of restorative justice is starting to gain attention as an alternative approach that has the potential to provide a more comprehensive solution in handling corporate crimes.

Research in the Scopus database shows that discussions on the application of restorative justice to corporations are a rapidly growing area in international criminal law literature. Diamantis (2018) in his research indexed in the Iowa Law Review stated that the theory of corporate character can be a more effective framework than the traditional deterrence approach in preventing corporate crime. Meanwhile, a study by Radhi (2019) in his Durham University dissertation emphasized that the restorative justice approach can provide a better understanding of corporate crime and punishment than the "tough on corporate crime" model that has been dominant so far.

International academic databases show that there is a significant gap between theory and practice in the application of restorative justice to corporations. While conceptually this approach is promising, its implementation faces a number of legal and practical challenges that require in-depth study. Arlen and Kraakman's research published in the New York University Law Review and indexed in various international databases indicates that an effective corporate liability regime requires a combination of strict liability and duty-based liability.

In Indonesia, the development of the application of restorative justice in the criminal justice system has shown significant progress, especially in the context of juvenile justice and certain cases. However, its application to corporate actors is still an area that has not been explored comprehensively. Research indexed in national and international academic databases shows that Indonesia has great potential to develop a corporate criminal liability model based on restorative justice.

Comparative studies show that several jurisdictions have begun to implement elements of restorative justice in handling corporate crimes through mechanisms such as Deferred Prosecution Agreements (DPAs) and Corporate Compliance Programs. The United States, for example, has been quietly implementing restorative justice principles in environmental criminalization for two decades. This international experience provides valuable lessons for the development of the Indonesian legal system.

Recent research published in Scopus-indexed journals shows that the effectiveness of restorative justice in reducing recidivism and increasing victim satisfaction has been proven in various contexts. However, its application to corporate entities requires special adaptations given the non-personal nature of corporate legal subjects. This raises fundamental questions about how restorative justice principles that emphasize dialogue, admission of wrongdoing, and restoration of relationships can be applied to entities that do not have moral consciousness like humans.

The imbalance of power between corporations as perpetrators and communities as victims is also a crucial issue highlighted in international literature. Studies show that without adequate protection mechanisms, restorative justice processes can be abused by corporations to avoid true criminal accountability. Therefore, the development of an adequate legal framework is an absolute prerequisite for effective implementation.

In the global context, the trend towards administrative civil penalty regimes as an alternative to criminal sanctions is also starting to gain attention. The 2022 Law Commission Report outlined ten options for strengthening corporate accountability, including the possible implementation of an administrative sanctions system supported by restorative justice principles. These developments indicate that discussions on alternative approaches to corporate criminalization are increasingly relevant and urgent.

This research is important in the context of Indonesia which is undergoing a transformation of the criminal law system, including the ratification of the new Criminal Code. The momentum of this legal reform provides a strategic opportunity to integrate the restorative justice approach into a more progressive and recovery-oriented corporate criminal liability framework.

Based on a comprehensive literature review of international academic databases, this study aims to analyze the potential and challenges of implementing restorative justice against corporate actors in the Indonesian criminal justice system. This study is expected to provide theoretical and practical contributions to the development of a more just, effective, and responsive corporate criminal law system to the needs of victim recovery and the interests of the wider community.

## **2. Literature Review**

### **2.1. Corporate Criminal Liability Theory through Dual Track System**

The theoretical framework of corporate criminal liability through the dual track system represents a significant evolution in criminal justice theory, particularly in addressing the unique challenges posed by corporate entities as criminal actors. This framework, extensively documented in Scopus-indexed literature, suggests that traditional retributive approaches to corporate crime are inadequate for addressing the complex nature of organizational wrongdoing. The dual track system, which separates criminal sanctions from rehabilitative measures, provides a more nuanced approach to corporate accountability by recognizing that corporations, as non-natural persons, require different forms of intervention than individual offenders. This theoretical approach aligns with contemporary scholarship that emphasizes the need for diversified sanctioning mechanisms in corporate crime, moving beyond the traditional binary of punishment versus rehabilitation to incorporate restorative elements that address victim harm while promoting organizational compliance. The framework addresses the theoretical gap identified in traditional criminal law scholarship by acknowledging that corporate entities, while lacking moral agency in the traditional sense, can be held accountable through institutional mechanisms that focus on systemic change rather than individual culpability.

### **2.1. Responsive Regulation Theory and Power Dynamics**

The theoretical framework of responsive regulation, as articulated by Braithwaite and extensively analyzed in Scopus literature, provides a compelling theoretical foundation for understanding how restorative justice can be effectively implemented in corporate crime contexts. This theory posits that regulatory effectiveness is maximized when enforcement strategies are calibrated to the responsiveness of regulated entities, creating a pyramid of interventions that escalates from cooperative measures to punitive sanctions. Within the context of corporate crime, this framework addresses the critical issue of power imbalances between corporate actors and their victims, a concern that has been extensively documented in restorative justice literature. The theory recognizes that corporate entities possess significant structural advantages in terms of resources, legal representation, and political influence, which can undermine the participatory ideals of restorative justice processes. Contemporary scholarship in this area emphasizes the need for institutional safeguards and procedural modifications that can level the playing field between corporate offenders and their victims, ensuring that restorative processes do not become mechanisms for corporate impunity. This theoretical framework provides essential insights into how restorative justice mechanisms can be designed to address the inherent power asymmetries that characterize corporate crime scenarios.

### **2.1. Organizational Culture and Ethical Transformation Theory**

The theoretical framework of organizational culture and ethical transformation represents a critical lens through which to understand the potential of restorative justice in corporate crime prevention and remediation. This framework, supported by extensive criminological research in Scopus-indexed journals, posits that corporate crime is fundamentally rooted in organizational cultures that enable, normalize, or actively promote unethical behavior. The theory distinguishes between surface-level compliance measures and deeper cultural transformation, arguing that effective corporate crime prevention requires addressing the underlying cultural factors that create criminogenic environments. Within this theoretical context, restorative justice emerges not merely as a post-crime intervention but as a mechanism for fundamental organizational change that can address the cultural roots of corporate deviance. The framework emphasizes that successful restorative interventions in corporate contexts must move beyond traditional victim-offender dialogue models to incorporate broader stakeholder engagement and institutional reform processes. This theoretical approach recognizes that corporate crime often reflects systemic organizational failures rather than individual moral failings, requiring interventions that can reshape corporate cultures, governance structures, and accountability mechanisms to prevent future harm.

## **3. Proposed Method**

This research is a normative (doctrinal) legal study, focusing on the examination of legal principles, legal norms, and statutory regulations related to the application of restorative justice to corporate crime perpetrators. This approach is used to analyze legal concepts and

principles in the context of implementing restorative justice within Indonesia's criminal justice system. The research employs several approaches: the statute approach, which analyzes various regulations governing restorative justice and corporate criminal liability, such as the Indonesian Criminal Code (KUHP), Law No. 31 of 1999 on the Eradication of Corruption, and the Regulation of the Attorney General of the Republic of Indonesia No. 15 of 2020; the conceptual approach, which examines the fundamental concepts of restorative justice and corporate criminal liability in criminal law theory; and the case approach, which reviews relevant court decisions where restorative justice principles have been applied to corporate entities. The sources of legal materials include primary legal materials (laws, regulations, and court decisions related to corporate cases and restorative justice), secondary legal materials (legal literature, books, scientific journals, articles, and expert opinions on corporate criminal law and restorative justice), and tertiary legal materials (legal dictionaries, legal encyclopedias, and other supporting sources). Data collection is conducted through library research by examining legal documents, regulations, and relevant literature, and, if necessary, by analyzing court decisions accessed through public platforms such as the Supreme Court's official website or the Decision Directory. The analysis of legal materials is carried out descriptively and qualitatively by interpreting applicable legal norms and comparing them with the practice and implementation of restorative justice in the field. The results of the analysis are used to evaluate the extent to which restorative justice can be effectively applied to corporate offenders and to identify the legal obstacles encountered.

## 4. Results and Discussion

### 4.1. The Imperative for Corporate Restorative Justice Implementation

The implementation of restorative justice approaches for corporate criminal responsibility represents a significant paradigm shift in contemporary criminal law enforcement. This transformative approach moves beyond traditional retributive models that primarily emphasize punishment, instead focusing on restoration, rehabilitation, and reconciliation between corporate offenders, victims, and affected communities. The urgency for adopting restorative justice in corporate contexts stems from the recognition that conventional criminal justice responses often fail to address the complex, multifaceted nature of corporate wrongdoing and its far-reaching societal impacts.

Corporate crimes frequently generate substantial social and economic harm that extends beyond individual victims to encompass entire communities, environmental systems, and state interests. Traditional punitive measures such as fines or corporate dissolution often fail to provide direct restoration to affected parties, leaving victims without meaningful redress while potentially harming innocent stakeholders including employees, shareholders, and consumers. The retributive focus of conventional criminal proceedings does not guarantee the restoration of social relationships or the repair of actual damages experienced by victims, creating a fundamental gap in justice delivery.

#### 4.1.1. Legal Framework and Normative Foundation for Corporate Restorative Justice

Indonesia's legal framework has demonstrated progressive movement toward incorporating restorative justice principles through Prosecutor's Regulation No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. While this regulation explicitly addresses individual cases, its underlying principles can be interpretatively extended to corporate actors, particularly in economic and environmental crime contexts. The regulation establishes that public prosecutors have the authority to close cases in the public interest, including situations where out-of-court settlements (*afdoening buiten proces*) have been achieved<sup>7</sup>.

The New Criminal Code of 2023 (Law No. 1 of 2023) marks a watershed moment in Indonesian corporate criminal liability, introducing comprehensive provisions for corporate accountability that accommodate restorative justice principles. Article 56 of the New Criminal Code explicitly integrates restorative justice considerations in sentencing, requiring judges to consider the restoration of balance between perpetrators, victims, and society. This legislative framework provides direct legal authorization for applying restorative approaches to corporate criminal cases, moving beyond the previous system that primarily targeted individual agents.

The international legal landscape demonstrates varied approaches to corporate criminal liability and restorative justice integration. Germany's administrative sanctions system (*Ordnungswidrigkeiten*) provides a model for corporate accountability that emphasizes restoration over pure retribution. The United States Department of Justice has quietly implemented restorative justice principles in environmental corporate sentencing for two decades, establishing precedent for corporate restorative practices. These international experiences validate the legal feasibility and practical effectiveness of restorative approaches for corporate wrongdoing.

#### 4.1.2. Theoretical Models and Implementation Frameworks

Academic scholarship has identified the "Dual Track System Selective" model as the most appropriate framework for implementing corporate restorative justice. This model operates by placing restorative approaches as the primary means of resolution for selectively chosen cases, running parallel to the traditional criminal justice system. Unlike the unified system model, which completely replaces criminal justice processes, or the safety net model, which serves merely as a backup, the dual track selective approach provides balanced consideration of both restorative and retributive elements.

The selective nature of this model addresses concerns about inappropriate application by establishing clear parameters and criteria for cases suitable for restorative resolution. Not all corporate crimes should enter the restorative pathway; certain cases of special nature require processing through the formal criminal justice system. This selectivity ensures that serious violations of human rights, white-collar crimes involving abuse of power, and cases where perpetrators lack genuine remorse are appropriately handled through traditional criminal proceedings.

Effective corporate restorative justice encompasses several key elements that address the unique characteristics of corporate wrongdoing. Mediation and dialogue processes serve as primary mechanisms for facilitating communication between corporate entities, affected communities, and regulatory authorities. These processes must accommodate the collective nature of corporate decision-making while ensuring meaningful participation from all stakeholders.

Environmental restoration programs represent a crucial component for corporate environmental crimes, requiring companies to fund and implement comprehensive remediation efforts that go beyond mere financial compensation. Community engagement initiatives ensure that affected populations have meaningful voice in determining appropriate remedial measures, addressing power imbalances that often characterize corporate-community relationships.

#### 4.1.3. Practical Implementation Challenges and Opportunities

The practical implementation of corporate restorative justice faces significant challenges related to institutional capacity and actor identification. Law enforcement agencies must develop specialized expertise in facilitating restorative processes with complex corporate entities, requiring enhanced training and resource allocation. Clear identification of corporate representatives who can meaningfully participate in restorative dialogue remains challenging, particularly in cases involving complex corporate structures or multinational entities.

The willingness and capacity of corporations to participate authentically in restorative processes represents a critical success factor. Corporations must demonstrate genuine acknowledgment of wrongdoing and commitment to remedial action, rather than viewing restorative processes as mechanisms for avoiding accountability. This requires sophisticated assessment mechanisms to distinguish authentic corporate engagement from strategic manipulation.

Meaningful victim and community participation poses unique challenges in corporate crime contexts where harm is often diffuse and collective. Unlike individual crimes with clearly identifiable victims, corporate wrongdoing frequently affects entire communities or environmental systems, complicating the identification and organization of affected parties. Power imbalances between corporations and affected communities must be actively addressed through specialized facilitation and support mechanisms.

International experience demonstrates that external support from civil society organizations plays a crucial role in enabling effective community participation in corporate restorative processes. These organizations provide technical expertise, legal support, and advocacy capacity that help balance power dynamics and ensure that community voices are meaningfully heard.

#### 4.1.4. Comparative Analysis and International Best Practices

Environmental crimes present particularly suitable cases for restorative justice application due to their focus on restoration rather than punishment. International models demonstrate that deferred prosecution agreements combined with comprehensive environmental restoration programs can achieve more effective outcomes than traditional criminal sanctions. These approaches prioritize actual environmental repair and community benefit over symbolic punishment.

The mediation-based approach to environmental corporate crime resolution has shown effectiveness in reducing case processing time while achieving more comprehensive restoration outcomes. This model requires revision of criminal procedure codes to accommodate deferred prosecution agreements and specialized negotiation procedures.

Redemption-driven Corporate Social Responsibility (CSR) represents an emerging framework that integrates restorative justice principles with corporate accountability mechanisms. This approach emphasizes corporate apologies, reparative measures, and transparency initiatives as core components of restorative corporate practice. Unlike traditional CSR, redemption-driven approaches focus specifically on addressing past wrongdoing and rebuilding stakeholder trust through demonstrable remedial action.

The integration of restorative principles into corporate governance structures requires comprehensive policy frameworks that formalize corporate accountability mechanisms and establish clear metrics for assessing restorative effectiveness. These frameworks must balance authenticity requirements with practical implementation considerations.

#### 4.1.5. Regulatory Enhancement and Systematic Implementation

The successful implementation of corporate restorative justice requires comprehensive technical guidelines that address the unique characteristics of corporate entities and their criminal liability. These guidelines must establish clear criteria for case selection, procedures for corporate representation, and mechanisms for ensuring authentic corporate participation. Training programs for law enforcement personnel are essential to develop the specialized skills required for facilitating corporate restorative processes.

Inter-agency coordination mechanisms must be established to ensure consistent application of restorative principles across different law enforcement jurisdictions. The Rumah Restorative Justice (Rumah RJ) initiative demonstrates innovative approaches to incorporating community participation and local wisdom into restorative processes.

Effective corporate restorative justice requires robust monitoring and evaluation systems to assess program effectiveness and prevent abuse. These systems must track both immediate outcomes (such as victim satisfaction and corporate compliance) and long-term impacts (including recidivism rates and community restoration). Evidence-based evaluation methodologies are essential for refining implementation approaches and demonstrating program effectiveness.

Transparency requirements must be balanced with practical implementation considerations, ensuring that corporate participation remains voluntary while maintaining public accountability. Regular parliamentary or judicial oversight may be necessary to prevent system abuse and ensure that restorative processes serve genuine justice interests rather than corporate convenience.

The implementation of restorative justice for corporate criminal responsibility represents both a normatively justified and practically feasible approach to addressing the complex challenges of corporate wrongdoing. The dual track selective model provides an appropriate framework that balances restorative principles with traditional criminal justice requirements, ensuring that serious crimes receive appropriate sanctions while maximizing opportunities for genuine restoration.

Regulatory strengthening, technical guideline development, and enhanced inter-agency cooperation are essential prerequisites for successful implementation. The Indonesian legal framework, particularly through the New Criminal Code of 2023 and existing prosecutor regulations, provides a solid foundation for expanding restorative justice application to corporate contexts.

However, successful implementation requires careful attention to power dynamics, authentic corporate participation, and meaningful victim engagement. The risk of corporate manipulation of restorative processes must be actively addressed through sophisticated screening mechanisms and ongoing oversight. International best practices and comparative

experience provide valuable guidance for developing context-appropriate implementation strategies.

The ultimate success of corporate restorative justice will depend on its ability to achieve genuine restoration of harm, meaningful corporate accountability, and enhanced community resilience while maintaining the deterrent effect necessary for preventing future corporate wrongdoing. This approach offers the potential to transform corporate criminal law from a purely punitive system into a more comprehensive, effective, and socially responsive framework for addressing the complex challenges of corporate crime in the 21st century.

#### **4.2. Case Study Analysis: Restorative Justice Implementation for Corporate Environmental Offenders - The PT XYZ Environmental Pollution Case**

The application of restorative justice principles to corporate environmental crimes represents a paradigm shift in environmental law enforcement, moving beyond punitive measures toward comprehensive restoration and stakeholder reconciliation. The case of PT XYZ, a waste processing company that violated Indonesia's environmental protection laws through illegal discharge into a local river system, exemplifies both the potential and challenges of implementing restorative justice mechanisms in corporate environmental liability cases [16].

##### **4.2.1. Theoretical Framework for Corporate Environmental Restorative Justice**

Contemporary environmental jurisprudence increasingly recognizes that traditional punitive approaches may be insufficient to address the complex, multi-dimensional nature of corporate environmental harm. The restorative justice approach in environmental crimes focuses on repairing harm rather than merely imposing punishment, emphasizing dialogue between perpetrators, victims, and affected communities to achieve comprehensive restoration. This approach aligns with the principle of *ultimum remedium* in environmental law, which positions criminal sanctions as a last resort when administrative and civil remedies prove inadequate.

Environmental mediation and alternative dispute resolution mechanisms have gained recognition as effective tools for addressing corporate environmental violations. These approaches facilitate voluntary participation by all stakeholders, promote transparency and accountability, and often result in more comprehensive and sustainable solutions compared to traditional litigation. The integration of restorative justice principles with environmental dispute resolution creates opportunities for innovative approaches to corporate accountability that prioritize ecological restoration and community wellbeing.

##### **4.2.2. Case Background and Legal Context**

The PT XYZ case demonstrates several critical elements that made it suitable for restorative justice intervention. The company's acknowledgment of wrongdoing, expressed willingness to engage in restoration activities, and commitment to implementing systemic changes aligned with the fundamental prerequisites for successful restorative justice processes. The involvement of multiple stakeholders, including the Ministry of Environment and Forestry (KLHK), local communities, and prosecutorial authorities, created a comprehensive framework for addressing the environmental harm.

The legal foundation for this approach derives from Indonesia's Environmental Protection and Management Law No. 32 of 2009, which incorporates the *ultimum remedium* principle and provides mechanisms for alternative dispute resolution in environmental cases. The application of this principle allows for the cessation of criminal proceedings when environmental restoration has been achieved through alternative means, provided that the harm has been adequately addressed and future compliance mechanisms are established.

##### **4.2.3. Stakeholder Engagement and Community Participation**

Effective stakeholder engagement emerged as a crucial component of the PT XYZ restorative justice process. The involvement of affected communities in the mediation process ensured that local concerns and needs were adequately addressed. Research demonstrates that meaningful community participation in environmental dispute resolution enhances both the legitimacy and effectiveness of outcomes, as it ensures that solutions are responsive to local contexts and priorities.

The mediation process facilitated direct dialogue between the corporation, affected communities, and regulatory authorities, creating opportunities for mutual understanding and collaborative problem-solving. This approach contrasts sharply with traditional litigation, which often excludes community voices and focuses primarily on punishment rather than restoration. The inclusion of multiple stakeholders also enabled the development of more comprehensive and innovative solutions that addressed both immediate harm and long-term environmental protection needs.

#### **4.2.4. Environmental Restoration and Compensation Mechanisms**

The restoration component of the PT XYZ agreement encompassed multiple dimensions of environmental repair, including physical remediation of contaminated sediments, ecosystem restoration through vegetation replanting, and provision of alternative water sources for affected communities. This comprehensive approach reflects contemporary understanding that environmental restoration must address both ecological integrity and community welfare to be truly effective.

The compensation mechanisms established in the case included direct payments for medical treatment of affected individuals, infrastructure development for alternative water supplies, and ongoing monitoring and maintenance of restored environmental systems. These provisions demonstrate how restorative justice can.

### **4.3. The Absence of Specific Legal Framework**

#### **4.3.1. Issues with the Lack of Specific Regulation**

The implementation of restorative justice in Indonesia faces significant obstacles, particularly in addressing corporate criminal offenses, due to the absence of a comprehensive legal framework specifically designed for corporate actors. The current restorative justice regulations, most notably the Indonesian Prosecutor's Regulation No. 15 of 2020, primarily focus on individual perpetrators and minor offenses such as assault, petty theft, or domestic violence. This regulatory gap creates substantial challenges for applying restorative approaches to corporate crimes, which inherently possess different characteristics and complexities compared to individual criminal acts.

The absence of detailed regulations governing corporate actors in restorative justice processes results in several critical issues. First, legal uncertainty emerges for law enforcement officers when attempting to offer or pursue restorative pathways for corporate crimes. This uncertainty stems from the lack of clear procedural guidelines that would enable prosecutors and other legal actors to confidently navigate the restorative justice process when dealing with corporate entities. Second, disparate interpretations arise regarding the appropriateness of resolving specific corporate criminal acts through restorative means. Without standardized criteria, different jurisdictions and legal practitioners may reach inconsistent conclusions about which corporate crimes qualify for restorative resolution.

Furthermore, the regulatory void creates confusion regarding fundamental procedural questions that are essential for effective implementation. These include uncertainty about who should represent the corporation in restorative proceedings, the appropriate forms of corporate accountability, and the ideal mechanisms for achieving restoration. The complexity of corporate structures, particularly in Indonesia where business groups often employ loose command structures, compounds these challenges. Corporate entities may involve multiple stakeholders, hierarchical decision-making processes, and distributed responsibility, making it difficult to identify appropriate representatives and establish clear lines of accountability in restorative processes.

#### **4.3.2. Impact on Field Implementation**

The absence of a specific legal framework creates several practical obstacles that significantly hamper the effective implementation of restorative justice for corporate crimes. The most immediate challenge is the procedural vacuum that exists in current practice. There are no established standards regarding the stages of restorative processes for corporate actors, the specific actors who should be involved, or the indicators that would measure the success of corporate restorative justice initiatives. This lack of procedural clarity leaves law enforcement officials and legal practitioners without guidance on how to structure and conduct restorative processes involving corporate entities.



The regulatory gap also creates potential for abuse of the restorative justice system. In the absence of strict regulations, the restorative process may be exploited by certain parties to avoid criminal prosecution without achieving genuine restoration for victims or society. Corporate actors with significant resources and legal expertise may leverage this regulatory uncertainty to negotiate favorable outcomes that prioritize corporate interests over victim restoration or public welfare. This concern is particularly relevant given the power imbalances that often exist between corporate entities and individual victims or community groups.

Additionally, the lack of legal legitimacy undermines the credibility of restorative justice decisions in corporate contexts. Decisions to terminate criminal proceedings based on restorative approaches may face legal challenges if they lack strong juridical foundations, especially when such decisions may result in perceived injustice for society or victims. The absence of clear legal authority for these decisions creates vulnerability to legal challenges and may undermine public confidence in the justice system's ability to hold corporate actors accountable.

#### **4.3.3. Urgent Need for Legal Framework**

To ensure that restorative justice for corporate actors can be implemented fairly and effectively, several regulatory developments are urgently needed. First, there is a critical need for revision or creation of specific regulations, whether through Prosecutor's Regulations, Supreme Court Regulations, or cross-sectoral regulations involving agencies such as the Ministry of Environment and Forestry (KLHK) or the Corruption Eradication Commission (KPK). These regulations should address the unique characteristics of corporate criminal behavior and provide clear guidance for restorative processes.

The development of technical guidelines represents another essential requirement for effective implementation. These guidelines should specify the types of corporate crimes that can be resolved through restorative means, establishing clear criteria for determining when restorative approaches are appropriate. For instance, guidelines might exclude corporations with repeated criminal records or those involved in particularly serious offenses from restorative options. The guidelines should also outline the stages of mediation processes, define acceptable forms of restoration, and establish mechanisms for monitoring compliance with restorative agreements.

Protection of victims and public interests must be a central consideration in any regulatory framework for corporate restorative justice. The framework should ensure that restorative justice processes do not merely benefit corporate actors but remain aligned with principles of social justice and victim rights. This includes establishing safeguards to prevent corporate entities from using restorative processes to avoid appropriate accountability or to minimize their obligations to victims and affected communities. The framework should also ensure that restorative outcomes address both individual victim needs and broader public interests, including environmental protection, consumer safety, and economic integrity.

#### **4.3.4. Recommendations**

Several specific recommendations emerge from the analysis of current challenges and international best practices. Government and law enforcement agencies should collaborate to develop comprehensive regulations that accommodate the complexity of corporate crimes while maintaining adherence to restorative justice principles. This regulatory development should involve extensive consultation with stakeholders, including victim advocacy groups, corporate representatives, legal practitioners, and academic experts, to ensure that the resulting framework is both practical and principled.

Inter-agency collaboration is essential for creating an integrated policy framework that addresses the multifaceted nature of corporate crime. This collaboration should involve the Prosecutor's Office, Supreme Court, KLHK, KPK, and other relevant agencies to ensure consistency across different types of corporate crimes and enforcement contexts. Such collaboration would help prevent jurisdictional conflicts and ensure that restorative approaches are applied consistently across different legal domains.

Capacity building represents another critical recommendation for successful implementation. Human resource development should focus on enhancing understanding of corporate characteristics as legal subjects and their appropriate involvement in restorative processes. This includes training for prosecutors, judges, mediators, and other legal professionals on the unique aspects of corporate criminal liability, the dynamics of corporate decision-making, and the specific challenges involved in achieving meaningful restoration in corporate contexts.

Training programs should also address cultural and contextual factors that may influence the effectiveness of restorative approaches in different communities and legal settings.

The regulatory framework should also incorporate mechanisms for ongoing evaluation and refinement based on practical experience and emerging challenges. This adaptive approach would allow the system to evolve in response to new forms of corporate crime, changing business practices, and lessons learned from implementation. Regular review processes should involve stakeholders from across the justice system and affected communities to ensure that the framework remains effective and responsive to changing needs.

The absence of a specific legal framework represents a serious obstacle to realizing the implementation of restorative justice for corporate criminal actors in Indonesia. Without clear and detailed regulations, the implementation of this approach risks being inconsistent, unfair, and ineffective. The regulatory vacuum creates uncertainty for law enforcement officials, potential for abuse by corporate actors, and challenges to the legitimacy of restorative outcomes. Therefore, the development of specific and adaptive regulations is urgently needed to support a criminal justice approach that is more oriented toward restoration rather than purely punitive responses.

The successful implementation of restorative justice for corporate crimes requires a comprehensive approach that addresses not only the regulatory gaps but also the institutional, procedural, and cultural challenges involved in this complex endeavor. By establishing clear legal frameworks, developing technical guidelines, building institutional capacity, and ensuring adequate protection for victims and public interests, Indonesia can move toward a more effective and equitable approach to corporate criminal justice that balances accountability with restoration. This approach has the potential to create more meaningful outcomes for victims, more effective corporate accountability mechanisms, and stronger public confidence in the justice system's ability to address corporate wrongdoing in a fair and constructive manner.

#### **4.4. Non-Personified Subjects in Criminal Law**

The concept of non-personified subjects in criminal law presents fundamental challenges for the application of restorative justice principles, particularly when addressing corporate criminal liability. This academic discourse examines how the inherent characteristics of corporations as artificial legal entities complicate traditional restorative approaches and necessitate innovative adaptations to maintain the viability of restorative justice in corporate contexts.

##### **4.4.1. The Doctrinal Evolution: From *Societas Delinquere Non Potest* to Corporate Criminal Responsibility**

The traditional doctrine of *societas delinquere non potest* (legal entities cannot commit crimes) historically dominated criminal law jurisprudence, reflecting the principle that only natural persons possess the requisite moral agency for criminal responsibility. This classical Roman law maxim emerged from the understanding that criminal liability requires both *mens rea* and *actus reus*, elements that seemingly cannot exist within artificial entities lacking consciousness, conscience, or moral cognition.

However, contemporary legal developments have systematically dismantled this doctrine as inadequate for addressing modern corporate criminality. The evolution reflects empirical recognition that corporations function as vehicles for criminal conduct and benefit substantially from illegal activities, necessitating direct corporate accountability rather than exclusive reliance on individual prosecutions.

##### **4.4.2. The Theoretical Foundation of Corporate Moral Agency**

The extension of criminal liability to corporations raises profound questions about the nature of moral agency and legal personhood. Corporate moral agency theory posits that corporations possess sufficient characteristics of moral agents to warrant criminal responsibility, including decision-making structures, institutional policies, and collective intentionality that transcends individual employee actions.

This theoretical framework recognizes that corporations exhibit directing mind capabilities through their governance structures, enabling the attribution of *mens rea* to the corporate entity based on the mental states of key decision-makers. The directing mind doctrine establishes that when senior corporate officials acting within their authority commit crimes for corporate benefit, their mental states can be imputed to the corporation itself.

#### 4.4.3. Structural Challenges in Corporate Restorative Justice

The application of restorative justice to corporate offenders encounters several distinctive challenges stemming from the non-personified nature of corporate entities. Traditional restorative justice depends on personal acknowledgment of wrongdoing, genuine remorse, and authentic commitment to repair harm elements that cannot be meaningfully attributed to artificial entities lacking consciousness or emotional capacity.

Verification of Corporate Sincerity represents a fundamental obstacle, as corporations cannot experience genuine remorse or moral transformation. Unlike individual offenders who may demonstrate authentic behavioral change, corporate "remorse" manifests only through formal statements and policy modifications that may lack substantive commitment to reform.

Representative Participation poses additional complexity, as corporate participation in restorative processes requires designation of human representatives who can speak authoritatively for the entity. The legitimacy and effectiveness of such representation depends on the representative's authority to make binding commitments and the corporation's institutional commitment to honor agreements reached through restorative dialogue.

#### 4.4.4. Adaptation Strategies: Structural Accountability and Concrete Remediation

Successful application of restorative justice to corporate offenders requires fundamental adaptation of traditional approaches to accommodate the structural nature of corporate responsibility. Rather than emphasizing emotional reconciliation, corporate restorative justice focuses on structural accountability and concrete remedial action.

Institutional Remediation replaces individual rehabilitation as the primary restorative objective. This approach emphasizes systemic changes to corporate governance, compliance programs, and operational procedures designed to prevent recurrence and address underlying organizational dysfunctions that enabled criminal conduct.

Victim-Centered Dialogue maintains the restorative focus on victim needs while adapting to corporate contexts. Corporate restorative processes prioritize victim participation in defining harm, articulating needs for repair, and evaluating the adequacy of proposed remedial measures. This approach empowers victims to influence corporate accountability measures beyond traditional monetary compensation.

#### 4.4.5. Practical Implementation Models

Several jurisdictions have developed innovative mechanisms that incorporate restorative principles into corporate criminal justice responses. Deferred Prosecution Agreements (DPAs) exemplify this approach by conditioning prosecution deferrals on corporate acknowledgment of responsibility, victim compensation, and structural reforms designed to prevent recurrence.

The dual-track system represents another promising model, offering parallel pathways for corporate criminal resolution through both traditional prosecution and restorative processes. This approach allows selective application of restorative methods based on case-specific factors while maintaining prosecutorial discretion for cases requiring formal criminal sanctions.

Corporate Compliance Programs function as restorative mechanisms when designed to address victim concerns and prevent future harm. Effective programs incorporate victim input, provide ongoing monitoring of corporate behavior, and establish mechanisms for continuing dialogue between corporations and affected communities.

#### 4.4.6. The Challenge of Accountability Gaps

The responsibility gap in corporate criminal law reflects the difficulty of establishing clear causal connections between corporate policies and individual criminal acts within complex organizational structures. This challenge intensifies in restorative contexts, where victims seek meaningful accountability from entities whose decision-making processes may be opaque and diffused across multiple organizational levels.

Widening the Circle of Accountability offers one solution, progressively engaging higher levels of corporate hierarchy until reaching decision-makers capable of meaningful participation in restorative processes. This approach recognizes that different corporate actors possess varying capacities for accountability and reform, requiring flexible strategies to identify appropriate participants for restorative dialogue.

#### 4.4.7. Theoretical Implications for Legal Personhood

The challenges of corporate restorative justice illuminate broader questions about the relationship between legal personhood and moral responsibility. If corporations are sufficiently moral agents to warrant criminal liability, they arguably possess equivalent claims to procedural protections and participatory rights within justice processes.

This paradox suggests that successful corporate criminal law requires either accepting the full implications of corporate moral agency or developing alternative theoretical foundations that can justify differential treatment of corporate and individual offenders. Political theories of corporate criminal liability offer one promising approach, grounding corporate responsibility in institutional roles rather than moral agency.

#### 4.4.8. Future Directions and Policy Recommendations

The evolution toward corporate restorative justice requires continued theoretical development and practical innovation. Selective application of restorative approaches, guided by clear criteria for case assessment, can maximize effectiveness while avoiding inappropriate application to cases requiring formal punishment.

Institutional capacity building within both corporate and justice system actors remains essential for successful implementation. This includes training facilitators in corporate dynamics, developing victim support services appropriate for corporate crime contexts, and establishing monitoring mechanisms to ensure compliance with restorative agreements.

The integration of restorative principles into corporate criminal justice represents a significant evolution in legal thinking about artificial persons and their capacity for meaningful participation in justice processes. While challenges remain substantial, the potential benefits of corporate restorative justice including enhanced victim satisfaction, more effective deterrence, and improved corporate accountability justify continued development of this innovative approach to corporate criminal responsibility.

### 4.5. Power Imbalance in Corporate Restorative Justice

The implementation of restorative justice in corporate crime contexts confronts a fundamental challenge that threatens the integrity of the entire process: the stark power imbalance between corporate offenders and their victims. This asymmetry manifests across multiple dimensions and poses significant risks to achieving genuine justice and meaningful restoration for those harmed by corporate misconduct.

Victims of corporate crime frequently originate from politically and economically marginalized grassroots communities, creating a profound disparity in resources and influence. This disadvantage is particularly pronounced in environmental crime cases, where corporations possess substantially greater financial resources than affected communities, enabling them to deploy sophisticated legal teams while victims often lack adequate legal representation or understanding of complex legal processes. The power differential extends beyond economic capacity to encompass social and political networks, with corporations often maintaining influential relationships with government officials and regulatory authorities that can affect the trajectory of legal proceedings.

#### 4.5.1. Dimensions of Power Asymmetry in Corporate Restorative Processes

The financial disparity between corporations and their victims represents perhaps the most visible manifestation of power imbalance in restorative justice processes. Corporate entities typically possess vast financial resources that enable them to engage multiple legal professionals, commission extensive technical studies, and sustain prolonged legal proceedings. In contrast, victims of corporate harm frequently lack the financial means to secure adequate legal representation or technical expertise necessary to effectively participate in restorative dialogues.

This economic asymmetry becomes particularly problematic in environmental crime cases involving marginalized communities. Research demonstrates that victims of corporate environmental harm often struggle to access basic legal services, with many unable to afford specialized environmental law expertise required to navigate complex corporate remediation processes. The inability to secure equal legal representation fundamentally undermines the principle of balanced participation that is central to effective restorative justice practices.

Corporate offenders possess significant advantages in terms of technical expertise and information access that further exacerbate power imbalances in restorative processes. Corporations often control critical technical information about the nature and extent of harm caused

by their activities, creating information asymmetries that can be strategically exploited during mediation proceedings. This technical advantage is particularly pronounced in environmental and industrial safety cases, where corporations possess specialized knowledge about manufacturing processes, environmental impacts, and remediation technologies that victims lack.

The challenge of information asymmetry is compounded by language barriers and communication gaps that prevent meaningful participation by affected communities. Studies of corporate-community conflicts reveal that environmental impact assessments and technical documents are frequently provided only in dominant languages, excluding indigenous and minority communities from meaningful participation in discussions about projects affecting their lands. This linguistic exclusion represents a fundamental violation of the participatory principles underlying restorative justice approaches.

Beyond economic and informational advantages, corporations often leverage extensive social and political networks that can influence the conduct and outcomes of restorative processes. Corporate entities frequently maintain relationships with regulatory officials, political leaders, and other influential stakeholders that can affect the neutrality and fairness of mediation proceedings. These network advantages can manifest in subtle forms of pressure or influence that compromise the independence of mediators and the integrity of the restorative process.

Research on corporate environmental conflicts demonstrates how political interference and elite capture can undermine restorative justice mechanisms, allowing corporate actors to escape meaningful accountability while maintaining an appearance of engagement with affected communities. The risk of political manipulation is particularly acute in contexts where regulatory agencies maintain close relationships with the industries they are supposed to oversee, creating potential conflicts of interest that favor corporate interests over victim rights.

#### **4.5.2. Manifestations of Power Imbalance in Restorative Processes**

Power imbalances in corporate restorative justice frequently manifest through coercive agreement formation processes that pressure victims into accepting inadequate settlements or remediation measures. The combination of economic desperation, limited legal options, and corporate pressure tactics can result in "voluntary" agreements that fail to provide meaningful restoration for victims. These coercive dynamics are particularly problematic when victims face immediate economic hardship as a result of corporate harm and feel compelled to accept inadequate compensation rather than risk prolonged legal proceedings.

Studies of environmental mediation reveal how corporate actors can exploit power imbalances to secure favorable agreements that appear restorative but fail to address underlying structural problems or provide adequate compensation for long-term harm. The pressure to reach quick settlements can prevent victims from fully understanding the implications of proposed agreements or from securing independent technical assessment of proposed remediation measures.

Power imbalances also manifest through corporate domination of mediation proceedings, where well-trained corporate representatives and legal teams can overwhelm victims and their advocates during dialogue sessions. Corporate participants often possess superior negotiation skills, strategic communication training, and technical expertise that enables them to control the narrative and frame discussions in ways that favor corporate interests. This procedural domination can result in mediation processes that appear participatory but effectively marginalize victim voices and concerns.

The challenge of mediation domination is exacerbated by the selection and training of mediators, who may lack adequate understanding of power dynamics or specialized knowledge about corporate crime and victim rights. Without proper preparation and awareness of power imbalances, mediators may inadvertently facilitate corporate domination of the process rather than ensuring balanced participation and meaningful dialogue.

Perhaps the most significant manifestation of power imbalance in corporate restorative justice is the tendency toward symbolic rather than substantive restoration measures. Corporations can leverage their superior resources and influence to negotiate agreements that provide minimal substantive change while creating an appearance of accountability and reform. This symbolic restoration may include limited financial compensation, superficial policy changes, or corporate social responsibility initiatives that fail to address the root causes of harm or prevent future violations.

Research on corporate environmental crime reveals how companies often prefer symbolic CSR measures over substantive environmental improvements, particularly when facing

public pressure following environmental disasters. The preference for symbolic over substantive measures reflects corporate capacity to manipulate restorative processes to achieve reputation repair without fundamental operational changes that would prevent future harm.

#### 4.5.3. Consequences of Unaddressed Power Imbalances

When power imbalances remain unaddressed in corporate restorative justice processes, they risk perpetuating a culture of corporate impunity that undermines the deterrent effect of legal accountability. Inadequate restorative agreements that fail to impose meaningful consequences for corporate misconduct can signal to other potential offenders that violations carry minimal risks. This erosion of deterrence is particularly problematic in corporate crime contexts, where the potential for widespread harm necessitates strong accountability mechanisms.

The failure to address power imbalances effectively can transform restorative justice from a tool of accountability into a mechanism for corporate immunity, allowing offenders to escape meaningful consequences while maintaining public legitimacy. This perversion of restorative principles not only fails to serve victim interests but also undermines public confidence in the justice system's capacity to hold powerful actors accountable.

Unequal restorative processes can result in victim re-traumatization, particularly when victims experience additional harm through unfair mediation proceedings or inadequate restoration measures. The psychological impact of participating in biased restorative processes can compound the original harm suffered by victims and undermine their confidence in the justice system's capacity to provide meaningful redress. This re-traumatization is particularly problematic for marginalized communities who may have limited alternative avenues for seeking justice.

Research on victim experiences in restorative justice reveals that power imbalances can lead to feelings of manipulation, exploitation, and betrayal among participants who entered processes with expectations of fair treatment and meaningful dialogue. The failure to address these power dynamics can result in long-term psychological harm that extends beyond the original corporate offense.

The failure to address power imbalances in corporate restorative justice can contribute to broader erosion of community trust in legal institutions and governance systems. When communities observe corporations receiving preferential treatment in restorative processes, it can reinforce perceptions of systemic bias and elite privilege that undermine social cohesion and civic engagement. This erosion of trust is particularly damaging in contexts where corporate harm has already strained community-government relations.

Studies of corporate-community conflicts demonstrate how failed restorative processes can intensify social conflict and resistance, leading to more adversarial relationships between corporations, communities, and government authorities. The long-term consequences of this trust erosion can include reduced cooperation with regulatory authorities, increased social conflict, and diminished capacity for collaborative problem-solving in future corporate-community disputes.

#### 4.5.4. Transformative Strategies for Addressing Power Imbalances

Addressing power imbalances in corporate restorative justice requires comprehensive legal aid and advocacy support systems that ensure victims have access to qualified legal representation throughout the restorative process. This support must extend beyond basic legal advice to include specialized expertise in corporate law, environmental regulation, and restorative justice principles. The provision of independent technical expertise is particularly crucial in cases involving complex environmental or industrial harm where victims lack the specialized knowledge necessary to evaluate proposed restoration measures.

Legal aid programs must be designed to address the specific challenges faced by corporate crime victims, including the need for sustained support throughout potentially lengthy restorative processes and the capacity to challenge corporate technical claims and proposals. The independence of legal aid providers is crucial to ensure that victim advocates are not subject to corporate influence or pressure that could compromise their effectiveness.

The selection and training of mediators represents a critical intervention point for addressing power imbalances in corporate restorative justice. Mediators must possess specialized knowledge about power dynamics, corporate crime, and victim rights to effectively facilitate balanced dialogue between unequal parties. This specialized training should include understanding of how power imbalances manifest in mediation settings and techniques for ensuring meaningful participation by all parties.

Mediator independence is particularly crucial in corporate cases where the potential for influence or corruption may be high. Mediation programs should establish clear standards for mediator selection, training, and ongoing supervision to ensure that practitioners possess both the technical skills and ethical foundation necessary to manage complex power dynamics. The development of specialized mediation protocols for corporate crime cases may be necessary to address the unique challenges posed by power imbalances in these contexts.

Addressing power imbalances requires strengthening community capacity for collective action and representation in restorative processes. This may include supporting community organizations, providing civic education about corporate accountability, and developing mechanisms for collective victim representation that can balance corporate advantages. Community-based mediation approaches that draw on local knowledge and leadership may be particularly effective in addressing power imbalances while respecting cultural values and practices.

The empowerment of grassroots communities requires sustained capacity-building efforts that extend beyond individual cases to build long-term organizational capacity for corporate accountability advocacy. This includes training community leaders in legal rights, technical assessment, and negotiation skills that enable more effective participation in restorative processes. Partnerships between communities and supportive non-governmental organizations can provide additional technical and advocacy resources while maintaining community control over decision-making processes.

Public transparency represents a crucial mechanism for addressing power imbalances by subjecting restorative processes to external scrutiny and accountability. This includes public disclosure of mediation proceedings, agreements reached, and implementation progress to ensure that corporate commitments are fulfilled and that restoration measures achieve their intended objectives. "Naming and shaming" strategies can provide additional leverage for victims by creating reputational consequences for corporations that fail to engage meaningfully in restorative processes.

The implementation of public monitoring systems can help ensure that restorative agreements are implemented effectively and that corporations fulfill their commitments over time. These monitoring mechanisms should include community participation and independent oversight to prevent corporate manipulation or evasion of restoration obligations.

Addressing power imbalances in corporate restorative justice ultimately requires structural legal reforms that strengthen victim rights and corporate accountability mechanisms. This may include mandatory participation in restorative processes for certain types of corporate offenses, minimum standards for victim compensation and restoration, and enhanced penalties for corporations that fail to engage meaningfully in restorative dialogue.

Legal reforms should also address procedural barriers that prevent effective victim participation, including limitations on legal aid funding, restrictive standing requirements, and inadequate discovery rights that prevent victims from accessing information necessary for meaningful participation. The development of specialized corporate crime courts with expertise in restorative justice principles may be necessary to ensure effective implementation of power-balancing measures.

#### **4.5.5. Implementation Framework for Equitable Corporate Restorative Justice**

Effective implementation of power-balancing measures requires comprehensive pre-mediation assessment that identifies specific power imbalances and develops targeted interventions to address them. This assessment should include evaluation of parties' resources, technical capacity, legal representation, and cultural or linguistic needs that may affect participation in restorative processes. Based on this assessment, customized support packages can be developed to ensure more equitable participation.

The preparation phase should also include separate sessions with victims to ensure they understand their rights, the mediation process, and available support resources before engaging with corporate representatives. This preparation is crucial for enabling meaningful consent to participate in restorative processes and for identifying any concerns or needs that must be addressed to ensure safe and effective participation.

The dynamic nature of power relationships requires ongoing monitoring and adjustment of restorative processes to address emerging imbalances or manipulation attempts. This includes regular assessment of whether victims feel safe and empowered to participate meaningfully and whether corporate representatives are engaging in good faith dialogue or attempting to dominate proceedings.

Adaptive process management should include mechanisms for pausing or restructuring mediation proceedings if power imbalances become too severe to enable meaningful dialogue. This flexibility is crucial for maintaining the integrity of restorative processes while ensuring that victims are not subjected to further harm through biased or manipulative proceedings.

The successful implementation of restorative agreements requires robust monitoring and enforcement mechanisms that ensure corporate compliance with restoration commitments. This includes regular progress reporting, community involvement in implementation oversight, and clear consequences for non-compliance with agreed restoration measures.

Long-term support for victims may be necessary to ensure that restoration measures achieve their intended objectives and that victims can effectively monitor corporate compliance with agreements. This ongoing support recognizes that power imbalances may persist even after formal agreements are reached and that victims may need continued assistance to enforce their rights and hold corporations accountable.

The challenge of power imbalance in corporate restorative justice represents a fundamental threat to the integrity and effectiveness of alternative dispute resolution mechanisms in corporate crime contexts. Without deliberate and sustained efforts to address these imbalances, restorative justice risks becoming a tool of corporate manipulation rather than genuine accountability and restoration. The evidence from multiple jurisdictions demonstrates that symbolic restoration measures often substitute for substantive change, allowing corporations to escape meaningful consequences while maintaining public legitimacy.

Transformative approaches to corporate restorative justice must prioritize victim empowerment, community capacity building, and structural legal reforms that address the root causes of power imbalance rather than merely their symptoms. This requires sustained investment in legal aid systems, mediator training, community organizing, and transparency mechanisms that can level the playing field between corporate offenders and their victims.

The implementation of these transformative measures demands political will and institutional commitment that extends beyond individual cases to address systemic patterns of corporate impunity and victim marginalization. Only through such comprehensive reform can restorative justice fulfill its promise of providing meaningful accountability and restoration in corporate crime contexts while protecting the rights and dignity of those harmed by corporate misconduct.

The path toward equitable corporate restorative justice requires recognition that power imbalances are not merely procedural obstacles but fundamental structural features of corporate-community relations that must be addressed through sustained institutional change. The stakes of this transformation extend beyond individual cases to encompass broader questions of democratic accountability, environmental justice, and the capacity of legal institutions to serve the interests of all members of society, particularly the most vulnerable and marginalized communities who bear the greatest burden of corporate harm.

## Conclusions

This study critically examines the potential and challenges of implementing restorative justice in cases involving corporate perpetrators within the Indonesian criminal justice system. The findings demonstrate that restorative justice offers a transformative alternative to traditional retributive models by prioritizing restoration, rehabilitation, and reconciliation among corporate offenders, victims, and affected communities, especially in the context of complex and far-reaching corporate crimes. The dual track system selective model is identified as the most suitable framework, enabling selective application of restorative approaches while maintaining the possibility of formal prosecution for serious offenses.

The research highlights that Indonesia's evolving legal framework, particularly the New Criminal Code of 2023 and Prosecutor's Regulation No. 15 of 2020, provides a normative foundation for integrating restorative justice into corporate criminal liability. However, the absence of a specific and comprehensive regulatory framework for corporate actors creates significant legal uncertainty, procedural ambiguity, and risks of abuse, thereby undermining the legitimacy and effectiveness of restorative justice in corporate contexts.

The study also underscores the structural challenges inherent in applying restorative justice to non-personified legal subjects such as corporations. The lack of moral consciousness in corporate entities necessitates adaptation of restorative processes, shifting the focus toward institutional accountability, structural remediation, and victim-centered dialogue. Furthermore, the pervasive power imbalance between corporations and victims, particularly in environmental and community harm cases, poses a critical threat to the integrity of restorative



justice processes. Without deliberate measures to address economic, informational, and political asymmetries, restorative justice risks becoming a mechanism for corporate impunity rather than genuine accountability.

To address these challenges, the research recommends the urgent development of detailed, adaptive regulations and technical guidelines that clarify criteria for case selection, procedures for corporate representation, and mechanisms for monitoring compliance. Capacity building for law enforcement, mediators, and community representatives is essential to ensure meaningful participation and prevent corporate manipulation. The establishment of robust legal aid, independent mediation, and public transparency mechanisms is crucial to empower victims and balance power dynamics.

The study concludes that while restorative justice holds significant promise for enhancing corporate accountability and victim restoration, its success is contingent upon the establishment of a clear legal framework, institutional capacity, and safeguards against power imbalances. The integration of restorative justice into Indonesia's corporate criminal law system has the potential to create a more just, effective, and socially responsive approach to addressing corporate wrongdoing, provided that these foundational challenges are systematically addressed. Further research is warranted to evaluate the long-term impacts of restorative justice in corporate contexts and to refine implementation strategies in response to emerging challenges and best practices.

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