

WHEN RESTORATIVE JUSTICE BECOMES CASE NEGOTIATION: LEGAL VALIDITY AND NORMATIVE DISTORTION IN CRIMINAL JUSTICE

Andika Wahyudi Gani^{1*}, Nurul Maghfirah Surianto²

¹Faculty of Social Sciences and Law, Universitas Negeri Makassar, Makassar City,
South Sulawesi, Indonesia

²Faculty of Economics and Business, Universitas Negeri Makassar, Makassar City,
South Sulawesi, Indonesia

*andikawgani@unm.ac.id

Abstract

Restorative justice is normatively designed to repair harm and restore social relations among offenders, victims, and the community. However, when incorporated into formal criminal justice institutions, it may shift from a relational and reparative process into a negotiation-oriented mechanism for case resolution, particularly when institutional procedures prioritize settlement, compensation, forgiveness, or case termination over substantive restoration. This article examines that shift in the Indonesian criminal justice system, where restorative justice has been institutionalized through police, prosecutorial, and judicial regulations and further grounded in Law Number 20 of 2025 concerning the Criminal Procedure Code. Using doctrinal legal research through conceptual and statutory approaches, this article applies the Three-Pillar Institutional Legitimacy Framework, consisting of legal validity (P1), normative fidelity (P2), and public rational justification (P3). The analysis shows that Law Number 20 of 2025 strengthens the legal validity of restorative justice by regulating restorative mechanisms in Articles 79–88 and positioning prior sectoral regulations within a higher statutory framework through Articles 361 and 367. Nevertheless, legal validity alone does not guarantee substantive legitimacy. Restorative justice may still undergo normative distortion when institutional actors treat agreement, forgiveness, compensation, or procedural closure as sufficient indicators of restoration without examining victim recovery, offender accountability, voluntary participation, community involvement, guarantees of non-repetition, and the public interest. In such circumstances, public rational justification may appear coherent at the surface level while lacking normative depth. This configuration constitutes pseudo-ethical legitimacy: institutional action remains legally valid but loses the substantive restorative foundation that justifies restorative justice. This article argues that strengthening restorative justice in Indonesia requires legal harmonization and sustained institutional commitment to preserving it as a mechanism for repairing harm, restoring social relations, and preventing its reduction into a procedural tool for case disposal.

Keywords: Restorative Justice; Pseudo-Ethical Legitimacy; Institutional Legitimacy; Normative Fidelity; Legal Validity.

A. Introduction

Restorative justice is fundamentally rooted in the idea that crime is not merely a violation of state legal norms but also a disruption of social relations among offenders, victims, and the community. In its normative doctrine, this approach aims to repair harm, rebuild offender responsibility, provide space for victim participation, and restore the social balance disrupted by

criminal conduct. In this sense, crime is not understood solely as a violation of law but as a violation of social relations that must be restored through a process emphasizing accountability, reconciliation, and reintegration (Zehr, 2002).

However, when restorative justice is institutionalized within the criminal justice system, an important paradox emerges. On the one hand, its institutionalization provides legal bases and procedures that allow case resolution to be conducted in a more responsive, efficient, and restoration-oriented manner. On the other hand, such institutionalization also risks shifting it from a mechanism for restoring social relations into a negotiation-oriented mechanism for case resolution. In practice, this approach is often reduced to a dispute resolution mechanism focused on achieving peace between the offender and the victim, thereby neglecting the restoration of social relations as its normative core. This phenomenon reflects a tendency toward the mischaracterization of this approach, whereby practices that formally carry the restorative label no longer fully operate within the horizon of restoration of social relations (Schiff & Green, 2025).

This reduction cannot be understood merely as a technical issue or procedural simplification; rather, it reflects a more fundamental shift in the normative orientation of criminal law. When this mechanism operates as an agreement-oriented instrument for bilateral conflict resolution, it conceptually moves away from the logic of restoration of social relations and closer to pragmatic forms of settlement, even resembling corrective justice (Bulatović & Fatić, 2024). This shift indicates a misalignment between the exercise of legal authority and its underlying normative purposes. Accordingly, its success cannot be measured solely by the existence of peace, the withdrawal of a complaint, the payment of compensation, or the termination of a case; it must also be assessed based on whether victim restoration, offender responsibility, community involvement, and the public interest are genuinely fulfilled.

This issue becomes increasingly important because distorted restorative justice practices may still obtain formal legitimacy within the legal system. From a legal-rational perspective, their application may appear valid because procedures are followed, authority is exercised, and cases are resolved within the framework of applicable law. In many contexts, such practices may also appear stable in the public sphere because they are framed through narratives of peace and efficient case resolution. Yet such formal stability does not necessarily indicate that restorative purposes have been fulfilled. Various studies show that the institutionalization of this mechanism within formal legal systems is often accompanied by co-option, compromise, and pragmatic pressures that may shift its restorative orientation (Suzuki, 2023; Suzuki & Wood, 2017).

In the Indonesian context, this issue is increasingly relevant because restorative justice has obtained formal legal bases across various stages of the criminal justice system. At the investigation stage, it is reflected in Police Regulation Number 8 of 2021. At the prosecution stage, it is regulated under Prosecutor's Regulation Number 15 of 2020. Meanwhile, at the trial stage, the Supreme Court has issued Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. These developments have received further statutory grounding through Law Number 20 of 2025 concerning the Criminal Procedure Code, which devotes a dedicated chapter to restorative justice mechanisms (Chapter IV, Articles 79 through 88). Whether and to what extent this statutory framework reinforces or modifies the preceding sectoral regulations is examined in the discussion below. This statutory development was subsequently accompanied by Supreme Court Circular Letter Number 1 of 2026 concerning Guidelines for the Implementation of the 2023 Criminal Code and the 2025 Criminal Procedure Code, one of whose substantive points provides guidance on the implementation of restorative justice mechanisms across different levels of the criminal justice process. Thus, it is no longer merely an alternative approach but has become part of the formal design of the Indonesian criminal justice system.

Nevertheless, the strengthening of this legal basis also requires stricter examination of whether such practices truly preserve their normative orientation as mechanisms for restoring social

relations. As the legal basis of restorative justice becomes stronger, it becomes increasingly important to ensure that its implementation does not stop at procedural compliance, formal peace, or case termination. In Indonesian law enforcement practice, a similar tendency has begun to be identified, whereby the practice is reduced to an agreement-based case disposal mechanism without ensuring the substantive fulfillment of restoration of social relations (Noor et al., 2025).

Existing studies on restorative justice have generally focused on its effectiveness, implementation, institutional obstacles, or its benefits in reducing caseloads. Such focus is important, but insufficient to explain a more fundamental problem: how legally valid restorative justice practices may experience normative distortion when their orientation shifts from restoring social relations toward agreement-based case disposal. Therefore, there remains a need to analyze this mechanism from the perspective of institutional legitimacy, particularly in relation to the relationship between legal validity, normative fidelity, and public rational justification.

This article proceeds from the assumption that the legitimacy of restorative justice cannot be assessed solely on the basis of the existence of legal grounds or compliance with formal procedures. Legality is an important condition, but not the sole basis of legitimacy. Restorative justice can be substantively legitimate only when its implementation remains faithful to its normative purposes, namely the restoration of social relations, victim protection, offender accountability, community involvement, and the protection of the public interest. If these elements are weakened, the practice may remain legally valid while producing only a legitimacy that appears strong at the surface level.

To explain this issue, this article employs the Three-Pillar Institutional Legitimacy Framework: legal validity (P1), normative fidelity (P2), and public rational justification (P3). Through this framework, restorative justice is analyzed as an institutional practice that must be examined in layers: first, whether it has a legal basis and is implemented by authorized institutions; second, whether it remains faithful to its normative purpose of restoration; and third, whether the reasons for case termination or settlement can be rationally justified in the public sphere. This framework enables a distinction between substantively legitimate restorative justice and restorative justice that merely appears valid because it is supported by formal legality.

The novelty of this article lies in its development of a conceptual diagnosis of pseudo-ethical legitimacy in restorative justice practices. This concept explains a condition in which institutional action retains legal validity but experiences distortion in normative fidelity and maintains public rational justification only at the surface level. Thus, this article does not merely examine whether restorative justice is effective or legally valid, but also assesses whether such practice remains within the normative horizon of restoration or has shifted into a mechanism of case negotiation.

Based on the foregoing discussion, this article raises the following central question: how can legally valid restorative justice practices produce pseudo-ethical legitimacy when their normative orientation shifts from the restoration of social relations toward a negotiation-oriented mechanism for case resolution? To address this question, this article first outlines the research method employed, then elaborates the Three-Pillar Institutional Legitimacy Framework, and subsequently analyzes how normative distortion in such practices forms a configuration of pseudo-ethical legitimacy within the criminal justice system.

B. Method

This article employs doctrinal legal research to examine the shift of restorative justice from a mechanism for restoring social relations into a negotiation-oriented mechanism for case resolution. This doctrinal approach is appropriate because the central issue analyzed in this article is not the empirical effectiveness of such a mechanism in particular cases, but the legal and conceptual structure of legitimacy underlying its institutional application (Bhat, 2020). In this sense, the research is directed toward resolving legal problems by examining legal norms, concepts, principles, and the coherence of legal reasoning within a particular legal framework.

Accordingly, the analysis focuses on whether legally valid restorative justice practices continue to preserve their normative orientation as mechanisms for restoring social relations or instead undergo normative distortion when reduced to case resolution mechanisms that rely on agreement between the parties.

This research employs two main approaches: a conceptual approach and a statutory approach. The conceptual approach is used to construct and examine the analytical framework of institutional legitimacy, particularly through the Three-Pillar Institutional Legitimacy Framework, consisting of legal validity (P1), normative fidelity (P2), and public rational justification (P3). Through this approach, the article clarifies the concept of pseudo-ethical legitimacy as a condition in which institutional action remains legally valid but experiences distortion in normative fidelity and maintains public rational justification only at the surface level. The statutory approach is used to examine the positive legal framework governing restorative justice in Indonesia because doctrinal legal research analyzes legal problems through relevant legal sources and doctrinal reasoning (Benuf & Azhar, 2020; Marzuki, 2022).

The statutory approach is used to examine the legal basis of restorative justice within the Indonesian criminal justice system. This approach is important because its legitimacy cannot be assessed without considering the positive legal framework that authorizes its application. The primary legal materials are organized according to their normative hierarchy and year of enactment. They consist of statutory laws, namely Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code; institutional regulations, namely Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice, and Prosecutor's Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice; and judicial implementation guidance, namely Supreme Court Circular Letter Number 1 of 2026. These legal materials are used to identify the formal legal validity of restorative justice and to explain the distribution of authority in its application across the stages of investigation, prosecution, and court examination.

The secondary legal materials used in this article consist of books, journal articles, and scholarly works discussing restorative justice, institutional legitimacy, legal validity, normative fidelity, public rational justification, and symbolic legitimacy. These materials are used to support the conceptual analysis and to distinguish pseudo-ethical legitimacy from adjacent concepts, such as formal legitimacy, procedural legitimacy, symbolic legitimacy, legitimacy erosion, and legitimacy crisis. In this respect, the article follows a doctrinal legal research design, in which legal concepts and legal materials are systematically interpreted to clarify the structure and implications of legal doctrine (Tiller & Cross, 2005). In this way, the article describes the legal regulation of this mechanism and evaluates whether the exercise of legal authority in restorative justice practices remains aligned with the normative purpose that justifies its existence as a mechanism for restoring social relations.

The legal materials are analyzed qualitatively through doctrinal interpretation and conceptual diagnosis. This method allows the article to examine the mechanism not only as a legally regulated mechanism but also as an institutional practice whose legitimacy depends on the relationship between legal validity, normative fidelity, and public rational justification. The analysis proceeds in three stages. First, such practices are examined through legal validity (P1), namely whether their application has a legal basis, is implemented by authorized institutions, and follows procedures prescribed by law. Second, restorative justice practices are examined through normative fidelity (P2), namely whether their application remains oriented toward victim restoration, offender accountability, community involvement, the restoration of social relations, and the protection of the public interest. Third, restorative justice practices are examined through public rational justification (P3), namely whether the reasons for case resolution or case termination can be

rationally justified in a transparent, coherent, and normatively consistent manner with the purposes of restorative justice. Through these stages, this article diagnoses whether legally valid restorative justice practices produce substantive legitimacy or instead form a configuration of pseudo-ethical legitimacy.

With this methodological design, the next section elaborates the Three-Pillar Institutional Legitimacy Framework as the theoretical basis and analytical model for explaining how legally valid practices may undergo normative distortion and form a configuration of pseudo-ethical legitimacy.

C. Results and Discussion

1. Theoretical Framework and Analytical Model

a. Three-Pillar Institutional Legitimacy Framework

Institutional legitimacy in modern legal systems cannot be reduced merely to the existence of formal legality or to the degree of social acceptance. Legitimacy must be understood as a normative-relational structure that sustains the validity of institutional authority (Beetham, 1991; Breakey, 2021; Buchanan, 2025). In this sense, an institutional action does not become legitimate simply because it is authorized by law. It must also be aligned with the normative purposes that justify the exercise of legal authority and be capable of being defended through rational justification in the public sphere. Accordingly, legitimacy is a relational quality formed by the connection between law, the normative purposes of institutions, and intersubjective rationality (Beetham, 1991; Buchanan, 2025).

This article employs the Three-Pillar Institutional Legitimacy Framework to analyze the legitimacy of restorative justice practices. This framework consists of three interrelated pillars: legal validity (P1), normative fidelity (P2), and public rational justification (P3). These three pillars do not operate as independent elements, but instead form a relational configuration that determines the quality of institutional legitimacy. A practice may be legally valid, but it does not automatically become substantively legitimate if it fails to preserve its normative orientation and cannot be rationally justified in relation to that orientation.

These three pillars are irreducible and jointly exhaustive. They are irreducible because legal validity, normative fidelity, and public rational justification represent distinct dimensions of legitimacy that cannot replace one another. Legal validity cannot substitute for normative fidelity; normative fidelity cannot substitute for public rational justification; and public rational justification cannot eliminate the need for a valid legal basis. They are also jointly exhaustive because together they constitute the minimal structure required for assessing institutional legitimacy. In other words, institutional legitimacy can only be understood fully when these three dimensions are read as a single normative-relational configuration.

The first pillar, legal validity (P1), refers to the conformity of institutional action with legal authority, applicable procedures, and formal legal norms (Ehrenberg, 2020; Raz, 2019; Weber, 1978). This pillar is rooted in the idea of legal-rational authority, in which legality functions as the minimum condition for the valid exercise of institutional power in modern legal systems (Weber, 1978). In the context of restorative justice, legal validity requires that the practice have a formal legal basis, be conducted by authorized institutions, and be implemented through procedures prescribed by law. However, legal validity is only a necessary condition of legitimacy, not a sufficient one (Raz, 2019; Waldron, 2019). Formal legality may validate an institutional action at the level of authority, but it cannot fully justify that action if it is detached from the normative purpose that gives it substantive meaning (Dyzenhaus, 1994, 2001; Malcai & Levine-Schnur, 2014).

Legal validity operates as a threshold category. This means that an institutional action is either legally valid or legally invalid. Unlike normative fidelity and public rational justification, legal validity does not have a “distorted” condition; it operates as a threshold category within this article’s analytical framework. P1 is categorized as strong when all elements of legal validity are fulfilled, namely valid authority, applicable procedure, consistency with legal norms, and recognition within the legal system. Conversely, P1 becomes weak when there is a defect in authority, procedure, or conformity with applicable legal norms. Therefore, if P1 is not fulfilled, legitimacy cannot be formed because the institutional action lacks legal validity.

The second pillar, normative fidelity (P2), refers to the alignment between the exercise of legal authority and the normative purposes underlying the relevant legal institution or mechanism. In this article, normative fidelity is positioned as the substantive axis of institutional legitimacy (Dyzenhaus, 1994, 2001; Malcai & Levine-Schnur, 2014). This pillar addresses whether authority is exercised in accordance with the normative purposes that justify it or whether it has shifted toward another orientation that is instrumental, opportunistic, or pragmatic. For this reason, P2 determines whether an action that is legally valid is also substantively justified.

In this context, normative fidelity requires that the practice remain oriented toward restoring social relations, repairing harm, ensuring offender accountability, protecting victims, involving the community, promoting social reintegration, and preserving the public interest (Ashworth, 2002; Bazemore, 2001; Braithwaite, 2002; Dzur & Olson, 2004; Zehr, 2002). This mechanism is not merely a mechanism for terminating cases or producing peace agreements; it is a normative framework for responding to crime as a disruption of social relations that must be restored through accountability, reconciliation, reintegration, and social repair (Braithwaite, 2002; Zehr, 2002). Accordingly, a restorative justice practice that produces a settlement but fails to examine victim recovery, offender responsibility, community involvement, and guarantees of non-repetition may remain legally valid while experiencing normative distortion.

Normative fidelity is multi-level in nature. It does not merely examine whether an action complies with the technical purpose of a procedure, but also whether that action aligns with the constitutional normative purpose, the institutional normative purpose, and the normative purpose of the legal product that provides the basis of authority. In the context of restorative justice, this means that its application must not be assessed only by the fulfillment of administrative requirements, but also by whether the practice remains faithful to its restorative purpose as a mechanism for restoring social relations. When this orientation shifts from restoration toward agreement-based case resolution, what occurs is not merely a variation in implementation, but a distortion of P2.

The third pillar, public rational justification (P3), refers to the ability of institutional action or decision to be justified through rational arguments that are coherent, consistent, transparent, and open to rational evaluation. This pillar is related to the idea of public reason and discourse theory, which place argumentative rationality as an important element of legitimacy in the public sphere (Gordon Finlayson, 2021; Habermas, 1996; Rawls, 1993). However, the term “public” in this article is not understood sociologically as public acceptance or public opinion. Rather, it is understood epistemically as a space of intersubjective rational evaluation (Buchanan, 2025; Habermas, 1996).

This distinction is crucial because public rational justification and public acceptance operate at different analytical levels. Public acceptance refers to an empirical or sociological condition in which society approves, tolerates, or supports an institutional decision. Public rational justification, by contrast, refers to the normative quality of the reasons offered by an institution to justify its decision in a manner that can be publicly tested and defended. This

distinction is consistent with the view that legitimacy cannot be reduced to empirical acceptance alone, but must also be grounded in reasons that are normatively coherent and discursively defensible within a framework of public reason and communicative rationality (Beetham, 1991; Buchanan, 2025; Habermas, 1996; Rawls, 1993).

Thus, P3 does not assess whether an action is accepted by society but whether the reasons provided by the institution can be rationally tested and defended. In restorative justice practices, public rational justification requires institutions to explain why a case is resolved through restorative justice, why the restoration achieved is considered sufficient, why the victim is adequately protected, why offender responsibility has been meaningfully addressed, and why the decision does not sacrifice the public interest. Public rational justification cannot be reduced to institutional rhetoric about peace, efficiency, or case resolution. If the reasons supporting a restorative justice decision are not transparent, coherent, and normatively connected to the purpose of restoration, then public rational justification exists only at the surface level.

The relationship among the pillars is normative-structural, not empirically causal. Within this structure, P2 determines the normative quality of P3, while P3 affects the capacity of P1 to function as a basis of legitimacy. This relationship can be formulated as follows:

$$\mathbf{P2 \rightarrow P3 \rightarrow P1}$$

This formulation shows that normative fidelity is the substantive axis that determines whether public rational justification has normative depth. Public rational justification then affects whether legal validity can function as a complete basis of legitimacy or merely as formal legality that is substantively empty. Accordingly, P1 is a necessary condition for legitimacy, but its legitimating capacity becomes complete only when supported by P2 and P3.

This relationship also shows that institutional legitimacy is configurative rather than binary. Legitimacy is not formed by the existence of one pillar in isolation but by the quality of the relationship among the pillars. An action may possess strong legal validity, but if its normative fidelity is distorted and its public rational justification appears strong only at the surface level, the action does not produce substantive legitimacy but instead forms pseudo-ethical legitimacy.

This relationship may also be formulated as follows:

$$\mathbf{Institutional\ Legitimacy = f(P1, P2, P3)}$$

This formula does not imply that legitimacy operates mechanically or develops through fixed stages. Rather, legitimacy is determined by the relational configuration among legal validity, normative fidelity, and public rational justification. Therefore, legitimacy degradation should not be understood deterministically. Legitimacy degradation should be understood as a structural tendency: distortion in normative fidelity tends to weaken the quality of public rational justification and, under certain conditions, causes legitimacy to depend increasingly on formal legality.

This framework distances itself from three dominant approaches to legitimacy. A positivistic approach tends to reduce legitimacy to legality; a sociological approach tends to reduce legitimacy to social acceptance; and a deliberative approach often emphasizes justification or consensus without sufficiently explaining how legal authority may continue to operate when its normative foundation is weakened (Beetham, 1991; Buchanan, 2025; Habermas, 1975, 1996; Weber, 1978). The Three-Pillar Institutional Legitimacy Framework offers an alternative approach by formulating legitimacy as a relational structure between legality, normativity, and rationality. The main contribution of this framework lies not only in explaining how legitimacy is formed, but also in explaining how legal authority may continue to operate under conditions of legitimacy degradation.

b. Pseudo-Ethical Legitimacy and Its Conceptual Boundaries

Within the Three-Pillar Institutional Legitimacy Framework, legitimacy is best understood as a spectrum. Institutional action is not simply legitimate or illegitimate. It may occupy different configurations depending on the relationship between legal validity, normative fidelity, and public rational justification. One important configuration within this spectrum is pseudo-ethical legitimacy.

Pseudo-ethical legitimacy refers to a condition in which institutional action remains legally valid but loses its substantive normative foundation. In this configuration, legal validity continues to operate, but normative fidelity is distorted or weakened, while public rational justification loses its normative depth. The institution may still act within the legal framework, follow recognized procedures, and present its action through language that appears rational. However, the action no longer fully reflects the normative purpose that justifies the exercise of legal authority. Thus, legitimacy does not disappear but shifts into a formalistic form.

This concept is important for analyzing restorative justice. A restorative justice practice may be supported by a formal legal basis, implemented by an authorized institution, and framed through the language of peace or reconciliation. However, if the process merely produces a bilateral agreement between offender and victim without examining social restoration, victim recovery, offender accountability, community participation, and the public interest, then the practice no longer fully operates within the normative horizon of restorative justice. In this condition, restorative justice does not collapse as a legal mechanism but its legitimacy shifts into a pseudo-ethical form.

Pseudo-ethical legitimacy has conceptual proximity to symbolic legitimacy, formal legitimacy, procedural legitimacy, legitimacy erosion, and legitimacy crisis, but it is not identical to these concepts. Symbolic legitimacy emphasizes the appearances, symbols, or perceptions used by institutions to maintain legitimacy despite substantive weakness (Ashforth & Gibbs, 1990; Tyler, 2006). Formal legitimacy emphasizes conformity with legal rules and institutional authority. Procedural legitimacy focuses on whether institutional processes are orderly, rule-based, and procedurally acceptable. Legitimacy erosion refers to the gradual weakening of legitimacy over time, while legitimacy crisis refers to a condition in which legitimacy is seriously impaired or publicly contested (Habermas, 1975; Reus-Smit, 2007; Wiesner & Harfst, 2019). Pseudo-ethical legitimacy differs from these concepts because it specifically identifies a configuration in which legal validity remains fulfilled, but normative fidelity has shifted or weakened. Its main concern is not merely symbolic appearance, procedural compliance, or gradual weakening of legitimacy. Rather, pseudo-ethical legitimacy explains how institutional action can remain legally valid and appear publicly justifiable at the surface level, while losing its ethical-substantive foundation. In other words, the distinctive feature of pseudo-ethical legitimacy lies in the tension between continuing legal validity and displaced normative fidelity.

In the context of restorative justice, pseudo-ethical legitimacy emerges when restorative justice shifts from a mechanism for restoring social relations into a negotiation-oriented mechanism for case resolution (Schiff & Green, 2025; Suzuki, 2023; Suzuki & Wood, 2017). This shift is referred to in this article as case negotiation. Such a transformation does not necessarily invalidate the practice at the legal level. A case may still be resolved by an authorized institution, through recognized procedures, and under a valid legal framework. However, when agreement becomes the dominant measure and substantive restoration becomes secondary, restorative justice experiences normative distortion.

Therefore, this article distinguishes between restorative justice in its normative sense and case negotiation as a form of conceptual reduction. The former is oriented toward restoring social relations and repairing harm through the meaningful participation of offenders, victims,

and the community (Braithwaite, 2002; Dzur & Olson, 2004; Rossner & Taylor, 2024). By contrast, case *negotiation* refers to an agreement-centered logic whose primary objective is case resolution or case termination. The analogy to plea bargaining is not intended to equate it with plea bargaining. Plea bargaining primarily concerns the negotiation of guilt and penal consequences, whereas restorative justice concerns the restoration of relations and the repair of harm. The analogy is used only to illustrate how agreement-centered practices may shift the normative orientation of restorative justice toward negotiated case disposal (Bibas, 2011; Miceli, 2019).

This distinction is important because not every peace agreement is restorative, and not every legally valid settlement produces substantive legitimacy. A peace agreement may be one possible outcome of restorative justice, but it cannot be treated as the sole indicator that the purpose of restorative justice has been achieved. The practice becomes normatively distorted when the existence of agreement replaces a deeper examination of whether harm has been repaired, whether the victim participates freely, whether the offender accepts responsibility, whether the community is meaningfully involved, and whether the outcome protects the public interest (Ashworth, 2002; Beven et al., 2005).

c. Analytical Model for Diagnosing Restorative Justice Distortion

The Three-Pillar Institutional Legitimacy Framework is operationalized in this article as an analytical model for diagnosing normative distortion in restorative justice practices. This model proceeds through three evaluative questions. First, whether the practice satisfies legal validity. Second, whether the practice preserves normative fidelity. Third, whether the practice can be justified through rational public reasoning.

The first stage examines legal validity (P1). In the Indonesian criminal justice system, this stage requires an assessment of the formal legal basis, institutional authority, procedural requirements, case eligibility, victim consent, recovery of harm, excluded offenses, supervisory control, and the legal form of case termination. This mechanism has obtained formal legal bases at various stages of the criminal justice process, grounded in Law Number 1 of 2023 concerning the Criminal Code, Law Number 20 of 2025 concerning the Criminal Procedure Code, Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, and Supreme Court Circular Letter Number 1 of 2026 concerning Guidelines for the Implementation of the 2023 Criminal Code and the 2025 Criminal Procedure Code. At the investigation stage, its application is reflected in Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. At the prosecution stage, it is regulated under Prosecutor's Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice.

This positive legal framework shows that legal validity in restorative justice is not formed by a single institution but through a distribution of authority involving the police, the prosecution service, and the courts. The police function as gatekeepers at the investigation stage, the prosecution service acts as case controller at the prosecution stage, and the courts provide judicial control at the trial stage. Therefore, P1 is fulfilled when it is applied by authorized institutions, within legally recognized procedures, and in accordance with the legal requirements governing case resolution or case termination.

The second stage examines normative fidelity (P2). This stage is the most important part of the analytical model because it evaluates whether restorative justice remains faithful to its normative purpose. In this article, normative fidelity is assessed through several indicators: concrete restoration for the victim, acknowledgment of responsibility by the offender, victim participation free from pressure, proportional community involvement, guarantees of non-repetition, offender reintegration, protection of the public interest, and outcomes that are not limited to formal peace agreements. These indicators are derived from the normative

understanding of restorative justice as a process of repairing harm and restoring disrupted social relations (Bazemore, 2001; Braithwaite, 2002; Zehr, 2002).

Normative fidelity is categorized as strong when its application remains aligned with its normative purpose as a mechanism for restoring social relations. It is categorized as distorted when there is a limited deviation, for example when the practice remains within the restorative legal framework but its orientation begins to shift toward agreement-based case resolution. It is categorized as weak when the exercise of authority is no longer oriented toward restorative purposes, but has fully shifted toward pragmatic, instrumental, or opportunistic ends. Thus, P2 has a more complex evaluative spectrum than P1.

Normative fidelity is distorted when restorative justice is reduced to a bilateral agreement between offender and victim, when compensation is treated as the sole measure of restoration, when victim consent is obtained under social or familial pressure, when the community is excluded from the process, or when the institution does not evaluate whether the offender genuinely acknowledges responsibility. In such circumstances, the practice may still satisfy legal validity, but its restorative orientation is displaced by the pragmatic logic of case resolution.

The third stage examines public rational justification (P3). This stage assesses whether the institutional decision can be justified rationally, transparently, and coherently. In restorative justice practices, public rational justification requires institutions to provide reasons explaining why the case is eligible for resolution through this mechanism, why the restoration achieved is considered sufficient, why the victim is adequately protected, why offender responsibility has been meaningfully addressed, and why the public interest is not sacrificed. Thus, public rational justification is not the same as public approval. It is an assessment of the quality of institutional reasoning.

P3 is categorized as strong when institutional argumentation satisfies normative coherence, logical consistency, argumentative transparency, rational accessibility, and resilience to rational evaluation. It is categorized as apparently strong when institutional argumentation satisfies the formal structure of rationality, but has not been substantively verified against the full normative orientation. In other words, an apparently strong P3 does not mean that the argumentation is false or invalid; rather, it indicates that the argumentation appears coherent at the surface level but has not been adequately tested against normative fidelity. P3 is categorized as weak when institutional argumentation is not coherent with P2, is contradictory, lacks transparency, or fails to withstand rational evaluation.

In distorted restorative justice practices, P3 may still appear strong because the decision is framed through the language of peace, efficiency, reconciliation, and procedural compliance. However, such justification remains at the surface level if it does not explain how the outcome of case resolution fulfills the normative purposes of restorative justice. When public rational justification is detached from normative fidelity, it becomes a formal narrative rather than a substantive justification.

The analytical model can be summarized as follows:

Restorative Justice Practice → Test of Legal Validity (P1) → Test of Normative Fidelity (P2) → Test of Public Rational Justification (P3) → Legitimacy Diagnosis

This sequence is analytical, not strictly linear. The model does not assume that legitimacy develops through fixed stages. Rather, it provides a structured way to diagnose the configuration of legitimacy in a given restorative justice practice. The final diagnosis is determined by the relational condition among P1, P2, and P3.

Table 1.
Legitimacy Diagnosis Matrix in the Three-Pillar Institutional Legitimacy Framework

P1: Legal Validity	P2: Normative Fidelity	P3: Public Rational Justification	Configuration
Strong	Strong	Strong	Substantive Legitimacy
Strong	Distorted	Appears Strong	Procedural Pseudo-Ethical Legitimacy
Strong	Weak	Weak	Structural Pseudo-Ethical Legitimacy
Weak	Weak	Weak	Collapse of Legitimacy

Source: Author's conceptual construction.

The first configuration, substantive legitimacy, occurs when the practice is legally valid, normatively faithful, and publicly justifiable. In this configuration, legal authority is exercised consistently with restorative purposes, and the reasons for case resolution can be rationally defended.

The second configuration, procedural pseudo-ethical legitimacy, occurs when legal validity remains strong, normative fidelity is distorted, and public rational justification appears strong only at the surface level. This configuration is the main focus of this article. It describes a condition in which restorative justice still has a legal basis and is procedurally acceptable, but its orientation shifts from restoring social relations toward case negotiation. In this condition, legitimacy persists because it is supported by legality and the formal structure of argumentation, but its normative depth begins to thin out.

The third configuration, structural pseudo-ethical legitimacy, occurs when legal validity remains formally present, but normative fidelity and public rational justification are weakened. In this configuration, the institution continues to rely on formal legality, but its substantive and rational foundations are significantly weakened. This condition can be understood as a legitimacy crisis rather than a collapse of legitimacy, because P1 remains fulfilled.

The fourth configuration, collapse of legitimacy, occurs when legal validity, normative fidelity, and public rational justification are all weak. In this condition, institutional action is not only normatively defective but also lacks the legal and rational foundations required for legitimacy. The important distinction between structural pseudo-ethical legitimacy and collapse of legitimacy lies in P1. In structural pseudo-ethical legitimacy, the action remains legal but is substantively empty; in collapse of legitimacy, the action loses legality, so the structure of legitimacy cannot be formed.

This matrix shows that legitimacy is not a binary concept. A legally valid restorative justice practice does not automatically produce substantive legitimacy. The decisive issue is whether legal authority is exercised faithfully to the normative purposes of restorative justice and whether the resulting decision can be rationally justified. Therefore, the future of this mechanism should not be measured merely by the expansion of its formal legal basis, but by its capacity to preserve normative fidelity. Without such normative fidelity, the expansion of legality will only reproduce pseudo-ethical legitimacy in an increasingly institutionalized form.

2. Discussion

a. Legal Validity, Fragmented Authority, and the Limits of Formal Institutionalization in Indonesian Positive Law

The formal legal basis of restorative justice in Indonesia indicates that this mechanism has moved beyond an informal or purely discretionary practice. It has been incorporated into the institutional design of the criminal justice system and operates across different stages of the legal process. At the investigation stage, its application is grounded in Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. At the prosecution stage, it is regulated under Prosecutor's Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice. At the adjudication stage, the Supreme Court has issued Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. This institutional design is further grounded in Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code, both of which provide the statutory framework within which those sectoral regulations now operate, as well as Supreme Court Circular Letter Number 1 of 2026 concerning Guidelines for the Implementation of the 2023 Criminal Code and the 2025 Criminal Procedure Code. In this sense, the mechanism is no longer external to the criminal justice system, but has become part of its formal institutional structure.

A closer examination of Chapter IV of Law Number 20 of 2025 — comprising Articles 79 through 88 — is necessary to assess the content and scope of the statutory framework that now underpins restorative justice in Indonesia. Article 79 establishes the normative purpose of the restorative justice mechanism as the restoration of the victim's original condition, encompassing pardon, the return of goods obtained through the offense, the reimbursement of medical and psychological treatment costs, compensation for other losses suffered by the victim, the repair of damage caused by the offense, and the payment of damages. Any such restoration must be formalized in a written agreement to be fulfilled within seven days. The withdrawal of a report or complaint may only take place after the perpetrator has fully complied with the agreement, and once the agreement has been fulfilled in its entirety, the case must be terminated and confirmation sought from the court. If the perpetrator fails to fulfill the agreement within the prescribed period, the investigator is required to prepare an official record documenting the parties' identities, the content of the agreement, evidence of partial or full performance, and the reasons for non-performance — a record that forms an inseparable part of the case file and serves as the basis for continuing the criminal process. This provision is normatively significant because it establishes that the restorative justice mechanism does not produce a unilateral and unconditional closure of proceedings: failure to honor an agreement carries structured procedural consequences that redirect the case back into the ordinary criminal process. Article 79 further confirms that the mechanism operates across all four stages of the criminal process: preliminary investigation, investigation, prosecution, and examination at trial.

Article 80 sets out the eligibility conditions: the offense must carry a maximum penalty of a fine in category III or imprisonment of up to five years, must be a first-time offense, and must not constitute a repetition of a criminal act, except for offenses punishable only by a fine or offenses committed through negligence. Article 80 also provides that even before a criminal offense has been formally identified, a restorative justice mechanism may be applied at the preliminary investigation stage in the form of a peace agreement between the perpetrator and the victim, based on the victim's report. Article 81 governs the procedural initiation of the mechanism, permitting either a request submitted by the perpetrator, suspect, accused, or their families, or by the victim or the victim's family, or an offer made by the investigator,

preliminary investigator, prosecutor, or judge — subject, in both cases, to the absolute requirement that the process proceeds without coercion, intimidation, deception, threats of violence, violence, torture, or treatment that degrades human dignity toward the suspect, accused, victim, or their families. Article 82 enumerates the categories of offenses excluded from the mechanism, comprising offenses against state security, offenses against a friendly state or its head of state and their representatives, offenses against public order, offenses against morality, terrorism, corruption, sexual violence, offenses carrying a sentence of five years' imprisonment or more unless committed through negligence, offenses against life, offenses carrying a statutory minimum sentence, certain offenses that are highly dangerous or harmful to society, and narcotics offenses with the exception of those committed by personal users or abusers.

Articles 83 and 84 regulate the mechanism at the preliminary investigation and investigation stages separately: at the preliminary investigation stage, the preliminary investigator issues a notice of cessation of preliminary investigation based on a written settlement agreement signed by the perpetrator, victim, and preliminary investigator; at the investigation stage, the investigator issues a notice of cessation of investigation based on a corresponding agreement signed by the perpetrator, victim, and investigator, which must be communicated to the prosecutor and submitted for confirmation by the head of the district court within three days. Articles 85 and 86 govern the mechanism at the prosecution stage in parallel terms: a written settlement agreement before the prosecutor, signed by the suspect, victim, and prosecutor, forms the basis for issuing a notice of cessation of prosecution, which must be submitted for judicial confirmation by the head of the district court within three days, with that confirmation then communicated by the prosecutor to the investigator. Article 87 provides that if the mechanism cannot be applied at any of the preceding stages under Articles 79 through 86, the application of restorative justice may still proceed at the trial stage through the court's judgment and the enforcement of that judgment. Article 88 mandates that further implementing provisions be established by Government Regulation.

Two further provisions of Law Number 20 of 2025 are directly relevant to the assessment of legal validity in this article. Article 361 establishes the transitional arrangements: criminal cases already in the process of investigation or prosecution at the time of the Law's entry into force are to be completed under the prior Criminal Procedure Code (Law Number 8 of 1981), while cases whose investigation or prosecution has not yet commenced, and cases that have been submitted to court but in which examination of the accused has not yet begun, fall under the new Law. Article 367 operates as a conflict clause: all provisions of criminal procedure legislation that are inconsistent with Law Number 20 of 2025 are declared inapplicable unless regulated by statute. This clause applies to all three sectoral regulations that previously served as the legal foundation for restorative justice, irrespective of the different bases of authority from which each was issued. Police Regulation Number 8 of 2021 was issued based on the police authority derived from Articles 16 and 18 of Law Number 2 of 2002 concerning the Indonesian National Police — not as an implementing instrument of the former Criminal Procedure Code. Prosecutor's Regulation Number 15 of 2020 was issued on the combined basis of Law Number 8 of 1981 and Law Number 16 of 2004 concerning the Prosecution Service. Supreme Court Regulation Number 1 of 2024 was issued with reference to both Law Number 8 of 1981 and Law Number 1 of 2023 concerning the Criminal Code, placing it in a position that spans two legal regimes. All three regulations, notwithstanding their different bases of authority, are now subject to Article 367 as the conflict clause: each remains in force to the extent that its provisions are not inconsistent with Law Number 20 of 2025.

The examination of such consistency is not speculative. Prosecutor's Regulation Number 15 of 2020 prescribes a threshold requiring that the value of the evidence or the loss caused by the offense must not exceed IDR 2,500,000 as one of the eligibility conditions (Article

5(1)(c)), whereas Article 80 of Law Number 20 of 2025 contains no equivalent monetary ceiling. Supreme Court Regulation Number 1 of 2024 prohibits the application of the mechanism where a power imbalance relation exists between the parties (Article 6(2)(b)), a condition that is not explicitly addressed in Articles 79 through 82 of Law Number 20 of 2025. Prosecutor's Regulation Number 15 of 2020 also excludes all narcotics offenses and environmental offenses from the mechanism (Article 5(8)), whereas Article 82 of Law Number 20 of 2025 makes an exception for personal users or abusers of narcotics. These are not merely technical variations; they represent substantive inconsistencies that require resolution — either through the Government Regulation mandated by Article 88, or through institutional interpretation that gives primacy to the statutory provisions. Pending the issuance of that Government Regulation, the three sectoral regulations continue to occupy a transitional operative role within the existing legal framework. This normative architecture — a statutory framework in Chapter IV flanked by Articles 361 and 367 — confirms that legal validity under P1 is now anchored at the statutory level, with the sectoral regulations functioning within that framework to the extent of their consistency with it, pending comprehensive harmonization through implementing regulation.

From the perspective of legal validity, these developments show that the first pillar of institutional legitimacy is relatively strong. Legal validity is fulfilled when an institutional action has a recognized legal basis, is conducted by an authorized institution, follows legally prescribed procedures, and produces a legally recognizable consequence. This understanding is consistent with the idea of legal-rational authority, in which institutional power obtains its formal validity from legally recognized authority and procedures (Weber, 1978). It also corresponds to the view that legal validity is an institutional quality grounded in the recognition of legal norms and the institutional conditions through which those norms operate (Ehrenberg, 2020; Raz, 2019). In the Indonesian context, the police, the prosecution service, and the courts each exercise authority at different procedural stages. The police act as the initial gatekeeper at the investigation stage; the prosecution service determines whether prosecution may be terminated under specific legal requirements; and the courts provide a form of judicial control when cases enter the adjudicative stage. This distribution of authority shows that the formal legality of the mechanism is not concentrated in a single institution but is instead fragmented across the criminal justice process.

This fragmentation explains why the practice may appear legally stable even when its normative orientation remains open to question. At the level of P1, legality may be assessed through several indicators: institutional authority, procedural compliance, case eligibility, victim consent, restoration of harm, excluded offenses, supervisory control, and the legal form of case termination or settlement. When these elements are fulfilled, the institutional action may be regarded as legally valid. Accordingly, a settlement or termination of proceedings under this mechanism may remain valid within the legal system as long as it is conducted by an authorized institution and complies with the applicable procedural requirements. However, legal validity should be understood only as the minimum threshold of legitimacy, not as its complete fulfillment. Formal legality may validate the exercise of authority, but it does not necessarily guarantee that such authority remains substantively justified (Beetham, 1991; Dyzenhaus, 1994, 2001; Waldron, 2019).

This distinction is crucial because full institutional legitimacy cannot be reduced to legality alone. A legally valid decision may still be normatively problematic if it treats peace, compensation, or case termination as the final measure of success without examining whether the victim has been substantively restored, whether the offender has meaningfully acknowledged responsibility, whether social relations have been repaired, and whether the public interest has been preserved. The restorative paradigm is not merely concerned with settlement but with repairing harm, rebuilding responsibility, restoring social relations, and

involving affected communities in the process of justice (Braithwaite, 2002; Dzur & Olson, 2004; Zehr, 2002). Therefore, P1 provides the formal foundation of authority, but it cannot by itself resolve the deeper question of normative fidelity.

A further problem arises from the design of Indonesian positive law itself. Although the Police Regulation, Prosecutor's Regulation, Criminal Code, Criminal Procedure Code, Supreme Court Regulation, and Supreme Court Circular Letter provide legal and procedural foundations for the use of this mechanism, their regulatory orientation tends to emphasize authority, formal requirements, agreement between the parties, fulfillment of certain obligations, and the legal form of case settlement or termination. The restoration of social relations, which constitutes the normative core of the restorative idea, has not yet been strongly formulated as a substantive indicator that must be examined in every application. In other words, positive law more clearly regulates when, by whom, and through what procedure the mechanism may be used but does not yet fully explain how restoration of social relations should be assessed, verified, and made determinative in evaluating the success of case resolution.

This limitation matters because the normative design of positive law may shape the direction of institutional practice. If regulation places greater emphasis on peace, agreement, compensation, or case termination than on the assessment of victim recovery, offender accountability, community involvement, guarantees of non-repetition, and protection of the public interest, legal practice may follow the same orientation. In such a condition, the reduction of the restorative mechanism into agreement-based case settlement does not arise solely as a deviation in practice. It may also reflect the consequence of a positive legal framework that has not yet fully operationalized its restorative purpose. This concern is consistent with studies showing that the institutionalization of restorative mechanisms within formal legal systems may be accompanied by co-option, compromise, and pragmatic pressures that shift their normative orientation (Suzuki, 2023; Suzuki & Wood, 2017). This is also consistent with the argument that practices carrying the restorative label may be mischaracterized when they no longer operate within the normative horizon of social restoration (Schiff & Green, 2025).

The Indonesian framework therefore presents a paradox. On the one hand, the expansion of formal regulation strengthens legal certainty and provides institutional pathways for resolving cases outside the conventional punitive model. On the other hand, the same expansion may produce a risk of procedural formalism when legal actors treat the mechanism primarily as an administrative route for settling or terminating cases. Similar tendencies have been identified in the Indonesian context, where distorted practices may reduce this mechanism into agreement-based case disposal without ensuring the substantive fulfillment of restoration of social relations (Noor et al., 2025). The stronger the legal basis becomes, the more urgent it is to examine whether implementation remains oriented toward the restoration of social relations rather than merely toward agreement-based settlement.

This point provides the basis for the next stage of analysis. Since P1 is relatively strong within the Indonesian legal framework, the legitimacy problem does not primarily arise from the absence of law. It arises from the possibility that legality continues to operate while the substantive orientation of the mechanism shifts. Such a condition allows institutional action to remain formally valid while becoming vulnerable to normative distortion. The following section therefore examines how a legally valid agreement-based settlement may illustrate the risk of distortion when the focus moves from restoration of social relations toward case negotiation.

b. Conceptual Illustration: Agreement-Based Settlement, Normative Distortion, and Surface-Level Public Justification

To make the analytical problem more concrete, this section uses a conceptual illustration drawn from a widely discussed public debate surrounding the application of a restorative mechanism in a defamation-related case. The case originated from public discourse concerning allegations about Joko Widodo's allegedly falsified diploma. In its subsequent development, the issue led to legal proceedings because certain parties were considered to have made statements that harmed another party's reputation. Within this context, debate emerged over the possibility of resolving the case through a restorative mechanism, particularly because the suspects were said to have received forgiveness from the complainant and were therefore considered able to pursue settlement outside the ordinary criminal process. This illustration is not used to assess the truth or falsity of the diploma allegation, nor to determine the criminal responsibility of the parties involved. It is used only to demonstrate a broader conceptual problem: how a legally valid mechanism may risk being understood as agreement-based case negotiation when its orientation shifts from substantive restorative purposes toward settlement between parties.

In this type of situation, a case may be directed toward restorative settlement when there is an apology, forgiveness, willingness to reconcile, or another form of agreement between the parties involved. Formally, such a settlement may appear valid because it is conducted within the authority of the relevant institution, follows available procedures, obtains the consent of the parties concerned, and produces a legally recognizable consequence. At this level, the first pillar, namely legal validity, appears to be satisfied. The problem does not lie in whether the mechanism has a legal basis, but in whether the process remains faithful to the normative purposes that justify it: victim restoration, offender accountability, restoration of social relations, free participation of the parties, proportionate community involvement, social reintegration, guarantees of non-repetition, and protection of the public interest.

The main difficulty arises when forgiveness or a peace agreement is treated as the primary measure of success. Within a restorative framework, forgiveness and reconciliation may indeed constitute important outcomes, but they do not in themselves prove that restorative purposes have been achieved. Forgiveness from the complainant does not necessarily show that harm has been substantively repaired, that the offender has meaningfully acknowledged responsibility, that disrupted social relations have been restored, or that the public interest has been preserved. The restorative paradigm is not merely concerned with case termination; it is also concerned with repairing harm, rebuilding offender accountability, involving affected communities, promoting social reintegration, and restoring relations damaged by criminal conduct (Braithwaite, 2002; Dzur & Olson, 2004; Zehr, 2002).

This illustration shows that the risk of distortion emerges when the restorative mechanism is reduced to a process of obtaining forgiveness or reaching an agreement. If institutions merely assess the existence of an apology, forgiveness, reconciliation, or compensation without examining the victim's needs, the quality of the offender's responsibility, the social impact of the conduct, community involvement, and guarantees of non-repetition, the process begins to shift from social restoration toward case negotiation. In such a situation, the practice may still carry a restorative label, but its operational logic moves closer to case disposal than to substantive restoration.

Moreover, this type of settlement process must ensure that consent, forgiveness, or willingness to reconcile is genuinely given freely. A restorative mechanism cannot be considered faithful to its normative purposes if the complainant or victim is subject to social pressure, family pressure, institutional pressure, or public-opinion pressure to forgive and accept reconciliation. The same applies to the suspect or offender. Acknowledgment of responsibility, apology, and willingness to fulfill certain obligations must arise from a genuine

commitment to repair harm, not merely from pressure to avoid the criminal process. Freedom from pressure is therefore an important condition to prevent the process from turning into a formal transaction that appears peaceful but lacks restorative depth.

At this point, the analogy with negotiated justice must be used carefully. The purpose is not to equate the restorative mechanism with plea bargaining. Plea bargaining primarily concerns negotiation over guilt, charges, or penal consequences, whereas the restorative model is normatively concerned with repairing harm and restoring social relations (Miceli, 2019; Zehr, 2002). The analogy is used only to show that when forgiveness and agreement become the dominant measures of success, a process originally intended to restore social relations may adopt the logic of negotiated case disposal.

The same pattern also appears at the level of public rational justification. A decision to resolve a case through this mechanism may appear persuasive because it is framed through the language of peace, reconciliation, efficiency, forgiveness, and consent of the parties. Such a narrative is easily accepted because it creates the impression that the conflict has ended and that the law has operated in a humane manner. However, this appearance does not indicate that P3 has been substantively fulfilled. Public rational justification requires more than an appealing narrative of settlement; it requires reasons that can be rationally tested and remain coherent with the normative purposes of the mechanism. Institutions must be able to explain why the settlement is normatively sufficient: why the victim is considered restored, why the offender's responsibility is meaningful, why the parties' consent is free from pressure, why the public interest is not sacrificed, and why the settlement does not merely shift the burden of resolution onto the weaker party. Without such reasons, P3 operates only as surface-level justification: it appears publicly acceptable but lacks sufficient normative depth.

Thus, this illustration reveals a configuration in which legal validity remains strong, while normative fidelity begins to be distorted and public rational justification remains stable only at the surface level. This configuration provides the entry point for the formation of pseudo-ethical legitimacy. Institutional action remains formally valid and may appear rational in the public sphere, yet its substantive foundation becomes fragile when the process no longer fully reflects the restorative purposes that justify it. The next section develops this argument by analyzing how the shift from social restoration toward case negotiation constitutes a distortion of normative fidelity.

c. From Social Restoration to Case Negotiation: Normative Fidelity and Public Rational Justification

The preceding analysis shows that the principal problem of restorative justice in Indonesian criminal justice does not lie primarily in the absence of legal validity. As previously explained, this mechanism has obtained a relatively strong legal foundation and operates across different institutional stages of the criminal process. The deeper problem emerges when a legally valid mechanism begins to operate according to the logic of agreement-based case disposal rather than the logic of social restoration. At this point, the analysis must shift from legal validity to normative fidelity and public rational justification.

Normative fidelity refers to the extent to which the exercise of institutional authority remains faithful to the normative purpose that justifies that authority. In the context of restorative justice, this normative purpose is not limited to case termination, peace between the parties, or the achievement of an agreement. Its normative core lies in the restoration of social relations disrupted by criminal conduct through the repair of harm, offender accountability, victim participation, and social reintegration (Braithwaite, 2002; Zehr, 2002). Restorative justice must therefore be understood as a normative framework for responding to crime as relational harm, not merely as an administrative mechanism for closing cases.

Within this framework, concrete restoration for the victim, meaningful acknowledgment of responsibility by the offender, free and informed victim participation, proportional community involvement, guarantees of non-repetition, social reintegration, and the protection of the public interest become important indicators of normative fidelity. Community involvement, for instance, is not merely an additional or decorative element. It is part of the restorative orientation because crime affects not only the relationship between offender and victim, but also the broader social relations in which the harm occurs (Dzur & Olson, 2004). Accordingly, a practice may satisfy procedural requirements and still experience normative distortion if these restorative elements are not substantively examined.

The shift from social restoration to case negotiation occurs when agreement becomes the dominant measure of success. In such a situation, the institutional process is no longer primarily directed toward repairing harm or restoring damaged relations, but toward producing a settlement that allows the case to be resolved or terminated. Peace, forgiveness, compensation, or withdrawal of a complaint may remain relevant within a restorative framework, but they cannot be treated as conclusive proof that restoration has occurred. These elements are possible outcomes of a restorative process, not substitutes for the process itself. The evaluation of restorative justice must therefore focus on the quality of restoration rather than merely on the existence of formal reconciliation or a peace agreement (Beven et al., 2005).

This reduction indicates a distortion of normative fidelity. The legal authority exercised by criminal justice institutions remains formally valid, yet its substantive orientation begins to move away from the purpose that gives restorative justice its normative meaning. Institutions may still claim that a case has been peacefully resolved, that the parties have reached an agreement, and that legal requirements have been fulfilled. However, if the process does not examine whether the victim's harm has been repaired, whether the offender has genuinely accepted responsibility, whether consent was given freely and without pressure, and whether the public interest remains protected, the practice no longer fully reflects the restorative purpose that justifies it. In this respect, offender responsibility and victim protection constitute normative limits that cannot be replaced by the mere formal achievement of settlement (Ashworth, 2002).

This issue is particularly important because restorative justice is vulnerable to being absorbed into the administrative logic of criminal case management. Once institutionalized, the mechanism may be valued for its ability to reduce caseloads, accelerate case resolution, and provide more flexible procedural alternatives. These functions are not inherently problematic. Efficiency and responsiveness may contribute to a more humane criminal justice system. The problem arises when efficiency becomes the dominant rationale and restoration becomes secondary. In modern criminal justice systems, managerial logic may encourage institutions to measure success through case processing and rapid settlement rather than through the quality of substantive justice (Kohler-Hausmann, 2014, 2019).

The distinction between social restoration and case negotiation is therefore essential. Social restoration is oriented toward repairing the moral, social, and relational consequences of crime. It requires attention to the victim's needs, the offender's responsibility, the affected community, and the broader public interest. In contrast, case negotiation is oriented toward reaching an agreement that enables institutional closure. Its primary concern is settlement, not necessarily restoration. Although both may involve dialogue and agreement, their normative orientations differ. Restorative justice becomes distorted when the latter logic replaces the former.

The risk of this shift has been discussed in the literature through critiques of the institutionalization of restorative justice within formal legal systems. Restorative justice may lose part of its critical and transformative force when it is absorbed into formal criminal justice

institutions and becomes vulnerable to the critique of informalism, especially when informality is used to justify settlement without adequate safeguards (McEvoy, 2002). Institutionalization may expand the use of restorative justice, but it may also generate co-option, compromise, and pragmatic pressures that displace its restorative orientation (Suzuki, 2023; Suzuki & Wood, 2017). Practices that continue to employ restorative terminology may therefore be mischaracterized if they no longer operate within the normative horizon of social restoration (Schiff & Green, 2025).

The analogy with negotiated justice or plea bargaining must be used carefully. The purpose is not to equate restorative justice with plea bargaining. Plea bargaining primarily concerns negotiation over guilt, charges, or penal consequences, whereas restorative justice is normatively concerned with repairing harm and restoring social relations. Nevertheless, the analogy remains useful to show that when agreement becomes the dominant measure of success, a mechanism originally directed toward restoration may move closer to the logic of negotiated case disposal (Bibas, 2011; Miceli, 2019).

This distortion also affects public rational justification. Within the Three-Pillar Institutional Legitimacy Framework, public rational justification does not refer to public approval or sociological acceptance. Rather, it refers to the ability of institutional action to be justified through reasons that are transparent, coherent, and normatively connected to the purpose of the mechanism. This understanding is consistent with the ideas of public reason and discourse theory, which place argumentative rationality at the center of the legitimacy of institutional action in the public sphere (Gordon Finlayson, 2021; Habermas, 1996; Rawls, 1993).

In restorative justice, institutions must be able to explain why a case is eligible for restorative resolution, why the restoration achieved is considered sufficient, why the victim is adequately protected, why the offender's responsibility is meaningful, and why the public interest is not sacrificed. Public rational justification therefore cannot be reduced to the narrative that the parties have reconciled or that the case has been resolved. It requires reasons that can be rationally tested and remain coherent with the restorative purpose that justifies the use of the mechanism.

When normative fidelity is distorted, public rational justification also becomes fragile. A decision may appear rational because it is framed through the language of peace, reconciliation, efficiency, consent, or humanity. These narratives are persuasive at the surface level because they suggest that conflict has ended and that the criminal process has avoided excessive punishment. However, such narratives do not automatically constitute substantive justification. They become normatively adequate only when supported by reasons showing that restorative purposes have actually been fulfilled.

Surface-level public rational justification therefore emerges when institutional reasoning relies on the appearance of peace without demonstrating the substance of restoration. A case termination may be publicly presented as restorative because the parties have reconciled, compensation has been paid, or the victim has forgiven the offender. Yet if the institution does not explain the quality of reconciliation, the voluntariness of forgiveness, the adequacy of compensation, the offender's responsibility, and the protection of the public interest, the justification remains incomplete. It appears coherent, but only at the level of formal narrative. At this point, institutional legitimacy may be maintained through the appearance of stability, procedural compliance, and symbols of rationality, even though its normative depth has weakened (Ashforth & Gibbs, 1990; Tyler, 2006).

At this point, it is important not to confuse public rational justification with public acceptance. A restorative justice decision may be accepted or welcomed by society because it appears peaceful, efficient, or humane. However, such acceptance does not necessarily demonstrate that the decision is rationally justified. What matters for P3 is not whether the

settlement is socially approved, but whether the institutional reasons supporting it can explain the adequacy of restoration, the voluntariness of victim participation, the offender's accountability, the protection of the public interest, and the normative coherence of the decision with the restorative purpose of the mechanism. In this sense, P3 functions as a normative-discursive test of institutional justification, not as a sociological indicator of public approval (Buchanan, 2025; Habermas, 1996; Rawls, 1993).

The relationship between normative fidelity and public rational justification must therefore be understood as structural. P2 provides the substantive content that gives normative depth to P3. If P2 is strong, public justification can be built upon reasons genuinely connected to restoration. If P2 is distorted, P3 may still appear stable, but its stability depends on formal rhetoric rather than substantive reasoning. In this sense, a distorted restorative practice may produce a form of justification that appears publicly acceptable but remains normatively shallow.

This explains why a legally valid restorative mechanism may still generate legitimacy problems. Legal validity enables institutions to act; normative fidelity determines whether such action remains substantively faithful to restorative purposes; and public rational justification determines whether the reasons for that action can be rationally defended. This multidimensional understanding is consistent with the view that legitimacy cannot be reduced to a single foundation, whether formal legality, social acceptance, or procedural justification alone (Beetham, 1991; Breakey, 2021; Buchanan, 2025). When the mechanism shifts from social restoration to case negotiation, P1 may remain strong, but P2 becomes distorted and P3 only appears strong. This configuration does not indicate a collapse of legality; rather, it indicates a degradation of legitimacy.

The danger of this configuration lies in its appearance of success. Agreement-based settlement may look effective because it produces measurable outcomes: the case is resolved, the parties reconcile, compensation is paid, and the criminal process is discontinued. These outcomes may create the impression that justice has been achieved. Yet restorative justice cannot be assessed merely by institutional closure. It must be assessed by whether the process has restored relations, repaired harm, protected the victim, required responsibility from the offender, involved the community where appropriate, and preserved the public interest.

Thus, the transformation from social restoration to case negotiation should not be understood merely as a practical variation in the implementation of restorative justice. It is a normative distortion that affects the structure of institutional legitimacy. The mechanism remains legally recognizable, but its ethical-substantive foundation becomes weakened. Public justification remains possible, but only insofar as the language of peace and settlement can conceal the absence of deeper restorative verification. This is precisely the condition that prepares the ground for pseudo-ethical legitimacy.

Accordingly, the central challenge for Indonesian criminal justice is not only to strengthen the legal basis of restorative justice, but to ensure that every application of the mechanism is tested against its restorative purpose. Criminal justice actors must not treat agreement as the endpoint of analysis. They must examine whether the agreement reflects genuine restoration, whether victim participation is free, whether offender responsibility is meaningful, whether community involvement is proportional, and whether the outcome remains compatible with the public interest. Without this normative examination, the expansion of restorative justice may simply reproduce agreement-based case disposal under a restorative label.

d. Pseudo-Ethical Legitimacy and the Institutional Responsibility of Criminal Justice Actors

The preceding analysis has shown that the main difficulty in restorative justice does not arise simply from the absence of legal authority, but from the possibility that legal authority continues to operate while its restorative orientation becomes displaced. This condition should not be understood as a total collapse of legitimacy. Rather, it reflects a particular configuration within a broader spectrum of legitimacy. Legitimacy is not a binary condition in which institutional action is either fully legitimate or wholly illegitimate; it may appear in degrees, depending on the relationship between legality, normative purpose, and public justification (Brinkmann, 2025). Within this spectrum, pseudo-ethical legitimacy describes a condition in which legal validity remains strong, normative fidelity is distorted, and public rational justification appears stable only at the surface level.

This understanding is consistent with legitimacy research that treats legitimacy as a multidimensional problem of institutional justification, rather than as a single attribute reducible to formal legality, social acceptance, or procedural order alone (Agné, 2018). In this article, pseudo-ethical legitimacy is therefore not used as a rhetorical label but as a diagnostic category. It identifies the situation in which an institution continues to act lawfully and procedurally, but the normative purpose that gives ethical meaning to that action has been weakened. In restorative justice, this occurs when the mechanism remains legally available and procedurally recognized, yet its operation is increasingly directed toward agreement-based case disposal rather than the restoration of social relations.

This diagnosis must be distinguished from legitimacy crisis. A legitimacy crisis refers to a more serious condition in which the justificatory foundation of an institution becomes deeply impaired or publicly contested (Habermas, 1975; Reus-Smit, 2007). Pseudo-ethical legitimacy is different because the institutional order has not necessarily entered a visible crisis. The law continues to operate, procedures remain available, and institutional decisions may still appear persuasive. Its danger lies precisely in this apparent stability. The practice does not fail openly; instead, it continues to function while its normative depth gradually weakens. In this sense, pseudo-ethical legitimacy may precede or contribute to legitimacy erosion, but it is not identical to a full legitimacy crisis. The distinction between legitimacy, legitimation, erosion, and crisis is important because institutional authority may remain formally intact even when the normative grounds that sustain it become increasingly fragile (Wiesner & Harfst, 2019).

In the context of restorative justice, pseudo-ethical legitimacy emerges when agreement is treated as the dominant indicator of success. A case may be considered resolved because the parties reconcile, compensation is paid, forgiveness is expressed, or proceedings are terminated. These outcomes may be legally relevant, but they do not automatically establish substantive legitimacy. If they are not accompanied by an examination of victim restoration, offender accountability, free participation, community involvement, guarantees of non-repetition, and protection of the public interest, the mechanism shifts from social restoration toward case negotiation. The practice remains legally valid but its restorative claim becomes normatively thin.

This is why the institutional responsibility of criminal justice actors becomes central. Police, prosecutors, and judges should not be understood merely as procedural actors who apply rules, record settlements, or confirm case termination. They are responsible for maintaining the relationship between legal validity, normative fidelity, and public rational justification. Their task is not only to ensure that restorative justice has a legal basis, but also to ensure that its application remains faithful to restorative purposes and can be justified through normatively coherent reasons.

At the investigation stage, the police occupy an important gatekeeping position. They often determine whether a case will be directed toward restorative resolution or proceed through ordinary criminal procedure. This gatekeeping role gives the police significant discretion in shaping the practical meaning of restorative justice. Such discretion is not problematic in itself, but it becomes risky when exercised mainly to secure quick settlement, administrative closure, or caseload reduction. Police discretion must therefore be guided by substantive restorative indicators, including the voluntariness of the parties, the nature of the harm, the offender's acknowledgment of responsibility, and the adequacy of restoration.

At the prosecution stage, prosecutors function as case controllers. Their decision to terminate prosecution on restorative grounds has direct legal consequences, as it may prevent a case from proceeding to trial. For this reason, prosecutors must not treat peace agreements as sufficient in themselves. They must examine whether the agreement reflects genuine restoration, whether the victim's interests are protected, whether the offender's responsibility is meaningful, whether the outcome is proportionate, and whether the public interest supports termination. If prosecutorial discretion is exercised only to formalize agreement, the prosecution service risks maintaining legal validity while reproducing normative distortion.

At the adjudication stage, judges provide a form of judicial control. Their role is not limited to verifying procedural compliance. They must also ensure that restorative outcomes do not undermine the normative purposes of criminal justice. Judicial control is necessary because restorative justice, once absorbed into formal procedure, may become vulnerable to routinization. If judges examine only whether there is peace or formal consent, judicial oversight may strengthen procedural legality without correcting substantive distortion. Conversely, if judges examine the quality of restoration, the voluntariness of participation, and the compatibility of settlement with the public interest, judicial control can help prevent pseudo-ethical legitimacy.

The shared responsibility of these institutions is therefore to prevent restorative justice from becoming a mere administrative technique for disposing of cases. When police, prosecutors, and judges focus only on agreement, compensation, or procedural completion, they maintain P1 but fail to secure the deeper connection between P2 and P3. The criminal justice system may then appear humane, efficient, and responsive, while its restorative claim remains substantively underdeveloped. This is the institutional form of pseudo-ethical legitimacy: legality remains visible, but the ethical substance of restoration becomes weakened.

This risk is intensified by managerial pressures within criminal justice institutions. Modern criminal justice systems often face demands for efficiency, caseload reduction, and rapid case processing. These pressures may make restorative justice attractive because it provides a flexible route for resolving cases outside ordinary adjudication. Yet when the mechanism is valued primarily for its managerial utility, its normative orientation may be displaced. It becomes useful not because it restores social relations, but because it helps manage institutional burdens. Under such conditions, the language of restoration may conceal the logic of case disposal.

For this reason, reform should not be limited to expanding the legal basis of restorative justice or increasing the number of cases resolved through it. Legal expansion without normative safeguards may widen the space for pseudo-ethical legitimacy. The more frequently restorative justice is used without substantive assessment, the more deeply agreement-based case disposal may become institutionalized under a restorative label. What is needed, therefore, is not merely stronger legality, but stronger normative accountability.

Such accountability requires criminal justice actors to provide explicit reasons for restorative decisions. They must explain why a case is suitable for restorative resolution, what harm has been repaired, how the victim's interests have been protected, how the offender's

responsibility has been demonstrated, whether community involvement is necessary or appropriate, and why the outcome does not undermine the public interest. These requirements are not merely procedural additions; they are necessary to connect legal validity, normative fidelity, and public rational justification within a single structure of legitimacy.

The implication is that restorative justice must be evaluated not by the existence of agreement alone, but by the quality of restoration achieved through the process. A legally valid mechanism becomes substantively legitimate only when legal authority is exercised in fidelity to restorative purposes and supported by reasons that can be rationally defended. Without this alignment, restorative justice may remain institutionally valid but ethically thin.

Accordingly, the future of restorative justice in Indonesian criminal justice depends on the ability of criminal justice actors to move beyond formal institutionalization. Legal validity must be treated as the starting point of legitimacy, not its endpoint. Normative fidelity must become the central criterion for assessing whether a restorative mechanism has fulfilled its purpose. Public rational justification must require transparent and reasoned explanation, not merely the invocation of peace, efficiency, or agreement. Only through this alignment can restorative justice avoid becoming a negotiation-oriented mechanism for case disposal and remain faithful to its purpose as a mechanism for restoring social relations.

E. Conclusion

This article has argued that legally valid restorative justice may still produce legitimacy problems when its normative orientation shifts from the restoration of social relations toward a negotiation-oriented mechanism for case resolution. The central problem does not lie in the absence of a legal basis, since restorative justice in Indonesia has obtained formal recognition across different stages of the criminal justice process. Rather, the problem arises when legal authority is exercised primarily to secure agreement, forgiveness, compensation, or case termination without sufficiently examining whether substantive restoration has actually been achieved.

Through the Three-Pillar Institutional Legitimacy Framework, this article shows that such distortion produces pseudo-ethical legitimacy. In this configuration, legal validity (P1) remains strong because the practice is authorized by law and conducted through recognized procedures. However, normative fidelity (P2) becomes distorted when the process is no longer fully oriented toward victim restoration, offender accountability, community participation, social reintegration, and the protection of the public interest. Public rational justification (P3) may still appear strong at the surface level because the decision is framed through the language of peace, reconciliation, efficiency, and consent, but it lacks normative depth when those reasons are not connected to the substantive purposes of restorative justice.

Accordingly, reforming restorative justice cannot be achieved merely by expanding its legal basis or institutionalizing its use more broadly. What is required is the strengthening of normative fidelity as the central criterion for evaluating every restorative process. Criminal justice actors must assess not only whether an agreement exists, but whether the process genuinely fulfills victim restoration, meaningful offender accountability, free and informed participation, proportional community involvement, guarantees of non-repetition, social reintegration, and the public interest. Only through this alignment between legal validity, normative fidelity, and public rational justification can restorative justice avoid becoming case negotiation under a restorative label and remain faithful to its purpose as a mechanism for restoring social relations.

REFERENCES

- Agné, H. (2018). *Legitimacy in Global Governance Research* (Vol. 1). Oxford University Press. <https://doi.org/10.1093/oso/9780198826873.003.0002>
- Ashforth, B. E., & Gibbs, B. W. (1990). The Double-Edge of Organizational Legitimation. *Organization Science*, 1(2), 177–194. <https://doi.org/10.1287/orsc.1.2.177>
- Ashworth, A. (2002). Responsibilities, Rights and Restorative Justice. *British Journal of Criminology*, 42(3), 578–595. <https://doi.org/10.1093/bjc/42.3.578>
- Bazemore, G. (2001). Young People, Trouble, and Crime. *Youth & Society*, 33(2), 199–226. <https://doi.org/10.1177/0044118X01033002004>
- Beetham, D. (1991). *The Legitimation of Power*. Macmillan Education UK. <https://doi.org/10.1007/978-1-349-21599-7>
- Benuf, K., & Azhar, M. (2020). Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer. *Gema Keadilan*, 7(1), 20–33. <https://doi.org/10.14710/gk.2020.7504>
- Beven, J. P., Hall, G., Froyland, I., Steels, B., & Goulding, D. (2005). Restoration or Renovation? Evaluating Restorative Justice Outcomes. *Psychiatry, Psychology and Law*, 12(1), 194–206. <https://doi.org/10.1375/pplt.2005.12.1.194>
- Bhat, P. I. (2020). *Idea and Methods of Legal Research*. Oxford University Press. <https://doi.org/10.1093/oso/9780199493098.001.0001>
- Bibas, S. (2011). Regulating the Plea-Bargaining Market: From Caveat Emptor to Consumer Protection. *California Law Review*, 99(4), 1117–1146. <https://doi.org/10.15779/Z38811K>
- Braithwaite, J. (2002). *Restorative Justice & Responsive Regulation*. Oxford University Press.
- Breakey, H. (2021). Harnessing Multidimensional Legitimacy for Codes of Ethics: A Staged Approach. *Journal of Business Ethics*, 170(2), 359–373. <https://doi.org/10.1007/s10551-019-04270-0>
- Brinkmann, M. (2025). Degrees of Legitimacy. *Res Publica*, 31(1), 145–167. <https://doi.org/10.1007/s11158-024-09675-x>
- Buchanan, A. (2025). Normative and Sociological Legitimacy. In *The Oxford Handbook of Political Obligation* (pp. 25–32). Oxford University Press. <https://doi.org/10.1093/9780191968488.003.0003>
- Bulatović, A., & Fatić, A. (2024). The Vagaries of Restorative Justice: Borders Between Restorative Justice and Justice as Punishment. *Proceedings of the International Scientific Conference "Life in Prison: Criminological, Penological, Psychological, Sociological, Legal, Security, and Medical Issues,"* 85–91. <https://doi.org/10.47152/PrisonLIFE2024.21>
- Dyzenhaus, D. (1994). The Legitimacy of Law: A Response to Critics. *Ratio Juris*, 7(1), 80–94. <https://doi.org/10.1111/j.1467-9337.1994.tb00168.x>
- Dyzenhaus, D. (2001). Hobbes and the Legitimacy of Law. *Law and Philosophy*, 20(5), 461–498. <https://doi.org/10.1023/A:1017515528495>

- Dzur, A. W., & Olson, S. M. (2004). The Value of Community Participation in Restorative Justice. *Journal of Social Philosophy*, 35(1), 91–107. <https://doi.org/10.1111/j.1467-9833.2004.00218.x>
- Ehrenberg, K. M. (2020). The Institutionality of Legal Validity. *Philosophy and Phenomenological Research*, 100(2), 277–301. <https://doi.org/10.1111/phpr.12536>
- Gordon Finlayson, J. (2021). No proviso: Habermas on Rawls, Religion and Public Reason. *European Journal of Political Theory*, 20(3), 443–464. <https://doi.org/10.1177/1474885118804797>
- Habermas, J. (1975). *Legitimation Crisis*. Beacon Press.
- Habermas, J. (1996). *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. MIT Press.
- Kohler-Hausmann, I. (2014). Managerial Justice and Mass Misdemeanors. *Stanford Law Review*, 66(3), 611–694. <https://www.stanfordlawreview.org/print/article/managerial-justice-and-mass-misdemeanors/>
- Kohler-Hausmann, I. (2019). Managerial Justice. In *Misdemeanorland* (pp. 60–98). Princeton University Press. <https://doi.org/10.23943/princeton/9780691196114.003.0003>
- Malcai, O., & Levine-Schnur, R. (2014). Which Came First, the Procedure or the Substance? Justificational Priority and the Substance-Procedure Distinction. *Oxford Journal of Legal Studies*, 34(1), 1–19. <https://doi.org/10.1093/ojls/gqt032>
- Marzuki, P. M. (2022). The Essence of Legal Research is to Resolve Legal Problems. *Yuridika*, 37(1), 37–58. <https://doi.org/10.20473/ydk.v37i1.34597>
- McEvoy, K. (2002). Restorative Justice and the Critique of Informalism in Northern Ireland. *British Journal of Criminology*, 42(3), 534–562. <https://doi.org/10.1093/bjc/42.3.534>
- Miceli, T. J. (2019). Plea Bargaining: Negotiated Justice. In *The Paradox of Punishment* (pp. 97–117). Springer International Publishing. https://doi.org/10.1007/978-3-030-31695-2_5
- Noor, S., Banapon, K. I., & Levis, T. K. (2025). Distorted Practice of Restorative Justice in the Enforcement of Criminal Law in Indonesia. *Peradaban Hukum Nusantara*, 2(1), 17–33. <https://doi.org/10.62193/ze7dhp98>
- Rawls, J. (1993). *Political Liberalism*. Columbia University Press.
- Raz, J. (2019). The Law's Own Virtue. *Oxford Journal of Legal Studies*, 39(1), 1–15. <https://doi.org/10.1093/ojls/gqy041>
- Reus-Smit, C. (2007). International Crises of Legitimacy. *International Politics*, 44(2–3), 157–174. <https://doi.org/10.1057/palgrave.ip.8800182>
- Rossner, M., & Taylor, H. (2024). The Transformative Potential of Restorative Justice: What the Mainstream Can Learn from the Margins. *Annual Review of Criminology*, 7(1), 357–381. <https://doi.org/10.1146/annurev-criminol-030421-040921>
- Schiff, M., & Green, S. T. (2025). The Mischaracterization of Restorative Justice: Claims, Limits, and Potential. *The British Journal of Criminology*. <https://doi.org/10.1093/bjc/azaf077>

- Suzuki, M. (2023). Revisiting the Real Story of Restorative Justice in the Criminal Justice System: 20 Years On. *Canadian Journal of Criminology and Criminal Justice*, 65(2), 78–96. <https://doi.org/10.3138/cjccj.2022-0061>
- Suzuki, M., & Wood, W. R. (2017). Co-option, Coercion and Compromise: Challenges of Restorative Justice in Victoria, Australia. *Contemporary Justice Review*, 20(2), 274–292. <https://doi.org/10.1080/10282580.2017.1311194>
- Tiller, E., & Cross, F. B. (2005). *What is Legal Doctrine* (Public Law and Legal Theory Papers, Issue 41) [Working Paper]. Bepress Legal Repository. <https://law.bepress.com/nwwps-plltp/art41>
- Tyler, T. R. (2006). Psychological Perspectives on Legitimacy and Legitimation. *Annual Review of Psychology*, 57(1), 375–400. <https://doi.org/10.1146/annurev.psych.57.102904.190038>
- Waldron, J. (2019). *Rule by Law: A Much Maligned Proposition* (NYU School of Law, Public Law & Legal Theory Research Paper Series). Social Science Research Network. <https://doi.org/10.2139/ssrn.3378167>
- Weber, M. (1978). *Economy and Society: An Outline of Interpretive Sociology*. University of California Press.
- Wiesner, C., & Harfst, P. (2019). Legitimität Und Legitimation. In C. Wiesner & P. Harfst (Eds), *Legitimität und Legitimation: Vergleichende Perspektiven* (pp. 373–383). Springer Fachmedien Wiesbaden. https://doi.org/10.1007/978-3-658-26558-8_13
- Zehr, H. (2002). *The Little Book of Restorative Justice*. Good Books.