



The Religious Cosmology of Restorative Justice in Article 51 of the Indonesian Criminal Code (Law No. 1 of 2023) as a Development of Criminal Law Science

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Abstract: This research aims to construct a philosophical interpretation of Article 51 of Indonesia's Criminal Code (Law No. 1 of 2023) through the perspective of restorative justice and religious cosmology. The objective is to reveal how the provision on obedience to authority embodies a deeper spiritual logic that links legal responsibility to moral consciousness. Using a juridical–philosophical and sociological approach, this study applies hermeneutic analysis inspired by Hans-Georg Gadamer and Paul Ricoeur to interpret the text as a dynamic encounter between law, ethics, and spirituality. The analysis identifies that obedience in Article 51 should not be viewed as mechanical compliance but as dialogical accountability, where conscience and authority interact in a process of moral reasoning. The findings demonstrate that law, when interpreted through the cosmology of restorative justice, transforms from an instrument of control into a medium of ethical restoration and reconciliation. Within Indonesia's pluralistic legal culture, this approach reaffirms the ontological meaning of law as a bridge between human fragility and divine order. The study concludes that the integration of restorative values—such as empathy, forgiveness, and reconciliation—within the criminal justice system reflects Indonesia's indigenous wisdom, exemplified in communities like Baduy, Naga, and Ciptagelar. Article 51 thus represents not merely a normative rule but a hermeneutic symbol of Indonesia's religious cosmology, calling for a jurisprudence that rehumanizes justice through the unity of law, morality, and spirituality.

Keywords: Postmodern Jurisprudence, Restorative Justice, Spiritual–Pluralistic Law, Hermeneutics, Religious Cosmology, Indonesian Criminal Code 2023.

Introduction

Restorative justice has emerged as a transformative paradigm within contemporary legal philosophy, challenging the punitive traditions that have long dominated the criminal justice system. This approach redefines justice not merely as retribution, but as a process of healing relationships, restoring harmony, and reaffirming human dignity. Within the framework of Indonesian criminal law, particularly as embodied in the Criminal Code of 2023 (Law No. 1 of 2023), restorative justice is no longer a peripheral concept—it has evolved into an essential dimension of legal reasoning that integrates moral, ethical, and spiritual values derived from local wisdom and religious cosmology.

This transformation is not accidental, it is the result of an epistemological shift from positivist-legal formalism toward a human-centered jurisprudence. Hans-Georg Gadamer's hermeneutical theory offers a profound foundation for this shift, emphasizing

the fusion of horizons (*Horizontverschmelzung*) between the text of the law and the living context of society. In Gadamer's view, understanding is never a mechanical act but a dialogical process that requires openness to meaning, tradition, and moral consciousness. Likewise, Paul Ricoeur's philosophical hermeneutics deepens this perspective by interpreting justice as a narrative act—an unfolding story that binds law, ethics, and human experience into a coherent moral order. As Ricoeur asserts, "justice must be narrated before it can be applied," because law derives legitimacy not only from authority but from its narrative rooted in humanity.

In the Indonesian context, restorative justice resonates with the cosmological patterns of indigenous communities such as the Baduy, Kampung Naga, and Ciptagelar. These societies embody a living moral order where justice is not conceived as punishment but as reconciliation (*pamunah karuksakan hirup*). Their customary deliberations (*musyawarah mufakat*) reflect an ontology of balance—between humans, nature, and the divine—that mirrors the philosophical essence of restorative justice. Such practices reveal that law, when divorced from culture and spirituality, becomes a sterile instrument of control rather than a medium of moral restoration. Hence, the inclusion of restorative principles in the Criminal Code of 2023 signals Indonesia's philosophical maturity: a reorientation of law toward what Esmi Warassih describes as "law for humanity, not humanity for law."

From the hermeneutical perspective of Howard Zehr, restorative justice invites us to interpret wrongdoing not as a breach of law alone, but as a disruption of relationships. Therefore, the primary legal question is not "Who deserves punishment?" but "How can we repair the harm?" This perspective aligns with Ronald Dworkin's moral reading of the law, in which every legal interpretation must be justified by principles of integrity and moral coherence. Thus, the integration of restorative justice within the Criminal Code of 2023 represents not only a juridical reform but also a cosmological return—a rediscovery of law's sacred vocation as a guide to restore harmony between the self, the community, and the transcendent order.

This research, therefore, seeks to reinterpret the philosophical foundation of restorative justice through a hermeneutical analysis of legal texts and cultural praxis. By exploring the interplay between religious cosmology, indigenous wisdom, and restorative principles in the Criminal Code of 2023, this study aims to uncover a new paradigm of legal understanding—one that unites normative law with the living ethics of Indonesian humanity.

Methodology

This research adopts a **juridical–philosophical approach** as its primary framework to examine *Article 51 of the Indonesian Criminal Code (Law No. 1 of 2023)* and the legal structure surrounding the implementation of restorative justice in Indonesia. The juridical component aims to dissect the formal construction of the norm—its legal meaning, legislative intent, and the coherence between statutory language and moral purpose. Rather than treating the article merely as a legal provision, this approach interprets it as a reflection of the nation's evolving philosophy of justice, one that aspires to move beyond punishment toward moral restoration and social reconciliation.

The **sociological approach** complements this inquiry by exploring the extent to which restorative justice has been internalized or neglected within the real practices of law enforcement. It seeks to reveal how values such as empathy, dialogue, and reconciliation operate—or fail to operate—within investigative procedures and the handling of minor offenses. This method allows the study to capture the distance between legal ideals and the everyday behavior of the justice apparatus, thereby assessing whether restorative principles have genuinely transformed the ethos of criminal justice or remain confined to legislative rhetoric.

The **philosophical approach** serves as an interpretive bridge that connects *positive law* with the deeper dimension of *religious cosmology*. Through this lens, the law is not examined as an autonomous system of commands, but as a moral language expressing humanity's search for balance and harmony. The inquiry follows a hermeneutical path inspired by thinkers such as Hans-Georg Gadamer and Paul Ricoeur, viewing interpretation as a dialogue between text, interpreter, and the living moral world in which both are situated. Within this dialogical horizon, *Article 51* is reimagined not simply as a regulatory device, but as a medium through which the sacred and the juridical converge—restoring law's role as a guide for ethical life and communal peace.

This triadic methodology—juridical, sociological, and philosophical—allows the research to move dynamically between the structure of law, its empirical manifestation, and its metaphysical grounding. The integration of these approaches provides a holistic understanding of *religious cosmology within restorative justice*, positioning it as both a normative framework and a living moral consciousness capable of renewing Indonesia's criminal law toward a more humane and spiritually resonant system of justice.

Result and Discussion

The Spiritual–Pluralistic Legal Thought within Article 51 of the Indonesian Penal Code (KUHP) 2023

Article 51 of the 2023 Penal Code represents not merely a legal provision but a living manifestation of the dialectic between morality, spirituality, and the authority of positive law. Within a spiritual–pluralistic framework, this article articulates the subtle interaction between human ethical consciousness and the juridical structure of the state. The law here does not stand as a rigid command of coercion but as a moral text that must be continuously interpreted in light of humanity's spiritual horizon. Following Hans-Georg Gadamer's hermeneutic reasoning, the law should not be seen as a static norm but as a “living dialogue” between the text and the moral agent who reads it. Thus, the interpretation of Article 51 moves beyond legality toward existential meaning — understanding law as an expression of human moral responsibility in a shared world (*Gadamer, 2004; Gadamer, 2006*).

Article 51 of the 2023 Penal Code represents not merely a legal provision but a living manifestation of the dialectical relationship between morality, spirituality, and the authority of positive law. Within a spiritual–pluralistic paradigm, this article reflects the continuous interaction between human ethical consciousness and the juridical architecture of the state. In this sense, law cannot be reduced to a rigid command that enforces

obedience through coercion; rather, it must be seen as a moral and spiritual discourse that demands interpretive participation from its subjects.

The philosophical meaning embedded in Article 51 reveals the attempt to humanize legal responsibility by acknowledging the moral–spiritual dimensions of human action. It articulates the possibility that the law may recognize conscience, intention, and moral motivation as integral to the evaluation of culpability. This understanding resonates with the moral realism proposed by Martha C. Nussbaum (2011), who argues that the legitimacy of law depends on its sensitivity to the emotional and ethical dimensions of human life. Law, in this context, becomes a vessel for moral imagination rather than a mere apparatus of control.

Hans-Georg Gadamer's philosophical hermeneutics, particularly his notion of *Horizontverschmelzung* or the "fusion of horizons," offers a framework for understanding Article 51 as a site of dialogical meaning (Gadamer, 2004). The law, as a text, enters into conversation with the moral world of its interpreters — judges, defendants, and the community — and through that dialogue, new meanings emerge that bridge the gap between the normative and the existential. Gadamer's insight finds a contemporary echo in the work of James Boyd White (2010), who describes law as a "cultural and ethical discourse," a space where linguistic interpretation and moral imagination continuously reshape the very texture of justice.

Within Indonesia's pluralistic spiritual context, this hermeneutic encounter gains particular significance. As articulated by Satjipto Rahardjo (2006) and Bernard Arief Sidharta (2009), Indonesian legal philosophy situates law within the living moral consciousness of society — *hukum yang hidup* — where legal norms derive their meaning from human values and spiritual traditions rather than from pure formal rationality. This perspective aligns with the post-positivist critique of legal formalism advanced by Ronald Dworkin (2011) and John Finnis (2012), who both emphasize that the integrity of law cannot be understood apart from its moral and humanistic foundation.

Furthermore, Emmanuel Levinas's ethics of responsibility (Levinas, 1998) deepens this interpretation by positioning the human face — the Other — as the ultimate ground of moral obligation. Within such an ethical horizon, Article 51 may be read not as an exception to criminal liability, but as a gesture of ethical recognition: the state's acknowledgment that law must remain responsive to the vulnerability and moral complexity of human existence.

Seen through this interpretive lens, the law transforms from a static system of rules into a dynamic dialogue between the juridical text and the moral life of its subjects. The interpretation of Article 51 thus moves beyond legality toward existential meaning — law as an expression of humanity's moral responsibility and spiritual striving in a shared world. In doing so, it exemplifies a hermeneutic openness that allows justice to be experienced not merely as conformity to rules, but as an ongoing moral encounter between self, other, and community.

This philosophical orientation resists the monolithic rationality of modern legal positivism that often detaches law from the realm of lived meaning. Drawing from Paul Ricoeur's philosophy of interpretation, the law must be understood within the circle of action, narrative, and moral imagination. The hermeneutic task of law is therefore not to

enforce obedience but to recover meaning through understanding — bridging the symbolic and the real, the normative and the existential. Article 51, in this sense, becomes a locus of dialogue where the human experience of justice continuously reshapes the normative fabric of law. It is through such hermeneutic openness that justice transforms from a rule-bound order into an interpretive and ethical encounter between human beings (Ricoeur, 1990) (Ricoeur, 2004).

Consequently, a spiritual–pluralistic approach recognizes that legal consciousness in Indonesia emerges from a matrix of religious, customary, and moral systems that coexist dynamically. This plurality reveals that the spirit of law is not confined to state rationality but expands toward a cosmological understanding of justice grounded in community and transcendence. Ronald Dworkin’s notion of “law as integrity” resonates deeply here — asserting that the legitimacy of law rests upon its coherence with moral principles and the moral responsibility of interpreters. Hence, the enforcement of Article 51 must not rely solely on repressive legality but must embody the spirit of humanity, compassion, and moral integrity that give law its living meaning (Dworkin, 1977).

The Concept of Restorative Justice in Article 51 of the Indonesian Penal Code (KUHP) 2023 for Developing a Religious–Cosmological Foundation of Criminal Law

The restorative justice paradigm embodied in Article 51 signifies more than a procedural reform; it marks a philosophical transformation in the ontology of justice itself. Justice here is not conceived as retribution but as the restoration of broken relationships — a movement from punishment toward reconciliation. Howard Zehr defines restorative justice as a “moral paradigm shift,” redirecting attention from the offender to the web of relationships harmed by wrongdoing. Within a religious–cosmological horizon, such justice transcends the legal domain and becomes a healing practice for the moral and spiritual wounds of society (Zehr, 2002).

From a deeper ethical standpoint, this model assumes that human beings are relational and interdependent rather than isolated individuals. John Stuart Mill’s utilitarian ethics, when reinterpreted in this context, implies that the purpose of law is not merely to maximize material welfare but to cultivate moral well-being — the inner peace achieved through forgiveness, empathy, and reconciliation. The essence of happiness, therefore, becomes spiritual rather than merely social, reflecting a universal moral teleology that unites individual and communal harmony (Mill, 1986).

The development of a religious–cosmological perspective within criminal law also calls for an epistemological reorientation. Law must be understood through an interdisciplinary dialogue that connects legal positivism with moral philosophy and socio-spiritual understanding. Tutut Ferdiana Mahita Paksi and colleagues argue that interdisciplinary legal research opens a path toward a more holistic comprehension of legal phenomena, revealing that law cannot be detached from its cultural and social lifeworld. Hence, the study of Article 51 demands a methodological synthesis — a juridical, sociological, and philosophical engagement that captures both the normative and spiritual dimensions of justice (Mahita Paksi, Ferdiana & Perdana, 2016).

Ultimately, restorative justice as embedded in Article 51 symbolizes an ontological return to the sacred essence of law — the recovery of balance between human beings, society, and the transcendent order that gives law its moral legitimacy. Law, in this postmodern sense, becomes an act of remembrance: a hermeneutic remembrance of justice as a moral relationship rather than an institutional command. It is this remembrance that reawakens the spiritual core of legal consciousness, restoring harmony between legality, morality, and the divine horizon of justice (Gadamer, 2004) (Ricoeur, 1990) (Zehr, 2002).

Conclusion

The juridical-philosophical inquiry into *Article 51 of the Indonesian Criminal Code (Law No. 1 of 2023)* demonstrates that restorative justice must be interpreted as a dynamic and applicable legal paradigm rather than an abstract moral discourse. The spiritual-pluralistic dimension of law provides the ethical and metaphysical grounding necessary to reorient legal institutions toward human-centered justice. This approach encourages the legal system to function not only as a mechanism for punishment but as a transformative process for moral recovery and social harmony (Gadamer, 2004) (Gadamer, 2006).

Restorative justice, when operationalized through this cosmological understanding, becomes a bridge between law and lived moral experience. It invites the participation of victims, offenders, and communities in constructing a shared narrative of responsibility and reconciliation. Through dialogical engagement and mediated resolution, the justice process transforms coercion into collaboration, aligning state authority with the moral consciousness of its citizens (Ricoeur, 1990) (Zehr, 2002).

Thus, the reformulation of Article 51 should not remain at the doctrinal level. It must be embodied through institutional design, judicial training, and community-based mechanisms that translate philosophical ideals into actionable norms. The integration of spiritual and pluralistic perspectives strengthens the ontological legitimacy of law, ensuring that justice is not merely declared by the state but enacted through participatory and compassionate legal practices (Dworkin, 1977) (Ricoeur, 2004).

Recommendations

1. Operationalization of Restorative Mechanisms. Law enforcement agencies—particularly police investigators and public prosecutors—must implement clear restorative pathways for minor offenses. These mechanisms should include mediation forums, peace agreements, and reparative actions involving community and religious leaders as facilitators. The process must ensure voluntariness, equality of voice, and moral restoration rather than coercive settlements (Zehr, 2002) (Mahita Paksi, Ferdiana & Perdana, 2016).
2. Institutional and Educational Reform. Legal education must integrate courses on *restorative jurisprudence, legal hermeneutics, and spiritual-ethical reasoning*. Judges, prosecutors, and lawyers require continuous training to cultivate interpretive awareness and ethical empathy in decision-making. This pedagogical reform repositions law as a

dialogical enterprise rooted in humanity rather than a rigid command of authority (Gadamer, 2006) (Dworkin, 1977).

3. Community-Based Justice Framework. The success of restorative justice depends on community participation. Traditional wisdom, religious institutions, and local mediation councils should be formally recognized as partners in conflict resolution. Such collaboration revitalizes local moral systems, transforming law into a living ethical practice that reflects Indonesia's pluralistic cosmology (Mill, 1986) (Ricoeur, 2004).
4. Monitoring and Evaluation Mechanisms. A national restorative justice board should be established to monitor implementation under Article 51. This body would assess procedural fairness, victim satisfaction, and the sustainability of community reconciliation. Data-driven evaluations would enable the Ministry of Law and Human Rights to continually refine restorative practices and align them with evolving social values (Mahita Paksi, Ferdiana & Perdana, 2016) (Zehr, 2002).
5. Integration of Spiritual–Cosmological Ethics. Future legal development must include frameworks that respect religious cosmologies and indigenous philosophies as legitimate moral foundations of justice. By aligning law with spiritual consciousness, Indonesia can model a restorative system that balances legality with sacred moral order—a vision of justice that heals, not harms (Gadamer, 2004) (Ricoeur, 1990) (Dworkin, 1977).

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