

# The Implementation of Substantive Justice in Criminal Law Enforcement by the Sibolga Resort Police Under the National Criminal Code

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## Abstract

The enactment of Law Number 1 of 2023 concerning the Indonesian Criminal Code represents a significant milestone in the reform of Indonesia's national criminal law system. The newly enacted Criminal Code no longer focuses solely on retributive punishment but also emphasizes substantive justice, human rights protection, and restorative legal principles. In this regard, the Indonesian National Police, particularly the Sibolga Resort Police, occupies a strategic position as the frontline institution in criminal law enforcement. This study aims to examine the implementation of substantive justice in criminal law enforcement carried out by the Sibolga Resort Police and to analyze the challenges and optimization strategies related to its application within the framework of the new Criminal Code. This research employs normative juridical methods using statutory, conceptual, and case approaches. Legal materials were collected through library research and analyzed qualitatively using descriptive-analytical methods. The findings reveal that the implementation of substantive justice by the Sibolga Resort Police has been reflected in the application of restorative justice mechanisms, proportional police discretion, and the prioritization of social recovery in handling minor criminal offenses. Nevertheless, several obstacles remain, including the persistence of legal positivism among law enforcement officers, limited understanding of the new Criminal Code, institutional constraints, and public perceptions that continue to associate justice primarily with imprisonment. Therefore, strengthening legal culture, enhancing institutional capacity, and harmonizing technical regulations are essential to ensure that criminal law enforcement is aligned with the principles of substantive justice. This study concludes that the success of criminal law reform depends not only on legal substance but also on the consistency and integrity of law enforcement institutions in implementing humane and socially responsive justice.

**Keywords:** *Substantive Justice, Criminal Law Enforcement, Restorative Justice, Police Discretion, Criminal Code Reform*

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## Introduction

The reform of Indonesia's national criminal law system through the enactment of Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code) constitutes an important turning point in the historical development of Indonesian law. The presence of the new Criminal Code does not merely replace the colonial-era *Wetboek van Strafrecht*, but also signifies a paradigm shift in criminal law enforcement from a predominantly legalistic and repressive orientation toward a more humane, restorative, and substantively just approach [1]. This transformation indicates that Indonesian criminal law is gradually being directed to accommodate the increasingly complex dynamics of modern society.

In practice, however, Indonesia's criminal justice system continues to face serious challenges arising from the dominance of formalistic approaches in law enforcement. Law enforcement officers frequently prioritize legal certainty without adequately considering social utility and the public sense of justice. As a consequence, many minor criminal cases continue to be processed repressively despite the fact that sociologically they could be resolved more effectively through restorative mechanisms [2]. The criminalization of marginalized communities has become one of the clearest indicators of the gap between *das sollen* and *das sein* within the implementation of criminal law.

Satjipto Rahardjo asserted that law should not merely be understood as a rigid normative text, but rather as a social instrument intended to achieve justice and humanity [3]. Within this perspective, substantive justice becomes an essential concept because it positions law as a means of genuinely protecting societal interests rather than merely enforcing procedural formalities. Consequently, law enforcement officials are expected to understand and accommodate the social values that exist within society throughout the process of criminal law enforcement.

As the leading institution in the criminal justice system, the police hold a strategic role in implementing substantive justice. Pursuant to Law Number 2 of 2002 concerning the Indonesian National Police, the police possess discretionary authority to act according to their own judgment for the public interest [4]. Such authority provides law enforcement officers with the flexibility to resolve criminal cases proportionally while taking into account considerations of social benefit and justice.

The urgency of implementing substantive justice has become increasingly relevant following the issuance of Police Regulation Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice. This regulation serves as a legal foundation enabling police officers to prioritize restorative justice approaches in resolving criminal cases [5]. Under this approach, victims, offenders, and society are all regarded as integral elements in the resolution of legal conflicts, thereby ensuring that the objectives of law extend beyond punishment and include social restoration.

The Sibolga Resort Police, as one of the regional law enforcement institutions, faces particular challenges in implementing this paradigm of substantive justice. In handling criminal cases, local police officers are often directly confronted with complex social realities, including economic problems, local legal culture, and varying levels of legal awareness among the public. Therefore, the implementation of substantive justice cannot be separated from the ability of police officers to understand the social context of the communities they serve [6].

Previous studies have demonstrated that the implementation of restorative justice within police institutions contributes to more effective criminal case resolution while simultaneously reducing prison overcrowding [7]. Hutagalung and Zarzani explained that the application of restorative justice within the North Sumatra Regional Police has provided fairer and more beneficial legal protection for society [8]. Nevertheless, these studies primarily focus on restorative justice in general and do not specifically examine the implementation of substantive justice under the framework of the National Criminal Code at the Resort Police level.

Furthermore, Zarzani, Fitrianto, and Annisa emphasized that national criminal law reform must be grounded in principles of justice and comprehensive protection of public rights [9]. This perspective reflects the evolving orientation of modern criminal law, which is no longer exclusively repressive but is also expected to respond to broader social needs. However, the practical implementation of such concepts within regional police institutions continues to encounter structural and cultural obstacles.

Theoretically, substantive justice is closely connected to progressive legal theory, theories of justice, and restorative justice theory. These theories collectively position law as an instrument that must uphold humanity and social balance [10]. Within the Indonesian context, such approaches are highly relevant to the values of Pancasila, which place social justice and respect for human dignity at the core of national legal development.

On the other hand, the implementation of substantive justice is also hindered by the persistence of positivistic legal culture among law enforcement officers. The success of law enforcement is still frequently measured by the number of cases processed through the courts. Consequently, non-penal and restorative approaches have not yet been fully optimized [11]. This condition demonstrates that criminal law reform has not been entirely accompanied by a corresponding transformation in the legal culture of law enforcement institutions.

Based on the foregoing discussion, this study is significant in examining the implementation of substantive justice in criminal law enforcement by the Sibolga Resort Police under Law Number 1 of 2023 concerning the Criminal Code. It is expected that this research will contribute academically to the development of a criminal justice system that is more humane, proportional, and socially just. Based on the foregoing explanation, the research questions addressed in this study are as follows:

1. How is substantive justice implemented in criminal law enforcement by the Sibolga Resort Police under Law Number 1 of 2023 concerning the Criminal Code?
2. What are the obstacles and optimization strategies in implementing substantive justice within criminal law enforcement by the Sibolga Resort Police?

## **Literature Review 1. Theory of Substantive Justice**

Substantive justice refers to a concept of justice that emphasizes the realization of actual justice within society rather than mere compliance with formal legal procedures [12]. From this perspective, law is viewed as a mechanism for protecting public rights and maintaining social balance. Gustav Radbruch argued that the objectives of law consist of three fundamental elements: legal certainty, justice, and utility [13]. These three components must operate harmoniously to ensure that law retains its moral legitimacy within society.

In criminal law enforcement practices, the dominance of legal certainty often leads law enforcement officers to disregard the public sense of justice. This phenomenon can be observed in the handling of minor criminal cases that continue to be processed repressively without considering their broader social implications. Consequently, substantive justice emerges as a critique of overly textual legal positivism [14].

Substantive justice is also closely related to the protection of human rights. Siregar explained that Indonesia's legal system must uphold respect for human dignity in every law enforcement process [15]. Therefore, criminal law enforcement should not be conducted in a repressive or discriminatory manner.

## **2. Progressive Legal Theory**

Progressive legal theory was introduced by Satjipto Rahardjo as a critique of overly formalistic and rigid legal practices [3]. According to this theory, law must serve human interests, and law enforcement officials should be willing to make legal breakthroughs in pursuit of social justice.

Within the context of criminal law enforcement, progressive law emphasizes that law enforcement officers should not merely function as “mouthpieces of legislation.” Instead, law enforcement must take into account social realities and the broader impact of law on human life [16]. Accordingly, police officers possess a moral space to exercise discretion in resolving certain criminal cases.

The progressive legal approach is highly relevant to the implementation of the National Criminal Code, which increasingly emphasizes restorative and humane values. This paradigm demonstrates that Indonesian criminal law is evolving toward a system that is more adaptive to the needs of contemporary society [17].

### **3. Restorative Justice Theory**

Restorative justice is an approach to criminal case resolution that prioritizes the restoration of social relationships among offenders, victims, and society [18]. This approach emerged as a response to conventional criminal justice systems that focus excessively on punishment.

In practice, restorative justice provides opportunities for dialogue between offenders and victims to achieve resolutions that are more humane and equitable. Fikri, Siregar, and Rafianti explained that restorative justice offers a more meaningful sense of justice compared to formal punishment alone [19].

In Indonesia, restorative justice gained formal legitimacy through Police Regulation Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice [5]. This regulation authorizes the police to resolve certain criminal cases through non-litigation approaches.

### **4. Police Discretion Theory**

Police discretion refers to the authority of police officers to act according to their own judgment in specific situations for the public interest [20]. Discretion constitutes an essential aspect of law enforcement because not every legal issue can be resolved solely through rigid statutory provisions. In its implementation, police discretion must be exercised professionally, proportionally, and accountably in order to prevent abuse of authority. The use of discretion in resolving minor criminal cases may serve as a concrete manifestation of substantive justice [21].

### **5. Legal System Theory**

Lawrence M. Friedman explained that a legal system consists of three principal components: legal structure, legal substance, and legal culture [22]. These components must function harmoniously to ensure effective law enforcement. In the context of implementing substantive justice, the legal culture of law enforcement officials plays a decisive role. If law enforcement officers continue to adhere to positivistic and repressive mindsets, criminal law reform will not function effectively even when legal regulations have changed [23].

### **Research Methodology**

This study employs normative juridical legal research using statutory, conceptual, and case approaches. Normative legal research was selected because the study focuses on analyzing legal norms related to the implementation of substantive justice in criminal law enforcement under Law Number 1 of 2023 concerning the Criminal Code [24].

The statutory approach was conducted by examining various regulations related to the criminal justice system, particularly Law Number 1 of 2023 concerning the Criminal Code, Law Number 2 of 2002 concerning the Indonesian National Police, and Police Regulation Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice. The conceptual approach was applied to analyze the concepts of substantive justice, restorative justice, progressive law, and police discretion based on legal theories and doctrines developed by legal scholars [25].

The legal materials used in this study consist of primary, secondary, and tertiary legal sources. Primary legal materials include statutory regulations, court decisions, and institutional police policies. Secondary legal materials consist of peer-reviewed journal articles, academic books, international conference proceedings, and scholarly legal publications relevant to the research topic [26]. Meanwhile, tertiary legal materials include legal dictionaries, encyclopedias, and supporting references.

The collection of legal materials was conducted through library research by inventorying, classifying, and reviewing relevant legal literature systematically. All legal materials were then analyzed qualitatively using descriptive-analytical methods by correlating normative provisions with the empirical implementation of criminal law enforcement within the Sibolga Resort Police jurisdiction [27].

The analytical process was carried out through systematic and argumentative legal interpretation. This study also adopts a prescriptive approach to formulate solutions to the obstacles encountered in implementing substantive justice within criminal law enforcement practices. Through this methodology, the study is expected to provide comprehensive, critical, and contextual analysis concerning the implementation of the National Criminal Code within Indonesia's criminal justice system.

### **Results 1. The Implementation of Substantive Justice in Criminal Law Enforcement by the Sibolga Resort Police**

The implementation of substantive justice in criminal law enforcement by the Sibolga Resort Police essentially reflects the transformation of Indonesia's national criminal law orientation following the enactment of Law Number 1 of 2023 concerning the Criminal Code. The newly established legal paradigm no longer positions criminal law merely as an instrument of retaliation, but also as a mechanism for social protection and the restoration of social harmony within society [1].

In the practice of handling criminal cases, the Sibolga Resort Police has increasingly prioritized restorative justice approaches in dealing with particular offenses, especially minor crimes that do not generate broad social consequences. The resolution of criminal cases through penal mediation is carried out by involving victims, offenders, family members, and community leaders in order to achieve peaceful settlements [8]. Such an approach demonstrates the efforts of law enforcement officers to apply a more humane legal framework oriented toward the resolution of social conflicts rather than solely imposing punitive sanctions.

The application of restorative justice is consistent with Satjipto Rahardjo's progressive legal theory, which argues that law must ultimately serve humanity and should not be interpreted rigidly [3]. Within the context of the Sibolga Resort Police, law enforcement officers are not merely implementing legal procedures textually, but are also considering aspects of social benefit and substantive justice in resolving criminal cases. This indicates that the orientation of law enforcement has gradually shifted from a purely procedural approach toward a more socially responsive legal practice.

In addition to restorative justice, the implementation of substantive justice is also reflected in the exercise of police discretion in handling certain criminal cases. Discretionary authority enables police officers to determine appropriate methods of case resolution based on professional judgment and public interest considerations [20]. In several situations, settlement through peaceful mechanisms has proven more effective than formal litigation processes, which often risk intensifying social conflict rather than resolving it comprehensively.

Furthermore, the implementation of substantive justice is closely associated with the protection of human rights during investigative procedures. Law enforcement officers have increasingly adopted persuasive and proportional approaches to avoid excessive repressive measures [15]. This development illustrates that the orientation of criminal law enforcement is

progressively moving toward the protection of human dignity as an essential objective of the national legal system.

From a sociological perspective, the restorative approach implemented by the Sibolga Resort Police also contributes to preserving social cohesion within the community. In many instances, criminal cases arising from personal disputes, family conflicts, or minor social tensions can be resolved more effectively through deliberative mechanisms than through imprisonment. Such an approach not only minimizes the negative effects of criminalization but also reinforces the principle that criminal law should function as *ultimum remedium* rather than the primary instrument for resolving all legal disputes.

Nevertheless, the implementation of substantive justice has not yet been fully optimized. In practice, formalistic approaches are still evident in certain cases due to the strong influence of positivistic legal culture among law enforcement officials [22]. Some officers continue to perceive legal certainty as the primary indicator of successful law enforcement, thereby limiting the broader application of restorative and non-penal approaches. This condition demonstrates that criminal law reform has not been entirely accompanied by a transformation in the mindset and legal culture of law enforcement institutions.

In addition, institutional pressures and administrative performance indicators often influence the implementation of substantive justice. The success of criminal law enforcement is frequently measured by the number of cases processed through formal judicial mechanisms rather than by the achievement of social justice and conflict resolution. As a result, the application of restorative justice remains selective and has not yet become an integral legal culture within criminal law enforcement practices.

Therefore, the implementation of substantive justice by the Sibolga Resort Police can be regarded as a progressive step toward realizing a more humane and socially oriented criminal justice system. However, the effectiveness of this implementation ultimately depends on the consistency of law enforcement officers in interpreting law as an instrument of justice rather than merely as a rigid procedural framework.

## **2. Obstacles and Formulations for Optimizing the Implementation of Substantive Justice**

The implementation of substantive justice in criminal law enforcement by the Sibolga Resort Police continues to encounter various obstacles, including structural, substantial, and cultural challenges. The first obstacle relates to the legal culture of law enforcement officials, which remains largely positivistic and formalistic. Some officers still perceive successful law enforcement solely in terms of the number of criminal cases processed through the courts [23]. Consequently, restorative approaches are often viewed as secondary alternatives rather than essential components of criminal justice reform.

Such a paradigm has resulted in the inconsistent application of restorative justice mechanisms. In certain cases, peaceful settlements are perceived as contradictory to the principle of legal certainty, even though substantively they may better reflect the community's sense of justice [28]. This condition demonstrates the continuing imbalance between legal certainty and social justice within criminal law enforcement practices in Indonesia.

The second obstacle concerns the limited understanding among law enforcement officers regarding the substance and objectives of the National Criminal Code. The paradigm shift in criminal law requires human resources who possess adequate comprehension of substantive justice, restorative justice, and progressive legal principles [9]. Without sufficient legal understanding and professional training, the implementation of new legal regulations risks being partial, inconsistent, and ineffective.

Another significant challenge lies in institutional limitations and supervisory mechanisms. The implementation of restorative justice requires adequate administrative support, mediation facilities, and effective inter-institutional coordination [29]. In practice, not all police units possess the institutional readiness or supporting infrastructure necessary to implement

restorative justice comprehensively. The absence of standardized operational guidelines also contributes to disparities in implementation across different regions.

From the societal perspective, obstacles also emerge due to limited public understanding of restorative justice principles. Many members of society still equate justice exclusively with severe punishment and imprisonment for offenders [30]. Consequently, peaceful settlements are often perceived as indications of weak law enforcement rather than as mechanisms aimed at achieving social recovery and sustainable conflict resolution.

The persistence of punitive public perceptions reflects the broader challenge of transforming legal culture within society. Criminal law has long been associated with retaliation and deterrence, causing restorative approaches to face skepticism among certain social groups. This situation indicates that criminal law reform cannot rely solely on normative legal changes but must also involve the transformation of public legal awareness.

To address these obstacles, several optimization strategies are necessary to strengthen the implementation of substantive justice. First, the institutional capacity of police officers must be enhanced through continuous education and professional training concerning the National Criminal Code, restorative justice, and progressive legal theory. Improving the quality of human resources constitutes a fundamental step in developing a more humane and socially responsive legal culture [31].

Second, harmonization of regulations and technical guidelines related to the exercise of police discretion is essential to ensure that restorative justice mechanisms operate under clear and accountable standards. Procedural certainty is necessary not only to prevent abuse of authority but also to strengthen public trust in law enforcement institutions.

Third, continuous legal socialization programs should be implemented to increase public understanding that the purpose of criminal law extends beyond punishment and also includes social restoration and the protection of collective interests. In this regard, the involvement of community leaders, religious institutions, and social organizations plays a crucial role in fostering a restorative legal culture within society.

Fourth, both internal and external supervision over the implementation of police discretion must be reinforced to ensure that law enforcement remains consistent with the principles of professionalism, accountability, and human rights protection. Effective oversight mechanisms are essential to maintaining the balance between discretionary authority and legal accountability.

Ultimately, the successful implementation of substantive justice depends not only on regulatory reform but also on the transformation of legal culture among both law enforcement officers and society. Criminal law reform will not achieve meaningful results if legal institutions continue to operate within rigid formalistic paradigms that overlook social realities and humanitarian considerations. Therefore, substantive justice must be understood as an ongoing process of legal transformation aimed at creating a criminal justice system that is fair, humane, and responsive to the needs of society.

## Conclusion

1. The implementation of substantive justice in criminal law enforcement by the Sibolga Resort Police under Law Number 1 of 2023 concerning the Criminal Code demonstrates a gradual paradigm shift toward a more humane, restorative, and socially oriented approach to law enforcement. The application of restorative justice mechanisms, the proportional use of police discretion, and the strengthening of human rights protection illustrate the growing orientation toward substantive justice within policing practices. Nevertheless, the implementation of these principles still requires the reinforcement of institutional legal culture to ensure that criminal law reform does not remain limited to normative changes alone.

2. The obstacles to implementing substantive justice include the persistence of formalistic legal culture among law enforcement officials, limited understanding of the National Criminal Code, inadequate institutional support, and low public awareness regarding restorative justice principles. Therefore, strengthening the professional capacity of law enforcement officers, harmonizing technical regulations, enhancing institutional supervision, and conducting continuous public legal education are essential measures to ensure that substantive justice in criminal law enforcement can be implemented effectively, consistently, and in accordance with the values of social justice embedded within Indonesia's legal system.

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