

A Systematic Literature Review: Restorative Justice Approaches Resolving Violations of Electronic Information and Transaction Laws in Indonesia

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Abstrak

The evolution of society into the information era, propelled by globalization and technological advancements, has transformed social behaviors and interactions, giving rise to the concept of an "information society." However, the proliferation of communication technology, while beneficial, has also presented challenges in ensuring responsible usage. This study explores the application of Restorative Justice Approaches in addressing violations of electronic information and transaction laws in Indonesia. Through a Systematic Literature Review method, five relevant studies were analyzed, revealing the efficacy and versatility of Restorative Justice in resolving various cybercrimes, including defamation, hate speech, dissemination of false information, and pornography. Despite its benefits, challenges such as disagreements among involved parties, resource limitations, and regulatory gaps hinder the effective implementation of Restorative Justice. Addressing these obstacles is crucial for fostering fair reconciliation and optimizing outcomes in resolving electronic information and transaction law violations.

Keywords: Restorative Justice, Electronic Information, Law, Violation

Introduction

In this era of globalization, the utilization of communication technology has become an inevitable necessity. Various convenient options have been provided to the public to access a variety of useful information. The transition from the industrial era to the information era has led to changes in social behavior and the emergence of an information society (Adhilarso, Utari, & Hastjarjo, 2019). The evolution of society over time is reflected in the advancements of information and technology within a country, influencing knowledge and interactions among individuals, giving rise to the term "information society," which began to gain popularity in the 1980s alongside the development of information technology (Murray, 2013);(Erumban & Das, 2016).

The development of information technology has brought many benefits in the advancement of the information industry and digital transactions (Santi & Erdani, 2021). While the advancements in information technology have undoubtedly enhanced human life, the fundamental principle of freedom associated with it poses challenges in ensuring responsible usage. Despite numerous applications mandating users to accept terms and

conditions before accessing platforms like YouTube, Instagram, and Facebook, there's a notable absence of mechanisms to prevent the spread of offensive content, insults, or actions that could tarnish someone else's reputation, thereby potentially causing harm (Ahmad Janan Dan, 2010).

The lack of knowledge and awareness among the public in using social media responsibly has led to the widespread misuse of social media platforms for defamation purposes. Viona Juane Huwae et al (2023) defamation is frequently committed by individuals who violate regulations through various means. Defamation occurs both directly and actively, meaning the accuser and the accused confront each other directly, resulting in defamation occurring immediately. Additionally, defamation is carried out by spreading lies and offensive words that can offend others, whether heard through circulating information or stories, or even through mass media or electronic media (Huwae, Hehanussa, & Taufik, 2023);(Shidiq, Suseno, & Safiranita, 2021).

However, the Indonesian Constitution guarantees constitutional rights for its citizens. The right to assemble, associate, and express opinions is one of the rights regulated in Article 28E paragraph (3) of the UUD 1945 which said "Everyone has the right to freedom of association, assembly, and expression.", expressing opinions in electronic media is limited by Indonesian Law No. 11 of 2008 regarding Electronic Information and Transactions, along with Law No. 19 of 2016 on the Amendment to Law No. 11 of 2008 concerning Electronic Information and Transactions (Waluyo, Calista, Ratu, Ramli, & Ramli, 2021);(Seyselis & Pradana, 2021). This has sparked much controversy and demands attention from the public because it is considered overly restrictive in controlling the expression of opinions in electronic media.

There have been many incidents involving legal aspects of Law No. 19 of 2016 concerning Electronic Information and Transactions, especially concerning defamation issues. Currently, Indonesia is experiencing a trend of overcriminalization, where every law enacted is accompanied by criminal sanctions to enforce desired norms. Overcriminalization refers to the proliferation of criminal actions and behaviors that are criminalized. This can occur when the process of criminalization takes place without accurate assessment and evaluation of its impact on the overall system (Ali & Setiawan, 2021);(Morgan & Kena, 2018).

From January to November 2020, the Indonesian National Police (Polri) handled 4,656 cases of cybercrime, with defamation being the most prevalent at 1,743 cases. Fraud followed as the second most common case with 1,295 instances, then pornography with 390 cases, illegal access with 292 cases, hate speech or hate speech based on ethnicity, religion, or race (SARA) with 209 cases, fake news/hoaxes with 189 cases, data manipulation with 160 cases, and threats with 131 cases. To address these issues, the Indonesian National Police issued Circular Letter Number: SE/2/11/2021 regarding Ethical Cultural Awareness to create a safe, healthy, and productive digital space in Indonesia, taking into account Law No. 19 of 2016 concerning Electronic Information and Transactions, which regulates defamation.

The Police believe that the application of criminal law should be the last resort (*ultimatum remedium*) and prioritize recovery through restorative justice in resolving any issues encountered (Arief & Ambarsari, 2018);(asnake Ayalew, 2020);(Wulandari, 2021). Based on the aforementioned defamation cases, it is evident that defamation occurring on social media or through direct means can be resolved through Restorative Justice, thereby avoiding legal proceedings that culminate in imprisonment and only reaching a peaceful resolution by both parties (Irsyad Dahri, 2020).

Various studies have been conducted regarding the implementation of resolving cases of violations of the Information and Electronic Transactions Law (UU ITE). Research by Luturmas (2024) conducted a case study at the North Gorontalo District Attorney's Office. The research results indicate that the resolution of defamation crimes through restorative justice at the North Gorontalo District Attorney's Office involves several stages, including the preparation of a Notification Letter on the Commencement of Investigation, investigation by prosecutors, leadership disposition, and the process of reconciliation and the exposure of case termination.

The principles of Restorative Justice include victim restoration through compensation, reconciliation, community service, and other agreements. However, obstacles to resolution include cases not meeting restorative justice criteria, limitations of perpetrators in meeting criteria, and victim refusal due to feeling offended. It can be concluded that the Restorative Justice approach has become a significant alternative in resolving defamation crimes (Naway, Badu, & Mantali, 2023);(Sahputra, 2022).

Another study showed that psychologically Gus Nur was in a state of anger when he made hate speech, thus opening the possibility that he regretted his words which tended to attack NU meanwhile the restorative justice strategy in this case can be done by taking penal mediation and name rehabilitation (Nasrudin & Maliki, 2020). In light of this, the researcher aims to explore the discourse surrounding the application of Restorative Justice Approaches in resolving breaches of electronic information and transaction laws in Indonesia through a scholarly article. The objective of crafting this piece is to scrutinize how Restorative Justice Approaches are utilized and executed in addressing violations of electronic information and transaction laws in Indonesia, thereby tackling prevalent issues within this context.

Research Method

The research methodology employed in this study utilizes a qualitative approach with the Systematic Literature Review method. Systematic Literature Review (SLR) is a term used to describe a method for identifying, evaluating, and interpreting the availability of research originating from relevant sources on the chosen topic (Luturmas et al., 2024). The research object in this article is Restorative Justice Approaches. The reason for selecting the SLR method in this study is the limited number of SLR studies on the topic of Restorative Justice Approaches.

The stages of the Systematic research are as follows:

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At this stage, the researcher formulates the problem in the form of a research question, namely:

RQ 1: Does the journal relevance?

RQ 2: How are Restorative Justice Approaches utilized in resolving violations of electronic information and transaction laws in Indonesia?

RQ 3: What are the challenges and limitations encountered in implementing Restorative Justice Approaches for resolving violations of electronic information and transaction laws in Indonesia?

Literature Identification

In this stage, formulating the research questions, the researcher conducts a search for articles relevant to the research topic. This literature study is conducted within a short period, approximately one week. The data used in this research consists of secondary data obtained from relevant literature sources. The stages in this literature search start with:

Searching process: to obtain suitable sources aimed at answering the research questions. The search process utilizes Google Scholar. In general, the search was conducted using the name of the collaborative initiative or its abbreviated form in the main parts of the articles (title, abstract, and keywords) along with the keyword "restorative justice (37,000 results)", "implementation of restorative justice resolving violations of Electronic Information and Transaction Laws (223)" published from 2019 to 2024. Duplicate articles were removed, and only texts available for download were saved. The first step in the review process was to read titles containing relevant keywords. Subsequently, the researcher read abstracts and conducted full readings of those articles. As a result, 5 journal articles were found to meet the research needs.

Determination of inclusion and exclusion criteria: this stage involves a consideration process to determine whether the obtained articles meet the inclusion criteria or not. To ensure that the obtained articles meet the criteria, filtering is needed to fulfill the inclusion and exclusion criteria by conducting Quality Assessment. The following are the Quality Assessment criteria:

Q1: Does the article meet the criteria for the implementation of restorative justice regarding violations of Electronic Information and Transaction Laws in Indonesia?

Q2: Does the article meet the criteria discuss the challenges and limitations encountered in implementing Restorative Justice Approaches for resolving violations of electronic information and transaction laws in Indonesia?

Q3: Is the article within the range of years 2019-2024?

Table 1 Quality Assessment

Author/Title	QA			Assessment
	Q1	Q2	Q3	
Rizqi D & Naway "Penyelesaian Tindak Pidana Pencemaran Nama Baik Melalui Restorative Justice (Studi Kasus di Kejaksaan Negeri Gorontalo Utara)"	√	√	√	Qualified
Nasrudin & Maliki "Penyelesaian Tindak Pidana Ujaran Kebencian Berbasis Restorative Justice Dengan	√	√		Qualified

Pendekatan Fiqih Islah Dan Teori Kompensasi Marah (Studi Kasus Ujaran Kebencian Gus Nur Terhadap Nu)"				
Arrahman "Implementasi Restorative Justice Terhadap Tindak Pidana Informasi Transaksi Elektronik (Studi Kasus Polda Lampung)"	√	√	√	Qualified
Hegar Gagah Anantaka;Eva Achjani Zulfa;Surya Nita "Implementation of Restorative Justiceas an Alternative Case Settlement StrategyInvolving Pornography on Social Media(Case Study of Reported Case at Bogor City Police Station)"	√	√	√	Qualified
Ampuan Situmeang, Rina Shahriyani Shahrullah, Adolph Brely "Socio-Legal Approaches To Combat Fake News (Hoax) On Social Media Pertaining Covid-19 In Batam City (A Case Study Of The Virginia Ship)"	√	√		Qualified

Sources: Authors, 2024 (edited)

Result and Discussion

RQ 1: Journal Relevance

From the search results, 5 studies that meet both inclusion and exclusion criteria were selected. These 5 journals are within the last 5 years, starting from 2019 to 2024, and are relevant to the topic of "Restorative Justice for resolving violations of electronic information and transaction laws in Indonesia". The obtained research is then categorized according to the type of study. Below is the categorization of research types.

Table 2 Journal Relevance

No	Journal Type	Year	Quantity
1.	Jurnal Kewarganegaraan Vol. 7 No. 1 Juni P-ISSN: 1978-0184 E-ISSN: 2723-2328	2023	1
2.	NIZHAM, Vol. 9, No. 01 Januari-Juni	2021	1
3.	Thesis, http://digilib.unila.ac.id/id/eprint/77024	2023	1
4.	International Journal of Social Science Research and Review, Volume 6, Issue 7	2023	1
5.	UNES LAW REVIEW (September 2023) https://doi.org/10.31933/unesrev.v6i1.1034	2023	1

From table 2 above, It can be seen that all types of journals have relevance to the topic to be discussed, and this reflects a commitment in writing this article. The references used are relevant to the inclusion criteria, and those that meet the requirements of the exclusion criteria.

RQ 2: How are Restorative Justice Approaches utilized in resolving violations of electronic information and transaction laws in Indonesia?

The resolution of electronic information and transaction crimes through a restorative approach involves efforts to restore the relationship between the perpetrator and the victim, as well as to repair the social and emotional impacts of the actions (Rizqi et al., 2023). This approach aims to achieve a more holistic reconciliation and justice than solely relying on the criminal justice system. Based on literature review in 5 journals that

has found, all journals used Restorative Justice Approaches to solve the study case in each study. The initial study by Rizqi D & Naway analyzes the resolution of defamation crimes through restorative justice at the North Gorontalo District Attorney's Office.

This study aims to examine the resolution of defamation crimes through the Restorative Justice approach, as well as the efforts of the North Gorontalo District Attorney's Office in providing understanding to the community regarding alternative methods of resolving criminal acts outside of court proceedings. An empirical qualitative research method was employed, utilizing data collection techniques such as interviews and secondary data. The research findings indicate that the resolution of defamation crimes through restorative justice at the North Gorontalo District Attorney's Office involves several stages, including the issuance of a Notice of Commencement of Investigation, investigation by prosecutors, leadership disposition, and the process of reconciliation and case closure exposition. The principles of Restorative Justice encompass victim restoration through compensation, reconciliation, community service, and other agreements.

Secondly, study from Nasrudin & Maliki. This article aims to explore the application of restorative justice alongside fiqh islah and psychological tools in resolving cases of hate speech. To illustrate this concept, the article analyzes the case of Gus Nur vs. NU. It is based on qualitative empirical legal research, utilizing a sociological and legal psychology approach. The primary source of data is a video titled "Gus Nur & Refly Harun Part 2: Who is the Ideal President? NU Cultural Or Structural?" available on the Munjiat Channel YouTube account.

The result of the study found the utilization of restorative justice approaches in resolving violations of electronic information and transaction laws, as outlined in the provided data, offers a structured and thoughtful process for addressing hate speech incidents. Key elements include the genuine acknowledgment and remorse from the perpetrator, Gus Nur, and the agreement from the victim, NU, to participate in the restorative justice process. Strategies such as penal mediation and name rehabilitation are employed to facilitate resolution and repair the harm caused by hate speech (Nasrudin & Maliki, 2021).

The study on the implementation of restorative justice regarding violations of electronic information and transaction laws (a case study from the Lampung Regional Police) by Arrahman yielded similar findings. The data used in this study is primary data obtained through interviews with the Lampung Regional Police (Arrahman, 2023). The implementation of restorative justice aims to achieve justice through repairing and restoring the situation after an incident and the criminal justice process, rather than solely seeking retribution (retributive justice) as traditionally applied in the criminal justice system.

Handling crimes, particularly those related to electronic information and transactions, based on restorative justice principles requires meeting both general and specific requirements. Restorative justice involves a concept of resolving crimes by bringing together victims and perpetrators (suspects) to engage in dialogue. Thus, the goal

of law enforcement is not only punishment but also the restoration of the relationship between the perpetrator and the victim, aiming for harmony. It also aims to deter both the perpetrator and society from committing or condoning offenses related to inappropriate content in electronic transactions, whether intentional or unintentional. It encourages individuals to be more cautious when posting on social media platforms, especially those accessible to many people. Therefore, the concept of restorative justice is highly suitable for resolving legal incidents in the field of cybercrime, particularly those involving inappropriate content that harms victims (Arrahman, 2023).

The study conducted by Hegar Gagah Anantaka, Eva Achjani Zulfa, and Surya Nita examines the use of restorative justice to address violations of electronic information and transactions, particularly in cases of reported pornography at the Bogor City Police. The research shows that the application of restorative justice as an alternative approach to resolving these cases has been thorough. Instead of traditional punitive measures, the Bogor City Police have taken a comprehensive approach, involving the perpetrators, victims, families of both parties, and other relevant stakeholders. Together, they work towards a fair resolution focused on restoring the situation to its original state. This involves reaching a mutually agreed-upon settlement between all involved parties (Gagah Anantaka et al., n.d., 2023).

In the study "Socio-Legal Approaches To Combat Fake News (Hoax) On Social Media Pertaining Covid-19 In Batam City (A Case Study Of The Virginia Ship)," the application of restorative justice is examined in the context of combating fake news. The research concludes that cyber patrols conducted by Polda Kepri involve monitoring digital content suspected of criminal activity, with a focus on restorative justice. Initially, efforts are made to contact individuals or accounts sharing potentially false information on social media platforms. This includes issuing warnings through various channels such as social media, SMS, and messenger services before resorting to legal actions as a last resort. Legal measures, including law enforcement, are viewed as a means to maintain social order. The enforcement of laws against the dissemination of false information regarding Covid-19 in Batam City has been effective, following existing provisions and regulations. In law enforcement, restorative justice is prioritized, with legal measures, particularly criminal sanctions, considered as a final option against perpetrators spreading hoax news related to Covid-19 in Batam City (Ampuan Situmeang, Rina Shahriyani Shahrullah, and Adolph Breilly, 2023).

Based on the exploration of Restorative Justice Approaches utilized in resolving violations of electronic information and transaction laws in Indonesia, it's evident that this method offers a structured and thoughtful process for addressing various types of crimes in the digital sphere. Through a combination of qualitative empirical research and practical case studies, it's clear that Restorative Justice prioritizes repairing relationships, restoring harmony, and mitigating the social and emotional impacts of criminal acts. The studies reviewed highlight the successful application of Restorative Justice in resolving defamation crimes, hate speech incidents, dissemination of false information (hoaxes), and pornography cases reported on social media platforms. Key elements of Restorative

Justice include acknowledgment and remorse from perpetrators, agreement from victims to participate in the process, and a focus on repairing harm through strategies like penal mediation and name rehabilitation.

RQ 3: What are the challenges and limitations encountered in implementing Restorative Justice Approaches for resolving violations of electronic information and transaction laws in Indonesia?

Based on the study that has been reviewed 3 from 5 studies revealed challenges and factors in implementing Restorative Justice Approaches for resolving violations of electronic information and transaction laws. First study is from Rizqi D & Naway (Rizqi et al., 2023). The study on resolving defamation cases through the Restorative Justice (RJ) mechanism at the North Gorontalo District Attorney's Office highlights several hindering factors that need consideration. Firstly, disagreement among involved parties poses a significant challenge, as the success of restorative justice hinges on the willingness of all parties, including perpetrators, victims, and the community, to participate.

Secondly, resource limitations, including trained personnel, funding, and infrastructure, may impede the effective implementation of restorative justice processes. Additionally, limited public understanding of restorative justice concepts may lead to a reliance on conventional legal processes instead. Furthermore, the complexity of defamation cases, particularly those involving intricate legal factors or challenging evidence collection, can pose obstacles to the restorative justice process. Finally, the non-cooperative attitude of perpetrators, such as their refusal to acknowledge wrongdoing or cooperate with the process, can hinder progress. To optimize outcomes and foster fair reconciliation for all parties involved, the North Gorontalo District Attorney's Office must address and overcome these hindering factors in their implementation of Restorative Justice.

Challenging factors also occurs in Arrahman's study. The inhibiting factors for the implementation of restorative justice regarding electronic information and transaction crimes include the following: Firstly, the Factor of Regulation, which researchers consider the most significant hurdle. This is due to the absence of specific legislation explicitly addressing the application of restorative justice principles in resolving electronic information and transaction crimes. Consequently, there's limited implementation of restorative justice principles, and law enforcement agencies such as the Indonesian National Police (Polri) enforce the law based solely on the Polri Regulation on Restorative Justice.

Secondly, the Factor of Public Understanding of the Law poses another obstacle, as there is a lack of public awareness regarding regulations concerning electronic information and transactions. This leads to an imbalance in educating the public about these regulations, which are disseminated by the government through its various channels (Arrahman, 2023).

Hegar Gagah Anantaka et al (2023) showed the implementation of Restorative Justice as an alternative strategy in resolving cases involving reported pornography at the

Bogor City Police Station is influenced by several factors. Firstly, inhibiting factors include the lack of regulation in the Indonesian Code of Criminal Procedure (KUHAP) regarding the authority of investigators to resolve cases outside court sessions through Restorative Justice, as well as the absence of regulations regarding the rights of victims. Additionally, law enforcement officers' lack of experience in addressing the psychological conditions of women and children victims of criminal acts contributes to suboptimal mediation processes.

Moreover, inadequate facilities to support law enforcement and a lack of public awareness and compliance with laws and regulations in the community hinder effective implementation. Cultural factors, such as societal attitudes and values, also play a role, with insufficient public awareness and law enforcement officials' compliance resulting in the absence of a strong culture of law obedience. Addressing these factors is crucial for enhancing the effectiveness of Restorative Justice implementation in resolving such cases. (Gagah Anantaka et al., n.d., 2023).

Based on the review of three out of five studies, challenges and limitations encountered in implementing Restorative Justice Approaches for resolving violations of electronic information and transaction laws in Indonesia are evident. In the study by Rizqi D & Naway (2023), examining the resolution of defamation cases through Restorative Justice at the North Gorontalo District Attorney's Office, several hindering factors were identified, including disagreements among involved parties, resource limitations, limited public understanding of restorative justice concepts, the complexity of defamation cases, and the non-cooperative attitude of perpetrators.

Similarly, Arrahman's study highlights inhibiting factors for implementing restorative justice regarding electronic information and transaction crimes, such as the absence of specific legislation addressing the application of restorative justice principles and the lack of public awareness regarding regulations concerning electronic information and transactions. Furthermore, Hegar Gagah Anantaka et al. (2023) demonstrated that the implementation of Restorative Justice as an alternative strategy in resolving cases involving reported pornography at the Bogor City Police Station faces various obstacles, including the lack of regulation in the Indonesian Code of Criminal Procedure, law enforcement officers' lack of experience in addressing victims' psychological conditions, inadequate facilities, and insufficient public awareness and compliance with laws and regulations.

Conclusion

The review of literature addressing Restorative Justice (RJ) for resolving violations of electronic information and transaction laws in Indonesia reveals significant insights. Firstly, the selection of five journals from the last five years demonstrates the relevance and commitment of the research to the topic. Based on result in RQ 1, each study utilized Restorative Justice Approaches to address specific cases, emphasizing the importance of restoring relationships and mitigating social and emotional impacts. The exploration of Restorative Justice (RJ) approaches in resolving violations of electronic

information and transaction laws in Indonesia, as examined through the lens of RQ 2, reveals the efficacy and versatility of this method.

Through the analysis of five relevant studies, it becomes apparent that RJ offers a structured and compassionate approach to addressing various cybercrimes. Each study demonstrates how RJ principles are effectively applied to resolve complex cases, including defamation, hate speech, dissemination of false information, and pornography on social media platforms. Key elements such as acknowledgment of wrongdoing, genuine remorse, and victim participation underscore the importance of dialogue and reconciliation in the RJ process. RQ 3 revealed that factors such as disagreements among involved parties, resource limitations, limited public understanding of RJ concepts, regulatory gaps, law enforcement officers' lack of experience, inadequate facilities, and cultural factors pose significant obstacles.

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