

Reconstruction of Restorative Justice Policy in Enforcing DIY Regional Regulation Number 2 of 2017 Based on the Principles of Proportionality

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ABSTRACT

Law enforcement of DIY Regional Regulation Number 2 of 2017 remains dominated by a repressive, legalistic approach that overlooks substantive justice. Despite the growing application of restorative justice in Indonesia's criminal law system, its integration into regional administrative law enforcement has not been systematically developed, creating a normative gap. This study aims to formulate a reconstruction of restorative justice policy based on the principle of proportionality in the enforcement of regional regulations. Using a normative juridical method with statutory, conceptual, and analytical approaches, this study analyzes primary and secondary legal materials through qualitative interpretation and prescriptive argumentation. Findings reveal that restorative justice remains implicit and non-institutionalized in regional administrative law, while the principle of proportionality has not been optimally applied. The proposed reconstruction integrates dialogue mechanisms, administrative mediation, and proportionality-based parameters as a non-judicial resolution model. This study contributes a normative framework for more adaptive, humanistic law enforcement and strengthens the legitimacy of regional government policy.

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1. INTRODUCTION

The development of the law enforcement paradigm over the past two decades has shown a shift from a retributive approach to one that is more responsive to social needs. In this context, restorative justice has emerged as an approach that emphasizes the restoration of social relations, the participation of all parties, and the achievement of substantive justice [1], [2]. This approach is relevant for administrative violations that are generally minor and have a direct socio-economic impact on the community.

Empirically, the implementation of restorative justice has grown significantly in the Indonesian criminal justice system. The Indonesian Attorney General's Office recorded more

than 4,000 cases resolved through restorative justice mechanisms in 2023, up from approximately 2,000 cases the previous year [3]. The Indonesian National Police (Polri) also demonstrated a similar trend through the implementation of National Police Regulation No. 8 of 2021 [4].

However, this development has not been balanced in the context of regional administrative law. Enforcement of Regional Regulations by the Public Order Agency (Satpol PP) is still dominated by coercive approaches such as physical enforcement and administrative sanctions, which in some cases have led to public complaints regarding alleged maladministration [5], [6]. In the Special Region of Yogyakarta, the implementation of Regional Regulation No. 2 of 2017 still demonstrates a repressive orientation with limited space for dialogue in resolving violations.

This problem is related to the principle of limiting authority in administrative law, especially the principle of proportionality, which demands a balance between policy objectives and their impacts [7]. From a legal theory perspective, Robert Alexy asserts that proportionality can be tested through three stages: appropriateness, necessity, and balance. Therefore, proportionality can be positioned as an operational parameter in administrative law enforcement.

Several studies also emphasize the urgency of integrating restorative justice into the Indonesian legal system, including the juvenile justice system, which relies heavily on judicial discretion. The practice of deliberation in customary law also enjoys strong social legitimacy, while restorative justice-based policy reconstruction requires a more systematic normative design to avoid relying solely on official discretion [8].

In the context of administrative law, Law No. 30 of 2014 provides discretionary space for government officials, but without clear operational guidelines, its use has the potential to be inconsistent and difficult to account for [9]. This demonstrates the need for integration between restorative justice and the principle of proportionality within the normative framework of administrative law enforcement.

Based on these conditions, there is a gap between the development of the concept of restorative justice and its application in regional administrative law. This study aims to analyze the normative construction of restorative justice, examine the principle of proportionality as a limitation of government authority, and evaluate the practice of enforcing Yogyakarta Regional Regulation No. 2 of 2017. In addition, this study aims to formulate a reconstruction model for regional regulation enforcement policies based on the integration of restorative justice and the principle of proportionality in order to realize law enforcement that is more rational, proportional, and responsive to social dynamics.

2. METHODS

This study uses a normative juridical research type with a statute approach, a conceptual approach, and a limited case approach as supporting analysis of the implementation of DIY Regional Regulation Number 2 of 2017¹⁸. The type of data used is secondary data consisting of primary legal materials in the form of relevant laws and regulations, secondary legal materials in the form of books and reputable indexed journal articles, and tertiary legal materials as a conceptual complement. Data collection is carried

out through a literature study by tracing legal documents, academic literature, as well as reports and news from credible official sources as part of a limited case approach. The data analysis technique uses qualitative analysis with a prescriptive method through systematic interpretation and legal argumentation to test the consistency of norms, identify regulatory gaps, and formulate a normative construction of restorative justice integration based on the principle of proportionality in enforcing Regional Regulations.

3. RESULTS AND DISCUSSION

Normative Construction of Restorative Justice in the Enforcement of DIY Regional Regulation Number 2 of 2017

The normative construction of restorative justice in enforcing Regional Regulations requires a review of the administrative legal framework governing regional government authority, law enforcement mechanisms, and officials' discretionary space. Enforcement of Regional Regulations is part of administrative law oriented towards public order and public safety (Huda). This authority stems from Law No. 23 of 2014, which mandates regional governments to establish and enforce Regional Regulations through the Civil Service Police Unit (Satpol PP), which has both preventive and repressive functions.

Government Regulation No. 16 of 2018 strengthens this authority through non-judicial measures such as administrative enforcement and enforcement. This demonstrates that administrative law enforcement can be carried out without judicial mechanisms, thus opening up flexibility in handling minor violations. In this context, modern administrative law is not only based on legality but also recognizes discretion as a crucial instrument for overcoming the limitations of norms [10]. Law No. 30 of 2014 defines discretion as a decision by government officials under certain conditions to overcome stagnation or a lack of norms.

Meanwhile, the concept of restorative justice in the Indonesian legal system is more developed in criminal law. Prosecutor's Regulation No. 15 of 2020 and Police Regulation No. 8 of 2021 regulate case resolution through a restorative approach that takes into account the victim, perpetrator, and community [11]. However, in administrative law, particularly the enforcement of regional regulations, this approach is not yet explicitly regulated, so a legalistic approach still dominates it.

This comparison demonstrates a normative imbalance between criminal law and administrative law. An analysis of Yogyakarta Regional Regulation No. 2 of 2017 shows that the regulation still focuses on prohibitions and sanctions, as in Articles 9 and 31, without providing a dialogue-based or mediation-based resolution mechanism. This situation creates a normative vacuum in the restorative approach, even though violations of the Regional Regulation are generally minor and related to the community's socio-economic activities.

As a result, law enforcement tends to be formal and repressive without adequate alternative resolution processes. This has the potential to create an imbalance between legal certainty and substantive justice. Therefore, integrating a restorative justice approach into administrative law is necessary so that the enforcement of regional regulations is not only legally valid but also more adaptive, participatory, and oriented toward restoring social relations [12], [13].

Table 1. Mapping of the Normative Framework of Restorative Justice in the Enforcement of Regional Regulations

Regulation	Regulatory Substance	Relevance to Restorative Justice
Law No. 23 of 2014	Authority of the Regional Government and the Public Order Agency	Provides a basis for enforcing the Regional Regulation but does not yet regulate a restorative approach.
Law No. 30 of 2014	Government discretion	Open room for flexibility for alternative approaches
Government Regulation No. 16 of 2018	Duties of the Public Order Agency	Confirm administrative action but not yet dialogue-based
Perja No. 15 2020	Restorative justice in prosecution	Providing a normative model of RJ in criminal law

Source: Author's analysis

The mapping reveals opportunities for integrating restorative justice into the enforcement of Regional Regulations through administrative discretion and the AAUPB. However, these opportunities have not been explicitly implemented, thus, their normative legitimacy remains limited.

Regional administrative law is currently in a transitional phase between legalistic and responsive paradigms. Although not explicitly regulated, restorative justice remains possible through discretion exercised accountably and in accordance with the principle of proportionality. Overall, the application of restorative justice in enforcing regional regulations is still implicit and has not been institutionalized, so there is a gap between the development of substantive justice and legal practices which are still formalistic.

The Relevance of the Principle of Proportionality in the Enforcement of Regional Administrative Law

The principle of proportionality is a fundamental principle in modern administrative law which functions to limit the use of government authority so that it remains rational and not excessive [14], [15]. This principle developed in the Continental European legal tradition and was later adopted in various legal systems as part of a rule of law that balances public power and the protection of citizens' rights. In the Indonesian context, this principle is not always formulated explicitly, but is reflected in the AAUPB, which emphasizes rationality, precision, and the prohibition of abuse of authority [16], [5].

Theoretically, Robert Alexy formulated proportionality through three elements, namely suitability, necessity, and balance, which are used to comprehensively assess the legitimacy of government actions [14], [15]. These three elements form the basis for evaluating whether an administrative action can be justified normatively.

The legal basis in Indonesia can be found in Law No. 30 of 2014 concerning Government Administration, which requires government officials to adhere to the AAUPB. In the practice of enforcing regional regulations by the Public Order Agency (Satpol PP), based on Government Regulation No. 16 of 2018, enforcement authority is granted, but without clear proportionality limits, thus opening up wide room for discretion in its implementation.

As a result, the practice of enforcing Regional Regulations tends to be coercive and formalistic, such as relocation of street vendors or evictions, which are legally valid but do

not necessarily fulfill the principles of need and balance [17], [18]. This shows the tension between formal legality and substantive justice, where legitimate actions are not necessarily socially just [19].

Therefore, the principle of proportionality acts as a normative bridge to ensure that government actions are not only legally valid, but also reasonable, balanced, and just in their impact on society.

Table 2. Parameters of the Principle of Proportionality in Enforcing Regional Regulations

Elements of Proportionality	Testing Indicators	Implications in Enforcement of Regional Regulations
Compliance	The rational relationship between actions and goals	Actions must be relevant to the objectives of public order.
Need	There is no lighter alternative	Persuasive approaches should be prioritized before coercive measures.
Balance	Comparison of benefit and impact	Impact social No may outweigh the benefits of enforcement

Source: Author's analysis

Applying the principle of proportionality requires a thorough evaluation of every administrative action, particularly to ensure that regulatory measures do not exceed the limits of necessity and balance. Regulatory measures taken without considering other alternatives have the potential to fail to meet the elements of necessity [5], while actions that have a significant social impact on minor violations have the potential to fail to meet the balance element. Thus, the principle of proportionality is not only theoretical but also has practical implications in assessing the legitimacy of government actions and the quality of public policy [20], [21].

An analysis of Yogyakarta Regional Regulation No. 2 of 2017 shows that existing regulations have not explicitly integrated proportionality parameters. Provisions regarding prohibitions and sanctions are normative-prescriptive in nature without operational guidance on the level of proportional intervention, leaving implementation highly dependent on official interpretation and potentially creating imbalances in law enforcement.

In this context, the principle of proportionality plays a crucial role in directing government authority to be more rational and contextual. This principle allows for the adaptation of actions to the real conditions of society while simultaneously opening up space for integration with a restorative justice approach that equally emphasizes a balance between legal and social interests [21], [20].

Ultimately, the principle of proportionality becomes a key element in transforming the enforcement of Regional Regulations towards an approach that is more oriented towards substantive justice, increasing policy legitimacy, and a more balanced relationship between the government and the community.

Reconstruction of Restorative Justice Policy Based on the Principle of Proportionality in Enforcing Regional Regulations

Reconstructing restorative justice policies for enforcing Regional Regulations demands a shift from a formal legal orientation toward substantive justice in administrative law [22]. Current practices of enforcing regional regulations are still dominated by a coercive

approach through administrative discipline and sanctions, so the space for dialogue-based resolution remains limited [23], [12]. This indicates a gap between the function of administrative law as a public service and practices that tend to be repressive.

Normatively, Law No. 30 of 2014 concerning Government Administration has provided a basis through the concept of discretion, which allows officials to make decisions under certain conditions [13], [11]. This discretion can be a gateway to implementing a restorative approach without having to wait for regulatory changes, as long as it adheres to the AAUPB.

The absence of explicit provisions for restorative justice in Yogyakarta Regional Regulation No. 2 of 2017 demonstrates a normative vacuum in non-judicial resolution mechanisms. As a result, law enforcement is often carried out directly and repressively, even though sociologically, many violations are minor and require a more adaptive approach.

Within the policy framework, restorative justice can be institutionalized through administrative mediation involving the government and the community to reach a settlement agreement [24], [25]. This mechanism does not eliminate legal obligations, but offers a more proportionate and participatory alternative solution.

The integration of this approach is closely related to the principle of proportionality, which functions to ensure that government actions are not excessive and are appropriate to concrete conditions [15], [26]. In this way, the authorities can selectively determine whether a restorative or repressive approach is more appropriate.

Finally, implementing restorative justice requires clear policy parameters, such as the level of violation and social impact, so that the enforcement of regional regulations remains consistent, fair, and proportional between legal certainty and substantive justice.

Table 3. Parameters for the Implementation of Restorative Justice Based on the Principle of Proportionality

Assessment Aspect	Indicator	Policy Implication
Level of Violation	Administrative in nature and non-serious	Prioritizing a restorative approach
Social Impact	Limited and non-systemic	Emphasizing dialogue and mediation
Alternative Resolution	Availability of settlement mechanisms	Avoiding coercive measures
Offender's Good Faith	Cooperative and open attitude	Enabling non-judicial resolution
Public Interest	Not significantly affected	Maintaining a balance between legal enforcement and social interests

Source: Author's analysis

Parameter mapping shows that the application of restorative justice is contextual, not absolute, and depends on the concrete conditions of the case [27], [28]. Therefore, law enforcement officials need to conduct a comprehensive evaluation before determining which approach to use. Clarity about these parameters is crucial to prevent abuse of discretion, increase accountability for decisions, and maintain consistency in policy and relations between officials and the public.

From an institutional perspective, the Public Order Agency (Satpol PP), as the primary enforcer of regional regulations, plays a strategic role in implementing a restorative approach. This requires strengthening officers' capacity to understand restorative justice and the principle of proportionality as a basis for decision-making [29]. Hadjon's perspective emphasizes that legal protection can only be realized if government authority is controlled effectively, so that integrating a restorative approach becomes relevant in increasing community participation in conflict resolution [30].

Ultimately, policy reconstruction aims to establish a model for regional regulation enforcement that is not only legally valid but also responsive to social dynamics. A restorative justice approach based on the principle of proportionality enables a balance between legal certainty and substantive justice, while simultaneously strengthening local government legitimacy and public trust. This transformation shifts regional regulation enforcement from a coercive approach to a more adaptive, participatory, and social recovery-oriented conflict resolution mechanism.

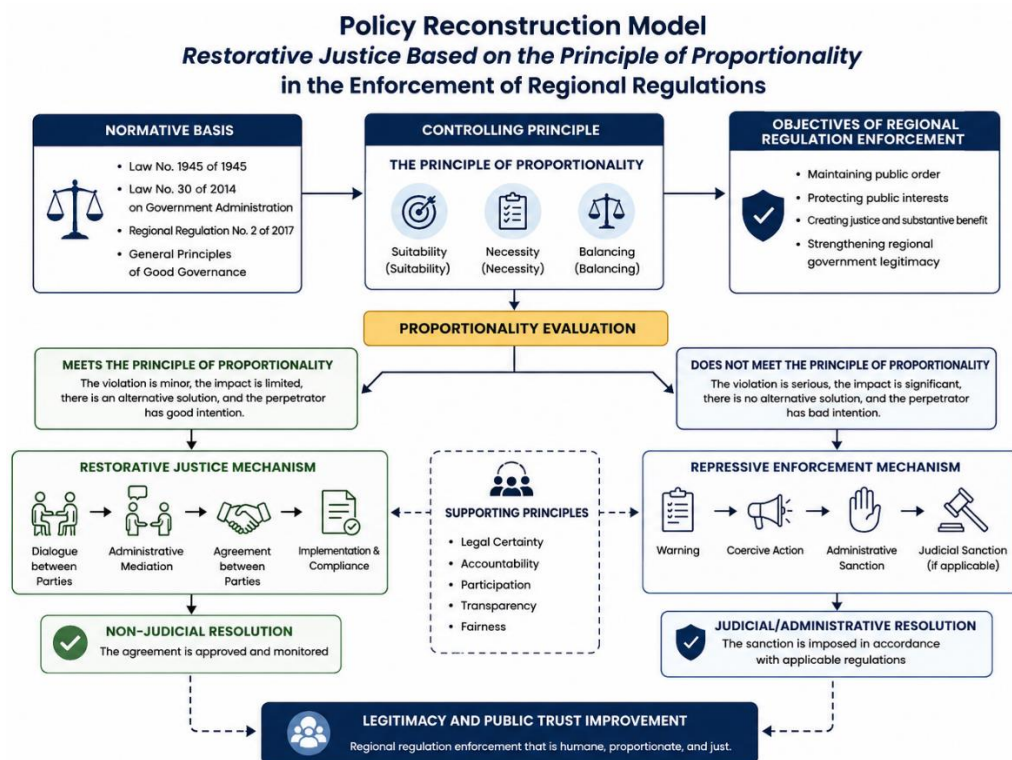


Figure 1. Restorative Justice Policy Reconstruction Model Based on the Principle of Proportionality in Enforcing Regional Regulations

Source: Constructed from the author's analysis based on the State Administration Law, Robert Alexy's proportionality theory, and the concept of modern restorative justice.

4. CONCLUSION

This study aimed to formulate a restorative justice policy reconstruction based on the principle of proportionality in the enforcement of DIY Regional Regulation Number 2 of 2017, as a response to the dominance of legalistic and coercive approaches in regional administrative law enforcement. The findings confirm that the enforcement of Regional Regulation Number 2 of 2017 remains oriented towards administrative order through

repressive measures, with no structured space for dialogue-based resolution. Normatively, a legal opening exists through administrative discretion under Law Number 30 of 2014 and the General Principles of Good Governance (AAUPB), yet this space has not been systematically utilized. The principle of proportionality, comprising suitability, necessity, and balance, provides a measurable instrument for evaluating government action, while restorative justice offers a participatory and humanistic alternative to coercive enforcement.

In answer to the research objective, this study concludes that integrating restorative justice and the principle of proportionality into regional regulation enforcement is both normatively feasible and substantively necessary to achieve more just, adaptive, and legitimate law enforcement. Theoretically, this study contributes a normative framework that bridges restorative justice theory, Alexy's proportionality doctrine, and Indonesian administrative law, enriching the discourse on responsive governance in regional legal systems. Practically, the findings recommend that Satpol PP develop operational guidelines for proportional enforcement, institutionalize administrative mediation mechanisms, and strengthen officer capacity in applying restorative principles as a basis for discretionary decision-making. This study acknowledges its limitation as a normative juridical research that has not empirically tested the proposed model in actual field enforcement practices. Future research is encouraged to adopt empirical or socio-legal approaches to examine officer discretion behavior, community responses to mediation processes, and the measurable effectiveness of restorative enforcement models within specific regional regulation contexts.

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