



Tri Hita Karana as a Restorative Justice Model: A Case Study of Decision No. 247/PID.B/2009/PN.Pwt

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Abstract

This study aims to examine the concept of Tri Hita Karana (THK) as a restorative justice model within Indonesia's criminal justice system through an analysis of Court Decision No. 247/Pid.B/2009/PN.Pwt concerning the case of Grandmother Minah. Using normative legal research with a case approach and a conceptual approach, this study analyses how THK may serve as a philosophical foundation for restorative justice and explores the implications of integrating its values into legal regulations and law enforcement practices in resolving minor criminal offences involving vulnerable groups. The findings indicate that the judicial decision in Grandmother Minah's case reflects a predominantly formalistic and retributive approach that fails to fully achieve substantive justice. In contrast, the principles of Parahyangan, Pawongan, and Palemahan embodied in THK promote reconciliation, social harmony, and the restoration of relationships, which are consistent with the objectives of restorative justice. This study argues that integrating THK into Indonesia's criminal justice system may encourage a paradigm shift from punitive law enforcement toward restorative justice while strengthening legal protection for vulnerable communities. Accordingly, THK offers a culturally grounded philosophical framework that can contribute to future criminal law reform in Indonesia.

Abstrak

Penelitian ini bertujuan untuk mengkaji konsep Tri Hita Karana (THK) sebagai model keadilan restoratif dalam sistem peradilan pidana Indonesia melalui analisis terhadap Putusan Nomor 247/Pid.B/2009/PN.Pwt mengenai kasus Nenek Minah. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan kasus (case approach) dan pendekatan konseptual (conceptual approach) untuk menganalisis bagaimana THK dapat berfungsi sebagai landasan filosofis bagi keadilan restoratif serta mengkaji implikasi integrasi nilai-nilainya ke

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dalam pengaturan hukum dan praktik penegakan hukum dalam penyelesaian tindak pidana ringan yang melibatkan kelompok rentan. Hasil penelitian menunjukkan bahwa putusan dalam kasus Nenek Minah masih mencerminkan pendekatan yang formalistik dan berorientasi pada keadilan retributif sehingga belum sepenuhnya mewujudkan keadilan substantif. Sebaliknya, nilai-nilai Parahyangan, Pawongan, dan Palemahan yang terkandung dalam Tri Hita Karana menekankan rekonsiliasi, keharmonisan sosial, dan pemulihan hubungan, yang sejalan dengan tujuan keadilan restoratif. Penelitian ini berpendapat bahwa integrasi Tri Hita Karana ke dalam sistem peradilan pidana Indonesia dapat mendorong pergeseran paradigma dari penegakan hukum yang berorientasi pada penghukuman menuju keadilan restoratif, sekaligus memperkuat perlindungan hukum bagi masyarakat rentan. Oleh karena itu, Tri Hita Karana menawarkan kerangka filosofis yang berakar pada nilai-nilai lokal dan berpotensi memberikan kontribusi terhadap pembaruan hukum pidana di Indonesia.

1. Introduction

The conventional criminal justice system inherited by Indonesia from the colonial era inherently contains the seeds of a crisis, the manifestations of which have become increasingly apparent over time¹. The implementation of the criminal law system in Indonesia consistently exhibits a retributive justice paradigm in its mechanisms, prioritizing punishment for offenders as a form of retribution for their crimes. Often, humanitarian aspects, social contexts, and the objective of restoration, which ought to be the essence of law enforcement, are neglected. This creates a justice gap, particularly for vulnerable groups in remote rural communities. Consequently, this phenomenon frequently leads to the perception that Indonesian law is "blunt at the top and sharp at the bottom."

A concrete example can be found in a case that went viral in 2009, as documented in Decision No. 247/PID.B/2009/PN.Pwt. This verdict concerned "Grandmother" Minah, a 55-year-old woman from Banyumas and a farm laborer working on land managed by PT Rumpun Sari Antan (RSA). She was criminally prosecuted for picking three cocoa pods to be used as seeds for her own smallholding. Media reports stated that the panel of judges at the Purwokerto District Court sentenced her to one month and fifteen days of imprisonment, with a three-month probationary period, based on Article 362 of the Criminal Code (KUHP) regarding theft². The monetary value of Grandmother Minah's actions was negligible; however, the legal proceedings spanning from the police summons to the trial were conducted as though the matter were equivalent to a criminal offense causing significant harm.

Following the incident, Grandmother Minah did not deny her actions; she immediately apologized, admitted her wrongdoing, and returned the cocoa pods to the plantation

¹ Rasiwan, *Prinsip Keadilan Restoratif Dalam KUHP Nasional : Jalan Tengah Hukum Pidana*.

² Surya.I Kamil, "Keadilan Untuk Kaum Marginal: Refleksi Filosofis Kasus Nenek Minah Dan Diskriminasi Struktural", *Jurnal Ilmiah Penelitian Mahasiswa*,3(6),(2025): 342–343.

foreman. Nevertheless, the matter did not conclude there. A few days after the occurrence, she was summoned for questioning by the police as a reported party for the crime of theft, which ultimately resulted in a conditional sentence³. Although the act normatively fulfilled the elements of theft, this case is broadly understood as a minor offense with profound symbolic implications. The public was confronted with the sight of the law being exceptionally harsh toward an underprivileged elderly woman, while numerous violations involving far more significant financial losses do not receive the same response from Indonesian law enforcement. The case of Grandmother Minah highlights the controversy between legal certainty and social justice. On one hand, judges are bound by the principle of legality and the application of positive legal norms; on the other hand, the law should serve as a tool to create justice centered on humanity. When the law is applied rigidly without considering the social context and prevailing moral values, its purpose as a shield for protection and justice becomes severely diminished⁴.

In this regard, restorative justice serves as the vanguard of an alternative approach, offering a new space for more humane criminal case resolutions that focus on settling matters without the need for trial. Restorative justice does not view a criminal act solely as a violation against the state, but rather as a social issue that causes harm to both the individual and the community. Therefore, this restorative approach prioritizes the importance of repairing relationships, fostering communication between the offender and the victim, and achieving a resolution based on the primary principles of justice.

As a pluralistic nation rich in local wisdom, Indonesia possesses a strong foundation to root a contextualized restorative justice approach. One such form of local wisdom is the concept of Tri Hita Karana (THK), a Hindu guideline for maintaining harmony between the three primary components of life. Furthermore, THK is defined as a life philosophy centered on balance and harmony between humans and God (*Parahyangan*), humans and their fellow humans (*Pawongan*), and humans and nature (*Palemahan*). These points reflect the principles of morality, empathy, and equilibrium that align with the spirit of restorative justice.

Tri Hita Karana should not be understood merely as a beautiful cultural artifact, but as a justice paradigm capable of seamlessly integrating legal, moral, and social spheres. In the context of minor criminal offenses, such as the case of Grandmother Minah, the implementation of Tri Hita Karana values offers a more equitable and humane resolution compared to conventional punitive approaches. By emphasizing harmony and conflict resolution, the law can serve as a medium for restoring social equilibrium rather than merely functioning as a punitive tool. Based on this background, the researcher is interested in conducting a deeper analysis of Tri Hita Karana as a restorative justice model within the Indonesian legal system, specifically through a case study analysis of Decision No. 247/Pid.B/2009/PN.Pwt.

Previous studies have explored restorative justice from various perspectives. Zehr emphasizes restorative justice as a process that prioritizes repairing harm suffered by victims, offender accountability, and community participation rather than punishment

³ Kamil.

⁴ Syah and Purwoleksono, "Ius Constituendum Restorative Justice in Indonesia."

alone⁵. Braithwaite further argues that restorative justice should promote offender reintegration through dialogue and reconciliation instead of relying solely on retributive sanctions⁶. In the Indonesian context, Wahid explains that restorative justice has become an important instrument of criminal law reform by balancing legal certainty, justice, and social benefit⁷.

Studies concerning *Tri Hita Karana* have primarily focused on its implementation in tourism, environmental management, and community harmony. For example, Sukmayasa and Mahardika demonstrate that *Tri Hita Karana* provides ethical principles for achieving social balance through harmonious relationships between humans, God, and nature⁸. Similarly, Windia explains that *Tri Hita Karana* represents an indigenous philosophical framework capable of strengthening social cohesion within Balinese society⁹. However, these studies rarely discuss its application within Indonesia's criminal justice system or its relevance to restorative justice.

Despite these valuable contributions, an important research gap remains. Existing studies generally analyse restorative justice as a legal mechanism or examine *Tri Hita Karana* as a cultural philosophy without integrating both perspectives into a coherent normative model for criminal justice reform. Furthermore, limited research has employed judicial decisions as doctrinal evidence to demonstrate how *Tri Hita Karana* may strengthen restorative justice in practice. Accordingly, this study seeks to fill this gap by analysing Court Decision No. 247/Pid.B/2009/PN.Pwt concerning Grandmother Minah through the perspective of *Tri Hita Karana*.

Based on these considerations, this study aims to examine the position of *Tri Hita Karana* as a restorative justice model within Indonesia's criminal justice system through an analysis of Court Decision No. 247/Pid.B/2009/PN.Pwt. Furthermore, this study analyses the implications of integrating *Tri Hita Karana* into criminal justice practices for legal regulations and law enforcement institutions, particularly in resolving minor criminal offences involving vulnerable groups. This study is expected to contribute theoretically by enriching restorative justice discourse through indigenous legal philosophy and practically by providing recommendations for future criminal law reform in Indonesia.

2. Research Methods

This study employs a normative legal research method. According to E. Saefullah Wiradipraja, normative legal research is a method that utilizes positive legal norms as its primary object of study. This normative approach does not view the law as a mere utopia; rather, it is structured to generate logical and appropriate arguments, theories,

⁵ Bakhiatushsholihat, "The Mechanism for Implementing Judicial Pardon in the Criminal Justice System in Indonesia : Comparative Study with Various Countries."

⁶ Salma and Farikhah, "Justice Dan Tafsir QS . Al-Maidah : 33- Implementasi Regulasi Pemidanaan Terhadap Tindak Pidana Ringan Perspektif Restoratif 34 (Studi Putusan Nomor . 247 / PID . B / 2009 / PN . PWT Tentang Pencurian Kakao Oleh Nenek Minah)."

⁷ Putu et al., "Integrasi Nilai Keadilan Restoratif Dalam Perspektif Hukum Adat Bali Dan Kuhp Nasional."

⁸ Sakti, "Balinese Customary Law and Tri Hita Karana : A Philosophical Foundation for Sustainable Law in Indonesia."

⁹ Adi et al., "Fraud Prevention Determinants : A Balinese Cultural Overview."

or new concepts as solutions to existing legal problems¹⁰. This study employs both a case approach and a conceptual approach. The primary data consists of Court Decision No. 247/Pid.B/2009/PN.Pwt, while secondary data is derived from literature studies, including legal textbooks and relevant journals. These sources are utilized to examine the concept of *Tri Hita Karana* as a restorative justice model within the Indonesian legal system through a case study analysis of Decision No. 247/Pid.B/2009/PN.Pwt.

3. Results and Discussion

3.1. Positioning *Tri Hita Karana* as a Philosophical Foundation for Restorative Justice: Analysis of Court Decision No. 247/Pid.B/2009/PN.Pwt

This section discusses the research findings in accordance with the two research objectives presented in the Introduction. The first discussion analyses the position of *Tri Hita Karana* as a philosophical foundation for restorative justice through an examination of Court Decision No. 247/Pid.B/2009/PN.Pwt concerning the case of Grandmother Minah. The second discussion examines the implications of integrating *Tri Hita Karana* into Indonesia's criminal justice system, particularly in relation to legal regulation, law enforcement practices, and the protection of vulnerable groups.

The analysis of Court Decision No. 247/Pid.B/2009/PN.Pwt demonstrates that the Purwokerto District Court based its judgment on the fulfilment of the criminal elements of Article 362 of the Indonesian Criminal Code concerning theft. The court concluded that Grandmother Minah's act of taking three cocoa pods without the owner's consent satisfied the legal elements of theft, namely taking property belonging to another person with the intention of unlawful possession. Although the court acknowledged the defendant's advanced age, difficult economic circumstances, and the insignificant financial loss caused by the offence, these considerations merely resulted in a lighter sentence rather than influencing the determination of criminal liability¹¹.

The analysis of Court Decision No. 247/Pid.B/2009/PN.Pwt further demonstrates that no restorative justice mechanism was applied during the investigation, prosecution, or trial stages. Instead, the case was processed entirely through the formal criminal justice system without any attempt to facilitate dialogue or reconciliation between the offender and the victim¹². This approach reflects the dominance of a retributive justice paradigm, in which criminal punishment remains the primary response to legal violations despite the availability of restorative justice principles that prioritize reconciliation, victim recovery, and community participation¹³.

Furthermore, the research findings indicate an overlap and conflict between the enforcement of positive law and the public's sense of justice. The verdict triggered a widespread public outcry, as it was perceived to fail to reflect substantive justice, particularly for underprivileged or vulnerable groups. Consequently, Grandmother

¹⁰ Suyanto, *Metode Penelitian Hukum Pengantar Penelitian Normatif, Empiris Dan Gabungan*.

¹¹ Widjajanto, Astawa, and Rulyandi, "Decolonising Restorative Justice in Indonesia : A Comparative Study across Customary Law Traditions."

¹² Putu et al., "Integrasi Nilai Keadilan Restoratif Dalam Perspektif Hukum Adat Bali Dan Kuhp Nasional."

¹³ Zehr, *The Little Book of Restorative Justice: Revised and Updated*.

Minah's case serves as a concrete example of how the law can lose its humanity when applied in a rigid, formalistic manner.

3.2. Implications of Integrating Tri Hita Karana into Indonesia's Criminal Justice System

From the perspective of restorative justice, the analysis of Court Decision No. 247/Pid.B/2009/PN.Pwt demonstrates that the approach adopted in handling Grandmother Minah's case was inconsistent with the contemporary objectives of criminal law, which seek to balance justice, legal certainty, and social utility. Restorative justice views criminal acts not merely as violations of state legal norms but as social conflicts requiring resolution through dialogue, accountability, and the restoration of relationships¹⁴. Therefore, minor offences involving insignificant losses and limited social consequences should, where appropriate, be resolved through non-punitive mechanisms that prioritize reconciliation and substantive justice. This analysis indicates that the absence of restorative justice mechanisms in Grandmother Minah's case contributed to a rigid application of criminal law that overlooked broader humanitarian considerations.

The conception of *Tri Hita Karana* as a form of local cultural wisdom provides a philosophical foundation for developing restorative justice within Indonesia's criminal justice system. The term *Tri Hita Karana* originates from three Sanskrit words: *Tri* (three), *Hita* (well-being or happiness), and *Karana* (cause), collectively referring to the three causes of harmony and prosperity. As an indigenous philosophical framework, *Tri Hita Karana* promotes harmonious relationships among humans, God, fellow human beings, and the natural environment, making it highly relevant to the values underlying restorative justice. The philosophy of *Tri Hita Karana* is reflected in three interrelated principles, namely *Parahyangan*, *Pawongan*, and *Palemahan*. *Parahyangan* emphasizes harmony between humans and God through moral responsibility and spiritual values. *Pawongan* promotes harmonious relationships among individuals based on empathy, mutual respect, and collective responsibility. Meanwhile, *Palemahan* highlights the importance of maintaining balance between humans and their surrounding social and natural environment. The integration of these three principles establishes a comprehensive concept of justice that extends beyond the formal application of legal rules by emphasizing harmony and social equilibrium¹⁵.

The value of *Parahyangan* encourages law enforcement officials to prioritize morality, conscience, and humanity as integral considerations in legal decision-making rather than relying exclusively on statutory provisions. Meanwhile, *Pawongan* emphasizes the restoration of relationships between offenders, victims, and the wider community by encouraging dialogue, empathy, and reconciliation. The principle of *Palemahan* further promotes awareness of the broader social consequences of criminal sanctions and the importance of preserving social harmony. Collectively, these principles demonstrate that justice should not be measured solely by the formal fulfilment of legal elements but also by the extent to which legal processes restore social balance and protect human dignity. In the context of Grandmother Minah's case, these values illustrate

¹⁴ Kevin, Simanjuntak, and Perdana, "Analisis Yuridis Restorative Justice Pelajar Di Kota Medan Pendahuluan."

¹⁵ Sukmayasa and Mahardika, *Tri Hita Karana Dalam Literasi*.

why the resolution should have considered restorative measures instead of relying exclusively on punitive legal responses¹⁶.

Had the principles of *Tri Hita Karana* been applied in Grandmother Minah's case, the dispute would not necessarily have resulted in criminal punishment. Considering the minimal material loss, the defendant's advanced age, and the absence of malicious intent, the case could have been resolved through dialogue, apology, restitution, or other mutually agreed settlements between the parties. Such mechanisms would have protected the victim's interests while simultaneously restoring social harmony within the community. Therefore, *Tri Hita Karana* may serve as a philosophical guideline for implementing restorative justice based on local wisdom, bridging positive law with the evolving values of justice in Indonesian society. Rather than eliminating criminal responsibility, this approach redirects criminal justice toward reconciliation, proportionality, and the restoration of social relationships¹⁷.

Within Indonesia's criminal law framework, restorative justice should be positioned not merely as a procedural mechanism but as a substantive principle guiding criminal justice policies. The development of restorative justice has been reflected in various legal reforms, including the Criminal Code and other regulations governing criminal justice practices¹⁸. Consequently, restorative justice should function as a guiding orientation for the Police, the Public Prosecutor's Office, and the judiciary in exercising discretion when resolving minor criminal offences. Integrating the philosophical values of *Tri Hita Karana* into these legal frameworks would strengthen the implementation of restorative justice by providing ethical and cultural guidance that promotes victim recovery, offender accountability, and community participation¹⁹.

Overall, the discussion demonstrates that integrating restorative justice based on *Tri Hita Karana* into Indonesia's criminal justice system is both philosophically and practically necessary. From a philosophical perspective, the values embodied in *Tri Hita Karana* provide a culturally grounded framework that emphasizes balance, harmony, humanity, and the restoration of social relationships. These values are consistent with the fundamental orientation of restorative justice, which seeks not only to respond to violations of law but also to address the harm arising from criminal acts and restore relationships among the parties involved. From a practical perspective, the case of Grandmother Minah illustrates the limitations of a criminal justice system that relies predominantly on formalistic legal reasoning while overlooking humanitarian values and substantive justice. Although the application of positive law may establish legal certainty, its rigid implementation in minor criminal cases may result in outcomes that are less responsive to the social circumstances of the offender, the limited consequences of the offence, and the broader interests of the community.

The case further demonstrates that the fulfilment of formal legal elements alone is not necessarily sufficient to achieve a sense of substantive justice. A criminal justice process

¹⁶ Syahriyah and Zahid, "Konsep Memanusiakan Alam Dalam Kosmologi *Tri Hita Karana*."

¹⁷ Hakim et al., "Konsep Keadilan Retributif Dalam Penegakan Hukum: Tinjauan Dari Para Tokoh-Tokoh."

¹⁸ Septiyo et al., "Optimalisasi Penerapan Mediasi Penal Sebagai Alternatif Penyelesaian Perkara Tindak Pidana."

¹⁹ Wahid, "Keadilan Restoratif: Upaya Menemukan Keadilan Substantif?"

should also consider whether the resolution of a case is capable of restoring social harmony, maintaining human dignity, and addressing the interests of both the victim and the offender. In this regard, the integration of *Tri Hita Karana* offers an alternative philosophical orientation that can complement the formal application of criminal law by placing greater emphasis on reconciliation, social balance, and humane resolution. Such an approach is particularly relevant in the handling of minor criminal offences, where the primary objective should not be limited to imposing punishment but should also include the restoration of relationships and the prevention of further social conflict.

Accordingly, future criminal law reform should provide greater opportunities for implementing restorative justice grounded in Indonesia's indigenous legal philosophy. The integration of *Tri Hita Karana* should therefore be viewed not merely as the incorporation of cultural values into legal discourse, but as an effort to strengthen the philosophical foundation of restorative approaches within criminal justice policy and practice. By providing greater space for reconciliation, dialogue, accountability, and restoration, the criminal justice system can become more capable of responding to the diverse social realities of Indonesian society. Ultimately, the integration of restorative justice with the values of *Tri Hita Karana* may contribute to the development of a criminal justice system that is more equitable, humane, and responsive to the needs of society, while maintaining the essential function of law in ensuring justice and social order.

4. Conclusion

This study concludes that *Tri Hita Karana* provides a culturally grounded philosophical foundation for strengthening restorative justice within Indonesia's criminal justice system. The analysis of Court Decision No. 247/Pid.B/2009/PN.Pwt demonstrates that the formalistic and retributive approach adopted in Grandmother Minah's case failed to fully achieve substantive justice, whereas the principles of *Tri Hita Karana* offer a more balanced approach based on reconciliation, humanity, and social harmony. Furthermore, integrating *Tri Hita Karana* into criminal justice policies and law enforcement practices may encourage a shift from punitive law enforcement toward restorative justice, particularly in resolving minor criminal offences involving vulnerable groups. Therefore, future criminal law reform should strengthen the implementation of restorative justice by incorporating indigenous legal values that are consistent with Indonesia's social and cultural characteristics.

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