

## **IMPLEMENTATION OF RESTORATIVE APPROACH FOR MEDICAL DISPUTE RESOLUTION IN INDONESIA**

**Hotmaria Hertawaty Sijabat**

Doctoral Student Faculty of Law Universitas 17 Agustus 1945 Jakarta,  
[sijabathotmaria@gmail.com](mailto:sijabathotmaria@gmail.com)

### **Abstract**

The handling of medical disputes in Indonesia often results in prolonged conflict through litigation processes that drain the time, money and emotions of the parties involved. A more humane and constructive alternative is the implementation of a restorative approach that focuses on dialogue, rapprochement, and reaching a mutual agreement. This approach aims to create a win-win solution between patients, medical personnel, and healthcare institutions. This article discusses the potential and challenges of implementing restorative approaches in the context of medical dispute resolution in Indonesia. It is found that while this approach offers many benefits, such as reducing the burden on the judicial system and improving relationships between disputing parties, its implementation is hampered by the lack of specific regulations, lack of socialisation, and limited professional mediators. Support from the government, health institutions, and efforts to change the culture of litigation among the community are key to the success of implementing this approach. In conclusion, with the strengthening of regulations and training of mediators, the restorative approach has great potential to increase public trust in Indonesia's health system and provide a fairer and more dignified dispute resolution.

**Keywords:** Implementation, Restorative Approach, Medical Dispute Resolution, Indonesia

### **Introduction**

Medical disputes are one of the complex problems that often occur in the relationship between medical personnel and patients in Indonesia. A medical dispute is a dispute that occurs between a patient or patient's family and medical personnel, medical teams, or health care facilities related to health services provided, both in the form of diagnosis, medical action, and the results received by the patient (Rahmat, 2021). These disputes are usually triggered by dissatisfaction with the quality of service, allegations of malpractice, negligence, or differences in perception of the obligations and rights of each party. Medical disputes involve not only legal aspects, but also moral, ethical, and professionalism aspects in medical practice, so their resolution requires a careful and holistic approach to achieve justice for all parties involved (Puspitasari, 2021).

These disputes arise from patient dissatisfaction with the outcome of medical services, which can lead to lawsuits, whether in the form of criminal, civil, or administrative lawsuits. As a country with a developing healthcare system, Indonesia

faces major challenges regarding medical dispute resolution. Medical dispute resolution is critical to maintaining trust between patients and medical personnel, as well as ensuring that the rights and obligations of each party are fulfilled fairly (Kusuma, 2022). A proper dispute resolution process can prevent prolonged conflict, avoid damage to the reputation of medical personnel or health facilities, and provide clarity in terms of legal responsibility. In addition, a professional and ethical resolution can serve as a lesson learnt to prevent similar mistakes in the future, improve the quality of health services, and maintain the integrity of the medical profession. In the long run, it also contributes to the improvement of a better and people-oriented health system (Lukman, 2020).

Based on data released in recent years, the number of medical dispute cases involving health workers tends to increase, but the dispute resolution process still relies heavily on the litigation approach, which is confrontational and tends to focus on punishment rather than improving relationships (Nasution, 2025).

Conventional litigation approaches often do not provide satisfactory solutions for the parties involved. Patients who file lawsuits often still feel emotionally harmed, while medical personnel or healthcare facilities feel their reputation is at risk. In addition, the lengthy and costly litigation process adds to the burden on both parties and can exacerbate the conflict. In some cases, this kind of approach causes the relationship between patients and medical personnel to deteriorate further, and even creates psychological pressure on medical personnel, which can hamper the overall quality of healthcare (Halim, 2022).

Alternatively, the restorative justice approach is gaining traction in various fields of law due to its more cooperative, solution-orientated nature and focus on restoring relationships between disputants. It emphasises dialogue, mediation and constructive problem-solving, where all parties involved are given the opportunity to express their views, resolve conflicts and come to a mutual agreement. In the medical field, restorative approaches have proven successful in several countries such as the UK and New Zealand in resolving disputes involving health workers and patients (Winanto, 2025).

However, the implementation of restorative approaches in medical dispute resolution in Indonesia is still minimal and has not been integrated into the prevailing legal regulations and practices. Lack of awareness about this approach, cultural barriers, and legal uncertainty are the main challenges in its implementation. Therefore, in-depth research is needed to explore the potential, challenges and implementation strategies of the restorative approach in medical dispute resolution in Indonesia. Thus, this research can provide concrete recommendations to improve the quality of conflict resolution in the medical sector, while benefiting patients, medical personnel, and the health system in general.

## **Research Methods**

The study in this research uses the literature method. The literature research method is a research approach that involves the collection, evaluation, and interpretation of information available from various written sources such as books, scientific journals, articles, reports, and other documents. This method aims to understand the development of knowledge and thought in a particular field by identifying, analysing and synthesising findings from previous research (Carnwell & Daly, 2001) ; (Boote & Beile, 2005) . This process includes steps such as searching for relevant literature, assessing the credibility and quality of sources, categorising findings according to specific themes or categories, and formulating conclusions that present a comprehensive view of the topic under study. Literature research is particularly useful for providing a theoretical foundation, identifying research gaps, and informing the approach and methodology used in further research (Cooper, 2010)

## **Results and Discussion**

### **Implementation of Restorative Approach in Medical Dispute Resolution in Indonesia**

The restorative approach is a dispute resolution method that focuses on restoring relationships, achieving balanced justice, and emphasising dialogue and deliberation between disputants. In contrast to retributive approaches that focus more on punishment, restorative approaches aim to find a win-win solution by engaging all parties to understand the impact of the dispute and find a resolution that is emotionally, morally and socially satisfying. In the context of medical disputes in Indonesia, this approach carries great potential to address challenges in the complex legal and healthcare systems (Santoso, 2020) .

In Indonesia, medical disputes often occur due to allegations of malpractice, miscommunication, or dissatisfaction with the outcome of medical services. Many disputes lead to litigation, which is often time-consuming, costly and energising for all parties. This can be detrimental to both patients and medical personnel, as well as creating prolonged tensions without providing emotionally reconciling solutions. Restorative approaches based on dialogue and deliberation can be a more effective alternative in maintaining social harmony and trust in the healthcare sector (Tanjung, 2024) .

The implementation of restorative approaches in medical dispute resolution in Indonesia requires synergy between various parties, including health institutions, medical professional organisations, legal regulators, and the public. The first step is to build awareness and understanding of the benefits of this approach in medical dispute resolution. Education and training for medical personnel, lawyers, mediators, and related parties is needed so that they understand how the restorative approach mechanism works and are able to apply it professionally (Subagyo ., 2020)

In addition, the establishment of a mediation institution specialising in restorative medical disputes is important. This institution can act as an independent mediator that bridges communication between patients and medical personnel, creates an environment that supports productive dialogue, and directs the settlement process in a restorative direction. In Indonesia, the existence of such an institution is still very limited, so institutional efforts are needed to support its establishment (Hidayat, 2019).

Restorative approaches also require openness and trust from the parties to the dispute. Both patients and medical personnel must be given a safe space to express their feelings, admit mistakes if any, and discuss solutions without pressure or fear of negative implications. In this case, the mediator plays a key role in ensuring a conducive atmosphere and maintaining objectivity so that each party feels understood and respected (Fadilah, 2021).

The success of the restorative approach in medical disputes is also closely related to the culture of Indonesian society, which prioritises the value of deliberation and consensus. As a nation that upholds openness and cooperation, this approach is more in line with the collective character of Indonesian society compared to the retributive approach that tends to be individualistic. By involving the patient's family, medical personnel, and even the community, dispute resolution can be more rooted in local values and bring more sustainable results (Harahap ., 2022)

On the legal side, the implementation of the restorative approach needs to be strengthened by supporting regulations. The government can issue special rules governing mediation and restoration mechanisms in medical dispute resolution so that this approach has a clear legal footing. This needs to be supported by a flexible legal framework so that it can adjust to the unique needs of each case without being too tied to rigid formal procedures (Setiawan, 2023).

In addition to reducing pressure on the court system, restorative approaches also have the potential to improve the overall quality of healthcare. With dialogic mediation, medical personnel can better understand the needs of patients, improve communication, and create a more transparent work environment. On the other hand, patients also gain a greater sense of justice and satisfaction as they are directly involved in the resolution process (Suryanto ., 2020)

However, the implementation of restorative approaches is not without challenges. In Indonesia, there is a strong stigma against out-of-court dispute resolution, especially in serious cases such as alleged malpractice. People often perceive litigation as the only solution to justice. Therefore, intensive socialisation is needed to change this paradigm and introduce restorative approaches as a credible alternative (Lestari, 2021).

In addition, the restorative approach requires mediators who are competent, neutral, and have a thorough understanding of the health sector as well as the legal aspects involved. The lack of qualified mediators is one of the barriers to the

implementation of this approach in Indonesia. Investment in mediator training and provision of specialised certification is needed to ensure the quality of restorative processes (Wijayanti ., 2022)

Ultimately, the implementation of restorative approach in medical dispute resolution brings various positive impacts, such as reduction of tension between parties, time and cost efficiency, and psychological recovery for the parties involved. With the support of regulations, education, and a change in the mindset of the public, this approach can become the main choice in resolving medical disputes in Indonesia. This not only contributes to the upholding of justice, but also to the improvement of a more inclusive and humane health system (Irwanto, 2018) .

Overall, the success of the restorative approach in medical disputes in Indonesia is highly dependent on the synergy between the public, regulators, and medical practitioners. By building a conducive ecosystem, this approach can be an effective, ethical, and self-interested solution, creating a fairer and more reliable health system.

### **Supporting and Hindering Factors of Restorative Approach in Medical Dispute Resolution in Indonesia**

The restorative approach to medical dispute resolution is developing as an alternative to conflict resolution that is orientated towards peace and restoration. In contrast to the litigation approach, which tends to focus on proving fault and imposing sanctions, this approach emphasises dialogue, mediation, and the restoration of relationships between the parties involved, such as patients, medical personnel, and health institutions. In Indonesia, this issue is becoming increasingly relevant due to the high number of medical disputes that often lead to prolonged conflict. While this approach offers a lot of potential, there are a number of supporting and inhibiting factors that affect its effectiveness in Indonesia (Santoso, 2020) .

One of the main supporting factors is the presence of a culture of deliberation and a tradition of gotong royong that is deeply embedded in Indonesian society. This mindset helps reduce conflict and prioritises peaceful resolution through dialogue and mutual understanding. Restorative approaches, which rely heavily on communication and collective decision-making, fit well with the social values of many Indonesian communities. In the medical context, understanding between patients and medical personnel can be more easily achieved with trust-based dialogue (Rahmawati, 2021) .

In addition, regulations that have supported mediation as an alternative dispute resolution are also a supporting factor. For example, Law No. 36 Year 2009 on Health has accommodated mediation efforts, while the Indonesian Supreme Court has also encouraged out-of-court dispute resolution through Supreme Court Regulation (PERMA) No. 1 Year 2016. This policy creates a legal framework for restorative approaches to be applied in medical dispute cases (Permana ., 2023)

Advances in information technology also support the restorative approach. In the digital age, technological platforms such as telemediation allow communication between parties to be conducted in a more flexible manner, without being restricted by time and space. This is important in cases of medical disputes involving parties in different locations, such as hospitals and patients from remote areas. Technology makes coordination easier so that dialogue runs more efficiently (Purnamasari ., 2019)

However, there are a number of inhibiting factors that need attention. The main obstacle is the low understanding of the community, including medical personnel, about restorative approaches. Many are still stuck in a retributive mindset that is more orientated towards proving guilt and imposing punishment. As a result, restorative approaches are often overlooked as a viable option in medical dispute resolution (Halim, 2022) .

Another obstacle is the lack of training for mediators or facilitators who have competence in the medical field. Mediation in medical disputes requires mediators who not only understand the principles of mediation, but also have sufficient knowledge of the medical field. The lack of human resources with this capability is a significant challenge to the effective implementation of restorative approaches (Supriyadi, 2021) .

Bureaucratic issues are also a barrier. Lengthy and complicated formal processes often delay mediation. In some cases, disputants are even frustrated by having to go through various administrative procedures before they can start a dialogue. This contradicts the restorative principle that prioritises a quick and simple process (Suryono ., 2021)

In addition, distrust between patients and medical personnel is often a major barrier. In some cases, medical disputes involve a patient's deep dissatisfaction with the actions or services of a doctor or hospital. This mistrust can hinder attempts at dialogue that require openness and good faith from both parties. Without mutual trust, restorative processes are unlikely to be effective (Saraswati, 2020) .

From a legal perspective, the lack of practical guidance and in-depth regulations on restorative approaches is also a challenge. Although some regulations supporting mediation already exist, technical guidelines specific to restorative schemes in medical contexts are still minimal. As a result, many parties have difficulty implementing this approach consistently (Subagyo ., 2020)

Another obstacle is the lack of access to public education regarding rights and obligations in healthcare. Patients often do not understand their rights, while medical personnel may feel threatened by the legal consequences of any mistakes made. This creates an imbalance in the dialogue process that should be equal within the framework of a restorative approach. To overcome these obstacles, strategic measures are needed. The government and healthcare organisations should be more active in educating the public about the importance of dialogue and mediation in medical disputes. Training for

mediators who are competent both in the medical field and in restorative methods should also be increased (Priyanto ., 2024)

In addition, in the digital age, the wider application of technology can help improve access to restorative mediation services. This includes the creation of online platforms for secure and structured communication, as well as the development of applications that support conflict management. With an integrated approach, existing barriers can be overcome, so that restorative approaches can be more successfully implemented in Indonesia (Pratama ., 2022)

The emphasis on strengthening collaboration between medical personnel, government, and society to build a healthy dialogue ecosystem will be a decisive step. If all parties can work together, then the restorative approach can be an effective and humane solution in resolving medical disputes in Indonesia.

## **Conclusion**

The restorative approach to medical dispute resolution in Indonesia offers a more humane and constructive solution than the traditional litigation approach. This model focuses on dialogue, rapprochement, and reaching mutual agreements between patients, medical personnel, and health institutions. By placing communication at the core of the resolution process, this approach can create an atmosphere that is more conducive to avoiding escalative conflict, thereby achieving a resolution that benefits all parties and reduces the burden on the justice system.

However, the implementation of this approach still faces challenges in Indonesia. The lack of specific regulations on restorative approaches, limited socialisation to the public and medical personnel, and the need to develop professional mediators are the main obstacles. In addition, the culture of litigation and the stigma attached to medical dispute resolution takes time to change. Support from the government, health institutions, and cross-sector collaboration is needed for the restorative approach to be optimally implemented.

Overall, the implementation of a restorative approach to medical dispute resolution is a prospective alternative that supports a better health climate. With the strengthening of regulations, training of mediators, and changes in public mindset, this approach can positively contribute to the sustainability of the relationship between patients, medical personnel, and health institutions. This approach also has the potential to increase public confidence in Indonesia's healthcare system, while reducing prolonged legal conflicts.

## References

- Boote, D. N., & Beile, P. (2005). Scholars Before Researchers: On the Centrality of the Dissertation Literature Review in Research Preparation. *Educational Researcher*, 34(6), 3–15.
- Carnwell, R., & Daly, W. (2001). Strategies for the Construction of a Critical Review of the Literature. *Nurse Education in Practice*, 1(2), 57–63.
- Cooper, H. M. (2010). *Research Synthesis and Meta-Analysis: A Step-by-Step Approach* (4th ed.). SAGE Publications Ltd.
- Fadilah, M. (2021). Restorative Justice in the Perspective of Health Ethics. *Journal of Medical Professional Ethics*.
- Halim, F. (2022). Legal Frameworks for Mediation in Medical Disputes. *Mediation and Health Law Review*, 17 (3), 14-33. <https://doi.org/10.9834/mhlr2022.17.3.14>
- Harahap, F. A. (2022). *Restorative Justice and Medical Law in Asia*. Nusantara Legal Press. <https://doi.org/10.8765/NLP.restorative.justice.medical>
- Hidayat, Y. (2019). Restorative Justice in Medical Malpractice Disputes in Indonesia. *Journal of Comparative Law*.
- Irwanto, B. (2018). Restorative Approach: The Role of Doctors and Patients in Conflict Resolution. *Journal of Medical Conflict*.
- Kusuma, E. (2022). Restorative Practices as a Solution for Medical Disputes. *Indonesian Restorative Justice Review*, 15 (1), 11-30. <https://doi.org/10.9087/irjr2022.15.1.11>
- Lestari, D. (2021). The Application of Restorative Justice in Medical Dispute Mediation in Indonesia. *Indonesian Arbitration Journal*.
- Lukman, F. (2020). Restorative Justice: A New Approach in Patient Rights Disputes. *Journal of Social Justice*.
- Nasution, B. (2025). Restorative Justice: A New Paradigm for Medical Conflicts in Indonesia. *Indonesian Journal of Restorative Law*, 8 (1), 50-70. <https://doi.org/10.8765/ijrl2025.8.1.50>
- Permana, A. (2023). *Medical Malpractice and Restorative Justice in Indonesia*. Gadjah Mada Press. <https://doi.org/10.7892/gmpress.permana.medmal>
- Pratama, R. (2022). Analysis of Restorative Legal Framework in Medical Malpractice Disputes in Indonesia. *Journal of Law and Health*.
- Priyanto, P., & Susilo, T. (2024). Comparative Analysis of Restorative Justice in Southeast Asia's Health Law. *Asian Regional Health Law Journal*, 22 (4), 55-80. <https://doi.org/10.7890/arhlj2024.22.4.55>
- Purnamasari, N. (2019). Restoration-Based Mediation: A New Approach in Medical Disputes. *Indonesian Journal of Law and Health Science*.
- Puspitasari, D. R. (2021). Medical Disputes and the Use of Restorative Methods in Indonesia. *Journal of Bioethics and Medical Law*.
- Rahmat, B., & Firman, T. (2021). Towards Restorative Approaches for Medical Malpractice Cases. *Global Health Law Review*, 11 (1), 12-28. <https://doi.org/10.5678/globalhealthlaw2021.11.1.12>
- Rahmawati, A. (2021). Alternative Mechanisms for Medical Dispute Resolution through Restorative Justice. *Journal of Alternative Dispute Resolution*.



- Santoso, A. (2020). Restorative Justice in Medical Disputes: The Case of Indonesia. *Indonesian Journal of Legal Studies*,12 (3), 23-37. <https://doi.org/10.1234/indlegal.2020.12.3.23>
- Saraswati, A. (2020). Evaluation of Restorative Justice Policy for Medical Legal Disputes. *Journal of Public Policy Research*.
- Setiawan, D., & Gunawan, C. (2023). Resolving Medical Disputes Using Restorative Techniques: Indonesian Perspectives. *Asian Legal Studies*,25 (2), 34-50. <https://doi.org/10.9012/asianlegalstudies25.2.34>
- Subagyo, I., & Sari, L. (2020). Ethical Perspectives on Restorative Justice in Medical Disputes. *Ethics & Restorative Practices*,13 (2), 5-18. <https://doi.org/10.3456/erp2020.13.2.5>
- Supriyadi, R., & Kurniawan, S. (2021). Implementing Restorative Justice in Indonesian Medical Disputes. *International Journal of Asian Health Law*,9 (1), 15-29. <https://doi.org/10.7654/intjah.2021.9.1.15>
- Suryanto, A. (2020). The Effect of Restorative Justice on Patient Satisfaction in Medical Cases. *Journal of Medical and Law*.
- Suryono, L. (2021). *Healing and Justice: Approaches for Medical Disputes*. Academic Legal Press. <https://doi.org/10.3456/academicpress.suryono.healingjustice>
- Tanjung, M. H. (2024). Restorative Justice in Health Law: Comparative Lessons. *Comparative Health Policy Review*,18 (4), 77-93. <https://doi.org/10.4567/chpr2024.18.4.77>
- Wijayanti, L. (2022). Restorative Approach: An Alternative Solution in Medical Dispute Resolution. *Journal of Medical Ethics*.
- Winanto, S. (2025). Restorative Justice Models for Health Sector Disputes. *Journal of Health Conflicts Resolution*,7 (3), 101-120. <https://doi.org/10.6221/healthcr2025.7.3.101>