

RESTORATIVE APPROACH AS AN ALTERNATIVE TO RESOLVING DIGITAL HEALTH SERVICE DISPUTES

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Abstract

The restorative approach as an alternative to resolving digital health service disputes offers a new paradigm that focuses on restoring relationships between patients, healthcare providers, and the community. Unlike litigation mechanisms, which tend to be repressive, this approach emphasises dialogue, mutual agreement, and openness without pressure, thereby creating fair and dignified solutions for the parties involved in the dispute. In the context of digital health, the application of restorative justice is becoming increasingly relevant due to the growing complexity of disputes arising from the use of information and communication technology, as well as the need to protect the rights of patients and medical personnel. This study aims to examine the effectiveness and challenges of implementing a restorative approach as an alternative to resolving digital health service disputes in Indonesia. Using normative legal research and literature review methods, this study analyses relevant regulations, international practices, and obstacles faced in the implementation of restorative justice-based non-litigation mechanisms. The findings indicate that restorative justice has great potential to enhance public trust, improve dispute resolution efficiency, and provide legal protection for all parties. However, it still faces challenges such as regulatory fragmentation, data privacy protection, and digital literacy gaps. Thus, the study emphasises that synergy between the government, service providers, health workers, and the community is essential to strengthen regulations, infrastructure, and human resource capacity in supporting the effective and sustainable implementation of restorative approaches. Therefore, restorative justice can be an adaptive and equitable solution in resolving digital health service disputes in the current era of technological transformation.

Keywords: Restorative Approach, Alternative, Dispute Resolution, Digital Health Services.

Introduction

Restorative approaches as an alternative to dispute resolution in digital health services are becoming an increasingly relevant issue amid the rapid development of information technology in the health sector. Digital transformation has brought about changes in the way healthcare services are delivered, ranging from online consultations, telemedicine, to the use of electronic medical records. These changes not only offer greater accessibility and efficiency but also present new challenges, particularly regarding the potential for disputes between patients and digital healthcare service providers (Lee & Kim, 2023).

Potential disputes between patients and digital healthcare providers typically revolve around issues such as misdiagnosis, delays or inaccuracies in service delivery, and breaches of patient privacy, exacerbated by the lack of clear regulations and legal responsibilities among the parties involved—including platforms, doctors, and patients—leading to uncertainty regarding legal protection and the risk of financial loss for patients as consumers of online healthcare services (Woolford, 2022). The characteristics of digital services that rely on technology and remote communication often lead to miscommunication or misinformation between the parties involved. This has the potential to increase the risk of patient dissatisfaction and trigger complex legal disputes (Barsky, 2021).

Litigation in court has been deemed ineffective in handling digital healthcare cases. The lengthy court process, high costs, and potential damage to the reputation of both parties are the main considerations for seeking more efficient and equitable alternative dispute resolution methods. Furthermore, litigation tends to focus on punishment rather than on restoring the relationship between patients and service providers (Hafizah & et al., 2022).

Restorative approaches, which emphasise dialogue, restoration, and mutual agreement, offer a new paradigm in digital health dispute resolution. Restorative justice seeks to bring conflicting parties together to jointly find fair solutions and restore losses incurred, both material and immaterial. This approach is considered more aligned with the needs of society, which seeks dispute resolution that is swift, cost-effective, and focused on restoring social relationships (de Oliveira, 2022).

In Indonesia, the urgency of applying a restorative approach in resolving digital health disputes has grown stronger with the enactment of Law No. 17 of 2023 on Health. This regulation explicitly encourages the resolution of health service disputes through non-litigation mechanisms, including mediation and restorative approaches. This demonstrates the state's recognition of the importance of more humane and adaptive alternative dispute resolution methods in line with technological developments (Karjoko & et al., 2023). However, the implementation of restorative approaches in the context of digital health services is not straightforward. The main challenges include the

protection of patients' personal data, limited digital literacy among the public, and the readiness of technological infrastructure to support virtual mediation processes.

In addition, the absence of standard operating procedures in the implementation of online-based mediation is also a constraint (Sinaga, 2021). Several studies conducted by various researchers show that several countries have adopted restorative-based dispute resolution models for digital health cases, with a fairly high success rate.

The use of online mediation platforms, facilitation by professional mediators, and legal protection of data and privacy are key to the successful implementation of this approach. These studies can serve as important references for Indonesia in designing a policy framework and technical implementation of restorative mediation in the field of digital health (Smith, 2023).

In addition to regulatory and technical aspects, cultural factors also influence the effectiveness of the restorative approach. Indonesian society, with its culture of deliberation and kinship, has great potential to accept and develop this approach. However, massive education and socialisation efforts are needed to ensure that the public understands the benefits and mechanisms of restorative dispute resolution, especially in the relatively new context of digital health services (Aktariyani, 2022).

This research is important to conduct a thorough examination of the potential, challenges, and implementation strategies of the restorative approach in resolving digital healthcare disputes in Indonesia. A comprehensive literature review will provide an overview of the development of restorative justice theory and practice in the field of digital healthcare, both at the national and international levels.

Research Method

The research method used in this study is normative legal research with a literature study approach (library research), in which the researcher analyses various primary and secondary legal sources, such as legislation, scientific journals, books, and relevant decisions, to identify and examine the application of a restorative approach as an alternative dispute resolution in digital health services. The analysis is conducted qualitatively with an emphasis on the interpretation of legal norms, the concept of restorative justice, as well as the relevance and challenges of its implementation in the context of digital-based health services in Indonesia (Liberati et al., 2020); (Page et al., 2021).

Results and Discussion

Restorative Model in Resolving Digital Health Disputes

Restorative models for resolving digital health disputes are an approach that emphasises restoring relationships and achieving mutual solutions between patients and service providers, rather than the confrontational litigation model that emphasises

punishment. In the digital context, this model is increasingly relevant due to the unique characteristics of technology-based healthcare services, which often present new challenges such as miscommunication, electronic data errors, and patient privacy breaches (Frontiers Health Services Team, 2025).

In the early stages of dispute resolution, the restorative approach encourages open communication between patients and digital healthcare providers. This dialogue aims to identify the root causes of the problem, build mutual understanding, and reduce the potential for misunderstandings that often arise from virtual interactions. This openness serves as the foundation for both parties to express their complaints, expectations, and explanations honestly without pressure (Nasution, 2020). Next, direct negotiation between the patient and the service provider is facilitated, either through online meetings or face-to-face meetings, to find a fair and mutually satisfactory solution. In digital health practice, this negotiation may involve the use of electronic medical records (EMR) as evidence and clarification, making the resolution process more transparent and accountable (Wijaya & Sari, 2024).

If negotiations fail to reach an agreement, the next step is mediation involving a neutral third party, such as a professional mediator who understands digital health issues and personal data protection. This mediation can be conducted virtually using video conferencing platforms, which have become increasingly common since the COVID-19 pandemic, while ensuring data confidentiality and security through encryption technology and digital signatures (Susila & Soularito, 2021).

The restorative model also emphasises the importance of acknowledgement and responsibility from the party at fault, whether it be medical personnel, platform operators, or other parties involved. This acknowledgement serves as the basis for rebuilding trust and preventing similar violations in the future. In some cases, the resolution may take the form of an apology, compensation, or service improvements (Sinaga, 2021). Additionally, this model involves regulatory bodies or medical professional organisations if the dispute involves ethical violations or breaches of professional codes. The involvement of these institutions is important to ensure that the resolution is not only private but also maintains the moral standards and integrity of the healthcare profession. The sanctions imposed may include retraining, strict supervision, or administrative sanctions, rather than formal legal sanctions (Bharata & et al., 2024).

The advantage of the restorative model in digital health disputes lies in its ability to create faster, cheaper, and more satisfactory solutions compared to litigation. Its participatory and inclusive process makes patients feel heard, while healthcare providers or service providers can provide clarification without fear of excessive criminalisation. This leads to increased public trust in the digital health system (Barsky, 2021). However, the implementation of this model also faces challenges, including the need to strictly protect patients' personal data during the mediation process, as well as

the requirement for mediators who are knowledgeable about technology and health law. Additionally, the digital literacy gap between patients and service providers can pose a significant barrier to dialogue and negotiation (Nasution, 2020).

From a regulatory perspective, Law No. 17 of 2023 on Health and Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution provide a legal framework for the application of restorative models in resolving digital health disputes in Indonesia. These regulations emphasise the importance of alternative dispute resolution efforts before resorting to formal litigation (Flora & Henny, 2021).

The integration of technology in the restorative model is also increasingly developing, for example through the use of artificial intelligence (AI) to support administrative processes, evidence analysis, and case management, thereby improving the efficiency and accuracy of dispute resolution. However, the role of professionals remains crucial to ensure that the outcomes of resolution remain fair and proportionate (Johnson, 2021).

Restorative models in digital health dispute resolution also have a positive impact on the quality of health services. When disputes are resolved fairly and transparently, public trust in digital services increases, and service providers are encouraged to continue improving operational standards and consumer protection (Jauhani & et al., 2023).

Ultimately, this model not only provides solutions to existing disputes but also contributes to strengthening the legal system and healthcare services that are more responsive, efficient, and socially just. As such, the restorative approach can serve as a new paradigm for resolving digital health disputes in Indonesia.

Implementation Challenges in a Complex Digital Health Ecosystem

The implementation of a digital health ecosystem faces multidimensional complexities stemming from regulatory fragmentation between laws such as the Health Law, Personal Data Protection Law, and Information and Electronic Transactions Law. This legal inconsistency creates ambiguity regarding the legal responsibilities of service providers, particularly in cases of telemedicine disputes that are often caught between interpretations of medical negligence and digital consumer protection. Data security is a critical challenge, as 68% of hospitals in Indonesia do not meet encryption standards for securing electronic medical records, increasing the risk of sensitive data leaks during information exchange (Flora & Henny, 2021).

Uneven technological infrastructure exacerbates the situation, with only 12% of primary healthcare facilities having integrated information systems. Reliance on foreign cloud providers due to local server limitations creates cross-border jurisdictional vulnerabilities and potential third-party intervention. Digital literacy gaps create information asymmetry—73% of elderly patients struggle to operate virtual mediation

applications, while 41% of doctors are unfamiliar with blockchain-based incident reporting systems (Hapsari, 2020).

Fragmentation of electronic medical record systems across healthcare institutions hinders the flow of critical data. A case at Grhasia Hospital showed a 5-hour delay just to convert data formats between the Nusacare and Satu Sehat platforms. Organisational cultural resistance also hinders progress, with 58% of private hospitals refusing to integrate external mediation systems due to concerns about exposing internal performance data and a tradition of 'covering up mistakes' (Hafizah & et al., 2022). Financial burdens are a significant barrier—initial investments of Rp1.2–2.5 billion per institution for security certification and mediator training, plus annual maintenance costs of 20%. These figures are unaffordable for small healthcare facilities.

Complex cross-sector coordination required 32 inter-agency meetings in the 2023 Halodoc data breach case, highlighting bureaucratic inefficiency (Smith, 2023). Ethical dilemmas arise with the use of AI in mediation, where 23% of cases failed due to algorithmic bias in interpreting patients' emotions. Chatbot technology has proven inaccurate in capturing the nuances of human communication. A public trust crisis exacerbates the situation—67% of patients refuse virtual mediation due to trauma from medical data sales cases, with only 12% willing to share complete data (Hapsari, 2020). Legal ambiguity is reflected in Supreme Court Ruling No. 123 PK/Pid/2023, which classifies platforms as 'facility providers,' creating a legal liability loophole.

This complicates compensation determination in 41% of telemedicine dispute cases. Weak post-mediation monitoring—only 22% of agreements have structured follow-up mechanisms—results in 68% of parties repeating similar mistakes within six months (Lee & Kim, 2023). Unequal access to technology in remote areas widens service disparities. Only 37.17% of JKN healthcare facilities are fully digitised, leaving 63% of the population with conventional healthcare services. Unclear interoperability standards result in over 400 government health apps being incompatible, fragmenting patient data across isolated systems (Aktariyani, 2022).

The final challenge lies in human resource capacity—56.6% of hospitals and 82.5% of community health centres lack digitally trained healthcare workers. This hinders accurate data analysis, which is vital for strategic decision-making. Digital health transformation requires comprehensive systemic engineering that integrates regulatory, technological, and cultural aspects to create an inclusive and sustainable ecosystem (Woolford, 2022).

Thus, the implementation of a restorative approach to dispute resolution in Indonesia's digital health ecosystem faces highly complex challenges, ranging from regulatory fragmentation, data security vulnerabilities, infrastructure and digital literacy gaps, to organisational cultural resistance and limited human and financial resources. This complexity is exacerbated by weak cross-sectoral coordination, unclear interoperability standards, and a public trust crisis resulting from data breaches and

legal accountability ambivalence. Therefore, efforts are needed to harmonise regulations, strengthen technology infrastructure and data security, improve digital literacy, and develop integrated monitoring and evaluation mechanisms. Synergy between the government, service providers, health workers, and the community is essential to build an inclusive, safe, and equitable digital health ecosystem, so that a restorative approach can be implemented effectively and sustainably in the resolution of digital health service disputes.

Conclusion

The restorative approach as an alternative to resolving digital healthcare disputes in Indonesia offers a new paradigm that is more humanistic and focused on restoring relationships between patients, healthcare providers, and the community. Through open dialogue, mutual agreements, and transparency without coercion, this approach seeks to create fair and dignified solutions for all parties involved, unlike litigation, which tends to focus on punishment and often overlooks the need for recovery for both victims and perpetrators.

The implementation of restorative justice in the context of digital health is supported by Law No. 17 of 2023 on Health, which emphasises the importance of non-litigious dispute resolution and prioritises restorative justice before pursuing formal legal channels. This approach not only provides legal protection for medical personnel and patients but also promotes transparency, trust, and efficiency in dispute resolution amid the complexity of technology-based healthcare services.

However, the implementation of the restorative approach still faces various challenges, such as regulatory fragmentation, data privacy protection, and uneven digital literacy. Nevertheless, with collaboration between the government, service providers, and the public, as well as strengthened regulations and infrastructure, restorative justice has great potential to become an effective and sustainable solution for resolving digital healthcare disputes in Indonesia.

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