

# Bridging Restorative Justice and Fair Trial: Reconstruction of Closed Trials in the Indonesian Criminal Justice System

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## Abstract:

This study aims to formulate a selective closed trial model that allows for the implementation of restorative justice without violating the principle of openness. Restorative justice has become an alternative approach in the Indonesian criminal justice system that places victims at the center of recovery. However, the implementation of restorative justice faces challenges when confronted with the principle of openness in trials, a fundamental principle in national criminal procedure law. The method used in this study is normative juridical with statutory, conceptual, and comparative approaches. By examining provisions in the Criminal Procedure Code (KUHAP), the Supreme Court Regulation on Restorative Justice (PERMA RJ), and practices in other countries such as the United States and Canada, it is found that there is an urgency to establish a legal mechanism that gives judges limited authority to conditionally determine closed trials based on the consent of the parties and the principle of confidentiality. This reconstruction aims to realize a criminal justice system that is fairer, more participatory, and based on the humanitarian values of Pancasila and the mandate of the constitution.

**Keyword:** Restorative Justice, Closed Trials, Criminal Justice System.

## Introduction:

Restorative justice presents itself as an approach that views criminal acts not simply as violations of the law, but as disruptions to social relationships that cause suffering to victims (Giuseppe Maglione, 2021). The primary focus of restorative justice is not on punishment, but rather on recovery through voluntary meetings between the victim, the perpetrator, and the community to find a just solution. This process encourages the perpetrator to acknowledge their mistakes, assume responsibility, and sincerely improve their behavior (Femmy Silaswty Faried, et.al., 2022). Meanwhile, for victims, the restorative justice process provides a space to understand the

background of the incident, gain recognition for their suffering, and restore a sense of self-worth and control over their lives (Masahiro Suzuki, 2023). Thus, restorative justice places the victim at the center of attention within a criminal justice system that is inclusive, humane, and restorative.

In Indonesia, this approach is beginning to gain formal recognition through the enactment of the new Criminal Code (KUHP 2023), which will be effective in 2026 as stipulated in Law Number 1 of 2023. One important provision is contained in Article 54 paragraph (1) letter j, which states that forgiveness from the victim and/or their family can be taken into consideration in imposing criminal penalties (Erwin Susilo, 2025). This

reflects a paradigm shift from a retributive approach to a restorative approach, with an emphasis on restoring social relations and balance (David Chelsom Vogt, 2024).

Furthermore, the Supreme Court also strengthened this direction through the issuance of Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice (PERMA RJ), which provides technical direction for judges in applying RJ in criminal trials (Muhammdad Enaldo Putri, 2024), but its implementation must still be in line with the principles stipulated in Law Number 8 of 1981 (KUHAP).

One of the important principles of the Criminal Procedure Code (KUHAP) is the principle of open trials (Erwin Susilo, 2025), which can only be exempted in cases of morality or if the perpetrator is a child, as stipulated in Article 153 paragraph (3). Even in closed trials, the reading of the verdict must still be carried out openly as stipulated in Article 195 of the Criminal Procedure Code (Riadi Asra Rahmad, 2019). In this case, a problem arises when RJ, which emphasizes open and safe dialogue between victims and perpetrators, clashes with the legal principle that requires open criminal trials. This issue has not been widely studied, even though it is highly relevant given that RJ is now beginning to be formally integrated into the criminal justice system.

On the other hand, various studies show that the RJ approach is often associated with the concept of mediation. Sriwidodo, as quoted by Afdolul Anam and Masykurotus Syarifah, views mediation as a form of restorative dialogue as highly compatible with the character of Indonesian law, which prioritizes deliberation and peace (Afdolul Anam and Masykurotus Syarifah, 2023). A similar opinion was expressed by Ach. Faisol Triwijaya and his colleagues, who proposed the application of RJ in environmental criminal cases using a dual mediation approach combining criminal and civil mediation (Ach. Faisol Triwijaya, et.al., 2020). Farah Fahira Putri and

Hufron emphasized the importance of consensus as a way to avoid revenge and restore victims' rights (Farah Fahira Putri, 2023), while Kasmanto Rinaldi and Chika Tri Muharsih viewed mediation as a gateway to implementing RJ (Kusmanto, 2021). Hanna Niken Julia Sihotang also noted that Indonesian society has historically been accustomed to resolving conflicts through deliberation to maintain social balance (Hanna Niken, 2021).

However, there are fundamental differences between mediation in civil cases and the RJ mechanism in criminal cases. The 2016 Supreme Court Regulation on Mediation stipulates that the mediation process is generally closed (Article 5 paragraph (1)), unless otherwise specified. Conversely, criminal cases are based on the principle of open trial proceedings, except in certain cases. The success of both mediation and RJ depends heavily on the achievement of a valid peace agreement between the parties. This means that, although the essence of the two is similar, the difference in the open or closed nature of the process creates an unaddressed legal vacuum.

Based on this, this study seeks to examine the regulation of RJ in the Indonesian criminal justice system, which adheres to the principle of open trials, while simultaneously formulating a concept for a criminal procedure mechanism that allows for selective RJ in closed courtrooms. This idea is intended to bridge the victims' need for a safe and private space, while maintaining the principle of openness. The novelty of this research lies in the proposed model of criminal trials that provides legal space for the implementation of RJ in closed courtrooms, a practice not yet regulated by the Criminal Procedure Code (KUHAP) or the Supreme Court Regulation on RJ. Therefore, this research is expected to provide conceptual and practical contributions to reforming the criminal justice system to be more just.

#### **Method Research:**

This research uses a normative juridical method with a statutory, conceptual, and comparative approach (Peter Mahmud Marzuki,

2010). The statutory approach is used to examine various applicable legal provisions, such as Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP), Law Number 48 of 2009 concerning Judicial Power, PERMA Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, and other related regulations. The conceptual approach is used to understand the tension between the principle of open trials and the need for closed spaces in RJ, while the comparative approach is intended to compare similar arrangements and practices in other countries, such as the United States and Canada. The legal materials used include primary legal materials in the form of statutory regulations, as well as secondary legal materials in the form of literature, doctrine, and previous research results. The analysis is conducted qualitatively to formulate a selective model of closed trial mechanisms that can support the implementation of RJ effectively and in harmony with the spirit of Pancasila.

## Results and Discussion:

### Legal Basis for Open Public Trials and Their Impact on the Implementation of Restorative Justice

Amal Clooney and Philippa Webb, as quoted by Thomas Harré, emphasize that the right to a fair trial is the primary foundation for human rights protection. If this right is not guaranteed, other, more specific rights are vulnerable to violation or even lose their practical meaning in everyday legal practice (Thomas Herre, 2022). In practice, a fair trial serves as both a legal and moral instrument for determining the legitimacy of state actions against individuals. This process is the only formal mechanism that allows the state to legally restrict an individual's rights through legal channels (Andrzej Paduch, 2023).

Historically, the concept of a fair trial originated in England in the 17th century and was not initially understood as an inherent human right, but rather as a series of legal procedures to ensure that the court process was conducted legally, orderly, and accountably. The term was

initially used technically, without emphasizing individual protections, such as the appropriateness of trial time, the availability of evidence, and procedural equality for the parties. However, along with the development of global human rights, the meaning of fair trial has undergone a paradigmatic shift—from merely a formal procedure to a list of substantial rights for the accused, such as the right to defense, an interpreter, notification of charges, and a neutral court (Ian Langford, 2009).

In his study, Ian Langford even questions the universality of this concept. He observes that a fair trial is not a principle that naturally arises in all legal systems, but rather a product of the Anglo-Saxon legal culture hegemonic in its spread through English and the dominance of the common law system on the international stage. This is evidenced by the lack of an equivalent word for "fair" in French or German legal languages, which ultimately adopted the term as is. Langford asserts that a fair trial is part of the historical process of Western legal modernization that is not always relevant or enforceable across civilizations.

Nevertheless, the concept of a fair trial has now become a universal principle recognized and regulated in various international human rights instruments. The Universal Declaration of Human Rights (UDHR) stipulates in Article 10 that everyone has the right to a fair and public trial by an independent and impartial tribunal, and Article 11 affirms the principle of the presumption of innocence and the prohibition of retroactive criminal law (Misbah Nasim, 2023). This provision is reaffirmed in the International Covenant on Civil and Political Rights (ICCPR), which has been widely adopted by countries worldwide and ratified by Indonesia through Law Number 12 of 2005 (Beka, 2020). Article 14 of the ICCPR guarantees that everyone has the right to a fair and public trial, with strictly permitted exceptions in the interests of morality, public order (*ordre public*), national security, or the protection of the personal dignity of the parties

(Oleksandr Omelchenko and Vladislav Rebezyuk, 2020).

The principle of open trials is also explicitly affirmed in various regional human rights instruments. Article 6 of the European Convention on Human Rights (ECHR) affirms that everyone has the right to a fair and public trial, held within a reasonable time by an independent and impartial tribunal (Ryan Goss, 2023). This provision clarifies that transparency is an integral part of protecting the right to a fair trial. Similarly, Article 7 of the African Charter on Human and Peoples' Rights guarantees the right to a fair hearing, including the right to a defense, the presumption of innocence, and to be tried within a reasonable time. This, in practice, also embodies the principle of public access to the judicial process (Jacqueline W. Mwangi, 2023). Meanwhile, Article 8 of the American Convention on Human Rights (ACHR) expressly states that everyone has the right to be tried in a fair and public process, before a competent, independent, and impartial tribunal. This convention also details various minimum rights of the accused, including the right to legal assistance, the right to examine witnesses, and the prohibition against coercion into confessing guilt (Lubis, 2023).

All of these instruments emphasize that the principle of openness, or open court, is an integral part of a fair trial. Open trials serve as an accountability mechanism, ensuring public oversight of the legal process, preventing abuse of power, and providing accountability for the trial itself (Tamara A, 2020). Canada's Final Report of the Sub-Committee on the Open Court Principle (2023) even emphasized that this principle is fundamental to maintaining the integrity of the modern legal system (Sterling Report, 2023).

In Indonesia, the principle of open trials is explicitly regulated in Law Number 48 of 2009 concerning Judicial Power (the Judicial Power Law). Article 13 stipulates that all hearings are open to the public, and if this provision is not met, the court's decision is deemed null and void (Susilo, 2014). Article 64 of the Criminal

Procedure Code states that every defendant has the right to be examined in a court hearing that is open to the public. This provision emphasizes the principle of openness as part of the defendant's right to receive fair and transparent treatment during the trial process (Hafidz and Pudji, 2022).

Furthermore, the mechanism for implementing this principle is regulated in Article 153 paragraph (3) of the Criminal Procedure Code, which states that the presiding judge is obliged to open and declare the hearing open to the public before the hearing begins, except in certain cases, namely cases concerning morality or when the defendant is a child (Dian Novitasari, 2023). In this case, procedural law provides limited exceptions aimed at protecting moral values and children's rights. This exception shows that openness of trials is not an absolute principle, but is subject to considerations of individual protection and the greater public interest, as is also reflected in various international human rights instruments.

Juvenile cases are also regulated by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). This aims to safeguard the dignity and psychological well-being of children to prevent them from experiencing public pressure or social stigma. In certain circumstances, judges may even consider holding open trials limited to the reading of the verdict (Erwin Susilo, 2023). Supreme Court Circular Letter No. 5 of 2021 (SEMA No. 5 of 2021) also serves as an important basis, affirming that domestic violence cases with elements of sexual violence can be tried behind closed doors to protect the "human dignity of the victim."

When the principle of open trials is confronted with RJ, a significant dilemma arises. On the one hand, openness ensures accountability and transparency, but on the other hand, RJ requires a safe, private space for emotional dialogue between the victim and the perpetrator. RJ is defined as a participatory process involving communication between the victim and the perpetrator to discuss the impact of the crime and

develop joint recovery solutions (Siobhan Buthler and Edhei, 2024). If this process is conducted in an open forum, the intimacy of the dialogue can be disrupted, and parties may be reluctant to open up about their feelings or explain their personal motives.

Furthermore, RJ relies heavily on emotional readiness. The perpetrator must be fully prepared to admit wrongdoing, and the victim must feel safe hearing the perpetrator's explanation. If either party is not prepared, RJ can fail or even become a source of further trauma (Nikki D'Souza and Joanna Shapland, 2023). Findings by Nascimento et al. indicate that the success of RJ depends heavily on a balance of power, trust, and validation of the victim's suffering. RJ can even foster empathy, emotional relief, and psychological healing, such as reduced PTSD, fear, and anger (Ana M. Nascimento, et al., 2023).

However, this process requires a private and protected space, not only for privacy but also to ensure the victim feels humanized. Not all victims feel ready to confront the perpetrator directly, and if not carefully mediated, it can exacerbate existing psychological wounds (Terrill O. Taylor and Tamba, 2022). Therefore, legal flexibility is needed to provide alternative trial formats, including partially or fully closed trials, to support the success of RJ.

In this regard, it is crucial for the state and judicial institutions to develop adaptive policies, namely policies that recognize the principle of openness as a principle, but provide legitimate space for proportionate deviations for the greater purpose of protection and restoration. This means that closing a trial is not a violation of a fair trial, but rather a more substantial form of protection for justice. Therefore, fair trials and RJ should not be positioned as binary oppositions. They can complement each other if there are sufficiently flexible normative arrangements, accommodating the emotional needs of the parties, and responsive to the dynamics of modern justice. This requires a paradigm shift to create a safe space for dignified and participatory recovery.

### **Selective Reconstruction of the Closed Trial Model in the Context of Implementing Restorative Justice:**

The RJ process, as stipulated in the Supreme Court Regulation (PERMA) on RJ, represents a new approach to the criminal justice system that focuses on victim recovery and perpetrator accountability, rather than simply retaliation. The RJ process can begin on the first day of the trial (Article 7) if the defendant admits to the alleged offense and does not file an objection, allowing the trial to proceed with the RJ mechanism. The judge will then examine the victim's presence (Article 8) and assess the possibility of a reconciliation agreement, either before or during the trial (Articles 9, 10, and 15).

If a reconciliation agreement has been reached, the judge will verify its implementation and consider it in the verdict (Article 9 paragraph 2). However, if a reconciliation agreement has not yet occurred or is not yet implemented, the judge is obliged to play an active role in facilitating dialogue, exploring the victim's needs and the defendant's capabilities, and encouraging the creation of a legal and fair agreement (Articles 10–12). The agreement must be free from pressure, deception, and not contrary to the law (Articles 13 and 18 paragraph 2). The results of the reconciliation agreement can be used as mitigating factors or as a basis for imposing a conditional sentence or a supervised sentence (Article 19). Judges are also required to explicitly state the application of the RJ in their decisions (Article 21), while supervision of the implementation of the RJ is carried out by the Chief Justice of the High Court (Article 22).

The provisions of the PERMA RJ clearly demonstrate that the RJ process provides a space for direct dialogue between the perpetrator and the victim. This space is personal, honest, and relies heavily on emotional openness from both parties. Therefore, logically, the process should be conducted in a private setting to ensure psychological safety, encourage authentic expression, and protect the confidentiality of the process.

This practice aligns with the approach of the Common Justice program in the United States, which is aimed at young offenders (aged 16–26) facing charges for serious violent crimes such as robbery or attempted murder. In this program, the offender must first admit to a minor offense and then participate in a 15-month intensive program. The program includes a facilitator-mediated dialogue between the offender and the victim (or a surrogate victim), conducted in a private setting. The goal is to build understanding of the psychological impact of the crime and agree on reparative measures (Sabastian, 2023). A similar finding was found in Monetta Bailey's research on the implementation of Extra-Judicial Sanctions (EJS) in Calgary, Canada. In this scheme, the RJ process is conducted privately through a panel hearing involving juvenile offenders, their families, and the juvenile justice community. While informal, this private setting allows for personal conversations (Monetta, 2021).

The Restorative Justice Community Courts report by Chicago Appleseed (2024) also emphasized the importance of maintaining the confidentiality of the RJ process (Naomi, 2024). Illinois State law explicitly stipulates that anything said or done during the RJ process, including its preparation and follow-up, cannot be used in criminal, civil, or administrative proceedings unless explicitly waived by the protected party. This provision emphasizes that the RJ process must be conducted in a closed setting to maintain confidentiality, protect the psychological well-being of the parties involved, and prevent the misuse of information that emerges during the process.

Furthermore, the principle of confidentiality in RJ can also be drawn from the PERMA (Regional Regulation on Mediation of Civil Cases). There, the principle of confidentiality ensures that everything disclosed by the parties during the mediation process with the mediator cannot be made public. This allows the parties to speak openly about the legal facts and their positions without fear of harm (Dewa Putu, 2021).

The agreement reached in RJ, as is also the case in civil mediation, is essentially an agreement subject to the conditions for a valid agreement as stipulated in Article 1320 of the Civil Code. An agreement is only valid if it meets the elements of mutual consent, legal capacity, the object of the agreement, and an objective that does not conflict with law, morality, or public order. The first two conditions are subjective—violation of which renders the agreement void. The last two conditions are objective, and if not met, the agreement is void by law (MS Alfarisi, 2023).

If these conditions are met, the agreement becomes valid and binding, as stipulated in Article 1338 of the Civil Code, which states that "all agreements made legally apply as law for those who make them and must be implemented in good faith" (Dita Fatmi, 2023). This principle is a manifestation of the principle of *pacta sunt servanda*, a universal principle in contract law that guarantees legal certainty and protection (Mosgan, 2021).

In criminal trials, the judge plays a central role as the presiding officer of the proceedings. This is emphasized in Article 153 paragraph (2) letter a and Article 217 paragraph (1) of the Criminal Procedure Code (Wddy, 2020), which states that the presiding judge leads and regulates the course of the trial and is responsible for its order and smooth running.

In relation to RJ, the judge's responsibility becomes even more crucial. Judges must ensure that the RJ process takes place while upholding the dignity of each individual involved, both the victim and the perpetrator. This approach differs significantly from the conventional justice model, which tends to place the perpetrator and victim in a rigid, face-to-face position. RJ, on the other hand, demands a safe, equal, and supportive environment so that confessions, apologies, and reconciliation can occur voluntarily and meaningfully.

If the RJ process is conducted in a public courtroom, there are serious risks to the dignity of the parties involved. Victims can experience

deeper psychological wounds from having to publicly disclose traumatic experiences, while perpetrators can feel pressured or embarrassed when asked to openly admit their mistakes. The open environment can also hinder honesty and active participation due to fear of social stigma or media scrutiny. Therefore, to maintain the dignity and psychological well-being of the parties, the RJ process should be conducted in a closed session.

The closure of these trials is not intended to undermine the principle of open justice, but rather as a legitimate and proportionate exception to protect the dignity of the individuals involved. Judges, as those in full control of the courtroom dynamics, have the authority as well as a moral and legal obligation to ensure that the RJ process takes place in a private, conducive, safe, and respectful atmosphere. This is a manifestation of the judge's role as a protector of human rights and a facilitator of social recovery, enforcing the law not only procedurally but also substantively and humanely.

Essentially, all criminal trials must be conducted openly to the public, except in cases involving children and/or morality. However, in certain situations, the need to resolve a case through an RJ justice approach may justify holding a closed trial conditionally. Therefore, a mechanism is needed that allows judges to establish closed hearings to support the safe, voluntary, and dignified implementation of the RJ process. This mechanism includes the following stages:

The stages of implementing conditionally closed trials to support the success of RJ begin with an initial assessment by the judge. If a case does not fall into the category legally permitted for closed trials—such as juvenile or morality cases—but there are indications that RJ proceedings will be conducted, the judge may temporarily suspend the trial and subsequently declare a closed trial to explore the possibility of resolving the case through the RJ mechanism.

Subsequently, the parties' opinions are solicited. Before declaring a conditionally closed

trial, the judge must first hear and consider the opinions of the Public Prosecutor, the Defendant and/or their Legal Counsel, and the Victim. The RJ process can only be implemented if all parties voluntarily agree, without pressure or coercion.

Based on this agreement, the judge can then proceed to the conditional closed-door hearing. This stipulation is intended to provide a safe, private, and supportive courtroom to ensure emotional openness and active participation from all parties involved in the RJ.

After the RJ process is completed, the judge is required to reopen the trial to the public to continue examining the main case in accordance with applicable criminal procedure law. At this stage, the evidence-gathering process is formal, separate from the previous RJ process.

To protect the authenticity of the restorative dialogue process, the principle of confidentiality is applied. All statements, confessions, information, or documents arising during the RJ process cannot be used as evidence in the examination of the main case. This principle embodies the principle of confidentiality as stipulated in Article 35 paragraph (3) of the Supreme Court Regulation on Mediation, which states that "statements and confessions during the mediation process cannot be used as evidence if the mediation is unsuccessful." Similar provisions are relevant in the context of RJ to ensure a safe and honest atmosphere in efforts to resolve personal and relational conflicts.

This mechanism is based on fundamental principles in criminal justice, namely:

1. Audi et Alteram Partem (the right to be heard), which requires judges to involve all parties before making a decision (Raihan, 2023);
2. Voluntary consent, as an essential requirement in the implementation of RJ (Sutejo, 2024);
3. Confidentiality, to maintain a sense of security and encourage openness during dialogue between parties (Selma, 2023).

A clear separation between the closed restorative space and the open evidentiary space not only protects the legal process but also ensures justice for victims, perpetrators, and the community. For this concept to serve as a concrete reference for reforming the Criminal Procedure Code (KUHAP), the following regulations are needed going forward:

- (1) In criminal cases that do not fall into the category of children and/or morality, the Chief Justice may determine that the trial will be held in closed session conditionally for the purposes of implementing restorative justice.
- (2) The determination as referred to in paragraph (1) may only be made if:
  - a. The judge has heard and considered the opinions of the Public Prosecutor, the Defendant and/or their legal counsel, and the victim; and
  - b. All parties have expressed their willingness to undertake the restorative justice process.
- (3) The restorative justice process is closed to the public.
- (4) After the restorative justice process is completed, the trial must be reopened to the public to continue the examination of the main case.
- (5) All statements and confessions cannot be immediately used as evidence in the examination of the main case, but must be re-examined.

To realize a more just, participatory, and victim-responsive criminal justice system, the roadmap for criminal procedural law reform needs to be directed toward the formal recognition and regulation of RJ as an alternative approach equivalent to the adjudicative process. The first stage in this roadmap is strengthening the legal paradigm by affirming the RJ principle in national criminal procedural law instruments. This begins with formulating legal norms that explicitly accommodate the implementation of RJ in a conditionally closed courtroom. This formulation serves as the initial foundation for ensuring legal protection for the RJ process, which is dialogic

and emotional in nature and requires a safe atmosphere free from public pressure.

The second stage is the development of a procedural mechanism that aligns with the principles of the Criminal Procedure Code (KUHAP), while still providing judges with flexibility to adapt the format of the trial based on the dynamics of the case. In this regard, the roadmap is directed toward granting judges limited authority to suspend trials and shift proceedings to a closed format if all parties are willing to implement RJ. This provision prevents abuse of authority and ensures transparency of the process through the active involvement of the public prosecutor, defendant/legal counsel, and victim.

The third stage involves the formulation of technical guidelines for the implementation of closed-door courtroom retrials, outlined in an appendix or implementing regulations of the Criminal Procedure Code (KUHAP). These guidelines outline procedures for soliciting opinions from the parties, documenting the retrial process, protecting confidentiality, and overseeing mechanisms by higher courts. At this stage, training and outreach to law enforcement officials, particularly judges and prosecutors, are crucial to ensure uniform understanding and implementation in the field.

Finally, the roadmap concludes with regular evaluations of the implementation of these provisions across jurisdictions. These evaluations aim to identify challenges, inconsistencies, and successes in the implementation of closed-door retrials, while also providing the basis for further policy and legislative reforms.

The flexibility in the implementation of retrials based on the aforementioned concept demonstrates that this approach aligns with the spirit and noble values of the Indonesian nation, rooted in the Pancasila philosophy (Susilawati, 2021). The values of just and civilized humanity, as reflected in the second principle of Pancasila, serve as the moral foundation for the implementation of retrials, which place victims

and perpetrators in an equal and dignified relationship (Langgeng, 2023). In this context, judges, as the executors of judicial power, have a central role in ensuring that the judicial review process is carried out in accordance with the principles of justice. This is a constitutional mandate as stipulated in Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that "Judicial power is an independent power to administer justice to uphold law and justice" (Emerald, 2021). Thus, the implementation of judicial review is not only a reflection of a progressive and participatory legal approach, but also an embodiment of the constitutional values and philosophy of the Indonesian nation..

### Conclusion:

The principle of open trials is an essential part of a fair trial guaranteed by national and international law. However, in the context of RJ, this openness often conflicts with the need for a safe and private space for victims and perpetrators to engage in honest and emotional dialogue. Therefore, flexible rules are needed that uphold the principle of openness but allow for legitimate and proportionate deviations for successful recovery, so that fair trials and RJ do not negate each other, but rather complement each other in creating a just and humane justice system. The selective reconstruction of the closed trial model in the context of RJ implementation shows that the RJ process requires a safe, private, and supportive space to facilitate honest and meaningful dialogue between perpetrators and victims, as stipulated in the PERMA RJ and supported by practices in various countries. Therefore, a legal mechanism is needed that allows judges to conditionally determine closed trials by considering the consent of the parties, maintaining confidentiality, and separating the RJ process from the main evidence of the case. A roadmap for reforming the Criminal Procedure Code is needed, including strengthening norms, developing procedures, technical guidelines, and regular evaluations to realize a criminal justice system that is participatory, fair, and in line with

the humanitarian values of Pancasila and the mandate of the constitution.

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