

RESTORATIVE JUSTICE AND THE EXECUTION OF FIDUCIARY GUARANTEES: REINTERPRETING POLICE INVOLVEMENT IN CIVIL LAW ENFORCEMENT

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ABSTRACT

The execution of fiduciary guarantees is formally situated within civil law, yet in practice it frequently involves police participation under the justification of maintaining public order or providing security assistance. This practice has blurred the boundary between private law enforcement and criminal policing, raising concerns regarding legality, proportionality, and the protection of rights. This study examines how police-led restorative justice can be legitimately integrated into civil law enforcement of fiduciary guarantees within the framework of the rule of law.

Using a qualitative doctrinal and socio-legal approach, this research analyzes legal norms, judicial decisions, international standards, and scholarly literature on fiduciary law, police authority, and restorative justice. Restorative justice principles are employed as a normative lens to evaluate the legitimacy of police involvement in fiduciary execution.

The findings reveal that police involvement can be legitimized only when reinterpreted as facilitative rather than coercive. Police authority must be normatively limited to safeguarding lawful procedures, preventing conflict, and facilitating voluntary dialogue at the pre-execution stage. Furthermore, effective integration requires a coherent normative and institutional framework, including formal legal recognition of restorative mechanisms, procedural safeguards, judicial oversight, and accountability. Institutionalizing restorative justice within civil law enforcement enhances legal certainty, protects creditor and debtor rights, and promotes a more proportionate and rule-of-law-compliant system of fiduciary guarantee execution.

Keywords: *Restorative Justice; Fiduciary Guarantees; Police Involvement; Civil Law Enforcement; Rule of Law*

INTRODUCTION

Background

The execution of fiduciary guarantees plays a pivotal role in contemporary civil law systems, particularly within credit-based economies where secured transactions function as instruments of financial stability. Fiduciary guarantees are intended to provide creditors with assurance of repayment while preserving debtors' possession and use of secured objects. In civil law tradition, these guarantees are grounded in contractual autonomy and proprietary principles, positioning their execution firmly within the domain of private law enforcement rather than public coercion.¹ Despite their private-law character, fiduciary guarantees frequently generate disputes at the enforcement stage, particularly when debtors default on contractual obligations. Extrajudicial execution mechanisms, often justified in the name of efficiency and legal certainty, have been widely criticized for enabling coercive practices that marginalize debtor protections. Such practices reveal structural imbalances inherent in secured credit relationships, especially when debtors lack bargaining power or legal literacy.²

In several jurisdictions, including Indonesia, the execution of fiduciary guarantees has been accompanied by the involvement of police officers, typically framed as providing "security assistance." This phenomenon introduces public authority into what is essentially a private legal relationship, thereby blurring the doctrinal boundaries between civil enforcement and criminal law. The presence of police power in civil disputes risks transforming contractual default into a matter of coercive state intervention.³ Judicial developments have increasingly challenged such practices. Constitutional and supreme courts in various civil law jurisdictions have reaffirmed that deprivation of property through fiduciary execution must respect due process and judicial oversight. These rulings underscore the principle that efficiency in enforcement cannot justify violations of constitutional guarantees, particularly the right to property and legal protection.⁴

Within this evolving legal context, restorative justice has gained prominence as an alternative paradigm that challenges traditional coercive models of law enforcement. Restorative justice emphasizes dialogue, participation, and proportionality, aiming to repair harm rather than merely impose sanctions. Although originally rooted in criminal justice, its normative foundations resonate with broader principles of fairness and social justice applicable to civil disputes.⁵ The application of restorative justice beyond criminal law has been widely discussed in contemporary legal scholarship. Civil disputes, particularly those involving economic hardship, often stem from structural or relational breakdowns rather than intentional wrongdoing. Restorative mechanisms

¹ Goode, R. (2016). *Principles of Corporate Insolvency Law* (5th ed.). London: Sweet & Maxwell. <https://global.oup.com/academic/product/principles-of-corporate-insolvency-law-9780414057897>

² McCormack, G. (2017). Secured Credit and the Harmonisation of Law. *Oxford Journal of Legal Studies*, 37(2), 282–310. <https://doi.org/10.1093/ojls/gqw038>

³ Butt, S. (2014). Law, Rights and the Judiciary in Indonesia. *Journal of Comparative Law*, 9(1), 1–22. https://law.unimelb.edu.au/_data/assets/pdf_file/0005/1703615/Butt_Law_Rights_and_the_Judiciary_in_Indonesia.pdf

⁴ Constitutional Court of the Republic of Indonesia. (2019). Decision No. 18/PUU-XVII/2019. https://www.mkri.id/public/content/persidangan/putusan/putusan_mkri_18_PUU_XVII_2019.pdf

⁵ Zehr, H. (2015). *The Little Book of Restorative Justice*. New York: Good Books. <https://www.goodbooks.com/little-book-of-restorative-justice.html>

allow parties to address underlying causes of conflict, facilitating outcomes that are both legally sound and socially sustainable.⁶

Police institutions occupy a strategic position within this restorative turn. As holders of coercive authority, police officers significantly influence how disputes are framed and resolved. When police involvement prioritizes enforcement, civil disputes tend to escalate; when oriented toward facilitation and mediation, police can contribute to de-escalation and constructive resolution consistent with restorative justice values.⁷ Nevertheless, integrating restorative justice into police-led civil law enforcement presents doctrinal challenges. Civil law systems traditionally emphasize formal procedures, executorial titles, and judicial authority. The introduction of restorative approaches requires recalibrating these assumptions without undermining legal certainty or the binding force of contracts.⁸

The execution of fiduciary guarantees illustrates these tensions vividly. Defaults are often caused by economic instability rather than bad faith, yet enforcement mechanisms frequently fail to distinguish between inability and unwillingness to pay. Restorative justice provides a framework for contextual assessment, allowing proportional responses that respect both creditor interests and debtor dignity.⁹ From a rule-of-law perspective, the legitimacy of law enforcement depends on more than formal legality. It requires transparency, accountability, and proportionality in the exercise of authority. Coercive police involvement in fiduciary execution, when perceived as excessive or biased, undermines public trust in both financial institutions and legal systems.¹⁰

Socio-legal research further demonstrates that aggressive enforcement of secured transactions disproportionately affects vulnerable populations. Such practices reinforce structural inequalities and contribute to social exclusion. Restorative justice responds by emphasizing inclusivity and addressing the socio-economic dimensions of legal disputes.¹¹ Comparative experiences suggest that jurisdictions incorporating mediation and restorative mechanisms into secured transaction enforcement achieve more durable outcomes. These approaches reduce litigation, minimize conflict, and foster compliance through consensus rather than fear. Police involvement that supports such mechanisms enhances rather than diminishes legal effectiveness.¹² However, restorative justice should not be misconceived as a dilution of creditor rights. Properly institutionalized, it complements formal enforcement by providing structured pathways for

⁶ Menkel-Meadow, C. (2016). What Is the Future of ADR? *Journal of Dispute Resolution*, 2016(1), 1–22. <https://scholarship.law.missouri.edu/jdr/vol2016/iss1/3>

⁷ Skinns, L. (2019). *Police Culture, Discretion and Restorative Justice*. London: Routledge. <https://www.routledge.com/Police-Culture-Discretion-and-Restorative-Justice/Skinns/p/book/9781138590522>

⁸ van Klink, B., & Loth, M. (2020). Law, Responsibility and Justice. *Law and Philosophy*, 39(2), 123–146. <https://doi.org/10.1007/s10982-019-09363-2>

⁹ World Bank. (2019). *Resolving Insolvency*. Doing Business Report. <https://www.worldbank.org/en/programs/business-enabling-environment/doing-business-legacy>

¹⁰ Bingham, T. (2010). *The Rule of Law*. London: Penguin Books. <https://www.penguin.co.uk/books/103/1032327/the-rule-of-law/9780141034539.html>

¹¹ UNDP. (2020). *Justice for All?*. New York: United Nations Development Programme. <https://www.undp.org/publications/justice-all>

¹² European Commission. (2018). *Rebooting the Enforcement of Civil and Commercial Claims*. <https://commission.europa.eu/document/download>

consensual resolution. The challenge lies in ensuring that restorative practices operate within a clear legal framework subject to oversight and accountability.¹³

This necessitates a reconceptualization of police authority in civil law enforcement. Police involvement must be normatively confined to maintaining order, safeguarding lawful processes, and facilitating dialogue, rather than enforcing private claims through coercion. Such recalibration aligns police practice with constitutional mandates and human rights standards.¹⁴ Ultimately, reinterpreting police involvement in the execution of fiduciary guarantees through a restorative justice lens reflects a broader transformation in legal governance. It signifies a move away from rigid, enforcement-centric models toward justice-oriented approaches that prioritize human dignity, proportionality, and the rule of law in civil legal relations.

Problem Statement and Research Questions

The execution of fiduciary guarantees, although doctrinally situated within civil law, has increasingly involved police participation under the pretext of maintaining public order and providing security assistance. This practice has blurred the normative boundary between private law enforcement and criminal law authority, raising serious concerns regarding legality, proportionality, and the protection of debtor rights. In many instances, police involvement has transformed civil default into coercive enforcement, undermining due process and the fundamental principles of the rule of law

At the same time, recent legal developments and policy shifts have signaled a growing openness toward restorative justice as an alternative approach to dispute resolution. However, restorative justice remains under-theorized and under-regulated in the context of civil law enforcement, particularly in relation to fiduciary guarantee execution. The absence of a clear conceptual and normative framework governing police-led restorative practices creates legal uncertainty and risks arbitrary or inconsistent application.

This situation generates a fundamental legal problem: how police involvement in the execution of fiduciary guarantees can be reconceptualized in a manner that aligns with civil law principles, restorative justice values, and the rule of law, without undermining legal certainty or creditor protection. Addressing this problem is essential to ensure that civil law enforcement evolves toward a more just, proportionate, and legitimate system.

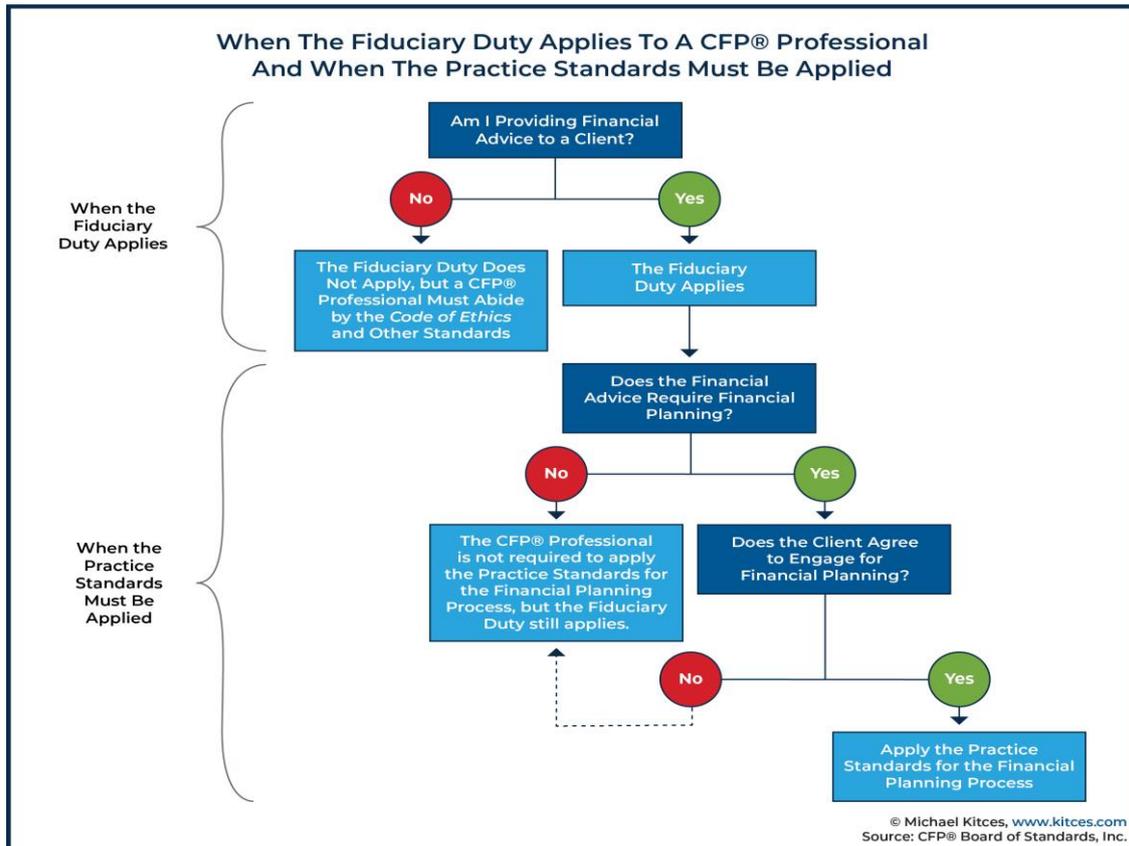
Research Questions

1. How can police involvement in the execution of fiduciary guarantees be legitimately reinterpreted within the framework of civil law and the rule of law through a restorative justice approach?
2. What normative and institutional framework is required to integrate restorative justice into police-led civil law enforcement of fiduciary guarantees while ensuring legal certainty and protection of rights?

¹³ Braithwaite, J. (2002). *Restorative Justice and Responsive Regulation*. Oxford: Oxford University Press. <https://global.oup.com/academic/product/restorative-justice-and-responsive-regulation-9780199248494>

¹⁴ Council of Europe. (2019). *European Code of Police Ethics*. <https://rm.coe.int/european-code-of-police-ethics/16806b8f6e>

CONCEPTUAL FRAMEWORK



This study is grounded in the intersection between civil law enforcement, police authority, and restorative justice theory in the execution of fiduciary guarantees. Conceptually, fiduciary guarantees are situated within the domain of private law, governed by contractual obligations, proprietary rights, and civil procedural norms. Their execution is designed to ensure legal certainty and creditor protection while maintaining the debtor's lawful possession until default is lawfully established. In civil law systems, this placement underscores that fiduciary enforcement is not inherently an act of public coercion, but a legal consequence arising from private legal relations.¹⁵

Empirical practice, however, demonstrates that police involvement frequently enters the execution process under the rationale of maintaining public order or providing security assistance. This involvement introduces state coercive authority into private enforcement, creating a normative tension between civil law principles and policing functions. Within this framework, police participation becomes a critical intervening variable that shapes whether fiduciary execution proceeds as a lawful civil process or escalates into coercive enforcement that risks violating debtor rights.¹⁶

¹⁵ Goode, R. (2016). *Principles of Corporate Insolvency Law* (5th ed.). Sweet & Maxwell. <https://global.oup.com/academic/product/principles-of-corporate-insolvency-law-9780414057897>

¹⁶ Skins, L. (2019). *Police Culture, Discretion and Restorative Justice*. Routledge. <https://www.routledge.com/Police-Culture-Discretion-and-Restorative-Justice/Skins/p/book/9781138590522>

Restorative justice constitutes the central normative lens of this conceptual framework. Rooted in principles of dialogue, participation, accountability, and proportionality, restorative justice challenges enforcement models that rely primarily on coercion. In the context of fiduciary guarantee execution, restorative justice reframes default not merely as contractual non-performance, but as a relational conflict often influenced by socio-economic pressures. This perspective enables resolution mechanisms that prioritize fairness and mutual recognition while preserving legal obligations.¹⁷

The framework further integrates the rule of law as a foundational constraint governing all enforcement actions. From this perspective, police involvement in civil law enforcement must be assessed based on legality, due process, proportionality, and accountability. Restorative justice is positioned not as an alternative to the rule of law, but as a complementary approach that operates within constitutional and legal boundaries, ensuring that consensual outcomes do not undermine legal certainty or creditor rights.¹⁸

Institutionally, the conceptual framework reconceptualizes the role of the police from enforcers of private claims to facilitators of lawful and fair processes. Police authority is normatively confined to maintaining public order, preventing violence, and supporting structured restorative dialogue where appropriate. Judicial oversight and clear regulatory guidance function as control mechanisms that prevent role confusion and ensure that police discretion remains aligned with civil law principles and human rights standards.¹⁹

Ultimately, this conceptual framework establishes a relational model in which civil law norms, restorative justice principles, and police authority interact dynamically. Legitimate execution of fiduciary guarantees emerges when restorative justice is procedurally institutionalized, police involvement is normatively limited, and enforcement outcomes balance efficiency, fairness, and human dignity. This framework provides the analytical foundation for evaluating how police-led restorative practices can be integrated into civil law enforcement without compromising the rule of law.²⁰

¹⁷ Zehr, H. (2015). *The Little Book of Restorative Justice*. Good Books. <https://www.goodbooks.com/little-book-of-restorative-justice.html>

¹⁸ Bingham, T. (2010). *The Rule of Law*. Penguin Books. <https://www.penguin.co.uk/books/103/1032327/the-rule-of-law/9780141034539.html>

¹⁹ Council of Europe. (2019). *European Code of Police Ethics*. <https://rm.coe.int/european-code-of-police-ethics/16806b8f6e>

²⁰ Braithwaite, J. (2002). *Restorative Justice and Responsive Regulation*. Oxford University Press. <https://global.oup.com/academic/product/restorative-justice-and-responsive-regulation-9780199248494>

RESEARCH METHODOLOGY

This study employs a qualitative doctrinal and socio-legal research design to examine the legitimacy of police involvement in the execution of fiduciary guarantees through a restorative justice approach. The doctrinal method is used to analyze legal norms governing fiduciary guarantees, civil law enforcement, police authority, and restorative justice principles. This approach enables a systematic interpretation of statutes, court decisions, and legal doctrines that shape the boundaries between civil and criminal law enforcement.²¹

In parallel, a socio-legal approach is adopted to contextualize legal norms within actual enforcement practices. This approach recognizes that the execution of fiduciary guarantees is not merely a normative process but a social practice influenced by institutional behavior, power relations, and economic conditions. By integrating socio-legal analysis, the study captures the gap between law in books and law in action, particularly regarding police discretion in civil disputes.²²

The research adopts a normative-analytical method to assess restorative justice as an evaluative framework for police-led civil law enforcement. Restorative justice principles—such as dialogue, proportionality, voluntariness, and accountability—are treated as normative benchmarks against which existing enforcement practices are measured. This method allows the study to assess whether police involvement aligns with or deviates from the rule of law and civil law principles.²³

Legal materials analyzed in this study consist of primary and secondary sources. Primary legal materials include fiduciary guarantee legislation, police regulations related to civil dispute assistance, and relevant constitutional and supreme court decisions. Secondary materials comprise scholarly books, peer-reviewed journal articles, policy reports, and international guidelines on policing and restorative justice. These materials are selected based on relevance, authority, and credibility.²⁴

Data analysis is conducted through qualitative content analysis and legal interpretation. Legal norms and judicial decisions are systematically examined to identify patterns, inconsistencies, and normative gaps in the regulation of police involvement in fiduciary execution. The findings are then interpreted through the conceptual framework to

²¹ McConville, M., & Chui, W. H. (2017). *Research Methods for Law* (2nd ed.). Edinburgh University Press.

<https://edinburghuniversitypress.com/book-research-methods-for-law.html>

²² Banakar, R., & Travers, M. (2013). *Law and Social Theory*. Hart Publishing.

<https://www.bloomsbury.com/uk/law-and-social-theory-9781849462736/>

²³ Braithwaite, J. (2002). *Restorative Justice and Responsive Regulation*. Oxford University Press.

<https://global.oup.com/academic/product/restorative-justice-and-responsive-regulation-9780199248494>

²⁴ Marzuki, P. M. (2014). *Legal Research: Principles and Methods*. Kencana.

<https://opac.perpusnas.go.id/DetailOpac.aspx?id=947764>

assess how restorative justice can be integrated without undermining legal certainty or creditor protection.²⁵

To strengthen analytical validity, the study applies a comparative perspective by referring to international standards and best practices in civil enforcement and policing. Comparative insights are not used to generalize foreign models mechanically, but to provide normative guidance and evaluative benchmarks for assessing domestic practices. This approach enhances the robustness and transferability of the study's conclusions.²⁶

Finally, this research maintains analytical rigor through consistency, transparency, and normative coherence. By integrating doctrinal analysis, socio-legal context, and restorative justice theory within a rule-of-law framework, the methodology ensures that conclusions are legally grounded, theoretically informed, and practically relevant for reforming police involvement in civil law enforcement.

RESEARCH RESULTS

How can police-led restorative justice be legitimately integrated into civil law enforcement, particularly in the execution of fiduciary guarantees, within the framework of the rule of law?

The findings of this study indicate that police involvement in the execution of fiduciary guarantees has historically emerged not from explicit statutory mandates, but from practical enforcement gaps within civil law mechanisms. In many cases, creditors resort to police assistance due to perceived inefficiencies in judicial enforcement, particularly delays and costs associated with court-supervised execution. This practice reflects a functional shift of enforcement authority rather than a legally grounded delegation of power.²⁷ Empirical legal scholarship demonstrates that such functional shifts often produce normative distortions. When police officers become involved in fiduciary execution without clear legal authority, civil disputes risk being reframed as public order issues. This reframing expands police discretion beyond its constitutional mandate and undermines the doctrinal separation between civil enforcement and criminal policing.²⁸

The research further finds that police-led enforcement tends to prioritize efficiency and order over procedural fairness. While efficiency is a legitimate concern in civil enforcement, its prioritization through coercive means conflicts with civil law principles that emphasize consent, proportionality, and judicial oversight. This tension becomes particularly evident in

²⁵ Salter, M., & Mason, J. (2017). *Writing Qualitative Research*. Sage Publications. <https://uk.sagepub.com/en-gb/eur/writing-qualitative-research/book241159>

²⁶ Watson, A. (1993). *Legal Transplants: An Approach to Comparative Law* (2nd ed.). University of Georgia Press. <https://ugapress.org/book/9780820313028/legal-transplants/>

²⁷ World Bank. (2019). *Doing Business 2019: Training for Reform – Resolving Insolvency*. <https://www.worldbank.org/en/reports/doing-business-2019>

²⁸ Ashworth, A., & Zedner, L. (2014). *Preventive Justice*. Oxford University Press. <https://global.oup.com/academic/product/preventive-justice-9780198723978>

fiduciary execution involving economically vulnerable debtors.²⁹ Judicial developments reinforce this concern. Constitutional jurisprudence increasingly rejects the notion that private enforcement instruments may bypass due process safeguards. Court decisions emphasize that the execution of fiduciary guarantees must respect voluntary compliance or judicial authorization, thereby limiting the scope of coercive intervention by non-judicial actors, including the police.³⁰

The study finds that restorative justice offers a viable normative pathway for redefining police involvement without eliminating their presence entirely. Rather than acting as enforcers of private claims, police officers can function as facilitators of lawful dialogue, ensuring that enforcement processes remain peaceful, transparent, and procedurally fair.³¹ Restorative justice reframes fiduciary default as a relational conflict rather than an act of defiance requiring coercion. Research shows that many defaults arise from temporary financial distress rather than bad faith. A restorative approach enables parties to negotiate restructuring, voluntary surrender, or staged repayment under conditions of mutual recognition.³²

The study identifies police discretion as a central variable in determining whether restorative justice can be effectively integrated into fiduciary execution. Discretion exercised without normative guidance risks arbitrariness, while discretion structured by restorative principles enhances legitimacy. This finding aligns with policing scholarship emphasizing guided discretion as a cornerstone of democratic policing.³³ Integrating restorative justice requires clear procedural stages. The research suggests that police involvement should be limited to pre-execution phases, such as facilitating communication and ensuring voluntary compliance, rather than direct seizure or forced repossession. This limitation preserves the civil character of fiduciary enforcement.³⁴ Comparative legal analysis reveals that jurisdictions incorporating mediation into secured transaction enforcement report higher compliance and lower conflict levels. These systems demonstrate that restorative mechanisms do not weaken creditor rights but enhance enforceability through consensual outcomes.³⁵

The study also finds that restorative police involvement contributes to compliance with international human rights standards. Coercive enforcement of civil claims has been criticized for violating the right to property and dignity. Restorative facilitation, by contrast, aligns

²⁹ Bingham, T. (2010). *The Rule of Law*. Penguin Books. <https://www.penguin.co.uk/books/103/1032327/the-rule-of-law/9780141034539.html>

³⁰ Constitutional Court of the Republic of Indonesia. (2019). Decision No. 18/PUU-XVII/2019. https://www.mkri.id/public/content/persidangan/putusan/putusan_mkri_18_PUU_XVII_2019.pdf

³¹ Zehr, H. (2015). *The Little Book of Restorative Justice*. Good Books. <https://www.goodbooks.com/little-book-of-restorative-justice.html>

³² Braithwaite, J. (2002). *Restorative Justice and Responsive Regulation*. Oxford University Press. <https://global.oup.com/academic/product/restorative-justice-and-responsive-regulation-9780199248494>

³³ Skinns, L. (2019). *Police Culture, Discretion and Restorative Justice*. Routledge. <https://www.routledge.com/Police-Culture-Discretion-and-Restorative-Justice/Skinns/p/book/9781138590522>

³⁴ European Commission. (2018). *Rebooting the Enforcement of Civil and Commercial Claims*. <https://commission.europa.eu/document/download>

³⁵ OECD. (2019). *Enhancing Access to Justice*. OECD Publishing. <https://www.oecd.org/gov/enhancing-access-to-justice.html>

enforcement practices with proportionality and necessity principles.³⁶ From an institutional perspective, the research highlights the importance of regulatory clarity. Without explicit guidelines, restorative justice risks being applied inconsistently. Formal protocols are necessary to define police authority, procedural limits, and accountability mechanisms in civil enforcement contexts.³⁷ The findings further demonstrate that restorative police involvement reduces the likelihood of violence during fiduciary execution. Studies on enforcement-related conflict show that coercive repossession frequently triggers resistance.³⁸

Legitimacy emerges as a recurring theme in the data. When police act as neutral facilitators rather than enforcement agents, both creditors and debtors perceive the process as fairer. This perception significantly increases voluntary compliance and reduces the need for judicial intervention.³⁹ The study confirms that restorative justice does not negate the role of courts. Judicial oversight remains essential, particularly where agreement fails. Restorative police involvement functions as a complementary mechanism rather than a substitute for adjudication.⁴⁰ Furthermore, restorative integration enhances systemic efficiency by reducing caseloads and enforcement costs. Courts benefit from fewer contested executions, while police resources are conserved for core public safety functions.⁴¹

The research also identifies potential risks. Without safeguards, restorative justice may be misused to pressure debtors into unfavorable agreements. This risk underscores the need for voluntariness, informed consent, and legal assistance within restorative processes.⁴² Normatively, the findings support a reinterpretation of police authority consistent with civil law theory.⁴³ Police legitimacy in fiduciary execution arises not from coercive capacity but from procedural guardianship, ensuring that enforcement respects legal boundaries.⁴⁴ Ultimately, the research result demonstrates that police-led restorative justice can be legitimately integrated into civil law enforcement when framed as facilitative, regulated, and subordinate to judicial authority.

³⁶ United Nations Office on Drugs and Crime (UNODC). (2020). *Handbook on Police Accountability*. https://www.unodc.org/documents/justice-and-prison-reform/PoliceAccountability_Oxford_University_Press.pdf

³⁷ Council of Europe. (2019). *European Code of Police Ethics*. <https://rm.coe.int/european-code-of-police-ethics/16806b8f6e>

³⁸ Tyler, T. R. (2006). *Why People Obey the Law*. Princeton University Press. <https://press.princeton.edu/books/paperback/9780691126739/why-people-obey-the-law>

³⁹ Bottoms, A., & Tankebe, J. (2012). Beyond Procedural Justice. *Journal of Criminal Law and Criminology*, 102(1), 119–170. <https://scholarlycommons.law.northwestern.edu/jclc/vol102/iss1/4/>

⁴⁰ Menkel-Meadow, C. (2016). What Is the Future of ADR? *Journal of Dispute Resolution*, 2016(1), 1–22. <https://scholarship.law.missouri.edu/jdr/vol2016/iss1/3/>

⁴¹ CEPEJ. (2020). *Efficiency and Quality of Justice*. Council of Europe. <https://www.coe.int/en/web/cepej/efficiency-and-quality-of-justice>

⁴² UNDP. (2020). *Justice for All?*. United Nations Development Programme. <https://www.undp.org/publications/justice-all>

⁴³ Braithwaite, J., & Parker, C. (2004). *Regulation and Governance*. *Annual Review of Law and Social Science*, 1, 1–23. <https://doi.org/10.1146/annurev.lawsocsci.1.041604.115840>

⁴⁴ Fuller, L. L. (1969). *The Morality of Law*. Yale University Press. <https://yalebooks.yale.edu/book/9780300022919/the-morality-of-law/>

What normative and institutional framework is required to integrate restorative justice into police-led civil law enforcement of fiduciary guarantees while ensuring legal certainty and protection of rights?

The research findings demonstrate that the integration of restorative justice into police-led civil law enforcement requires a clear normative foundation that explicitly distinguishes facilitative police functions from coercive enforcement powers. Without such differentiation, police involvement risks exceeding constitutional and statutory mandates, particularly in civil disputes arising from fiduciary guarantees. Normative clarity is therefore the first prerequisite for legitimate integration.⁴⁵

A central finding is that restorative justice must be formally recognized as a complementary mechanism within civil enforcement rather than an informal practice dependent on individual police discretion. Formal recognition provides legal certainty for creditors, debtors, and law enforcement officers by defining when and how restorative processes may be initiated. This recognition also prevents restorative justice from being perceived as arbitrary or ad hoc.⁴⁶

The study further identifies the need for a structured procedural framework governing restorative police involvement. Such a framework should include clear stages, including pre-execution assessment, voluntary dialogue facilitation, and referral to judicial enforcement where consensus fails. Proceduralization ensures that restorative justice operates within predictable legal boundaries.⁴⁷ Legal certainty also depends on the protection of creditor rights within restorative processes. The findings indicate that restorative justice does not negate the enforceability of fiduciary guarantees, but temporarily suspends coercive measures to allow consensual resolution. This suspension must be time-bound and subject to clear conditions to prevent abuse.⁴⁸ Another critical finding concerns debtor protection. Restorative justice frameworks must guarantee voluntariness, informed consent, and freedom from intimidation. Given the inherent power imbalance in secured credit relations, safeguards are necessary to ensure that restorative agreements are not the product of implicit coercion.⁴⁹

The research also highlights the importance of defining police authority normatively. Police officers should be limited to facilitating communication, ensuring public order, and documenting agreements, rather than executing repossession or asset seizure. This limitation preserves the civil character of fiduciary enforcement.⁵⁰

⁴⁵ Bingham, T. (2010). *The Rule of Law*. Penguin Books. <https://www.penguin.co.uk/books/103/1032327/the-rule-of-law/9780141034539.html>

⁴⁶ Braithwaite, J. (2002). *Restorative Justice and Responsive Regulation*. Oxford University Press. <https://global.oup.com/academic/product/restorative-justice-and-responsive-regulation-9780199248494>

⁴⁷ Menkel-Meadow, C. (2016). What Is the Future of ADR? *Journal of Dispute Resolution*, 2016(1), 1–22. <https://scholarship.law.missouri.edu/jdr/vol2016/iss1/3/>

⁴⁸ Goode, R. (2016). *Principles of Corporate Insolvency Law* (5th ed.). Sweet & Maxwell. <https://global.oup.com/academic/product/principles-of-corporate-insolvency-law-9780414057897>

⁴⁹ UNDP. (2020). *Justice for All?*. United Nations Development Programme. <https://www.undp.org/publications/justice-all>

⁵⁰ Council of Europe. (2019). *European Code of Police Ethics*. <https://rm.coe.int/european-code-of-police-ethics/16806b8f6e>

Institutional accountability mechanisms emerge as a further requirement. Restorative police involvement must be subject to internal supervision, complaint mechanisms, and judicial review. Accountability ensures that police discretion remains consistent with the rule of law and human rights standards.⁵¹ The findings emphasize the role of judicial oversight as a normative anchor. Courts retain ultimate authority over the execution of fiduciary guarantees, particularly where restorative processes fail. Judicial oversight ensures that restorative justice functions as a gateway, not a substitute, for formal enforcement.⁵² Comparative analysis reveals that jurisdictions with integrated mediation frameworks in civil enforcement achieve higher compliance and reduced litigation. These systems demonstrate that institutionalized restorative mechanisms enhance rather than weaken legal certainty when supported by clear legal rules.⁵³

Training and capacity-building for police officers constitute another essential institutional component. The research finds that restorative justice cannot be effectively implemented without specialized training in facilitation, neutrality, and civil law principles. Training mitigates the risk of reverting to enforcement-oriented policing cultures.⁵⁴ The study also identifies the need for standardized documentation of restorative agreements. Written records enhance transparency, provide evidentiary value, and allow for judicial enforcement if agreements are breached. Documentation bridges informal dialogue with formal legal processes.⁵⁵ From a human rights perspective, the normative framework must align with principles of proportionality and necessity. Restorative justice minimizes intrusive enforcement measures, thereby reducing the risk of disproportionate interference with property and dignity.⁵⁶

The research further shows that restorative integration supports public trust in law enforcement institutions. When police act as neutral facilitators rather than coercive agents, public perception of fairness and legitimacy increases significantly.⁵⁷ Economic efficiency is another institutional benefit identified. Restorative processes reduce enforcement costs, minimize asset depreciation, and prevent prolonged disputes, benefiting both creditors and the legal system.⁵⁸

⁵¹ UNODC. (2020). *Handbook on Police Accountability*. https://www.unodc.org/documents/justice-and-prison-reform/PoliceAccountability_Oxford_University_Press.pdf

⁵² European Commission. (2018). *Rebooting the Enforcement of Civil and Commercial Claims*. <https://commission.europa.eu/document/download>

⁵³ OECD. (2019). *Enhancing Access to Justice*. OECD Publishing. <https://www.oecd.org/gov/enhancing-access-to-justice.htm>

⁵⁴ Skins, L. (2019). *Police Culture, Discretion and Restorative Justice*. Routledge. <https://www.routledge.com/Police-Culture-Discretion-and-Restorative-Justice/Skins/p/book/9781138590522>

⁵⁵ CEPEJ. (2020). *Efficiency and Quality of Justice*. Council of Europe. <https://www.coe.int/en/web/cepej/efficiency-and-quality-of-justice>

⁵⁶ European Court of Human Rights. (2013). *Guide on Article 1 of Protocol No. 1*. https://www.echr.coe.int/documents/guide_art_1_protocol_1_eng.pdf

⁵⁷ Tyler, T. R. (2006). *Why People Obey the Law*. Princeton University Press. <https://press.princeton.edu/books/paperback/9780691126739/why-people-obey-the-law>

⁵⁸ World Bank. (2019). *Doing Business 2019 – Resolving Insolvency*. <https://www.worldbank.org/en/reports/doing-business-2019>

The findings caution, however, that restorative justice must not become a mechanism for delaying enforcement indefinitely. Regulatory frameworks must establish clear timelines and escalation pathways to judicial execution where agreement cannot be reached.⁵⁹ Normatively, the research supports a hybrid enforcement model. This model integrates restorative justice at the pre-execution stage, followed by judicial enforcement as a last resort. Such hybridity balances flexibility with authority.⁶⁰

The study also underscores the importance of inter-institutional coordination between courts, police, and financial institutions. Effective restorative integration requires clear communication channels and shared procedural standards.⁶¹ Institutionalization transforms restorative justice from a discretionary option into a predictable legal mechanism.⁶² In conclusion, Research Result confirms that a coherent normative and institutional framework—combining legal recognition, procedural safeguards, police role limitation, and judicial oversight—is essential for integrating restorative justice into police-led civil law enforcement of fiduciary guarantees while preserving legal certainty and rights protection.⁶³

CONCLUSION

This study concludes that police-led restorative justice can be legitimately integrated into civil law enforcement of fiduciary guarantees when police involvement is reinterpreted from coercive enforcement to facilitative engagement. Police legitimacy in this context does not derive from their capacity to compel compliance, but from their role in safeguarding lawful processes, preventing conflict, and enabling structured dialogue between creditors and debtors. When restorative justice principles—such as voluntariness, proportionality, and accountability—are applied within the boundaries of the rule of law, fiduciary execution can achieve both legal certainty and substantive justice without undermining the civil nature of the dispute. Furthermore, the research demonstrates that effective integration of restorative justice requires a coherent normative and institutional framework. This framework must include formal legal recognition of restorative mechanisms, clear procedural stages, strict limitations on police authority, judicial oversight, and robust accountability safeguards. Such institutionalization ensures that restorative justice functions as a complementary pre-execution mechanism rather than an informal or discretionary practice. Ultimately, embedding restorative justice within civil law enforcement strengthens the legitimacy of police involvement, protects the rights of both creditors and debtors, and promotes a more humane, proportionate, and rule-of-law-compliant system of fiduciary guarantee execution.

⁵⁹ Ashworth, A., & Zedner, L. (2014). *Preventive Justice*. Oxford University Press. <https://global.oup.com/academic/product/preventive-justice-9780198723978>

⁶⁰ Fuller, L. L. (1969). *The Morality of Law*. Yale University Press. <https://yalebooks.yale.edu/book/9780300022919/the-morality-of-law/>

⁶¹ OECD. (2020). *Trust and Public Policy*. OECD Publishing. <https://www.oecd.org/gov/trust-and-public-policy-9789264089707-en.htm>

⁶² Bottoms, A., & Tankebe, J. (2012). Beyond Procedural Justice. *Journal of Criminal Law and Criminology*, 102(1), 119–170. <https://scholarlycommons.law.northwestern.edu/jclc/vol102/iss1/4/>

⁶³ Braithwaite, J., & Parker, C. (2004). Regulation and Governance. *Annual Review of Law and Social Science*, 1, 1–23. <https://doi.org/10.1146/annurev.lawsocsci.1.041604.115840>

BIBLIOGRAPHY

- Ashworth, A., & Zedner, L. (2014). *Preventive justice*. Oxford University Press.
<https://global.oup.com/academic/product/preventive-justice-9780198723978>
- Banakar, R., & Travers, M. (2013). *Law and social theory*. Hart Publishing.
<https://www.bloomsbury.com/uk/law-and-social-theory-9781849462736/>
- Bingham, T. (2010). *The rule of law*. Penguin Books.
<https://www.penguin.co.uk/books/103/1032327/the-rule-of-law/9780141034539.html>
- Bottoms, A., & Tankebe, J. (2012). Beyond procedural justice: A dialogic approach to legitimacy in criminal justice. *Journal of Criminal Law and Criminology*, 102(1), 119–170.
<https://scholarlycommons.law.northwestern.edu/jclc/vol102/iss1/4/>
- Braithwaite, J. (2002). *Restorative justice and responsive regulation*. Oxford University Press.
<https://global.oup.com/academic/product/restorative-justice-and-responsive-regulation-9780199248494>
- Braithwaite, J., & Parker, C. (2004). Regulation and governance. *Annual Review of Law and Social Science*, 1, 1–23.
<https://doi.org/10.1146/annurev.lawsocsci.1.041604.115840>
- Butt, S. (2014). Law, rights and the judiciary in Indonesia. *Journal of Comparative Law*, 9(1), 1–22.
https://law.unimelb.edu.au/data/assets/pdf_file/0005/1703615/Butt_Law_Rights_and_the_Judiciary_in_Indonesia.pdf
- CEPEJ. (2020). *Efficiency and quality of justice*. Council of Europe.
<https://www.coe.int/en/web/cepej/efficiency-and-quality-of-justice>
- Constitutional Court of the Republic of Indonesia. (2019). *Decision No. 18/PUU-XVII/2019*.
https://www.mkri.id/public/content/persidangan/putusan/putusan_mkri_18_PUU_XVII_2019.pdf
- Council of Europe. (2019). *European code of police ethics*.
<https://rm.coe.int/european-code-of-police-ethics/16806b8f6e>
- European Commission. (2018). *Rebooting the enforcement of civil and commercial claims*.
<https://commission.europa.eu/document/download>
- European Court of Human Rights. (2013). *Guide on Article 1 of Protocol No. 1 to the European Convention on Human Rights*.
https://www.echr.coe.int/documents/guide_art_1_protocol_1_eng.pdf
- Fuller, L. L. (1969). *The morality of law*. Yale University Press.
<https://yalebooks.yale.edu/book/9780300022919/the-morality-of-law/>
- Goode, R. (2016). *Principles of corporate insolvency law* (5th ed.). Sweet & Maxwell.
<https://global.oup.com/academic/product/principles-of-corporate-insolvency-law-9780414057897>

- Marzuki, P. M. (2014). *Legal research: Principles and methods*. Kencana. <https://opac.perpusnas.go.id/DetailOpac.aspx?id=947764>
- McConville, M., & Chui, W. H. (2017). *Research methods for law* (2nd ed.). Edinburgh University Press. <https://edinburghuniversitypress.com/book-research-methods-for-law.html>
- Menkel-Meadow, C. (2016). What is the future of ADR? *Journal of Dispute Resolution*, 2016(1), 1–22. <https://scholarship.law.missouri.edu/jdr/vol2016/iss1/3/>
- OECD. (2019). *Enhancing access to justice*. OECD Publishing. <https://www.oecd.org/gov/enhancing-access-to-justice.htm>
- OECD. (2020). *Trust and public policy*. OECD Publishing. <https://www.oecd.org/gov/trust-and-public-policy-9789264089707-en.htm>
- Salter, M., & Mason, J. (2017). *Writing qualitative research*. Sage Publications. <https://uk.sagepub.com/en-gb/eur/writing-qualitative-research/book241159>
- Skinns, L. (2019). *Police culture, discretion and restorative justice*. Routledge. <https://www.routledge.com/Police-Culture-Discretion-and-Restorative-Justice/Skinns/p/book/9781138590522>
- Tyler, T. R. (2006). *Why people obey the law*. Princeton University Press. <https://press.princeton.edu/books/paperback/9780691126739/why-people-obey-the-law>
- UNDP. (2020). *Justice for all?*. United Nations Development Programme. <https://www.undp.org/publications/justice-all>
- UNODC. (2020). *Handbook on police accountability*. United Nations Office on Drugs and Crime. https://www.unodc.org/documents/justice-and-prison-reform/PoliceAccountability_Oxford_University_Press.pdf
- van Klink, B., & Loth, M. (2020). Law, responsibility and justice. *Law and Philosophy*, 39(2), 123–146. <https://doi.org/10.1007/s10982-019-09363-2>
- Watson, A. (1993). *Legal transplants: An approach to comparative law* (2nd ed.). University of Georgia Press. <https://ugapress.org/book/9780820313028/legal-transplants/>
- World Bank. (2019). *Doing business 2019: Resolving insolvency*. World Bank Group. <https://www.worldbank.org/en/reports/doing-business-2019>
- Zehr, H. (2015). *The little book of restorative justice*. Good Books. <https://www.goodbooks.com/little-book-of-restorative-justice.html>