



# Implementation of Discounting Cash Flow Theory in Restorative Justice Processes in the Stage of Police Investigation in Indonesia

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**Abstract.** In the criminal law system in Indonesia, which begins with the investigation process and ends with the criminal process, the police carry out their role at the investigation and investigation stage. Criminal law is enforced in criminal courts, while civil law is enforced in civil courts. This is because the two fields of law have different concepts. Applying restorative justice at the investigation stage in the police is one way of bringing the concept of criminal law closer to the concept of civil law in the context of law enforcement in Indonesia. In the framework of restorative justice, “punishment” for a certain crime is replaced by “compensation payment”.

Regarding how the value of compensation is calculated, this is not the domain of legal science to explain it. Law science requires assistance from other sciences in the context of law enforcement. Regarding the calculation of the value of compensation, law science gets help from the science of financial management through the discounted cash flow theory, which can be used as an alternative solution to calculating the compensation value. This proves that law is a shared science that can provide space for other sciences to assist the development of legal science in the framework of law enforcement and towards the farthest objectives of the law, namely, justice.

**Keywords:** theory · discounted cash flow · justice · law

## 1 Introduction

Law is a shared science (Rechts is made wetenschap) [1]. Thus, the law becomes the object of study in various scientific disciplines and can use various disciplines as objects of study. In this study, one of the financial theories, namely, The discounted cash flow theory, is used in the legal field in terms of the implementation of restorative justice in the police investigation process in Indonesia.

In the criminal law system in Indonesia, which begins with the investigation process and ends with the criminal process, the police carry out their role at the investigation and investigation stage. The subsequent criminal law enforcement process is the prosecution by the prosecutor, the judicial process carried out by the judicial institution, and the implementation of court decisions (punishment) carried out by the correctional

institution. Thus the police are at the forefront of the criminal law enforcement because it is the first law enforcement institution tasked with enforcing criminal law.

Laws that can be operationalized in Indonesia (*ius operatum*) are laws that can be enforced in court and become part of the judicial authority. According to the Law of the Republic of Indonesia, Number 48 of 2009 concerning Judicial Power, Judicial power in Indonesia is principally exercised by two institutions, namely the Supreme Court and the Constitutional Court. The powers of the Supreme Court include; the environment of general courts, the environment of religious courts, the environment of military courts, and the environment of state administrative courts. The general court environment includes; criminal, civil, and special courts.

Judging from the legal concept, criminal law and civil law are two legal concepts that differ. Criminal law is enforced in criminal courts, as well as civil law enforced in civil courts. However, in its implementation, at a certain level, the two laws (criminal law and civil law) are closely related, one of which is the implementation of restorative justice as a way to enforce criminal law in Indonesia.

The discussion of the substance of this article will focus on the application of restorative justice at the stage of investigation carried out by the police in connection with the enactment of the Regulation of the Chief of the National Police of the Republic of Indonesia Number 6 of 2019 concerning Criminal Investigation, where in Article 12 there is a regulation of a criminal act (based on criminal law) can be resolved through agreement and compensation (under civil law). Thus, this article specifically discusses the use of the discounted cash flow theory in the calculation of compensation related to a crime that will be resolved through the restoration justice mechanism as regulated according to Article 12.

This research is necessary because although the issue of compensation related to a criminal act has been regulated in statutory regulations, there is no regulation on how the compensation should be calculated. Thus there is a gap between restorative justice theory and its implementation in the field. These problems can become obstacles to the implementation of restorative justice in Indonesia. The results of this study significantly contribute to implementing restorative justice in Indonesia. The results of this study are part of positive law enforcement in Indonesia because they can be immediately implemented in settlement of criminal cases using a restorative justice mechanism. The results of this study are a momentum in which management science (financial management) can provide alternative solutions to the problem of compensation from a legal perspective through the discounted cash flow theory. In this case, the law as a joint science can be implemented as an interaction between law and financial management.

Surveys conducted to examine discounted cash flow (DCF) theory have been conducted since the 1970s (Rosyid, 2011). DCF theory is a way to evaluate investment proposals based on financial measures using the concept of the time value of money. Several ways to evaluate a project where investment is made which is part of the DCF theory, include; Net Present Value (NPV), Internal Rate of Return (IRR), and Profitability Index (PI) [2]. Discounted cash flow is calculated by estimating future cash flows (funds), discounting them, and generating the present value of the funds. This is done to calculate the prospects for future investment growth [3]. Referred to as cash flow is "a realization or estimate of the inflow and outflow that occurs on investment within a

certain period of time. Cash flow is formed from the first cost estimate, working capital, operating costs, production costs, and revenue” [3]. DCF is a discounted cash flow (discounted), which is the sum of cash outflows and cash inflows associated with the time value of the money. Taking into account the discount rate ( $i$ ), which makes the present value of the income or benefits expected to be received (also known as cash inflows) equal to the present value of expenses or expenses (also known as cash outflows). So that the sum is called the net present worth (NPW) [3]. The formula is as below (note: this formula uses units of time in years [3]):

$$DCF = \frac{CF_1}{(1+r)^1} + \frac{CF_2}{(1+r)^2} + \dots + \frac{CF_n}{(1+r)^n} \quad (1)$$

CF = Cash Flow

$r$  = discount rate (WACC)

NPV or NPW calculates the difference between an investment’s present value and the present value of projected net cash receipts received in the future. Before this is done, it must first determine the applicable interest rate or the desired interest rate. If the calculation results show that the present value of projected cash receipts received in the future is greater than the present value of the investment, then the investment is profitable. However, the investment is detrimental if it is the opposite [4]. NPV or NPW compares all components of the costs and benefits of a project in the present and in the future with the same reference. The reference is the net present value, which is the difference between the present value of the benefit component and the present value of the cost component. The formula is as below. A project is categorized as feasible if the  $NPV > 0$ . If  $NPV = 0$ , then the present value of the benefit component and the present value of the cost component (opportunity cost of capital) are the same. Meanwhile, if the  $NPV < 0$ , the project in question can be categorized as unfeasible [3].

$$NPV = \sum_{t=0}^n \frac{B(t)}{(1+i)^t} - \sum_{t=0}^n \frac{C(t)}{(1+i)^t} \quad (2)$$

$$NPV = \sum_{t=0}^n \frac{B(t) - C(t)}{(1+i)^t} \quad (3)$$

Internal Rate of Return (IRR) is the discount rate where the present value of cash flow = present value of the investment, or in other words, IRR is the discount rate (discount factor) that results in NPV equal to zero. If the  $IRR > \text{discount factor}$ , the investment is feasible (profitable investment). If  $IRR = \text{discount factor}$ , the investment will return on investment. Meanwhile, if the  $IRR < \text{discount factor}$ , the investment is not feasible (investment loss) [5]. IRR is the amount of the discount rate when  $NPV = 0$ . IRR is the rate of return on net investment in the project, and the formula is as follows [3].

$$IRR = i_1 + \frac{NPV}{NPV_1 - NPV_2} (i_2 - i_1) \quad (4)$$

The quantity  $i$  in the above formula that makes  $NPV = 0$  is called the IRR of a project. Thus, the eligibility criteria for a project is when the IRR is greater than the discount rate (interest rate), or  $IRR > i$  [3].

Meanwhile, the Profitability Index (PI) or B/C Ratio (Benefit Cost Ratio) is an approach that is almost the same as the NPV. PI measures the present value for every rupiah invested (Yasuha dan Saifi 2017). PI tries to find an index that describes the level of cost-effectiveness of the benefits obtained, called the Benefit Cost Ratio index. The formula is below: (Krisnawan, Warsika, dan Nadiasa 2015).

$$\text{BCR} = \frac{\sum_{i=0}^n \frac{(B(t))}{(1+i)^t}}{\sum_{i=0}^n \frac{(C(t))}{(1+i)^t}} \quad (5)$$

Based on the formula above, a project is said to be feasible if  $\text{BCR} > 1$  ( $\text{NPV} > 0$ ). Abila  $\text{BCR} < 1$  ( $\text{NPV} < 0$ ), then the project in question is said to be unfit (Krisnawan, Warsika, dan Nadiasa 2015). Thus, NPV calculates how many rupiahs are in excess of the present value cash inflow above the present value initial investment. The PI measures the present value for every rupiah invested. PI compares the value of future net cash flows with the current investment value [6].

Based on the description above, it can be seen that the DCF theory calculates all cash flows in the company in the future (future value), which are then discounted to the present fair value [7]. DSC theory uses the concept of Time Value of Money, which uses cash flow which includes net income, free cash flow, and operating cash flow which is calculated as future value, which is then discounted to get the present value [7].

### Restorative Justice

According to Article 1 number (27) of the Republic of Indonesia National Police Chief Regulation Number 6 of 2019 concerning Criminal Investigation (Perkap No.6 of 2019); “Restorative justice is the settlement of criminal cases involving perpetrators, victims and/or their families and related parties, to achieve justice for all parties”. Restorative justice is a model approach that has emerged since the 1960s in efforts to resolve criminal cases. The restorative justice approach emphasizes the direct participation of perpetrators, victims, and the community in the criminal case settlement process. Restorative justice uses an approach that is different from the approach used by the conventional criminal justice system in use today, which puts forward its approach to the application of criminal sanctions. Thoughts related to the application of restorative justice have developed over time and have greatly influenced legal policies and legal practices in various countries in the world [8].

The UN defines restorative justice as “a way of responding to criminal behavior by balancing the needs of the community, the victims, and the offenders” (Handbook on Restorative Justice Program). Restorative justice is a concept of thought that responds to the development of the criminal justice system by focusing on the need to involve the community and victims who are felt to be marginalized by the mechanisms that work in the current criminal justice system.

A restorative effort is an effort using the concept of restorative justice. This is intended to produce an agreement between the parties involved. The agreement in question is an agreement between the parties based on efforts to fulfill the victim’s and the community’s needs for losses arising from the criminal act committed by the perpetrator of the crime.

This agreement can also be interpreted as an effort to trigger a reintegration process between victims and perpetrators so that the agreement can take the form of several programs such as reparations (repairs), restitution, or community services [8].

### **Indonesian National Police**

The Police in Indonesia are regulated as meant by the Law of the Republic of Indonesia Number 2 of 2002 concerning the Indonesian National Police. According to Article 1 point (1) of the police law, "Police are all matters relating to police functions and institutions in accordance with laws and regulations". The function and objective of establishing a police force in Indonesia are one of the functions of state government in the field of; (1) maintenance of security and public order, (2) law enforcement, (3) protection, (4) protection, and (5) service to the community (Articles 2 & 4 of the police law).

Based on the functions and objectives of the police establishment, the main tasks of the Indonesian National Police are drawn up, namely; (1) maintaining public security and order, (2) enforcing the law, and (3) providing protection, protection, and services to the community (Article 13 of the police law). The main duties of the police are carried out by (Article 14, paragraph (1) of the police law):

- a. "Carry out arrangements, guarding, escorting, and patrol of community and government activities as needed;
- b. carry out all activities to ensure security, order, and smooth traffic on the road;
- c. fostering the community to increase community participation, public legal awareness, and obedience of community members to laws and regulations;
- d. participate in the development of national law;
- e. maintaining order and ensuring public safety;
- f. carry out coordination, supervision, and technical guidance for the special police, civil servant investigators, and other forms of independent security;
- g. conduct investigations and investigations of all criminal acts in accordance with the criminal procedure law and other laws and regulations;
- h. carry out police identification, police medicine, police forensic and psychology laboratories for the sake of police duties;
- i. protect the safety of body and soul, property, society, and the environment from disturbance of order and/or disaster, including providing assistance and assistance by upholding human rights;
- j. serve the interests of the community for a while before being handled by the authorized agency and/or party;
- k. provide services to the public in accordance with their interests within the scope of police duties; certificate. Carry out other duties in accordance with statutory regulations".

In the criminal process, the implementation of police duties is manifested in the form of the powers they have, namely (Article 16 paragraph (1) of the police law):

- a. "Carry out an arrest, detention, search, and confiscation;
- b. prohibiting any person from leaving or entering the scene of the case for the purpose of investigation;

- c. bringing and confronting people with investigators for the purpose of investigation;
- d. order to stop the person under suspicion and ask and check for identification;
- e. conduct examination and confiscation of letters;
- f. summon people to be heard and examined as suspects or witnesses;
- g. bring in the necessary experts in connection with the case examination;
- h. to terminate the investigation;
- i. submit case files to the public prosecutor;
- j. make requests directly to the authorized immigration officials at immigration check-points in an urgent or sudden situation to prevent or deter a person suspected of committing a criminal act;
- k. provide investigative instructions and assistance to civil servant investigators and receive the results of civil servant investigators to be submitted to the public prosecutor; and
- l. take other actions according to responsible law”.

Based on the description above, it can be seen that in order to carry out its main duties, especially in terms of conducting investigations and investigations of all criminal acts in accordance with the criminal procedure law and other laws and regulations, the Indonesian National Police has the authority to carry out other actions according to responsible law, one of which is to carry out restorative justice as referred to in the Regulation of the Chief of Police of the Republic of Indonesia Number 6 of 2019 concerning Criminal Investigation.

## 2 Method

According to [9], “Research methodology is the study of scientific methods which includes the determination of research problems, premises, hypotheses, objectives, uses, literature review, research methods, discussion of research results, and ways of drawing conclusions that aim to improve standard procedures and criteria in scientific research”. This type of research is qualitative analysis, using secondary data, namely data that already exists for a particular interest. Furthermore, the secondary data is analyzed scientifically (using logical and scientific methods).

According to Patton (1980; 268) in [10], data analysis “is the process of arranging data sequences, organizing them into a pattern, category, and unit of basic description”. The qualitative data process, according to Saiddel (1998) in [10], is; making field notes; collecting, sorting, classifying, synthesizing, summarizing, and making the index; and thinking, making meaningful data categories, looking for and finding patterns and relationships, and making general findings.

## 3 Result and Discussion

In order to carry out its main task, namely to investigate a criminal act as stipulated by law, the police can apply restorative justice. In essence, restorative justice is carried out by changing certain criminal charges into compensation provided by the perpetrator of a criminal act to the victim of a crime. Then the compensation agreement is made in an agreement (agreement). In this case, a criminal case has transformed as regulated in the Criminal Code into a civil case as regulated in the Civil Code.

In general, the form of compensation is in the form of money. Thus the “loss” suffered by the victim of the crime is in the form of something of a specific value and can be valued in money. The problems that may arise here are related to the time in which the losses suffered by victims of criminal acts occurred in the past, while the compensation process is carried out at this time or in the future as agreed by the parties involved (the perpetrators and victims of the crime. criminal). Because it is influenced by various things, the value of the same money in the past can be guaranteed to be higher than that of the same money at present or in the future. This is because the value of money tends to decrease over time. Based on this, to fulfill the sense of justice (especially) for victims of crime, the value of past losses must be assessed by the value of losses in the present or in the future. This problem cannot be answered by law science. It needs help from other sciences so that law can bring justice which is the farthest goal from the law after the realization of legal order and certainty.

A financial theory provides assistance in this case through the implementation of the discounted cash flow theory to be able to calculate the amount of loss in the past with an equivalent value of money in the present or in the future. For more details, below will illustrate the use of the discounted cash flow theory to solve a criminal act that occurred in the past.

In December 2017, Mr. A, who was parked on the street in front of his house, disappeared during the day. Upon this incident, Mr. A suffered a loss of Rp. 40,000,000, - (forty million rupiah). Then Mr. A reported the problem of losing the motorbike to the police. In December 2020, the perpetrator of the crime of theft who caused losses to Mr. A, namely Mr. B, was caught. By the police, Mr. B. is suspected of having committed a criminal act as referred to in Article 362 of the Criminal Code, namely; “Anyone who takes something, wholly or partly belonging to another person, with the intention of illegally possessing it, is punished for theft, with a maximum imprisonment of five years or a maximum fine of nine hundred rupiahs”.

At the investigation stage by the police, Mr. B met with Mr. A through the investigator. What is meant by investigation according to Article 1 number (2) of the Regulation of the Head of the National Police of the Republic of Indonesia Number 6 of 2019 concerning Criminal Actions Investigation is; “A series of actions by investigators to find and find an event that is suspected of being a criminal act in order to determine whether or not an investigation can be carried out in a manner regulated by law”. Meanwhile, according to Article 1 number (3), investigators are; “Police officers who are authorized by law to carry out investigations”.

At the time Mr. B met with Mr. A, Mr. B proposed peace to Mr. A and promised to compensate for the losses suffered by Mr. A, with a request that the report made by Mr. A told the police regarding the problem of losing the motorcycle. Thus the police can close the criminal case committed by Mr. B related to the theft of Mr. A is meant.

Feeling sorry and feeling bad, finally, Mr. A agreed to Mr. A’s request for peace. The B. The problem now is; (1) whether the laws and regulations allow such peace. Furthermore, (2) what is the value of Mr. A which must be replaced by Mr. B? The answer to the first question is fully within the authority of the police to answer it. In this case, the laws and regulations allow for peace which is meant by using restorative justice with several requirements that must be met, as stipulated in Article 12 of the

Regulation of the Head of the National Police of the Republic of Indonesia Number 6 of 2019 concerning Criminal Investigation related to the application of restorative justice.

In essence, applying restorative justice at the investigation stage must meet the material and formal requirements. Material requirements include; (1) it does not cause public unrest, or there is no community resistance; (2) does not have an impact on social conflict; (3) there is a statement from all parties involved not to object and to waive their right to prosecute before the law; and (4) limiting principles which include; (a) the principle of limiting the actors which include; (i) the level of the perpetrator's error is relatively minor, that is, the error is deliberate; and (ii) the perpetrator is not a recidivist. (b) The principle of limiting criminal offenses in the process includes; (i) investigation; and (ii) investigation before the SPDP is sent to the Public Prosecutor. As for what includes formal requirements include; (1) a letter of request for reconciliation of both parties (reporter and reported); (2) the statement of conciliation (deed *dading*), and settlement of disputes of the parties in the case (the reporter, and/or the family of the reporter, the reported and/or the family of the reported and representatives of community leaders) is known to the investigator's superior; (3) an additional examination report of the party in a case after the case has been resolved through restorative justice; (4) recommendation of special case titles approving the settlement of restorative justice; and (5) the perpetrator does not object and voluntarily takes responsibility and compensation.

In general, fulfilling these materials and formal requirements is not too difficult. The difficulty is determining how much compensation Mr. has agreed to give. B to Mr. A. In this case, Mr. A is not willing to be compensated as much as he lost three years ago because:

1. The value of the same money three years ago is greater than the present value of money.
2. If the money is Mr. The A is kept in the bank or used as business capital, so at this time (after three years), the amount of money will increase considerably.
3. Mr. A Mobility was deeply disturbed by the loss of the motorcycle. To overcome what is meant, Mr. A immediately bought a replacement motorcycle on credit for two years. After calculating the total amount of money Mr. A issued to pay on credit, the price of the motorbike is Rp. 64,000,000, - (sixty four million rupiah).

Regarding this problem, by using the discounted cash flow (DSC) theory, a calculation of the amount of compensation that must be given by Mr. B to Mr. A so that Mr. B and Mr. A can feel the existence of justice in the context of implementing the intended restorative justice. The alternative calculation is as below.

One of the DSC theory implementations is the calculation of compound interest, which is known by the Indonesian public as "flowering interest". Assuming the interest per month is 2%, then based on Table 1, it can be seen that the value of money in the 24th month is Rp. 64,337,490, -. This value is close to the value of money issued by Mr. A for two years to buy back the motorbike on credit. Based on this, the compound interest calculation model in Table 1 is appropriate to be used to calculate the value of compensation that must be given by Mr. B to Mr. A in the context of implementing restorative justice.

Because Mr. B to Mr. A was carried out in the 36th month after the incident, then based on Table 1, the compensation value that must be given by Mr. B to Mr. A is



**Table 1.** Compound Interest Calculation

The Month	Initial Value (Rp)	Interest (Rp)	Future (Rp)
1	40.000.00	800.000	40.800.000
2	40.800.00	816.000	41.616.000
3	41.616.000	832.320	42.448.320
4	42.448.320	848.966	43.297.286
5	43.297.286	865.946	44.163.232
6	44.163.232	883.265	45.046.497
7	45.046.497	900.930	45.947.427
8	45.947.427	918.949	46.886.375
9	46.866.375	937.328	47.803.703
10	47.803.703	956.074	48.759.777
11	48.759.777	975.196	49.734.972
12	49.734.972	994.699	50.729.672
13	50.729.675	1.014.593	51.744.265
14	51.744.265	1.034.885	52.779.151
15	52.779.151	1.055.583	53.834.734
16	53.834.734	1.076.695	54.911.428
17	54.911.428	1.098.229	56.009.657
18	56.009.657	1.120.193	57.129.850
19	57.129.850	1.142.597	58.272.447
20	58.272.447	1.165.449	59.437.896
21	59.437.896	1.188.758	60.626.654
22	60.626.654	1.212.533	61.839.187
23	61.839.187	1.236.784	63.075.971
24	63.075.971	1.261.519	64.337.490
25	64.337.490	1.286.750	65.624.240
26	65.624.240	1.312.485	66.936.725
27	66.936.725	1.338.734	68.275.459
28	68.275.459	1.365.509	69.640.968
29	69.640.968	1.392.819	71.033.788
30	71.033.788	1.420.676	72.454.463
31	72.454.463	1.449.089	73.903.553
32	73.903.553	1.478.071	75.381.624

*(continued)*

**Table 1.** (continued)

The Month	Initial Value (Rp)	Interest (Rp)	Future (Rp)
33	75.381.624	1.507.632	76.889.256
34	76.889.256	1.537.785	78.427.041
35	78.427.041	1.568.541	79.995.582
36	79.995.582	1.599.912	81.595.494

Rp. 81,595,494, -. The compensation value of this amount must be stated in an agreement (agreement) between Mr. B with Mr. A. Thus, the agreement must also comply with the provisions referred to in civil law (Civil Code).

Law is dynamic in nature and receives various internal and external influences. Initially, criminal and civil law were two parts of positive law in Indonesia that were “separate” from one another. The difference between the two fields of law (criminal law and civil law) can be brought closer to the application of restorative justice, which is characterized by a negotiation process between the perpetrator of a criminal act and the victim of a crime. The application of restorative justice is part of the law enforcement process in Indonesia. In this case, criminal law enforcement is solely carried out not only by using criminal law (Criminal Code) but can also be carried out through agreements (agreements) that are part of civil law (Civil Code).

As a science, law science in certain matters cannot completely solve legal problems. In this case, the law requires assistance from other sciences to solve legal problems within the framework of law enforcement. As a shared science, the law opens itself to accept other sciences as part of the law enforcement process. Specifically, concerning the example cases presented above, law science receives assistance from financial management science (financial theory) in the context of solving a criminal case (theft) which is resolved using restorative justice during the investigation stage conducted by the police.

Based on the description above, it can be seen that the results of this study directly impact the development of legal science, namely by providing space for other sciences, especially financial management, to assist law enforcement in law enforcement to achieve the farthest legal goals, namely justice. At the legal implementation stage (law in practice), the results of this study directly provide alternative solutions to problems related to the amount of compensation in the framework of implementing restorative justice using one of the current financial theories, namely, discounted cash flow theory.

## 4 Conclusion

The discounted cash flow theory can be used to calculate the compensation that the criminal offender must pay to the victim of a crime in the framework of implementing restorative justice during the investigation stage in the police based on the provisions referred to in Article 12 of the Regulation of the Head of the National Police of the Republic of Indonesia Number 6 of 2019 concerning Crime Investigation.

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