

## **POLICE RESTORATIVE JUSTICE IN CIVIL CASES AND FIDUCIARY GUARANTEES: A PATH TO EQUITABLE RESOLUTION**

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### **Abstract**

The aim research is the application of restorative justice principles in civil cases, specifically focusing on fiduciary guarantees. While restorative justice has gained traction in the criminal justice system, its potential in civil contexts remains underexamined. Th research addresses the question: How can police restorative justice principles be effectively applied in civil disputes involving fiduciary guarantees to achieve more equitable resolutions? Through a mixed-methods approach, which includes legal analysis, case study reviews, and comparative assessments, I find that restorative justice can enhance victim satisfaction, improve dispute outcomes, and alleviate court congestion. The findings suggest that integrating restorative justice into the resolution of fiduciary guarantee disputes not only addresses the limitations of traditional litigation but also promotes dialogue, repairs relationships, and fosters mutual understanding, ultimately leading to more equitable resolutions.

**Keywords:** Restorative Justice, Civil Cases, Fiduciary Guarantees, Equitable Resolution, Police-Led Initiatives.

## Introduction

Restorative justice, at its essence, is a philosophy and practice centered on repairing the harm caused by wrongdoing. Unlike traditional punitive systems, which often prioritize punishment and retribution, restorative justice seeks to address the needs of those affected by the offense—whether victims, offenders, or the community at large (Yusuf, Kasim, & Imran, 2024). The core tenets of restorative justice are rooted in three fundamental principles: repairing harm, empowering victims, and fostering offender accountability. These principles collectively aim to achieve a more holistic resolution to disputes, one that restores trust, rebuilds relationships, and promotes healing.

The principle of repairing harm focuses on acknowledging and addressing the emotional, financial, and relational damage caused by the wrongdoer's actions. This approach emphasizes the importance of restitution and reconciliation over punishment, striving to provide tangible and intangible reparations for the aggrieved parties (D Prasetyawan, 2024). Victim empowerment is another cornerstone of restorative justice, ensuring that those harmed have an active voice in shaping the resolution process. By involving victims in dialogues and decision-making, restorative justice contrasts starkly with traditional systems, where victims often feel sidelined and disconnected from the legal proceedings (MS Bahri & Patrianto, 2025). Finally, offender accountability is key to restorative justice, as it requires the wrongdoer to confront the consequences of their actions, take responsibility, and actively participate in making amends.

While restorative justice has historically been applied in criminal contexts, its principles are increasingly being recognized as valuable in civil disputes. Scholars and practitioners have begun exploring its relevance in settings like workplace conflicts, family disputes, and financial disagreements. For example, Hutagaol et al. (2022) highlight how restorative justice practices have been integrated into police regulations for resolving non-criminal cases, showcasing its adaptability beyond traditional boundaries. This shift reflects growing dissatisfaction with adversarial litigation systems, which can be costly, time-consuming, and emotionally draining for involved parties.

One emerging area of interest is the application of restorative justice in fiduciary disputes—a realm traditionally dominated by rigid legal frameworks. Fiduciary

guarantees, which often involve a power imbalance between fiduciaries and beneficiaries, can lead to disputes that are not purely financial but also relational in nature. Restorative justice has the potential to address such disputes holistically, focusing on repairing relationships and fostering mutual understanding rather than simply resolving transactional issues (Aziz & Laksana, 2024).

Fiduciary guarantees are legal mechanisms used to secure obligations, often in financial or commercial contexts. These guarantees rely on a fiduciary relationship, where one party (the fiduciary) is entrusted with a duty to act in the best interests of another party (the beneficiary). Such relationships are built on trust and are essential for the smooth functioning of financial systems. However, breaches of fiduciary duty can have far-reaching consequences, including financial losses, emotional distress, and damage to trust between parties. As Cooper (2020) notes, fiduciary disputes often arise when fiduciaries misuse their power or fail to fulfill their responsibilities, leaving beneficiaries vulnerable and dissatisfied.

The importance of fiduciary guarantees extends beyond financial transactions; they are integral to maintaining ethical standards in commercial relationships. For instance, fiduciary guarantees are commonly associated with pledges, mortgages, and other financial instruments, ensuring that obligations are met and that beneficiaries are protected. However, when disputes arise, traditional litigation often falls short of addressing the underlying relational harm. This is where restorative justice can play a transformative role, offering a pathway to repair trust and foster collaboration (van Schilgaarde, 2024).

Against this backdrop, police-led restorative justice emerges as a compelling avenue for resolving civil disputes involving fiduciary guarantees. By leveraging their authority and community presence, police officers can facilitate restorative practices that promote dialogue, repair relationships, and achieve mutually acceptable outcomes. This approach addresses the limitations of traditional adversarial litigation, which often exacerbates conflict and leaves parties feeling dissatisfied. As Rahman & Sukmaren (2024) argue, police involvement in restorative justice processes can bring a sense of impartiality and structure, ensuring that all parties are treated fairly and respectfully.

The thesis of this paper is that police-led restorative justice offers a promising pathway for resolving fiduciary guarantee disputes. By prioritizing dialogue over confrontation and collaboration over competition, this approach has the potential to

create outcomes that are not only equitable but also sustainable in the long term. Moreover, it aligns with broader efforts to reduce court congestion and promote alternative dispute resolution methods, making it a valuable addition to the legal landscape (Saputra, 2024).

To understand the potential impact of restorative justice in fiduciary disputes, it is important to examine its broader application in civil contexts. Restorative justice practices such as mediation, conferencing, and dialogue circles have already demonstrated success in addressing workplace conflicts, neighborhood disputes, and family disagreements. These practices focus on bringing parties together to discuss their grievances, share their perspectives, and work collaboratively toward a resolution. In the context of fiduciary guarantees, such practices can help beneficiaries articulate their concerns while giving fiduciaries an opportunity to explain their actions and make amends.

For example, Hutagaol et al. (2022) describe how restorative justice processes in police-led cases have helped repair relationships between conflicting parties. This success can be attributed to the emphasis on transparency, empathy, and mutual respect—qualities that are often absent in adversarial litigation. By integrating these principles into fiduciary disputes, restorative justice can create a new paradigm for resolution, one that prioritizes relational harmony over legal victory.

While the application of restorative justice in fiduciary disputes is promising, it is not without challenges. One key obstacle is the need for skilled facilitators who can navigate the complexities of fiduciary relationships and ensure that dialogues remain productive and balanced. Additionally, the voluntary nature of restorative justice processes may limit their applicability in cases where one party is unwilling to participate. As Bazelon & Green (2019) note, resistance to restorative justice often stems from a lack of awareness or understanding of its principles, highlighting the need for education and advocacy.

Despite these challenges, the opportunities presented by restorative justice are significant. By addressing the root causes of disputes and promoting healing, restorative justice can achieve outcomes that are not only fair but also transformative. Moreover, its emphasis on collaboration and mutual understanding aligns with the ethical principles underlying fiduciary relationships, making it a natural fit for resolving fiduciary guarantee disputes.

In conclusion, restorative justice represents a paradigm shift in how civil disputes, particularly those involving fiduciary guarantees, can be resolved. By focusing on repairing harm, empowering victims, and fostering accountability, this approach offers a more holistic and equitable alternative to traditional litigation. Police-led restorative justice, in particular, has the potential to play a transformative role, leveraging the authority and impartiality of law enforcement to facilitate meaningful resolutions. As this paper will explore, the integration of restorative justice into fiduciary disputes not only addresses the limitations of adversarial systems but also paves the way for a more compassionate and just legal landscape.

### **Problem Statement: The Limitations of Traditional Litigation**

Civil litigation has long been the cornerstone of resolving disputes in a formalized legal setting. Rooted in the adversarial system, traditional civil litigation emphasizes legal rights, financial compensation, and adherence to formal procedures. While this framework has proven effective in addressing certain types of disputes, it often falls short in resolving cases that involve broken relationships, emotional harm, and complex fiduciary contexts. This section delves into the shortcomings of traditional litigation and its implications for disputes involving fiduciary guarantees, highlighting the need for alternative approaches such as restorative justice to address underlying causes and promote reconciliation among parties.

According to Yusuf et al. (2024), the adversarial approach tends to emphasize the transactional nature of legal disputes, reducing them to a contest of financial claims. This framework is particularly problematic in cases involving fiduciary guarantees, where breaches of trust can lead to significant emotional harm and strained relationships between parties. For instance, when a fiduciary fails to fulfill their obligations, beneficiaries may feel betrayed, fostering resentment that traditional litigation is ill-equipped to address. The focus on financial outcomes often overshadows the need to repair relational harm, leaving unresolved tensions that could lead to future disputes.

Prasetyawan (2024) argues that traditional litigation is inherently adversarial, pitting parties against each other in a zero-sum contest. This dynamic often exacerbates conflict rather than resolving it, as each party is incentivized to maximize their own gains at the expense of the other. For beneficiaries in fiduciary disputes, this can result in feelings of powerlessness and alienation, particularly when the fiduciary

holds a position of authority or influence. Emotional harm, such as feelings of betrayal or loss of trust, is rarely acknowledged or addressed within the confines of a courtroom.

Moreover, the formal procedures of litigation can add to the emotional strain experienced by parties. Hutagaol et al. (2022) highlight how the rigid nature of court processes can make it difficult for individuals to express their feelings or explain the relational impact of a breach of fiduciary duty. This procedural rigidity often reduces complex disputes to a series of legal arguments, stripping away the human elements that are central to achieving genuine resolution.

Another significant drawback of traditional litigation is its tendency to exacerbate conflict rather than resolve it. The adversarial nature of the process encourages parties to adopt combative stances, which can escalate tensions and deepen divisions. In fiduciary disputes, this dynamic is particularly problematic, as breaches of duty often involve pre-existing relationships that are further strained by litigation.

## Method

The research methodology employed in this study is a mixed-methods approach that combines legal analysis, case study review, and comparative assessment. This method allows for a comprehensive understanding of the application of restorative justice in civil disputes involving fiduciary guarantees. By integrating both qualitative and quantitative data, this research aims to provide a robust foundation for examining how police restorative justice principles can be effectively applied in these contexts.

The mixed-methods approach is particularly effective in the context of this research because it allows for the triangulation of data. Triangulation is the process of using multiple methods or data sources to enhance the credibility of the research findings. It provides a more nuanced view of the complexities involved in civil disputes related to fiduciary guarantees and the potential role of restorative justice in resolving these disputes.

In this study, the mixed-methods approach consists of three primary components: legal analysis, case study review, and comparative assessment. Each component plays a critical role in informing the overall research question: How can police restorative justice principles be effectively applied in civil disputes involving fiduciary guarantees to achieve more equitable resolutions?

The legal analysis component focuses on examining relevant statutes, case law, and legal scholarship concerning restorative justice and fiduciary guarantees. This analysis is crucial because it helps to establish a legal framework within which restorative justice can be understood and applied.

To begin with, the examination of statutes involves identifying laws that pertain to both restorative justice and fiduciary guarantees. This includes looking at existing legal frameworks that govern civil disputes, particularly those that involve fiduciary relationships. For instance, fiduciary duty laws may vary significantly across jurisdictions, and understanding these nuances is essential for applying restorative justice principles effectively.

Moreover, the analysis of case law provides insights into how courts have interpreted and enforced fiduciary duties. By reviewing landmark cases and recent rulings, this research aims to highlight patterns in judicial reasoning that may either support or hinder the integration of restorative justice in civil cases.

Additionally, reviewing legal scholarship allows for an exploration of existing theories and critiques surrounding both restorative justice and fiduciary duties. Legal scholars have engaged in extensive discussions about the merits and drawbacks of restorative justice, particularly in criminal contexts.

## **Restorative Justice in Civil Disputes: Principles and Application**

### **Core Principles of Restorative Justice**

Restorative justice represents a transformative approach to conflict resolution, emphasizing healing, accountability, and collaboration. It departs from the retributive justice model that focuses primarily on punishment, instead fostering dialogue and understanding among all parties involved. At its core, restorative justice seeks to repair harm, involve stakeholders actively in the resolution process, and promote collaborative problem-solving. These principles are particularly pertinent in civil disputes, where emotional, financial, and relational harm often go unaddressed in traditional adversarial processes. This section explores the foundational principles of restorative justice—harm repair, stakeholder involvement, and collaborative problem-solving—and their application in civil cases.

Central to restorative justice is the concept of harm repair. This principle prioritizes addressing the damage caused by a dispute, whether emotional, financial, or relational, rather than focusing solely on punitive measures or legal remedies. In

traditional litigation, the resolution often revolves around monetary compensation or legal adjudication, which may fail to account for the human element of conflict. Restorative justice, by contrast, seeks to identify and rectify the multifaceted harm experienced by all parties.

Harm repair begins with acknowledging the extent of the damage and understanding its impact on individuals and communities. For example, in fiduciary disputes—where breaches of trust can lead to significant financial losses and emotional distress—restorative justice offers an avenue to address the deeper consequences of such breaches. According to Yusuf, Kasim, and Imran (2024), restorative justice strategies have been employed in cases involving the transfer of fiduciary objects, with a focus on repairing the trust and financial harm caused. By prioritizing harm repair, restorative justice fosters a sense of closure and healing that is often absent in traditional litigation (Yusuf et al., 2024).

One of the key mechanisms for harm repair in restorative justice is dialogue. Open communication allows parties to express their grievances, share their perspectives, and articulate their needs. This process not only aids in emotional healing but also paves the way for practical solutions that address financial and relational harm. As Prasetyawan (2024) notes, the ability of police to resolve fiduciary disputes through restorative justice emphasizes the importance of understanding the harm caused and taking steps to mitigate it. Police officers play a crucial role in facilitating these dialogues, ensuring that the focus remains on repairing harm rather than assigning blame (Prasetyawan, 2024).

Another cornerstone of restorative justice is stakeholder involvement, which emphasizes the active participation of victims, offenders, and affected community members in the resolution process. This principle challenges the traditional top-down approach of litigation, where decisions are made by legal authorities without significant input from those directly impacted by the dispute. Restorative justice empowers stakeholders to take ownership of the resolution process, fostering a sense of agency and accountability.

Stakeholder involvement is particularly critical in fiduciary disputes, where power imbalances often exist between fiduciaries and beneficiaries. These imbalances can lead to dissatisfaction and feelings of helplessness among beneficiaries, especially when traditional litigation fails to adequately address their concerns. Hutagaol et al. (2022) highlight the importance of involving all parties in the resolution of disputes



involving fiduciary guarantees, noting that restorative justice practices enable a more equitable and transparent process. By including stakeholders in the resolution process, restorative justice promotes mutual understanding and reduces the likelihood of future conflicts (Hutagaol et al., 2022).

One of the most effective ways to ensure stakeholder involvement is through facilitated mediation or conferencing. These practices create a structured environment where all parties can voice their perspectives and collaboratively explore solutions. Aziz and Laksana (2024) emphasize the role of such practices in achieving restorative justice in fiduciary disputes, noting that stakeholder involvement often leads to more satisfactory outcomes for all parties involved. By fostering dialogue and collaboration, restorative justice ensures that stakeholders are not merely passive recipients of a legal outcome but active contributors to the resolution process (Aziz & Laksana, 2024).

Stakeholder involvement also extends beyond the immediate parties to include the broader community. In many cases, disputes have ripple effects that impact families, businesses, and social networks. By involving community members in the resolution process, restorative justice promotes a collective effort to address harm and rebuild relationships. As van Schilgaarde (2024) observes, the integration of customary justice systems into restorative justice practices often involves community participation, which enhances the legitimacy and effectiveness of the resolution process. This inclusive approach ensures that the resolution of disputes is not only fair but also sustainable in the long term (van Schilgaarde, 2024).

The third principle of restorative justice is collaborative problem-solving, which focuses on facilitating dialogue and negotiation to reach mutually agreeable solutions. Unlike traditional litigation, where outcomes are often imposed by a judge or arbitrator, restorative justice encourages parties to work together to find resolutions that address their needs and interests. This collaborative approach fosters empathy, understanding, and accountability, laying the groundwork for genuine reconciliation.

Collaborative problem-solving is particularly valuable in civil cases, where disputes often arise from misunderstandings, mismanagement, or breaches of trust. For example, in fiduciary disputes, beneficiaries may feel betrayed by fiduciaries who fail to uphold their responsibilities. Restorative justice practices, such as mediation, provide a platform for fiduciaries and beneficiaries to communicate openly, identify the root causes of the dispute, and explore solutions that repair harm and restore

trust. Cooper (2020) emphasizes the importance of collaborative problem-solving in addressing breaches of fiduciary duty, noting that restorative justice practices often lead to more equitable and satisfactory outcomes than traditional litigation (Cooper, 2020).

One of the key elements of collaborative problem-solving is the role of skilled facilitators. These facilitators guide the resolution process, ensuring that discussions remain constructive and focused on finding solutions. Rahman and Sukmareni (2024) highlight the importance of trained mediators in resolving fiduciary guarantee embezzlement cases, noting that their expertise in restorative justice practices is crucial for achieving successful outcomes. Facilitators not only provide structure to the resolution process but also help parties navigate complex emotional and financial issues, ensuring that the solutions reached are both practical and meaningful (Rahman & Sukmareni, 2024).

Another important aspect of collaborative problem-solving is the emphasis on voluntary participation. Unlike traditional litigation, where parties may be compelled to engage in legal proceedings, restorative justice relies on the willingness of all parties to actively participate in the resolution process. This voluntary nature fosters a sense of ownership and commitment to the outcomes achieved. Harmanto et al. (2022) note that voluntary participation is a key factor in the success of restorative justice practices, particularly in fiduciary disputes, where parties must be willing to engage in dialogue and negotiation. By promoting voluntary participation, restorative justice ensures that resolutions are not only effective but also enduring (Harmanto et al., 2022).

The core principles of restorative justice—harm repair, stakeholder involvement, and collaborative problem-solving—offer a transformative approach to resolving civil disputes, particularly those involving fiduciary guarantees. By prioritizing healing, empowering stakeholders, and fostering collaboration, restorative justice addresses the limitations of traditional litigation and promotes equitable resolutions that repair harm, restore trust, and prevent future conflicts. As Saputra (2024) observes, the integration of restorative justice into fiduciary disputes reflects a broader shift toward more compassionate and relational approaches to conflict resolution. This paradigm shift not only enhances the satisfaction of all parties involved but also contributes to the creation of stronger, more resilient communities (Saputra, 2024).

The application of these principles in civil cases underscores the potential of restorative justice to transform the legal system into one that prioritizes dialogue, understanding, and mutual respect. While challenges remain, such as the need for skilled facilitators and the importance of voluntary participation, the benefits of restorative justice far outweigh its limitations. By embracing these principles, legal practitioners, policymakers, and communities can work together to create a more just, equitable, and compassionate approach to resolving disputes.

In conclusion, restorative justice offers a promising path forward for addressing the emotional, financial, and relational harm caused by civil disputes. Its emphasis on harm repair, stakeholder involvement, and collaborative problem-solving provides a holistic and relational framework for conflict resolution, challenging the traditional adversarial model of litigation. As the research and case studies reviewed demonstrate, restorative justice has the potential to improve outcomes, enhance satisfaction, and reduce court congestion, making it a valuable addition to the legal landscape. By continuing to explore and expand the application of restorative justice in civil cases, particularly those involving fiduciary guarantees, we can pave the way for a more compassionate and effective legal system.

### **Application in Civil Cases: A New Paradigm**

The application of restorative justice principles in civil cases represents a transformative approach to conflict resolution that prioritizes repairing harm, fostering understanding, and restoring relationships over punitive measures or adversarial procedures. Unlike traditional litigation, which often focuses narrowly on legal rights and financial remedies, restorative justice offers a more holistic and relational framework that addresses the emotional, social, and psychological dimensions of disputes. This paradigm shift not only holds promise for improving victim satisfaction and accountability but also for reducing recidivism and fostering stronger communities.

Restorative justice is built on the premise that justice is best served when harm is repaired, relationships are restored, and stakeholders are actively involved in resolving disputes. This approach contrasts sharply with the traditional adversarial system, which often exacerbates conflicts and leaves parties feeling alienated or dissatisfied with the outcome. In civil cases, particularly those involving fiduciary

guarantees, restorative justice can offer a pathway to resolution that is less combative and more constructive.

One of the core benefits of restorative justice in civil disputes is its focus on empathy and understanding. By facilitating direct communication between disputing parties, restorative practices encourage individuals to share their perspectives, express their feelings, and acknowledge the impact of their actions. This process can help bridge gaps in understanding, reduce animosity, and foster a sense of accountability. For instance, Yusuf, Kasim, and Imran (2024) highlight the application of restorative justice in cases involving the transfer of fiduciary objects at the Gorontalo Police. Their research demonstrates how restorative dialogues can lead to outcomes that not only resolve the immediate dispute but also address the underlying relational harm, ensuring a more equitable resolution.

Empathy is a critical component of restorative justice. It allows disputing parties to see each other's humanity and understand the motivations and circumstances behind their actions. In civil cases, particularly those involving fiduciary guarantees, fostering empathy can be transformative. Fiduciary disputes often arise from breaches of trust, mismanagement, or negligence, which can cause significant emotional and financial harm to beneficiaries. By creating a space for open dialogue, restorative justice enables fiduciaries to acknowledge the harm caused and take steps toward accountability and reparation.

Prasetyawan (2024) underscores the importance of police officers understanding restorative justice principles to effectively resolve fiduciary disputes. The author argues that direct engagement between fiduciaries and beneficiaries, facilitated by trained mediators, can lead to greater transparency and mutual understanding. This approach not only addresses the immediate conflict but also promotes long-term trust and cooperation, reducing the likelihood of future disputes.

Restorative justice practices, such as mediation and conferencing, can be adapted to address the unique challenges of civil disputes. Mediation, for instance, involves a neutral third party facilitating dialogue between disputing parties to reach a mutually agreeable resolution. This process emphasizes collaboration and problem-solving, allowing parties to explore creative solutions that go beyond the limitations of traditional legal remedies.

In the context of fiduciary disputes, mediation can be particularly effective. Hutagaol et al. (2022) discuss the role of police regulations and restorative justice

frameworks in resolving cases involving fiduciary guarantees. They note that mediation can help fiduciaries and beneficiaries identify the root causes of the dispute, whether it be financial mismanagement, lack of communication, or breaches of duty. By addressing these issues collaboratively, parties can develop solutions that not only resolve the immediate conflict but also prevent future disputes.

Another restorative practice that can be adapted for civil cases is conferencing. Conferencing involves bringing together all stakeholders affected by a dispute, including community members, to discuss the harm caused and identify ways to repair it. Aziz and Laksana (2024) emphasize the potential of conferencing to create a sense of shared responsibility and community support, which can be invaluable in resolving fiduciary disputes. For example, a fiduciary who has mismanaged funds may agree to a restitution plan that is supported by both beneficiaries and community members, fostering a sense of collective accountability.

One of the most significant advantages of restorative justice in civil cases is its potential to improve victim satisfaction. Traditional litigation often leaves victims feeling disempowered, as they have little control over the legal process or the outcome. In contrast, restorative justice prioritizes victim involvement, giving them a voice in shaping the resolution and addressing their needs.

Van Schilgaarde (2024) highlights the parallels between restorative justice and customary justice systems, noting that both prioritize victim empowerment and community involvement. In fiduciary disputes, this approach can be particularly impactful. Beneficiaries who feel wronged by a fiduciary's actions often seek not only financial restitution but also acknowledgment and apology. Restorative justice provides a platform for fiduciaries to take accountability and make amends, which can lead to greater victim satisfaction and emotional closure.

Moreover, restorative justice can reduce recidivism by addressing the underlying causes of disputes. Bazelon and Green (2019) argue that restorative processes can create a sense of accountability and commitment to change, which is often lacking in traditional litigation. In fiduciary disputes, this could mean implementing safeguards to prevent future breaches of duty, such as improved oversight or training programs for fiduciaries. By addressing the root causes of the conflict, restorative justice not only resolves the immediate dispute but also reduces the likelihood of recurrence.

Restorative justice has the potential to strengthen communities by promoting collaboration, understanding, and mutual support. In civil cases, particularly those

involving fiduciary guarantees, disputes often impact not only the immediate parties but also the broader community. For instance, a fiduciary's breach of duty may erode trust within a community or damage relationships between business partners. Restorative justice practices can help rebuild these relationships and restore trust.

Saputra (2024) discusses the role of police-led restorative justice in addressing fiduciary guarantee embezzlement cases, noting how mediation and familial settlements reflect a preference for community-based solutions. These practices not only resolve disputes but also foster a sense of collective responsibility and support, which can strengthen community bonds. By prioritizing dialogue and collaboration, restorative justice helps create communities that are more resilient and better equipped to handle conflicts.

While restorative justice offers significant benefits, its application in civil cases is not without challenges. Harmanto et al. (2022) note the importance of skilled facilitators in ensuring the success of restorative processes. Facilitators must be trained to navigate complex legal and emotional dynamics, particularly in fiduciary disputes where power imbalances often exist. Additionally, voluntary participation is crucial for restorative justice to be effective. Parties must be willing to engage in dialogue and take accountability, which may not always be the case in civil disputes.

Another challenge is the lack of long-term follow-up data on restorative justice outcomes. Rahman and Sukmareni (2024) highlight the need for empirical research to assess the effectiveness of restorative practices in resolving fiduciary disputes. This includes tracking the long-term impact on relationships, recurrence of disputes, and community trust. Without such data, it is difficult to fully evaluate the benefits of restorative justice in civil cases.

The application of restorative justice in civil cases, particularly those involving fiduciary guarantees, represents a promising paradigm shift in conflict resolution. By prioritizing empathy, understanding, and accountability, restorative justice offers a more holistic and relational approach than traditional litigation. Practices such as mediation and conferencing can be adapted to address the unique challenges of fiduciary disputes, fostering victim satisfaction, reducing recidivism, and strengthening communities.

However, the successful implementation of restorative justice requires careful consideration of challenges, such as the need for skilled facilitators and voluntary participation. Further research and experimentation are needed to fully understand

the long-term impact of restorative practices in civil cases. Despite these challenges, the potential for restorative justice to create a more equitable and compassionate legal system is undeniable. As Cooper (2020) notes, restorative justice has the capacity to address not only the immediate conflict but also the broader social and relational dimensions of disputes, paving the way for a more just and harmonious society.

In conclusion, restorative justice is not just a tool for resolving conflicts but a transformative philosophy that reimagines justice as a collaborative and healing process. By integrating restorative principles into civil cases, particularly those involving fiduciary guarantees, we can move closer to achieving resolutions that are not only fair and effective but also deeply human.

## **Fiduciary Guarantees and Restorative Justice: A Synergistic Approach**

### **Understanding Fiduciary Guarantees**

Fiduciary guarantees are a critical component of financial and commercial relationships, serving as a mechanism to ensure trust and accountability between parties. At its core, a fiduciary guarantee involves a fiduciary—a person or entity entrusted with the responsibility to act in the best interests of another party, often referred to as the beneficiary. This relationship is defined by legal duties and responsibilities that prioritize the beneficiary's interests above the fiduciary's own. The fiduciary must adhere to principles of loyalty, good faith, and prudence while managing assets or executing tasks on behalf of the beneficiary.

A fiduciary guarantee is typically formalized through legal agreements or instruments that outline the fiduciary's obligations to safeguard and manage the beneficiary's assets or interests. These guarantees are frequently encountered in contexts such as trust agreements, investment management, corporate governance, and secured transactions. As Yusuf, Kasim, and Imran (2024) note, fiduciary guarantees serve as recognized institutions that underpin transactional integrity, particularly in cases involving asset transfers or financial arrangements.

The legal framework governing fiduciary guarantees imposes stringent duties on fiduciaries, ensuring that they act with honesty, integrity, and transparency. A fiduciary must avoid conflicts of interest and refrain from exploiting their position for personal gain. For example, in cases involving secured transactions, the fiduciary is expected to manage collateral or pledged assets responsibly and in accordance with agreed-upon terms. Failure to uphold these duties can result in legal repercussions,

including liability for damages caused by negligence or misconduct (Prasetyawan, 2024).

Despite the safeguards provided by fiduciary guarantees, breaches of fiduciary duty remain a significant issue, often leading to substantial financial and emotional harm for beneficiaries. A breach may occur due to various reasons, such as mismanagement, fraud, or negligence. For instance, a fiduciary managing investment funds may engage in risky or unauthorized transactions that result in financial losses for the beneficiary. Similarly, fiduciaries in corporate settings may prioritize personal interests or those of third parties over the company's shareholders, undermining trust and causing reputational damage.

The emotional harm caused by breaches of fiduciary duty is equally significant but often overlooked in traditional legal proceedings. Beneficiaries who place their trust in fiduciaries may experience feelings of betrayal, stress, and anxiety when their interests are compromised. As Hutagaol et al. (2022) emphasize, fiduciary guarantees are not just financial instruments; they are deeply rooted in relational trust. Breaches of fiduciary duty disrupt this trust, leaving beneficiaries vulnerable and disillusioned. This underscores the need for a more holistic approach to resolving fiduciary disputes—one that addresses both the financial and emotional dimensions of harm.

One of the defining characteristics of fiduciary relationships is the inherent power imbalance between fiduciaries and beneficiaries. Fiduciaries often possess specialized knowledge, expertise, or access to resources that place them in a position of authority and control. Beneficiaries, on the other hand, may lack the ability to oversee or challenge fiduciary actions effectively. This disparity can make beneficiaries particularly vulnerable to exploitation or manipulation by unscrupulous fiduciaries.

Traditional litigation, while providing a legal avenue for addressing breaches of fiduciary duty, may not always offer equitable solutions. Litigation tends to focus on financial compensation and legal rights, often neglecting the relational aspects of fiduciary disputes. Moreover, the adversarial nature of litigation can exacerbate tensions between parties, further straining relationships and leaving beneficiaries feeling dissatisfied even after achieving a legal victory (Aziz & Laksana, 2024).

The limitations of traditional litigation highlight the need for alternative dispute resolution methods that prioritize equity and relational repair. Restorative justice, as van Schilgaarde (2024) suggests, offers a promising framework for addressing the power imbalances inherent in fiduciary relationships. By facilitating dialogue,



promoting understanding, and fostering accountability, restorative justice can help bridge the gap between fiduciaries and beneficiaries, paving the way for more equitable and compassionate resolutions.

Restorative justice principles align closely with the relational and ethical dimensions of fiduciary guarantees. As Bazelon and Green (2019) note, restorative justice processes are designed to repair harm, empower stakeholders, and rebuild trust—objectives that resonate deeply with the goals of fiduciary relationships. In the context of fiduciary disputes, restorative justice can provide a platform for beneficiaries to voice their grievances, seek acknowledgment of harm, and collaboratively explore solutions with fiduciaries.

For example, Rahman and Sukmareni (2024) describe a case where the Payakumbuh Police successfully mediated a fiduciary guarantee embezzlement dispute through restorative justice practices. By prioritizing mediation and familial settlements, the police facilitated a resolution that not only addressed the financial harm but also repaired relational trust between the parties. This case highlights the potential of restorative justice to achieve outcomes that are both legally sound and emotionally satisfying.

Empirical evidence supports the efficacy of restorative justice in resolving fiduciary disputes. Harmanto et al. (2022) conducted a study on restorative justice interventions in fiduciary guarantee cases in Indonesia, revealing several positive outcomes. Beneficiaries reported higher levels of satisfaction with the resolution process, citing the opportunity to express their concerns and participate in decision-making as key factors. Fiduciaries, in turn, expressed a greater willingness to rectify their actions and commit to future accountability, reflecting the transformative potential of restorative justice.

Quantitative data from this study further illustrates the advantages of restorative justice. Compared to traditional litigation, restorative justice interventions were found to be more cost-effective and time-efficient, reducing court congestion and minimizing legal expenses for both parties. Additionally, the recurrence of fiduciary disputes decreased significantly among parties who participated in restorative justice processes, indicating a long-term impact on relational repair and trust restoration.

While the benefits of restorative justice in fiduciary disputes are evident, challenges remain. Cooper (2020) highlights the difficulty of implementing restorative justice in cases involving severe breaches of fiduciary duty, such as fraud or

embezzlement. In such cases, beneficiaries may be reluctant to engage in dialogue or negotiation, preferring the certainty of legal remedies. Similarly, fiduciaries may resist participation in restorative justice processes, fearing reputational damage or legal repercussions.

Another limitation is the need for skilled facilitators who can navigate the complexities of fiduciary disputes while ensuring fairness and neutrality. As Saputra (2024) notes, the success of restorative justice interventions often depends on the competence and impartiality of mediators or facilitators. Training and capacity-building efforts are essential to equip practitioners with the skills needed to handle fiduciary disputes effectively.

Finally, the voluntary nature of restorative justice poses a challenge. Both parties must willingly participate in the process, which may not always be feasible in cases marked by deep mistrust or hostility. Despite these challenges, the growing body of research and case studies underscores the potential of restorative justice to transform the landscape of fiduciary dispute resolution.

Understanding fiduciary guarantees and their legal, financial, and relational dimensions is essential for addressing the challenges posed by breaches of fiduciary duty. While traditional litigation provides a framework for enforcing legal rights and compensating financial losses, it often falls short in addressing the emotional harm and power imbalances inherent in fiduciary relationships. Restorative justice offers a compelling alternative, emphasizing dialogue, accountability, and relational repair.

By integrating restorative justice principles into fiduciary dispute resolution, stakeholders can achieve outcomes that are both equitable and sustainable. The evidence presented in this discussion—drawing from the works of Yusuf et al. (2024), Prasetyawan (2024), Hutagaol et al. (2022), and others—demonstrates the transformative potential of restorative justice in fostering trust, transparency, and mutual understanding. While challenges remain, continued research and practice in this area hold promise for creating a more compassionate and effective approach to fiduciary dispute resolution.

### **Integrating Restorative Justice into Fiduciary Guarantee Disputes**

In the realm of civil disputes, particularly those involving fiduciary guarantees, the integration of restorative justice principles presents a transformative opportunity to address the complexities of breaches in fiduciary duty. Fiduciary guarantees, which

are fundamentally built on trust and equity, often involve emotionally charged relationships and significant financial stakes. When disputes arise, the traditional litigation process frequently emphasizes the adversarial determination of rights and liabilities, leaving underlying relational harm and emotional distress unaddressed. This section explores how restorative justice practices can be applied to fiduciary guarantee disputes, offering a pathway to resolution that prioritizes dialogue, transparency, and mutual understanding. By emphasizing harm repair, addressing underlying causes, and fostering trust restoration, restorative justice has the potential to achieve outcomes that are not only legally sound but also equitable and relationally constructive.

The integration of restorative justice into fiduciary guarantee disputes begins with recognizing its core principles: harm repair, stakeholder involvement, and collaborative problem-solving. Unlike traditional litigation, which often focuses on assigning blame or compensating financial losses, restorative justice seeks to address the broader spectrum of harm caused by fiduciary breaches, including emotional distress, relational damage, and loss of trust. According to Yusuf et al. (2024), restorative justice emphasizes the importance of fostering reconciliation and understanding, which are critical in fiduciary contexts where relationships are inherently vulnerable to breaches of trust.

To incorporate restorative justice into fiduciary disputes, it is essential to create frameworks that allow for open dialogue between fiduciaries and beneficiaries. This dialogue can be facilitated through structured restorative practices such as mediation or conferencing, which enable parties to articulate their grievances, express their needs, and negotiate solutions collaboratively. For instance, a mediation session involving a fiduciary accused of mismanagement could focus on uncovering the motivations behind their actions, such as financial pressures or lack of awareness of their obligations. By addressing these root causes, restorative justice can pave the way for solutions that not only compensate the victim but also prevent future breaches.

Restorative justice practices are particularly adept at promoting transparency and understanding between disputing parties. Transparency, a cornerstone of fiduciary relationships, is often compromised when breaches occur, leading to mistrust and conflict. Shukla and Patel (2023) highlight the role of restorative practices in fostering transparency by encouraging open communication and accountability. In

fiduciary disputes, this translates to creating spaces where fiduciaries can explain their actions and beneficiaries can articulate the harm they have experienced.

For example, a case study involving a fiduciary who failed to disclose critical financial information to their beneficiary could benefit from restorative justice interventions. Through a restorative conference, the fiduciary could acknowledge their failure and provide a detailed explanation of the circumstances that led to their actions. Simultaneously, the beneficiary could share the emotional and financial impact of the breach, fostering mutual understanding. This process not only promotes accountability but also allows both parties to explore solutions collaboratively, such as implementing stricter disclosure protocols or agreeing on compensation terms that reflect the harm caused.

Moreover, restorative justice practices can help beneficiaries and fiduciaries navigate the emotional complexities of their disputes. As Schormair and Gerlach (2020) argue, restorative justice emphasizes the relational aspects of conflict resolution, making it particularly suited to disputes involving fiduciary guarantees, where emotional harm often accompanies financial loss. By addressing these emotional dimensions, restorative justice can foster empathy and healing, creating a foundation for restored trust and stronger future relationships.

One of the most significant advantages of restorative justice in fiduciary guarantee disputes is its ability to identify and address the underlying causes of breaches of fiduciary duty. Traditional litigation often focuses on the immediate facts of a case, such as whether a fiduciary failed to fulfill their legal obligations. However, restorative justice seeks to delve deeper, exploring the systemic, situational, or personal factors that contributed to the breach. Seng (2021) underscores the importance of understanding the root causes of disputes to develop sustainable solutions that prevent recurrence.

For fiduciary disputes, these underlying causes may include factors such as mismanagement, negligence, or fraud. Mismanagement might stem from a lack of understanding of fiduciary responsibilities, while negligence could be influenced by external pressures such as financial instability or personal crises. Fraud, on the other hand, often points to deeper ethical or systemic issues within an organization or individual. By addressing these root causes, restorative justice not only resolves the immediate dispute but also mitigates the risk of future breaches.

For instance, consider a case where a fiduciary deliberately misappropriates funds from a trust, causing significant financial harm to the beneficiaries. Through restorative justice practices, the fiduciary could be encouraged to explain their actions, revealing potential factors such as financial desperation or perceived inequities in the distribution of trust assets. This understanding could inform solutions that not only compensate the beneficiaries but also address systemic issues, such as implementing more robust oversight mechanisms or providing fiduciaries with better training and support.

Restorative justice's emphasis on dialogue and collaboration makes it uniquely suited to achieving mutually acceptable outcomes in fiduciary guarantee disputes. Unlike traditional litigation, which often results in win-lose outcomes, restorative justice seeks to balance the needs and interests of all parties involved. As Bray (2016) observes, restorative justice offers a framework for equitable resolutions that prioritize relational repair and long-term harmony.

Mutually acceptable outcomes in fiduciary disputes might include compensation agreements, apologies, or commitments to improved practices. For example, a fiduciary accused of negligence might agree to compensate the beneficiary for their losses while also committing to undergo training on fiduciary responsibilities. Similarly, a beneficiary harmed by a fiduciary's actions might accept a formal apology and a promise to implement safeguards that prevent future breaches. These outcomes not only address the immediate harm caused by the dispute but also foster trust and accountability, creating a foundation for healthier future relationships.

Furthermore, restorative justice can contribute to broader societal benefits, such as reducing the burden on courts and promoting community cohesion. Winn (2020) highlights the potential of restorative practices to alleviate court congestion by providing alternative resolution pathways for civil disputes. In the context of fiduciary guarantees, this could translate to fewer cases reaching litigation, freeing up judicial resources for more complex or contentious disputes. Additionally, by fostering dialogue and understanding, restorative justice can strengthen the social fabric, promoting values of accountability, empathy, and cooperation.

## **Conclusion**

Restorative justice, an approach long rooted in criminal justice, presents a transformative potential when applied to civil disputes, especially those involving

fiduciary guarantees. In our exploration of this concept, we have delved into the various facets of restorative justice and its core principles, highlighting how these principles can be adapted to address the unique challenges of civil cases. This conclusion will encapsulate the main arguments and findings of the research, reiterate the thesis regarding the application of police-led restorative justice, and discuss the implications for legal practice, policy, and scholarship. Furthermore, we will call for further research into restorative justice in civil cases, particularly within the context of fiduciary guarantees and emphasize its potential to engender a more just, equitable, and compassionate legal system.

To summarize the key arguments and findings of this research, it is essential to reflect on the limitations of traditional adversarial litigation. As we have established, this conventional approach often centers on legal rights and financial compensation while neglecting the emotional, relational, and contextual aspects of disputes. Specifically, in cases involving fiduciary guarantees, the adversarial process can exacerbate existing conflicts, create power imbalances, and ultimately lead to outcomes that fail to satisfy the parties involved. Our research highlights that the restorative justice framework, with its focus on repairing harm, fostering dialogue, and encouraging collaborative problem-solving, offers a viable alternative. By prioritizing the needs and perspectives of all stakeholders, restorative justice can potentially achieve outcomes that are more equitable and satisfactory for all parties.

Reiterating the thesis of this research, police-led restorative justice emerges as a promising avenue for addressing civil disputes involving fiduciary guarantees. The principles of restorative justice—namely, harm repair, stakeholder involvement, and collaborative problem-solving—create an environment where parties can engage in meaningful dialogue, understand each other's perspectives, and work towards mutually acceptable resolutions. This approach not only facilitates the repair of relationships but also empowers victims and holds offenders accountable in a manner that traditional litigation often fails to achieve. As demonstrated through our analysis of case studies and comparative assessments, restorative justice can lead to improved victim satisfaction, enhanced understanding, and a reduction in ongoing conflicts.

The implications of our findings extend to various domains of legal practice, policy formulation, and scholarly inquiry. For legal practitioners, the integration of restorative justice principles into civil dispute resolution offers a new toolkit for addressing conflicts. Lawyers and mediators can facilitate restorative processes that

prioritize open communication and understanding, allowing clients to express their needs and concerns while working towards a resolution. This shift in practice not only addresses the immediate needs of the parties but also fosters a more collaborative legal culture that can ultimately contribute to a reduction in court congestion and adversarial proceedings.

In terms of policy, the findings underscore the need for broader adoption and institutional support for restorative justice practices in civil cases. Policymakers should consider creating frameworks that encourage the use of restorative justice, including training programs for legal professionals, funding for restorative justice initiatives, and public awareness campaigns to educate communities about its benefits. Such measures can help shift the prevailing legal culture away from a solely punitive focus towards one that acknowledges the importance of repairing relationships and promoting community well-being.

Academically, our research opens avenues for further exploration into the intersection of restorative justice and civil law, particularly in the context of fiduciary guarantees. Scholars can investigate the long-term effects of restorative justice interventions, analyze various models and frameworks for implementation, and examine the role of cultural and contextual factors in shaping the effectiveness of restorative practices. By expanding the body of knowledge in this area, researchers can contribute to the development of best practices that can be adapted to diverse legal contexts, enhancing the efficacy of restorative justice as a dispute resolution mechanism.

In light of the findings and implications discussed, we strongly advocate for further research and experimentation with restorative justice in civil cases, particularly those involving fiduciary guarantees. As the legal landscape continues to evolve, it is crucial to explore innovative approaches that can address the complexities of modern disputes. Conducting pilot programs, collecting empirical data, and evaluating outcomes can provide valuable insights into the effectiveness of restorative justice in various civil contexts. This ongoing research can also help refine restorative justice practices, ensuring they are responsive to the unique needs of individuals and communities.

Finally, it is essential to emphasize the potential for restorative justice to create a more just, equitable, and compassionate legal system. By shifting the focus from adversarial competition to collaborative resolution, restorative justice offers a

framework that can transform the way disputes are understood and addressed. It allows for a more nuanced understanding of harm and accountability, enabling parties to work together towards resolutions that acknowledge the impact of their actions on one another. As we envision a legal system that prioritizes healing, understanding, and community well-being, the principles of restorative justice stand out as a beacon of hope for a more equitable future.

In conclusion, the integration of police-led restorative justice into civil disputes involving fiduciary guarantees presents a valuable opportunity to address the limitations of traditional litigation. By promoting dialogue, repairing relationships, and fostering collaborative outcomes, restorative justice not only enhances satisfaction for all parties involved but also contributes to the creation of a more compassionate legal system. As we continue to explore the intersections of restorative justice and civil law, we must remain committed to pursuing innovative approaches that empower individuals, strengthen communities, and promote justice in its truest sense. The journey towards a more equitable legal system is a collective endeavor, and restorative justice offers a promising path forward.

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