



THE URGENCY OF INTEGRATING RESTORATIVE JUSTICE VALUES IN REFORMING THE CRIMINAL JUSTICE SYSTEM IN INDONESIA

Novi Asih Muharam
Universitas muhammadiyah
Email: novighezhaa@gmail.com

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Abstract

This study aims to analyze the dynamics of the Indonesian criminal justice system, the urgency of integrating restorative justice values, their implementation at each stage of criminal justice, a comparison of their implementation across several countries, and strategies for reforming them within the national legal system. This study uses normative legal methods with statutory, conceptual, and comparative approaches. The results show that the Indonesian criminal justice system is still dominated by a retributive paradigm oriented toward punishment, thus not being fully able to provide substantive justice for victims, perpetrators, and society. The dominance of imprisonment has triggered overcriminalization, overcrowding in correctional institutions, weak victim protection, and high recidivism rates. From a philosophical, sociological, and juridical perspective, restorative justice has a strong urgency to be integrated into the reform of the Indonesian criminal justice system. Its implementation can be carried out at the stages of investigation, prosecution, trial, and correctional through diversion, termination of prosecution, penal mediation, consideration of peace in decisions, and social reintegration. Comparisons with New Zealand, Canada, Australia, the Netherlands, and Norway demonstrate that the success of restorative justice is determined by a clear legal basis, institutional support, and effective victim participation. Therefore, reform of Indonesia's criminal justice system needs to be directed at reformulating criminal law policies, harmonizing regulations, integrating them into the Criminal Code (KUHP) and the Criminal Procedure Code (KUHP), strengthening the role of victims, training officers, digitizing administration, and implementing a continuous evaluation and monitoring system.



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INTRODUCTION

The development of modern criminal law demonstrates a significant shift from the retributive justice paradigm to restorative justice. In the retributive paradigm, the primary goal of punishment emphasizes retribution for the criminal act committed by the perpetrator. In contrast, restorative justice places restoration at the heart of case resolution, namely the recovery of the victim, the accountability of the perpetrator, and the restoration of social balance in society. This shift arose from criticism of the criminal justice system, which is overly formalistic and repressive, often unable to address the need for substantive justice for those affected by criminal acts. In the Indonesian context, the criminal justice system remains strongly oriented toward punishment, particularly through imprisonment. This orientation often results in the resolution of criminal cases being considered complete when the perpetrator is sanctioned, even though the victim may not necessarily receive adequate reparation. This situation raises serious problems because the predominantly retributive criminal process often fails to provide adequate space for reconciliation, restitution, or the restoration of social relations. Furthermore,

victims' rights have not always received equal attention in judicial practice, resulting in justice that is more formal than substantive. (I Wayan Puspa et al., 2023) .

Another equally important issue is the high rate of overcrowding in correctional institutions in Indonesia. Data published by the Directorate General of Corrections shows that overcrowding remains a structural issue, triggering various side effects, such as tensions between inmates, increased burden on officers, and disruption to the correctional function. This situation demonstrates that handling criminal cases solely through punishment is not always effective in building a humane and productive correctional system. In fact, the Indonesian Ombudsman emphasized that using a restorative justice approach for minor cases can help reduce the number of inmates and reduce the burden on prisons (Yunus et al., 2022) . Amid these issues, the public is increasingly demanding a more humane, just, and recovery-oriented criminal justice system. This expectation aligns with the growing notion that criminal law serves not only to punish but also to restore social relations disrupted by criminal acts (Djogo & Lawalata, 2023) . In a restorative approach, case resolution is not solely assessed in terms of the perpetrator's culpability, but also in terms of the victim's needs, the social impact of the crime, and the possibility of a more just and proportional resolution. Therefore, restorative justice is seen as relevant to respond to the need to reform the Indonesian criminal justice system, which has so far placed too much emphasis on punishment (Airlangga et al., 2024) .

Regulatory developments in Indonesia also demonstrate a growing recognition of restorative justice (Yunus et al., 2022) . At the police, prosecutors, and court levels, guidelines and policies have developed that provide space for restorative-based case resolution. For example, the Indonesian Attorney General's Office implements termination of prosecution based on restorative justice, while the Indonesian National Police also have guidelines for handling criminal offenses based on restorative justice. Research (Utomo, 2023) shows that the prosecutor's office has the authority to implement restorative justice in resolving criminal cases through available legal grounds. Meanwhile, research by (Utomo, 2023) confirms that restorative justice has been accommodated in various regulations in Indonesia, including through diversion, mediation, and termination of prosecution based on restorative justice. This study aims to explain the concept within the criminal legal system, assess the urgency of its integration into reforming the Indonesian criminal justice system, and formulate strategies for its more effective implementation. Thus, criminal law reform is not only directed at increasing legal certainty but also at realizing more humane, proportional, and restorative justice.

METHOD

This research is a normative legal research, namely research that focuses on the study of legal norms, legal principles, doctrines, and regulations related to restorative justice in the Indonesian criminal justice system. The approaches used include a legislative approach, a conceptual approach, and a comparative approach. The legislative approach is used to examine the provisions of the 1945 Constitution, the Criminal Code, the Criminal Procedure Code, and sectoral regulations governing the implementation of restorative justice at the police, prosecutors, courts, and correctional levels. The conceptual approach is used to analyze the concept of restorative justice, the paradigm shift from retributive justice to restorative justice, and its relevance in national criminal law reform. Meanwhile, a comparative approach is used to examine the practice of implementing restorative justice in several countries as learning material for Indonesia. The legal materials used consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws and official policies related to the criminal justice system and restorative justice. Secondary legal materials include books, scientific journals, previous research results, and academic articles discussing restorative justice, the criminal justice system, victim protection, and criminal law reform. Tertiary legal materials are used to help explain legal terms and strengthen conceptual understanding. Legal materials are collected through literature review by searching, reading, classifying, and interpreting relevant literature.

RESULTS AND DISCUSSION

Dynamics of the Indonesian Criminal Justice System

The Indonesian criminal justice system still exhibits a very strong conventional character, emphasizing punishment over rehabilitation. In practice, crimes are often viewed as violations against the state, so the primary response is imprisonment. This pattern places the perpetrator at the center of the judicial process, while victims are often merely instrumental in the evidentiary process. As a result, the justice delivered is often formal, but not necessarily substantive. This dominant approach to retaliation also gives rise to various structural problems. One of these is overcriminalization, the tendency to expand the use of criminal law to address various social issues that could actually be addressed through other mechanisms. This situation leads to an increase in the number of criminal cases, a greater burden on law enforcement officers, and a predominant use of imprisonment. In the long term, this situation contributes to overcrowding in correctional institutions, which continues to be a serious problem in Indonesia (Emilson et al., 2022) .

Furthermore, a system that is too focused on punishment also fails to optimally protect victims' rights. Victims of crime often do not receive adequate redress, whether in the form of compensation, recognition of suffering, or restoration of social relationships. Criminal justice should not only consider the perpetrator's culpability, but also the impact on the victim and society. When victims are not given adequate space in the judicial process, the justice achieved becomes unbalanced. Another issue is the high rate of recidivism, where perpetrators re-offend after serving their sentences. This indicates that imprisonment is not fully effective in reforming perpetrators' behavior. Without adequate guidance, rehabilitation, and social reintegration, prisons risk becoming a breeding ground for crime. Therefore, reform of the criminal justice system needs to be directed towards a more humane, preventative, and restorative approach (Ramimpi & Setiyono, 2022) .

Constitutionally, the reforms have a strong basis in the 1945 Constitution. Article 28D paragraph (1) emphasizes that everyone has the right to recognition, guarantees, protection, and certainty under the law under just law. Meanwhile, Article 28I paragraph (4) states that the protection, advancement, enforcement, and fulfillment of human rights are the responsibility of the state. These two provisions indicate that the criminal justice system should not only punish, but also guarantee justice, victim protection, and respect for human dignity. Thus, the dynamics of the Indonesian criminal justice system demonstrate the need for a shift from a retributive approach to a more restorative approach. This reform is important so that the justice system not only produces legal certainty, but also justice that is more balanced, humanistic, and oriented towards recovery.

The Urgency of Integrating Restorative Justice Values

The urgency of integrating restorative justice values into the Indonesian criminal justice system can be seen from three aspects: philosophical, sociological, and legal. Philosophically, restorative justice aligns with the values of Pancasila, which emphasize humanity, deliberation, unity, and social justice. These values demonstrate that the law does not merely serve to punish perpetrators but also to restore social relations disrupted by criminal acts. Through a restorative approach, case resolution is directed toward peace, responsibility, and the restoration of social balance, thus more in line with the character of the Indonesian nation, which upholds deliberation and social harmony (Mamahit, 2026) .

Sociologically, the integration of restorative justice is crucial because society needs a quick, simple, and effective conflict resolution that restores social order. Formal criminal justice processes often take a long time and do not always fully address the root causes of problems. In Indonesia's diverse society, many dispute resolution traditions are based on local culture and customary law, emphasizing deliberation, peace, and the restoration of relationships between parties. This demonstrates that restorative justice is not a foreign concept but rather aligns with established social practices . Therefore, its application is relevant to addressing society's need for more effective and humane conflict resolution.

From a legal perspective, the urgency of integrating restorative justice arises because its regulations have developed gradually across various law enforcement institutions and have not yet been fully integrated. This situation can lead to differences in implementation, policy disparities, and legal uncertainty in the field. Although guidelines exist within the police, prosecutors, and courts, the existence of scattered regulations without strong harmonization can lead to a lack of synchronization among law enforcement officials. Therefore, a more integrated regulation is needed to provide a more definitive, uniform, and consistent legal basis for restorative justice. With proper integration, restorative

justice can become a solid part of reforming the national criminal justice system and not merely function as a sectoral policy.

Implementation of Restorative Justice at Every Stage of the Criminal Justice System

During the investigation phase, restorative justice can be implemented through diversion mechanisms, termination of investigations, and penal mediation. Diversion essentially involves transferring a case from the formal process to an out-of-court settlement, particularly for certain eligible cases. At this stage, the investigator plays a role in encouraging an agreement between the perpetrator and the victim while still considering the interests of both parties. Termination of investigations can also be done if the parties have reached a settlement and a settlement is deemed more beneficial than continuing the criminal process. Meanwhile, penal mediation provides a dialogue space that brings together the perpetrator, victim, and related parties to find solutions that emphasize recovery, responsibility, and reducing the negative impact of the crime (Syaputra & Syauket, 2025).

At the prosecution stage, restorative justice is realized through the termination of prosecution based on *restorative justice* and the establishment of a peace agreement between the perpetrator and the victim. The prosecutor plays a crucial role in assessing whether the case is worthy of a restorative resolution, taking into account the seriousness of the crime, the perpetrator's attitude, and the victim's recovery. If the parties have reached a peace agreement and certain conditions are met, prosecution can be terminated to achieve more proportionate justice. In this context, a peace agreement is understood not only as an end to the conflict, but also as a form of accountability for the perpetrator and an acknowledgement of the losses suffered by the victim.

During the trial, the judge's role is crucial in integrating restorative justice values into the verdict. Judges not only assess formal legal aspects but also consider humanitarian aspects, social impacts, and the possibility of restoring the relationship between the parties. In handing down a verdict, judges can use reconciliation between the perpetrator and victim as a basis for sentencing. This means that even though the case remains in court, the perpetrator's good faith, compensation, apology, and the achievement of a peace agreement can influence the severity of the sentence imposed. Thus, the trial process is not solely oriented toward punishment, but also toward achieving more substantive justice.

At the correctional stage, restorative justice is directed at social reintegration, victim recovery, and perpetrator development. Correctional institutions are no longer understood merely as places to serve punishment, but also as a means of rebuilding the perpetrator's social relationships with the community. Social reintegration is crucial so that perpetrators can return to their social environment responsibly and prevent repeat offenses. Furthermore, victim recovery must still be considered through mechanisms that enable victims to receive recognition, fulfillment of rights, and adequate protection. Perpetrator development at this stage must also be directed at behavioral change, increasing legal awareness, and re-establishing social values so that the goal of punishment does not stop at deterrence, but truly results in recovery and positive change (Syaputra & Syauket, 2025).

Comparison of the Implementation of Restorative Justice in Several Countries

A comparison of the implementation of restorative justice in several countries reveals the variety of models, their respective advantages, and disadvantages. In New Zealand, restorative justice is strongly implemented through *family group conferences*, particularly in juvenile cases, emphasizing dialogue between the perpetrator, victim, family, and community to achieve healing. This model is considered participatory, rapid, and capable of building peaceful agreements, but its success depends heavily on the readiness of the parties and institutional support. In Canada, restorative justice is developed through *victim-offender mediation* and community-based forums that emphasize victim involvement and social restoration. Its advantages lie in increased victim satisfaction and a more rehabilitative approach, although its implementation is not yet uniform across regions. In Australia, restorative justice is widely used in juvenile cases through restorative conferences that place perpetrator responsibility and victim recovery at the heart of the process. This model is flexible and suitable for certain cases, but its implementation varies across states. In the Netherlands, restorative justice is integrated into the formal justice system through victim-offender mediation and other mechanisms supported by a strong legal and institutional basis. Its advantage is procedural certainty, while its

disadvantage is its uneven application across all cases. Meanwhile, Norway uses *mediation boards* as a means of peaceful and simple conflict resolution, with an orientation toward social reconciliation. This model is easily accessible and emphasizes voluntary participation, but its scope remains limited. For Indonesia, these experiences are relevant as learning materials because they demonstrate that restorative justice will be more effective if it has a clear legal basis, strong institutional support, real victim participation, and a professional mediation mechanism. The experiences of these countries also emphasize the importance of simplifying regulations and harmonizing their implementation among law enforcement officials so that restorative justice in Indonesia is not a partial process but becomes an integral part of a more humane, certain, and recovery-oriented criminal justice system (Sukedi, 2024).

Strategy for Integrating Restorative Justice Values in Criminal Justice System Reform

The strategy of integrating restorative justice values into criminal justice system reform needs to be implemented comprehensively to ensure it remains a sectoral policy. Essentially, reform must shift the orientation of criminal law from solely punishing to emphasizing recovery, victim protection, perpetrator accountability, and social balance. Reformulating criminal law policy is a crucial first step. Criminal policy should be positioned as an *ultimum remedium*, a last resort when other solutions are inadequate. This way, certain cases, particularly minor crimes or those that cause limited harm, can be resolved through restorative mechanisms without always resulting in imprisonment. This approach helps reduce the burden on the justice system and prevents case backlogs. Regulatory harmonization is also an urgent need. Currently, restorative justice provisions are scattered across various rules and guidelines within each law enforcement institution. This situation has the potential to lead to differences in interpretation and disparity in implementation. Therefore, harmonization of norms is necessary to ensure that the police, prosecutors, courts, and correctional facilities have consistent standards. Harmonization will provide legal certainty and prevent overlapping authority. The integration of restorative justice values into the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP) is crucial because these two instruments form the primary foundation of the criminal justice system. If restorative principles are only regulated in internal guidelines, their position will be weak and susceptible to change (Airlangga et al., 2024).

By incorporating the principles of restoration, peace, mutual agreement, and victim protection into the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP), restorative justice will gain stronger legitimacy and be applied more systematically throughout the criminal process. Strengthening the role of victims must be central to this strategy. In conventional systems, victims are often positioned as mere witnesses or accomplices in a case. In a restorative approach, victims must be given space to express their needs, losses, and hopes for recovery. Victims also need assurance that the peace agreement will not violate their rights. In this way, restorative justice truly delivers victim-oriented recovery, not simply the dismissal of the case. Strengthening penal mediation is a crucial practical instrument. Penal mediation allows perpetrators and victims to meet in a professionally facilitated dialogue process to reach a just and proportionate solution. This mechanism can be a faster, cheaper, and more humane alternative for resolving cases. However, penal mediation must be implemented with clear standards to prevent abuse or placing victims in a vulnerable position.

Training for law enforcement officers is also essential. Much of the success of restorative justice depends on their understanding and sensitivity in viewing cases. Investigators, prosecutors, judges, and correctional officers must be able to assess the suitability of a case for restorative resolution, understand facilitation techniques, and respect the interests of victims and perpetrators equally. Without adequate human resource capacity, restorative justice will remain merely a normative concept. Digitizing restorative justice administration can increase transparency and efficiency. The process of recording cases, documenting agreements, monitoring peace implementation, and reporting settlement results can be done digitally for greater accountability. Digital systems also facilitate cross-agency oversight and facilitate the evaluation of data on case types, success rates, and potential problems in implementation. Evaluation and monitoring systems must be developed sustainably. The success of restorative justice is measured not only by the number of cases resolved peacefully, but also by the quality of victim recovery, perpetrator compliance with agreements, and its impact on reducing recidivism. Good oversight will ensure that restorative mechanisms are truly implemented according to their objectives, not simply as an administrative formality.

CONCLUSION

The Indonesian criminal justice system is still dominated by a conventional paradigm oriented toward punishment, thus failing to fully deliver substantive justice for victims, perpetrators, and society. This condition is reflected in the dominance of imprisonment, overcriminalization, increasing overcrowding in correctional institutions, weak victim protection, and persistently high recidivism rates. Therefore, reforming the criminal justice system is an urgent need so that law enforcement emphasizes not only retribution but also restoration, responsibility, and social balance. The urgency of integrating restorative justice values has a strong philosophical, sociological, and legal basis. Philosophically, this approach aligns with the values of Pancasila, particularly humanity, deliberation, unity, and social justice. Sociologically, restorative justice addresses the community's need for swift, simple conflict resolution that aligns with local culture and customary law. Legally, this integration is necessary to address regulatory fragmentation and strengthen legal certainty through regulatory harmonization between law enforcement agencies. Restorative justice must also be implemented consistently at every stage of the criminal justice system, from investigation and prosecution to trial and correctional services. During the investigation and prosecution stages, diversion, termination of investigation, termination of prosecution, and penal mediation can be key tools. During the trial stage, judges can consider reconciliation and victim recovery as the basis for determining a proportionate sentence. During the correctional stage, social reintegration, perpetrator development, and victim recovery must be the focus so that the goal of punishment does not stop at deterrence alone.

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