



Reconstructing Restorative Justice-Based Law Enforcement to Strengthen Substantive Justice and Sustainable Peace in Indonesia

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ABSTRACT

The retributive model that dominates Indonesia's criminal justice system has struggled to address prison overcrowding, low victim satisfaction, and weak offender accountability. These structural problems indicate a gap between formal legal certainty and the substantive justice expected by society. This study examines how restorative justice can be normatively reconstructed to strengthen both substantive justice and sustainable peace. Using a normative juridical method supported by conceptual, statutory, and comparative approaches, the analysis demonstrates that current regulations, such as the Juvenile Criminal Justice System Law and Police Regulation Number 8 of 2021, remain fragmented and insufficient to guide consistent implementation. The findings show that restorative justice provides a more relational, victim-centered, and accountability-based framework, but its effectiveness depends on legal coherence, institutional capacity, and safeguards against misuse. Comparative insights from New Zealand and Canada confirm that structured restorative models can reduce recidivism and improve legitimacy when adapted to local contexts. This study concludes that reconstructing restorative justice within Indonesia's criminal justice policy is essential to align law enforcement with substantive justice and long-term social harmony.



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INTRODUCTION

The dominance of the retributive paradigm in Indonesia's criminal justice system has increasingly shown its limitations in delivering substantive justice. Retribution, which emphasizes punishment as the state's response to crime, is historically rooted in classical penal theory. However, its practical outcomes reveal systemic weaknesses that affect both institutional performance and public trust. Studies consistently show that punitive systems tend to generate structural problems such as overcrowded correctional facilities, limited victim involvement, and low reintegration outcomes for offenders (Hinton 2021; Pratt 2020). These conditions demonstrate a clear tension between procedural legality and substantive justice, where the law is formally enforced yet fails to address the broader social harm caused by crime.

Restorative justice offers a conceptual alternative by repositioning crime as a disruption of relationships rather than solely a violation of legal norms. The approach emphasizes acknowledgment of harm, active participation of victims, and offender accountability, aligning with contemporary theories of justice that prioritize fairness, restoration, and social balance (Zehr 2015; Braithwaite 2017). In the Indonesian context, restorative values are not foreign: community-based mechanisms such as *musyawarah*, *perdamaian adat*, and problem-solving deliberations have long been practiced in various regions. These cultural foundations suggest that restorative justice is normatively compatible with Indonesia's legal and sociocultural landscape.

Despite this compatibility, Indonesia's current restorative justice framework remains fragmented. The Juvenile Criminal Justice System Law and Police Regulation Number 8 of 2021 represent important milestones, yet their implementation is limited by inconsistent interpretation, procedural gaps, and the absence of a comprehensive statutory foundation applicable across all case categories. Empirical assessments also note concerns regarding unequal access, risks of coercive agreements, and procedural misuse when restorative mechanisms are applied without adequate oversight (Maulida 2025; Sihombing 2023). These challenges reveal a critical regulatory gap: restorative justice exists normatively, but its integration into national criminal policy remains partial and unsystematic.

This gap forms the core problem addressed in this study. A structured reconstruction is needed to ensure that restorative justice contributes not only to efficient case handling but also to substantive justice and long-term social harmony. Achieving this requires doctrinal coherence, institutional safeguards, and a normative framework that balances restoration with legal certainty. The relevance of restorative justice also expands beyond criminal law into peacebuilding studies, particularly through its alignment with Sustainable Development Goal 16, which emphasizes inclusive justice and strong legal institutions (Hák, Janoušková, and Moldan 2016).

This research offers three main contributions. First, it clarifies the doctrinal relationship between restorative justice and substantive justice within Indonesia's legal system, bridging theoretical and normative perspectives. Second, it critically evaluates the regulatory and institutional barriers that hinder consistent application of restorative mechanisms. Third, it positions restorative justice as a strategic foundation for sustainable peace by drawing comparative insights from jurisdictions such as New Zealand and Canada, where structured restorative models have improved legitimacy, reduced recidivism, and strengthened community reintegration (McCold 2019; Maxwell and Morris 2006). Through these contributions, the study provides a more coherent framework for reconstructing restorative justice-based law enforcement in Indonesia.

RESEARCH METHODS

This study employs a normative juridical research method that focuses on examining legal norms, doctrines, and regulations relevant to the reconstruction of restorative justice in Indonesia. Normative legal research is appropriate because the core issues addressed in this article relate to the coherence, adequacy, and normative direction of Indonesia's criminal law framework rather than empirical measurement. As Ibrahim (2013) explains, normative legal research evaluates law as a system of norms, emphasizing interpretation, conceptual analysis, and doctrinal consistency. This approach allows the study to identify gaps within existing regulations and assess their alignment with principles of substantive justice.

Three analytical approaches are used. The first is the statute approach, which examines key legal instruments such as Law Number 11 of 2012 on the Juvenile Criminal Justice System and Police Regulation Number 8 of 2021. These regulations form the basis of Indonesia's current restorative justice framework, yet both contain procedural limitations and inconsistent scope that require careful doctrinal analysis. The second is the conceptual approach, which interprets restorative justice through contemporary theories of justice, accountability, and legal philosophy. This approach draws from the works of Zehr (2015), Braithwaite (2017), and other scholars to contextualize restorative justice within the broader discourse of criminal law. The third is the comparative approach, which evaluates restorative justice practices in jurisdictions such as New Zealand and Canada, where structured restorative mechanisms have been implemented more comprehensively. Comparative analysis helps identify practices that may be adapted to Indonesia's legal culture without assuming direct transplantation.

The legal materials used in this study consist of primary, secondary, and tertiary sources. Primary materials include statutes, government regulations, and official guidelines governing restorative justice. Secondary materials comprise academic books, peer-reviewed journal articles, and doctrinal commentaries that discuss restorative justice, penal theory, and criminal law reform. Tertiary materials such as legal dictionaries and encyclopedias are used to clarify technical legal terminology. The selection of materials prioritizes recent and reputable publications to ensure analytical accuracy and contemporary relevance (Hutomo and Soge 2021).

Data were analyzed qualitatively through descriptive, evaluative, and prescriptive stages. The descriptive stage maps existing norms and theoretical positions. The evaluative stage identifies inconsistencies, gaps, or weaknesses within the regulatory framework and its doctrinal basis. The prescriptive stage formulates recommendations for reconstructing restorative justice in line with Indonesia's legal principles, institutional needs, and the objective of achieving substantive justice and sustainable peace. This methodological structure ensures that the study not only describes the existing condition of restorative justice but also offers a coherent and well-grounded framework for strengthening its role in Indonesia's criminal justice system.

RESULTS AND DISCUSSION

Retributive Law Enforcement Paradigm and Its Limitations

The retributive paradigm has shaped Indonesia's criminal justice system for decades by treating crime primarily as an offense against the state. This approach focuses on imposing punishment to achieve deterrence and legal certainty, yet it often fails to address the human impact of crime. Scholars note that purely punitive systems tend to deliver outcomes that satisfy procedural requirements but fall short in meeting the expectations of victims and communities who seek fairness, healing, and meaningful accountability (Zehr 2015; Pratt 2020). These shortcomings highlight a fundamental tension between formal legality and substantive justice in Indonesia's current criminal law framework.

One of the most visible consequences of the retributive approach is the chronic overcrowding of Indonesian prisons. Correctional facilities across the country consistently operate far beyond their capacity, resulting in deteriorating living conditions, limited access to rehabilitation programs, and heightened risks of violence. Such conditions undermine the rehabilitative function of imprisonment and contribute to higher recidivism rates. Criminological research has long emphasized that punitive sanctions, when applied without adequate reintegration mechanisms, fail to deter crime effectively and may instead reinforce antisocial behavior (Braithwaite 2017).

The retributive model also minimizes the role of victims, restricting their participation to that of witnesses rather than recognizing them as rights-bearing parties. Victims rarely have the opportunity to express the impact of the harm, receive explanations, or negotiate appropriate remedies. In Indonesia, this exclusion has contributed to public dissatisfaction and perceptions that justice outcomes reflect institutional priorities rather than the real needs of those affected (Sihombing 2023). The persistent marginalization of victims indicates that retributive mechanisms alone are insufficient for achieving holistic and relational justice.

Restorative Justice as an Alternative Paradigm

Restorative justice offers a fundamentally different way of understanding crime by viewing it as a disruption of relationships rather than solely a violation of legal norms. This paradigm emphasizes the need to repair harm, restore social balance, and promote accountability through participatory processes involving victims, offenders, and the community. Scholars such as Zehr (2015) and Braithwaite (2017) argue that restorative justice aligns more closely with substantive justice because it seeks outcomes that reflect fairness and relational healing, not merely compliance with procedural rules. In the Indonesian context, these principles resonate with long-standing local traditions that value deliberation, collective responsibility, and community reconciliation.

Unlike the retributive system, which restricts victim involvement, restorative justice places victims at the center of the process. Victims are given space to articulate the impact of the harm, receive explanations, and participate in determining appropriate forms of reparation. This approach strengthens emotional recovery and enhances perceptions of fairness, which international studies have shown to be critical for restoring trust in legal institutions. For offenders, restorative mechanisms encourage acknowledgment of wrongdoing and foster meaningful responsibility rather than passive submission to punishment. These elements collectively address the relational and moral dimensions of crime that conventional criminal procedures often overlook.

Restorative justice also aligns with contemporary peacebuilding frameworks that emphasize reconciliation, social cohesion, and the prevention of recurring harm. Research in New Zealand and Canada demonstrates that structured restorative programs can reduce recidivism, improve victim satisfaction, and enhance community involvement in justice processes (Maxwell and Morris 2006;

McCold 2019). These findings highlight the potential of restorative justice to contribute not only to individual case outcomes but also to broader societal stability. For Indonesia, integrating restorative principles into criminal law offers an opportunity to strengthen legitimacy, deepen public trust, and support sustainable peace in a context where conventional punishment has struggled to achieve long-term social harmony.

Regulatory Framework and Gaps in Indonesia

Indonesia has introduced restorative justice principles into its legal system through several regulatory instruments. The most prominent is Law Number 11 of 2012 on the Juvenile Criminal Justice System, which formally incorporates diversion and restorative mechanisms for child offenders. This law is often recognized as a milestone because it mandates restorative processes at every stage of case handling and prioritizes rehabilitation over punishment. In addition, Police Regulation Number 8 of 2021 provides guidelines for applying restorative justice in general criminal cases, allowing settlement through mediation when certain conditions are met. These developments show that Indonesia has begun moving toward a more balanced justice model that considers both punishment and restoration.

Despite these advancements, the existing regulatory framework remains fragmented and limited. The Juvenile Criminal Justice System Law applies exclusively to cases involving children, leaving adult cases without a comprehensive statutory basis. Meanwhile, the Police Regulation functions only as an internal procedural guideline and lacks the legal authority of a formal statute, creating inconsistencies in application across jurisdictions. Several studies note that the absence of clear legislative hierarchy, uniform procedures, and explicit safeguards increases the risk of misuse, particularly when restorative processes are used to settle cases that may not be suitable for non-penal resolution (Maulida 2025). This regulatory inconsistency creates uncertainty for law enforcement officers and reduces the legitimacy of restorative mechanisms.

Another significant gap lies in the lack of oversight and accountability structures within existing restorative justice initiatives. Current regulations provide broad discretion to police and other authorities to determine whether a case qualifies for restorative settlement, yet they offer limited guidance on ensuring voluntariness, preventing coercion, or protecting victims from unequal bargaining positions. Without standardized procedures and independent monitoring, restorative processes risk being used to expedite case closures rather than genuinely restore harm. Comparative research shows that successful restorative justice systems, such as those in New Zealand, rely on clear statutory mandates, trained facilitators, and formalized safeguards to maintain integrity and fairness (McCold 2019). Indonesia's framework still lacks these essential components, underscoring the need for more coherent and enforceable regulation.

International Perspectives and Lessons for Indonesia

International experiences offer valuable insights into how restorative justice can be implemented through coherent structures and strong legal safeguards. New Zealand is widely regarded as one of the most successful models, particularly through its Family Group Conference system, which integrates restorative processes into the formal criminal justice framework. The model's strength lies in its clear statutory foundation under the Children, Young Persons, and Their Families Act, ensuring that restorative mechanisms are not optional or experimental but systematically embedded within case handling. Research has shown that this legal certainty increases public trust and institutional consistency, resulting in higher victim participation and improved offender outcomes (Maxwell and Morris 2006).

Canada provides another relevant example through its community-based restorative justice programs, which are supported by federal policy and implemented through trained facilitators. Unlike ad hoc practices, Canadian models follow structured protocols that emphasize voluntariness, informed consent, and procedural fairness. These programs are designed to protect victims from undue pressure and ensure that agreements reflect genuine accountability rather than administrative convenience. Studies indicate that when restorative processes are conducted with proper facilitation and oversight, both victim satisfaction and offender compliance significantly improve (Dzur and Olson 2020). This demonstrates the importance of institutional competence and standardized practices in achieving substantive justice.

These international models highlight several lessons applicable to Indonesia. First, restorative justice requires a firm statutory basis to prevent inconsistent implementation and reduce risks of misuse. Second, trained facilitators and clear procedural guidelines are essential for protecting victims and ensuring that restorative agreements meet ethical and legal standards. Third, successful restorative systems incorporate regular monitoring and evaluation mechanisms that reinforce accountability and maintain public confidence. While Indonesia cannot adopt foreign models wholesale due to differences in legal culture and institutional capacity, these comparative insights demonstrate that a structured restorative framework is both feasible and necessary to strengthen legitimacy and support sustainable peace.

Key Challenges in Implementing Restorative Justice in Indonesia

The first major challenge is the absence of a unified statutory framework governing restorative justice. Existing rules are scattered across sectoral regulations, such as the Juvenile Criminal Justice System Law and the Police Regulation, which results in inconsistent application. Without clear legislative authority, restorative practices rely heavily on discretion, making outcomes unpredictable and vulnerable to procedural inequality. This fragmented regulation also creates confusion among law enforcement officers regarding eligibility criteria, procedural steps, and the legal consequences of restorative settlements.

The second challenge concerns capacity and institutional readiness. Effective restorative justice requires trained facilitators, standardized procedures, and a clear understanding of restorative principles among police, prosecutors, and judges. In practice, many officers lack formal training in mediation and victim-centered approaches, which can lead to coercive settlements or agreements that do not genuinely reflect accountability or victim needs. Studies in Indonesia indicate that uneven institutional competence significantly affects the quality and fairness of restorative outcomes, especially in cases involving power imbalances between victims and offenders (Sihombing 2023).

A third challenge relates to public perception and trust. Many victims and communities remain skeptical about restorative processes, perceiving them as lenient or easily manipulated by offenders. This skepticism is often intensified by cases where restorative settlements are used to close matters prematurely without ensuring meaningful reparation. Public trust can further erode when restorative justice is applied inconsistently or appears to benefit offenders disproportionately. These concerns underscore the importance of transparent procedures, strong safeguards, and consistent communication to ensure that restorative justice is understood as a substantive legal pathway rather than a shortcut for case disposal.

Recommendations for Reconstructing Restorative Justice

A coherent statutory framework is essential to ensure that restorative justice is applied consistently and transparently across Indonesia. A dedicated restorative justice law or integrated provisions within the Criminal Code would provide clear authority, unified procedures, and explicit safeguards for victims and offenders. Such a framework should define eligibility criteria, outline procedural steps, and specify legal consequences of restorative agreements. Establishing firm legislative foundations will reduce reliance on discretionary interpretation and enhance legal certainty, which is crucial for building institutional legitimacy.

Institutional capacity must also be strengthened through specialized training and professional certification for facilitators, police officers, prosecutors, and judges. Restorative processes require skills in mediation, communication, and trauma-informed practice, which cannot be assumed through general legal training alone. Adopting structured facilitation standards similar to those used in New Zealand and Canada would help ensure that restorative agreements are fair, voluntary, and proportionate. Continuous monitoring and evaluation by independent bodies can further safeguard against coercion and reinforce accountability in implementation.

Public engagement is equally important for establishing long-term trust in restorative justice. Clear communication strategies, community education, and transparent reporting on restorative outcomes can help address misunderstandings and counter perceptions that the process is merely a lenient alternative to punishment. Integrating community-based structures, such as local mediation forums and customary institutions, may also strengthen cultural legitimacy and accessibility, provided they operate within a rights-based framework. By combining legal reform, institutional investment, and

community involvement, Indonesia can reconstruct restorative justice in a way that advances substantive justice and contributes to sustainable peace.

CONCLUSION

This study demonstrates that Indonesia's retributive criminal justice model is no longer sufficient to address the complex social, relational, and institutional challenges associated with crime. Persistent issues such as prison overcrowding, limited victim participation, and inconsistent outcomes reveal a significant gap between procedural legality and substantive justice. Restorative justice offers a more responsive framework by emphasizing harm repair, accountability, and community involvement, aligning closely with Indonesia's sociocultural values and contemporary legal principles.

The analysis shows that existing restorative mechanisms in Indonesia remain partial and fragmented, with key regulations operating in isolation and lacking coherent statutory authority. Institutional readiness is uneven, and public understanding of restorative justice is still limited, contributing to inconsistent application and risks of misuse. Comparative insights from New Zealand and Canada illustrate that structured restorative models, when supported by strong legal foundations and trained facilitators, can improve legitimacy, reduce recidivism, and strengthen victim satisfaction. These experiences emphasize the necessity of comprehensive reform rather than ad hoc policy adjustments.

To move forward, Indonesia must reconstruct its restorative justice framework through unified legislation, strengthened institutional capacity, and clear procedural safeguards. Legal reforms should be complemented by professional training, independent oversight, and strategic public engagement to ensure fairness, transparency, and accountability. By integrating restorative principles into mainstream criminal policy, Indonesia can advance substantive justice, enhance public trust in the legal system, and contribute meaningfully to long-term social harmony and sustainable peace.

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