



EXPLORATION OF RESTORATIVE JUSTICE APPROACH TO REDUCE RECIDIVISM: A CRITICAL ANALYSIS OF ITS EFFECTIVENESS IN THE INDONESIAN CRIMINAL JUSTICE SYSTEM

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Abstract: Indonesia's criminal justice system faces significant challenges related to rising recidivism rates. Data from the Directorate General of Corrections suggests that Indonesia's recidivism rate could reach 24% by 2023, indicating the limitations of conventional sentencing approaches. This research critically analyses the effectiveness of relative punishment theory and explores restorative justice as a potential alternative to reduce recidivism. Using a literature review methodology, this research examines empirical data, theoretical frameworks, and implementation challenges of restorative justice in the Indonesian legal context. Comparative analysis shows that restorative justice approaches have a significantly lower recidivism rate of 12.7%, compared to 37.8% for punitive approaches and 28.4% for rehabilitation-based approaches. The research identified key implementation factors, including law enforcement commitment, active community participation, comprehensive policy support, and effective rehabilitation programs. Structural and cultural barriers were also examined, with recommendations for adapting restorative justice to the Indonesian socio-cultural context. The study concludes that integrating restorative justice principles into the criminal justice system is a strategic approach to address recidivism.

Keywords: *Criminal Justice System; Indonesia; Restorative Justice; Recidivism; Theory of Punishment*

I. INTRODUCTION

Indonesia's criminal justice system currently faces significant challenges related to the increasing recidivism rate. Data from the Directorate General of Corrections shows that the recidivism rate in Indonesia will reach 24% by 2023, indicating the

limitations of conventional punishment approaches.¹ This phenomenon raises fundamental questions about the effectiveness of relative theories of punishment that aim to prevent crime through deterrent effects in the context of the Indonesian legal system.

The restorative justice paradigm comes as an alternative that offers a different perspective on handling criminal offenders. In contrast to retributive approaches that focus on punishment, restorative justice emphasizes restoring relationships between offenders, victims, and the community through dialogue, accountability, and reconciliation.² This approach has shown promising results in various jurisdictions, with a reduction in recidivism rates of up to 35% in countries that have implemented it comprehensively.³ New Zealand, for example, began formally implementing restorative justice approaches in 1989 through the Children, Young Persons, and Their Families Act. This approach was inspired by traditional Maori practices that emphasize restoring relationships and reintegrating offenders into society.⁴

Indonesia itself has begun to adopt elements of restorative justice, particularly through Law Number 11 of 2012 on the Juvenile Criminal Justice System. However, its implementation in the criminal justice system in general is still limited and not systemic.⁵ Policy fragmentation and the lack of a comprehensive legal framework are major obstacles to the development of this approach as an effective mechanism to reduce recidivism. John Braithwaite, Howard Zehr, and Mark Umbreit, as prominent figures in the field, have characterized restorative justice as an initiative aimed at removing punitive measures for wrongful acts by assigning accountability to the offender and engaging all parties involved, including victims and the community. Restorative justice encompasses the principles of apology, restitution, and recognition of wrongdoing, alongside initiatives aimed at healing and reintegrating the offender into society, with or without supplementary penalties,

¹ Directorate General of Corrections. 2023. *Correctional Statistics Report of 2023*. <https://sdppublik.ditjenpas.go.id/>

² John Braithwaite, 2018. *Restorative Justice and Responsive Regulation*. New York: Oxford University Press.

³ United Nation Office on Drugs and Crime, 2020. *Handbook on Restorative Justice Programmes, 2nd Edition*. Vienna: United Nations.

⁴ Allan MacRae and Howard Zehr, 2004. *The Little Book of Family Group Conferences: New Zealand Style*. Intercourse, PA: Good Books.

⁵ I Mulyadi, 2021. *Implementasi Restorative Justice dalam Sistem Peradilan Pidana Indonesia: Tantangan dan Peluang*. *Jurnal Hukum dan Peradilan* 10, no. 1, p. 25-48.

thereby granting the offender a chance for personal growth and development. The optimal approach to restorative justice encompasses the processes of repairing, restoring, reconciling, and reintegrating both offenders and victims within their community.⁶

This study will critically examine the efficacy of restorative theory within the Indonesian criminal justice framework and investigate the viability of a restorative justice approach as a potentially more effective alternative for decreasing recidivism rates. This study will analyze the theoretical underpinnings, practical applications, implementation hurdles, and policy suggestions for incorporating restorative justice principles into the national criminal justice framework.

II. RESEARCH METHODS

This research methodology employs a literature review-based approach. In this review, several relevant literature theories were used. The preparation of the report involved conducting this research through four main stages. The data collection process involved searching and collecting literature from various databases. The analysis was conducted through a critical review of the literature review, which served as a reference and was strengthened by supporting concepts and recommendations.

III. ANALYSIS AND DISCUSSION

1. Restorative Justice Approach in the Indonesian Criminal Justice System

a. The Evolution of the Concept of Restorative Justice in the National Legal Framework

The restorative justice approach has experienced significant development in the Indonesian criminal justice system over the past decade. In contrast to the retributive justice system that focuses on punishment, the restorative justice approach emphasizes restoring the harm caused by criminal acts through a process that involves all relevant parties.⁷ The findings of this study confirm that the implementation of restorative justice approach in Indonesia has a strong legal basis, especially after the issuance of Law Number 11 of 2012 on Juvenile Justice System, which explicitly introduces the concept of diversion and restorative justice.

⁶ Carrie Menkel Meadow, 2007. *Restorative Justice: What Is It and Does It Work?*. Annual Review of Law and Social Science 3, 16187.

⁷ Muladi and Barda Nawawi Arief, 2010. *Teori-Teori dan Kebijakan Pidana*. Bandung: Alumni.

This study differs from Prayitno's previous research, which primarily concentrated on the philosophical aspects of restorative justice.⁸ This research found that the integration of restorative justice approaches into the Indonesian criminal justice system faces significant practical challenges, especially with regard to the resistance of law enforcement officials to the paradigm shift from punitive justice to restorative justice.

b. Paradigmatic Differences Between Relative Theory and Restorative Justice Approaches

A comparison between the relative theory of punishment and the restorative justice approach shows significant differences in orientation and goals. Relative theory emphasizes aspects of prevention and reformation, while restorative justice emphasizes restoring relationships and fulfilling the interests of victims, perpetrators, and society.⁹ Restorative justice offers a more comprehensive solution to the problem of crime by treating it not only as a violation of the law but also as a breakdown in human relationships. The model aims to repair this damage by engaging victims, offenders, and communities in a dialogic and collaborative process.¹⁰

2. The Efficacy of Relative Theory in Addressing Recidivism

a. An Empirical Evaluation of the Impact of Relative Theory on Recidivism Rates

The results of the analysis of secondary data on recidivism rates in Indonesia during the 2015-2023 period show that the theory-based punishment approach has not been effective in reducing recidivism rates. The following table presents a comparison of recidivism rates based on the type of sentencing approach applied:

Table 1: Comparison of Recidivism Rates Based on Criminalization Approaches in Indonesia

No.	Type of Approach	Recidivism Rate (%)	Evaluation Period
1	Punitive Approach (Prison-Based)	37.8%	2015-2018
2	Rehabilitative Approach (Relative Theory)	28.4%	2018-2021

⁸ Kwat Puji Prayitno, 2012. *Restorative Justice untuk Peradilan di Indonesia (Prespektif Yuridis Filosofis dalam Penegakan Hukum In Concreto)*. Jurnal Dinamika Hukum 12, no. 3, p. 407-420.

⁹ Eva Achjani Zulfa, 2011. *Pergeseran Paradigma Pemidanaan*. Bandung: Lubuk Agung.

¹⁰ Lilil Mulyadi, 2016. *Implementasi Mediasi Penal Sebagai Perwujudan Nilai-Nilai Restorative Justice dalam Sistem Peradilan Pidana Indonesia*. Jurnal Hukum dan Peradilan 5, no. 2, p. 197-218.

3	Restorative Justice Approach	12.7%	2021-2023
4	Combination Approach (Hybrid Model)	18.3%	2022-2023

Source: *Correctional Statistics Report 2015-2023 Directorate General of Corrections, Ministry of Law and Human Rights RI*

This data confirms Zulfa's findings, which show that conventional punishment models based on relative theory are not optimal in reducing recidivism rates.¹¹ This study found that the restorative justice approach showed higher effectiveness with a recidivism rate of 12.7%, much lower than the punitive approach (37.8%) and the rehabilitative approach based on relative theory (28.4%).

b. Limitations of Relative Theory in the Perspective of Modern Criminology

A critical analysis of the relative theory reveals some fundamental limitations in dealing with the complexity of recidivism in Indonesia. The viewpoint of Mulyadi, on the other hand, places an emphasis on the relative theory's sufficiency within the framework of the punishment system.¹² This study reveals that the prevailing theory does not adequately address the intricate sociological and psychological aspects of the recidivism issue. Relative theories that emphasize the purpose of punishment as prevention and correction for criminal offenders often ignore the structural and contextual factors that underlie criminal acts. As a result, interventions tend to be superficial and do not address the root of the problem, resulting in high recidivism rates despite the implementation of various rehabilitation programs.¹³

3. Restorative Justice as an Alternative in Reducing Recidivism

This study identifies several operational restorative justice mechanisms that have been implemented in the Indonesian criminal justice system, including penal mediation, diversion, and family conferences. In contrast to Sitompul's research, which focused more on normative aspects, this study found that the effectiveness of the implementation of these mechanisms is strongly influenced by institutional capacity and community support.

¹¹ John Braithwaite, *Op.Cit*, p. 65.

¹² Dey Ravena and Kristian, 2017. *Kebijakan Kriminal (Criminal Policy)*. Jakarta: Kencana Prenada Group

¹³ Mardjono Reksodiputro, 2007. *Sistem Peradilan Pidana Indonesia: Peran Penegak Hukum Melawan Kejahatan dalam Hak Asasi Manusia dalam Sistem Peradilan Pidana*. Jakarta: Pusat Pelayanan Keadilan dan Pengabdian Hukum Universitas Indonesia.

An analysis of various cases of restorative justice implementation in Indonesia identified several key factors that determine its success, namely the commitment and capacity of law enforcement officials, active community participation in restorative processes, comprehensive policy and regulatory support, availability of effective recovery programs, and continuous monitoring and evaluation. These factors indicate that the success of restorative justice approaches requires a holistic approach involving institutional reform, changes in legal culture, and strengthening the capacity of all stakeholders.

4. Challenges of Restorative Justice Implementation in Indonesia

a. Structural and Cultural Obstacles

The implementation of the restorative justice approach in Indonesia faces several significant structural and cultural barriers. Structurally, there are still discrepancies between various laws and regulations governing restorative justice mechanisms. Culturally, there is still resistance to the restorative approach, which is considered less assertive in dealing with crimes.¹⁴ Efforts to integrate restorative justice approaches into the Indonesian criminal justice system cannot be separated from the socio-cultural context of Indonesian society. In a society that still upholds retributive values, the introduction of restorative approaches requires a comprehensive socialization and education strategy to change public perceptions of justice.¹⁵

b. Adaptation and Contextualization Strategies of Restorative Justice

This research outlines several strategies to address implementation challenges, focusing on the adaptation and contextualization of restorative justice to align with the socio-cultural conditions and the legal framework in Indonesia:

- 1) Development of a restorative justice model integrated with local wisdom values
- 2) Strengthening the institutional capacity of law enforcement officials in the implementation of a restorative approach
- 3) Incorporate a restorative justice approach into the curriculum of legal education programs
- 4) The formulation of guidelines that are applicable to the implementation of restorative justice.

¹⁴ Adrianus Meliala, 2004. *Penyelesaian Sengketa Alternatif: Posisi dan Potensinya di Indonesia*. Jurnal Kriminologi Indonesia 3, no. 3, p. 41-53.

¹⁵ Sajipto Rahardjo, 2008. *Membedah Hukum Progresif*. Jakarta: Kompas.

- 5) The establishment of a community support network for the purposes of restorative initiatives

This approach aligns with Braithwaite's suggestions, highlighting the necessity of adapting restorative justice to fit the specific circumstances of the community.¹⁶ This study highlights the significance of local wisdom as a crucial factor in the implementation of restorative justice in Indonesia.

5. Comprehensive Restorative Justice Policy Development Framework

a. Reformulation of Criminal Policy Based on Restorative Justice

Based on the research findings, a more comprehensive reformulation of criminal policy is proposed by integrating the principles of restorative justice. This reformulation includes:

- 1) Broaden the use of diversion programs to include adult cases, provided they meet specific criteria.
- 2) Formulation of sentencing frameworks that embrace the tenets of restorative justice.
- 3) Enhancing alternative dispute resolution methods within the criminal justice framework.
- 4) Establishment of program aimed to facilitating social reintegration within the community.

In contrast to conventional criminal policy approaches that focus on the punishment and isolation of offenders, this policy reformulation emphasizes restoring relationships, social reintegration, and preventing recidivism through a more inclusive and participatory approach.¹⁷

b. Evaluation Model for the Effectiveness of Restorative Justice Implementation

This study suggests a comprehensive evaluation model that encompasses both quantitative and qualitative measures to guarantee the efficacy of restorative justice implementation in reducing recidivism rates. This framework assesses not only the decrease in repeat offenses but also examines the effects of restorative practices on the healing of victims, shifts in the behavior of offenders, and the enhancement of community bonds.¹⁸ This evaluation model adopts a more comprehensive approach

¹⁶ John Braithwaite, *Op.Cit.*, p. 563-577.

¹⁷ Barda Nawawi Arief, 2010. *Kebijakan Legislatif dalam Penanggulangan Kejahatan dengan Pidana Penjara*. Yogyakarta: Genta Publishing.

¹⁸ Rufinus Hotmaulana Hutauruk, 2013. *Penanggulangan Kejahatan Korporasi Melalui Pendekatan Restoratif: Suatu Terobosan Hukum*. Jakarta: Sinar Grafika.

compared to traditional models that primarily emphasize statistical elements. By incorporating qualitative elements, this model can offer a more profound insight into the social and psychological factors that influence the effectiveness or shortcomings of restorative justice practices.

IV. CONCLUSION

Based on the analysis conducted, it can be concluded that the restorative justice approach has significant potential to reduce recidivism rates in the Indonesian criminal justice system. The main finding of this study indicates that the restorative justice approach recorded a recidivism rate of 12.7%, much lower than the punitive approach (37.8%) and the rehabilitative approach based on relative theory (28.4%). This result indicates the superiority of the restorative approach in dealing with recidivism issues. Indonesia's national legal framework has begun to adopt elements of restorative justice through Law Number 11 of 2012 on the Juvenile Criminal Justice System. However, its implementation in the criminal justice system in general is still limited and not systematic. The resistance of law enforcement officials to the paradigm shift from punitive justice to restorative justice is one of the main challenges in developing this approach.

This research also reveals the fundamental limitations of relative theory in dealing with the complexity of recidivism in Indonesia. The relative theory fails to accommodate the complex sociological and psychological dimensions of the recidivism phenomenon and tends to ignore the structural and contextual factors behind criminal offenses. As a result, interventions tend to be superficial and do not address the root of the problem. The obstacles to applying restorative justice in Indonesia encompass structural issues stemming from inconsistencies among different laws and regulations, as well as cultural challenges arising from opposition to approaches perceived as "less assertive." To address these challenges, it is essential to implement strategies for adaptation and contextualization that align with the socio-cultural conditions and legal framework of Indonesia.

A comprehensive reformulation of criminal policy by integrating restorative justice principles is an urgent need. This reformulation includes expanding the application of diversion, developing restorative-based sentencing guidelines, strengthening alternative dispute resolution mechanisms, and developing community-based social reintegration programs. A comprehensive evaluation model that includes both quantitative and qualitative aspects is needed to ensure the effectiveness of restorative justice implementation. This model measures the reduction in

recidivism rates and evaluates the impact on victim recovery, changes in offender behavior, and strengthening community social cohesion. In conclusion, the integration of restorative justice approaches into the Indonesian criminal justice system is a strategic step to address the problem of recidivism. By considering the Indonesian socio-cultural context and making appropriate adaptations, the restorative justice approach can be an effective alternative in realizing a more humanist and recovery-oriented criminal justice system.

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