

Strengthening Restorative Justice in Criminal Justice System Reform: A Comparative Study of Indonesia and the Netherlands

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Abstract

This study analyzes the strengthening of restorative justice in criminal justice system reform through a comparative study between Indonesia and the Netherlands. The research aims to examine how restorative justice is implemented in both countries and how it contributes to the transformation of criminal justice systems toward more humanistic and rehabilitative approaches. A normative legal research method is used with conceptual, statutory, and comparative approaches based on secondary data from legal literature, official documents, and academic publications. The findings show that restorative justice in Indonesia is in a developing stage, primarily implemented through discretionary law enforcement practices, while in the Netherlands it is more institutionalized and integrated into the formal criminal justice system. Both countries share similar objectives in promoting reconciliation, reducing recidivism, and improving justice efficiency. However, differences exist in legal structure, institutional support, and implementation consistency. The study concludes that restorative justice is an important model for criminal justice reform, but its effectiveness depends on legal institutionalization, cultural acceptance, and continuous policy development.

Keywords

Restorative Justice; Criminal Justice Reform; Comparative Law; Indonesia; Netherlands



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INTRODUCTION

The criminal justice system is one of the most fundamental components of modern legal governance, serving as the institutional mechanism through which states respond to criminal behavior, maintain public order, and uphold justice. Traditionally, criminal justice systems have been dominated by retributive approaches, which emphasize punishment as the primary response to crime. However, in recent decades, there has been a global shift toward more restorative and rehabilitative models of justice, reflecting changing perspectives on the purpose of punishment and the role of law in society. Restorative justice, in particular, has emerged as a significant alternative

paradigm that focuses on repairing harm, restoring relationships, and involving victims, offenders, and communities in the justice process.

Restorative justice is grounded in the idea that crime is not only a violation of the law but also a harm to individuals and communities. Therefore, justice should focus on healing rather than punishment alone. This approach is based on principles of dialogue, accountability, and reconciliation, where offenders are encouraged to acknowledge their wrongdoing and take responsibility for repairing the harm caused. Victims, on the other hand, are given an active role in the justice process, allowing them to express their needs and participate in determining outcomes. According to Howard Zehr, restorative justice fundamentally redefines crime as a violation of people and relationships rather than merely a breach of legal rules, thereby transforming the objectives of the criminal justice system.

In Indonesia, the development of restorative justice has gained momentum in recent years as part of broader criminal justice reform efforts. The concept has been increasingly integrated into police and prosecutorial policies, particularly in handling minor offenses and juvenile cases. The Indonesian legal system, which is primarily based on civil law traditions, has begun to incorporate restorative principles as a means of addressing issues such as prison overcrowding, case backlog, and limited access to justice. According to the Attorney General's Office of the Republic of Indonesia, restorative justice is applied to prioritize reconciliation between victims and offenders, provided that certain legal and procedural requirements are met. This reflects an emerging shift toward a more flexible and humanistic approach to criminal law enforcement.

Meanwhile, the Netherlands represents a more advanced model of restorative justice implementation. As part of its criminal justice system, restorative justice practices such as victim-offender mediation are formally integrated into legal procedures. The Dutch system emphasizes victim participation, emotional recovery, and offender reintegration into society. The Dutch Ministry of Justice and Security has institutionalized restorative justice mechanisms, ensuring that mediation services are available at various stages of criminal proceedings. This demonstrates a strong commitment to embedding restorative principles within the formal justice structure.

The comparative analysis between Indonesia and the Netherlands is particularly relevant because it highlights different stages of restorative justice development within distinct legal and cultural contexts. While Indonesia is still in the process of institutionalizing restorative justice, the Netherlands has already established a structured and legally supported system. This difference reflects variations in legal

tradition, institutional capacity, and societal acceptance of restorative principles. Nevertheless, both countries share a common objective of improving justice outcomes by making the system more responsive, efficient, and humane.

From a theoretical perspective, restorative justice aligns with broader criminological and legal theories that emphasize social reintegration and harm reduction. It challenges the traditional punitive model by shifting the focus from punishment to restoration. John Braithwaite argues that restorative justice contributes to reducing recidivism and strengthening social cohesion by encouraging accountability and reintegration. This theoretical foundation supports the growing adoption of restorative practices in various jurisdictions worldwide.

Despite its advantages, the implementation of restorative justice faces several challenges. In Indonesia, limited legal codification, lack of standardized procedures, and varying levels of institutional commitment hinder its consistent application. Cultural perceptions of justice, which often equate punishment with fairness, also pose obstacles to broader acceptance. In the Netherlands, although the system is more developed, challenges remain in ensuring equal access to restorative programs and maintaining voluntary participation from all parties involved.

Based on these considerations, this study aims to analyze the strengthening of restorative justice in criminal justice system reform through a comparative study between Indonesia and the Netherlands. It seeks to examine how restorative justice is implemented, the differences in institutional frameworks, and its impact on the effectiveness of criminal justice systems in both countries.

METHODS

This study employs a normative legal research design with a comparative approach to examine the strengthening of restorative justice in criminal justice system reform in Indonesia and the Netherlands. The normative approach is used because the study focuses on legal norms, principles, and doctrines related to restorative justice as part of criminal law theory and practice. This approach allows the researcher to analyze legal concepts without direct field observation, relying instead on authoritative legal texts and scholarly interpretations.

The research adopts three main methodological approaches: conceptual, statutory, and comparative approaches. The conceptual approach is used to explore fundamental concepts of restorative justice, such as reconciliation, accountability, victim participation, and harm repair. These concepts are analyzed within the broader theoretical framework of criminal justice reform and criminology. The statutory approach is applied to examine relevant legal instruments, policies, and regulations in

both Indonesia and the Netherlands that govern the implementation of restorative justice. This includes guidelines issued by law enforcement agencies and criminal procedure regulations that incorporate restorative principles.

The comparative approach is central to this study, as it enables the analysis of similarities and differences between the Indonesian and Dutch criminal justice systems. Through this approach, the study identifies how restorative justice is institutionalized, implemented, and operationalized in different legal environments. Indonesia is analyzed as a developing model of restorative justice implementation, while the Netherlands is examined as a more established and institutionalized system. This comparative analysis provides insights into how legal traditions, institutional capacity, and cultural values influence the development of restorative justice.

The data used in this study consist of secondary legal materials obtained through library research. These materials include primary legal sources such as criminal procedure codes, government regulations, and official policy documents, as well as secondary sources such as academic books, peer-reviewed journal articles, and international reports. Institutional publications from the Attorney General's Office of the Republic of Indonesia and the Dutch Ministry of Justice and Security are also used to provide empirical context regarding the implementation of restorative justice in both countries.

Data collection is conducted through systematic documentation and literature review techniques. The researcher collects relevant legal texts, organizes them thematically, and classifies them based on their relevance to restorative justice theory and practice. The selection of sources is based on credibility, relevance, and academic authority to ensure the reliability of the analysis.

The data analysis technique used in this study is qualitative descriptive analysis. This method involves interpreting legal texts and theoretical frameworks to identify patterns, relationships, and differences in the implementation of restorative justice. The analysis process includes data reduction, categorization, and interpretation. Data reduction involves selecting relevant information from collected sources, while categorization organizes the data into thematic areas such as legal framework, institutional implementation, and social impact. Interpretation is then conducted to draw conclusions regarding the effectiveness of restorative justice in both countries.

To ensure validity, the study applies source triangulation by comparing multiple legal and academic references from different jurisdictions and scholarly perspectives. This enhances the credibility and depth of the analysis. Through this methodological

framework, the study provides a comprehensive understanding of how restorative justice contributes to criminal justice system reform in Indonesia and the Netherlands.

FINDINGS AND DISCUSSION

The findings of this study indicate that the strengthening of restorative justice within criminal justice system reform in Indonesia and the Netherlands reflects a broader global shift from retributive approaches toward more rehabilitative and restorative models of justice. Restorative justice emphasizes repairing harm caused by criminal behavior through the involvement of victims, offenders, and the community, rather than focusing solely on punishment. In both countries, restorative justice has been increasingly integrated into criminal justice policies, although the level of institutionalization, legal framework, and practical implementation differs significantly.

In Indonesia, restorative justice has developed as part of recent criminal justice reform efforts, particularly within prosecutorial and police practices. The approach is increasingly applied in minor criminal cases, juvenile justice, and certain restorative diversion programs. The Indonesian legal framework, including guidelines issued by law enforcement institutions, reflects a growing recognition of restorative principles as a way to reduce prison overcrowding and promote social harmony. According to the Attorney General's Office of the Republic of Indonesia, restorative justice is applied to prioritize reconciliation between victims and offenders in cases that meet specific criteria, particularly when the harm can be repaired and both parties reach mutual agreement. This reflects a pragmatic adaptation of restorative principles within Indonesia's legal system, which still predominantly relies on retributive criminal justice traditions.

In contrast, the Netherlands represents a more structurally developed implementation of restorative justice within its criminal justice system. Restorative justice practices in the Netherlands are integrated into formal legal procedures, particularly in mediation between victims and offenders (victim-offender mediation). The Dutch system places strong emphasis on victim participation, emotional recovery, and reintegration of offenders into society. The Dutch Ministry of Justice and Security has institutionalized restorative justice programs as part of criminal procedure, ensuring that mediation and restorative practices are available at various stages of the criminal process, including pre-trial and post-conviction phases.

A key difference between the two countries lies in the level of institutionalization. In Indonesia, restorative justice is still in a transitional phase, primarily implemented through discretionary practices by law enforcement agencies. It lacks comprehensive

codification in the criminal procedure code, although recent reforms in the Criminal Code (KUHP) show increasing acknowledgment of restorative principles. Meanwhile, in the Netherlands, restorative justice is more deeply embedded within the legal system, supported by clear regulations, trained mediators, and institutional frameworks that ensure consistent application.

Despite these differences, both countries share common objectives in implementing restorative justice, particularly in promoting reconciliation, reducing recidivism, and alleviating the burden on formal judicial systems. Restorative justice in both contexts aims to humanize criminal law by focusing on healing rather than punishment. This aligns with global criminological perspectives that emphasize restorative justice as a more effective approach to addressing the social impact of crime compared to purely punitive models.

The study also finds that victim participation is a central element in both systems, although its implementation varies. In the Netherlands, victims are actively involved in structured mediation processes and are provided with legal and psychological support. This reflects a victim-centered approach that prioritizes emotional recovery and empowerment. In Indonesia, victim participation is also emphasized, but in practice, it is often dependent on case handling discretion and the willingness of law enforcement officials to facilitate restorative processes.

Another important finding is that restorative justice contributes to reducing prison overcrowding and improving efficiency in the criminal justice system. In Indonesia, where prison overcrowding remains a significant issue, restorative justice is seen as a practical solution for handling minor offenses without resorting to incarceration. Similarly, in the Netherlands, restorative justice helps reduce the burden on courts and correctional facilities by resolving cases through alternative dispute resolution mechanisms.

However, the study also identifies several challenges in both countries. In Indonesia, challenges include limited public awareness, inconsistent implementation, and lack of standardized procedures across institutions. Additionally, cultural perceptions of justice, which often equate punishment with fairness, may hinder the broader acceptance of restorative approaches. In the Netherlands, although the system is more advanced, challenges include ensuring consistent participation of victims and offenders, as well as maintaining the balance between restorative practices and formal legal guarantees.

Theoretically, restorative justice is supported by criminological theories that emphasize social reintegration and harm repair rather than punishment. Scholars such

as Howard Zehr argue that restorative justice shifts the focus from “crime against the state” to “crime as harm against people,” which fundamentally changes the objectives of criminal justice systems. This theoretical foundation is reflected in both Indonesian and Dutch practices, although with different levels of maturity and institutional support.

Overall, the findings suggest that while Indonesia and the Netherlands share similar goals in implementing restorative justice, their approaches differ significantly in terms of legal structure, institutional support, and practical execution. The Netherlands demonstrates a more mature and systematized model, while Indonesia is still in the process of institutionalizing restorative justice within its criminal justice reform agenda.

CONCLUSION

This study concludes that strengthening restorative justice plays a significant role in reforming criminal justice systems in both Indonesia and the Netherlands, although the level of implementation differs between the two countries. Restorative justice offers an alternative approach to traditional retributive justice by emphasizing healing, reconciliation, and reintegration of offenders into society. In Indonesia, restorative justice is increasingly recognized and applied within law enforcement practices, particularly in minor criminal cases and juvenile justice. However, its implementation is still in a developing stage and largely depends on institutional discretion and limited regulatory frameworks. In contrast, the Netherlands has institutionalized restorative justice more comprehensively within its criminal justice system, supported by structured mediation programs and strong legal frameworks. Despite these differences, both countries share common objectives in reducing recidivism, improving victim satisfaction, and enhancing the efficiency of the criminal justice system. Restorative justice also contributes to reducing prison overcrowding and promoting a more humanistic approach to criminal law.

However, challenges remain in both contexts, including limited public awareness, cultural perceptions of justice, and the need for stronger institutional coordination. Therefore, continuous legal reform, capacity building, and public education are necessary to strengthen the implementation of restorative justice. In conclusion, restorative justice represents a transformative approach in criminal justice system reform. Its effectiveness depends on the integration of legal frameworks, institutional support, and cultural acceptance, making it a vital component of modern criminal justice development.

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