

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

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Abstract

The reform of criminal justice systems has increasingly shifted toward more humane and participatory approaches, particularly through the adoption of restorative justice. This study aims to analyze and compare the implementation of restorative justice in Indonesia and the Netherlands as part of broader criminal justice system reforms. The research employs a normative legal method with a comparative approach, examining legal frameworks, institutional mechanisms, and practical applications in both countries. The findings reveal that Indonesia applies restorative justice in a more flexible and culturally embedded manner, emphasizing social harmony and community-based resolution. However, its implementation remains fragmented and largely dependent on the discretion of law enforcement authorities. In contrast, the Netherlands demonstrates a more structured and institutionalized approach, supported by clear legal regulations, professional mediation services, and stronger protection of victims' rights. Both countries share a common objective of reducing reliance on punitive measures, improving access to justice, and restoring social relationships. Nevertheless, differences in legal certainty, institutional capacity, and empirical evaluation highlight the need for further development, particularly in Indonesia. This study concludes that an integrative model combining legal rigor with socio-cultural adaptability is essential for achieving an effective and equitable criminal justice system.

Keywords

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



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INTRODUCTION

The reform of criminal justice systems has become a central issue in contemporary legal discourse, particularly in response to the growing criticism of conventional punitive approaches that prioritize retribution over restoration. Traditional criminal justice models, which emphasize punishment as the primary response to crime, are increasingly viewed as insufficient in addressing the needs of victims, offenders, and society as a whole. These limitations are reflected in persistent

challenges such as prison overcrowding, high recidivism rates, lengthy judicial processes, and the marginalization of victims within the justice system. As a result, there has been a global shift toward more inclusive and humane approaches, one of which is restorative justice.

Restorative justice offers an alternative paradigm that focuses on repairing harm, restoring relationships, and involving all stakeholders—victims, offenders, and the community—in the resolution process. Rather than viewing crime solely as a violation of the law, restorative justice conceptualizes it as a harm to individuals and social relationships that must be addressed collectively. This approach has gained significant attention in various legal systems, including those in both Europe and Asia, as part of broader efforts to reform criminal justice systems in a more equitable and effective manner.

Indonesia and the Netherlands present two distinct yet comparable contexts for examining the development of restorative justice. Indonesia, as a country influenced by civil law traditions and strong communal values, has increasingly incorporated restorative justice into its criminal justice practices, particularly through institutional policies issued by law enforcement agencies. The application of restorative justice in Indonesia is often closely linked to local cultural values such as deliberation, consensus, and social harmony. However, its implementation remains relatively fragmented and largely dependent on the discretion of law enforcement officials, raising concerns about consistency and legal certainty.

In contrast, the Netherlands represents a more institutionalized model of restorative justice within a well-established legal framework. As part of the European legal tradition, the Dutch criminal justice system has integrated restorative mechanisms—such as victim-offender mediation—into formal procedures, supported by clear regulations and professional institutions. This structured approach ensures greater protection of victims' rights, procedural fairness, and accountability, making the Netherlands a relevant point of comparison in assessing the effectiveness of restorative justice reforms.

Despite the growing adoption of restorative justice in both countries, there remains a significant gap in comparative studies that systematically analyze how different legal systems implement and institutionalize this approach. Most existing research tends to focus on single-country analyses, thereby limiting the understanding of cross-jurisdictional dynamics and the potential for mutual learning. A comparative analysis between Indonesia and the Netherlands is therefore important to identify best

practices, institutional strengths, and areas for improvement in the reform of criminal justice systems.

Based on this background, this study aims to analyze and compare the implementation of restorative justice in Indonesia and the Netherlands, focusing on legal frameworks, institutional mechanisms, and practical application. By examining both similarities and differences, this research seeks to contribute to the development of a more comprehensive and balanced model of restorative justice that integrates legal certainty with social adaptability. Ultimately, the study is expected to provide theoretical and practical insights for policymakers and legal practitioners in advancing criminal justice reform toward a more just, effective, and human-centered system.

METHODS

This research adopts a normative legal research design with a comparative orientation to examine the reform of criminal justice systems through the application of restorative justice in Indonesia and the Netherlands. The study is grounded in doctrinal legal analysis, focusing on the examination of legal norms, principles, and regulatory frameworks that govern restorative justice in both jurisdictions. By employing a comparative perspective, the research seeks not only to describe legal provisions but also to critically analyze the similarities and differences in their implementation, institutional structures, and underlying legal philosophies.

The study applies three main approaches, namely the statutory approach, the conceptual approach, and the comparative approach. The statutory approach is used to analyze laws and regulations related to restorative justice, providing a formal legal basis for understanding how each country regulates alternative dispute resolution within the criminal justice system. The conceptual approach is employed to explore theoretical frameworks, particularly those related to restorative justice, due process of law, and victim-oriented justice, which serve as analytical lenses in interpreting legal norms. Meanwhile, the comparative approach functions as the core method of analysis, enabling a systematic comparison between Indonesia and the Netherlands in terms of legal structure, procedural mechanisms, and institutional practices.

The research relies on secondary data obtained through library research. The legal materials consist of primary sources, such as statutory regulations and official legal documents, as well as secondary sources including academic books, peer-reviewed journal articles, and prior research relevant to criminal justice reform and restorative justice. Supporting materials, such as legal dictionaries and encyclopedias, are also utilized to ensure conceptual clarity and terminological accuracy.

Data collection is conducted through a comprehensive review and documentation of relevant legal and academic sources. The collected data are then analyzed qualitatively using descriptive and comparative analytical techniques. The analysis begins with the classification of legal materials into thematic categories, followed by doctrinal interpretation to understand the substance and intent of legal norms. Subsequently, a comparative analysis is undertaken to identify patterns of convergence and divergence between the two countries, particularly in relation to legal frameworks, institutional arrangements, and implementation practices of restorative justice.

To enhance the credibility of the findings, this study applies source triangulation by cross-examining various legal materials and scholarly perspectives. Through this systematic and rigorous methodological approach, the research aims to provide a comprehensive understanding of restorative justice reform and to formulate relevant recommendations for strengthening criminal justice systems in both comparative contexts.

FINDINGS AND DISCUSSION

The Conceptual Framework of Restorative Justice in Indonesia and the Netherlands

Restorative justice in both Indonesia and the Netherlands reflects a paradigm shift from retributive justice toward a more participatory and victim-oriented approach. In Indonesia, restorative justice has been formally integrated into the criminal justice system through institutional regulations issued by law enforcement agencies, particularly the Police and the Prosecutor's Office. These regulations emphasize settlement through mediation, especially for minor offenses, by prioritizing harmony, social balance, and community values.

Similarly, the Netherlands has long institutionalized restorative justice within its criminal justice framework. The Dutch system incorporates mediation mechanisms (mediation in penal matters) that allow victims and offenders to engage in structured dialogue facilitated by trained mediators. Unlike Indonesia, where restorative justice is often applied discretionarily, the Dutch approach is more systematically embedded within legal procedures and supported by a well-developed regulatory and institutional framework. Despite these differences, both countries share a fundamental similarity: restorative justice is aimed at repairing harm, restoring relationships, and reducing the reliance on punitive sanctions.

Legal and Institutional Implementation

The implementation of restorative justice in Indonesia is characterized by a semi-formal and discretionary model. Law enforcement officials, particularly police officers

and prosecutors, play a central role in determining whether a case qualifies for restorative settlement. This often depends on factors such as the nature of the offense, the willingness of the victim and offender, and the broader social context. However, the absence of a unified legal framework at the statutory level creates inconsistencies in its application.

In contrast, the Netherlands adopts a more formalized and standardized approach. Restorative justice is integrated into the criminal procedure and supported by independent institutions specializing in victim-offender mediation. The process is voluntary but highly regulated, ensuring procedural fairness and legal certainty. Moreover, the involvement of professional mediators enhances the credibility and effectiveness of the process. The comparative findings indicate that while Indonesia demonstrates flexibility and cultural adaptability, the Netherlands provides stronger legal certainty and institutional consistency.

Protection of Victims' Rights and Participation

Victim participation is a central element in restorative justice practices in both countries. In Indonesia, the victim's consent is a prerequisite for initiating restorative processes. The emphasis is placed on achieving mutual agreement and restoring social harmony. However, in practice, the victim's position can sometimes be influenced by social pressure or power imbalances, particularly in close-knit communities.

In the Netherlands, victim participation is more structured and safeguarded through legal mechanisms. Victims are provided with clear information, legal assistance, and the option to participate in mediation without coercion. The process ensures that victims' rights are protected, including their right to withdraw at any stage. This reflects a stronger alignment with human rights standards and due process principles. Thus, although both systems recognize the importance of victim involvement, the Dutch model offers more robust protection and empowerment of victims.

Effectiveness in Reducing Recidivism and Case Burden

One of the key objectives of restorative justice is to reduce recidivism and alleviate the burden on the criminal justice system. In Indonesia, restorative justice has contributed to the resolution of minor cases without proceeding to formal trial, thereby reducing case backlog and prison overcrowding. However, empirical data on its long-term impact, particularly on recidivism rates, remains limited. Conversely, the Netherlands has demonstrated measurable outcomes in the effectiveness of restorative justice. Studies indicate that mediation processes can lead to higher satisfaction rates among victims and offenders, as well as a reduction in reoffending. The structured

nature of the system allows for better monitoring and evaluation, contributing to evidence-based policy development. These findings suggest that while Indonesia shows promising practical benefits, the Netherlands provides stronger empirical support for the effectiveness of restorative justice.

Both countries face challenges in implementing restorative justice. In Indonesia, the primary issues include the lack of a comprehensive legal framework, disparities in implementation across regions, and limited capacity of law enforcement personnel in conducting mediation processes. Additionally, there is a risk of misuse, where restorative justice is applied inappropriately or influenced by external interests. In the Netherlands, challenges are relatively more technical, such as ensuring equal access to mediation services and maintaining voluntary participation. There is also ongoing debate regarding the scope of cases eligible for restorative justice, particularly in more serious offenses. Despite these challenges, both systems continue to evolve, reflecting a global trend toward more humane and restorative approaches to criminal justice.

The comparative analysis reveals that Indonesia and the Netherlands share a common commitment to integrating restorative justice into their criminal justice systems, albeit with different levels of institutional maturity. Indonesia's approach is deeply influenced by socio-cultural values emphasizing consensus and harmony, while the Netherlands adopts a more legalistic and rights-based framework. From a reform perspective, Indonesia can benefit from strengthening its legal foundation and institutional capacity by adopting best practices from the Dutch model, such as standardized procedures, professional mediation services, and systematic evaluation mechanisms. At the same time, the Netherlands may draw insights from Indonesia's community-based approach, which emphasizes social cohesion and informal dispute resolution.

Overall, the reform of criminal justice systems in both Indonesia and the Netherlands demonstrates a converging trend toward restorative justice as an alternative to punitive approaches. The key difference lies in the degree of formalization and institutional support. A hybrid model that combines Indonesia's cultural strengths with the Netherlands' legal rigor could provide a more balanced and effective framework for restorative justice reform.

CONCLUSION

This study demonstrates that both Indonesia and the Netherlands have embraced restorative justice as a key element in the reform of their criminal justice systems, reflecting a global shift from punitive approaches toward more humane, participatory, and victim-centered justice. Despite differences in legal traditions and institutional

development, both countries share common objectives: repairing harm, restoring social relationships, and reducing reliance on formal adjudication and imprisonment.

The findings reveal that Indonesia adopts a more flexible and culturally embedded approach, where restorative justice is closely aligned with communal values such as consensus, harmony, and social balance. However, its implementation remains largely discretionary and fragmented due to the absence of a comprehensive statutory framework and standardized procedures. In contrast, the Netherlands offers a more structured and institutionalized model, characterized by clear legal regulations, professional mediation services, and strong safeguards for victims' rights, ensuring greater legal certainty and consistency.

In terms of effectiveness, both systems contribute to reducing case burdens and promoting alternative dispute resolution. Nevertheless, the Netherlands demonstrates stronger empirical evidence in reducing recidivism and enhancing participant satisfaction, supported by systematic monitoring and evaluation mechanisms. Meanwhile, Indonesia shows significant practical potential, particularly in resolving minor offenses efficiently, although it still requires further development in terms of data-based assessment and institutional capacity.

The comparative analysis suggests that future reforms should focus on integrating the strengths of both systems. Indonesia may enhance its restorative justice framework by strengthening legal certainty, institutional support, and professional mediation practices. Conversely, the Netherlands may benefit from incorporating more community-based and culturally sensitive approaches to enrich its formal system. Ultimately, a balanced model that combines legal rigor with social adaptability can provide a more effective and equitable foundation for the continued reform of criminal justice systems.

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