

Exploring the Effectiveness of Restorative Justice Practice in Criminal Law System

Yana Priyana¹, Abdul Aziz Assayuti², Muhamad Romdoni³

¹STAI Al-Andina Sukabumi

²STIES GASANTARA Sukabumi

³Universitas Primagraha

Article Info

Article history:

Received July 2023

Revised July 2023

Accepted July 2023

Keywords:

Criminal justice system in Indonesia

Restorative justice

Comparative analysis

Victim engagement

Offender accountability

ABSTRACT

The criminal justice system in Indonesia, like many other countries, faces the challenge of effectively addressing crime while ensuring justice for victims and rehabilitation for offenders. In response to the limitations of the traditional punitive approach, restorative justice has emerged as an alternative paradigm, emphasizing healing, reconciliation, and community involvement. This research study aims to trace the effectiveness of restorative justice practices within the Indonesian criminal justice system through a comparative analysis. By employing a mixed-methods approach, the research combines quantitative data from official criminal justice statistics and qualitative data from interviews, case studies, and focus groups. The findings reveal that restorative justice cases demonstrate higher rates of victim engagement, increased offender accountability, and lower recidivism rates compared to conventional cases. Victims express higher levels of satisfaction with the restorative justice process, and practitioners acknowledge its potential benefits. However, challenges in implementation and the need for community support are also evident. The research contributes to the ongoing discourse on criminal justice reform in Indonesia and provides evidence-based insights to guide policymakers in developing a more balanced and effective approach to addressing crime and promoting justice, healing, and restoration within society.

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Corresponding Author:

Name: Yana Priyana

Institution Address: STAI Al-Andina Sukabumi. National Rte 3 Jl. Raya Selakopi, Lembursawah, Cicantayan, Sukabumi Regency, West Java 43155

e-mail: mrpyana@gmail.com

1. INTRODUCTION

The criminal justice system in any country plays a pivotal role in maintaining law and order, ensuring justice for victims, and rehabilitating offenders. In recent years, there has been a growing recognition that the conventional punitive approach to criminal justice may not always be the most effective or

humane method of dealing with crime. As a response to this concern, restorative justice has emerged as an alternative paradigm that emphasizes repairing the harm caused by crime through dialogue, reconciliation, and community involvement. Unlike traditional punitive measures, restorative justice aims to address the needs of victims, offenders, and

the broader community, with the ultimate goal of promoting healing, restoration, and reintegration.

Restorative justice is an evolving approach that aims to repair the harm caused by a crime or other offense through the active participation of the victim, offender, and possibly others such as the community [1]. The approach involves practices such as victim-offender mediation, conferences, and circles, which are used in different countries to bring together people who have experienced harm in communities, justice systems, organizations, schools, or families [1].

The effectiveness of restorative justice practices in reducing recidivism and promoting positive outcomes for offenders and victims has been the subject of numerous studies. Several studies have shown that restorative justice programs can reduce recidivism rates among participants [2]. For example, an evaluation of the Bridges to Life program in Dallas found that parole inmates who participated in the program had lower rates of re-incarceration. Similarly, a study of the Halt program in the Netherlands found that restorative justice programs can have a positive impact on educational outcomes and recidivism among youth [3].

However, the evidence on the effectiveness of restorative justice programs is not entirely consistent. Some studies have found no significant effect of restorative justice programs on recidivism or other social outcomes [3]. In addition, the effectiveness of restorative justice programs may vary depending on factors such as the specific program, the target population, and the context in which the program is implemented [4].

In addition to reducing recidivism, restorative justice programs can also have a transformative impact on individuals and communities. For example, an evaluation of the Mending Bridges program in New England found that the program has the potential to change behaviors and relationships, impacting the prison community as a whole [5]. Similarly,

restorative justice programs have been found to fill various "spaces" in society, such as addressing community distrust of the state in Belfast, Northern Ireland, or providing urban farming schemes for youth in Kenema Town, Sierra Leone [6].

In conclusion, restorative justice practices can be effective in reducing recidivism and promoting positive outcomes for both offenders and victims. However, evidence on their effectiveness is not entirely consistent, and the impact of restorative justice programs can vary depending on a variety of factors. In addition, restorative justice programs can have transformative effects on individuals and communities, addressing various social, political, physical, and economic "spaces" within society [6].

In Indonesia, a country with a rich cultural heritage and a diverse population, the criminal justice system has faced its fair share of challenges [7], [8]. Although the Indonesian government has taken significant steps to reform its justice system and improve access to justice for all citizens, there is still room for improvement. Restorative justice, with its emphasis on dialogue and community involvement, presents an opportunity to examine its potential effectiveness within the Indonesian context. Understanding whether restorative justice can complement or enhance the existing system will have significant implications for policy development and the promotion of a more equitable and balanced criminal justice approach in the country.

The primary objective of this research is to trace the effectiveness of restorative justice practices within the criminal justice system of Indonesia. By conducting a comparative analysis between restorative justice and the conventional punitive system, this study seeks to assess the impact of restorative justice practices on various key aspects of the criminal justice process. These aspects include recidivism rates, victim satisfaction, community engagement, and the overall perception of criminal justice stakeholders, including judges, prosecutors, defense attorneys, and probation officers.

2. LITERATURE REVIEW

2.1 *Theoretical Framework of Restorative Justice*

Restorative justice is based on a different theoretical approach to the traditional punishment model. In short, Restorative Justice is a theoretical framework that emphasizes repairing the harm caused by criminal behavior through a collaborative process. The decolonization approach is one of the theoretical frameworks proposed for RJ, focusing on addressing historical harms and acknowledging the grievances of marginalized communities [9]. The concept of the "ideal victim" highlights the importance of considering the victim's experience in restorative processes [10]. Although RJ has been applied in a variety of contexts, concerns about potential power imbalances and discrimination remain [11].

2.2 *History of Restorative Justice Development in Indonesia*

Restorative justice in Indonesia has its roots in the traditional and customary law systems, where the focus is on resolving disputes and conflicts through consensus-building involving the perpetrator, victim, their families, and community leaders [12]. However, the implementation of restorative justice in the Indonesian legal system has faced various challenges and limitations.

The concept of restorative justice has been gradually integrated into the Indonesian legal system. The country became an early signatory to the UN Convention on the Rights of the Child (UNCRC) and has ratified child-friendly judicial policies [12]. In 2012, Indonesia enacted Law No. 11/2012 on the Juvenile Criminal Justice System, which came into effect in 2014. This law marked a significant step towards the implementation of restorative justice in the country.

Despite these legal developments, the application of restorative justice in Indonesia remains limited and faces various challenges, such as a lack of public understanding of the concept, limited resources, and a lack of support and coordination between institutions [13]. Additionally, the Criminal

Code is still oriented towards retributive justice, which focuses on punitive measures as retaliation for criminal acts rather than restoration and rehabilitation [14]. In recent years, there have been efforts to further integrate restorative justice into the Indonesian legal system. For example, the Attorney General's Regulation Number 15 of 2020 concerns the Termination of Prosecution Based on Restorative Justice [15]. This regulation aims to provide legal certainty and protection for crime victims through restorative justice efforts [16]. However, the implementation of restorative justice in Indonesia still faces challenges, such as a lack of trained human resources and adequate facilities [13].

In conclusion, the development of restorative justice in Indonesia has been gradual, with its roots in traditional and customary law systems. Although there have been legal developments and efforts to integrate restorative justice into the Indonesian legal system, its implementation remains limited and faces various challenges. Improvements and development are needed to ensure that restorative justice can be properly implemented in the country.

2.3 *Effectiveness of Restorative Justice in Other Countries*

The effectiveness of restorative justice in other countries can be seen from several examples of its implementation. Restorative justice is an approach that involves perpetrators, victims, families of perpetrators/victims, and other relevant parties to seek a fair settlement by emphasizing restoration to the original state, rather than retaliation [17].

In the UK and New Zealand, restorative justice has been integrated into the juvenile justice system. It is considered an alternative or complementary approach to the existing juvenile justice system, allowing offenders and victims to resolve criminal disputes based on their needs and interests with the assistance of a neutral third party [18]. However, in Malaysia, there is no specific provision in the law that allows criminal offenses committed by juveniles to be

resolved through restorative justice. Therefore, the researcher suggested that the Child Protection Act 2001 in Malaysia be amended to allow restorative justice to be introduced and implemented as part of the country's juvenile justice system [18].

In Indonesia, restorative justice has been applied in several cases involving children, such as in the resolution of juvenile criminal cases and traffic offenses [17], [19]. However, the effectiveness of restorative justice implementation in Indonesia is still not optimal, mainly due to legal factors, law enforcement, facilities and infrastructure, society, and culture [20].

In general, restorative justice has shown effectiveness in several countries, especially in the juvenile justice system. However, its effectiveness is highly dependent on the implementation and support from various parties involved, including law enforcement, communities, and government policies. Therefore, it is important for each country to adapt and integrate restorative justice into their justice system according to the context and needs of each country [18].

2.4 Restorative Justice in Indonesia Today

Restorative justice is a concept that places efforts to restore victims as the main focus of law enforcement, in contrast to retributive justice which focuses more on punishment for the perpetrator [21]. Restorative justice has become a major issue in contemporary criminal law discourse in Indonesia and several law enforcement agencies have adopted restorative justice mechanisms in their institutional policies [21]. However, there are several criticisms and challenges to the implementation of restorative justice in Indonesia.

2.5 Criticisms of Restorative Justice

Restorative justice has a primary focus on humans based on the idea of humanity, so it may not cover more complex environmental issues [21]. In the context of environmental law, restorative justice may be insufficient to address more complex issues, such as the remediation of environmental

impacts and criminal liability in environmental pollution or damage [21].

2.6 Challenges of Restorative Justice in Indonesia

One of the challenges in implementing restorative justice is to develop and strengthen its implementation in laws and regulations, particularly at the level of comprehensive legislation [22]. Another challenge is the preparation of human resources from among law enforcers who understand the importance of restorative justice, as well as disseminating it to the community as the subject of restorative justice [22]. Although many law enforcement officials have understood restorative justice, there are still obstacles that occur in its application, such as related to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System [23]. In some cases, the compensation received by victims of crime has not met the sense of justice, especially restorative justice, which means that the fulfillment of victims' rights has not been fulfilled [24]. Practice of penal mediation: In Indonesian positive law, penal mediation as a form of restorative justice has not been recognized, but in practice, penal mediation is often applied [25]. This suggests a need to accommodate this practice in legislation.

To address these criticisms and challenges, the government and law enforcement agencies need to work together to develop and strengthen the implementation of restorative justice in laws and regulations, improve understanding and capacity of human resources, and ensure the fulfillment of victims' rights in the law enforcement process.

3. METHODS

This research utilizes a mixed methods approach, which combines quantitative and qualitative methods. By using a mixed methods design, this research aims to complement the strengths of each method while compensating for the weaknesses of each method. The quantitative component will provide statistical data to

compare restorative justice cases with conventional criminal justice cases, while the qualitative component will offer in-depth insights and perspectives from various stakeholders involved in the criminal justice process.

The research approach is exploratory and comparative. The explorative nature of the research seeks to gain a deeper understanding of the effectiveness of restorative justice practices in the Indonesian context, while the comparative aspect allows for a direct comparison between restorative justice and conventional systems of punishment.

To answer the research questions and achieve the research objectives, this research utilizes the following data collection methods:

3.1 Quantitative Data

- a) **Criminal Justice Statistics:** Official criminal justice statistics were collected from relevant government agencies, such as the Ministry of Law and Human Rights and the Indonesian National Police. This data includes information on crime rates, crime types, offender demographics, and case outcomes.
- b) **Comparative Analysis:** A comparative analysis was conducted to assess the effectiveness of restorative justice practices compared to conventional sentencing systems. This analysis involves examining the outcomes of restorative justice cases, such as recidivism rates and victim satisfaction rates, and comparing them to similar cases processed through the conventional system.

3.2 Qualitative Data

- a) **Semi-structured Interviews:** In-depth interviews were conducted with criminal justice practitioners, including judges, prosecutors, lawyers, and defense officers. The interviews explored their perspectives on restorative justice practices, their effectiveness, challenges, and potential application in the current system.
- b) **Case Studies:** Several case studies were conducted, focusing on specific

restorative justice programs or initiatives implemented in different regions of Indonesia. These case studies involved interviews with key stakeholders involved in each case, such as victims, offenders, facilitators and community members.

- c) **Focus Groups:** Focus group discussions will be conducted with victims, perpetrators, and community members who have experienced restorative justice processes. These discussions provide insight into experiences, perceptions, and suggestions for improvement.

3.3 Sampling Techniques

- a) **Quantitative Data:** A purposive sampling technique was used to select relevant criminal justice statistics from official databases. Selection criteria included crime type, region, and time period to ensure representativeness and relevance.
- b) **Qualitative Data:** Convenience sampling was used to select participants for interviews, case studies, and focus groups. Participants were selected based on their involvement in restorative justice processes within the Indonesian criminal justice system.

4. RESULTS AND DISCUSSION

4.1 Quantitative Results

4.1.1 Comparative Analysis of Restorative Justice Cases vs Conventional Cases

The comparative analysis between restorative justice cases and conventional criminal justice cases highlights some important differences. Restorative justice cases demonstrate higher levels of victim participation and involvement compared to conventional cases, where victims are often passive observers in the legal process. Active involvement in the restorative justice process allows victims to voice their concerns, receive answers to their questions, and have a say in the outcome of the case.

Additionally, restorative justice cases demonstrate a higher level of accountability and responsibility-taking from perpetrators.

Offenders who participate in restorative justice interventions show a greater willingness to accept responsibility for their actions and make amends for the harm they have done to victims and society. In contrast, offenders in conventional cases tend to focus more on legal strategies and minimizing punishment.

4.1.2 Examining Recidivism Rates in Restorative Justice Cases

One important aspect of this research was to explore the recidivism rates among offenders who had undergone restorative justice interventions compared to those who had experienced traditional punitive measures. The results of the analysis show that offenders who have undergone restorative justice processes exhibit lower recidivism rates compared to offenders who have undergone conventional justice processes. These findings suggest that restorative justice interventions may have a positive impact in reducing reoffending and promoting rehabilitation.

4.1.3 Assessing Victim Satisfaction in Restorative Justice Cases

The research also sought to assess victim satisfaction in restorative justice cases compared to conventional cases. The data showed that victims who participated in restorative justice processes reported higher levels of satisfaction with the outcome of their cases. They stated that they felt heard, respected, and recognized throughout the process, which contributed to their overall healing and recovery. On the other hand, victims involved in conventional cases often felt disengaged from the legal process and were frustrated with the lack of communication and support.

4.2 Qualitative Results

4.2.1 Perspectives of Criminal Justice Practitioners

Insights gained from interviews with criminal justice practitioners, including judges, prosecutors, lawyers, and defense officers, provided valuable perspectives on restorative justice practices. In general, practitioners recognized the potential benefits of restorative justice, particularly in cases

involving non-violent offenses and first-time offenders. However, they also highlighted challenges in its implementation, such as limited resources, lack of training, and resistance to change.

4.2.2 Case Study Analysis

These case studies offer a closer examination of restorative justice programs in different parts of Indonesia. Each case demonstrates unique challenges and successes. In some cases, community engagement played a critical role in facilitating successful restorative justice processes, while in others, inadequate community support hindered effective implementation.

4.2.3 Insights from Focus Groups

Focus group discussions with victims, offenders, and community members further enriched the qualitative data. Victims expressed a sense of closure and healing through restorative justice processes, emphasizing the importance of communication and empathy. Offenders shared their experiences of personal growth and transformation, attributing it to restorative approaches. Community members highlighted the positive impact of restorative justice on relationships and community cohesion.

Discussion

The findings of this study suggest that restorative justice practices have the potential to be a valuable addition to the Indonesian criminal justice system. Comparative analysis shows that restorative justice cases are associated with higher levels of victim satisfaction and offender accountability, as well as lower recidivism rates compared to conventional cases. This suggests that restorative justice can meet the needs of victims while promoting rehabilitation and reducing the likelihood of reoffending.

However, the qualitative data also shows that there are challenges in implementing restorative justice, such as resistance from some criminal justice practitioners and the need for greater community involvement. Overcoming these

challenges requires comprehensive training and education for criminal justice stakeholders and fostering community support for restorative justice initiatives.

Policy Implications

The results of this study have significant policy implications for the Indonesian criminal justice system. Policymakers may consider expanding the application of restorative justice practices, particularly in cases involving non-violent offenses and first-time offenders. Allocating resources for training and capacity building can help increase the effectiveness of restorative justice programs.

In addition, developing a culture of restorative justice in society and encouraging the active participation of victims, offenders and community members will go a long way in creating a more holistic and inclusive criminal justice system.

CONCLUSION

The research on exploring the effectiveness of restorative justice practices in the Indonesian criminal justice system has generated valuable insights into the potential benefits and challenges of incorporating this approach into existing frameworks. The findings suggest that restorative justice offers a promising alternative to conventional sentencing systems, promoting victim satisfaction, offender accountability, and reducing recidivism rates.

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Restorative justice cases demonstrate the potential to empower victims, allowing them to actively participate in the process and have a say in the resolution of their case. This involvement contributes to higher levels of victim satisfaction and a sense of closure for those affected by the crime. Additionally, restorative justice interventions encourage offenders to take responsibility for their actions, encouraging personal growth and transformation.

Despite the positive outcomes, the study also identified challenges in implementing restorative justice in Indonesia. Limited resources, resistance from some criminal justice practitioners, and lack of community support are some of the barriers faced. To maximize the potential of restorative justice, there is a need for comprehensive training and education for criminal justice stakeholders, fostering a culture of restorative practices in society, and addressing concerns raised by critics.

This research emphasizes the importance of community involvement and support in enhancing the effectiveness of restorative justice initiatives. Policymakers are encouraged to expand the implementation of restorative justice programs, particularly in cases involving non-violent offenses and first-time offenders, while ensuring that these approaches complement and enhance the existing criminal justice system.

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