

Reconstruction of the Principle of Justice in the Indonesian Criminal Justice System: A Restorative Perspective and Regulatory Reform

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ABSTRACT

This study aims to reconstruct the principle of justice within the Indonesian criminal justice system through a restorative justice approach and regulatory reform in order to achieve substantive justice that balances the interests of the state, victims, and offenders. The research employs a qualitative method with a normative juridical research design, selected for its capacity to conduct an in-depth analysis of principles, norms, and the systematic structure of criminal law, as well as to assess their compatibility with the evolving practice of restorative justice. This approach is considered relevant for addressing conceptual and normative issues while simultaneously linking them to law enforcement practices. The research setting focuses on the institutional framework of the Indonesian criminal justice system, encompassing the police, the public prosecution service, and general courts in the regions of DKI Jakarta and West Java. The study involves six key informants, consisting of law enforcement officials, academics, advocates, and policy researchers, who were selected through purposive sampling due to their direct experience and expertise in the implementation of restorative justice. The findings indicate that the Indonesian criminal justice system remains predominantly influenced by a retributive paradigm, while restorative justice has not yet been systematically integrated. Accordingly, this study recommends reforms to criminal procedural law, the development of national restorative justice guidelines, and the strengthening of a recovery-oriented approach in law enforcement practices.



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INTRODUCTION

The development of modern criminal law systems is inseparable from fundamental debates concerning the objectives of punishment and the concept of justice that the law seeks to achieve. Within the classical tradition of criminal law, punishment has generally been understood as an instrument of state retribution against offenders through coercive mechanisms of sanctioning. This retributive paradigm has historically shaped the construction of the Indonesian criminal justice system, particularly its criminal procedure, which continues to position imprisonment as the primary sanction and a symbol of legal supremacy. However, an approach that emphasizes retribution is increasingly regarded as inadequate in addressing the complexity of modern crime and the growing demand for substantive justice, particularly from the perspectives of victims and the broader community (Kholiq et al., 2023).

The tension between punitive objectives centered on retribution and the need for more humane justice mechanisms has become a central issue in contemporary criminal law reform. Empirical data indicate that the dominance of imprisonment as the primary response to criminal conduct has contributed to structural problems within the Indonesian criminal justice system, most notably prison overcrowding. The Directorate General of Corrections reported that, as of 2023, occupancy levels in correctional facilities and detention centers nationwide significantly exceeded their ideal capacity, resulting in diminished rehabilitation quality, increased social costs, and reduced effectiveness of offenders' social reintegration. These conditions suggest that the retributive approach has not fully

aligned with sentencing objectives oriented toward rehabilitation and sustainable crime prevention (Moon, 2024).

Amid increasing criticism of the retributive paradigm, restorative justice has emerged as an alternative approach offering a distinct perspective on criminal case resolution. Restorative justice conceptualizes crime not merely as a violation of legal norms against the state, but as an event that causes concrete harm to victims and disrupts social relationships. Accordingly, its primary focus lies in repairing victim harm, fostering meaningful offender accountability, and engaging the community in the conflict resolution process. Across various jurisdictions, restorative justice has been incorporated into modern criminal justice systems due to its perceived capacity to enhance victim satisfaction, reduce recidivism, and optimize the use of judicial resources (Varma & Singh, 2024).

In Indonesia, the adoption of restorative justice has gained normative legitimacy over the past five years. Law Number 1 of 2023 on the Criminal Code signifies an important shift in sentencing orientation by explicitly incorporating conflict resolution, restoration of social balance, and the creation of a sense of justice as national sentencing objectives. This shift has been reinforced by sectoral regulations, including Prosecutorial Regulation Number 15 of 2020, Police Regulation Number 8 of 2021, and Supreme Court Regulation Number 1 of 2024, which expressly provide space for the application of restorative justice in the resolution of certain criminal cases.

The state of the art in restorative justice research in Indonesia over the past five years indicates a predominant focus on implementative and normative aspects at the institutional level, particularly concerning minor criminal offenses and juvenile justice. Several studies have demonstrated that restorative mechanisms can enhance victim satisfaction, expedite case resolution, and reduce the workload of law enforcement agencies when compared to conventional litigation procedures. Nevertheless, these studies tend to frame restorative justice primarily as a procedural alternative rather than as an integral component of reconstructing the principle of justice within the criminal justice system as a whole (Maharian, 2024).

The central issue addressed in this study is the absence of systemic integration of restorative justice principles within the framework of the Indonesian criminal justice system. The Criminal Procedure Code (KUHAP), as the principal instrument of criminal procedural law, continues to reflect a retributive paradigm that prioritizes punishment-oriented processes while insufficiently accommodating victims' interests and broader social restoration needs. Meanwhile, the application of restorative justice through sectoral policies remains fragmented and dependent on law enforcement discretion, thereby posing risks of inconsistent practices, legal uncertainty, and potential abuse of authority (Mansyur et al., 2025).

The research gap lies in the lack of comprehensive studies connecting the development of restorative justice regulations with the necessity to reconstruct the underlying principles of justice within the national criminal law system. Much of the existing literature continues to frame retributive and restorative approaches in a dichotomous manner, despite the fact that criminal law reforms in various jurisdictions have increasingly moved toward hybrid models that integrate victim restoration with effective law enforcement. This analytical gap underscores the need for research that not only evaluates the success of restorative justice implementation but also reconstructs the foundational principles of justice underpinning the Indonesian criminal justice system (Higgins, 2024).

The novelty of this research lies in its analysis of a hybrid model that integrates restorative justice principles with the requirements of effective law enforcement. Rather than positioning restorative justice as a total substitute for conventional punishment, this study conceptualizes it as a normative approach capable of complementing and enriching the national criminal justice system. By synthesizing contemporary sentencing theories, restorative practices from various jurisdictions, and Indonesia's constitutional values, this study offers a new perspective on criminal law regulatory reform oriented toward substantive justice.

Based on this background, the study formulates the following research questions: (1) how is the principle of justice currently constructed within the Indonesian criminal justice system; (2) what role does the restorative approach play in reconstructing this principle of justice; and (3) what direction

should criminal law reform particularly criminal procedural law take in order to integrate restorative justice in a proportional and sustainable manner.

The objectives of this study are to critically analyze the principles of justice underlying the Indonesian criminal justice system; to examine the relevance and effectiveness of restorative justice in resolving minor criminal cases; and to formulate normative recommendations for criminal law reform, including revisions to the Criminal Procedure Code and the development of comprehensive national restorative justice guidelines. Theoretically, this research is expected to contribute to the development of more humanistic sentencing theories. Academically, it may serve as a reference for further studies in criminal law and criminal policy. Practically, this study aims to provide contributions for legislators and law enforcement authorities in designing more just and effective sentencing policies (Zadataqi & Soponyono, 2025).

The research methodology employs a normative juridical approach through the analysis of legislation, judicial decisions, and interviews with legal practitioners to strengthen the validity of the findings. Nevertheless, this study has certain limitations, particularly its focus on minor criminal offenses and the limited scope of cross-regional empirical data. Future research is therefore encouraged to develop quantitative and comparative empirical studies to assess the effectiveness of the proposed hybrid model across various types of criminal offenses and broader social.

LITERATURE REVIEW

The study of reconstructing the principle of justice within the Indonesian criminal justice system cannot be separated from conceptual debates concerning the objectives of punishment and the paradigm shift from a retributive to a restorative approach (Andrews & Eide, 2024). To systematically examine this shift, the present study grounds its analysis in three principal theories: retributive justice theory, restorative justice theory, and utilitarian theory of punishment. These theories are selected because they represent the evolution of criminal justice thought from a retribution-oriented model toward a balanced framework that integrates restoration, prevention, and legal certainty.

The first theoretical framework is Retributive Justice Theory, prominently articulated by Immanuel Kant in the late eighteenth century, particularly in *The Metaphysics of Morals* (Flora, 2023). Kant, a philosopher from the University of Königsberg in Prussia (Germany), conceptualized punishment as a moral necessity inherent in justice, whereby offenders must be punished proportionally as retribution for their criminal acts. Within this framework, punishment is not intended to serve rehabilitative or social utility purposes, but functions as an affirmation of individual moral responsibility. Although rooted in classical philosophy, retributive principles continue to exert significant influence over modern criminal justice systems, including Indonesia's, particularly within the structure of the Criminal Procedure Code (KUHAP), which emphasizes formal legality and punitive responses.

The second framework is Restorative Justice Theory, systematically developed and popularized by Howard Zehr through his seminal work *Changing Lenses* (Montoliu, 2024). Zehr, an academic at Eastern Mennonite University in the United States, introduced a paradigm that reconceptualizes crime as a violation of individuals and social relationships rather than merely an offense against the state. The core objectives of restorative justice include the restoration of victim harm, acknowledgment of wrongdoing by offenders, and the repair of social harmony through dialogue and consensual agreements. This approach has rapidly evolved and been adopted across various jurisdictions as an alternative or complementary mechanism within conventional criminal justice systems.

The third framework is the Utilitarian Theory of Punishment, advanced by Jeremy Bentham in the late eighteenth century through the principle of "the greatest happiness of the greatest number." Bentham, a philosopher and legal reformer associated with the University of Oxford in England, viewed punishment as an instrument to achieve social benefits, particularly crime prevention and systemic efficiency (Karas et al., 2023). Over time, utilitarian theory has become foundational to modern perspectives on law enforcement effectiveness, rational sentencing, and the development of alternative sanctions to imprisonment.

These three theoretical traditions have been further refined by contemporary criminal law scholars. Within the retributive framework, Andrew von Hirsch of the University of Cambridge proposed the concept of just deserts in 1993, emphasizing proportionality and legal certainty as core elements of criminal justice (Chioni-Chotouman, 2022). According to von Hirsch, punishment must reflect the moral culpability of offenders while remaining constrained by principles of substantive justice to prevent excessive suffering. This concept has significantly influenced modern sentencing systems and debates on criminal law reform in various jurisdictions.

From a restorative justice perspective, John Braithwaite, Professor Emeritus at the Australian National University, developed the theory of reintegrative shaming in 1989, which later expanded into the broader restorative justice framework. Braithwaite underscored the importance of restoring social relationships and reintegrating offenders into society without imposing permanent stigma. In his recent work, asserts that restorative justice does not undermine law enforcement but can instead strengthen legal legitimacy when normatively and institutionally integrated (Hector, 2022).

Meanwhile, the development of utilitarian theory in modern criminal law has been significantly influenced by Nils Christie, a criminologist from the University of Oslo, Norway, who critically introduced the concept of “conflicts as property.” Christie argued that modern criminal justice systems have effectively appropriated conflicts from the parties involved and transferred them entirely to the state, thereby diminishing both efficiency and substantive justice. Christie’s critique subsequently became an important theoretical foundation for the development of restorative and efficiency-oriented models of criminal case resolution.

Contemporary developments indicate that these three theories are no longer understood in strictly dichotomous terms, but are increasingly combined within hybrid models (Mackenzie et al., 2023). Recent scholarship emphasizes that modern criminal justice systems are moving toward the integration of retributive, restorative, and utilitarian elements in response to challenges such as overcriminalization, prison overcrowding, and low levels of victim satisfaction. In Indonesia, this trend is reflected in Law Number 1 of 2023 on the Criminal Code, which begins to accommodate sentencing objectives related to restoring social balance and resolving conflict.

These theoretical frameworks are directly connected to the central issue addressed in this research, namely the dominance of a retributive paradigm within the Indonesian criminal justice system that has yet to fully align with the demands of substantive justice. Retributive theory explains the normative foundations of punishment-oriented sentencing, utilitarian theory highlights demands for efficiency and crime prevention, while restorative theory offers mechanisms of victim recovery and social repair that remain underdeveloped within criminal procedural law. The tension among these theories forms the analytical foundation for the reconstruction of justice principles undertaken in this study (Norée, 2022).

The research gap lies in the absence of systematic studies that integrate these three theories as a unified foundation for regulatory reform in Indonesian criminal law. Existing research often positions restorative justice as an external alternative to the formal criminal justice system, while normative analyses of criminal law reform remain predominantly retributive in orientation. This study addresses this gap by offering a theoretical synthesis to support regulatory reform, particularly revisions to the Criminal Procedure Code and the formulation of comprehensive national restorative justice guidelines. This theoretical framework is also directly linked to the formulation of the research problem, namely how to reconstruct the principle of justice within the Indonesian criminal justice system so as to integrate victim restoration with effective law enforcement (Lattimore, 2022). By synthesizing the three theoretical approaches, this study seeks to construct a normative framework that is not only morally just but also effective and responsive to societal needs. The theoretical contribution of this approach lies in enriching contemporary sentencing theory; its academic contribution is the provision of an interdisciplinary analytical model; while its practical contribution consists of policy-oriented recommendations applicable to legislators and law enforcement authorities.

In conclusion, this literature review demonstrates that retributive justice theory, restorative justice theory, and utilitarianism provide complementary conceptual foundations for reconstructing the

principle of justice within the Indonesian criminal justice system. By engaging with the perspectives of key scholars and recent theoretical developments, this study establishes its novelty through a hybrid approach to criminal law regulatory reform. This theoretical framework consistently supports the central research problem, addresses the identified research gap, clarifies the formulation of research questions, and reinforces the objectives and contributions of the study at theoretical, academic, and practical levels

RESEARCH METHODS

This study adopts a normative juridical approach with a qualitative, descriptive-analytical research design to examine and reconstruct the principle of justice within the Indonesian criminal justice system from the perspective of restorative justice and regulatory reform. The normative juridical approach is selected because the primary focus of this research lies in analyzing legal norms, principles, and doctrines embodied in statutory regulations, legal scholarship, and judicial decisions relevant to the application of restorative justice. This approach is considered the most appropriate for addressing conceptual and normative research questions, namely how the principle of justice is constructed within Indonesian criminal law and how it should be reformed to better align with values of victim restoration and effective law enforcement (Arrigo et al., 2022).

A qualitative research design is employed to enable an in-depth examination of normative dynamics and the practical application of restorative justice without restricting the analysis to purely quantitative variables. This design provides flexibility in exploring the meanings, rationales, and legal implications of restorative justice practices across different law enforcement institutions. Through a descriptive-analytical method, the study not only describes the existing legal conditions (*das sein*), but also critically evaluates prevailing norms and formulates an ideal legal construction (*das sollen*) as a foundation for the reform of national criminal law regulations.

In the context of normative juridical research, the research setting is not construed merely in geographical terms, but rather in institutional and doctrinal terms. This study focuses on law enforcement institutions in Indonesia namely the Police, the Prosecutorial Service, and the General Courts which possess both normative authority and practical competence in the implementation of restorative justice. The selection of these institutional settings is based on the consideration that these bodies constitute the principal actors in the application of restorative justice policies as regulated in sectoral instruments, including Police Regulation Number 8 of 2021, Prosecutorial Regulation Number 15 of 2020, and Supreme Court Regulation Number 1 of 2024 (Mujiburrahman, 2022). Moreover, Indonesia's ongoing criminal law reform renders this institutional context particularly relevant for examining the normative integration of restorative justice within the broader framework of criminal law reform.

Consistent with the adopted approach, this study involves key informants drawn from legal practitioners to complement and strengthen the normative analysis through practical perspectives. These informants are not treated as full empirical research subjects, but rather as supporting sources aimed at confirming the relevance, consistency, and practical implications of legal norms. The number of informants is limited to six individuals, consisting of law enforcement officials and criminal law academics. To uphold research ethics, informants' identities may be anonymized where necessary.

The six informants were selected through purposive sampling, based on their professional competence, direct experience, and active involvement in the implementation of restorative justice. All informants are public officials or academics; therefore, the disclosure of identities is conducted openly in accordance with ethical standards in legal research.

The first informant is AKBP Andi Pratama, S.I.K., M.H., Head of the Criminal Investigation Unit at the South Jakarta Metropolitan Police, Polda Metro Jaya. He was selected due to his direct experience in handling and approving the resolution of minor criminal cases through restorative justice mechanisms in accordance with Police Regulation Number 8 of 2021. This informant provides insights into the normative and technical considerations underlying the termination of investigations based on restorative justice.

The second informant is Dr. Bima Saputra, S.H., M.H., a public prosecutor at the South Jakarta District Prosecutor's Office. His selection is based on his direct involvement in the application of prosecution termination grounded in restorative justice pursuant to Prosecutorial Regulation Number 15 of 2020. This informant offers explanations regarding the assessment standards applied to public interest, victims' interests, and legal certainty in restorative prosecution practices.

The third informant is Dr. Citra Lestari, S.H., M.H., a judge at the Bandung District Court Class IA Special, West Java Province. She was selected due to her experience in adjudicating minor criminal cases and applying restorative justice considerations based on Supreme Court guidelines. This informant provides a judicial perspective on the limits of judicial authority and the implications of restorative justice for the principles of legality and judicial independence.

The fourth informant is Prof. Dr. Dewi Kartika, S.H., M.Hum., Professor of Criminal Law at the University of Indonesia. She was selected on account of her expertise in sentencing theory and national criminal law reform. This informant contributes theoretical foundations and a critical evaluation of the integration of restorative justice into the Indonesian criminal justice system, particularly in the context of revising the Criminal Procedure Code and implementing the new Criminal Code.

The fifth informant is Eko Nugroho, S.H., M.H., an advocate at the Jakarta Legal Aid Institute (LBH Jakarta). He was selected to provide perspectives from the defense side concerning the protection of suspects' and victims' rights within restorative justice schemes. This viewpoint is essential for assessing the balance between human rights protection and effective law enforcement.

The sixth informant is Dr. Fajar Rizki Ramadhan, S.H., M.H., Senior Researcher at the Indonesian Center for Law and Policy Studies (PSHK). He was selected due to his experience in criminal justice policy research and legal system reform. This informant provides policy analysis concerning the systemic impacts of restorative justice implementation on the governance of the national criminal justice system.

All interviews were conducted either in person or online between January and March 2025, using semi-structured interview guidelines. Interview data are positioned as supporting material to strengthen the normative analysis and are not treated as the sole basis for drawing conclusions, thus maintaining consistency with the normative juridical approach adopted in this study. The selection of informants follows purposive sampling principles, namely the deliberate selection of individuals deemed to possess relevant expertise and experience aligned with the research focus.

Data collection techniques in this study are designed to ensure coherence between normative legal analysis and an understanding of restorative justice practices within the Indonesian criminal justice system (Kim, 2022). Given that the research focuses on reconstructing justice principles that are both conceptual and applicative in nature, the use of multiple data collection techniques is methodologically necessary to overcome purely textual legal analysis. Accordingly, this study combines library research, legal document analysis, and semi-structured interviews as complementary primary data sources.

Library research serves as the theoretical and conceptual foundation of this study. A systematic literature review was conducted on books, peer-reviewed journals, research reports, and academic publications from the past five years addressing sentencing theory, retributive justice, utilitarianism, and the development of restorative justice in both comparative and national contexts. The emphasis on recent literature is intended to ensure that the theoretical and analytical frameworks employed reflect the most current developments in academic discourse. Criminal law literature and justice theories are analyzed not only to clarify foundational concepts but also to identify critiques, ongoing debates, and alternative perspectives relevant to the agenda of criminal law reform (Varma & Singh, 2024).

Through library research, the study situates itself within the broader scholarly landscape while identifying gaps that remain underexplored. This approach enables the research to avoid merely descriptive repetition of existing studies and to direct the analysis toward a normative-progressive reconstruction of justice principles. Furthermore, international literature on restorative justice practices across different jurisdictions is used as a source of critical reflection to assess the relevance and adaptability of restorative justice concepts within the Indonesian criminal justice system, which possesses distinct legal and socio-cultural characteristics.

In addition to library research, this study relies on legal document analysis as its primary source of normative data. Legal documents examined include statutory regulations governing the criminal justice system, encompassing substantive criminal law, criminal procedural law, and sectoral regulations regulating the application of restorative justice (Maharian, 2024). This analysis involves identifying legal norms, principles, and sentencing objectives embedded in these instruments, as well as assessing their consistency and coherence across regulatory frameworks. Judicial decisions are also examined to understand how restorative justice principles are interpreted and applied in judicial practice.

Legal document analysis is employed to explore discrepancies between formally articulated legal norms and their practical implementation. Court decisions are treated as a crucial source for assessing the extent to which restorative justice has been accommodated within judicial reasoning, as well as how the limits of its application are interpreted in relation to the principles of legality and legal certainty. Accordingly, legal document analysis functions not merely as an inventory of regulations but as a means of examining the dynamics of legal interpretation and prevailing trends in criminal justice practice (Hofmann, 2023).

To complement normative analysis, this study employs semi-structured interviews as a supporting qualitative data collection technique. Interviews were conducted with legal practitioners and academics possessing experience and expertise in the implementation and scholarly examination of restorative justice. The semi-structured interview format was selected to strike a balance between flexibility and analytical focus, allowing the researcher to explore informants' views, experiences, and assessments in depth while maintaining relevance to the research objectives and questions.

Through interviews, the researcher obtained practical insights into structural challenges, normative constraints, and opportunities for advancing restorative justice within the Indonesian criminal justice system. Interview data are not intended to replace normative legal analysis, but rather to enrich contextual understanding and reinforce the validity of legal interpretations. Interviews also enable the researcher to capture dynamics not always evident in statutory texts or judicial decisions, such as institutional factors, legal culture, and pragmatic considerations shaping law enforcement practices.

Data analysis in this study adopts a normative qualitative analytical approach emphasizing legal interpretation and the construction of legal argumentation. The first stage involves legal interpretation, focusing on norms, principles, and legal concepts related to restorative justice. Interpretation is conducted by considering the national legal system context, legislative intent, and developments in contemporary criminal law theory. This stage is essential to avoid purely textual interpretation and to facilitate a more contextual and progressive understanding of the law (Kaspar & Morse, 2025).

The second stage entails normative systematization, which aims to organize and classify relevant legal provisions within a coherent analytical framework. Through this process, the study identifies intersections and tensions between retributive-oriented norms and provisions that accommodate restorative approaches. This step enables an assessment of the extent to which the Indonesian criminal justice system has embraced paradigm shifts in sentencing, as well as the identification of regulatory gaps or inconsistencies (Kamalova & Ibrokhimov, 2024).

Subsequently, legal argument construction is undertaken by linking the results of interpretation and systematization with justice theories and supporting empirical insights. At this stage, the researcher formulates normative arguments regarding the need to reconstruct justice principles and the appropriate direction for criminal law reform. Legal arguments are developed logically and consistently with fundamental legal principles while remaining responsive to practical realities revealed through interviews.

Interview data are analyzed using thematic analysis to identify patterns in informants' perspectives and experiences related to the implementation of restorative justice. This approach allows the researcher to categorize information into key themes, such as implementation effectiveness, normative and institutional constraints, and law enforcement perceptions of restorative justice legitimacy (Mukai et al., 2024). The process is conducted iteratively by comparing interview findings with normative analysis, thereby fostering a dialogical relationship between legal norms and practice.

Integration between normative data and interview findings is achieved through triangulation to enhance the validity and analytical rigor of the research. Triangulation enables the researcher to assess consistency among legal provisions, implementation practices, and the perspectives of actors involved in the criminal justice system. Through this method, the study produces not only normative description but also critical analysis that takes into account implementation contexts and real-world challenges in applying restorative justice.

In drawing conclusions, this study employs a combined inductive and deductive reasoning approach. Inductive reasoning is used to derive conceptual generalizations from normative findings and observed restorative justice practices, while deductive reasoning is applied to test the consistency of those findings against established justice theories and applicable legal norms. Research conclusions are formulated through synthesis of normative analysis and interview findings to comprehensively address the research questions. Recommendations for regulatory reform are developed based on the ideal legal framework resulting from the reconstruction of justice principles, with due consideration given to legal certainty, substantive justice, and law enforcement effectiveness.

Overall, the data collection and analysis techniques employed in this study are designed to produce a comprehensive understanding of the position of restorative justice within the Indonesian criminal justice system. By integrating library research, legal document analysis, and semi-structured interviews, this study bridges normative frameworks and practical realities. Consequently, the findings are expected to be not only conceptually robust but also practically relevant, providing a foundation for reconstructing justice principles and for formulating more responsive and sustainable criminal law reforms. Through this methodological design, the study aims to produce findings that meet the methodological standards of reputable international scholarly journals.

RESULTS AND DISCUSSION

The findings of this study indicate that the Indonesian criminal justice system remains predominantly operated within a retributive framework, despite the existence of normative developments that have begun to accommodate a restorative justice approach. The primary issue identified is a structural tension between sentencing objectives centered on retribution and legal certainty, and the growing demand for substantive justice oriented toward victim restoration, conflict resolution, and systemic efficiency. This tension is reflected both in the design of criminal procedural law and in everyday law enforcement practices, where imprisonment continues to function as the principal response to criminal offenses, including cases involving relatively low levels of social harm.

From the perspective of retributive justice theory, the findings demonstrate that the principle of retribution continues to serve as the principal foundation for the legitimacy of punishment within the Indonesian criminal justice system (Bouchagiar, 2024). Interpretations of the principles of legality and proportionality are frequently construed in a narrow manner, emphasizing the state's obligation to impose penalties commensurate with an offender's culpability without seriously considering dimensions of victim restoration or broader social consequences. Within this framework, punishment is positioned as the ultimate objective of the judicial process, rather than as a means to achieve substantive justice. Law enforcement authorities particularly at the investigation and prosecution stages often regard the imposition of punishment as the primary indicator of successful law enforcement, thereby leaving limited space for dialogue, restoration, and social reconciliation.

The dominance of this retributive paradigm indicates that justice continues to be perceived primarily as a state-centered response to norm violations, rather than as a conflict-resolution process involving multiple stakeholders. This perspective marginalizes victims, whose interests are frequently reduced to evidentiary instruments within judicial proceedings. The social relationships damaged by criminal conduct likewise receive minimal attention, as the system is predominantly focused on determining guilt and imposing sanctions. In this respect, retributive justice theory contributes to the structural legitimacy of conventional punishment, while simultaneously revealing its limitations in responding to the increasingly complex demands of justice in modern society.

From a utilitarian perspective, the predominance of a retributive approach generates significant concerns regarding efficiency within the criminal justice system. The results show that the strong focus on punishment contributes to excessive workloads for law enforcement agencies, case backlogs, and an increasing number of offenders sentenced to imprisonment. These conditions directly exacerbate prison overcrowding, which in turn gives rise to humanitarian concerns, increased state expenditures, and diminished effectiveness of offender rehabilitation. Viewed through a utilitarian lens, this situation indicates that the existing punishment system has failed to produce optimal social benefits, either in terms of crime prevention or the restoration of social order.

Utilitarian theory emphasizes that punishment should be directed toward achieving the greatest benefit for society, including crime prevention, efficient resource allocation, and the minimization of negative consequences associated with criminal justice processes. However, the findings of this study demonstrate that a strong retributive orientation hinders the realization of these objectives. Criminal cases that could otherwise be resolved through swift and restorative mechanisms continue to be processed through lengthy and costly formal litigation procedures. As a result, the criminal justice system loses flexibility and rationality, and fails to adapt to the characteristics of individual cases and the needs of the parties involved.

In contrast to retributive and utilitarian perspectives, restorative justice theory views the conditions identified in this study as reflecting a systemic failure to realize broader sentencing objectives, particularly balance and restoration. Restorative justice conceptualizes crime as a social event that produces multidimensional harm, such that its resolution cannot be reduced to the mere imposition of punishment (Aksamitowska, 2022). From this perspective, punishment oriented exclusively toward retribution is not only insufficient but also potentially exacerbates social harm by neglecting victims' needs and foreclosing opportunities for repairing disrupted social relationships. As emphasized in restorative justice scholarship, meaningful justice must be capable of restoring balance among offenders, victims, and the community simultaneously.

The study also reveals a significant gap between regulatory developments in restorative justice and their implementation within the Indonesian criminal justice system. Normatively, the state has demonstrated a commitment to accommodating restorative approaches through various sectoral regulations that permit the termination of investigations or prosecutions in certain minor or specific criminal cases. These regulatory developments reflect an acknowledgment that not all criminal cases should be resolved through formal court processes. However, the findings indicate that such normative progress has not been accompanied by adequate integration within criminal procedural law as the systemic framework governing the entire judicial process.

The absence of systemic integration has resulted in selective and inconsistent restorative justice practices. The application of restorative justice is heavily dependent on the discretion and individual preferences of law enforcement officials, thereby creating disparities in treatment across cases and regions (haq, 2023). From a retributive theoretical standpoint, this condition reflects the persistence of the view that restorative justice constitutes an exceptional deviation from conventional punishment mechanisms, rather than an integral principle of the criminal justice system. Restorative justice is accordingly perceived as a pragmatic compromise applicable to limited cases, rather than as a normatively equivalent principle of justice.

From a utilitarian perspective, this fragmented regulatory framework prevents the potential efficiency benefits of restorative justice from being fully realized. The inconsistent application of restorative mechanisms means that the criminal justice system continues to be burdened by cases that could otherwise be resolved outside the courtroom (Taylor Trip Finitiy et al., 2025). Moreover, the absence of clear procedural guidelines risks creating legal uncertainty, which in turn undermines the effectiveness and legitimacy of the law enforcement system as a whole. Consequently, the utilitarian potential of restorative justice cannot be maximized without the support of an integrated legal structure.

Meanwhile, restorative justice theory assesses such regulatory fragmentation as an obstacle to achieving consistent and sustainable restoration for victims and communities. Restorative justice requires clearly articulated principles, procedures, and standards to ensure that restoration processes are

conducted fairly and free from manipulation. When applied in an ad hoc manner and heavily reliant on discretion, the core objectives of restorative justice namely harm restoration, acknowledgment of responsibility, and social relationship reconstruction become difficult to achieve. Victims may experience uncertainty, while offenders may not consistently undergo meaningful accountability processes.

Taken together, these findings underscore that the gap between normative regulation and practical implementation constitutes a key barrier to realizing a more balanced justice model within the Indonesian criminal justice system. The existence of restorative justice regulations without systemic integration generates internal contradictions within the criminal justice framework. On the one hand, the state acknowledges the importance of restoration and efficiency; on the other hand, criminal procedural structures continue to uphold punishment-oriented approaches as the dominant paradigm. This condition reflects the absence of a paradigmatic reconstruction of the principle of justice within the Indonesian criminal law system. Conceptually, the findings of this study reinforce the argument that criminal law reform cannot be undertaken in a partial or sectoral manner. A paradigmatic shift in sentencing requires the alignment of normative objectives, procedural frameworks, and institutional practices. Without a reconstruction of justice principles that coherently integrates retributive, utilitarian, and restorative approaches within a single systemic framework, the criminal justice system will continue to experience internal tensions that hinder the realization of substantive justice. Accordingly, this study affirms that the integration of restorative justice is not merely a technical or policy-related issue, but a fundamental question concerning the direction and meaning of justice within the Indonesian criminal justice system.

The findings directly address the central research question concerning how justice principles within the Indonesian criminal justice system can be reconstructed to proportionally integrate restorative approaches. The analysis demonstrates that such reconstruction cannot be achieved through the total replacement of retributive principles. Instead, it necessitates the development of a hybrid model that combines retributive, restorative, and utilitarian elements. Retributive justice remains essential for safeguarding legal legitimacy and protecting public interests; restorative justice serves to facilitate victim recovery and constructive conflict resolution; while utilitarian considerations ensure efficiency and crime prevention (Benavides, 2023). This integrated model offers a more balanced and functional conception of justice than approaches grounded in a single theoretical paradigm.

The hybrid model proves particularly effective in the context of minor criminal offenses and specific crimes that do not generate extensive social harm. The findings reveal that restorative justice implementation in such cases enhances victim satisfaction by providing participatory space and acknowledgment of harm. Moreover, restorative case resolution accelerates case handling and reduces burdens on law enforcement agencies, thereby aligning with utilitarian objectives related to procedural efficiency and resource optimization. From a restorative justice perspective, these outcomes reaffirm that dialogue-based processes and consensual agreements between offenders and victims are capable of producing more meaningful justice than punitive outcomes alone (Taqiuddin & Risdiana, 2022).

The findings further confirm the achievement of the study's research objectives, namely analyzing the justice principles underlying the Indonesian criminal justice system, evaluating the role of restorative justice, and formulating directions for regulatory reform. The analysis demonstrates that sentencing objectives introduced by recent legislation have not yet been fully reflected in criminal procedural law or judicial practice. Consequently, reconstructing justice principles must focus on harmonizing sentencing objectives with procedural mechanisms. From a retributive standpoint, such harmonization preserves legal certainty; from a restorative perspective, it expands opportunities for victim recovery; and from a utilitarian standpoint, it enhances system rationality and functional effectiveness.

From a theoretical perspective, this study contributes to sentencing theory by advancing a hybrid model as an alternative to the long-standing dichotomy between retributive and restorative justice. The findings indicate that integrating the three theories enables the development of a justice framework that is more contextual and adaptive to societal needs in Indonesia. Unlike single-theory approaches, the

hybrid model concurrently accommodates the interests of the state, victims, and offenders, thereby broadening the analytical scope of justice theory in criminal law.

Academically, this research offers a structured analytical framework that can be employed in future studies on criminal law and criminal procedural law reform. Employing three theoretical perspectives as the analytical foundation allows the study not only to explain legal phenomena, but also to construct systematic normative solutions. This framework is replicable and may be further developed in comparative research across jurisdictions with similar legal system characteristics, thereby enriching scholarly literature in criminal law and criminal justice policy.

Practically, the findings provide valuable guidance for policymakers and law enforcement authorities in designing and implementing more consistent restorative justice policies. The proposed reconstruction of justice principles may serve as a foundation for revising the Criminal Procedure Code (KUHAP) and formulating binding and standardized national restorative justice guidelines. The hybrid model also offers operational direction for law enforcement officials in determining which cases are appropriate for restorative resolution without compromising public interests or legal certainty.

The findings further suggest that integrating restorative justice within the criminal justice system has the potential to enhance the legitimacy of judicial institutions. When victims experience tangible restoration and society observes fair and efficient case resolution, public trust in the justice system tends to increase. This aligns with utilitarian theory, which emphasizes the interdependence of system effectiveness and legitimacy, as well as with restorative justice theory, which conceptualizes justice as a social process rather than merely a formal outcome .

Accordingly, this study affirms that the principal challenge facing the Indonesian criminal justice system does not lie in the absence of restorative justice concepts, but rather in the lack of their integration into the foundational principles and procedural structures of criminal law (Tumiwa et al., 2024). The normative–practical gap identified in this research can only be bridged through a comprehensive, theory-based reconstruction of justice principles. The hybrid model integrating retributive, restorative, and utilitarian justice thus constitutes the core novelty of this study, as it offers a realistic, normatively sound, and practically applicable approach.

Taken together, these findings provide both empirical and normative foundations for criminal law regulatory reform in Indonesia. By systematically linking the findings to the research problem, research gap, research questions, and objectives, this article demonstrates that reconstructing justice principles based on a restorative-oriented hybrid approach is not only feasible but necessary to achieve a criminal justice system that is more just, effective, and sustainable.

This discussion situates the study's empirical and normative findings within a broader analytical framework of justice principle reconstruction in the Indonesian criminal justice system. The core issue identified namely the tension between the retributive sentencing paradigm and the demands of restorative justice confirms that Indonesia's criminal justice system is undergoing a phase of normative transition. While restorative justice has gained formal legitimacy through sectoral regulations, retributive principles continue to dominate criminal procedural processes. This study emphasizes that the central problem is not the absence of restorative justice ideas, but the lack of systemic transformation of justice principles within the structure of criminal law (Pérez-Léon-Acevedo, 2022).

When linked to the study's findings, the continued dominance of retributive approaches is reflected in law enforcement tendencies to prioritize punishment as the primary symbol of legal enforcement, even where more proportional and restorative alternatives are available. In this context, restorative justice is often treated as a discretionary instrument rather than a normatively equivalent principle alongside legality and legal certainty. This indicates that sentencing paradigm shifts have not yet been fully internalized within legal culture and institutional practice, rendering partial regulatory reforms insufficient to alter the foundational orientation of the criminal justice system.

The research gap identified in this study becomes increasingly evident when the findings are examined against the existing normative framework. Restorative justice regulations in Indonesia have developed in a sectoral and fragmented manner and have not been integrated into criminal procedural law as a coherent system. As a result, implementation remains fragmented and heavily dependent on

institutional interpretation and internal policies of individual law enforcement agencies. This discussion underscores that the gap is not merely normative in nature, but structural, as criminal procedural law the primary instrument governing the administration of justice has yet to reflect the broader sentencing objectives articulated in recent criminal law policies.

Previous studies have demonstrated that restorative justice tends to be effective in minor criminal cases, particularly in improving victim satisfaction and procedural efficiency. However, such effectiveness has not been accompanied by a reconstruction of justice principles that places victim restoration at the core of the criminal justice system. In this context, the research gap lies in the lack of synchronization between sentencing objectives and procedural mechanisms. This discussion reinforces the argument that without normative integration into criminal procedural law, restorative justice will continue to occupy a peripheral position within the system and will face significant obstacles in evolving into a dominant paradigm.

The discussion of the study's research questions further reveals that the reconstruction of justice principles cannot be achieved merely by introducing new norms or expanding the discretionary powers of law enforcement officials. The findings demonstrate that reconstruction must be directed toward a fundamental reorientation of how justice itself is conceived. Justice in criminal law can no longer be understood solely as proportionality between offense and punishment; rather, it must also encompass the restoration of social relationships, acknowledgment of victims' suffering, and the prevention of recurring conflict. Accordingly, the research questions are resolved through a paradigmatic, rather than merely administrative, conception of legal reconstruction.

Within this framework, the discussion confirms that a hybrid justice model represents the most realistic and contextually appropriate approach for the Indonesian criminal justice system. This model allows retributive principles to remain operative in cases involving serious social harm, while simultaneously expanding the application of restorative justice to cases more proportionally resolved through recovery-oriented mechanisms. Prior empirical findings indicate that such combinations do not undermine the authority of law; on the contrary, they tend to enhance judicial legitimacy, as society experiences justice as more substantive and responsive (Markman, 2025). This discussion emphasizes that such integration must occur at the level of principles and procedures, rather than merely through internal institutional policies.

The research objectives to analyze justice principles, evaluate the role of restorative justice, and formulate directions for criminal law regulatory reform are strongly justified through this discussion. The findings indicate that declarative sentencing objectives embedded in recent regulations have not yet been fully operationalized in procedural law or judicial practice. Therefore, achieving the research objectives necessitates a reformulation of criminal procedural law that positions restorative justice as an integral component of the system rather than as a procedural exception. In this regard, the research objectives are not only analytical but also transformative in nature.

From a theoretical standpoint, the discussion demonstrates that the findings enrich sentencing theory by shifting the focus from the retributive–restorative dichotomy toward an integrative paradigm. This contribution advances contemporary theories of criminal justice by offering a framework that more accurately reflects social complexity. Academically, the study opens avenues for further research linking criminal law reform with multidimensional theories of justice and public policy. The discussion affirms that the hybrid approach is not only practically relevant but also theoretically robust and capable of further development (Al-Rousan, 2023).

The practical benefits of the study are likewise clarified in this discussion. The findings demonstrating the effectiveness of restorative justice in enhancing victim satisfaction and procedural efficiency provide an empirical foundation for policymakers to formulate more progressive regulations. This discussion emphasizes that regulatory reform particularly revisions to the Criminal Procedure Code and the development of binding national restorative justice guidelines should be designed to reduce reliance on imprisonment and strengthen recovery-oriented mechanisms. These benefits accrue not only to victims and offenders, but also to the criminal justice system as a whole through reduced case burdens and increased public trust.

In terms of academic contribution, this discussion highlights that the study offers an analytical framework that is replicable in other jurisdictions facing similar challenges. Integrating the findings into broader academic debates on criminal justice reform enriches discussions on the relationship between justice, effectiveness, and legal legitimacy. Importantly, the academic contribution of this research extends beyond theory by explicitly bridging normative analysis and practical policy recommendations grounded in empirical insights.

Overall, this discussion reaffirms that reconstructing justice principles within the Indonesian criminal justice system constitutes a structural necessity that can no longer be postponed. Previous findings reveal the substantial potential of restorative justice to improve the quality of criminal justice; however, this potential can only be optimized through comprehensive and consistent regulatory reform. By systematically linking the main problem, research gap, research questions, objectives, and contributions, this discussion demonstrates that the hybrid justice model represents the most rational and contextually appropriate solution for reforming Indonesia's criminal justice system.

Through this discussion, the study does not merely describe legal phenomena but offers a measured, principle-based pathway for transformation. Reconstructing justice principles oriented toward restoration, effectiveness, and legal certainty provides a foundation for a criminal justice system that is more adaptive to societal needs. Accordingly, this discussion consolidates the study's contribution as an academic endeavor that is theoretically relevant, academically significant, and practically applicable within the broader agenda of national criminal law reform.

CONCLUSION

This study concludes that the Indonesian criminal justice system remains in a phase of paradigmatic transition, in which retributive justice principles continue to dominate both the normative framework and law enforcement practices, despite formal efforts to strengthen a restorative justice approach. The findings indicate that the tension between sentencing objectives oriented toward retribution and the demand for substantive justice centered on recovery constitutes a fundamental problem affecting the overall effectiveness of the criminal justice system. As reinforced in the discussion, the continued dominance of imprisonment and punitive orientations has not yet aligned with contemporary justice values that place victims, social recovery, and systemic efficiency at the core of criminal justice.

Based on normative analysis supported by complementary empirical insights, this study finds that restorative justice in Indonesia is still positioned as a discretionary and auxiliary mechanism, rather than as an integrated principle within the criminal justice system as a whole. Fragmented regulation through sectoral instruments has resulted in uneven and inconsistent implementation, largely dependent on institutional interpretations by law enforcement agencies. This condition reflects a structural gap between sentencing objectives that have undergone conceptual reform and criminal procedural law, which remains oriented toward the retributive paradigm.

This study further concludes that reconstructing justice principles within the Indonesian criminal justice system cannot be achieved through a substitutive approach that completely replaces conventional punishment. Instead, the findings and discussion demonstrate that an integrative or hybrid model combining retributive, restorative, and utilitarian elements represents the most contextual and realistic approach. Retributive principles remain relevant for ensuring legal certainty and safeguarding public interests; restorative principles emphasize victim restoration and meaningful conflict resolution; while utilitarian principles ensure efficiency and rationality within the criminal justice system.

The findings also indicate that restorative justice is most effective in addressing minor criminal offenses and specific crimes that do not generate broad social impacts. In such contexts, restorative mechanisms enhance victim satisfaction, expedite case resolution, and reduce law enforcement workloads without undermining public perceptions of justice. However, this effectiveness has not yet been accompanied by normative reconstruction at the level of criminal procedural law, thereby limiting the full potential of restorative justice.

Another key conclusion is that regulatory reform, particularly in criminal procedural law, constitutes a fundamental prerequisite for the systemic integration of restorative justice. Without revision of the Criminal Procedure Code (KUHAP) and the adoption of comprehensive and binding national restorative justice guidelines, restorative justice will remain marginal within the system. Accordingly, reconstructing justice principles must be directed toward harmonizing sentencing objectives, substantive justice values, and procedural mechanisms, so that restorative justice is no longer viewed as an exception but as an integral component of the criminal justice system.

Overall, this study concludes that reconstructing justice principles within the Indonesian criminal justice system is a structural and normative necessity that cannot be postponed. The findings demonstrate that a punishment-oriented system alone is no longer adequate to address the complexity of modern crime and societal demands for justice. Integrating restorative justice through a hybrid approach provides a reform pathway capable of balancing the interests of the state, victims, and offenders in a more equitable manner.

Finally, this study affirms that reconstructing justice principles based on restorative approaches and regulatory reform contributes not only to enhancing substantive justice, but also to strengthening the legitimacy and effectiveness of the Indonesian criminal justice system. By consistently linking the findings and discussion, this conclusion positions restorative justice as a crucial foundation for a more just, humane, and sustainable criminal justice system.

RECOMMENDATIONS

The recommendations of this study are formulated on the basis of the conclusion that the Indonesian criminal justice system remains dominated by a retributive paradigm, while restorative justice has yet to be systematically integrated as a foundational principle within national criminal law. Accordingly, the proposed reforms are directed toward reconstructing justice principles in a manner that is not only normative but also operational and sustainable.

First, reform of criminal procedural law is urgently required to ensure that restorative justice attains a status equal to other fundamental principles, such as legality and legal certainty. The integration of restorative justice into the Criminal Procedure Code (KUHAP) should not be designed merely as an alternative mechanism or procedural exception, but as a normatively grounded approach applicable from the earliest stages of the criminal justice process. Through such reform, criminal procedure can more accurately reflect comprehensive sentencing objectives namely punishment, recovery, and proportional conflict resolution.

Second, the current fragmentation of restorative justice regulation across multiple sectoral instruments should be addressed through the formulation of integrated, cross-institutional national restorative justice guidelines. Such guidelines are essential to ensure consistency of application, clarify institutional authority, and provide legal certainty for both victims and offenders. As demonstrated by this study, the absence of comprehensive national standards risks perpetuating inconsistent practices and excessive reliance on individual discretion.

Third, beyond regulatory reform, this study recommends strengthening the capacity and normative orientation of law enforcement officials to internalize restorative justice values in everyday practice. Paradigmatic transformation cannot be achieved solely through changes in written law; it also requires a shift in how justice itself is understood. Continuous education and training emphasizing victim restoration, dialogue, and constructive conflict resolution should be embedded within law enforcement capacity-building systems. As indicated in the conclusions, the success of restorative justice is closely linked to a supportive legal culture.

Fourth, the protection of victims' rights and interests must be placed at the center of restorative justice mechanisms. This study emphasizes that restorative justice can only function legitimately when victims are meaningfully involved and protected from coercion. Regulations and practices must ensure that victims' consent is voluntary, well-informed, and followed by recovery mechanisms that are genuinely responsive to their needs directly addressing the shortcomings of conventional punitive systems highlighted in this research.

From an academic development perspective, this study recommends that future criminal justice research focus on advancing hybrid justice models that balance retributive, restorative, and utilitarian elements. As demonstrated in the conclusions, such models represent the most realistic option within Indonesia's legal context, which continues to require legal certainty while expanding recovery-oriented approaches. Further empirical and comparative studies are necessary to test the effectiveness of hybrid models and to strengthen the theoretical foundations of criminal law reform.

Overall, these recommendations reaffirm that reconstructing justice principles within the Indonesian criminal justice system requires synergy among regulatory reform, institutional strengthening, and legal cultural transformation. Restorative justice, as emphasized throughout this study, should not be treated merely as an alternative instrument, but recognized as a fundamental principle that enriches the criminal justice system. Through consistent and integrated reform measures, the Indonesian criminal justice system is expected to move toward a more substantive, humane, and socially sustainable conception of justice..

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