



Restorative Justice in Indonesia as a Modern Transformation of the Judicial Paradigm

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ABSTRACT

When criminal law is no longer merely a means of punishment, restorative justice emerges, shifting the justice system from retribution towards the restoration of dignity, accountability and social relationships. This study aims to analyse restorative justice in Indonesia as a paradigm shift in the modern judicial system, positioning it not merely as an alternative dispute resolution mechanism, but as a fundamental change in the orientation of the criminal justice system. The study employs a qualitative approach with a legal-normative design enriched by socio-legal analysis. The findings indicate that the implementation of restorative justice in Indonesia reflects a shift from the paradigm of the punitive state towards that of the restorative state. However, this transformation remains in a transitional phase due to regulatory fragmentation, institutional disharmony, inconsistent restoration standards, and the lack of integration of victim protection, offender accountability, and legal pluralism into a single systemic framework. This study emphasises that restorative justice must be understood as a paradigm for judicial reform that reconstructs the relationship between the state, society and the law, moving towards a more humanistic, participatory and accountable form of substantive justice.

A. Introduction

The development of the modern criminal justice system reveals a shift in orientation from a retributive approach, which regards punishment as the primary response to criminal offences, towards an approach that places greater emphasis on restoration, the participation of all parties, the offender's accountability, and a more substantive resolution of conflicts. The retributive paradigm essentially provides certainty regarding the form of criminal accountability (Faisal et al., 2024). However, in practice, it has not always been able to address victims' needs, restore disrupted social relationships, or resolve the root causes of the conflict that underlies the commission of the offence.

A judicial process that is overly focused on proving guilt and imposing criminal penalties also risks reducing victims to mere participants in the evidential process, whilst the interests of redressing harm, addressing emotional needs, and rebuilding social relationships are not always central to the resolution of cases (Ibrahim et al., 2025). In this context, restorative justice has emerged as an approach that offers a fundamental shift in how the justice system understands criminal offences: not merely as violations against the state and legal norms, but also as events that cause harm to victims, the community, and social relationships, requiring proportionate restoration.

In Indonesia, the development of restorative justice demonstrates a strengthening of both normative and institutional frameworks through various policies at the levels of the police, the public prosecutor's office, and the judiciary (Wibowo et al., 2024). Regulation of the Indonesian National Police No. 8 of 2021, Regulation of the Attorney General No. 15 of 2020, and various judicial guidelines demonstrate that the restorative approach has an increasingly significant role within the law enforcement system.

On the one hand, these developments indicate a shift in orientation from law enforcement that is solely focused on punishment towards resolutions that take into account the interests of victims, the responsibility of perpetrators, reconciliation, and social balance. However, on the other hand, regulatory developments arising from the sectoral policies of individual institutions also give rise to conceptual and implementation issues, particularly regarding differences in requirements, limits of authority, procedures, measures of success, and the orientation of the application of restorative justice at each stage of the criminal process (Widyawati et al., 2025). These conditions indicate that the regulatory strengthening of restorative justice has not, in itself, resulted in a unified paradigm within the criminal justice system.

Previous studies have made significant contributions to the explanation of restorative justice in Indonesia, but most still confine their analysis to a narrow scope. Several studies have focused on the application of restorative justice by the police, the discontinuation of prosecutions by the public prosecutor's office, the resolution of juvenile cases, victim protection, the effectiveness of reconciliation, or its contribution to reducing the caseload and the prison population (Suyahman et al., 2025; Yeager & Chappelle, 2022). Other studies have tended to provide a normative analysis of the existing regulatory framework or to test the effectiveness of applying restorative justice to specific types of cases and institutions (Apituley et al., 2025; Nur et al., 2025; Widjajanto et al., 2025). This trend has led to restorative justice being more frequently understood as an alternative instrument for discontinuing or resolving specific cases rather than as a structural shift in the way the criminal justice system defines justice, accountability, the position of victims, the function of punishment, and the relationship between the state and the parties involved in criminal offences.

The research gap in this study is the lack of a comprehensive analysis of whether the development of restorative justice in Indonesia has genuinely brought about a paradigm shift in the justice system or remains limited to fragmented policies and institutional case-resolution mechanisms. Previous studies have generally measured success through the achievement of reconciliation, the discontinuation of cases, or the efficiency of case handling (Palimai et al.,

2026; Wibowo et al., 2024). However, they have not adequately examined the consistency between restorative objectives and regulatory design, the distribution of authority amongst agencies, the position of victims in decision-making, the quality of the offender's accountability, and the sustainability of recovery once a case has been declared concluded.

There have been few studies that have questioned whether the use of restorative justice terminology in various regulations reflects conceptual consistency or, conversely, results in variations in interpretation that could potentially lead to disparities in application (Faisal et al., 2024; Hamzani et al., 2026). Another gap lies in the limited number of studies that examine restorative justice simultaneously from both normative and socio-legal dimensions. Consequently, the relationship between the law as formulated in regulations and the law as implemented by law enforcement agencies has not yet been comprehensively depicted. Yet, without an analysis of this relationship, restorative justice risks being reduced to merely an administrative mechanism for resolving cases without any fundamental change to the orientation of justice and sentencing.

This study positions restorative justice as a subject of study that is broader than merely an alternative means of resolving criminal cases. Restorative justice is analysed as part of the process of transforming the justice system through the interplay among the construction of norms, institutional policies, sentencing orientation, victim protection, offender accountability, community participation, and the goal of restoration. A juridical-normative approach, enriched by socio-legal analysis, is employed to assess not only the consistency and adequacy of the regulatory framework, but also its relevance to institutional practice and the substantive objectives of restorative justice.

This study aims to analyse the legal framework and implementation of restorative justice in Indonesia, and to explain the extent to which its development represents a paradigm shift in the modern judicial system from a retributive orientation towards a system that is more humane, participatory, accountable, and recovery-oriented. This study also aims to identify inconsistencies among norms, institutional policies, and the practice of applying restorative justice, thereby enabling the formulation of a case for conceptual and institutional harmonisation within the criminal justice system. Academically, this study is important for expanding the study of restorative justice from a sectoral approach towards a systemic analysis of changes in the judicial paradigm, whilst, in practical terms, the study's findings are expected to serve as an evaluative basis for strengthening regulations, synchronising policies amongst law enforcement agencies, enhancing victim protection, and establishing mechanisms for the implementation of restorative justice that are not only procedurally effective but also consistent with the objectives of substantive justice.

B. Method

This study employs a qualitative approach with a juridical-normative design, enriched by socio-legal analysis, as the paradigm shift towards restorative justice requires not only an examination of legal norms but also an analysis of institutional implementation and law enforcement practices. The study focuses on the legal construction of restorative justice, the shift in the criminal justice paradigm from retributive to restorative, and the alignment among regulations, victim protection, offender accountability, stakeholder participation, and the effectiveness of its implementation. In operational terms, restorative justice is understood as a mechanism for resolving criminal cases that prioritises the redress of victims' losses, the accountability of offenders, voluntary participation, and the restoration of social relationships without disregarding legal accountability. The subjects of the study were selected through purposive sampling. They included legislation, rulings, and policies of law enforcement agencies; academic literature; and key informants, including law enforcement officials, academics, and practitioners with expertise in restorative justice.

The research instruments comprised document review guidelines and semi-structured interview guidelines, developed based on conceptual indicators of restorative justice, sentencing paradigms, victim protection, and institutional effectiveness. Data validity was ensured through source triangulation, methodological triangulation, checks for consistency between data sets, and critical interpretation of the alignment between norms and practice. Data collection was carried out in stages through the inventory and selection of documents, a literature review, content analysis of regulations and policies, and in-depth information gathering via interviews where necessary (Bakhouch & Benbba, 2025). Subsequently, the data were analysed using qualitative content analysis and critical legal interpretation through the stages of data reduction, thematic categorisation, conceptual interpretation, and the drawing of conclusions through argumentation, thereby providing a comprehensive explanation of the transformation of the criminal justice paradigm in Indonesia towards a system that is more humane, participatory, and oriented towards substantive justice.

C. Results and Discussion

1. Restorative Justice as a Shift from a Punitive State to a Restorative State

Restorative justice is, in essence, not merely an alternative mechanism for resolving criminal cases, but represents a paradigm shift in the way the state understands the function of criminal law, the purpose of punishment, and the relationship between the state, the offender, the victim and society (Malazoniia, 2025). In the classical paradigm, which developed through retributive thinking, criminal acts are viewed as violations of the state's authority. Consequently, the primary response is to punish as a form of legitimate retribution. As a result, the state becomes the dominant actor, taking control of the conflict from the parties involved, whilst victims are more often treated as evidence rather than as individuals with a stake in redress.

Such a model produces a justice system that emphasises formal legal certainty, but is not always capable of restoring victims' losses, repairing social relationships, or preventing recurring conflicts. Criticism of this approach has become widespread in modern criminological literature, which argues that the effectiveness of the justice system should be measured not solely by its success in punishing offenders but also by its ability to restore losses, repair social relationships, and rebuild public trust in the law.

This shift in orientation has led to the emergence of the restorative justice paradigm, which has developed rapidly since the 1970s through the work of Howard Zehr, John Braithwaite, Tony Marshall, Daniel Van Ness, and Gerry Johnstone (Li & You, 2025; Liu & Yu, 2026). From this perspective, criminal offences are understood as social conflicts that harm individuals, communities, and the fabric of social relations. Consequently, their resolution cannot be achieved through punishment alone, but must be directed towards restoration. Howard Zehr emphasises that the primary focus of restorative justice is to redress the harm caused by criminal offences through the involvement of victims, offenders and the community in a fair resolution process.

Braithwaite subsequently developed the concept of 'reintegrative shaming', which positions the offender's accountability as a means of social reintegration, rather than mere stigmatisation. Meanwhile, Tony Marshall defines restorative justice as a process that brings together all stakeholders to jointly determine the best resolution to the consequences of a criminal offence (Marshall, 2020). Taken as a whole, these ideas demonstrate that the change offered by restorative justice is not the abolition of the state's role. Rather, it is the repositioning of the state from a punitive actor to a facilitator of recovery, ensuring a balance is struck between the interests of the victim, the offender and the community.

This transformation has also gained legitimacy within the development of international law. The United Nations, through the United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, positions restorative justice as part of

the reform of the modern criminal justice system, which is oriented towards restoration, voluntary participation and the protection of human rights. Various countries have subsequently integrated these principles into their legal systems through different approaches tailored to their respective characteristics. New Zealand has adopted the family group conference as the primary mechanism for resolving juvenile cases, involving families and the community in the decision-making process.

Canada has developed 'sentencing circles' that reflect the values of indigenous communities in resolving criminal cases (Boucher, 2026). Norway and Finland have strengthened criminal mediation as a state-supported instrument for conflict resolution, whilst Belgium and the Netherlands have developed victim-offender mediation integrated into the judicial process (Gao & Petrova, 2022). This comparison demonstrates that the successful implementation of restorative justice in various countries is determined not only by the existence of regulations but primarily by a unified institutional paradigm that prioritises restoration as the criminal justice system's primary objective.

In the Indonesian context, developments in restorative justice indicate a significant policy shift, marked by the introduction of the Attorney General's Regulation No. 15 of 2020, the Police Regulation No. 8 of 2021, and various Supreme Court guidelines on its application. The existence of these regulations demonstrates the state's recognition that the resolution of criminal cases need not always culminate in a sentencing process. The state is beginning to create scope for discontinuing cases based on reconciliation, compensation for victims' losses, the perpetrator's accountability, and consideration of the public interest.

From a policy perspective, this situation indicates a shift in orientation from a state that solely performs coercive functions towards one that is beginning to integrate restorative functions into the administration of the criminal justice system (Zhang, 2026). Nevertheless, this transformation does not yet fully reflect the paradigm shift articulated in modern restorative justice theory. Various regulations concerning restorative justice in Indonesia are still developing on a sectoral basis in accordance with the respective authorities of law enforcement institutions, resulting in variations in requirements, success indicators, the scope of cases, and implementation procedures (Wibowo et al., 2024).

This situation indicates that administrative instruments for case resolution have developed first, whilst a unified paradigm regarding the objectives of punishment, the position of victims, the forms of offender accountability, and the measures of restorative success has not yet been fully integrated. In other words, the state has indeed begun to reduce the dominance of the punitive approach. Still, it has not yet fully established a comprehensive restorative system as practised in various countries that have developed restorative justice more maturely.

This finding also highlights a fundamental difference between the application of restorative justice as a legal procedure and restorative justice as a transformation of the judicial paradigm. At the procedural level, success is often measured by the achievement of reconciliation, the termination of investigations or prosecutions, or a reduction in the caseload. However, at the paradigmatic level, measures of success should encompass the extent to which victims receive tangible redress, offenders fulfil their responsibilities voluntarily and sustainably, the community is involved in the reconciliation process, and disrupted social relationships are restored.

The shift from a punitive state to a restorative state is a process of institutional and conceptual transformation that is far more complex than a mere change in case-resolution mechanisms. A restorative state retains the authority to enforce the law. Still, this authority is exercised by prioritising victims' restoration, perpetrators' accountability, community participation and the reconstruction of social relationships as the primary objectives of law enforcement.

Indonesia has entered a transitional phase towards this paradigm through strengthened regulations and a shift in policy orientation. However, this transformation still faces challenges, including fragmented regulations, a lack of harmonisation of concepts across agencies, and the absence of uniform recovery indicators to measure the success of restorative justice implementation. Therefore, strengthening restorative justice in the future cannot be achieved simply by adding more regulations. Rather, it requires conceptual harmonisation, institutional synchronisation, and a shift in the orientation of law enforcement so that the criminal justice system truly moves from a logic of punishment towards a logic of recovery that embodies substantive justice.

2. Restorative Justice as a Tug-of-War Between the Humanisation of the Law and the Danger of Abuse of Power

The transformation from a punitive state to a restorative state cannot be understood as a change that brings only positive consequences, such as increased scope for dialogue, victim restoration and a more humane resolution of cases. At the same time, this paradigm shift also creates a tug-of-war between the need to humanise the law and the state's obligation to ensure accountability in the exercise of public authority. The greater the scope of discretion granted to law enforcement officials in determining whether a case is suitable for resolution through restorative justice mechanisms, the greater the potential for issues with the consistency of application, the transparency of decision-making, and the possibility of abuse of authority.

In the development of contemporary legal theory, the humanisation of the law is a response to the limitations of the legalistic paradigm, which places too much emphasis on legal certainty as the primary objective of the administration of justice. Satjipto Rahardjo, through his concept of progressive law, emphasises that the law is, in essence, there for people (Amelia, 2023). Therefore, the application of the law must not become trapped in proceduralism that disregards a sense of justice. This idea has strong parallels with Howard Zehr's thinking on restorative justice, which holds that the severity of the sentence imposed does not measure the success of case resolution, but rather by the legal system's ability to redress the harm suffered by victims, foster accountability on the part of the perpetrator, and restore disrupted social relationships (Zebel et al., 2017).

From a broader perspective, Martha Minow (2024) also explains that restorative practices represent a transformation in the way the state responds to conflict through dialogue and reconciliation, without undermining the state's obligation to protect the public interest. However, the expansion of the restorative approach has also faced considerable criticism in the international literature. Andrew Ashworth (2002) points out that the expansion of discretion beyond formal judicial mechanisms can undermine legal certainty if clear standards regarding conditions, procedures and oversight do not accompany it.

Nicola Lacey (2025) adds that flexibility within the justice system is indeed necessary to achieve substantive justice, but flexibility that is not balanced by accountability mechanisms risks resulting in disparities in the treatment of cases with similar characteristics. These criticisms are all the more relevant in the context of countries currently reforming their criminal justice systems, as the success of restorative justice depends heavily on institutional integrity, the quality of governance, and the state's ability to limit the use of discretion so that it does not become a space for power negotiations that disregard the principle of equality before the law.

Comparative experiences across countries show that strengthening institutional oversight mechanisms is always associated with the success of restorative justice. New Zealand, for example, has established a family group conference system through standardised procedures, subject to court supervision and the active involvement of victims, ensuring that restorative decisions remain within a framework that protects the rights of all parties. Canada has developed sentencing circles that incorporate the principles of voluntary consent,

community representation, and judicial oversight of the outcomes of agreements (Boucher, 2026).

In Norway and Finland, criminal mediation is carried out by bodies that possess administrative independence and are subject to national standards on victim protection, confidentiality, and the evaluation of case-resolution outcomes. These experiences demonstrate that countries which have successfully implemented restorative justice are not those that grant unlimited discretion to law enforcement officials, but rather those that balance the flexibility of case resolution with a robust, transparent and accountable oversight system.

In the Indonesian context, this dynamic is evident in the development of various regulations granting authority to the police, the public prosecutor's office and the judiciary to apply restorative justice in accordance with the specific nature of their respective powers (Widiartana et al., 2025). From a legal reform perspective, this development represents progress, as the state is beginning to recognise that not all cases need to be resolved through punishment. However, this expansion of powers has not yet been fully accompanied by the harmonisation of concepts regarding indicators of successful restoration, parameters of the public interest, measures to balance the rights of victims and offenders, or standards for evaluating decisions to discontinue cases. Consequently, the scope for discretion intended to realise substantive justice has the potential to result in variations in application across regions and between institutions that are difficult to explain solely based on the characteristics of the case.

This situation demonstrates that the main challenge in implementing restorative justice in Indonesia does not lie in the absence of regulations, but rather in the lack of a governance framework capable of ensuring that the exercise of discretion remains within the bounds of accountability, transparency, and the protection of all parties' rights. This issue also makes it clear that the abuse of authority in the application of restorative justice does not always take the form of unlawful acts of a corrupt nature, but can manifest as inconsistent use of discretion, reconciliation built upon unequal power relations, pressure on victims to accept a particular settlement, or a lack of transparency regarding the reasons for the discontinuation of a case.

From the perspective of good governance theory, such conditions reflect an 'accountability deficit', a situation where public authority expands more rapidly than the mechanisms for overseeing its exercise. If this situation is allowed to persist, restorative justice risks diminishing in significance, shifting from an instrument of redress to an administrative tool that opens the door to case resolutions without adequate scrutiny of whether victims' rights and the public interest have been upheld.

The humanisation of the law and state accountability are not two conflicting concepts but rather two prerequisites that must operate simultaneously to realise restorative justice as a paradigm of modern justice. The state is no longer positioned as a punitive authority acting repressively. Still, it should not become a state that leaves the resolution of cases entirely to officials' discretion without oversight. The transformation towards a restorative state can only be deemed successful if restorative mechanisms are implemented in accordance with uniform legal standards, transparent processes, genuinely voluntary participation, effective protection for victims, independent oversight, and measurable evaluation of restoration outcomes. Thus, restorative justice is not understood as undermining the state's authority, but rather as a reconstruction of how the state exercises its powers more humanely, without sacrificing legal certainty, equality before the law, and accountability in the administration of criminal justice.

3. Restorative Justice as the New Face of Legal Pluralism in Indonesia

Restorative justice, as the new face of legal pluralism in Indonesia, demonstrates that the transformation of the justice system is occurring not only through a shift in focus from punishment to restoration, but also through a change in how the state understands the coexistence of multiple normative systems within society. From the perspective of legal

pluralism, law is not merely produced by the state through legislation but also exists within customary norms, communal values, social practices, and dispute-resolution mechanisms that derive their legitimacy from the community (Hariri & Babussalam, 2024).

This conception aligns with John Griffiths's (1986) thinking on legal pluralism, which rejects the notion that the state is the sole source of legal order. Eugen Ehrlich (1922), through his concept of 'living law', also positions law that is truly alive within social relations as a key element in understanding how the law functions. In the Indonesian context, this perspective holds particular relevance because the national legal system has developed amidst the diversity of indigenous communities, local traditions, and conflict resolution practices which, historically, have long recognised consultation, reconciliation, compensation, restoration of relationships, and social reintegration, long before the terminology of 'restorative justice' found its place in modern criminal law (Maulana et al., 2025).

Recognition of this plurality does not lie entirely outside the framework of state law. The Indonesian Constitution provides the basis for the recognition and respect of the unity of customary law communities and their traditional rights, provided they meet constitutional requirements, whilst developments in national criminal law also demonstrate a growing focus on the law as it is lived in society. The national Criminal Code, through Law No. 1 of 2023, which has been in force since 2 January 2026, forms part of the effort to shape national criminal law based on Pancasila and the 1945 Constitution, whilst replacing the previous colonial framework.

This development is significant as it opens up a theoretical space for interpreting restorative justice not merely as the adoption of a global concept, but as a meeting point between the reform of national criminal law and the traditions of conflict resolution that have evolved within various communities across Indonesia. Within this framework, the legal pluralism relevant to restorative justice is not a pluralism that allows various legal systems to operate in isolation from one another. What is required, rather, is 'regulated legal pluralism' – a model of relationship in which the state recognises communities' capacity to resolve conflicts based on local values, whilst still providing normative boundaries to ensure voluntariness, equality of the parties, victim protection, the prohibition of discrimination, and accountability.

The New Zealand experience provides an important example of how legal pluralism can be reconciled with formal judicial mechanisms (Hamzani et al., 2026). The family group conference system involves families or *whānau*, relevant agencies, and interested parties in seeking a resolution to cases involving children. New Zealand's juvenile justice policy also explicitly positions the involvement of families, communities, and Māori as a vital part of addressing offences committed by children, whilst maintaining the link between these mechanisms and the state justice system. Indeed, restorative justice services for general criminal cases are delivered through facilitated conferences that enable victims, offenders, supporters and other approved parties to discuss harm and devise restorative measures before sentencing. The New Zealand model demonstrates that the integration of communitarian traditions into state law need not be achieved through standardisation, but rather through the establishment of institutional bridges that accommodate local values whilst maintaining procedural safeguards.

Canada offers a different yet equally relevant model. The practices of sentencing circles, healing circles and various community-based mechanisms have developed primarily within the context of Indigenous legal traditions. The Canadian government itself acknowledges that these approaches cannot be applied through a single formula, as First Nations, Inuit and Métis peoples have distinct traditions and conceptions of justice. Canada's Indigenous Justice Strategy, published in 2025, even positions the revitalisation of Indigenous law and legal systems, self-determination, and the transformation of the justice system as part of a broader reform agenda. Canada's experience demonstrates that legal pluralism cannot be adequately realised through the mere symbolic recognition of Indigenous traditions

(McKerracher, 2023). The state must recognise that communities possess their own normative capacity, whilst ensuring a clear relationship between community-based mechanisms and the national legal system.

These comparative lessons are important for Indonesia, as its social and legal structures are even more complex. The diversity of Indigenous communities in Indonesia gives rise to a variety of conflict resolution mechanisms. It is therefore inappropriate to standardise restorative justice into a single, entirely uniform procedure. Excessive procedural uniformity may actually strip the process of restoration of its social character, whilst excessive decentralisation may give rise to uncertainty and inequalities in legal protection. Therefore, a balance must be struck by recognising a plurality of mechanisms underpinned by the same substantive standards. These standards do not primarily concern the form of the forum used, but rather the principles that must be fulfilled, such as voluntary participation, acknowledgement of harm, accountability of the perpetrator, restoration for the victim, protection of vulnerable groups, proportionality, and the possibility of oversight by state institutions.

A comparison with developments in Europe also shows that restorative justice need not always be linked to the existence of customary law. The Council of Europe, through Recommendation CM/Rec(2018)8, positions restorative justice as part of the criminal justice system, to be utilised in accordance with structured principles and safeguards for the parties involved. The European model has developed primarily through victim-offender mediation and restorative programmes operating within the framework of formal institutions (Romero-Seseña, 2025). This differs from New Zealand and Canada, which have stronger links to Indigenous traditions. These differences demonstrate that there is no single universal form of restorative justice. It is the underlying principles that are universal, whilst the institutional forms can be adapted to the social structures and legal traditions of each country. UNODC also notes the diverse forms of restorative programmes, including victim-offender mediation and community-involvement mechanisms, and acknowledges the historical links between certain restorative practices and Indigenous traditions.

From this perspective, Indonesia's position has its own distinct character. Indonesia need not replicate the New Zealand, Canadian or European models in their entirety, as the tradition of deliberation and community-based dispute resolution mechanisms is already integral to its social fabric. The challenge, rather, lies in how to transform this diversity into an integral part of the modern justice system without romanticising customary law as a relic of the past and without subjecting it entirely to the logic of state bureaucracy. It is here that restorative justice can serve as an institutional bridge between state law and the law that lives within society. Through such a framework, the state does not lose its authority to enforce the law. Still, it recognises that the administration of justice need not always proceed vertically from state institutions to citizens.

In certain cases, justice can be built horizontally through dialogue between the parties and the community, and subsequently gain legitimacy and protection through the state's legal framework (Khuchua, 2024). However, recognition of this pluralism must be clearly distinguished from legal relativism. Not all local practices can be accepted simply because they have gained community legitimacy. Practices that involve discrimination, coercion, the subordination of women or vulnerable groups, the denial of victims' rights, or forms of dispute resolution that contravene human rights still require state intervention. Canada's experience demonstrates the importance of an approach that does not assume a single Indigenous model is suitable for all communities (McMahon et al., 2024). Even the Canadian government acknowledges that 'sentencing circles', whilst appropriate in certain contexts, are not necessarily suitable for the traditions of other Indigenous communities. This serves as an important lesson for Indonesia: the recognition of customary law must take into account the

distinct character of each community. It must not be allowed to devolve into a new form of standardisation carried out in the name of custom.

This comparative analysis reveals at least three patterns of relationship between legal pluralism and restorative justice. New Zealand exemplifies an integrative pattern in which community and *whānau* values are embedded within formal judicial mechanisms. Canada demonstrates a recognitive-transformational pattern, where the state not only accommodates Indigenous practices but also begins to create space for the revitalisation of Indigenous law. Meanwhile, various European countries more closely reflect an institutional pattern in which restorative values are applied within the formal legal system, with little reliance on customary law (Ismail et al., 2023). Indonesia has the opportunity to develop a fourth approach, which could be termed 'integrated restorative pluralism', that is the recognition of the diversity of local mechanisms within a national framework concerning rights, accountability and redress.

This framework simultaneously addresses the gaps identified in previous studies. The issue of restorative justice in Indonesia cannot be adequately explained solely through the effectiveness of case dismissal or the respective powers of law enforcement institutions. A more fundamental question is how the national legal system manages the intersection of state law and the normative order within society. If restorative justice is merely treated as a matter of police or prosecutors' discretion, then legal pluralism remains outside the main structure of the judiciary. Conversely, if the law within society is recognised without a framework of accountability and the protection of rights, then pluralism may create new forms of uncertainty and injustice. Therefore, restorative transformation requires a dialogical relationship. State law provides standards of protection and oversight mechanisms, whilst communities provide the social context, local legitimacy and mechanisms for restoration that cannot always be achieved through formal adjudicative processes.

The transformation of restorative justice into a new face of legal pluralism ultimately raises a more fundamental question: how does this change reconstruct the concept of justice within a democratic rule-of-law state? For centuries, modern theories of the rule of law have been built on the assumption that the legitimacy of justice arises through the objective application of positive law by state institutions. This paradigm places judges at the centre of the production of justice, whilst the public is positioned as subjects who receive the outcomes of law enforcement. Consequently, the success of the judicial system is measured primarily by the consistency of the application of legal norms, the certainty of procedures, and the conformity of judgements with statutory provisions. Although this approach has succeeded in establishing the principle of equality before the law and in curbing the arbitrary exercise of state power, developments in modern society demonstrate that formal justice is not always synonymous with substantive justice.

Many rulings meet the requirements of legality but fail to provide redress for victims, repair social relations, or restore public trust in the legal system. This phenomenon indicates that the primary challenge facing the contemporary rule of law is no longer merely to ensure that the law is applied consistently, but rather to ensure that it can produce justice perceived as fair by society. From a legal philosophy perspective, this shift reflects a move from the concept of legal justice towards substantive justice.

John Rawls (1971) explains that justice cannot be understood merely as adherence to procedures, but must be realised through institutional arrangements that result in a fair distribution of rights, duties and benefits. Ronald Dworkin (1982) also emphasises that the application of the law must always take into account the moral principles that are alive within society, so that judges do not merely act as 'mouthpieces for the law', but also as interpreters of the values of justice. Within this framework, restorative justice offers a broader perspective by recognising that justice is achieved not only through judicial rulings but also through a dialogical process that enables victims, offenders and the community to participate in shaping a legitimate resolution.

This shift in the understanding of justice has developed consistently across various modern legal systems. The Supreme Court of Canada, for example, has, through various rulings, emphasised the importance of considering social conditions, reconciliation and the interests of indigenous communities in the criminal justice process (Do & Schertzer, 2024). New Zealand has developed a system that allows the outcomes of family group conferences to be taken into account by the court, so that justice is not produced exclusively by judges but through interaction between the judiciary and the community (Orr et al., 2024). In several European countries, the development of victim-offender mediation also demonstrates that the courts are increasingly functioning as institutions that verify and guarantee procedural justice in relation to restorative agreements reached by the parties, rather than merely as bodies that impose criminal penalties. This comparison shows that the democratisation of the modern judiciary does not diminish the role of the state, but rather transforms how the state establishes the legitimacy of justice through broader public participation.

In the Indonesian context, this shift is highly relevant to the character of the Pancasila-based rule of law (Ulum et al., 2025). Unlike the Continental European tradition of the *Rechtsstaat*, which emphasises the supremacy of formal law, or the Anglo-Saxon rule of law, which is oriented towards limiting state power, the Pancasila-based rule of law integrates legal certainty, justice, public benefit and the value of deliberation as an inseparable whole. Consequently, restorative justice does not, in fact, conflict with the national legal system. Rather, it reinforces the fundamental character of Indonesia's legal state, which prioritises conflict resolution through deliberation, the balance of rights and obligations, respect for human dignity, and the creation of social harmony as integral objectives of the legal system. From this perspective, deliberation is not understood as a compromise on the law, but rather as a constitutional mechanism for achieving a more substantive form of justice, provided it remains within the framework of human rights and the public interest.

This reconstruction of the concept of justice also carries theoretical implications that are far from straightforward. The greater the scope of public participation in determining case outcomes, the more important it is to ensure that the process does not compromise the principle of equality before the law. Justice built through dialogue may lose its legitimacy if there is an imbalance in bargaining power between victims and perpetrators, the dominance of certain groups within the community, or intervention by law enforcement officials who steer the outcome of reconciliation towards administrative interests.

The transformation towards restorative justice is, in fact, not merely a change in the method of case resolution, but an epistemological shift regarding the source of justice's legitimacy in a modern rule-of-law state (Aminah et al., 2024; Karimullah, 2023). Whilst the retributive paradigm views legitimacy as arising from the state's monopoly on the imposition of criminal penalties, the restorative paradigm views legitimacy as arising from a combination of legality, participation, restoration, and accountability. The state remains the primary guarantor of the rule of law. Still, its legitimacy is no longer determined solely by its capacity to punish but also by its capacity to facilitate conflict resolution that restores victims' dignity, fosters accountability among perpetrators, and restores balance to social relations.

The growing development of restorative justice in Indonesia cannot be understood merely as a reform of law enforcement policy, but rather as a process of reconstructing a democratic rule of law that positions the law not merely as an instrument of social control, but also as a means of reconciliation, restoration, and building public trust in the justice system. This finding further strengthens the argument put forward in this study that the transformation of the modern judicial paradigm in Indonesia will only be fully realised if restorative justice is positioned as a principle underpinning the rule of law, rather than merely as an alternative mechanism for resolving cases.

D. Conclusion

Restorative justice in Indonesia has not yet fully represented a paradigm shift in the justice system. Rather, it remains in a transitional phase between the logic of punishment and the logic of restoration, characterised by both normative progress and conceptual and institutional fragmentation. Unlike previous studies, which generally frame restorative justice as an alternative dispute resolution mechanism, this study demonstrates that its primary significance lies in its ability to reconfigure the relationships between the state, victims, offenders, the community, and the living law within society through an orientation towards restoration, participation, accountability, and substantive justice. However, such transformation can only gain legitimacy if the humanisation of the law does not develop into unchecked discretion, legal pluralism does not turn into normative relativism, and peace is not reduced to an administrative indicator of case success.

Theoretically, these findings expand the conception of restorative justice from merely a conflict-resolution procedure to a framework for institutional transformation within a democratic rule of law. In practical and policy terms, the study's findings imply the need for cross-institutional regulatory harmonisation and for national standards on the quality of restitution, victim protection, transparency of decisions, and oversight of the exercise of discretion. The study's limitations lie in its predominantly normative and comparative analysis, meaning it has not yet examined how restorative mechanisms function longitudinally across Indonesia's diverse social and institutional contexts. Therefore, future research needs to develop cross-jurisdictional and cross-community empirical testing to assess whether restorative justice genuinely produces sustainable recovery, reduces recidivism, strengthens public trust, and shapes a model of justice that consistently moves from a punitive state towards a restorative one without compromising the principles of legality, equality and accountability.

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