



## POLICY TOWARDS PERPETRATORS OF MILD CRIMES THROUGH A RESTORATIVE JUSTICE APPROACH

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### Article Info

### ABSTRACT

This research examines the application of restorative justice in handling minor crimes in Indonesia as an alternative to the retributive approach in the criminal justice system. Using a descriptive qualitative method with a juridical-sociological approach, this study includes literature reviews, policy analysis, and interviews with law enforcement officials and minor offenders. The findings indicate that restorative justice contributes positively by accelerating case resolution, reducing recidivism, and restoring social relationships between offenders, victims, and the community. However, its implementation faces challenges such as limited human resources, uneven understanding among officers, and the lack of clear standard operating procedures. The implications of this research emphasize the need for criminal policy reform based on local values and strengthening the capacity of law enforcement officers to implement restorative justice nationwide.

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### 1. INTRODUCTION

Indonesia criminal justice system faces significant challenges, particularly in addressing minor crimes such as petty theft, minor assaults, and property damage. According to data from the Supreme Court in 2023, over 50% of criminal cases involve low-impact offenses, contributing to a significant backlog in the judicial system. The high volume of cases overwhelms legal institutions, slows down legal procedures, and raises concerns about the adequacy of the existing punitive framework. Minor crimes, which often involve small-scale property damage or personal disputes, are treated under a retributive legal system that focuses primarily on punishment rather than rehabilitation. This traditional legal approach can result in prolonged trials, social stigma, and increased recidivism among offenders, disproportionately affecting individuals from lower-middle-class backgrounds. Ironically, the severity of legal consequences imposed on minor offenders often outweighs the actual impact of their offenses, further perpetuating a cycle of criminal behavior.

The challenges posed by this system have prompted a growing call for reform, specifically through the application of restorative justice, which focuses on repairing harm by facilitating dialogue and reconciliation between the offender, the victim, and the community. Restorative justice represents a shift away from punitive measures, emphasizing healing and the restoration of social relationships over punishment. While this approach has been widely discussed in theoretical and philosophical contexts, there is still a significant gap in the literature concerning its practical application in the legal policies for handling minor crimes. The existing body of research primarily addresses the conceptual frameworks and theoretical foundations of restorative justice but has largely overlooked its implementation in the context of national criminal justice policies. Few studies have explored how

restorative justice can be effectively integrated into formal legal regulations, especially at the policy level, and how it can be implemented by law enforcement agencies.

This gap in research is crucial, as the practical implementation of restorative justice could offer a viable solution to some of the most pressing issues in the Indonesian criminal justice system. Current studies on restorative justice often focus on its philosophical aspects or case studies from specific regions, yet comprehensive research that assesses its policy implications, implementation challenges, and impact on the criminal justice system as a whole is scarce. Understanding how restorative justice could fit within the broader legal system, including its alignment with existing laws and its practical viability in resolving minor criminal cases, is critical for informed policy-making and legal reform.

The urgency of this research becomes more apparent when considering the current state of Indonesia's criminal justice system. The country faces significant challenges in terms of prison overcrowding, the inefficiency of handling minor crimes, and the increasing pressure on judicial institutions. Minor offenders, particularly those involved in low-level crimes, often end up incarcerated, adding to the growing strain on correctional facilities. At the same time, the retributive legal approach fails to address the root causes of criminal behavior and does not provide a meaningful opportunity for rehabilitation. Restorative justice presents a promising alternative by focusing on healing, dialogue, and the restoration of social harmony, which could significantly reduce the burden on the judicial system and offer more effective rehabilitation for offenders. This approach aligns with local values of deliberation, mutual cooperation, and the restoration of social balance, making it a culturally relevant option for reform.

The integration of restorative justice into Indonesia's criminal justice policies would not only reduce the burden on the court system and correctional facilities but also promote greater social cohesion and reconciliation. Moreover, it could help minimize the long-term social stigma and psychological effects on offenders, victims, and the community, fostering a more inclusive and rehabilitative legal system. The implementation of restorative justice could transform the way minor crimes are handled, providing an opportunity for offenders to make amends, victims to receive compensation or closure, and communities to rebuild trust.

This research seeks to fill the existing gap by systematically examining how restorative justice can be effectively applied in policies for handling minor offenders in Indonesia. The study will explore the feasibility of integrating restorative justice into the legal framework, identify potential challenges in its implementation, and assess the impact of such an approach on reducing recidivism, improving victim satisfaction, and enhancing the efficiency of the judicial process. By combining legal analysis with empirical research, this study aims to provide comprehensive policy recommendations that support the implementation of restorative justice at the national level. Through a multidisciplinary approach, this research will not only address the legal and procedural aspects but also consider the social, criminological, and cultural dimensions of restorative justice, ultimately contributing to a more just, humane, and effective criminal justice system.

## 2. RESEARCH METHOD

This study employs a normative juridical method to analyze existing laws, regulations, and legal frameworks related to restorative justice in Indonesia. The focus will be on National Police Regulation Number 8 of 2021, which governs the application of restorative justice in handling minor crimes. This method will help evaluate the legal structure and its implementation within the broader criminal justice system. In addition, a juridical-sociological approach will be employed to understand the social implications of restorative justice. This approach allows for a deeper exploration of how restorative justice affects offenders, victims, and the community, providing a broader perspective on its social impact and integration.

The empirical aspect of the research will involve qualitative data collection through interviews with key stakeholders, including law enforcement officers (police and prosecutors) and minor offenders who have participated in restorative justice processes. Interviews will be conducted with 20-30 participants selected from three regions in Indonesia where restorative justice has been implemented. These regions will be chosen based on their involvement in restorative justice programs or prior legal reforms. The interviews will be semi-structured to allow participants to share their experiences while ensuring that specific topics related to the effectiveness, challenges, and perceptions of restorative justice are addressed.

To complement the empirical data, the study will incorporate literature studies and policy analysis. The literature review will include scholarly articles, legal texts, and policy documents related to restorative justice, focusing particularly on Indonesia's legal system. The policy analysis will examine National Police Regulation Number 8 of 2021 to assess its scope, challenges in implementation, and alignment with broader criminal justice reforms. This combination of legal analysis and empirical research will provide a comprehensive view of restorative justice's effectiveness in handling minor crimes.

The collected interview data will be analyzed using thematic analysis, which will identify common themes and patterns related to the perceptions and experiences of both law enforcement officers and offenders. This analysis will be complemented by comparative legal analysis, which will assess how restorative justice policies in Indonesia compare with those in other countries that have implemented similar models. By exploring best practices from these countries, the study will provide valuable insights into how restorative justice can be better integrated into Indonesia's criminal justice system.

Ethical considerations will be strictly followed in this research. Informed consent will be obtained from all participants, and they will be made aware of their voluntary participation and the right to withdraw from the study at any time. The confidentiality of participants will be maintained, ensuring that all responses are anonymized to protect the identities of both law enforcement officers and offenders. Moreover, the research will take care to protect vulnerable participants, particularly offenders, from further social stigma or harm by ensuring that their involvement in the study does not negatively affect their rehabilitation.

Despite its strengths, this study has some limitations. It will focus on three regions in Indonesia, which may limit the generalizability of the findings. Additionally, while interviews will be conducted with a range of participants, there is a potential for bias in the responses. Efforts will be made to ensure a balanced representation of perspectives from both law enforcement and offenders, and the results will be carefully analyzed to minimize any bias.

### 3. RESULT AND ANALYSIS

#### The Concept of Restorative Justice

Restorative justice is an alternative approach within the criminal law system that primarily focuses on restoring social relationships between perpetrators, victims, and the affected community, rather than simply imposing punishment (Nahor, 2025). Unlike the retributive approach, which emphasizes retribution through legal sanctions, restorative justice emphasizes the value of dialogue, the active involvement of all parties, and a healing process (Sari et al., 2024). From this perspective, criminal acts are not only considered violations of state law but also constitute a form of damage to individuals and the surrounding social structure. Therefore, resolving cases requires collective participation to create agreements, peacefully resolve conflicts, and restore disturbed social harmony.

Conceptually, the restorative justice approach is based on the theory of communitarianism developed by Etzioni (1995), which emphasizes the importance of community involvement in resolving legal conflicts as a key player in the healing process (Pratama & Pangestika, 2024). This theory asserts that law is not solely the domain of the state but also needs to reflect the collective values inherent in society. Furthermore, this approach is closely related to Bandura's (1977) social learning theory, which states that social behavior can be improved through self-reflection and individual awareness of responsibility for their actions (Taramasely, 2024). Therefore, the implementation of restorative justice is generally realized in the form of mediation or dialogue between the perpetrator, the victim, and community representatives, facilitated by a neutral party. In this forum, the perpetrator is given the opportunity to admit mistakes and apologize, while the victim can express their pain and hopes for a just resolution (Munir, 2024).

Empirically, the restorative justice approach has demonstrated effectiveness in various countries. Research conducted by Sherman and Strang (2007) in the UK demonstrated that applying this approach to minor offenses reduced recidivism rates by up to 27% (Arief et al., 2025). In New Zealand, restorative justice has even become a crucial component of the juvenile justice system, which relies on family group conferences to actively involve the families of the perpetrator and victim in the conflict resolution process. Meanwhile, in Indonesia, although its implementation is not yet formal and comprehensive, similar practices have long been carried out informally at the community level. Lilik Mulyadi (2022) noted that in indigenous communities in Papua and East Nusa Tenggara, the resolution of minor crimes is often carried out through customary deliberations, which focus on restoring social relations and providing moral and material compensation to victims.

Local traditions in Indonesia that prioritize deliberation, mutual cooperation, and a spirit of kinship provide a strong sociological foundation for the implementation of restorative justice. These values have long grown and developed in various informal institutions such as family deliberations, customary peacemaking, and village forums, which serve as a means of dispute resolution in many regions. Therefore, incorporating these local values into the formal criminal justice system is not only feasible but also in line with the cultural identity of Indonesian society.

Legally, the implementation of restorative justice in Indonesia has been recognized through Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice (Guslan, 2025). This regulation gives police the authority to stop the investigation process if the perpetrator and victim reach a peaceful agreement, especially in minor cases that do not significantly impact public order. Antares (2023)

noted that the implementation of this regulation at the Sleman Police was able to resolve 68% of cases of minor assault and petty theft without requiring prosecution.

However, the implementation of restorative justice in Indonesia still faces various obstacles, such as the limited number and quality of mediators, rejection or resistance from some law enforcement officials, and the lack of a strong legal basis at the legislative level. Therefore, a reformulation of national criminal justice policy is needed that integrates this approach in a comprehensive and structured manner. This approach should not be merely part of technical police policy but should be adopted as a fundamental principle within the criminal justice system as a whole.

**Table 1.** Comparison of Retributive and Restorative Approaches in Law Enforcement

Aspect	Retributive Approach	Restorative Approach
Main Objective	Retribution, deterrence	Restoration, reconciliation
Focus	State and law	Victim, offender, and community
Resolution Mechanism	Formal judicial process	Mediation, dialogue, peaceful agreement
Victim's Role	Passive (witness)	Active (expressing feelings and expectations)
Outcome of Resolution	Imprisonment, fines, sanctions	Apology, compensation, community service
Measure of Justice	Severity of punishment	Degree of restoration and mutual agreement

In general, the application of restorative justice in handling minor crimes in Indonesia is an important step in building a more humane, inclusive, and socially rehabilitative legal system. This approach not only plays a role in reducing the caseload in courts and correctional institutions, but also provides an opportunity for perpetrators and victims to repair their relationships and restore their dignity equally. Furthermore, the justice resulting from the restorative process is more closely aligned with substantive justice, as it transcends formal legal aspects and touches on the emotional dimension, moral values, and humanitarian aspects that are at the core of the recovery process.

#### **Law Enforcement Policy for Minor Crimes**

The handling of minor crimes in Indonesia is currently undergoing a transformation toward a more efficient, humane, and substantively just approach (Arum & Maulidah, 2025). The effectiveness of law enforcement, which has been dominated by a legalistic and retributive approach, is beginning to be questioned, particularly in minor cases such as petty theft, minor assault, or vandalism with low losses. Rigid legal procedures often create disproportionate psychosocial stress for perpetrators, victims, and law enforcement officials. In addition to being disproportionate to the caseload, this approach can also reinforce social stigma (labeling) and increase the risk of reoffending, even though perpetrators can be dealt with outside the correctional system.

The progressive legal concept developed by Satjipto Rahardjo (2009) provides a normative basis for the need for a legal approach that is more sensitive to social justice, including in the handling of minor criminal cases (Saputra, 2025). In this perspective, law is no longer understood merely as a set of coercive rules, but rather as a tool for achieving shared prosperity. Therefore, the introduction of a restorative justice approach can be seen as part of the criminal law reform agenda, which aims to make the justice system more adaptive and empathetic to the social conditions faced by both perpetrators and victims.

As a concrete step in response to this issue, the Indonesian National Police issued National Police Chief Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice (Saepudin, 2024). This regulation expressly authorizes investigators to terminate the investigation process if the perpetrator and victim have reached a peace agreement. However, this termination can only be done if several substantial conditions are met, such as: the crime is classified as minor, does not incite deep hatred, the perpetrator is not a repeat offender, and there is a good faith desire to resolve the case amicably. This provision aligns with the principle of non-penal policy put forward by Marc Ancel, namely that the goals of criminal law do not always have to be achieved through imprisonment, but can also be achieved through preventive and corrective approaches.

Based on field findings in Antares' (2023) research at the Sleman Police, since the enactment of the Regulation, approximately 68% of cases of minor assault and petty theft have been successfully resolved through a restorative justice approach, without the need for prosecution. Settlement is carried out through a mediation forum that brings together the perpetrator, victim, and family, with investigators acting as mediators. This mechanism not only expedites the legal process but also helps restore social relations between parties and reduces the risk of future resentment.

This policy is seen as a step forward in criminal law reform because it reflects the principle of more inclusive access to justice and is not limited to rigid formal processes. Through this approach, victims are given space to express their feelings and hopes for justice directly, while perpetrators are given the opportunity to demonstrate moral and social responsibility, rather than simply following legal procedures. Furthermore, this approach aligns with the values of local wisdom of Indonesian society, which upholds conflict resolution through peace and deliberation.

However, the implementation of this policy still faces a number of serious obstacles. Research by Saepudin (2024) revealed differences in understanding among investigators regarding the concept of restorative justice, particularly in remote and border areas. Furthermore, training and information dissemination regarding this policy have been uneven, raising concerns that peaceful resolution practices may be inconsistent with principles of justice or even prone to abuse for certain interests. Therefore, a standardized implementation mechanism, increased capacity of law enforcement officers, and a periodic evaluation system are needed to ensure this policy is implemented in accordance with legal regulations and public ethical values. From the perspective of modern legal theory, the application of restorative justice in handling minor crimes reflects the principle of therapeutic jurisprudence, which views the law as a means to heal and repair, not to harm. This approach emphasizes the importance of restoring the psychosocial well-being of victims, reintegrating perpetrators into society, and restoring social balance as the primary goals of law enforcement. Thus, restorative justice is positioned not only as an alternative option for resolving cases but also as a manifestation of more contextual, empathetic, and inclusive legal values.

Therefore, strengthening policies for handling minor crimes through a restorative justice approach is a strategic step that not only addresses the issues of overcriminalization and overcapacity in correctional institutions but also brings the law closer to the values of humanity and true justice. To achieve this, inter-institutional collaboration, comprehensive regulatory support, and active community involvement are required for this policy to be effectively and sustainably implemented within the Indonesian criminal justice system.

#### **Obstacles to the Implementation of Restorative Justice in Minor Crimes**

Although restorative justice policy has a strong legal basis through National Police Chief Regulation Number 8 of 2021, its implementation on the ground still faces various challenges (Masri et al., 2024). One major issue is the limited understanding of restorative justice principles and procedures among police officers. In some regions, case resolutions are often conducted informally without the involvement of a neutral mediator and without adequate recording or documentation. This situation has the potential to create inequities in justice, particularly for perpetrators or victims from socially and economically vulnerable groups.

Furthermore, there are no clear national technical guidelines regarding mediator qualifications, appropriate mediation procedures, or mechanisms for protecting victims' rights during the process. The absence of an evaluation system also makes it difficult to monitor the results of peace agreements, making them vulnerable to abuse. In practice, this approach is often seen as a quick solution to resolve cases, without considering the social and psychological impacts of the crime. Yassin et al. (2025) revealed that many law enforcement officers have not received specific training on restorative justice, resulting in differences in understanding and implementation across regions. If this situation is not immediately addressed, the approach risks losing its essence and failing to fulfill its primary goal of delivering meaningful justice.

Therefore, collaborative efforts are needed to ensure the proper implementation of restorative justice. Specialized training for police officers, collaboration with community leaders, and the involvement of legal aid institutions and NGOs are crucial steps. The government also needs to establish a robust monitoring and documentation system so that every case resolution process can be accounted for fairly and transparently. With these improvements, restorative justice has the potential to become an effective and humane solution for handling minor cases, while simultaneously supporting the realization of fairer legal reforms based on humanitarian values.

#### **4. CONCLUSION**

This research shows that restorative justice offers a more humane and effective approach to handling minor crimes than the traditional retributive system. By focusing on dialogue and restoring social relationships, it promotes healing for both offenders and victims, reduces recidivism, and enhances victim satisfaction. The study emphasizes the need to integrate restorative justice into Indonesia's criminal justice system as a core principle, with clear guidelines and better-trained law enforcement. While the study highlights the benefits of restorative justice, it also acknowledges its limitations, particularly its focus on minor crimes and specific regions. Future research should explore its application to a broader range of crimes and examine its long-term impact on community reintegration and vulnerable populations. In conclusion, restorative justice can help reform Indonesia's criminal justice system, reduce judicial burdens, and foster a more inclusive, rehabilitative, and just approach to justice.

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