

Reconstructing Restorative Justice: Assessing the Limits and Implementation of Restorative Justice in the Modern Criminal Justice System

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Abstract. Restorative justice has emerged as one of the most significant paradigm shifts in modern criminal law, moving the locus of justice away from state-centred retribution toward victim-offender reconciliation, harm repair, and community reintegration. Yet despite its rapid normative expansion across jurisdictions, restorative justice remains conceptually contested and unevenly implemented, producing a persistent gap between legal certainty and substantive justice. This article reconstructs the theoretical and practical boundaries of restorative justice by examining how its limits and implementation manifest differently across normative systems, including Indonesia, England and Wales, India, Latin America, the ASEAN region, and China. Using a normative juridical method combining statutory, conceptual, and comparative approaches, this study analyses primary and secondary legal materials to identify the structural, cultural, and institutional constraints that hinder restorative justice from becoming a fully embedded criminal justice mechanism rather than a discretionary add-on. The findings show that restorative justice functions optimally only where legal recognition, prosecutorial discretion, victim protection, and cultural legitimacy operate coherently together. The article's novelty lies in offering a reconstructed, cross-jurisdictional normative framework that repositions restorative justice's limitations not as failures of the concept itself, but as symptoms of fragmented legal architecture, providing a basis for more coherent statutory reform, particularly within Indonesia's ongoing criminal procedure code reform

Keywords: restorative justice; criminal justice system; legal reconstruction; normative juridical method; substantive justice

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1. Introduction

Modern criminal justice systems have long been structured around a retributive logic, in which the state monopolises the response to crime and the offender's culpability is settled through punishment proportional to the wrong committed. Over the past three decades, however, this paradigm has been challenged by the growing normative and practical influence of restorative justice, an approach that reframes crime primarily as harm inflicted upon victims, communities, and relationships rather than solely as a violation of the state's authority.¹

¹G. Maglione, "Restorative Justice and Criminal Justice Reform: Forms, Issues and Counter-Strategies," in Handbook of Issues in Criminal Justice Reform in the United States (Cham: Springer, 2021), https://doi.org/10.1007/978-3-030-77565-0_36; N. P. A. Nasution, F. Hamdani, and A. Fauzia, "The Concept of

Restorative justice mechanisms such as victim-offender mediation, family group conferencing, diversion, and community-based reconciliation have been progressively incorporated into statutory frameworks across common law, civil law, and hybrid legal systems, reflecting an international consensus that punitive incarceration alone neither restores victims nor rehabilitates offenders.²

In Indonesia, this shift is most visible in the diversion mechanisms introduced by Law Number 11 of 2012 on the Juvenile Criminal Justice System, in the Attorney General's Regulation on restorative justice-based case termination, and in the ongoing reform discourse surrounding the new Criminal Code (KUHP) and the draft Criminal Procedure Code (RKUHAP).³ These instruments signal a normative commitment to restorative justice as a legitimate alternative to conventional adjudication. Yet empirical and doctrinal studies consistently reveal that this commitment is only partially realised in practice. Restorative justice in Indonesia is frequently applied inconsistently across regions, dependent on prosecutorial discretion rather than binding procedural entitlement, and vulnerable to being reduced to an administrative shortcut for case clearance rather than a substantive mechanism for victim recovery and offender reintegration.⁴ Comparable tensions have been documented in jurisdictions long regarded as restorative justice pioneers: in England and Wales, despite twenty-five years of policy support, victim participation in restorative justice remains persistently low because of fragmented delivery structures and cultural resistance within criminal justice agencies.⁵

This tension between normative aspiration and operational limitation is not unique to any single legal tradition. In India, restorative justice models remain constrained by an overwhelmingly retributive procedural code, limited institutional infrastructure, and the absence of a coherent policy framework connecting customary reconciliatory practices with formal criminal procedure.⁶ In Latin America, restorative justice is often theorised as an

Restorative Justice in Handling Crimes in the Criminal Justice System," *European Journal of Law and Political Science* 1, no. 5 (2022), <https://doi.org/10.24018/ejpolitics.2022.1.5.37>.

²D. D. Abdulovna, "Advancing Criminal Justice Reform through Restorative Justice: A Narrative Review," *Sinergi International Journal of Law* 2, no. 4 (2024), <https://doi.org/10.61194/law.v2i4.719>.

³M. Rifaid et al., "Restorative Justice in the Indonesian Criminal Justice System: An Analysis of the Normative Construction of the Criminal Code and the Criminal Procedure Code in the Perspective of Pancasila and Legal Reform," *KASTA: Jurnal Ilmu Sosial, Agama, Budaya dan Terapan* 5, no. 3 (2025), <https://doi.org/10.58218/kasta.v5i3.3300>.

⁴A. Sikumbang and R. Sara, "Harmonization of Restorative Justice Regulations within the Indonesian Criminal Justice System," *Greenation International Journal of Law and Social Sciences* 3, no. 2 (2025), <https://doi.org/10.38035/gijlss.v3i2.426>.

⁵R. Banwell-Moore, "Restorative Justice: Adopting a Whole System Approach to Address Cultural Barriers in Criminal Justice," *Criminology & Criminal Justice* 24, no. 5 (2024): 1028-1046, <https://doi.org/10.1177/17488958241268005>.

⁶D. Shukla, "Restorative Justice Models in India: Assessing Effectiveness, Limitations, and Policy Reforms," *Journal of Advanced Legal Studies* 1, no. 2 (2025), <https://doi.org/10.63665/jals.v1.i2.3>.

alternative to a traditional penal system overwhelmed by prison overcrowding, yet its implementation is hindered by weak inter-institutional coordination and the continued dominance of adversarial criminal procedure.⁷ Within the ASEAN region, comparative studies show considerable variation in how member states translate restorative justice rhetoric into binding criminal law policy, with reformulation efforts frequently outpacing the institutional capacity needed to sustain them.⁸ Even in jurisdictions where restorative justice has achieved a longer track record, such as juvenile justice systems evaluated through systematic review and meta-analytic methods, the evidentiary picture is mixed: restorative interventions produce modest but inconsistent reductions in reoffending, with effect sizes heavily dependent on programme fidelity and implementation quality rather than the restorative philosophy itself.⁹

The trajectory outside Southeast Asia and South Asia reinforces the same pattern of uneven institutionalisation. In China, empirical research on the impact of restorative justice on social reintegration indicates that while restorative interventions correlate with reduced recidivism and improved offender reintegration outcomes, their effectiveness is contingent on strong community-based supervisory structures that are unevenly distributed between urban and rural jurisdictions.¹⁰ This suggests that restorative justice's operational success is not merely a function of statutory recognition but of the surrounding institutional ecology, including social welfare infrastructure, community supervision capacity, and the administrative culture of law enforcement agencies. A similar structural dependency emerges when restorative justice is examined as part of broader criminal justice reform strategy: rather than functioning as a self-contained alternative to punishment, restorative justice operates most effectively when embedded within a wider architecture of procedural safeguards, diversion thresholds, and monitoring mechanisms, and least effectively when treated as an isolated policy add-on layered onto an otherwise unreformed retributive system.¹¹

Within Indonesia specifically, doctrinal debates increasingly focus on the normative construction of restorative justice within the Criminal Code and the Criminal Procedure Code from the perspective of Pancasila values and legal reform, arguing that restorative justice must

⁷H. E. Mendoza-Armijos, B. M. Camacho-Medina, and H. García-Segarra, "Análisis de la Justicia Restaurativa como Alternativa al Sistema Penal Tradicional en América Latina," *Revista Científica Ciencia y Método* 1, no. 3 (2023), <https://doi.org/10.55813/gaea/rcym/v1/n3/20>.

⁸Azhari et al., "Restorative Justice-Based Criminal Law Policy Reformulation: A Comparative Study of Implementation in ASEAN Countries," *Lex Journal: Kajian Hukum dan Keadilan* 9, no. 3 (2025), <https://doi.org/10.25139/lex.v9i3.10821>.

⁹C. S. Kimbrell, D. B. Wilson, and A. Olaghere, "Restorative Justice Programs and Practices in Juvenile Justice: An Updated Systematic Review and Meta-Analysis for Effectiveness," *Criminology & Public Policy* 22, no. 1 (2023): 161-195, <https://doi.org/10.1111/1745-9133.12613>.

¹⁰T. Lin, H. Chen, and J. Wu, "Research on the Impact of Restorative Justice Implementation on the Social Reintegration of Offenders and the Reduction of Recidivism Rates," *Law and Economy* 2, no. 11 (2023): 25-36, <https://doi.org/10.56397/le.2023.11.04>.

¹¹Maglione, "Restorative Justice and Criminal Justice Reform."

be textually and procedurally anchored rather than left to prosecutorial policy circulars, which currently carry weaker binding force than statute.¹² Parallel scholarship has examined the harmonisation of restorative justice regulations scattered across police, prosecutorial, and judicial-level instruments, finding significant inconsistency in the substantive criteria used to determine case eligibility for restorative resolution.¹³ Others have proposed reconstructing the discourse of criminal law justice itself, arguing that an ideal restorative justice model requires rethinking the philosophical foundation of Indonesian criminal law beyond the classical dichotomy of retributive and rehabilitative justice.¹⁴ These strands of Indonesian scholarship converge with the broader international literature in confirming that restorative justice's central challenge is not conceptual acceptance, which is now largely secured, but institutional coherence: aligning statutory recognition, prosecutorial guidelines, judicial practice, and victim protection mechanisms into a single, predictable normative pathway.

A further dimension of the limitation problem concerns the victim's position within restorative processes. Restorative justice is frequently justified by its promise of psychological recovery and empowerment for victims, yet systematic reviews indicate that these benefits are neither automatic nor universal, and depend heavily on the voluntariness of participation, the quality of facilitation, and the presence of adequate safeguards against re-victimisation.¹⁵ In legal-religious contexts such as Indonesia's, restorative justice has also been examined through an Islamic legal lens, where the doctrinal emphasis on reconciliation (*islah*) and forgiveness (*afwu*) provides normative legitimacy for restorative practice, yet raises further questions about how far religious-normative reconciliation can substitute for state-guaranteed victim protection without compromising legal certainty.¹⁶

These converging findings expose a critical scholarly gap. Existing literature on restorative justice tends to fall into two separate streams: first, doctrinal or policy-oriented studies that examine restorative justice within a single national legal system, typically Indonesia, without systematically situating its limitations against comparative practice; and second, comparative or empirical studies originating from criminological literature that assess

¹²D. Deny et al., "Restorative Justice as a Legal Policy on Criminal Punishment: An Integrative Study of Legal Certainty and Substantive Justice," *Journal of Law, Politic and Humanities* 6, no. 3 (2026), <https://doi.org/10.38035/jlph.v6i3.3159>.

¹³Sikumbang and Sara, "Harmonization of Restorative Justice Regulations."

¹⁴M. Riziq, "A Critical Analysis of Restorative Justice in Indonesia's Criminal Justice System: From Punishment to Restoration," *International Journal of Law Dynamics Review* 3, no. 1 (2025), <https://doi.org/10.62039/ijldr.v3i1.82>.

¹⁵A. M. Nascimento, J. Andrade, and A. De Castro Rodrigues, "The Psychological Impact of Restorative Justice Practices on Victims of Crimes—A Systematic Review," *Trauma, Violence, & Abuse* 24, no. 3 (2023): 1929-1947, <https://doi.org/10.1177/15248380221082085>.

¹⁶N. Azisa et al., "Psychological Recovery of Crime Victims within Contemporary Restorative Justice: An Islamic Legal Perspective," *MILRev: Metro Islamic Law Review* 4, no. 2 (2025), <https://doi.org/10.32332/milrev.v4i2.11184>.

programme effectiveness but rarely engage with the normative-juridical architecture that determines whether restorative justice can be implemented as a binding legal entitlement rather than a discretionary policy preference. Few studies attempt to reconstruct restorative justice's boundaries by treating legal certainty, institutional discretion, victim protection, and cultural legitimacy as interdependent variables operating simultaneously across jurisdictions.

The novelty of this article lies precisely in addressing that gap. Rather than evaluating restorative justice as an isolated doctrine within a single jurisdiction, this study reconstructs its conceptual and operational limits through a cross-jurisdictional normative lens, situating Indonesia's reform trajectory, particularly the tension between legal certainty and substantive justice in its Criminal Code and prosecutorial regulations, alongside comparative evidence from England and Wales, India, Latin America, ASEAN member states, and juvenile justice systems evaluated through systematic meta-analysis. This comparative-normative reconstruction allows the article to identify which limitations are contingent upon a particular legal culture and which are structural features of restorative justice itself, an analytical distinction that has not been systematically drawn in prior Indonesian legal scholarship on the subject. By doing so, the article moves beyond descriptive advocacy for restorative justice toward a critical normative framework capable of informing coherent statutory design, particularly as Indonesia continues to reform its criminal procedure law.

Accordingly, this article addresses two interrelated problems: first, what normative and institutional limits constrain the effective implementation of restorative justice within the modern criminal justice system; and second, how these limits can be reconstructed into a coherent normative framework capable of guiding more consistent restorative justice implementation, with particular attention to the Indonesian legal reform context. Answering these questions requires an analytical method capable of engaging simultaneously with statutory text, legal doctrine, and comparative practice, which is elaborated in the following section

2. Research Methods

This study employs a normative juridical (*yuridis normatif*) method, appropriate for research that examines law as a coherent system of norms rather than as a social fact to be measured empirically.¹⁷ Three complementary approaches are used. First, the statutory approach (statute approach) is applied to examine positive legal instruments governing restorative justice in Indonesia, including Law Number 11 of 2012 on the Juvenile Criminal Justice System, Law Number 1 of 2023 on the Criminal Code, the Attorney General's Regulation on restorative justice-based case resolution, and relevant police-level regulations. Second, the conceptual approach is used to analyse doctrinal understandings of restorative

¹⁷G. N. Wala, "Implementation of Restorative Justice in the Indonesian Criminal Law System," *Siber International Journal of Advanced Law (SIJAL)* 1, no. 2 (2025), <https://doi.org/10.38035/sijal.v1i2.175>.

justice, legal certainty, and substantive justice as developed in academic literature, since no single codified definition of restorative justice yet exists within Indonesian positive law. Third, the comparative approach situates Indonesia's normative framework against restorative justice practice in England and Wales, India, Latin America, ASEAN member states, and China, drawn from secondary legal and criminological literature, in order to identify structural patterns of limitation that recur across different legal traditions.

The data used in this research consist of secondary legal materials, classified into primary legal materials (legislation and regulations), secondary legal materials (academic journal articles, systematic reviews, and scholarly commentary published primarily between 2021 and 2026), and tertiary legal materials (legal dictionaries and indexing sources) used to clarify terminology. Materials were collected through documentary study and literature review, then analysed using qualitative descriptive analysis, in which normative propositions drawn from statutory text are read alongside comparative doctrinal findings to identify convergences, divergences, and gaps. This analytical process is illustrated in Figure 1, which maps the flow from normative sources and comparative jurisdictions toward the reconstructed conceptual framework produced in the results and discussion section. The resulting framework is not intended to produce statistical generalisation but rather a coherent normative reconstruction capable of informing legislative and policy design, consistent with the interpretive character of normative legal research.

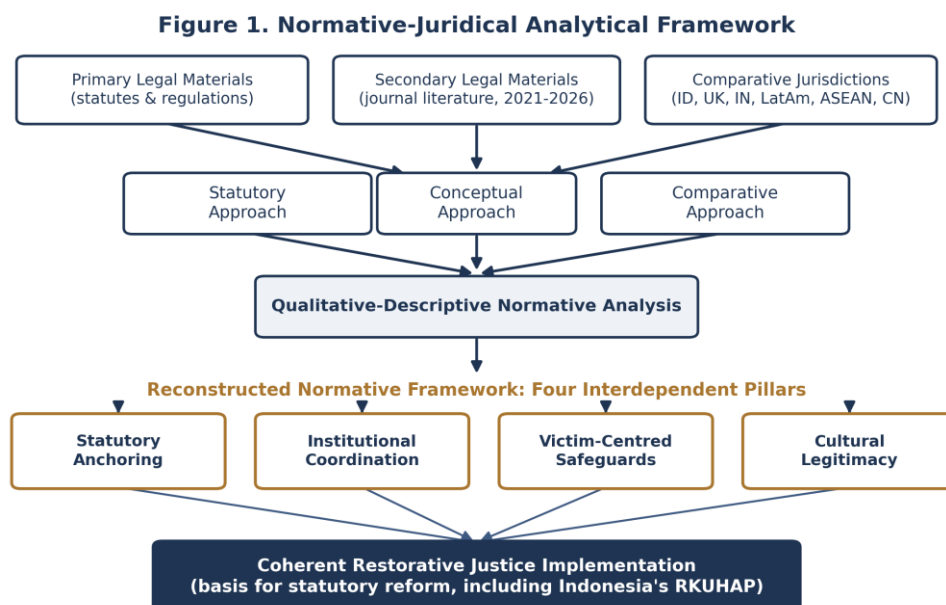


Figure 1. Normative-Juridical Analytical Framework.

3. Result and Discussion

3.1 The Conceptual Boundary: Legal Certainty versus Substantive Justice

The analysis of Indonesia's statutory framework confirms that restorative justice occupies an ambiguous normative position: it is philosophically endorsed as an expression of substantive justice, yet procedurally dependent on prosecutorial and police discretion that lacks the binding force of statute.¹⁸ This produces what may be termed a certainty-substance paradox, in which the very discretion that allows restorative justice to respond flexibly to the particularities of each case simultaneously undermines the predictability that legal certainty demands. Prosecutors deciding whether a case qualifies for restorative resolution apply criteria, such as the value of loss, the offender's criminal history, and community sentiment, that are set out in internal regulations rather than codified law, meaning that materially similar cases may be resolved differently depending on the discretion of the handling official.¹⁹ This finding aligns with comparative evidence from England and Wales, where the absence of a single statutory entitlement to restorative justice, despite policy guidance mandating its availability, leaves restorative justice contingent on the practice culture of individual criminal justice agencies rather than functioning as a guaranteed procedural right.²⁰ The boundary of restorative justice, in other words, is not fixed by its underlying philosophy but by the strength of the legal instrument through which it is operationalised.

3.2 Comparative Implementation Patterns Across Jurisdictions

Table 1 summarises the comparative implementation patterns identified across the six jurisdictions examined in this study, highlighting the legal basis, the primary institutional mechanism, and the dominant limitation constraining full implementation in each system.

Table 1. Comparative Implementation of Restorative Justice Across Selected Jurisdictions

Jurisdiction	Primary Legal Basis	Institutional Mechanism	Dominant Limitation
Indonesia	Law No. 11/2012 on Juvenile Justice; Law No. 1/2023 (KUHP); Attorney General's Regulation on RJ	Diversion; prosecutorial case termination (SKP2)	Fragmented, discretionary regulation across police, prosecution, and courts

¹⁸R. N. Ihsan, "Optics of Restorative Justice in the Criminal Justice Legal System in Indonesia," *Jurnal Ilmu Hukum Tambun Bungai* 9, no. 2 (2024), <https://doi.org/10.61394/jihtb.v9i2.443>.

¹⁹M. Supriyadi, "Restorative Justice Implementation System Prosecutor in Criminal Proceedings," *Jurnal Hukum Khairu Ummah* 19, no. 4 (2025), <https://doi.org/10.30659/jhku.v19i4.43167>.

²⁰Banwell-Moore, "Restorative Justice: Adopting a Whole System Approach."

England & Wales	National RJ policy guidance (non-statutory entitlement)	Victim-offender conferencing coordinated by criminal justice agencies	Low, inconsistent victim participation despite 25 years of policy support
India	Plea-bargaining provisions; informal mediation practice	Lok Adalat and community-based mediation forums	Structural dominance of adversarial, retribution-based procedure
Latin America	Emerging penal-alternative statutes in several states	Community mediation linked to prison-decongestion policy	Weak inter-institutional coordination between police, prosecutors, and social services
ASEAN region	Varied: statutory reform in some states, prosecutorial guidelines in others	Diversion and reconciliation mechanisms of differing legal weight	Uneven translation of shared regional norms into binding domestic law
China	Community correction and mediation regulations	Community-based supervision and reintegration programs	Effectiveness dependent on uneven urban-rural supervisory capacity

The comparative pattern in Table 1 demonstrates that restorative justice's limitations are rarely doctrinal; rather, they are institutional and infrastructural. In Indonesia, the harmonisation problem is particularly acute: regulations issued by the police, the prosecutorial service, and the judiciary each define restorative justice eligibility criteria differently, producing inconsistent outcomes for structurally similar cases and undermining public confidence in the mechanism's fairness.²¹ This inconsistency is compounded in the juvenile justice context, where restorative justice through diversion has demonstrated measurable effectiveness in reducing formal case processing, yet its success remains highly dependent on the willingness of investigators and prosecutors to pursue diversion rather than formal prosecution, revealing that even statutorily mandated restorative mechanisms remain vulnerable to discretionary erosion.²²

India's experience illustrates a different limiting factor: the near-total structural dominance of an adversarial, retributive procedural code inherited from the colonial era, within which restorative practices exist only at the margins, typically through plea bargaining or

²¹Sikumbang and Sara, "Harmonization of Restorative Justice Regulations."

²²H. Flora, Harmono, and L. Alves, "Effectiveness of the Implementation of Restorative Justice in the Juvenile Criminal Justice System," *Rechtsnormen: Journal of Law* 3, no. 1 (2025), <https://doi.org/10.70177/rjl.v3i1.2068>; T. S. Hutagalung, "The Effectiveness of Restorative Justice Implementation in the Juvenile Criminal Justice System in Indonesia," *Jurnal Smart Hukum (JSH)* 2, no. 1 (2023), <https://doi.org/10.55299/jsh.v2i1.1353>.

informal mediation lacking systematic integration into mainstream criminal procedure.²³ Latin American jurisdictions face a related but distinct constraint, namely that restorative justice is often adopted as a rhetorical response to prison overcrowding rather than as a coherent alternative to retribution, resulting in restorative mechanisms that exist on paper but lack the inter-institutional coordination between police, prosecutors, and social services required for meaningful implementation.²⁴ ASEAN comparative analysis reveals that member states differ substantially in how far they have translated restorative justice policy rhetoric into binding criminal law reform, with some jurisdictions reformulating substantive criminal law provisions while others rely solely on prosecutorial guidelines, producing a fragmented regional landscape despite shared normative commitments under regional cooperation frameworks.²⁵

3.3 Victim-Centred Limitations and the Question of Genuine Restoration

A recurring theme across the reviewed literature is that restorative justice's legitimacy rests heavily on its capacity to deliver genuine psychological and material recovery for victims, yet this capacity is neither automatic nor uniformly achieved. Systematic review evidence indicates that psychological benefits for victims, including reduced trauma symptoms and increased satisfaction with the justice process, materialise primarily when participation is genuinely voluntary, facilitation is professionally competent, and adequate safeguards exist against secondary victimisation during face-to-face encounters with offenders.²⁶ Where these conditions are absent, restorative processes risk becoming a mechanism that primarily benefits offenders through reduced sentencing exposure, while victims experience renewed pressure to forgive or reconcile without corresponding institutional support. This concern resonates strongly within Indonesia's religio-legal context, where restorative justice is frequently framed through Islamic legal concepts of reconciliation and forgiveness; while this framing provides valuable normative legitimacy rooted in local legal culture, scholarship cautions that reliance on religious-moral reconciliation must not substitute for the state's affirmative obligation to guarantee victim protection, compensation, and psychological recovery services independent of the offender's willingness to participate in restorative dialogue.²⁷

3.4 Institutional and Procedural Reconstruction

Beyond conceptual and victim-centred limitations, the reviewed literature identifies specific institutional junctures where restorative justice implementation is most vulnerable.

²³Shukla, "Restorative Justice Models in India."

²⁴Mendoza-Armijos, Camacho-Medina, and García-Segarra, "Análisis de la Justicia Restaurativa."

²⁵Azhari et al., "Restorative Justice-Based Criminal Law Policy Reformulation."

²⁶Nascimento, Andrade, and De Castro Rodrigues, "The Psychological Impact of Restorative Justice Practices"; P. Purwanto et al., "Restorative Justice in the Criminal Justice System: An Alternative Approach to Offenders' Rehabilitation and Victims' Recovery," *Research Horizon* 5, no. 6 (2025), <https://doi.org/10.54518/rh.5.6.2025.947>.

²⁷Azisa et al., "Psychological Recovery of Crime Victims."

The prosecutorial stage emerges repeatedly as the critical bottleneck: because restorative resolution in Indonesia is typically initiated and terminated at the prosecutor's discretion, systemic implementation gaps often originate not from deficiencies in restorative theory but from inconsistent prosecutorial standard operating procedures, insufficient oversight mechanisms, and uneven training across regional prosecutorial offices.²⁸ Related scholarship examining the reconstruction of minor criminal case settlement through the prosecutorial service similarly concludes that restorative justice's procedural architecture requires clearer statutory anchoring to prevent its reduction to an informal case-clearance tool rather than a substantive justice mechanism.²⁹ A further institutional tension concerns the compatibility of restorative, dialogue-based processes with the principle of open and fair trial; scholarship examining closed-door restorative sessions within the Indonesian criminal justice system argues that reconciling restorative justice's preference for confidential, informal dialogue with constitutional guarantees of a fair and transparent trial requires carefully calibrated procedural safeguards rather than treating the two values as inherently compatible.³⁰

3.5 Evidentiary Strength and the Limits of Effectiveness Claims

Advocacy for restorative justice frequently invokes claims of reduced recidivism and improved offender outcomes, yet the most rigorous evidentiary reviews counsel caution against overstating these effects. An updated systematic review and meta-analysis of restorative justice programmes within juvenile justice systems found that while restorative interventions produce statistically favourable effects on delinquency and victim satisfaction outcomes relative to conventional case processing, the magnitude of these effects is modest and highly sensitive to study design, with studies employing randomised or quasi-experimental designs generally reporting smaller effects than studies using weaker designs.³¹ This methodological finding carries an important normative implication: restorative justice's continued expansion should not rest on inflated effectiveness claims but on its independent value in centring victim participation, offender accountability, and community reintegration, values that are justified on procedural and normative grounds even where recidivism reduction effects are modest or context-dependent. Treating restorative justice purely as a recidivism-reduction technology risks producing policy disappointment when effect sizes fail to match rhetorical expectations, and may inadvertently pressure practitioners to prioritise measurable offender outcomes over the qualitative, relational goals that distinguish restorative justice from conventional diversion.

²⁸Supriyadi, "Restorative Justice Implementation System Prosecutor."

²⁹T. Syahroni, F. Y. Hasibuan, and Kristiawanto, "Reconstruction of Minor Criminal Case Settlement by the Prosecutor's Office through Restorative Justice," *Asian Journal of Social and Humanities* 3, no. 6 (2025), <https://doi.org/10.59888/ajosh.v3i6.531>.

³⁰Z. Haspita, E. Dewi, and A. Fardiansyah, "Bridging Restorative Justice and Fair Trial: Reconstruction of Closed Trials in the Indonesian Criminal Justice System," *Social Science and Humanities Journal* 9, no. 8 (2025), <https://doi.org/10.18535/sshj.v9i08.1961>.

³¹Kimbrell, Wilson, and Olaghere, "Restorative Justice Programs and Practices in Juvenile Justice."

This evidentiary caution reinforces rather than undermines the article's reconstructive argument. If restorative justice's value lies substantially in its procedural and relational character rather than in dramatic reductions of reoffending, then legal systems have even stronger reason to secure that procedural character through binding statutory guarantees, since its legitimacy cannot rely solely on downstream outcome statistics that vary across implementation contexts. This is precisely the reasoning that underlies proposals in the Indonesian literature to reconstruct restorative justice as a discourse-level shift in criminal law's philosophical orientation, rather than treating it as a narrow diversionary technique bolted onto an unreformed punitive framework.³² A discourse-level reconstruction would require rearticulating the purpose of criminal law itself, from retribution and general deterrence toward a plural model in which restoration, deterrence, and proportional accountability coexist as complementary rather than competing objectives.

3.6 Toward a Reconstructed Normative Framework

Synthesising the conceptual, comparative, victim-centred, institutional, and evidentiary findings above, this study proposes a reconstructed normative framework built on four interdependent pillars: statutory anchoring, meaning that eligibility criteria, procedural stages, and victim safeguards for restorative justice must be codified in binding legislation rather than left to internal administrative regulation; institutional coordination, meaning that police, prosecutorial, judicial, and social welfare authorities must operate under harmonised standard operating procedures rather than fragmented, agency-specific guidelines; victim-centred safeguards, meaning that participation must remain genuinely voluntary and supported by independent psychological and legal assistance regardless of whether restorative dialogue proceeds; and cultural legitimacy, meaning that restorative mechanisms should be designed to accommodate local reconciliatory traditions, including religious and customary practices, without allowing such traditions to substitute for the state's affirmative protective obligations. These four pillars are not sequential stages but simultaneous conditions: the comparative evidence from this study shows that weakness in any single pillar, whether India's procedural rigidity, Latin America's institutional fragmentation, or Indonesia's regulatory inconsistency, is sufficient to constrain restorative justice's effectiveness even where the other pillars are comparatively strong.

For Indonesia specifically, this framework suggests that the ongoing reform of the Criminal Procedure Code presents a strategic opportunity to move restorative justice from prosecutorial policy into codified procedural law, closing the harmonisation gap identified between police-level, prosecutorial, and judicial regulations. Embedding clear, consistent eligibility criteria and mandatory victim safeguard provisions directly into statute would reduce dependence on discretionary interpretation, addressing the certainty-substance paradox

³²Riziq, "A Critical Analysis of Restorative Justice."

identified earlier in this discussion without sacrificing the flexibility that makes restorative justice responsive to the particularities of individual cases. Taken together, these findings support the article's central analytical claim: restorative justice's limitations are best understood not as evidence against the restorative philosophy itself, but as symptoms of fragmented legal architecture in which statutory recognition, prosecutorial guidelines, judicial practice, victim protection mechanisms, and cultural legitimacy operate independently rather than as an integrated normative system. The comparative evidence indicates that jurisdictions achieving more consistent restorative justice outcomes, whether through statutory diversion mandates, structured victim safeguard protocols, or coordinated inter-institutional case management, share one common feature: restorative justice is treated as a structurally embedded procedural entitlement rather than a discretionary policy preference layered onto an otherwise unreformed retributive system.³³ This reconstructed understanding directly informs the conceptual framework proposed in this article, which repositions Indonesia's ongoing Criminal Procedure Code reform as an opportunity to codify restorative justice eligibility criteria, victim safeguard standards, and inter-institutional coordination mechanisms within binding statutory text, rather than leaving them to fragmented administrative regulation

4. Conclusion

This article set out to reconstruct the normative and institutional boundaries that shape restorative justice's implementation within the modern criminal justice system. The analysis demonstrates that restorative justice's limitations are not primarily conceptual but architectural: across Indonesia, England and Wales, India, Latin America, ASEAN member states, and China, restorative mechanisms falter less because of doctrinal weakness than because of fragmented statutory anchoring, inconsistent institutional coordination, uneven victim safeguards, and variable cultural legitimacy. The certainty-substance paradox identified within Indonesia's regulatory framework, whereby restorative justice's philosophical endorsement of substantive justice is undermined by its dependence on discretionary administrative regulation rather than binding statute, encapsulates the broader comparative pattern observed throughout this study. Evidentiary caution drawn from systematic meta-analytic review further clarifies that restorative justice's legitimacy should rest on its procedural and relational value rather than on overstated recidivism-reduction claims, reinforcing rather than weakening the case for stronger statutory protection of its core safeguards.

The reconstructed four-pillar framework proposed in this article, statutory anchoring, institutional coordination, victim-centred safeguards, and cultural legitimacy, offers a normative basis for future legal reform, particularly as Indonesia continues to revise its

³³A. Salim et al., "Restorative Justice in Contemporary Criminal Law: Comparative Perspectives and Emerging Trends," *RIGGS: Journal of Artificial Intelligence and Digital Business* 4, no. 3 (2025), <https://doi.org/10.31004/riggs.v4i3.2900>; L. Alfies et al., "Restorative Justice as a New Breakthrough to Reduce Recidivism and Promote Reform in the Criminal Law System," *Jurnal USM Law Review* 8, no. 1 (2025), <https://doi.org/10.26623/julr.v8i1.11807>.

Criminal Procedure Code. Codifying restorative justice eligibility criteria and victim protection standards directly into statute, rather than leaving them to fragmented prosecutorial and police-level regulation, would materially reduce the inconsistency documented throughout the comparative analysis while preserving the contextual flexibility that restorative justice requires. Future research should extend this normative reconstruction through empirical studies that track case-level outcomes across Indonesian jurisdictions following the codification of restorative justice within the reformed Criminal Procedure Code, thereby testing whether stronger statutory anchoring produces the more coherent and consistent implementation that this study's comparative-normative analysis anticipates.

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