

Restorative Justice Evaluation: The Impact of Structural Inequities in the Criminal Justice System

Devi Ratnasari, Fakhri Surachman, Gunadi Rasta, Diky dikrurahman

Universitas Gunung Jati, Indonesia

Email: Deviratnaa40@gmail.com, Fakhrisurachman9@gmail.com,

Gunadi.rasta@ugj.ac.id, Diky.dikrurrahman@ugj.ac.id

ABSTRACT

Structural inequality poses a persistent challenge within the criminal justice system, shaped by social factors such as poverty, race, and gender. Restorative justice offers an alternative to retributive models by emphasizing the restoration of relationships through inclusive dialogue among victims, offenders, and communities. This study evaluates the effectiveness of restorative justice in addressing structural inequality, utilizing qualitative methods including literature analysis and case studies from various countries, such as Indonesia. The analysis draws on academic journals, policy reports, and legal documents, alongside practical examples of restorative justice implementation. Findings suggest that restorative justice can promote a more inclusive justice system by empowering both victims and offenders and facilitating community involvement. However, challenges persist, including institutional bias, resource limitations, and resistance from the conventional justice system. To enhance the effectiveness of restorative justice, the study recommends institutional reforms, context-sensitive mediator training, and increased policy and resource support. Furthermore, fostering synergy between formal legal mechanisms and local, community-based approaches is crucial for addressing the root causes of structural inequalities. Overall, while restorative justice demonstrates significant potential, its success depends on overcoming systemic barriers and ensuring sustained commitment from all stakeholders.

Keywords: Structural inequality, restorative justice, criminal justice system

INTRODUCTION

The criminal justice system in many countries, including Indonesia, continues to face significant challenges in addressing deep structural inequalities, reflecting the impact of social factors such as poverty, race, and gender on the legal process (Justice & Meares, 2014; Leksono et al., 2023; Maswandi et al., 2023; Pujiani et al., 2022). This inequality is not only evident in the unfair distribution of punishments, but also in the imbalance of access to legal rights. Many cases show that marginalized groups such as those from poor families, ethnic minorities, or certain gender groups are often trapped in a vicious cycle of injustice that is very difficult to reverse. Facts on the ground suggest that these individuals are more likely to be sentenced to harsher sentences, have limited access to qualified lawyers, and are often treated unfairly by the existing criminal justice system.

Traditional criminal justice systems tend to prioritize retribution with a punitive approach that often does not solve the underlying problems faced by perpetrators and victims (Ismail et al., 2023; Rochaeti et al., 2023). This approach, often known as retributive terms, focuses on punishing the crimes committed without considering the social context or opportunities for redress for the parties involved. In practice, this approach often exacerbates existing inequalities, rather than addressing them. For example, in many cases, individuals from vulnerable or marginalized groups, such as the poor or indigenous peoples, are more likely to be punished more harshly compared to individuals from more economically or politically advanced social groups. This system also often ignores the importance of providing opportunities for perpetrators to take responsibility for their actions, make improvements, and improve relationships with victims (Butler et al., 2024; Hobson et al., 2022; Rossner & Taylor, 2024; Van Ness et al., 2022; Yunus, 2021).

In dealing with this issue, another alternative has emerged in the form of Restorative Justice (RJ). Restorative justice is an approach that focuses on restoring relationships damaged by crime, both between victims and perpetrators, as well as between perpetrators and society. This approach emphasizes more on a rehabilitative and inclusive settlement, where the parties involved in the crime can talk, listen to each other, and work to reach a mutually beneficial agreement. RJ places attention on recovery rather than retaliation, as well as taking into account the social and emotional impact of criminal acts on victims and perpetrators (Kirkwood, 2022; Marder, 2022; Maulana & Agusta, 2021; Suharto, 2021).

One of the reasons why restorative justice is important to implement in the criminal justice system is because of its ability to address structural inequalities that exist in the legal system. By giving victims the opportunity to express the emotional impact they feel and for the perpetrator to acknowledge their actions and find ways to correct their mistakes, RJ can address the inequities of access that occur in the traditional justice system. In this context, RJ aims not only to uphold justice for individuals, but also to create a more inclusive and equitable system for all people, regardless of social or economic background.

However, while restorative justice offers the potential to reduce structural inequalities, its implementation in the criminal justice system still faces a number of challenges. The biggest obstacle faced is the deep institutional bias in the traditional justice system that prioritizes punishment over rehabilitative settlement. In addition, the limited resources available to support the implementation of restorative justice—such as trained mediators, adequate budgets, and other supporting infrastructure—often make the implementation of RJ less effective. In some cases, the implementation of RJ has also been hampered by resistance from the established conventional justice system, which often feels more comfortable with a more familiar and structured retributive approach.

In the Indonesian context, although there are several initiatives that adopt restorative justice in the resolution of criminal cases, their implementation is still limited and often inconsistent. For example, in the juvenile justice system, RJ has been applied in some cases as an alternative to punishment, but its implementation is still far from optimal and hampered by a lack of adequate understanding and training on restorative justice principles. In addition, the implementation of RJ at the local level is also often constrained by differences in interpretations of how RJ should be applied in the larger Indonesian legal context.

Facing these challenges, this study focuses on evaluating the effectiveness of restorative justice in reducing structural inequalities in the criminal justice system. The main purpose of this study is to provide a more comprehensive picture of how RJ can play a role in creating a fairer justice system, as well as identify barriers that need to be overcome so that RJ can be implemented more widely and effectively.

Previous studies have extensively examined the concept of restorative justice (RJ) and its potential to reduce structural inequalities in the criminal justice system. For example, Patel (2020) explored RJ's role in transforming the relationship between offenders and victims, emphasizing its effectiveness in promoting rehabilitation over punishment. While this research provides valuable insights into RJ's potential, it does not fully address the challenges faced in its implementation, especially in contexts where institutional biases prioritize punitive measures. Similarly, in their study, Taylor and Fletcher (2019) highlight the benefits of RJ in reducing reoffending rates and improving victim satisfaction. However, they focus more on its application in Western legal systems, leaving a gap in understanding how RJ can address the specific challenges and cultural differences present in Indonesia's legal system, particularly with marginalized groups.

This study aims to identify and evaluate the effectiveness of the application of restorative justice in reducing structural inequalities in the criminal justice system. More specifically, this study will explore whether this approach can provide more inclusive and equitable solutions, as well as reduce the biases that occur in traditional legal systems. In addition, this study will also identify the obstacles faced in the implementation of RJ, including resistance from the conventional justice system and limited existing resources.

This research is expected to provide deeper insights into the impact of restorative justice on social justice and inequality in criminal justice, as well as provide recommendations to improve the implementation of a more inclusive and fair justice system in the future. By leveraging the results of this research, it is hoped that there will be positive changes in policies and practices on the ground, as well as a tangible contribution to criminal justice reform that is more responsive to structural inequality.

RESEARCH METHOD

This study employs a descriptive qualitative approach to evaluate the effectiveness of *restorative justice* in reducing structural inequalities within the criminal justice system. The qualitative method was chosen to gain an in-depth understanding of how *restorative justice* is applied and its impact on marginalized groups. Data collection involves literature analysis—drawing from academic journals, policy reports, and legal documents—and case studies from several countries, including Indonesia. This combination allows the research to explore both theoretical perspectives and practical applications of *restorative justice* in diverse legal and cultural contexts.

For data analysis, the study uses content analysis to examine the underlying theories, principles, and practical strategies of *restorative justice* as they relate to institutional bias and social impacts of crime. Thematic analysis is then applied to the case studies, identifying key themes such as the success of implementation, barriers encountered, and the effects on marginalized communities. Through these methods, the research aims to provide a comprehensive understanding of how *restorative justice* can function as a tool to reduce structural inequalities and contribute to a more inclusive and equitable criminal justice system.

RESULT AND DISCUSSION

The Potential of Restorative Justice in Overcoming Structural Inequality

Restorative Justice (RJ) emerged as an alternative approach in the criminal justice system that focuses on restoring relationships between victims, perpetrators, and society, rather than punishing the perpetrator. In the traditional justice system, which tends to focus on retribution or punishment for the perpetrators, victims are often overlooked or simply considered as witnesses who are not directly involved in the legal process. Rather, RJ provides an opportunity for all parties involved in a crime to interact in dialogue aimed at repairing the social damage that occurs, repairing damaged relationships, and ultimately reducing the inequalities that exist in the criminal justice system.

One of the key findings in the study was that RJ provided greater space for victims to engage in legal proceedings and feel valued. In the conventional criminal justice system, victims are often not directly involved in the legal process after the crime occurred, except as witnesses. Even in some cases, they are simply considered as affected parties, without the opportunity to voice their feelings or get justice holistically. This creates inequities in the justice system that do not provide room for victims to truly recover emotionally and socially.

However, in RJ, victims have the opportunity to speak directly about the emotional and social impact caused by the crime experienced. They were given the opportunity to express the pain, trauma, and loss they experienced as a result of the perpetrator's actions. Research shows that when victims can engage in structured dialogue with perpetrators and communities, they feel more empowered. They are not only marginalized parties in the legal system, but also important actors in the process of recovery and case resolution.

Data from several case studies taken from the implementation of RJ in various countries, including Indonesia, show that victims involved in the RJ process tend to experience a greater sense of justice. For example, a study in New Zealand showed that 70% of victims involved in the RJ process felt that they had achieved a higher level of emotional recovery compared to simply accepting punishment for the perpetrator (Hudson, 2003). In Indonesia, in RJ programs conducted in several regions, the results showed that 68% of victims felt more satisfied with the restorative settlement process, because they could be actively involved in formulating solutions that were fair and according to their needs (Yuliani & Koesworo, 2020).

Restorative justice is also known for its ability to take into account the social background of the perpetrator in the judicial process. In the traditional criminal justice system, there is often a tendency to judge the perpetrator solely on the basis of his or her actions, without taking into account the socio-economic, psychological, and cultural conditions that may have influenced his or her actions. This adds to inequality, as offenders from marginalized socioeconomic groups, such as the poor, women, or minorities, often face harsher punishments, even though their social background contributes to such criminal behavior.

In the RJ approach, the perpetrator is given the opportunity to reveal his social background and the reason behind his actions. This is important for a deeper understanding of how social factors, such as poverty, racial discrimination, or domestic violence, can affect a person's behavior. By understanding these factors, RJ offers a more rehabilitative approach than just punishing the perpetrator. For example, offenders may

be given the opportunity to attend rehabilitation programs or training to improve their social and economic conditions, which in turn can reduce the likelihood of them committing crimes again.

A Canadian study showed that offenders who participated in the RJ program, especially those from minority or socio-economically disadvantaged groups, showed a significant reduction in the rate of reoffending of crime. As many as 65% of perpetrators involved in RJ reported that they felt more connected to their community after the process (Bonta & Andrews, 2007). Research in Indonesia also shows that RJ helps reduce the rate of relapse of crime in perpetrators from marginalized social backgrounds, such as street children and youth in poor areas. Through open dialogue with victims and society, perpetrators can gain a better understanding of the consequences of their actions and feel more valued in society.

Obstacles in the Implementation of Restorative Justice

Restorative justice (RJ) is an approach in the criminal justice system that aims to repair damaged relationships between perpetrators, victims, and society by encouraging social recovery and reintegration, not just punishment. This approach offers the potential to create more humane, inclusive, and sustainable justice. However, the implementation of RJ is not without challenges. A number of obstacles faced in the implementation of RJ can reduce its effectiveness in achieving these goals, especially in the context of victim recovery, offender rehabilitation, and reducing inequalities in the criminal justice system. Some of the main obstacles found in the implementation of RJ include lack of understanding of this concept, unalignment with the existing justice system, resistance from judicial actors, lack of resources, and distrust of the justice system itself.

One of the biggest obstacles in the implementation of RJ is the lack of a deep understanding of this concept, both among law enforcement, perpetrators, victims, and the general public. In many countries, including Indonesia, RJ is often seen as a new or unclear concept. This approach, which focuses more on restoring relationships than imposing punishment, is considered foreign and difficult to accept by many who are more familiar with the retributive criminal justice system, which is a system that emphasizes punishment as a form of justice. In the context of a punishment-oriented legal system, the restoration of the relationship between the perpetrator and the victim is often considered unrealistic or even unnecessary. This is because many parties in the justice system understand justice as "retribution" for actions committed, rather than as an effort to repair social relations damaged by crime. This misunderstanding often leads to resistance to the application of RJ in judicial practice.

Many legal practitioners feel undereducated about the benefits and applications of RJ in everyday judicial practice. They feel more comfortable with existing and tested procedures, and are concerned that the application of RJ could weaken punishment for criminals, especially in cases involving serious crimes. Therefore, adequate education and training for all relevant parties is essential to increase understanding and acceptance of RJ. One solution to overcome these barriers is through better education about RJ among judicial actors, so that they can better understand the values contained in this approach and see its positive potential in the criminal justice system.

The criminal justice system in many countries, including Indonesia, tends to focus on the retributive principle, which is to provide punishment commensurate with the crime committed. The system is well established and operated in a rigid structure, with formal

and strict legal procedures. The application of RJ in this sentencing oriented justice system can present a number of serious challenges. One of the major challenges in integrating RJ is the misalignment between a more informal, dialogical, and consensus-based approach to RJ and the more formal and procedural structure and procedures of the justice system. The RJ process emphasizes more on meetings between perpetrators and victims to build communication, find common solutions, and provide space for victims to get emotional recovery and social justice. In contrast, the formal justice system focuses more on settlement through strict legal mechanisms and sentencing.

In many countries, especially those with well-structured judicial systems that prioritize retributive principles, the implementation of RJ can be considered a threat to existing principles. This is because many actors in the justice system, such as police, prosecutors, and judges, are more accustomed to a clear and structured process, which involves formal courts and sentencing. This inconsistency leads to tensions between RJ principles and retributive principles that place more emphasis on punishment than the restoration of relationships between individuals. To overcome these obstacles, a paradigm shift in the judicial system is needed. Parties involved in the judicial process need to understand that RJ is not a substitute for the existing judicial system, but rather as an alternative or complement that can be used in certain situations. In this case, it is necessary to carry out a constructive dialogue between judicial actors and parties involved in RJ to find common ground and bridge the differences between these two approaches.

The implementation of RJ often encounters resistance from various actors in the criminal justice system, including police, prosecutors, judges, and lawyers. This resistance stems largely from a feeling of concern that the application of the RJ could undermine established principles in the more conventional justice system. Many in the justice system feel that RJs will reduce their role in enforcing the law and punishing perpetrators. What's more, RJ's approach requires a paradigm shift in dealing with crime. RJ prioritizes the restoration of the relationship between the perpetrator and the victim, as well as providing opportunities for the perpetrator to account for his actions in a more open and humane environment. For some, this can feel unfamiliar and difficult to accept because they are more accustomed to a process that involves clearer penalties and sanctions.

In addition, there is a notion that by prioritizing restoration and reconciliation, RJ can be seen as a form of "weakness" in law enforcement, especially in cases of serious crimes. Some judicial actors may feel that RJ does not provide enough deterrent effect to the perpetrator, which can risk worsening the situation by ignoring justice for the victim. Therefore, it is imperative to educate and open up space for a more open dialogue between various actors in the justice system to discuss their concerns and seek solutions that can integrate the principles of RJ with the goal of justice in the criminal justice system.

One of the major obstacles in the implementation of RJ is the unequal access to this process. Marginalized groups, such as the poor, women, and minorities, often face difficulties in accessing RJ. The lack of understanding of their rights in the judicial process, the inability to access the required information, and the limitations in obtaining facilities that support the RJ process make it difficult for them to engage in this process. Access to RJ is often limited to individuals who have more resources or who have better access to the legal system.

This inequality in access can exacerbate the injustices that exist in the criminal justice system. Those who are more vulnerable tend to have a harder time gaining equal

opportunities in the RJ process, which can ultimately exacerbate structural inequalities in society. Therefore, it is important to ensure that RJ is accessible to all walks of life, including those in marginalized groups. This requires efforts to provide more resources and support that can help these groups to participate in the recovery process carried out by RJ.

The implementation of RJ requires sufficient resources, both in the form of budgets, facilities, and experts. The RJ process often requires trained facilitators, safe spaces for dialogue, and psychological support for victims and perpetrators. However, many countries, especially those with limited budgets, face difficulties in providing the resources needed to run the RJ process effectively. In many areas, the lack of infrastructure to support the implementation of RJ makes it difficult to implement it widely. Without adequate facilities, such as rehabilitation centers or safe meeting places for victims and perpetrators, the RJ process becomes hampered. In addition, limited funds for training and capacity building of RJ facilitators also limits the effectiveness of the implementation of RJ in the criminal justice system. Therefore, there is a need for greater investment in resources and infrastructure that support the implementation of RJ.

In many countries, especially among marginalized groups, there is a deep distrust of the criminal justice system. This is often due to bad experiences with law enforcement officials, including discrimination, abuse of power, or neglect of basic rights. This distrust can hinder participation in the RJ process, as victims and perpetrators may feel that they will not be treated fairly or that the justice system cannot be trusted to support the recovery process as it should.

For this reason, it is very important to rebuild public trust in the judicial system, so that RJ can be accepted and implemented effectively. Without trust in the justice system, efforts to restore relationships and achieve justice in traditional criminal justice in many countries, including Indonesia, still face profound structural inequalities. This problem includes the distribution of punishments that are not through RJ will be difficult to realize.

CONCLUSION

This study finds that marginalized groups—including the poor, women, and ethnic minorities—are disadvantaged within the justice system due to limited access to quality legal services and entrenched social biases, perpetuating systemic discrimination that conventional criminal justice frameworks struggle to address. *Restorative justice (RJ)* emerges as a promising alternative, offering a more humane and inclusive approach centered on dialogue, reconciliation, and accountability among victims, offenders, and communities. While RJ has the potential to correct both individual and systemic harms, its practical implementation faces significant obstacles, such as resistance from justice system actors, resource constraints, institutional bias favoring retributive models, and persistent inequalities in access for marginalized populations. Bridging the gap between RJ's promise and its real-world impact requires comprehensive legal reforms, increased resource allocation, and targeted education and training for stakeholders. Future research should explore effective strategies for scaling up RJ practices, particularly by examining models that successfully integrate RJ into existing legal systems and address barriers to equitable participation for marginalized groups.

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