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# Restorative Justice and Recidivism in Minor Criminal Cases in Indonesia: Legal Framework, Evidence and Feasibility

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## Abstract

*Minor criminal cases make up a large part of the caseload of the Indonesian police, prosecution service and courts, yet formal prosecution of them is slow, costly and often leaves victims unheard. This article examines how restorative justice is regulated in Indonesia, what is known about its effect on recidivism, and whether minor offences are suitable for it. It is a normative legal study that uses statutory, case and conceptual approaches, analysing legislation and institutional regulations in force in 2026, one landmark decision and international empirical research. The study finds that restorative justice rests on a layered but fragmented framework of police, prosecutorial and judicial instruments, now anchored by the new Criminal Code and the new Code of Criminal Procedure. International meta-analyses and systematic reviews show lower reoffending and higher victim satisfaction for participants, although the effects are modest and affected by selection bias; no Indonesian dataset yet allows the same conclusion. Minor offences between people who know each other are well suited to restorative handling when participation is voluntary, the offence is not repeated and safeguards against coercion apply. The article proposes unified statutory criteria, systematic recording of outcomes and recidivism, and training of officials.*

## Keywords

*Restorative; Recidivism; Diversion; Victims; Indonesia; Punishment*

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## Introduction

Formal criminal proceedings remain the main way in which Indonesia responds to crime, including crime of very small gravity. A dispute over a few fruits, a minor assault between neighbours or a petty theft can move from complaint to investigation, prosecution and trial, with the cost, delay and hostility that this entails. For the offender the outcome is often a short custodial sentence, which removes the person from work and family without addressing the harm done. For the victim the process is largely that of a witness; the loss may never be repaired and the relationship with the offender is usually left worse than before. These weaknesses are not new, but they sharpen when the harm is small and the parties know each other, because the state's heaviest instrument is then applied to what is in substance a social conflict.

Restorative justice offers a different response. It treats crime as harm to people and relationships rather than only as a breach of a rule owed to the state, and it seeks to repair that harm through the participation of the victim, the offender and, where appropriate, the community.[1] In its modern form it takes shape through victim–offender mediation, conferences and reparation agreements, and its proponents hold that accountability achieved through dialogue can change behaviour more durably than punishment alone.[2] The idea is not foreign to Indonesia, where deliberation (*musyawarah*) and customary and family settlement of disputes long predate the modern criminal process. What is new is its incorporation into the state's own institutions.

The notion of a minor case needs a word of definition. In Indonesian law it has no single meaning. For property offences the benchmark is the monetary limit of Rp 2,500,000 set for the light offences, while the prosecutorial regulation adds a ceiling on the penalty of five years and a limit on the loss. In ordinary usage the term also covers minor assault and other offences of low gravity between persons who know each other. This article uses the term in that broad sense, but when it applies a legal rule it uses the definition of the instrument concerned.

That incorporation has been rapid and uneven. Restorative justice was first written into statute for children, in the Juvenile Criminal Justice System Law,[3] and was then extended to adults by institutional rules: a police circular in 2018,[4] a prosecutorial

[1] Howard Zehr, *The Little Book of Restorative Justice*, Revised ed (New York: Good Books, 2015).
[2] John Braithwaite, *Restorative Justice and Responsive Regulation* (Oxford: Oxford University Press, 2002).
[3] Law No 11 of 2012 on the Juvenile Criminal Justice System (Indonesia), art 1.
[4] Circular Letter of the Chief of the National Police No SE/8/VII/2018 on the Application of Restorative Justice in the Settlement of Criminal Cases (Indonesia).

regulation in 2020,[5] a police regulation in 2021[6] and Supreme Court guidelines for judges in 2024.[7] Two major reforms have since changed the legal setting: the new Criminal Code, Law No 1 of 2023,[8] and the new Code of Criminal Procedure, Law No 20 of 2025,[9] both of which have been in force since 2 January 2026. Discussion of the topic in Indonesia has therefore to be updated in two respects: the instruments that were once the only basis for restorative justice must now be read together with the codes, and the claim that restorative justice reduces reoffending can now be tested against a larger body of international evidence.

Earlier research falls into three groups. Foundational work explains the concept and its place beside retributive and rehabilitative models.[10][11] Empirical research, mostly from Canada, the United States, the United Kingdom and Australia, measures the effect of restorative programmes on reoffending and victim satisfaction.[12][13] Indonesian scholarship, finally, is largely descriptive and concentrates on the regulations and on single case studies, and tends to assume rather than demonstrate that the international evidence applies at home. Two gaps follow. The first is the lack of an integrated account of the Indonesian framework after the new codes; the second is the habit of moving from international findings to Indonesian conclusions without stating the limits of the evidence or the safeguards that restorative practice requires.

This article addresses both gaps. Its novelty lies in reading the post-2026 legal framework together with carefully reported empirical findings, and in stating what can and cannot be concluded about recidivism in the Indonesian setting. It asks three questions. First, how is restorative justice implemented in the Indonesian criminal justice system? Second, how does restorative justice affect recidivism? Third, is it appropriate to handle minor criminal cases through restorative justice? The purpose is to answer these questions and to propose reforms that make restorative practice consistent, accountable and evidence-based.

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[5] Attorney General Regulation No 15 of 2020 on the Termination of Prosecution Based on Restorative Justice (Indonesia).

[6] National Police Regulation No 8 of 2021 on the Handling of Criminal Acts Based on Restorative Justice (Indonesia).

[7] Supreme Court Regulation No 1 of 2024 on Guidelines for Adjudicating Criminal Cases Based on Restorative Justice (Indonesia).

[8] Law No 1 of 2023 on the Criminal Code (Indonesia).

[9] Law No 20 of 2025 on Criminal Procedure (Indonesia).

[10] Zehr, *supra* note 1.

[11] Kathleen Daly, "Restorative Justice: The Real Story" (2002) 4:1 *Punishment & Society* 55, DOI: <10.1177/1462474022228464>.

[12] Jeff Latimer, Craig Dowden & Danielle Muise, "The Effectiveness of Restorative Justice Practices: A Meta-Analysis" (2005) 85:2 *The Prison Journal* 127, DOI: <10.1177/0032885505276969>.

[13] Heather Strang et al, "Restorative Justice Conferencing (RJC) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction. A Systematic Review" (2013) 2013:12 *Campbell Systematic Reviews*, DOI: <10.4073/csr.2013.12>.

## Research Method

This is normative (doctrinal) legal research. It does not rely on interviews, surveys or fieldwork. Three approaches are combined. The statute approach examines the legislation and institutional regulations that regulate restorative justice in force in October 2026, with attention to their scope, conditions and exclusions. The case approach analyses one judicial decision, the decision of the Purwokerto District Court in the case of Minah, because its facts illustrate the gap between formal law and substantive justice that restorative justice is meant to close. The conceptual approach clarifies the notions of restorative and retributive justice, accountability and recidivism, and the purposes of punishment.

The legal materials are of three kinds. Primary materials are statutes, regulations of the Supreme Court, the Attorney General and the National Police, and the court decision. Secondary materials are books and journal articles on restorative justice, including meta-analyses and systematic reviews of its effect on reoffending. Tertiary materials were used only for orientation. The materials were collected through library research and examined by qualitative content analysis: the instruments were compared by scope and conditions (Table 1), the empirical studies were summarised according to what their authors report (Table 2), and the findings were then used to answer the three questions. Because the study is doctrinal, its conclusions on recidivism rest on secondary evidence and not on original data; this limitation is taken up in the conclusion.

## Results and Discussion

### *Restorative Justice and the Purposes of Punishment*

The retributive model, which has long dominated Indonesian criminal law, treats punishment as the deserved answer to an offence and as a means of deterrence and incapacitation. Writing on Indonesian penal theory distinguishes absolute theories, which justify punishment by the offence itself, from relative theories, which look to its effects, and from combined theories.[14] Restorative justice does not deny that offenders must answer for what they did. It changes the form of the answer, from suffering imposed by the state to repair achieved with the victim, and it changes who takes part: the victim becomes a participant and not only a source of evidence.

Three features distinguish restorative practice. First, the victim, the offender and members of their communities take part directly. Second, the offender

[14] Muladi & Barda Nawawi Arief, *Teori-Teori dan Kebijakan Pidana [Theories and Policy of Punishment]* (Bandung: Alumni, 2010).

acknowledges responsibility and agrees to repair the harm through compensation, return of property, an apology or work for the victim or the community. Third, the outcome is reached by agreement and not imposed. These features can be realised through mediation between victim and offender, through conferences that include families and supporters, and through reparation programmes. Restorative justice is therefore a family of processes, and claims about its effects must be tied to the process actually used.[15]

The place of local tradition in this debate is often mentioned and should be put in perspective. Deliberation and customary settlement offer familiar models of community participation, and they give legitimacy to the idea that a dispute can be closed by agreement. They do not, however, provide the safeguards that a state process must have, such as protection of the weaker party and review of the outcome. The task of Indonesian restorative justice is therefore to draw on the cultural resources of deliberation while adding legal guarantees, and not to treat them as interchangeable.

The theory also explains why restorative justice is thought to affect reoffending. Responsive regulation holds that shame that is directed at the act while respecting the person can lead to reintegration, whereas stigmatising punishment can push offenders towards groups that reward offending.[16] Four mechanisms are commonly proposed. Offenders who meet the victim face the human consequences of their act and may develop empathy and a sense of responsibility. Community involvement offers social support that reduces the isolation which often follows punishment. The resolution of the conflict removes resentment that could otherwise fuel further offending. And an agreement on repair gives the offender a constructive task to complete. These are theoretical propositions; the empirical section below examines how far research supports them.

Restorative justice has also been criticised, and the criticisms bear on the analysis that follows. Daly argues that the field is often presented through a simplified story that contrasts a punitive formal system with a healing alternative, whereas practice is more varied, and that the claims made for restorative justice should be examined for each process and each type of offence.[17] The main concerns are that agreements may be reached under pressure, that participation in the process may widen the reach of state control over conduct that would otherwise not have been prosecuted,

[15] Daly, *supra* note 11.
[16] Braithwaite, *supra* note 2.
[17] Daly, *supra* note 11.

and that informal processes may weaken the procedural protections which the formal process gives to suspects and victims. These concerns explain why the sections below pay close attention to voluntariness, exclusions and records.

A second conceptual point is the tension between legal certainty and substantive justice. A criminal code, by design, treats like cases alike and limits official discretion; restorative justice, by design, adapts the response to the needs of the persons involved. The two aims are not irreconcilable, because a statute can authorise restorative outcomes and set their limits, but they pull in opposite directions when the authorisation lies only in internal regulations. This tension runs through the analysis of the Indonesian framework.

## *The Legal Framework in Indonesia*

Restorative justice in Indonesia has no single statute that governs it for all offenders. It rests on a set of instruments adopted by different institutions at different times, which operate at different stages of the process. The principal instruments are summarised in Table 1 and discussed below.

The starting point is Law No 11 of 2012 on the Juvenile Criminal Justice System, which defines restorative justice as the settlement of a criminal case with the participation of the offender, the victim, their families and other parties, seeking a fair solution that emphasises restoration to the original state and not retribution, and which requires diversion at every stage for qualifying cases.[18] The statute applies to children in conflict with the law only. It is the legislative model for later rules, but it cannot itself be treated as the legal basis for restorative settlement involving adults.

The juvenile statute deserves a closer look because it shows the design that the later instruments followed. It requires diversion, that is, the transfer of a case from the formal process to a process outside it, for offences punishable by imprisonment of less than seven years and not committed as a repetition of an offence, and it asks the officials concerned to take into account the interests of the victim and the child, community involvement and the avoidance of deprivation of liberty.[19] Two features carry over to adult cases: the use of the penalty as the filter for eligibility, and the exclusion of repetition. The difference is that for children diversion is a duty laid down by statute, whereas for adults it has so far been a power granted by internal rules.

[18] Law No 11 of 2012, *supra* note 3, art 1.
[19] *Ibid*, art 7.

For adult offenders the first element was a conceptual change in how minor offences are measured. Supreme Court Regulation No 2 of 2012 adjusted the monetary limits of the light offences in the former Criminal Code, which concerned theft, fraud, embezzlement, destruction of property and receiving stolen goods, and the fines attached to them, to Rp 2,500,000.[20] Cases within that limit are tried by the quick procedure and are not normally accompanied by detention. The regulation does not mention restorative justice, but it established the category of offences for which later restorative instruments have been designed.

The police issued a circular in 2018 that told investigators how restorative justice could be applied to criminal cases,[21] and replaced it with a regulation in 2021. National Police Regulation No 8 of 2021 allows investigators to resolve a case through restorative justice and end the investigation, provided that general material and formal requirements are met. Materially, the case must not cause public unrest or social rejection, and must not involve a recidivist as determined by a court decision, terrorism, offences against state security, corruption or offences against life; formally, there must be a peace agreement between the parties and the offender must fulfil the rights of the victim.[22] Restorative settlement at the police stage is thus a discretionary decision of the investigator, bounded by written criteria.

Prosecutors act under Attorney General Regulation No 15 of 2020. It allows the prosecutor to terminate prosecution where the suspect is a first-time offender, the offence is punishable by a fine or by imprisonment of not more than five years, and the loss caused is not more than Rp 2,500,000. The suspect must also have returned the property or compensated the victim, and a peace agreement must have been reached without pressure. The regulation excludes offences against state security, the dignity of the President and Vice-President, friendly states, public order and morality, offences with a minimum penalty, narcotics, environmental offences and offences by corporations.[23] It is the instrument that most clearly ties restorative justice to the minor offences discussed in this article.

In the courts, the Director General of the General Courts Agency issued a decree in December 2020 that set guidelines for applying restorative justice in the general courts,[24] and the Supreme Court raised this to the level of a regulation in 2024, with

[20] Supreme Court Regulation No 2 of 2012 on the Adjustment of the Limits of Light Crimes and the Amount of Fines in the Criminal Code (Indonesia).
[21] Circular Letter SE/8/VII/2018, *supra* note 4.
[22] Perpol No 8 of 2021, *supra* note 6.
[23] Perja No 15 of 2020, *supra* note 5.
[24] Decree of the Director General of the General Courts Agency of the Supreme Court No 1691/DJU/SK/PS.00/12/2020 on the Enforcement of Guidelines for the Application of Restorative Justice in the General Courts (Indonesia).

guidelines for judges who adjudicate criminal cases on a restorative basis.[25] The judicial track matters because it is the only one that can lead to a judgment recording the restorative outcome.

Finally, the new codes place these instruments on a statutory footing. The new Criminal Code, Law No 1 of 2023, states the purposes of sentencing as preventing crime, socialising the offender, resolving conflict and restoring balance, and bringing a sense of remorse,[26] and it allows the judge to decide not to impose punishment, taking into account the lightness of the act and the circumstances of the offender, for reasons of justice and humanity.[27] The new Code of Criminal Procedure, Law No 20 of 2025, recognises restorative justice as a means of resolving criminal cases outside the courtroom and excludes the gravest categories of offence, such as terrorism, corruption, sexual violence and offences against life.[28] The effect is that restorative justice no longer depends only on the policy of each institution. Whether the earlier regulations remain valid as implementing rules, or must be revised to follow the code, is a question the legislature and the institutions have still to settle in detail.

Table 1. Principal instruments on restorative justice in Indonesia

| Instrument | Stage and addressees | Main conditions or content |
|---|---|---|
| Law No 11 of 2012 (children) | All stages; children in conflict with the law | Diversion required for qualifying cases; restorative aim defined in statute |
| Perma No 2 of 2012 | Courts; light offences against property | Limit of Rp 2,500,000 for light offences; quick procedure |
| Perpol No 8 of 2021 | Investigation; police | No recidivist, no public unrest; peace agreement and fulfilment of the victim's rights |
| Perja No 15 of 2020 | Prosecution; prosecutors | First offence; penalty up to five years or fine; loss up to Rp 2,500,000; compensation; listed exclusions |
| Badilum Decree No 1691/2020 and Perma No 1 of 2024 | Trial; judges | Guidelines for adjudication on a restorative basis |
| Law No 1 of 2023 and Law No 20 of 2025 | All stages; all institutions | Purposes of sentencing; judicial non-punishment; statutory recognition of restorative resolution |

Source: compiled by the authors from the instruments cited.

Three observations follow. First, the conditions differ: the police regulation turns on the character of the case and of the offender, the prosecutorial regulation on penalty and loss, and the judicial guidelines on the conduct of the trial. An offence that qualifies at one stage may not qualify at another, which makes outcomes depend on the point at which the case is handled. Second, the framework is selective by design. It excludes serious crime and repeat offending, which is consistent with the

[25] Perma No 1 of 2024, *supra* note 7.
[26] Law No 1 of 2023, *supra* note 8, art 51.
[27] *Ibid*, art 54.
[28] Law No 20 of 2025, *supra* note 9.

principle that criminal law is a last resort (*ultimum remedium*). Third, a large part of the practice rests on the discretion of officials. Judges are bound to explore and follow the values and sense of justice that live in society,[29] which supports restorative reasoning in court, but investigators and prosecutors act under internal regulations whose consistent application has to be secured through supervision and recording.

In practice these instruments yield a sequence of possible exits from the formal process. At the police stage the investigator may end the investigation after a restorative agreement; at the prosecution stage the prosecutor may terminate the prosecution; at trial the judge may take the restorative outcome into account in deciding whether and how to punish. Each exit is a decision by a different official, taken on different information, and the decision made at an earlier stage is not binding on a later one. For a victim and an offender who have reached an agreement, the practical question is whether the agreement will be honoured by the next institution. A common format for the agreement, recorded and passed on with the case file, would reduce this uncertainty.

There is also a question of normative hierarchy. Rules issued by a police chief, an attorney general or a court agency bind their own officials but do not, by themselves, change the rights of suspects, victims or other institutions. For that reason the statutory recognition in the new Code of Criminal Procedure is significant: it allows the restorative exits to be justified by law and not by internal policy, and it makes it possible to challenge a decision that departs from the statutory conditions. The detailed content of the earlier regulations should now be reviewed to see that it fits the code, in particular where the regulations are more or less permissive than the statute.

## *A Case Illustrating the Problem: The Decision on Minah*

The decision of the Purwokerto District Court in the case of Minah, an elderly plantation labourer, is frequently cited in Indonesia as an example of the harshness of the formal process towards trivial offences.[30] She had picked three cocoa pods from a plantation where she worked, and was prosecuted for theft under the former Criminal Code. The pods were valued in the proceedings at roughly Rp 2,000 per kilogram. The court found the theft proven and sentenced her to one month and

[29] Law No 48 of 2009 on Judicial Power (Indonesia), art 5.
[30] Purwokerto District Court, Decision No 247/Pid.B/2009/PN.Pwt (19 November 2009).

fifteen days of imprisonment, to be served only if she committed another offence during a probation period of three months.[31]

The case shows what a formal, retributive approach can produce even in a decision that is legally correct. The elements of theft were met, the prosecution proceeded, and the court applied the law. Yet the loss was negligible, the pods were reportedly returned, and the proceeding itself was the main burden on the defendant. The case preceded the instruments discussed above; it therefore illustrates the problem that they were designed to address, and not the working of restorative justice. Had it arisen today, a prosecutor could have considered termination of prosecution under the prosecutorial regulation, since the penalty and the loss were within its limits, provided the other conditions were met, and the court could have considered a judgment of non-punishment under the new Criminal Code. The case is useful for another reason: it shows that the question for minor offences is not whether the offender is excused but whether the state's heaviest instrument is a proportionate response.

Two lessons can be drawn. One is about proportionality: the more trivial the harm, the stronger the reasons for an exit from the formal process, and the more important it is that the exit is available early, before the personal costs of a prosecution have been incurred. The other is about legal certainty. The prosecution in that case was not unlawful; it was the predictable result of a rule that gave officials no clear basis for stopping it. A framework that authorises restorative exits in clear terms serves legal certainty and justice together, and not only the latter.

## *The Effect of Restorative Justice on Recidivism*

The second question concerns the claim that restorative justice reduces reoffending. Indonesian discussion of the question often relies on figures, given without source, for the fall in recidivism or the rise in victim satisfaction. No Indonesian dataset known to the authors reports recidivism by mode of case resolution over a comparable period, and no figure of that kind is used here. The evidence that can be reported comes from international research, and its reach and limits need to be stated.

The most cited quantitative synthesis is the meta-analysis of Latimer, Dowden and Muise, which pooled 22 studies of 35 restorative justice programmes and 66 effect sizes. It found that restorative programmes did better than traditional non-restorative approaches in improving victim and offender satisfaction, increasing

[31] *Ibid.*

offender compliance with restitution and decreasing recidivism, and its authors cautioned that participants are volunteers and may be more motivated than comparison groups.[32] A separate meta-analysis of victim–offender mediation for young offenders likewise addressed the prevalence of later delinquent behaviour among participants.[33] The Campbell systematic review by Strang and colleagues is stronger methodologically, because it includes only randomised controlled trials in which victim and offender had agreed to meet before random assignment. Based on ten experiments, it reports a modest reduction in repeat offending and substantial benefits for victims.[34] The review of the research evidence by Sherman and Strang reports that randomised trials in which cases were diverted to restorative justice produced more offences brought to justice, and benefits for victims, than conventional processing.[35]

Table 2. Selected international evidence on restorative justice

| Study | Design | Reported finding |
|---|---|---|
| Latimer, Dowden and Muise (2005) | Meta-analysis of 22 studies (35 programmes) | Better satisfaction, restitution compliance and lower recidivism than non-restorative approaches; selection bias acknowledged |
| Nugent, Williams and Umbreit (2004) | Meta-analysis of victim–offender mediation, young offenders | Examines prevalence of subsequent delinquent behaviour among participants |
| Strang and others (2013) | Systematic review of ten randomised trials | Modest reduction in repeat offending; benefits for victims |
| Sherman and Strang (2007) | Review of research evidence | Randomised trials show offences brought to justice and victim benefits above conventional justice |

Source: compiled by the authors from the studies cited, as reported by their authors.

Four points qualify these results. First, the effect is modest and varies with the offence, the type of programme and the population studied; the evidence is strongest for young and first-time offenders and for property and low-level violent offences, which resemble the Indonesian minor cases. Second, participation is voluntary, so the better results of participants may in part reflect who chooses to take part; randomised designs reduce but do not eliminate this problem. Third, the programmes studied operate in common-law jurisdictions with their own probation and victim-support structures, and their transfer to Indonesia cannot be assumed. Fourth, what is measured as recidivism differs between studies, so the results cannot be summed into one number. The responsible conclusion is that restorative justice is at least as effective as conventional processing in preventing

[32] Latimer, Dowden & Muise, *supra* note 12.

[33] William R Nugent, Mark Williams & Mark S Umbreit, "Participation in Victim-Offender Mediation and the Prevalence of Subsequent Delinquent Behavior: A Meta-Analysis" (2004) 14:6 *Research on Social Work Practice* 408, DOI: <10.1177/1049731504265830>.

[34] Strang et al, *supra* note 13.

[35] Lawrence W Sherman & Heather Strang, *Restorative Justice: The Evidence* (London: Smith Institute, 2007).

reoffending and probably somewhat more effective, with clear gains for victims; it is not that it has been shown to cut recidivism by a fixed percentage in Indonesia.

The mechanisms proposed in theory are consistent with this pattern. Face-to-face meetings give the offender a concrete understanding of the harm; agreements on repair offer a way to restore standing; and the avoidance of a prison sentence preserves work, family ties and community bonds that predict desistance. These are plausible reasons for a modest effect, but they should be tested in Indonesia. A further caution comes from research on implementation. Sliva, Shaw and Han show in a case study that the move from restorative policy to practice depends on organisational capacity and on the willingness of officials to change established routines.[36] Indonesia is likely to show the same pattern: a regulation that exists but is applied unevenly produces uneven results, and a restorative settlement that is reached under pressure or only to close a file cannot be expected to change behaviour.

The evidence also differs by age. Much of the research concerns young offenders, among whom the effect on desistance is most often examined, and the Indonesian statute on children already requires diversion. For adults, who are the subject of the police and prosecutorial regulations, the research base is smaller and the effect on reoffending is less clear. Any Indonesian evaluation should therefore distinguish children from adults and first-time from repeat offenders, and should follow cases for a fixed period after the agreement or sentence so that comparisons are meaningful.[37]

What would a convincing Indonesian evaluation look like? It would compare offenders whose cases ended in a restorative agreement with similar offenders whose cases were prosecuted, matched on offence, age, prior record and loss; would use a single definition of reoffending, for instance a new complaint or conviction within two years; and would report victim satisfaction using the same questions in both groups. Records for such a study could be kept by the police and the prosecution service at little cost if the agreement format proposed above were adopted.

## *Suitability of Minor Criminal Cases for Restorative Justice*

[36] Shannon Sliva, Mariah Shaw & Tyler M Han, "Policy to Practice: An Implementation Case Study in Restorative Justice" (2020) 23:4 *Contemporary Justice Review* 527 at 528–531.
[37] Nugent, Williams & Umbreit, *supra* note 33.

The third question is whether minor offences should be handled restoratively. Four arguments support an affirmative answer, and each has limits.

The first argument concerns victims. In minor theft or assault, what the victim usually needs is return of property or compensation, an apology and assurance of safety, not a sentence. Restorative processes give the victim a voice and a quick, certain remedy, whereas the formal process may take months and offer nothing for the loss. Research on the psychology of justice supports the importance of this experience: Kizilhan and Neumann argue, in the context of war and crisis survivors, that unresolved injustice impedes the processing of trauma and that legal processes should take victims' needs into account.[38] Their subjects are survivors of mass violence and not victims of petty crime, so the finding is used here only as an analogy: it suggests that the way a legal process treats a victim matters beyond its outcome, and it cannot be taken as proof of any specific effect in minor cases.

The second argument concerns accountability. A short prison sentence for a minor offence demands little of the offender beyond waiting; a restorative agreement demands that the offender face the victim, acknowledge the harm and carry out a concrete act of repair. That is a more demanding form of accountability, and its content, whether compensation, community work or an apology, can be adjusted to the case. It is important to preserve this point against the criticism that restorative justice is lenient: an agreement that is not carried out should return the case to the formal process, as the regulations provide.

The third argument concerns the system. Minor cases consume the time of investigators, prosecutors and judges and add to the pressure on prisons and detention centres. Diverting them frees resources for serious crime and is consistent with the principle of simple, fast and low-cost justice. This efficiency is a benefit, not the purpose; if restorative justice is adopted only to reduce caseloads it risks becoming an administrative device for closing files, which is the danger that the implementation research describes.[39]

The fourth argument is social. Minor offences often occur between neighbours, colleagues or relatives, and the relationship will continue after the case. A formal conviction may harden the conflict, while a negotiated settlement restores the conditions for living together. This is in line with the reform of Indonesian criminal

[38] Jan Ilhan Kizilhan & Johanna Neumann, "The Significance of Justice in the Psychotherapeutic Treatment of Traumatized People After War and Crises" (2020) 11 *Frontiers in Psychiatry* 540, DOI: <10.3389/fpsyt.2020.00540>.
[39] Sliva, Shaw & Han, *supra* note 36.

law, which now treats the restoration of balance as one of the purposes of sentencing,[40] and with the principle that criminal law should be used as a last resort.

Several limits must be recognised. Restorative justice is unsuitable where there is a serious power imbalance between the parties, as in domestic or sexual violence, where mediation can reproduce coercion; the exclusions of the regulations and of the new Code of Criminal Procedure reflect this. Voluntariness must be real: an offender who consents only to avoid detention, or a victim pressed by officials or the community to forgive, does not produce a genuinely restorative outcome. Equal treatment is also at risk where the choice is left to the discretion of individual officials, and the exclusion of repeat offenders, though sensible for the sake of accountability, may deny a response to the offenders who most need support. Safeguards are therefore not a matter of detail but a condition for suitability: informed and voluntary consent, the availability of legal advice, recorded and reviewable decisions, and monitoring of compliance.

From the instruments and the safeguards discussed above, a screening list can be drawn up for officials who must decide whether a minor case is suitable. The list in Table 3 is a proposal of the authors, derived from the regulations and from the limits identified in this section; it is not an instrument in force.

Table 3. Proposed screening list for restorative handling of minor cases

| Question | Basis | If the answer is no |
|---|---|---|
| Does the offence fall within the limits of the applicable instrument (penalty, loss, exclusions)? | Perja No 15 of 2020; Perpol No 8 of 2021; Law No 20 of 2025 | Continue with the formal process |
| Is the suspect a first-time offender, and not a recidivist? | Perja No 15 of 2020; Perpol No 8 of 2021 | Continue with the formal process |
| Do both victim and suspect freely consent after being informed of their rights and of legal advice? | Safeguard against coercion | Do not proceed restoratively |
| Is there no serious imbalance of power or violence between the parties? | Exclusions for violence; safeguard | Use specialised procedures |
| Has the harm been repaired or a feasible plan of repair been agreed, and will compliance be monitored? | Perja No 15 of 2020; Perpol No 8 of 2021 | Return the case to the formal process if the agreement is not honoured |

Source: proposal of the authors, drawing on the instruments cited.

## *Policy Implications*

The analysis points to three areas for action. The first is legislative. The new codes provide a statutory basis, but the criteria for restorative resolution are still dispersed across instruments of different institutions. A single implementing regulation, or a harmonised set of regulations, would give officials one list of conditions and exclusions and would make outcomes more predictable across police, prosecution and courts.

[40] Law No 1 of 2023, *supra* note 8, art 51.

The second area is information. Official reporting on restorative justice currently counts the number of cases ended in this way, which shows the use of the mechanism but not its results. Reporting should add the type of offence, the content of the agreement, whether it was honoured, and whether the person reoffended within a fixed period. Without such data the debate on recidivism will continue to depend on foreign studies.

The third area is capacity. The implementation research cited above warns that a policy fails where officials are not equipped for it.[41] Facilitators need training in mediation and in recognising pressure and imbalance; supervisors need performance measures that reward quality of resolution over the quantity of closed files; and communities need information on what a restorative agreement means. These steps cost little compared with the cost of prolonged formal proceedings for minor offences.

## *Comparison with Earlier Research*

The findings agree with the broad international conclusion that restorative processes benefit victims and do not worsen, and probably improve, reoffending outcomes.[42][43] They differ from much of the Indonesian literature in two respects. They do not rely on unsourced percentages for the Indonesian effect, because no systematic data of that kind are available; and they treat the new Criminal Code and Code of Criminal Procedure as the point at which the framework is consolidated, so that earlier descriptions confined to the police and prosecutorial regulations are incomplete.

The analysis extends the foundational literature by connecting its concept to the actual Indonesian conditions of use (Table 1), and the implementation research by Sliva and others by showing where the Indonesian framework leaves room for discretion.[44] It also qualifies the use of psychosocial research on trauma in debates about minor crime:[45] the research supports attention to the victim's experience of justice, but it does not measure the effect of restorative processes on petty offences. The comparison shows that the principal contribution of the Indonesian discussion should be empirical: recording and publishing outcomes so that the claims made for restorative justice can be tested.

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[41] Sliva, Shaw & Han, *supra* note 36.
[42] Latimer, Dowden & Muise, *supra* note 12.
[43] Strang et al, *supra* note 13.
[44] Sliva, Shaw & Han, *supra* note 36.
[45] Kizilhan & Neumann, *supra* note 38.

## Conclusion

Restorative justice in Indonesia is implemented through a layered framework: a statute for children, regulations of the police, the prosecution service and the courts for adult offenders, and, since 2 January 2026, the new Criminal Code and the new Code of Criminal Procedure, which give the approach a statutory footing. The framework is selective, excluding serious offences and repeat offenders, but its conditions differ between institutions and depend on official discretion.

International meta-analyses and systematic reviews indicate that restorative processes lower reoffending modestly and improve victim satisfaction, with the qualification that participants are volunteers. There is no Indonesian dataset that permits the same finding, and the effect on Indonesian recidivism is therefore a plausible expectation, not a demonstrated result. Minor offences between people who know each other, such as petty theft and minor assault, are appropriate for restorative handling when participation is voluntary, the offender is not a repeat offender, the victim's loss is repaired and safeguards against coercion operate. Restorative handling then serves victims, offenders and the system together.

Three recommendations follow. First, the legislature and the institutions should harmonise the criteria of the police, prosecutorial and judicial instruments with Law No 1 of 2023 and Law No 20 of 2025, so that a case is treated consistently at every stage. Second, the Supreme Court, the Attorney General's Office and the National Police should record, in a common format, the offence, the terms of the agreement, compliance and later reoffending, and publish the data; this would make evaluation in Indonesia possible. Third, training and supervision should be directed at the safeguards that restorative practice requires: voluntariness, legal advice and review of decisions.

The study has limits. It is a doctrinal analysis, uses secondary evidence on recidivism, examines one decision and does not study the practice of institutions. Further research should use institutional records and, where possible, interviews with victims, offenders and officials to estimate the Indonesian effect directly.

## Ethics and Data Availability

This normative legal research did not involve human participants or personal data, so ethical approval was not required. All legal materials and literature used are publicly available.

## Use of Generative AI

Generative AI was used only to improve the language of this article (grammar, clarity and style). The authors reviewed the output and are responsible for the content of the article.

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