

Research Article



Exploring Restorative Justice in Domestic Violence Cases

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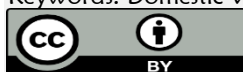
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Abstract: The Indonesian government has actively developed restorative justice policies for criminal cases through various laws and regulations; however, their implementation in domestic violence cases remains limited due to the predominance of a retributive mindset among law enforcement officials. In contrast, Malaysia has adopted restorative approaches to address domestic violence through community-based and victim-centered interventions. This research seeks to formulate comprehensive arguments supporting the implementation of restorative justice in domestic violence cases by analyzing relevant legal provisions, doctrinal foundations, and theoretical perspectives, while incorporating a comparative analysis of the Malaysian model. The comparative legal study between Indonesia and Malaysia is particularly significant within the broader framework of legal globalization, ASEAN regional integration, and bilateral cooperation in the fields of law and governance. Both countries, which share an Islamic cultural foundation and a colonial legal heritage, offer compelling contexts for examining the adaptation of restorative justice principles in plural legal systems. In Malaysia, Islamic law regulates various domains of social life, especially in matters of civil and family law, including marriage, divorce, inheritance, and waqf, shaping the socio-legal environment within which domestic violence is addressed. The findings indicate that Indonesia has initiated the application of restorative justice in certain domestic violence cases through mechanisms such as community mediation and police-facilitated reconciliation, though these practices remain inconsistent and are often influenced by patriarchal cultural norms. Conversely, Malaysia maintains a more formal and legalistic approach, with minimal formal recognition of restorative justice within its domestic violence legislation. The study concludes that restorative justice possesses substantial potential as a complementary framework to formal legal remedies, provided that its implementation ensures the protection of victims' rights, prevents coercion, and upholds fundamental principles of justice, gender equality, and human dignity.

Keywords: Domestic Violence; Indonesia; Malaysia; Restorative Justice;



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INTRODUCTION

The Regulation on the Elimination of Domestic Violence defines domestic violence as any act that causes physical, sexual, or psychological harm to an individual, particularly a woman, including threats, coercion, or unlawful deprivation of liberty within the household. This legal definition highlights the multifaceted nature of domestic violence as both a legal and social problem that transcends the private domain. In the Southeast Asian context, domestic violence constitutes a pervasive issue that profoundly affects legal systems, cultural norms, and socio-religious values. It represents a serious violation of human rights and a significant public health concern that requires comprehensive and coordinated responses from governments and society. Consequently, policymakers, legal scholars, and civil society organizations across the region are striving to develop and strengthen justice mechanisms that ensure the accountability of perpetrators while promoting victim



protection, psychological recovery, social reintegration, and long-term prevention through education, legal reform, and cultural transformation.¹

The United Nations Office on Drugs and Crime (UNODC) notes that domestic violence remains underreported in the region, primarily due to cultural stigmas, familial dependencies, and insufficient legal support systems.² Indonesia and Malaysia, neighboring countries with shared Islamic heritage and colonial legal legacies, present a compelling case for comparative study. Islamic law significantly influences civil and family matters, such as marriage, divorce, inheritance, and waqf³ in both nations. While Indonesia's Law No. 23/2004 and Malaysia's Domestic Violence Act 1994 aim to address domestic violence, critics highlight the limitations of punitive approaches in dealing with the complex and recurring nature of this issue. Many criminal justice systems focus on punishment but often fail to support victims of domestic violence adequately.⁴

Adversarial legal proceedings can retraumatise victims and produce outcomes that overlook the complexities of familial or intimate relationships. This has led to increased interest in restorative justice as an alternative or complementary approach for handling domestic violence cases. Restorative justice focuses on healing, accountability, community participation, and restoration rather than punishment.⁵ It engages victims, offenders, and the community in discussions to repair harm and restore relationships while preventing future offenses. Although it is commonly used in juvenile justice and minor crimes, its application in domestic violence cases is controversial and debated in academic⁶ and policy circles. In Indonesia, the formal justice system is gradually adopting restorative justice principles through community-based dispute resolution, including diversion in juvenile justice and mediation at the village level.⁷

Several regional police units and prosecutorial agencies have initiated experimental approaches resembling restorative justice in handling domestic violence cases, often referred to as restorative policing or family-based mediation. These practices demonstrate an emerging interest in alternative dispute resolution within criminal

¹ Kien Le and My Nguyen, 'Rainfall and Intimate Partner Violence', *Population and Environment*, 46.3 (2024), 1–24 <https://doi.org/10.1007/s11111-024-00460-9>

² Jumra and others, 'Restorative Justice in Homicide Cases: Opportunities and Challenges', *Journal of Indonesian Scholars for Social Research*, 4.1 (2024), 73–77 <https://doi.org/10.59065/jissr.v4i1.156>

³ Ahmad Nabil Amir, 'Ahmad Ibrahim and the Islamization of Law in Malaysia', *Advances*, 4.3 (2023), 84–92 <https://doi.org/10.11648/j.advances.20230403.12>

⁴ Martitah Martitah and others, 'Insufficient Criminal Justice System Response to the Severity of Domestic Violence during the Pandemic in Indonesia', *Heliyon*, 10.14 (2024), e33719 <https://doi.org/https://doi.org/10.1016/j.heliyon.2024.e33719>

⁵ Abu Zaman, 'Defining Restorative Justice: A Perspective from England and Wales's Further Education Sector', *Contemporary Justice Review*, 27.2–3 (2024), 157–82 <https://doi.org/https://doi.org/10.1080/10282580.2024.2381528>

⁶ Robin Sena and others, "'When You're Sitting in the Room with Two People One of Whom... Has Bashed the Hell out of the Other": Possibilities and Challenges in the Use of FGCs and Restorative Approaches Following Domestic Violence', *Children and Youth Services Review*, 88 (2018), 441–49 <https://doi.org/https://doi.org/10.1016/j.childyouth.2018.03.027>

⁷ Zulkarnein Koto Et.all, 'Penerapan Keadilan Restoratif Dalam Penanganan Tindak Pidana Guna Mewujudkan Penegakan Hukum Yang Berkeadilan', *Jurnal Ilmu Kepolisian*, 17.1 (2023), 34–50 <https://doi.org/https://doi.org/10.35879/jik.v17i1>



justice processes; however, they remain largely informal, lacking standardized legal frameworks, procedural safeguards, and institutional accountability. Their implementation is frequently shaped by local power relations, religious interpretations, and prevailing gender norms, which may influence the neutrality and effectiveness of outcomes. In the Malaysian context, the application of restorative justice is constrained by the Domestic Violence Act, which prioritizes legal protection orders, criminal prosecution, and state-led intervention as primary mechanisms for addressing domestic violence. Despite these statutory limitations, a number of Malaysian legal scholars and practitioners advocate for a more flexible and context-sensitive approach that accommodates victims' diverse needs, particularly for those who seek emotional reconciliation, familial stability, or financial security rather than punitive measures. This evolving discourse reflects a broader effort to balance legal rigor with restorative principles, aiming to enhance victim agency, promote offender accountability, and strengthen community-based mechanisms for long-term prevention and recovery.⁸

Despite some developments, significant gaps remain in the literature and practice of restorative justice in domestic violence cases in Indonesia and Malaysia. First, there is a lack of comprehensive comparative research that systematically analyses the legal, institutional, and cultural conditions under which restorative justice can be effectively and ethically implemented in these countries. Second, most existing studies adopt a normative or descriptive approach, failing to provide critical evaluations of the outcomes, risks, and limitations of restorative justice interventions. Third, while awareness of restorative justice is growing among legal practitioners and civil society actors, there is limited empirical data on how victims, offenders, and communities perceive and experience restorative justice processes in the context of intimate partner violence. By mapping the current legal and institutional landscapes of restorative justice and domestic violence in both countries, this research contributes to the expanding field of comparative restorative justice and provides evidence-based insights for policymakers, practitioners, and scholars. The objective is not to advocate for the wholesale adoption of restorative justice in all domestic violence cases, but rather to investigate the conditions under which legal, procedural, and cultural restorative justice can serve as a meaningful component of a victim-centered justice system.⁹ Ultimately, this research aims to contribute to the ongoing regional discourse within Southeast Asia regarding the development of more humane, responsive, and culturally grounded approaches to domestic violence that extend beyond punitive models.¹⁰

⁸ Gayatri Dyah Suprobawati, Hartiwiningsih and Muhammad Rustamaji, 'Reconstruction of the Model Recovery of Violence Against Women Victims Fairly Through the Development of Restorative Justice in the Globalization Era', 2021 <https://doi.org/10.2991/assehr.k.211014.063>

⁹ Muhammad Saidul Islam, 'An Assessment of the Potential Outcomes in Practising Restorative Justice in Criminal Settings in Australia and the United States: A Systematic Review and Meta-Analysis', *Contemporary Justice Review*, 26.3 (2023), 262–98 <https://doi.org/https://doi.org/10.1080/10282580.2023.2297833>

¹⁰ Fendi Nugroho, Hartiwiningsih Hartiwiningsih and I Gusti Ayu Ketut Rachmi Handayani, 'Rethinking Subsidiary in Corruption Cases: Indonesian Experiences', *Journal of Human Rights, Culture and Legal System*, 5.2 (2025), 686–713 <https://doi.org/10.53955/jhcls.v5i2.714>



Historically, the development of restorative justice as a response to domestic violence can be traced to broader restorative movements within criminal justice reform during the late 20th century, particularly in New Zealand and Canada. These movements emerged as a reaction to increasing disillusionment with the adversarial nature of conventional criminal justice systems and their failure to meet the emotional and relational needs of both victims and offenders. The foundational principles established by these early models provided the basis for subsequent adaptations within the context of domestic violence.¹¹ The expansion of restorative justice in domestic violence cases has attracted ethical scrutiny, with feminist scholars and victim advocates warning that restorative justice could reinforce patriarchal power dynamics. Julie Stubbs argues that without proper safeguards and victim-centered protocols, restorative justice may become a form of informal social control. In response to these concerns, “feminist-informed restorative justice” has emerged, combining relational restoration with structural justice.¹²

In the Southeast Asian context, blended frameworks are particularly relevant given the pluralistic legal environments and strong influence of religion. Indonesia’s multilayered legal system allows customary institutions, especially in regions like Aceh and Papua, to conduct community reconciliation in cases of family conflict; however, these often lack victim protection and enforce gender norms. Meanwhile, Malaysia’s dual system of civil and Shariah courts limits the operational space for alternative mechanisms. The concept of *sulh* (Islamic mediation) has been proposed, but critics warn it may reflect patriarchal interpretations without adequate safeguards.¹³ Signs of reform are emerging. In Indonesia, Supreme Court Regulation No. 1/2024 encourages a restorative justice approach to resolve certain criminal cases, including unsuccessful juvenile diversion, criminal cases with a sentence of under five years, and traffic cases.¹⁴ In Malaysia, although limited institutional support, discourse around culturally-grounded victim-centered approaches is increasing.

Previous research on restorative justice (RJ) in domestic violence cases demonstrates both its transformative potential and its inherent complexities. Foundational scholars such as conceptualize RJ as a participatory and dialogic process that emphasizes accountability, repair, and reintegration among victims, offenders, and communities. However, when applied to domestic violence, theoretical and empirical studies reveal significant challenges related to power imbalances, victim

¹¹ Yanuar Farida Wismayanti and others, ‘The Problematization of Child Sexual Abuse in Policy and Law: The Indonesian Example’, *Child Abuse & Neglect*, 118 (2021), 105157 <https://doi.org/https://doi.org/10.1016/j.chiabu.2021.105157>

¹² Tri Yumarni, Dilanthi Amaratunga and Richard Haigh, ‘Assessing Gender Vulnerability within Post-Earthquake Reconstruction: Case Study from Indonesia’, *Procedia Economics and Finance*, 18 (2014), 763–71 [https://doi.org/https://doi.org/10.1016/S2212-5671\(14\)01000-4](https://doi.org/https://doi.org/10.1016/S2212-5671(14)01000-4)

¹³ Yanuar Farida Wismayanti and others, ‘Child Sexual Abuse in Indonesia: A Systematic Review of Literature, Law and Policy’, *Child Abuse & Neglect*, 95 (2019), 104034 <https://doi.org/https://doi.org/10.1016/j.chiabu.2019.104034>

¹⁴ Lutfi Yusup Rahmathoni, ‘Perbedaan Makna Restorative Justice Pasca Perma No.1 Tahun 2024 Pada Sistem Hukum Pidana Di Indonesia’, *Jurnal Hukum Lex Generalis*, 5.10 (2024) <https://doi.org/https://doi.org/10.56370/jhlg.v5i10.567>



safety, and the potential for coercion.¹⁵ Empirical evidence indicates that RJ interventions can improve victim satisfaction, increase offender accountability, and promote community engagement, but only when supported by trauma-informed facilitation, rigorous risk assessment, and the active involvement of victim advocates. Comparative legal analyses further show that jurisdictions such as New Zealand and Canada have implemented RJ in domestic violence cases under tightly regulated frameworks to ensure voluntariness and safety while others, such as the United States and the United Kingdom, remain cautious or restrictive due to ethical and procedural concerns.¹⁶ Cultural and community-based research highlights that restorative mechanisms can empower victims and foster accountability in contexts where gender equity and community support are strong, yet they may also reinforce patriarchal norms or social pressure in more conservative societies.¹⁷ Critical scholarship warns that the use of RJ in intimate partner violence may unintentionally minimize harm or shift responsibility from offenders to victims if not implemented within a strong legal and ethical framework.¹⁸ Despite a growing body of evidence, limitations persist, including methodological inconsistencies, small sample sizes, and the lack of longitudinal evaluations of safety and recidivism. Consequently, the literature converges on a cautious yet constructive stance: restorative justice may serve as a complementary approach to formal justice mechanisms in domestic violence cases, provided it operates within a survivor-centered, rights-based framework that prioritizes safety, empowerment, and gender-sensitive accountability.¹⁹

This research actively investigates the applicability, effectiveness, and ethical dimensions of restorative justice in the context of domestic violence. It systematically examines how the core principles of restorative justice, including accountability, victim empowerment, dialogue, and community participation, can be effectively integrated into responses to domestic violence while maintaining victim safety and preventing the reinforcement of power imbalances. The study further analyzes the potential of restorative mechanisms to complement formal criminal justice procedures, strengthen offender accountability, and promote holistic recovery and social reintegration for both victims and perpetrators. Through a comparative examination of legal frameworks, empirical studies, and feminist perspectives, this research identifies the essential legal, procedural, and sociocultural factors that determine the viability of restorative justice in domestic violence cases. Ultimately, the study aims to construct a comprehensive and evidence-based framework for

¹⁵ Ernesto Lodi and others, 'Use of Restorative Justice and Restorative Practices at School: A Systematic Literature Review', *International Journal of Environmental Research and Public Health*, 19.1 (2021), 96 <https://doi.org/10.3390/ijerph19010096>

¹⁶ Aria Zurnetti and Nani Muliati, 'Customary Criminal Law Policy on Domestic Violence Settlement through Restorative Justice', *Cogent Social Sciences*, 8.1 (2022) <https://doi.org/10.1080/23311886.2022.2090083>

¹⁷ Suwito Suwito and others, 'Restorative Justice: An Alternative Approach to Addressing Domestic Violence in Indonesia', *Innovative: Journal Of Social Science Research*, 5.1 (2025), 5066–77 <https://doi.org/10.31004/innovative.v5i1.18045>

¹⁸ Agus Widjajanto, I Gde Pantja Astawa and Muhammad Rulyandi, 'Decolonising Restorative Justice in Indonesia: A Comparative Study across Customary Law Traditions', *Legality: Jurnal Ilmiah Hukum*, 33.2 (2025), 470–92 <https://doi.org/10.22219/ljih.v33i2.40481>

¹⁹ Sukendar Sukendar and others, 'Women's Access To Justice: Mediation For The Victims of Domestic Violence In Central Java, Indonesia', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 7.1 (2023), 602 <https://doi.org/10.22373/sjhk.v7i1.9471>



implementing restorative justice that upholds human rights, advances gender equality, and enhances community safety within contemporary justice systems.

METHOD

This research adopted a qualitative methodology that integrates normative legal analysis with a sociolegal approach to critically examine the application of the restorative justice framework in addressing domestic violence cases in Indonesia and Malaysia. The normative aspect of the research focused on analysing the legal frameworks governing domestic violence and the potential incorporation of restorative justice principles within the legislative and judicial system of each country. This involved a close reading and interpretation of primary legal documents, including Indonesia's Law No. 23 of 2004 concerning the Elimination of Domestic Violence and Malaysia's Domestic Violence Act 1994, as well as other regulatory instruments such as the Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2024, Regulation of the Attorney General of the Republic of Indonesia No. 15 of 2020, and Regulation of the National Police of the Republic of Indonesia No. 8 of 2021 which are relevant to restorative practices. These texts were analysed doctrinally to assess their legal coherence, internal logic, and alignment with both domestic legal norms and international human rights standards, such as those articulated by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).²⁰

Complementing the doctrinal analysis, the research employed a sociolegal approach to explore how cultural, religious, and institutional dynamics influence the implementation or rejection of restorative justice in practice. This perspective was critical in understanding how social structures, such as patriarchal family systems, customary law (*adat*), and religious adjudication in Islamic courts, affect the lived experiences of victims and the conduct of legal authorities in both Indonesia and Malaysia. To support this dimension, the research incorporated secondary materials including peer-reviewed journal articles, empirical research reports, ethnographic fieldwork studies, and non-governmental organisation (NGO) publications that document community practices, police conduct, and victim advocacy efforts in domestic violence cases. Accredited national journals and reputable international journals provide current, credible literature to ground socio-legal studies in evidence and recent scholarly debates.

Data were collected through documentary analysis of secondary sources. The study interpreted legal texts and judicial decisions in their socio-political context and institutional implementation. The comparative analysis of Indonesia and Malaysia followed comparative legal methodology, focusing on both functional similarities and the recognition of differences in cultural, historical, and institutional structure.²¹ This methodological approach facilitates a comprehensive understanding of both the legal foundations and the societal conditions that frame the operation of restorative justice

²⁰ Aria Nakissa, 'Security, Islam, and Indonesia', *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia*, 176.2 (2020), 203–39 <https://doi.org/https://doi.org/10.1163/22134379-bja10004>

²¹ Patrick Barron, Kai Kaiser and Menno Pradhan, 'Understanding Variations in Local Conflict: Evidence and Implications from Indonesia', *World Development*, 37.3 (2009), 698–713 <https://doi.org/https://doi.org/10.1016/j.worlddev.2008.08.007>



in domestic violence cases. Furthermore, it renders the research replicable for future studies on similar themes in Southeast Asia or other regions characterised by plural legal systems. The integration of doctrinal and socio-legal analysis provides a robust platform for evaluating the viability of restorative justice as either an alternative to or a complement to conventional criminal justice approaches within the deeply sensitive and complex domain of domestic violence.

RESULT AND DISCUSSION

Indonesian and Malaysian Policies on Restorative Justice

In Indonesia, the restorative policy for resolving criminal cases is outlined in several sectoral regulations,²² which are Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System; Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice; Regulation of the Chief of the Republic of Indonesia National Police No. 15 of 2013 concerning Procedures for Handling Traffic Accidents; Regulation of the Attorney General of the Republic of Indonesia No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice; and Regulation of the Supreme Court No. 1 of 2024 concerning Guidelines for Trying Criminal Cases Based on Restorative Justice.²³

In addition to being incorporated in laws and regulations, the handling of criminal cases based on restorative justice is also reflected in Institutional Policies, such as Letters of Circulars from the Chief of Police. This includes the Letter of the Police Chief of the Republic of Indonesia No. Pol: B/3022/XII/2009 on handling cases through Alternative Dispute Resolution (ADR); Circular Letter of the Chief of Police of the Republic of Indonesia No: SE/8/VII/2018 on the Implementation of Restorative Justice in the Settlement of Criminal Cases; Regulation of the Chief of Police of the Republic of Indonesia No. 6 of 2019 on Criminal Investigation; Secret Telegram of the Head of the Criminal Investigation Agency of the Republic of Indonesia Police No. TR/1124/XI/2006; and Secret Telegram of the Head of the Criminal Investigation Agency of the Republic of Indonesia Police No. TR/395/VI/2008 on Diversion of Juvenile Delinquency Cases.²⁴

The parameters for the use of restorative justice are regulated in several regulations and policies. For example, the crime committed should not have the potential to divide the nation without radicalism and separatism, or there may be a maximum limit on the criminal threat so that the crime can be resolved using a restorative justice approach. In the Regulation of the Republic of Indonesia National Police No. 8 of 2021 on handling of criminal acts based on restorative justice, there is no limit to the

²² Muhammad Rif'an Baihaky and Muridah Isnawati, 'Restorative Justice: Pemaknaan, Problematika, Dan Penerapan Yang Seyogianya', *UNES Journal of Swara Justisia*, 8.2 (2024), 276–89 <https://doi.org/DOI:https://doi.org/10.31933/4mqgaj17>

²³ Jin Ho Kim and Benjamin D Williams, 'Minimum Wage and Women's Decision-Making Power within Households: Evidence from Indonesia', *Economic Development and Cultural Change*, 70.1 (2021), 359–414 <https://doi.org/https://doi.org/10.1086/711172>

²⁴ Heribertus Rinto Wibowo and others, 'One Household, Two Worlds: Differences of Perception towards Child Marriage among Adolescent Children and Adults in Indonesia', *The Lancet Regional Health - Western Pacific*, 8 (2021), 100103 <https://doi.org/https://doi.org/10.1016/j.lanwpc.2021.100103>



criminal threat for the crime. However, in the Regulation of the Republic of Indonesia Prosecutor's Office No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, Letter Decree of the Director General of the General Courts Number 1691 of 2020 dated December 22, 2020 on Guidelines for the Implementation of Restorative Justice in the General Courts, and the Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2024 on Guidelines for Trying Criminal Cases Based on Restorative Justice, the limit of the criminal threat for restorative justice is a maximum of five years in prison.²⁵

Malaysia established a sufficient legal foundation for Restorative Justice practices, notably through the Criminal Procedure Code 1994 and the Child Act 2001. However, the implementation of RJ is not yet consistently applied to all criminal offenses. In practice, RJ is mostly applied to specific cases involving vulnerable groups, particularly women and children who are victims of domestic violence. For more serious crimes such as murder and other criminal crimes, the justice system still heavily relies on retributive approaches. In domestic violence cases, the RJ process combines criminal sentencing for the perpetrator with recovery support for victims.²⁶ For instance, while offenders may still face imprisonment, survivors (such as wives and children) are granted access to counselling services and can be placed in safe houses managed either by the government or non-governmental organisations (NGOs). In Malaysia, NGOs are empowered to manage protection shelters, offer counselling services, and work closely with government institutions. This collaborative model has proven effective in reaching victims across different regions and accelerating the recovery process, without relying solely on state resources.²⁷

In terms of child protection, the Child Act 2001 specifically outlines counselling mechanisms for child offenders and victims. The Malaysian government demonstrates a commitment to the psychological recovery of children through ongoing support and assistance. Counselling plays a vital role in differentiating the RJ approach for cases involving children from that of other criminal cases. Nevertheless, RJ has not yet been uniformly adopted across all categories of criminal offenses. In the context of serious crimes, structured psychological recovery mechanisms remain limited, and the justice system continues to prioritise punitive measures. Despite these constraints, RJ has gained significant acceptance among the public, law enforcement agencies, and the Malaysian government, particularly in its efforts to protect vulnerable populations, including women, children, and persons with disabilities.²⁸

²⁵ Choon Yen Khoo and Brenda S A Yeoh, 'Responsible Adults-in-the-Making: Intergenerational Impact of Parental Migration on Indonesian Young Women's Aspirational Capacity', *Geoforum*, 85 (2017), 280–89 <https://doi.org/https://doi.org/10.1016/j.geoforum.2017.08.005>

²⁶ Mohd Shahidan Shaari Et.al, 'Female Empowerment and Crime Patterns in Malaysia: A Non-Linear Analysis', *Social Sciences & Humanities Open*, 9 (2024) <https://doi.org/https://doi.org/10.1016/j.ssaho.2023.100798>

²⁷ Neil Boothby and Lindsay Stark, 'Data Surveillance in Child Protection Systems Development: An Indonesian Case Study', *Child Abuse & Neglect*, 35.12 (2011), 993–1001 <https://doi.org/https://doi.org/10.1016/j.chiabu.2011.09.004>

²⁸ Ali Maksum, 'Indonesian Post-Migrant Workers: A Challenging Problem for Human Security', *Social Sciences & Humanities Open*, 4.1 (2021), 100223 <https://doi.org/https://doi.org/10.1016/j.ssaho.2021.100223>



Restorative Justice in Tackling Domestic Violence in Indonesia and Malaysia

Restorative justice has garnered considerable attention in recent years as a humane and victim-centered approach within contemporary criminal justice systems, especially in cases involving domestic violence. Rather than focusing solely on retributive punishment, restorative justice seeks to repair the harm inflicted by crime by engaging both the victim and the offender in a process characterised by dialogue, accountability, and reparation. Indonesia and Malaysia, two Southeast Asian nations with different legal traditions and cultural contexts, provide valuable comparative insights into the operationalisation of restorative justice in domestic violence cases. Although both countries are exploring restorative approaches, significant disparities exist in their legal frameworks, implementation mechanisms, and institutional support.²⁹

In Indonesia, domestic violence is regulated under Law No. 23 of 2004 concerning the Elimination of Domestic Violence. However, it remains a neglected phenomenon, even by most of society. Many women experience violence in the household but are often reluctant to report it, considering it a disgrace that should not be known to others. Even after the issuance of Law No. 23 of 2004, domestic violence remains a problem in society.³⁰ In the executive summary of the annual report of the National Commission on Violence Against Women, violence against wives, which falls within the personal sphere, was the most frequently reported, as it has been in all annual reports since 2001. The National Commission on Violence Against Women received 672 complaints of violence against wives, the highest number of cases. In 2023, the second-highest number of cases was violence against ex-boyfriends (632 cases), followed by violence against dating partners (407 cases). Violence against girls (122 cases) was more common compared to other forms of violence (109 cases) and sexual violence (68 cases). Overall, the number of cases in the personal sphere in 2024 increased by 3.4% compared to 2023. Partner complaint data from the 2024 annual report also shows a similar trend, with the most frequent cases being violence against wives (5,950). This data indicates that domestic violence (violence against wives, violence against girls, and other forms of violence against women) accounts for 83.70% of the total reported personal data. The high level of violence against wives also indicates that gender inequality between husbands and wives remains significant, as indicated by the wife's subordinate position in the marriage.³¹

The cases of domestic violence in Java due to the largest population of any Indonesian region, with over 150 million people. With more than 17,000 islands, Indonesia's population is more than 280 million people, meaning that more than half of Indonesia's total population resides in Java. According to the records of the National Commission on Violence Against Women in 2023, the number of gender-based violence cases against women, including domestic violence, in Java was higher

²⁹ Clare McGlynn, 'Challenging Anti-Carceral Feminism: Criminalisation, Justice and Continuum Thinking', *Women's Studies International Forum*, 93.102614 (2022), 1–8 <https://doi.org/https://doi.org/10.1016/j.wsif.2022.102614>

³⁰ Margie Gladies Sopacua, 'Konsep Ideal Pencegahan Kekerasan Dalam Rumah Tangga Terhadap Perempuan', *Jurnal Pembangunan Hukum Indonesia*, 4.2 (2024), 213–26 <https://doi.org/DOI:10.14710/jphi.v4i2.213-226>

³¹ National Commission on Violence Against Women, *EXECUTIVE SUMMARY Violence Against Women Annual Report 2024* (Jakarta, 2025).



than in other regions, with 168,002 cases out of 289,111 cases reported in Indonesia.³² Indonesia's approach to restorative justice in domestic violence cases is supported by various laws, notably Law No. 23 of 2004, which remains primarily retributive, and never regulations such as the Attorney General's Regulation No. 15 of 2020 and the National Police Regulation No. 8 of 2021. These enable restorative justice if there is mutual agreement between the victim and offender, and if the offense does not have a widespread societal impact. However, implementation remains problematic, particularly due to the lack of standardised procedures and qualified mediators.³³

Regarding the use of restorative justice in resolving domestic violence, Heather posits that it is still rare and controversial.³⁴ In developed industrial countries, the response to domestic violence is recommended to involve restorative justice, especially in Family Group Conferences.³⁵ There are several reasons why restorative justice is worth considering for application in resolving cases of domestic violence in Indonesia. First, there is the compatibility of the idea of restorative justice with Pancasila as the legal ideal of the Indonesian nation and state. Pancasila is the philosophy of the Indonesian nation; it holds a position as the source of all legal norms created and enforced in Indonesia. As the philosophical basis of national and state life, Pancasila represents the legal ideal of the Indonesian legal system.³⁶ Legal ideals originate from the realm of values, which comprises a world of ideas regarding what is considered noble and sublime, and therefore, obligatory, demanding respect and obedience. This realm of values is subsequently captured, processed, and formulated by the philosophy of life of a legal society.³⁷

The legal ideals, as a representation of values in societal life, possess a dimension to create the sustainability of the intended values. Conversely, the reality of social life cannot be separated from issues relating to rights and obligations, desires or ideals, conflicts or disputes, and the influence of globalisation. The existence of the state serves as a solution to the problems arising in the reality of social life and as a support mechanism for achieving societal ideals. Law functions as a state instrument to resolve

³² Silva Larson and others, 'Women's Well-Being and Household Benefits from Seaweed Farming in Indonesia', *Aquaculture*, 530 (2021), 735711 <https://doi.org/https://doi.org/10.1016/j.aquaculture.2020.735711>

³³ Prajna Paramita Mishra, Ch. Sravan and Sujit Kumar Mishra, 'Extracting Empowerment: A Critical Review on Violence against Women in Mining and Mineral Extraction', *Energy Research & Social Science*, 109 (2024), 103414 <https://doi.org/https://doi.org/10.1016/j.erss.2024.103414>

³⁴ Heather Hensman, Kettrey Noah and Samuel Reynolds, 'Is Restorative Justice Appropriate for Sexual Assault and Domestic Violence? A Systematic Review and Meta - Analysis of the "Empirical Vacuum"', *Journal of Experimental Criminology*, 2024 <https://doi.org/10.1007/s11292-024-09651-8>

³⁵ Robin Sen and others, "'When You're Sitting in the Room with Two People One of Whom... Has Bashed the Hell out of the Other": Possibilities and Challenges in the Use of FGCs and Restorative Approaches Following Domestic Violence', *Children and Youth Services Review*, 88, December 2017 (2018), 441–49 <https://doi.org/10.1016/j.childyouth.2018.03.027>

³⁶ Gerry Geovant Supranata Kaban, 'PANCASILA'S LEGAL IDEALS (RECHTSIDEE) AS A LEADING LIGHT FOR PENAL POLICY IN INDONESIA', *Sudirman Law Review*, 5.2 (2023), 666–86 <https://doi.org/10.20884/1.slr.2023.5.2.212>

³⁷ Ekberth Vallen Noya and Ade Walakutty, 'Hukum Berparadigma Cita Hukum Indonesia Demi Tercapainya Keadilan', *SANISA: Jurnal Kreativitas Mahasiswa Hukum*, 2 (2022), 69–80 <https://doi.org/10.47268/sanisa.v2i2.1207>



various problems and acts as a 'bridge' to attain the aspirations of society.³⁸ Second, restorative justice can provide a more substantive sense of justice to victims. A victim is the party who experiences loss or suffering as a result of the perpetrator's actions, trying to gain profit from the crime they committed.³⁹

In the retributive view, the victim's suffering or loss has been abstracted and compensated in the form of a threat of criminal sanctions that can be imposed on the perpetrator. In this case, criminal sanctions are better understood as a form of recompense (or even retaliation) for the perpetrator's mistake in committing a crime that results in suffering or loss to the victim. In other words, the type and severity of criminal sanctions are considered to reflect the suffering or loss experienced by the victim. In the retributive view, the authority to resolve existing cases is also the absolute authority of state officials, and the focus of resolving cases is to impose criminal sanctions on the perpetrator. Based on this conception, according to the retributive view, justice has been upheld if law enforcement officers succeed in implementing or imposing criminal sanctions on the perpetrator in accordance with existing legal regulations.

In contrast to retributive justice, it focuses on the reparation of suffering in case resolution. The process is no longer a monopoly of law enforcement officers; instead, there is active involvement between the parties. In restorative justice, the victim (and the community), along with the perpetrator, is seen as part of the conflict, and the purpose and process of resolution consider the interests of all parties. If the resolution is expected to provide justice, then the justice experienced by the parties, including the victim, can be felt more substantively. Third, domestic violence occurs between people who have a special relationship that is generally considered very close, either because of marriage or blood relations. This close relationship is outlined in Article 1, number 1, in conjunction with Article 2 of the Domestic Violence Elimination Act. Article 1, number 1, defines domestic violence as any act against a person, especially women, resulting in physical, sexual, or psychological misery or suffering, and/or neglect of the household, including threats to commit acts, coercion, or unlawful deprivation of liberty within the household. Consequently, imposing criminal sanctions on perpetrators, who are often part of the victim's family, can cause further suffering for the victims themselves. Furthermore, in Javanese households, wives and children are often economically dependent on their husbands or fathers.⁴⁰

Fourth, victims or families of victims of domestic violence who have reported their cases to investigators often choose to resolve their cases amicably by not continuing the process according to criminal law. The victim's choice is to withdraw the report. According to restorative justice thinking, conflict resolution aims to create harmony between the interests of the victim, the perpetrator, and the community. This can be seen in the principles of restorative justice, where the parties engage in dialogue and

³⁸ Delfina Gusman, 'Cita Hukum Dalam Lingkup Hubungan Masyarakat Dan Negara', *Jurnal Ilmu Hukum, Humaniora Dan Politik*, 5 (2024), 39–49 <<https://doi.org/https://doi.org/10.38035/jihhp>>.

³⁹ Gerry Johnstone, 'Restorative Justice for Victims: Inherent Limits?', *Restorative Justice*, 5.3 (2017) <https://doi.org/https://doi.org/10.1080/20504721.2017.1390999>

⁴⁰ Sabine Kurtenbach and others, 'Non-State Armed Actors, War Economies and Postwar Violence – Examining the Connections', *World Development*, 191 (2025), 106918 <https://doi.org/https://doi.org/10.1016/j.worlddev.2025.106918>



emphasise the negotiation process. Conflict resolution, according to restorative justice, encourages a spirit of mutual understanding and involves the parties (victims, perpetrators, and the community).⁴¹ Restorative justice encourages community involvement in the perpetrator's accountability and suggests improvements based on the needs of both the victim and perpetrator. The goal of the criminal justice process, according to restorative justice, is to reconcile the parties while addressing the losses caused by the crime. Conflict resolution aims to create a sense of security that encompasses peace and order. With restorative justice, the relationship between the perpetrator and the victim will also be reintegrated into society. The harmonisation of the interests of the perpetrator, victim, and community, which is the goal of conflict resolution according to restorative justice thinking, is essential in eliminating domestic violence, as stated in Article 4 Letter d of the Law on the Elimination of Domestic Violence.⁴²

Fifth, the Indonesian Criminal Code, as the foundation of criminal law applicable in Indonesia, has begun to consider the victim factor in its sentencing. This is evident in the formulation of the Purpose of Sentencing and Sentencing Guidelines. Article 51 of the Indonesian Criminal Code states that sentencing aims to prevent criminal acts by enforcing legal norms for the protection of society; socialise convicts by providing guidance and counselling to help them become good and valuable citizens; resolve conflicts caused by criminal acts, restore balance, and bring a sense of security and peace to society; and foster a sense of regret and free the convict from guilt. The consideration of the victim factor in sentencing the perpetrator is also apparent from Article 54 paragraph (1) of the Criminal Code, which addresses the impact of the crime on the victim or the victim's family.⁴³

From a Malaysian perspective, domestic violence is documented by the Department of Statistics Malaysia. The increase in domestic violence is quantified and compared between the pre-COVID-19 and post-COVID-19 periods.⁴⁴ post-COVID-19, the number of domestic violence cases in Malaysia showed a sharp increase, reaching 3.4 times the pre-COVID-19 level. This statistic is deemed significant, prompting researchers to conduct further investigations. One study examined effective ways to improve the situation following incidents of domestic violence. In Malaysia, although

⁴¹ David P´erez-Jorge A and others, 'Restorative Methods as a Strategy for the Prevention of Violence and Bullying in Primary and Secondary Schools in Mexico: An Exploratory Study', *Heliyon*, 9 (2023), 1–14 <https://doi.org/https://doi.org/10.1016/j.heliyon.2023.e18267>

⁴² Shanika Samarakoon and Rasyad A Parinduri, 'Does Education Empower Women? Evidence from Indonesia', *World Development*, 66 (2015), 428–42 <https://doi.org/https://doi.org/10.1016/j.worlddev.2014.09.002>

⁴³ Sandra Dewi Arifiani and others, 'Assessing Large-Scale Violence against Children Surveys in Selected Southeast Asian Countries: A Scoping Review', *Child Abuse & Neglect*, 93 (2019), 149–61 <https://doi.org/https://doi.org/10.1016/j.chiabu.2019.05.005>

⁴⁴ Ling Hui Xin & Thaasmitha Ganeson Lim Jia Le, 'Domestic Violence in Malaysia During Post-Covid-19 Era: Any Legal Solutio', *International Journal of Academic Research in Business and Social Sciences*, 14.6 (2024), 1593–1619 <https://doi.org/10.6007/IJARBS/v14-i6/21968>



the Domestic Violence Act exists to regulate domestic violence, there is a growing trend towards employing restorative justice as a paradigm for addressing the issue.⁴⁵

Malaysia, in contrast, lacks a formal legal framework that explicitly endorses restorative justice in domestic violence cases. The Domestic Violence Act 1994 primarily emphasises punitive and protective measures, such as restraining orders and criminal prosecution. Nonetheless, there have been calls to consider restorative justice as a complementary approach, especially for first-time or low-risk offenders. Several Malaysian scholars and practitioners argue that restorative justice could be integrated into existing structures, provided that adequate safeguards are established. Some civil society organisations, such as the Women's Centre for Change, have informally adopted restorative practices, including victim-offender dialogue and trauma counselling, although these initiatives operate outside the jurisdiction of formal judicial institutions.⁴⁶

The empirical application of restorative justice in Indonesia reveals systemic weaknesses that undermine its intended goals. Mediation is often conducted prematurely at the police level, where victims may lack full awareness of their rights and the implications of participation. In many cases, cultural and familial expectations exert pressure on victims, particularly women, to reconcile with perpetrators in the name of social harmony, irrespective of the severity of the abuse. The absence of independent legal representation and trauma-informed support further exacerbates the power imbalance, rendering victims vulnerable to coercion and re-victimisation. Consequently, what is characterised as a restorative process frequently lacks the essential elements of informed consent, voluntariness, and meaningful participation by the victim.⁴⁷

Restorative justice processes that fail to empower victims or address power imbalances can inadvertently reproduce harm, especially in gender-based violence contexts. The experience of Indonesia exemplifies this dilemma, where an emphasis on reconciliation may overshadow the needs and safety of survivors. Cultural norms that prioritise family unity and social harmony often compel victims to engage in restorative processes, even when they feel unsafe. This pressure is intensified by a lack of access to legal counsel and psychological support, which are crucial for ensuring informed and voluntary participation. Consequently, rather than delivering justice and healing, restorative mechanisms risk reinforcing patriarchal structures and silencing victims' voices.⁴⁸

⁴⁵ Fransina Tubalawony, Novy H C Daulima and Herni Susanti, 'Women's Experience of Domestic Violence in Maluku', *Enfermería Clínica*, 29 (2019), 243–46
<https://doi.org/https://doi.org/10.1016/j.enfcli.2019.04.029>

⁴⁶ Richard Fox, 'Screening Piety, Class, and Romance in Indonesia', *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia*, 176.1 (2020), 70–104
<https://doi.org/https://doi.org/10.1163/22134379-bja10003>

⁴⁷ J Malcolm Dowling and Chin-Fang Yap, 'Indonesian Economic Development: Mirage or Miracle?', *Journal of Asian Economics*, 19.5 (2008), 474–85
<https://doi.org/https://doi.org/10.1016/j.asieco.2008.09.012>

⁴⁸ Fitra Roman Cahaya and Rizka Hervina, 'Do Human Rights Issues Matter? An Empirical Analysis of Indonesian Companies' Reporting', *Social Responsibility Journal*, 15.2 (2018), 226–43
<https://doi.org/https://doi.org/10.1108/SRJ-10-2016-0171>



In Malaysia, restorative justice may lack institutional legitimacy, but grassroots implementation appears more survivor-centric, with non-governmental organisations often employing trained facilitators to prioritise emotional healing over procedural expedience. For instance, studies indicate that restorative justice practices in community organisations are more effective in respecting the agency of female survivors and providing tailored interventions. However, the absence of state oversight creates inconsistency and limits scalability, while marginalised communities often lack equal access to these support services, exacerbating existing inequalities. These limitations highlight the need for integrated frameworks that combine community-based approaches with formal legal safeguards to ensure equitable and effective outcomes for all survivors.⁴⁹

Comparatively, Indonesia's formal recognition of restorative justice through regulatory instruments provides a structured foundation for its integration into the criminal justice system. However, the lack of clear operational guidelines and comprehensive training leads to inconsistent implementation across regions and varying interpretations by law enforcement and judicial actors. In contrast, Malaysia's model is largely driven by non-governmental organisations and community-based initiatives, offering a more adaptive, survivor-centered approach. Nevertheless, its effectiveness is hindered by a lack of legal legitimacy and limited resources, affecting its scalability and sustainability. Van Camp argues that effective victim participation in restorative justice hinges on structural support and normative clarity, both of which remain underdeveloped in these countries. For victims, restorative justice can offer an alternative to the adversarial system, providing opportunities for acknowledgment of harm, emotional closure, and material compensation. However, without strong institutional safeguards, there is a risk that restorative justice may be co-opted to serve the interests of efficiency or patriarchal reconciliation rather than justice. The need for survivor-informed frameworks that ensure safety, voluntariness, and post-process support. Lacking these elements, restorative justice may exacerbate rather than ameliorate the harms of domestic violence.⁵⁰

Moving forward, Indonesia should develop comprehensive guidelines to standardise restorative justice procedures, including criteria for case eligibility, victim protection protocols, and facilitator training, while integrating psychological and social services for holistic support. Meanwhile, Malaysia could pilot restorative justice programs in its Shariah and civil courts, inspired by international best practices. Jurisdictional experimentation and evidence-based policy reform are essential for addressing complex social issues like domestic violence. Ultimately, the comparative analysis of Indonesia and Malaysia underscores that restorative justice is not a panacea but a conditional opportunity. Its success depends on its adaptation to cultural realities, legal norms, and the experiences of victims. Harmonising restorative

⁴⁹ Irma Riyani and Lyn Parker, 'Women Exercising Sexual Agency in Indonesia', *Women's Studies International Forum*, 69 (2018), 92–99 <https://doi.org/https://doi.org/10.1016/j.wsif.2018.05.002>

⁵⁰ Ratna Saptari, 'Menikah Muda Di Indonesia: Suara, Hukum Dan Praktek, by Mies Grijns, Hoko Horii, Sulistyowati Irianto, and Pinky Saptandari (Eds)', *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia*, 177.1 (2021), 147–49 <https://doi.org/https://doi.org/10.1163/22134379-17701008>



principles with gender justice, due process, and community engagement remains a critical challenge, and a necessary aspiration, in both countries.⁵¹

The Restorative Justice Institution Policy Opportunities and Challenges in Domestic Violence Cases

The institutionalisation of restorative justice in domestic violence cases constitutes a complex and contested endeavour in both Indonesia and Malaysia. Despite the increasing global recognition of restorative justice as a complementary or alternative approach to retributive criminal justice, its integration into domestic violence policy frameworks raises critical concerns regarding power dynamics, gender justice, and procedural safeguards. This sub-chapter examines the policy-level challenges and prospects for embedding restorative justice within the legal and institutional structures of Indonesia and Malaysia, with particular emphasis on stakeholder involvement, legal pluralism, and cultural appropriateness.⁵²

One of the primary challenges faced by both countries is the absence of a coherent national strategy for restorative justice in the context of gender-based violence. In Indonesia, restorative justice remains fragmented across different agencies and lacks unified operational standards. Although police and prosecutorial guidelines provide potential entry points, the judiciary has yet to develop a harmonised framework for post-charge restorative justice initiatives. This institutional fragmentation results in inconsistent outcomes and often leads to confusion among frontline officers, legal professionals, and victims. The effectiveness of restorative justice in cases of gendered violence is heavily contingent upon systemic coherence and cross-sectoral coordination, both of which are markedly underdeveloped in the Indonesian context.⁵³

In Malaysia, the policy vacuum regarding restorative justice is particularly pronounced. The Domestic Violence Act 1994 does not encompass restorative justice, and the absence of enabling legislation results in restorative practices, where they exist, being informal and heavily dependent on the capacity and discretion of civil society organisations. The lack of legal recognition for restorative justice in domestic violence cases not only undermines its legitimacy but also exposes victims to potential rights violations, as there is no standardised monitoring or evaluation framework. The formal institutionalisation of restorative justice is necessary to ensure equity, transparency, and victim-centered outcomes, particularly in jurisdictions with plural legal systems.⁵⁴

⁵¹ Jony Eko Yulianto and others, 'Navigating Tensions in Inter-Ethnic Marriages in Indonesia: Cultural, Relational, Spatial and Material Considerations', *International Journal of Intercultural Relations*, 86 (2022), 227–39 <https://doi.org/https://doi.org/10.1016/j.ijintrel.2021.12.008>

⁵² Guanie Lim, Chen Li and Emirza Adi Syailendra, 'Why Is It so Hard to Push Chinese Railway Projects in Southeast Asia? The Role of Domestic Politics in Malaysia and Indonesia', *World Development*, 138 (2021), 105272 <https://doi.org/https://doi.org/10.1016/j.worlddev.2020.105272>

⁵³ Oscar Fernández Álvarez and Lally Kouadio Alexis, 'Violence against Women and Children. A Distant and Domestic Hell', *Procedia - Social and Behavioral Sciences*, 161 (2014), 7–11 <https://doi.org/https://doi.org/10.1016/j.sbspro.2014.12.002>

⁵⁴ Tuti Susilawati, Edi Setiadi and Yoyon Darusman, 'Restorative Justice in Domestic Violence Cases: Law Implementation and Challenges in Indonesia', *Sinergi International Journal of Law*, 3.3 (2025), 172–84 <https://doi.org/10.61194/law.v3i3.797>



Legal pluralism presents a significant structural challenge. In Indonesia, the coexistence of state law, customary law (*adat*), and Islamic law complicates the application of restorative justice. Community-based dispute resolution mechanisms are often rooted in patriarchal norms that prioritise family unity over individual rights. Consequently, restorative justice practices implemented under customary or religious frameworks may inadvertently reinforce gender inequality. This tension is particularly evident in regions such as Aceh, where Sharia-based legal procedures are employed alongside national criminal law. Research indicates that women seeking redress for domestic violence in customary courts frequently encounter pressure to reconcile, even when their physical and psychological safety is at risk.⁵⁵

Malaysia also contends with the complexities inherent in a dual legal system, particularly at the intersection of civil and Shariah courts, which frequently result in overlapping jurisdictions in family and domestic violence cases. For Muslim citizens, issues such as divorce, maintenance, and protection from abuse frequently fall under the jurisdiction of Shariah courts, while criminal aspects remain within the civil legal domain. This bifurcation may lead to fragmented responses and inconsistent protections for survivors, contingent upon the court that is approached. Furthermore, there exists limited clarity or legislative guidance on the operationalisation of restorative justice principles, such as mediation, dialogue, and reparative processes, within Shariah court procedures. The absence of standardised protocols further complicates efforts to implement survivor-centered practices, potentially restricting access to holistic and culturally sensitive justice mechanisms. Therefore, the integration of restorative justice into Malaysia's legal system must address not only legislative gaps but also institutional boundaries between civil and religious courts.⁵⁶

Cultural perceptions and social stigma significantly obstruct the acceptance of restorative justice for domestic violence in both Indonesia and Malaysia. In numerous countries, domestic violence continues to be perceived as a private or familial issue rather than a public crime, which deters victims from pursuing formal avenues of redress. Women, in particular, frequently face pressure to prioritise family unity over personal safety, especially in contexts where traditional norms emphasise obedience and reconciliation. This societal expectation can compromise the main principles of restorative justice by framing participation as obligatory rather than voluntary. Consequently, restorative processes risk transforming into an instrument of social conformity and coercion, rather than serving as mechanisms for healing and empowerment.⁵⁷

Stubbs cautions that without sufficient consideration of the broader social and cultural context, restorative justice may inadvertently operate as a “soft option” that prioritises reconciliation over accountability. This is particularly perilous in cases of domestic violence, as it may allow perpetrators to minimize their actions without

⁵⁵ Fatin Hamamah, Didi Sukardi and Shirin Kulkarni, ‘The Application of Restorative Justice in Domestic and Child Violence Cases in Indonesia and Finland’, *SASI*, 31.1 (2025), 44 <https://doi.org/10.47268/sasi.v31i1.2448>

⁵⁶ Jumra and others.

⁵⁷ Nur Azisa and others, ‘Psychological Recovery of Crime Victims within Contemporary Restorative Justice: An Islamic Legal Perspective’, *MILRev: Metro Islamic Law Review*, 4.2 (2025), 1098–1127 <https://doi.org/10.32332/milrev.v4i2.11184>



facing significant consequences. When restorative practices are executed without safeguards or a gender-sensitive framework, victims, especially women, may be coerced into forgiving their abusers or re-entering unsafe environments. Such outcomes not only compromise the integrity of restorative justice but also risk retraumatizing survivors by replicating the dynamics of power and control that characterised the original abuse. Therefore, Stubbs emphasises the necessity of designing restorative processes that are firmly anchored in principles of justice, safety, and survivor empowerment.⁵⁸

Another significant obstacle lies in the lack of capacity among legal and support service professionals to implement restorative justice effectively,⁵⁹ particularly in sensitive cases such as domestic violence. In Indonesia, only a small number of practitioners have received formal training in trauma-informed and gender-sensitive restorative practices, resulting in inconsistent and occasionally harmful applications. This lack of expertise is compounded by minimal interdisciplinary collaboration, as professionals from the criminal justice system rarely engage systematically with mental health workers, social services, or victim advocates. As a result, restorative processes often fail to address the complex emotional and psychological needs of survivors. Without a coordinated and well-trained network of professionals, restorative justice risks becoming a procedural formality rather than a transformative approach to justice and healing.⁶⁰

Malaysia encounters significant challenges in the implementation of restorative justice, particularly within the context of domestic violence. Although various non-governmental organisations provide mediation and counselling services, these initiatives frequently operate in isolation from the formal legal system, resulting in a lack of institutional support and oversight. This disconnect restricts the ability of such programmes to provide comprehensive and legally enforceable protections for victims. Additionally, there exists a considerable deficiency of empirical data evaluating the long-term outcomes of restorative justice interventions, including their impact on recidivism rates, victim safety, and psychological recovery. Without robust monitoring and evaluation mechanisms, it remains challenging to determine whether restorative justice in Malaysia effectively promotes justice and healing or simply serves as an informal alternative with uncertain efficacy.⁶¹

Rigorous impact assessments are essential for validating restorative justice as a legitimate and effective policy solution rather than merely an ad hoc or symbolic compromise. Without systematic evaluation, it is impossible to ascertain whether

⁵⁸ Dian Karisma, Berliant Pratiwi and Sri Handoko, 'Penerapan Restorative Justice Dalam Kasus Kekerasan Domestik Di Indonesia: Studi Empiris Di Wilayah Perkotaan Dan Pedesaan', *Hakim: Jurnal Ilmu Hukum Dan Sosial*, 2.4 (2024), 757–73 <https://doi.org/10.51903/hakim.v2i4.2194>

⁵⁹ Tahi Saoloan Hutagalung, 'The Effectiveness of Restorative Justice Implementation in the Juvenile Criminal Justice System in Indonesia', *Jurnal Smart Hukum*, 2.1 (2023), 37–46 <https://doi.org/10.55299/jsh.v2i1.1353>

⁶⁰ Nur Alifah, 'Critical Review of the Implementation of Restorative Justice for Victims of Sexual Violence Crimes: A Legal Positivism Perspective of Hart', *International Journal of Educational Research & Social Sciences*, 6.2 (2025), 138–45 <https://doi.org/10.51601/ijersc.v6i2.964>

⁶¹ Indriati Amarini and others, 'Social Reintegration after the Implementation of Restorative Justice in the Indonesian Criminal Code', *Jurnal Media Hukum*, 31.1 (2024), 115–33 <https://doi.org/10.18196/jmh.v31i1.20655>



restorative justice practices yield meaningful outcomes, such as reduced reoffending, increased victim satisfaction, or community healing. These assessments should incorporate both qualitative and quantitative measures, encompassing survivor perspectives, offender accountability, and the sustainability of agreements reached. Additionally, they assist in identifying unintended consequences, such as traumatisation or power imbalances, which may undermine the integrity of the process. Ultimately, evidence-based evaluations are essential for fostering institutional trust and informing the scaling or refinement of restorative justice initiatives within national legal frameworks.⁶²

Despite these challenges, there are significant prospects for reform. In Indonesia, the National Commission on Violence Against Women has advocated for the incorporation of restorative justice principles in the draft revisions of the Criminal Procedure Code. This provides a critical opportunity for embedding restorative justice within a rights-based legislative framework. Furthermore, pilot projects in urban areas such as Jakarta and Yogyakarta explored hybrid models that integrate formal legal proceedings with restorative dialogue sessions facilitated by trained mediators and psychologists. These models provide a framework for scaling up restorative justice in a manner that respects both legal due process and cultural context.⁶³

In Malaysia, recent discourse among legal scholars and policymakers initiated an exploration of the feasibility of implementing a national restorative justice policy. In 2023, the Malaysian Bar Council convened a national symposium to deliberate on the integration of restorative justice into the criminal justice system, with particular emphasis on domestic violence cases. The recommendations arising from the symposium included the establishment of a multi-stakeholder task force, the drafting of enabling legislation, and investment in professional development for facilitators. Drawing on comparative experiences from jurisdictions such as New Zealand and Canada, the symposium underscored the importance of preserving the core values of restorative justice, voluntariness, accountability, and victim empowerment, while adapting these principles to align with local legal and cultural contexts.⁶⁴

Moreover, Malaysia's emphasis on culturally sensitive mediation frameworks, particularly within the Shariah court system, provides valuable insights into the meaningful integration of religious and customary norms with restorative justice principles. Although this model encounters certain challenges, it serves as a compelling example for Indonesia to consider when designing mediation programmes that resonate with both national legal standards and local traditions. When restorative justice is adapted to align with existing legal and cultural contexts, it tends to achieve greater acceptance and legitimacy among diverse communities. Such alignment enhances public trust, promotes participation, and ensures that restorative processes are perceived as both relevant and just. By embedding restorative principles within

⁶² Tony Ward and Robin Langlands, 'Repairing the Rupture: Restorative Justice and the Rehabilitation of Offenders', *Aggression and Violent Behavior*, 14.3 (2009), 205–14 <https://doi.org/https://doi.org/10.1016/j.avb.2009.03.001>

⁶³ Riyani and Parker.

⁶⁴ Iim Halimatusa'diyah and Windy Triana, 'Sexism and Women's Access to Justice: Feminist Judging in Indonesian Islamic Judiciary', *Women's Studies International Forum*, 103 (2024), 102883 <https://doi.org/https://doi.org/10.1016/j.wsif.2024.102883>



culturally familiar structures, states can develop more inclusive and effective systems of justice.⁶⁵

In addition, Malaysia's recent initiatives to convene national-level dialogues, such as the Malaysian Bar Council's symposium, underscore the importance of sustained stakeholder engagement. Indonesia might consider institutionalising similar multi-stakeholder forums to coordinate restorative justice policy across government institutions, religious authorities, academic circles, and civil society organisations. Cross-sectoral dialogue has been shown to improve policy alignment while creating opportunities for more inclusive and participatory justice reform processes. By bringing together diverse perspectives, such forums can help ensure that restorative justice frameworks reflect the needs and experiences of all communities, including those that are often overlooked. This approach strengthens legitimacy and promotes equity and responsiveness within the justice system.⁶⁶

Malaysia's exploration of hybrid justice models, blending formal legal mechanisms with informal reconciliation practices, offers a promising example for Indonesia to consider. These models aim to address the limitations of both traditional court processes and unregulated mediation by creating a justice pathway that is both structured and flexible. Research shows that hybrid approaches can enhance outcomes by increasing victim satisfaction and promoting offender accountability. Compared to purely punitive or solely informal methods, this combination tends to foster more balanced, responsive, and sustainable resolutions. By adopting similar frameworks, Indonesia could better accommodate the complexities of domestic violence cases while ensuring both justice and healing.⁶⁷

Building on Malaysia's hybrid justice model, Indonesia could develop a more integrated restorative framework that complements the strengths of its existing legal system while addressing its limitations. Formal legal processes in Indonesia frequently suffer from delays, procedural rigidity, and limited victim involvement, particularly in domestic violence cases. Conversely, informal mechanisms, such as customary or religious mediation, may lack enforceability, transparency, and procedural safeguards. A hybrid model would enable the state to retain its authority in upholding the rule of law while incorporating community-based practices that are more attuned to the cultural, emotional, and social dimensions of harm. This dual-track system could also help mitigate concerns regarding power imbalances and coerced reconciliation by embedding protective measures and professional facilitation into informal processes.⁶⁸

⁶⁵ Dian Ekawaty Ismail and others, 'The Comparative Study: Protecting Children's Rights Through Law Reform of Restorative Justice in Juvenile Cases', *Journal of Law and Legal Reform*, 6.2 (2025), 411–52 <https://doi.org/10.15294/jllr.v6i2.13724>

⁶⁶ Diab M. Al-Badayneh and others, 'Restorative Justice: Does It Work in the Arab Countries?', *International Journal of Religion*, 5.8 (2024), 125–39 <https://doi.org/10.61707/23mn6z72>

⁶⁷ Darlene Mei-Yi Koh and others, 'Localising the Partners in Parenting Program for Malaysia (PiP Malaysia): A Qualitative Study of Cultural Considerations', *Children and Youth Services Review*, 172 (2025), 108260 <https://doi.org/https://doi.org/10.1016/j.childyouth.2025.108260>

⁶⁸ Wee Chan Au, Mina Beigi and Melika Shirmohammadi, 'Running Their Own Show: Malaysian Women Entrepreneurs' Kaleidoscope Careers', *Career Development International*, 26.5 (2021), 613–39 <https://doi.org/https://doi.org/10.1108/CDI-02-2021-0043>



The institutionalisation of hybrid models necessitates the establishment of clear regulatory frameworks, cross-sector training, and rigorous monitoring mechanisms. Indonesia could implement pilot hybrid restorative justice schemes in select jurisdictions, especially those with robust customary or religious dispute resolution traditions, to evaluate their effectiveness and adaptability. These pilot programmes should be co-developed with input from victims' advocacy groups, community leaders, and restorative justice practitioners to ensure context-sensitive implementation. In the long term, the success of such models would depend on the establishment of legal guidelines that delineate roles, responsibilities, and limitations, as well as investments in data collection and impact assessment. By learning from Malaysia's initial efforts and adapting them to its pluralistic legal and cultural context, Indonesia could pioneer a restorative justice pathway that is both institutionally credible and socially meaningful.⁶⁹

In societies dominated by patriarchal culture, such as Indonesia, domestic violence serves as a manifestation of the positioning of men as superior, dominating figures, and the foundational support of the family, thereby reinforcing male dominance in social relations. In contrast, women are often constructed as inferior, dependent on men (husbands), and powerless, necessitating compliance with and acceptance of men's wishes and treatment. Therefore, the implementation of the restorative justice approach must be formulated with greater care to ensure the principle of resolving cases through dialogue does not disregard the role of victims of domestic violence, who are generally women, allowing them to actively participate in voicing their interests as victims.⁷⁰

CONCLUSION

The comparative analysis of Malaysia and Indonesia demonstrates both significant challenges and promising opportunities in implementing restorative justice within domestic violence cases. Indonesia has advanced toward formal recognition of restorative justice through legislative and policy initiatives; however, its practical application remains fragmented and constrained by the absence of standardized operational guidelines and institutional coherence. In contrast, Malaysia, despite the lack of an explicit legal framework for restorative justice, has effectively utilized civil society engagement, cultural norms, and religious values to develop survivor-centered and trauma-informed interventions. The Malaysian experience illustrates the importance of community participation, cultural and religious sensitivity, and the integration of hybrid mechanisms that combine formal legal procedures with informal mediation processes. For Indonesia, these insights provide a strategic foundation for constructing a more inclusive and responsive restorative justice system. Strengthening such a system requires the establishment of multi stakeholder forums, the adaptation of culturally grounded mediation models, and the formulation of hybrid legal

⁶⁹ George B Radics, 'Religious Pressures on Women's Rights in Southeast Asia: Examining the Right to an Abortion in the Philippines, Malaysia, and Vietnam', *Women's Studies International Forum*, 102 (2024), 102862 <https://doi.org/https://doi.org/10.1016/j.wsif.2023.102862>

⁷⁰ Milena Acimic Remikovic A and Laura Sjoberg, 'Montenegrin Gender "Protections" and the Limits of Gender Equality Laws', *Women's Studies International Forum*, 107.103011 (2024) <https://doi.org/https://doi.org/10.1016/j.wsif.2024.103011>



structures that enhance institutional legitimacy and procedural consistency. The successful integration of restorative values must be supported by sustained institutional commitment, comprehensive professional training, and rigorous monitoring and evaluation mechanisms to ensure that justice is not only procedurally achieved but also substantively experienced by victims and communities. Context sensitive adaptation and continuous policy innovation are essential for transforming restorative justice into a credible and effective framework for accountability, healing, and empowerment. In addressing domestic violence, the incorporation of restorative justice principles can advance substantive justice and promote gender equality by empowering victims, predominantly women, to assert their rights and challenge patriarchal structures that sustain violence. Embedding gender equality norms within restorative justice practices reinforces social, legal, and political institutions, fostering structural transformation without destabilizing their foundational integrity.

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