

# Recalibrating Philippine Criminal Justice: A Legal Analysis of Restorative Justice within the Framework of the Juvenile Justice and Barangay Systems

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## Abstract

The Philippine criminal justice system remains predominantly retributive, shaped by colonial legacies and a legal culture deeply entrenched in punitive responses to crime. While recent legislation, particularly the Juvenile Justice and Welfare Act (RA 9344), has introduced restorative justice mechanisms, their implementation remains limited in scope, uneven across jurisdictions, and largely confined to youth offenders. This creates a normative inconsistency that undermines the constitutional aspirations for a humane, equitable, and socially responsive justice system. This paper critically examines the structural contradictions within the current legal framework and assesses the potential of restorative justice as a legal and moral alternative in the Philippine context. Employing a doctrinal legal research method, supported by socio-legal analysis, the study investigates statutory enactments, jurisprudential developments, and institutional practices to map the operational boundaries and normative gaps in restorative justice implementation. The findings reveal that restorative justice in the Philippines lacks a coherent statutory foundation beyond juvenile justice, suffers from institutional fragmentation, and is hindered by the absence of inter-agency coordination among the DOJ, DSWD, LGUs, and civil society stakeholders. Despite this, the study affirms that restorative justice aligns with constitutional mandates on due process, social justice, and human dignity. It also offers a culturally resonant approach to justice, particularly when integrated with indigenous and community-based mechanisms. This paper concludes with a call for statutory reform, institutional redesign, and pedagogical transformation to mainstream restorative justice as a constitutionally grounded alternative to the prevailing punitive model.

## 1. Introduction

The Philippine criminal justice system is mired in contradiction. On one hand, the country has adopted progressive statutory frameworks that espouse rehabilitation, reintegration, and community-based dispute resolution.<sup>1</sup> On the other, the actual implementation of these principles remains grossly inadequate, resulting in a justice system that disproportionately penalizes the poor, reinforces carceral logic, and breeds public mistrust. This disjuncture between legal ideals and operational realities poses a fundamental threat to the constitutional promise of equal protection, due process, and social justice.<sup>2</sup>

Restorative justice, as a paradigm shift from punitive to reparative approaches, has been partially embraced within Philippine law. Republic Act No. 9344, or the Juvenile Justice and

<sup>1</sup> Roy Panti Valenzuela, "Glimmers of Hope: A Report on the Philippine Criminal Justice System," *International Review of the Red Cross* 98, no. 903 (December 17, 2016): 845-49, doi:10.1017/S1816383117000716.

<sup>2</sup> Antonio G.M. La Viña and Jayvy R. Gamboa, "Which Social Justice? Situating the Philippine Legal Concept of Social Justice Within Just Transition Research Collaborative's Analytical Framework," *Journal of Global South Studies* 39, no. 2 (September 2022): 402-30, doi:10.1353/gss.2022.0029.

Welfare Act of 2006, introduced diversion mechanisms and community-based interventions aimed at shielding children in conflict with the law (CICL) from the harshness of traditional prosecution.<sup>3</sup> Similarly, the Katarungang Pambarangay, as institutionalized under the Local Government Code (RA No. 7160), provides for alternative dispute resolution at the grassroots level, theoretically emphasizing reconciliation and social harmony over legal formalism. However, despite these provisions, the practical reach of restorative justice remains limited, fragmented, and often misunderstood by both justice actors and the general public.

The theoretical alignment of restorative justice with Philippine constitutional values is unmistakable. Article II of the 1987 Constitution declares that the State shall promote social justice in all phases of national development, while Article XIII commits the State to equitable access to justice for the underprivileged. These provisions, coupled with the Bill of Rights, provide fertile ground for reimagining criminal justice not merely as a mechanism of retribution but as an instrument for healing and transformation.<sup>4</sup> Yet, such a reconceptualization requires more than normative declarations – it necessitates institutional coherence, legislative precision, and administrative resolve.

This paper argues that the Philippine legal system, while containing pockets of restorative logic, fails to offer a coherent and comprehensive framework for restorative justice. Through doctrinal analysis of RA 9344 and the Katarungang Pambarangay system, supplemented by critical reflections on actual implementation and institutional capability, this study interrogates whether the aspiration for restorative justice has truly been embedded within the legal structure or remains a tokenistic addendum to an overwhelmingly punitive regime.

The objective of this study is threefold. First, to examine the extent to which restorative justice principles are formally recognized in Philippine legal instruments. Second, to assess the practical limitations that hinder their implementation and institutionalization. Third, to propose legal and policy reforms aimed at integrating restorative justice more systematically within the criminal justice framework. By focusing on both juveniles and community-based dispute resolution, this paper attempts to uncover the normative potential of restorative justice in addressing systemic dysfunctions, especially in contexts of inequality and marginalization.

Ultimately, this study contends that restorative justice should not be treated as a peripheral or optional component of the legal system, but as a constitutional imperative. Its failure to take root in Philippine legal culture is not due to conceptual flaws, but to the lack of political will, administrative capacity, and legal harmonization necessary to bring the restorative vision into practice.

## 2. Methods

This study employs a doctrinal legal research methodology, which entails the systematic exposition, interpretation, and evaluation of legal rules, principles, and jurisprudence relating to restorative justice. Doctrinal analysis allows for a deep investigation into whether and how

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<sup>3</sup> Marietta Molina-Lingvall, Mia Torres-Dela Cruz, and Rosalina P. Segundo, "Restorative Justice for Children in Conflict with the Law: A Community-Based Solution," *International Journal of Research and Innovation in Social Science* VIII, no. VII (2024): 2988–3003, doi:10.47772/IJRIS.2024.807233.

<sup>4</sup> Carrie Menkel-Meadow, "Restorative Justice: What Is It and Does It Work?," *Annual Review of Law and Social Science* 3, no. 1 (December 1, 2007): 161–87, doi:10.1146/annurev.lawsocsci.2.081805.110005.

restorative justice principles are legally entrenched, coherently developed, and practically applicable within the Philippine legal system. Primary sources of law – constitutions, statutes, and case law – are examined in conjunction with secondary sources such as legal commentaries, scholarly critiques, and government policy documents. This study is anchored in a critical analysis of the statutory and constitutional underpinnings of restorative justice within the Philippine legal system. At the core lies the 1987 Philippine Constitution, which guarantees the rights to due process, equal protection, social justice, and access to justice – principles that are conceptually aligned with restorative justice. These constitutional mandates provide not only the normative basis for justice reform but also serve as legal imperatives for the State to actively promote restorative mechanisms as part of its obligation to uphold the dignity of all persons, particularly those marginalized by structural inequities. From a statutory standpoint, the study gives primacy to two key legislative instruments: Republic Act No. 9344 (Juvenile Justice and Welfare Act of 2006), as amended by R.A. No. 10630, which institutionalizes diversion programs and community-based interventions for children in conflict with the law (CICL), reflecting a shift from punitive to rehabilitative paradigms in juvenile justice. Katarungang Pambarangay Law, embedded in Section 399-422 of the Local Government Code of 1991 (Republic Act No. 7160), which operationalizes localized dispute resolution through Barangay Justice Systems, premised on community reconciliation, restitution, and non-adversarial processes.

### **3. Results and Discussion**

#### **3.1. Structural Contradictions in the Criminal Justice System**

The Philippine criminal justice system exhibits profound structural contradictions that undermine the operationalization of restorative justice as a viable alternative to retributive penal policy.<sup>5</sup> These contradictions are not incidental but embedded within the very architecture of the system – manifesting in tensions between legal ideals and institutional realities, statutory mandates and administrative practices, as well as between community-based justice and state-centric coercion.

Foremost among these contradictions is the centralized punitive orientation of the justice system, which remains heavily reliant on incarceration as the primary mode of accountability, despite statutory innovations favoring rehabilitation. The Revised Penal Code, still the dominant legal instrument in defining criminal liability and sanction, privileges retribution and deterrence over restitution and reintegration. This normative bias permeates the attitudes of prosecutors, judges, and law enforcement, whose discretionary decisions often default to custodial sanctions – even in cases where the law mandates or allows diversion.<sup>6</sup>

This is further complicated by the institutional fragmentation of justice mechanisms. While Republic Act No. 9344 mandates diversion programs for children in conflict with the law, its implementation is hampered by jurisdictional overlaps, insufficient inter-agency

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<sup>5</sup> Valenzuela, “Glimmers of Hope: A Report on the Philippine Criminal Justice System.”

<sup>6</sup> Raymund E. Narag, “Exploring the Consequences of Prolonged Pretrial Incarceration: Evidence from a Local Jurisdiction in the Philippines,” *International Journal of Comparative and Applied Criminal Justice* 43, no. 2 (April 3, 2019): 117–34, doi:10.1080/01924036.2018.1444651.

coordination, and severe resource constraints.<sup>7</sup> For instance, the absence of trained diversion officers in many local government units results in perfunctory or symbolic compliance, reducing restorative practices to mere formalities rather than substantive alternatives.

Moreover, the Barangay Justice System, which operationalizes community mediation and reconciliation, is structurally subordinated to formal courts.<sup>8</sup> Despite its potential to embody restorative ideals, barangay mechanisms are not empowered to handle serious offenses and often function without clear procedural safeguards, standardization, or institutional legitimacy in the eyes of the legal profession. The formal system treats barangay resolutions as pre-litigation requirements rather than integral components of a broader justice continuum, thereby relegating community-based justice to the periphery.<sup>9</sup> The contradiction also extends to conceptual incoherence in the legal texts themselves. While the law espouses restorative principles—such as victim-offender dialogue, community involvement, and reintegration—it often couches these in vague language without enforceable standards. This creates an ambiguous legal environment in which restorative justice is rhetorically endorsed but normatively undefined, leaving much to the discretion of implementers whose training, orientation, and institutional culture remain predominantly retributive.<sup>10</sup>

Further exacerbating these contradictions is the asymmetry of access to justice, wherein the poor, the marginalized, and the legally unrepresented are systematically disadvantaged in both restorative and punitive systems. The restorative justice programs that do exist are often piloted in urban centers or donor-funded projects, rarely reaching geographically isolated and disadvantaged areas (GIDAs). This creates a paradox in which the communities most in need of restorative approaches are those least likely to benefit from them, reinforcing the structural inequities the system purports to address. The penal populism that shapes public and political discourse in the Philippines imposes additional pressures on legal institutions to conform to punitive expectations.<sup>11</sup> High-profile crimes often trigger reactionary legislative proposals that enhance penalties, expand criminal liability, or militarize law enforcement—developments that are fundamentally at odds with the ethos of restorative justice. The State's reliance on public spectacle and carceral narratives as a performance of justice distorts the public understanding of accountability and erodes support for alternative justice models. These

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<sup>7</sup> Le Thu Dao et al., "Diversion and Restorative Justice in the Context of Juvenile Justice Reforms in Indonesia, Thailand, the Philippines and Vietnam," *The International Journal of Restorative Justice* 5, no. 2 (August 2022): 237–62, doi:10.5553/TIJRJ.000104.

<sup>8</sup> G. Sidney Silliman, "A Political Analysis of the Philippines' Katarungang Pambarangay System of Informal Justice through Mediation," *Law & Society Review* 19, no. 2 (July 2, 1985): 279–301, doi:10.2307/3053457; Jocelyn Benter, "An Assessment of the Barangay Justice System in Hagonoy, Bulacan: Basis for Enhancing Mediation Procedure," *SSRN Electronic Journal*, 2020, doi:10.2139/ssrn.3684191; Eduardo R.C. Capulong, "Mediation and the Neocolonial Legal Order: Access to Justice and Self-Determination in the Philippines," *SSRN Electronic Journal*, 2011, doi:10.2139/ssrn.1956795.

<sup>9</sup> Grace H. Lupao and Harvey T. Alejandro, "Barangay Justice System in the Philippines: Challenges and Innovations," *EPRA International Journal of Multidisciplinary Research (IJMR)*, October 17, 2022, 182–87, doi:10.36713/epra11415.

<sup>10</sup> *Ibid.*

<sup>11</sup> Paul D. Kenny and Ronald Holmes, "A New Penal Populism? Rodrigo Duterte, Public Opinion, and the War on Drugs in the Philippines," *Journal of East Asian Studies* 20, no. 2 (July 10, 2020): 187–205, doi:10.1017/jea.2020.8.

structural contradictions reveal that restorative justice, while legally recognized in pockets of Philippine law, remains epistemologically and institutionally subordinated to a punitive paradigm. The path toward a truly restorative legal system necessitates not only legislative reform but also a fundamental restructuring of institutional priorities, legal education, professional practices, and public consciousness.

### **3.2. The Legal Position of Restorative Justice in the Philippines**

The legal position of restorative justice in the Philippines can be characterized as paradoxically progressive in statutory intent yet marginal in normative authority and institutional effect. While several laws formally recognize and promote restorative justice principles, these legal provisions are often fragmented, aspirational, and weakly embedded within the dominant framework of criminal law, which remains retributive in substance and orientation.<sup>12</sup>

A key legislative milestone is Republic Act No. 9344, or the Juvenile Justice and Welfare Act of 2006, as amended by RA No. 10630. This law institutionalizes diversion and restorative justice as preferred mechanisms in addressing offenses committed by children in conflict with the law (CICL). Notably, Section 4(m) of RA 9344 defines restorative justice as “an approach to justice that focuses on the healing of the victim, the accountability of the offender, and the involvement of the community in the resolution of conflict.” Moreover, Chapter II of the Act mandates the use of diversion at various stages of the criminal process, provided that the offense is punishable by imprisonment of not more than 12 years and that the child voluntarily admits responsibility. However, the law’s impact is limited by its narrow scope of application, as it applies only to minors and explicitly excludes crimes punishable by more than 12 years of imprisonment. This selective application reduces restorative justice to a specialized legal remedy rather than a general normative framework applicable to all offenders, thereby impeding its evolution as a fundamental principle of Philippine criminal jurisprudence.

Another significant legal development is Republic Act No. 11534 (Bureau of Corrections Modernization Act) and Republic Act No. 10575 (The Bureau of Corrections Act of 2013), which mention the possibility of rehabilitative and community-based correctional approaches. Nevertheless, the reference to restorative practices in these statutes is sparse, generalized, and often couched in administrative rather than substantive legal terms. There is no clear articulation of restorative justice as a right, nor is there an enforceable procedural framework ensuring its application across correctional stages.

The Barangay Justice System, institutionalized under Presidential Decree No. 1508 and reaffirmed through the Local Government Code of 1991 (RA No. 7160), also provides a legal basis for community-based dispute resolution. Although not explicitly labeled as restorative justice, the system reflects restorative elements such as reconciliation, voluntary settlement, and social reintegration.<sup>13</sup> Nonetheless, it remains confined to minor disputes and civil infractions, with limited authority in criminal cases. Moreover, its resolutions lack binding legal effect unless formalized through compromise agreements and judicial recognition.

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<sup>12</sup> Capulong, “Mediation and the Neocolonial Legal Order: Access to Justice and Self-Determination in the Philippines.”

<sup>13</sup> Lupao and Alejandro, “Barangay Justice System in the Philippines: Challenges and Innovations.”

It is also notable that while Philippine jurisprudence has acknowledged restorative justice in isolated cases—particularly in the context of CICL—there is no doctrinal development in Supreme Court rulings that elevates restorative justice as a constitutional or interpretative principle. The courts continue to apply the Revised Penal Code as the default legal framework, which is steeped in classical theories of retribution and general deterrence. Furthermore, restorative justice is not constitutionalized within the Bill of Rights or in the broader architecture of the 1987 Constitution. While provisions on human dignity, social justice, and the rights of the accused (e.g., Sections 1, 11, 13, 14, Article III) provide a possible interpretative basis for restorative approaches, these have yet to be judicially developed into a coherent doctrinal framework. As such, restorative justice remains legally peripheral rather than central to the state’s theory of punishment and justice.<sup>14</sup>

In policy terms, administrative issuances such as Joint Memorandum Circulars between the Department of Justice (DOJ), Department of the Interior and Local Government (DILG), and the Juvenile Justice and Welfare Council (JJWC) operationalize some restorative mechanisms, such as mediation and family conferencing. However, these are non-binding instruments lacking the force of statutory or constitutional law and are often susceptible to inconsistency in implementation across local jurisdictions. While the Philippine legal framework exhibits symbolic and procedural accommodation of restorative justice, it lacks a substantive and constitutional embedding of the concept as a normative principle. The fragmented and often discretionary nature of its application reinforces the marginalization of restorative justice in favor of the dominant punitive paradigm. To elevate its legal status, there is a critical need for codification, jurisprudential recognition, and constitutional grounding that would reframe restorative justice as an enforceable right and not merely an optional intervention.

### 3.3. Implementation Challenges

Despite the modest legal inroads made by restorative justice in the Philippine legal landscape, its implementation reveals a spectrum of structural, institutional, and normative challenges that have impeded its meaningful operationalization. These challenges not only reflect technical or administrative bottlenecks but also expose deeper contradictions within the justice system—especially between the state’s punitive legal tradition and the communitarian ethos embedded in restorative paradigms.

One of the foremost challenges is the lack of institutional infrastructure and trained human resources capable of carrying out restorative justice processes effectively. Many local government units (LGUs), particularly in rural and underserved areas, lack dedicated diversion committees, properly trained social workers, and accredited mediators. Even where structures exist, their functionality is often compromised by insufficient funding, unclear mandates, and overburdened personnel. For instance, while the JJWC is mandated to oversee

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<sup>14</sup> Cameron W. Rasmussen, “The Politics of Accountability: Violence, Mass Punishment and Restorative Justice,” *Contemporary Justice Review* 26, no. 4 (October 2, 2023): 357–75, doi:10.1080/10282580.2024.2315019.

implementation of RA 9344, it faces chronic underfunding, thereby affecting program reach and consistency.<sup>15</sup>

Closely linked to this is the inconsistency and fragmentation in implementation across regions. The decentralization of justice-related programs has led to variable enforcement standards and localized discretion, which undermine uniformity of legal protection. In some jurisdictions, barangay justice systems actively pursue reconciliatory mechanisms, while in others, the same institutions revert to punitive responses or refer cases prematurely to formal prosecution without exhausting restorative avenues.<sup>16</sup> The absence of a national monitoring framework exacerbates these disparities, rendering restorative justice dependent on local political will rather than legal obligation.

Another critical barrier lies in the deep-seated culture of legal formalism and punitive rationality that permeates the Philippine justice system. Prosecutors, judges, and even defense lawyers are more accustomed to adversarial procedures under the Revised Penal Code and are often unfamiliar, or skeptical, of alternative mechanisms that center on reconciliation, offender reintegration, and victim healing. This institutional inertia limits the judicial receptivity to restorative approaches and hinders their application beyond juvenile cases. Moreover, many legal practitioners view restorative justice as a “soft” option, particularly in a political climate where public demands for harsh punishment and “law and order” policies dominate discourse.

A further complicating factor is the absence of a coherent legal doctrine or jurisprudential principle affirming restorative justice as a constitutional right or legal norm applicable beyond special cases such as children in conflict with the law. Without such grounding, implementation remains subject to discretion, and restorative justice lacks the normative authority to challenge or complement the punitive framework. In the absence of Supreme Court pronouncements or statutory jurisprudence integrating restorative principles into the interpretation of due process, human dignity, or proportionality, its development remains stunted. Moreover, the limited participation of civil society and local communities in formalized restorative processes hinders the organic growth of restorative justice as a socially embedded norm. While indigenous and local practices, particularly among Lumad, Moro, and various ethnolinguistic groups, have long histories of conflict resolution based on reconciliation and communal harmony, these practices are often excluded from state-sanctioned frameworks. The failure to recognize or integrate these mechanisms reflects a state-centric and homogenized conception of justice that marginalizes plural legal traditions. Additionally, victim participation, a cornerstone of restorative justice, is frequently underdeveloped. Victims are often left out of diversion discussions, or their participation is tokenistic. This undermines the legitimacy and healing potential of the process. It also reflects the broader failure of the justice system to center victims' needs and agency, which is a major departure from the victim-offender dialogue and community reparation model central to restorative justice theory.

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<sup>15</sup> Freddy E. Bilog, “Implementation of the Juvenile Justice and Welfare Act of 2006 (RA 9344): Inputs to Policy Amendments,” *Asia Pacific Journal of Multidisciplinary Research* 2, no. 3 (2014), <https://ejournals.ph/article.php?id=5779>.

<sup>16</sup> Lupao and Alejandro, “Barangay Justice System in the Philippines: Challenges and Innovations.”

Lastly, the implementation of restorative justice is hampered by a lack of data, impact assessment, and evaluative research. There is a notable absence of empirical studies measuring the effectiveness of restorative justice mechanisms in the Philippines, including recidivism rates, victim satisfaction, and long-term community outcomes. Without data, policymakers and legal reformers are deprived of the evidence needed to advocate for institutional reform or budgetary prioritization. This knowledge gap perpetuates the marginality of restorative justice in policy circles. The challenges to implementing restorative justice in the Philippines are multifaceted, rooted not only in logistical and legal technicalities but also in deeper ideological and institutional resistance. For restorative justice to transition from peripheral exception to central legal practice, it requires more than legislative reform—it necessitates a transformative shift in the legal culture, institutional structures, and normative foundations of the Philippine criminal justice system.

### **3.4. Affirming Restorative Justice in the Philippine Legal System**

Within the Philippine legal landscape, long shaped by retributive frameworks and colonial legacies, restorative justice emerges not as a mere alternative, but as both a constitutional mandate and a moral necessity. Rooted in the 1987 Constitution's aspiration to build a just and humane society, restorative justice redefines the function of law from punitive control toward relational healing, offender accountability, and community reintegration. It resonates with deeply held Filipino cultural values such as *kapwa*, *damay*, and *pakikipagkasundo*, which prioritize interpersonal reconciliation and collective harmony.<sup>17</sup>

Institutionalizing restorative justice advances core constitutional principles of due process, social justice, and respect for human dignity, while addressing the structural conditions that underlie criminal behavior. Yet, this shift cannot be achieved without coordinated inter-agency collaboration among the Department of Justice, Department of Social Welfare and Development, local government units, and civil society actors. Crucially, the existing legal framework must be expanded through statutory amendments to extend restorative processes to adult offenders, ensuring coherence and inclusivity.

Beyond procedural reform, restorative justice represents a transformative jurisprudential intervention. It challenges entrenched penal philosophies rooted in colonialism and moves toward a justice system that is participatory rather than adversarial, restorative rather than punitive, anchoring legal reform in the lived realities of the Filipino people.

#### **1. Legal and Moral Imperative for Restorative Justice in the Philippine Context**

The pursuit of restorative justice in the Philippine legal system is not merely an innovative alternative to retributive justice—it is a legal and moral imperative grounded in the constitutional vision of a humane, participatory, and socially just society. At its core, restorative justice reorients the function of law away from punitive absolutism and toward relational healing, offender accountability, and community reintegration. This vision aligns with the Filipino cultural ethos of *kapwa*, *damay*, and *pakikipagkasundo*, which place high moral value on interpersonal reconciliation, collective responsibility, and societal harmony.

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<sup>17</sup> Rona Leigh Argueza Addun, "Restoring Victim-Offender Relationship: A Qualitative Study of Restorative Justice in the Philippine Barangay System," *Journal of Arts, Humanities and Social Science* 2, no. 3 (September 16, 2025): 45–55, doi:10.69739/jahss.v2i3.895.

The marginalization of restorative justice in the mainstream criminal justice system contravenes the overarching constitutional directive to "build a just and humane society" (Preamble, 1987 Constitution). The persistent reliance on carceral punishment and adversarial litigation disregards the socio-economic and psychosocial contexts of offending, especially in communities plagued by poverty, marginalization, and state neglect. It thereby reproduces cycles of exclusion and injustice, failing both victims and offenders.<sup>18</sup> As such, embedding restorative justice more deeply into the Philippine legal framework is not merely a matter of procedural innovation but of constitutional fidelity and moral responsibility.

## 2. Constitutional Alignment

The constitutional guarantees of due process (Art. III, Sec. 1), social justice (Art. XIII, Sec. 1), and respect for human dignity (Art. II, Sec. 11) provide a normative basis for institutionalizing restorative justice as part of the regular criminal process. Restorative justice processes – when properly implemented – safeguard due process not only by ensuring fair treatment for offenders, but also by giving victims an active and meaningful role in the resolution of harm. This participatory aspect enriches the concept of procedural justice beyond its formalist and adversarial origins. In terms of social justice, restorative justice addresses structural inequities by recognizing that many crimes are rooted in historical deprivation and social exclusion. A justice system that merely punishes without restoring relationships and empowering communities is incompatible with the constitutional aspiration to dismantle systemic injustice. Moreover, restorative outcomes that involve reparation, reconciliation, and reintegration resonate with the Constitution's vision of justice that is both corrective and transformative. Thus, the integration of restorative justice is not an external reform but an internal development of constitutional principles, an evolution from punitive legalism to participatory justice.

## 3. The Necessity of Inter-Agency Collaboration

For restorative justice to transcend policy rhetoric and become a systemic reality, it must be institutionalized through robust inter-agency collaboration. The Department of Justice (DOJ) must not only issue operational guidelines for prosecutors but must also integrate restorative principles in prosecutorial discretion and case decongestion strategies. The Department of Social Welfare and Development (DSWD), as a key agency in diversion and victim support, must invest in capacity-building for social workers, restorative facilitators, and family conferencing programs. Local Government Units (LGUs) are indispensable in localizing restorative justice programs. Barangay Justice Systems (Katarungang Pambarangay) must be strengthened to serve as accessible, community-based venues for restorative dispute resolution. However, LGUs must be capacitated financially and institutionally, with clear legal mandates and monitoring mechanisms. Civil society organizations, particularly those working in legal empowerment, community peacebuilding, and indigenous justice, should be formally engaged in restorative justice ecosystems. Their participation ensures cultural sensitivity, grassroots legitimacy, and democratic accountability. This multi-sectoral framework necessitates a national policy infrastructure – perhaps under a centralized

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<sup>18</sup> Jennifer J. Llewellyn, "Transforming Restorative Justice," *The International Journal of Restorative Justice* 4, no. 3 (November 2021): 374–95, doi:10.5553/TIJRJ.000096.

restorative justice council or task force—that can harmonize efforts, allocate resources, set standards, and conduct impact evaluations.

#### 4. Proposal for Statutory Amendments

While restorative justice is legislatively recognized for children in conflict with the law (RA 9344) and, to a limited extent, for women (under RA 9262), there remains a normative vacuum for its application to adult offenders, particularly those involved in non-violent and first-time offenses. This gap perpetuates a bifurcated justice model where juveniles benefit from restorative logic while adults are confined to punitive regimes—regardless of contextual or rehabilitative factors.

A legislative amendment is necessary to codify restorative justice as a general principle of Philippine criminal law, applicable across the criminal justice continuum: from pre-trial diversion, to plea bargaining, to post-conviction alternatives. Such a law should articulate clear eligibility criteria, victim consent mechanisms, procedural safeguards, and guidelines for restitution and reintegration.

Internationally, jurisdictions such as New Zealand, Norway, and Canada have enacted similar frameworks. The Philippines must draw from these models while adapting them to its plural legal culture and socio-political realities. Importantly, the amendment must also explicitly recognize indigenous and customary justice practices, granting them formal legitimacy within restorative frameworks.<sup>19</sup>

#### 5. Critical Assessment of Penal Philosophy in the Philippines and Its Colonial Legal Heritage

A deeper impediment to restorative justice lies in the underlying penal philosophy of the Philippine legal system, which remains largely retributive, formalist, and colonial in orientation. The Revised Penal Code of 1930—still the backbone of Philippine criminal law—was inherited from Spanish and American colonial regimes that prioritized state sovereignty and social control over communal healing and social reintegration.<sup>20</sup> This colonial legacy instilled a legal culture that privileges incarceration, legal technicalities, and centralized state authority.<sup>21</sup> It is a system that criminalizes poverty, perpetuates impunity for structural violence, and disregards indigenous conflict resolution systems that predate colonial occupation. Restorative justice, by contrast, offers a decolonial and democratizing paradigm—one that shifts the moral center of justice from the courtroom to the community.

To deconstruct this penal orthodoxy, legal education and judicial training must be reoriented to valorize relational justice, trauma-informed approaches, and human rights-centered lawyering. Furthermore, penal reform must be pursued in tandem with broader structural reforms addressing inequality, impunity, and legal access. In this context, restorative justice is not only a procedural reform but a jurisprudential intervention—a means to reimagine justice in the Philippines as restorative rather than retributive, dialogic rather than adversarial, and transformative rather than punitive.

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<sup>19</sup> Carol A. Hand, Judith Hanks, and Toni House, “Restorative Justice: The Indigenous Justice System,” *Contemporary Justice Review* 15, no. 4 (December 2012): 449–67, doi:10.1080/10282580.2012.734576.

<sup>20</sup> Alfred W. McCoy, “Crime, Society and the State in the Nineteenth Century Philippines,” *The Journal of Asian Studies* 58, no. 4 (November 26, 1999): 1186–88, doi:10.2307/2658565.

<sup>21</sup> Hand, Hanks, and House, “Restorative Justice: The Indigenous Justice System.”

#### 4. Conclusions

This study has demonstrated that while restorative justice has gained incremental footholds in the Philippine legal landscape—most notably through the Juvenile Justice and Welfare Act (RA 9344) and certain sectoral statutes—it remains structurally peripheral and normatively underdeveloped in the broader criminal justice system. The analysis reveals deep-seated contradictions within the current punitive legal order, particularly its colonial origins, institutional rigidity, and overreliance on carceral sanctions, all of which render it ill-equipped to address the relational, moral, and social dimensions of crime. Restorative justice offers a compelling alternative that aligns with constitutional values of due process, human dignity, and social justice. It enables a justice process that prioritizes healing over punishment, accountability over condemnation, and community engagement over institutional detachment. However, its promise remains unrealized due to fragmented implementation, lack of legislative coherence, and minimal investment in inter-agency collaboration and community-based infrastructure. In light of these findings, this paper proposes several strategic directions. First, there is a clear legal necessity for enacting a national law on restorative justice applicable to adult offenders, with safeguards for victim consent, procedural fairness, and post-resolution reintegration. Such legislation must bridge the normative gap between juvenile justice and the adult penal regime, promoting consistency and inclusiveness in criminal justice policy. Second, there must be a structural reorientation of justice institutions—particularly the Department of Justice, DSWD, judiciary, and LGUs—toward collaborative governance, restorative training, and the decentralization of justice delivery. This includes formal partnerships with civil society actors and the recognition of indigenous and culturally embedded practices as legitimate components of the restorative justice framework. Third, the reform of legal education and professional training must integrate restorative paradigms, emphasizing trauma-informed practice, community facilitation, and the critique of retributive dogma. Only through such normative and pedagogical transformation can the legal profession play a proactive role in dismantling colonial legacies and enabling a participatory model of justice. Lastly, this paper asserts that the advancement of restorative justice is not merely a matter of penal reform, but a constitutional and moral imperative—a reaffirmation of the Philippines’ commitment to a just, humane, and democratic society. It is a path toward decolonizing law, democratizing justice, and healing the social fractures that punishment alone cannot mend.

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#### 6. Reference

- Addun, Rona Leigh Argueza. “Restoring Victim-Offender Relationship: A Qualitative Study of Restorative Justice in the Philippine Barangay System.” *Journal of Arts, Humanities and Social Science* 2, no. 3 (September 16, 2025): 45–55. doi:10.69739/jahss.v2i3.895.
- Benter, Jocelyn. “An Assessment of the Barangay Justice System in Hagonoy, Bulacan: Basis for Enhancing Mediation Procedure.” *SSRN Electronic Journal*, 2020. doi:10.2139/ssrn.3684191.

- Bilog, Freddy E. "Implementation of the Juvenile Justice and Welfare Act of 2006 (RA 9344): Inputs to Policy Amendments." *Asia Pacific Journal of Multidisciplinary Research* 2, no. 3 (2014). <https://ejournals.ph/article.php?id=5779>.
- Capulong, Eduardo R.C. "Mediation and the Neocolonial Legal Order: Access to Justice and Self-Determination in the Philippines." *SSRN Electronic Journal*, 2011. doi:10.2139/ssrn.1956795.
- Dao, Le Thu, Le Huynh Tan Duy, Ukrit Sornprohm, and Yvon Dandurand. "Diversion and Restorative Justice in the Context of Juvenile Justice Reforms in Indonesia, Thailand, the Philippines and Vietnam." *The International Journal of Restorative Justice* 5, no. 2 (August 2022): 237-62. doi:10.5553/TIJRJ.000104.
- Hand, Carol A., Judith Hankes, and Toni House. "Restorative Justice: The Indigenous Justice System." *Contemporary Justice Review* 15, no. 4 (December 2012): 449-67. doi:10.1080/10282580.2012.734576.
- J. Llewellyn, Jennifer. "Transforming Restorative Justice." *The International Journal of Restorative Justice* 4, no. 3 (November 2021): 374-95. doi:10.5553/TIJRJ.000096.
- Kenny, Paul D., and Ronald Holmes. "A New Penal Populism? Rodrigo Duterte, Public Opinion, and the War on Drugs in the Philippines." *Journal of East Asian Studies* 20, no. 2 (July 10, 2020): 187-205. doi:10.1017/jea.2020.8.
- Lupao, Grace H., and Harvey T. Alejandro. "Barangay Justice System in the Philippines: Challenges and Innovations." *EPRA International Journal of Multidisciplinary Research (IJMR)*, October 17, 2022, 182-87. doi:10.36713/epra11415.
- McCoy, Alfred W. "Crime, Society and the State in the Nineteenth Century Philippines." *The Journal of Asian Studies* 58, no. 4 (November 26, 1999): 1186-88. doi:10.2307/2658565.
- Menkel-Meadow, Carrie. "Restorative Justice: What Is It and Does It Work?" *Annual Review of Law and Social Science* 3, no. 1 (December 1, 2007): 161-87. doi:10.1146/annurev.lawsocsci.2.081805.110005.
- Molina-Lingvall, Marietta, Mia Torres-Dela Cruz, and Rosalina P. Segundo. "Restorative Justice for Children in Conflict with the Law: A Community-Based Solution." *International Journal of Research and Innovation in Social Science* VIII, no. VII (2024): 2988-3003. doi:10.47772/IJRISS.2024.807233.
- Narag, Raymund E. "Exploring the Consequences of Prolonged Pretrial Incarceration: Evidence from a Local Jurisdiction in the Philippines." *International Journal of Comparative and Applied Criminal Justice* 43, no. 2 (April 3, 2019): 117-34. doi:10.1080/01924036.2018.1444651.
- Rasmussen, Cameron W. "The Politics of Accountability: Violence, Mass Punishment and Restorative Justice." *Contemporary Justice Review* 26, no. 4 (October 2, 2023): 357-75. doi:10.1080/10282580.2024.2315019.
- Silliman, G. Sidney. "A Political Analysis of the Philippines' Katarungang Pambarangay System of Informal Justice through Mediation." *Law & Society Review* 19, no. 2 (July 2, 1985): 279-301. doi:10.2307/3053457.
- Valenzuela, Roy Pantí. "Glimmers of Hope: A Report on the Philippine Criminal Justice System." *International Review of the Red Cross* 98, no. 903 (December 17, 2016): 845-49. doi:10.1017/S1816383117000716.
- Viña, Antonio G.M. La, and Jayvy R. Gamboa. "Which Social Justice? Situating the Philippine Legal Concept of Social Justice Within Just Transition Research Collaborative's Analytical Framework." *Journal of Global South Studies* 39, no. 2 (September 2022): 402-30. doi:10.1353/gss.2022.0029.