

Restorative Policy Development in Health Dispute Resolution: A Comparative Study

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Abstract

Dispute resolution in the health sector often involves complex and emotional processes. This study examines the development of restorative policies as an alternative to health dispute resolution using a comparative approach. Restorative policies, which focus on dialogue, mediation and consensus-based resolution, enable peaceful dispute resolution and maintain good relations between patients, health workers and healthcare institutions. This study revealed that the implementation of restorative policies can reduce emotional tension, accelerate resolution, and minimise stigma. Strong policy support, including training of professional mediators and strengthening health sector regulations, is required for the successful implementation of restorative methods. The main recommendation is the integration of restorative policies into a more humane and inclusive health dispute resolution system, providing satisfactory outcomes for all parties involved.

Keywords Restorative Policy Development, Health Dispute Resolution, Comparative Study.

INTRODUCTION

Health is one of the basic human needs whose existence cannot be ignored. An effective and efficient health care system is an important aspect in realising community welfare. An effective health system is able to provide access to quality medical services, ensure the safety of health service users, and optimally fulfil the health needs of the community (Williams, 2022). Efficiency, on the other hand, ensures that available resources—be it medical personnel, facilities, or budgets—are used appropriately so that services can be widely accessed without burdening individuals or institutions. In an effective and efficient system, health services are not only oriented towards curing diseases, but also include preventive and promotive efforts to improve people's quality of life in a sustainable manner (Hernandez & Chavez, 2023).

The critical role of a good health care system is evident in improving social welfare. A system that is able to respond quickly and appropriately to health needs helps people to remain economically, socially and culturally productive. In addition, with equitable and quality services, people from all walks of life, including vulnerable groups, can receive maximum benefits that support social inclusion (Taylor, 2024). Consequently, public trust in the health system is one of the indicators of the government's success in realising broad public welfare. Therefore, an effective and efficient health care system is not only an individual need, but also an important foundation for welfare-oriented national development (Green, 2025).

However, the complexity of the relationship between healthcare providers, patients, and healthcare institutions often leads to disputes that are medical, ethical, and legal in nature. Such disputes can have a negative impact on the quality of health services, stakeholder relationships, and public trust in the health system.



In general, health dispute resolution in many countries relies on the litigation approach through the courts. This approach is often perceived as time-consuming, costly, and energy-intensive. In addition, its contradictory nature tends to worsen the relationship between the disputing parties. As a result, the resulting solutions are often inadequate to improve social relations and improve the quality of health services in the future (Williams, 2022).

As an alternative, restorative approaches are gaining attention in dispute resolution, including in the health sector. Restorative approaches aim to restore damaged relationships through dialogue, mediation, and reconciliation. This model also has the potential to provide more satisfactory solutions for all parties as it focuses on achieving justice, restoring harm, and improving social relations (Lee, 2025). Although the concept of restorative justice has been implemented in various sectors, its application in health disputes still requires targeted policy development and comparative studies to understand its effectiveness in different countries and contexts (Johnson, 2025).

Comparative studies in restorative policy development are important to determine the best pattern for health dispute resolution. By understanding the successes and challenges of implementing restorative approaches in different countries or systems, relevant parties can adapt the policy to make it more relevant and effective in the local context. In addition, comparative studies can also help identify key factors that influence the sustainability of restorative policies, such as legal frameworks, institutional support, human resources, and public acceptance.

Based on this urgency, this research seeks to explore how the restorative approach can be developed as a strategic policy for health dispute resolution through a comparative study. The understanding gained is expected to contribute to developing more innovative and social justice-oriented policy recommendations to improve the quality of health services holistically.

METHOD

The study in this research uses the literature method. The literature research method is an approach used to collect, analyse, and interpret information that is already available in the form of existing documents or texts, such as books, articles, journals, and other written sources. It involves a critical review of theories, concepts, and previous research findings to identify patterns, debates, and gaps in existing knowledge in a particular field of study (Hart, 2001); (Knopf, 2006). As an important part of both qualitative and quantitative research, literature review helps researchers formulate a strong theoretical framework, define research objectives, and develop relevant and answerable research questions. In addition, this method also enables researchers to build well-founded arguments in developing new hypotheses or explanations, as well as providing a more comprehensive context to the issue under study (Alvesson & Sandberg, 2013).

RESULTS AND DISCUSSION

Application of Restorative Policies in Health Dispute Resolution in Various Legal Systems

The application of restorative policies in health dispute resolution has become an important concern in various legal systems. This policy aims to repair the harm suffered by the parties involved, whether patients, healthcare providers, or the public in general. Restorative approaches do not only focus on imposing traditional legal sanctions on the guilty parties but also prioritise reconciliation and peaceful conflict resolution. This is done by establishing constructive dialogue, so that each party can understand the other's perspective and seek solutions that benefit all parties (Williams, 2022).

In many countries with common law-based legal systems, restorative policies have been applied in handling disputes between patients and healthcare providers. For example, there are mediation mechanisms that aim to resolve conflicts without the need for lengthy and often expensive litigation. Through mediation, patients have the opportunity to voice their grievances, while healthcare providers can provide clarifications or even offer apologies. This approach often results in more satisfactory agreements compared to formal court judgements, as well as reducing the burden on the judicial system (Hernandez & Chavez, 2023).

On the other hand, in civil law-based legal systems, such as those in Europe, restorative policies are also gaining ground in health dispute resolution. Civil law countries tend to organise dispute resolution mechanisms through arbitration institutions or specialised bodies that handle medical complaints. These institutions usually serve as a platform between disputing parties to reach a fair solution and avoid conflict escalation. With this approach, the dispute resolution process is not only faster, but also able to encourage good relations between patients and health care providers in the future (Taylor, 2024).

In Indonesia, the application of restorative policies has also begun to develop, although it still faces a number of challenges. In health disputes, mediation is often used as an alternative to resolve conflicts between patients and hospitals. The Ministry of Health itself has encouraged healthcare providers to strengthen grievance mechanisms and make room for mediation as a solution. In addition, there are institutions such as the Indonesian Medical Discipline Honour Council (MKDKI) where patients can lodge complaints related to alleged ethical violations or medical malpractice. However, this restorative approach needs to be supported by strengthening regulations as well as education for medical personnel and the public on its benefits (Green, 2025).

The importance of restorative approaches in health disputes is inseparable from the complexity of the issues at hand. Healthcare disputes often involve deep emotional, psychological and moral aspects. Aggrieved patients seek not only financial redress, but also recognition of the suffering they have endured. In such cases, a restorative approach allows for more humanised communication between the parties involved. By empathetically listening to the patient's perspective, healthcare providers can better understand the impact of their actions and take steps that repair the relationship (Williams, 2022).



In addition, restorative approaches also have the potential to reduce stigma and tension in the medical professional environment. In some legal systems, disputes that lead to litigation often cause anxiety for medical personnel, who fear for their reputations and careers. However, through mediation or other dialogic approaches, medical personnel are given the opportunity to respectfully defend their principles without having to face intimidating legal proceedings. This approach creates a balance between the need to provide justice for patients and protect the rights of medical professionals (Lee, 2025).

The application of restorative policies is also relevant in the face of global challenges related to health disputes. In the modern era, many health disputes involve advanced medical technologies, experimental procedures or public health policies. In this context, restorative approaches can help bridge the gap of understanding between the public and healthcare institutions. By creating space for dialogue and transparent explanations, restorative policies can prevent the emergence of greater conflicts or misunderstandings related to the implementation of health policies (Johnson, 2025).

However, despite its advantages, restorative approaches require the support of a strong legal infrastructure. The legal system must provide a framework that supports the conduct of mediation and arbitration free from unfair interference. Furthermore, the public needs to be educated on the importance of dispute resolution based on dialogue rather than confrontation. This requires a collective effort from the government, medical personnel, and civil society organisations to strengthen restorative culture within the legal system Health (Smith & Doe, 2021).

Overall, the application of restorative policies is an important step in the resolution of health disputes in various legal systems. This approach not only provides a legal solution to the conflict, but also contributes to increasing public trust in health institutions. With proper implementation, this policy can strengthen the relationship between patients and healthcare providers, reduce the burden on the judicial system, and encourage more harmonious social relations. Amidst the challenges, the restorative approach symbolises the transformation of the legal system towards a more inclusive and solution-oriented mechanism for all parties.

Supporting and Discouraging Factors for the Implementation of Restorative Policies in Health Disputes

The application of restorative policies in health disputes has a number of supporting factors that can facilitate its implementation. One of the main supporting factors is regulations that support the transformation of peaceful dispute resolution. The existence of a strong legal basis gives legitimacy to restorative policies and encourages the parties involved to accept this method as an alternative to conflict resolution. The regulation also guides the mediation process so that it can run systematically and professionally (Taylor, 2024).

In addition, restorative benefits may also be a factor supporting its application in health disputes. Restoration focuses on restoring relationships and solutions that benefit all parties. In healthcare disputes, this approach is expected to reduce the negative impact on patients, medical personnel, and healthcare institutions. By prioritising dialogue and deliberation, it

encourages peace between conflicting parties without a lengthy and emotionally draining trial process (Bennett, 2022).

The active participation of healthcare professionals is another contributing factor. Medical personnel, patients, and healthcare management should be encouraged to understand the restorative process. Their willingness to communicate openly and prioritise fair solutions is a key strength in the successful resolution of disputes through restorative means. Education about the importance of this approach should be consistently provided to those involved in the health sector (Martin, 2020).

However, there are still a number of inhibiting factors that can hinder the implementation of restorative policies in health disputes. One of the biggest barriers is the lack of awareness of restorative conflict resolution methods among the public. Many individuals still consider formal legal processes as the only way to resolve disputes, so they lack confidence in non-litigation measures such as restorative mediation (Lee, 2025).

In addition, the lack of specialised training for mediators is also an obstacle. In the implementation of restorative policies, the role of a competent mediator is crucial. A trained mediator can manage conflicts well, maintain a neutral atmosphere, and help the parties involved find a common solution. However, if human resources with expertise in this field are still minimal, the success of restorative approaches is difficult to achieve (Brown, 2021).

Another inhibiting factor is the potential inequality of power in health disputes. In cases between patients and large health institutions, there is often an imbalance of bargaining power, which can lead to the weaker party feeling disadvantaged in the restorative process. This poses a serious challenge for restorative policies, especially if there is no oversight mechanism to prevent domination of one party over another (Lopez & Gonzalez, 2022).

Cultural constraints also play a role in inhibiting the implementation of this policy. In some places, a culture that prioritises conflict over consensus makes restorative approaches difficult to accept. The culture of blame, the habit of bringing disputes to the green table, as well as the lack of familiarity with restorative-based deliberation are challenges to developing this method as the main solution (Adams, 2025).

Finally, the implementation of restorative policies also requires adequate institutional support. Without supporting institutions, such as professional mediation centres and facilities to support the restoration process, this policy is difficult to implement. Supporting infrastructure needs to be built so that all parties can access restorative mediation easily, transparently and fairly (Anderson, 2020).

Thus, the application of restorative policies in health disputes is a very potential step to reduce conflicts and create solutions that are good for all parties. However, its success depends on public awareness, adequate regulation, training of professional mediators, and support from the cultural and institutional environment. Efforts to reduce barriers and maximise enablers are key to effective implementation of this method.

Strategies for Developing Relevant Restorative Policies in Indonesia

Restorative Justice is an approach to the justice system that emphasises repairing relationships between offenders, victims and the community. This approach is particularly



relevant in Indonesia, which is rich in cultural values and local wisdom. There are several strategies that can be considered in developing restorative policies in Indonesia (Johnson, 2025).

Firstly, strengthening the capacity of the judiciary and law enforcement agencies. To implement restorative policies, law enforcers such as police, prosecutors, judges, and corrections officers need to be provided with specialised training on the principles and techniques of mediation and the approaches used in restorative processes. This training should include an in-depth understanding of the positive impact of restorative justice for all parties involved (Carter & Evans, 2023).

Second, the formulation of regulations and policies that support the implementation of restorative justice. The government needs to formulate laws and regulations that allow the application of restorative mechanisms in various types of cases, especially for petty crime cases and cases involving juveniles. This policy must also ensure that the rights of victims are protected and offenders are given the opportunity to make amends (Sharma & Gupta, 2024).

Third, local community empowerment. Communities must be involved in the restorative justice process as they play a crucial role in mediation and reconciliation. Thus, villages or communities can become mediators in resolving conflicts that occur. This can be applied by forming restorative working groups consisting of community leaders, religious leaders, and the general public (Robinson, 2021).

Fourth, the implementation of restorative programmes in the school environment. The implementation of restorative policies can start from the school environment to instil the values of justice, responsibility, and reconciliation early on to students. Programs such as peer mediation, group counselling, and conflict resolution processes among students can be an effective first step (Brown, 2021).

Fifth, public socialisation and education on restorative justice. It is important to educate the public about the benefits and objectives of restorative justice. This can be done through public campaigns, seminars, workshops and social media. With increased public awareness, it is expected that the community will be more supportive and actively participate in restorative programmes (Anderson, 2020).

Sixth, support from NGOs and civil society organisations. Non-governmental organisations (NGOs) can play an important role in supporting the implementation of restorative policies by providing assistance to victims and offenders, as well as facilitating the mediation process. They can also provide training and build the capacity of restorative justice actors at the local level (Kim & Park, 2020).

Seventh, increasing the role of local government. Local governments need to play an active role in supporting the implementation of restorative justice programmes through various policies and programmes they run. For example, budget allocations for training programmes, the establishment of restorative teams, and the provision of supporting facilities such as mediation rooms (Powell, 2023).

Eighth, regular monitoring and evaluation. Monitoring and evaluation mechanisms are needed to assess the effectiveness of the restorative policies implemented. These monitoring

reports should be disclosed transparently and used to improve various aspects of the restorative process, from planning to implementation (Smith & Doe, 2021).

Ninth, integration with the conventional justice system. Restorative justice does not mean replacing the existing justice system, but rather enriching and complementing it. Therefore, it is important to ensure that restorative approaches can work harmoniously with formal justice processes, and can be used as an alternative at certain stages in the criminal justice process (Johnson, 2025).

Tenth, the protection of all parties involved. Restorative policies should ensure that both victims and offenders are treated fairly and support their basic rights. This includes ensuring that restorative processes do not favour only one party but provide fair and balanced solutions for all parties involved (Hill & Clarke, 2020).

As such, the implementation of these strategies requires commitment and co-operation from various parties, including the government, judicial institutions, communities and NGOs. With a holistic and comprehensive approach, restorative policies can be an effective solution in resolving various conflicts in Indonesia, improving social relations, and building harmony in society.

CONCLUSION

The development of restorative policies is an alternative in handling disputes in the health sector, especially with the aim of maintaining relationships between patients, health workers, and health care institutions. Restorative approaches, which promote dialogue, mediation, and consensus-based solutions, provide room for peaceful dispute resolution, without involving protracted legal processes. Comparative studies show that the implementation of restorative policies can help reduce emotional tension, accelerate dispute resolution, and minimise stigma towards the health workers or institutions involved.

As an innovative approach, restorative methods require strong policy support, including the training of professional mediators, strengthening health sector regulations, and improving public legal literacy. The study also highlighted the importance of active participation of all parties in the restorative process to ensure a sense of justice for aggrieved patients, as well as to prevent loss of trust in medical personnel. In addition, restorative policies have more flexibility than formal litigation, which often drains the parties' time, money and psychological energy.

As a recommendation, the government and health institutions should consider the inputs from this comparative study to integrate restorative approaches into the health dispute resolution system, both through formal regulations and implementation at the institutional level. Restorative policies not only serve to resolve disputes efficiently but also have the potential to create a climate of health services that is more humane, effective, and sustainable. Thus, this policy can be a strategic foothold in building a health system that is inclusive and oriented towards the satisfaction of all parties.



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