

Maritime Criminal Justice Transformation: A Responsive and Restorative Approach to Law Enforcement in Indonesian Waters

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ABSTRACT

As the world's largest archipelagic country, Indonesia faces serious challenges in enforcing criminal laws in its vast maritime territory. The current legal framework is still dominated by a fragmented, sectoral, and repressive approach that fails to address the structural and contextual nature of maritime crimes such as illegal fishing, smuggling, and marine environmental degradation. This article offers a transformative approach to Indonesia's maritime criminal justice system by integrating responsive law theory and transformative justice into a contextual and participatory model. Through a combined normative and empirical approach, including regulatory analysis and field studies in strategic maritime areas, this study finds that the retributive criminal justice system is ineffective and lacks legitimacy, especially in cases involving marginalized coastal communities. As an alternative, this article proposes a tripartite model based on community penal mediation, digital-based inter-institutional coordination, and the harmonization of substantive legal norms within the framework of the national Criminal Code. This model aims to build a criminal justice system that is more just, participatory, and sensitive to ecological considerations.

Keywords: Maritime Criminal Justice; Transformative Justice; Responsive Law; Indonesia; Legal Reform; Restorative Approach.

Introduction

Indonesia, the world's largest archipelagic country, has more than 17,000 islands and a coastline stretching over 108,000 km (A. Persoon & van Weerd, 2006; Afriansyah et al., 2024; Reilly, 2007; Supriatna & Margules, 2025; Wulandari et al., 2025). This geographical position makes Indonesia's maritime territory strategically important economically and geopolitically, but also vulnerable to various forms of transnational crime (Rifqi & Prakoso, 2020; Suseto et al., 2019; Widia Aprilia et al., 2023). According to data from the Indonesian Coast Guard Agency (Bakamla) in 2023, there were over 270 cases of criminal law violations in Indonesia's maritime zone, including illegal fishing, drug and human trafficking, and marine environmental pollution (Dwiputri et al., 2024; Prasetya et al., 2024). Ironically, only approximately 42% of these cases were successfully processed through the criminal justice system. This highlights the weak effectiveness of criminal law enforcement in the maritime sector. This study contributes to the discourse on legal reform in the maritime jurisdictions of developing countries, both theoretically and practically.

This phenomenon shows that Indonesia's seas are not only an arena for resource exploitation but also a battleground between economic interests, national sovereignty and law enforcement (Zubaidi et al., 2025). The handling of criminal offences at sea is often hindered by overlapping jurisdictions among institutions such as the Indonesian Navy (TNI AL), Indonesian Coast Guard (Bakamla), Ministry of Marine Affairs and Fisheries (KKP), and Marine Police (Polairud). Additionally, a repressive law enforcement approach focused solely on punishment has proven ineffective in addressing structural issues such as poverty among coastal communities, the legal vulnerability of fishing communities, and limited access to justice for them.

The urgency of this research lies in the need to reformulate the approach to criminal law enforcement at sea to make it more contextual and fairer. The conventional approach, which prioritizes retributive logic, is not only outdated but also creates disparities between perpetrators of major crimes (international corporations) and small-scale offenders (traditional fishermen), who are often criminalized. Therefore, a new approach is needed that can integrate legal, social, and ecological aspects into a more holistic and transformative framework for the future.

However, previous studies have tended to focus on the technical aspects of maritime law and have not adequately explored transformative approaches in the context of maritime criminal law enforcement. The lack of studies linking transformative justice to the maritime criminal justice system indicates a significant research gap. However, transformative approaches have been successfully applied in various other legal contexts, such as environmental law and restorative justice on land.

Based on this background, this study aims to analyze the weaknesses of the repressive approach in criminal law enforcement at sea in Indonesia and offer a transformative approach model as a more just, participatory, and sustainable alternative. This study also contributes to the development of criminal law theory and the design of maritime law enforcement institutions that are responsive to global and local challenges in Indonesia's maritime waters.

This study was conducted with an awareness of the complexity and dynamics of criminal law enforcement in Indonesia's maritime territory, which have not been fully addressed by the current legal approach. In this context, its main objective is to make a scientific contribution to efforts to reconstruct the criminal law approach in the maritime domain through a more transformative framework.

This research critically analyzes the repressive approach dominating maritime criminal law enforcement, drawing on case studies that reveal dysfunctional institutional coordination, unequal legal treatment of offenders, and inadequate protection for coastal communities and traditional fishermen. It further develops an alternative approach grounded in the transformative justice paradigm, integrating restorative justice principles, institutional collaboration, and respect for the rights of maritime communities into the reform of the national criminal law system, with the aim of establishing normative and institutional foundations for policies more responsive to Indonesia's maritime context.

Thus, this research is expected to provide a new direction in criminal law enforcement discourse, shifting from a purely repressive and legalistic approach to one that is transformative and just, particularly in strategic maritime areas vital to Indonesia's sovereignty and welfare.

Methods Research

This study used a legal-normative approach combined with a socio-legal approach to gain a comprehensive understanding of the dynamics of criminal law enforcement in Indonesia's maritime domain (Kampourakis, 2020; Negara, 2023; Robert & Zeckhauser, 2011). The legal-normative approach was employed to examine the applicable legal rules, particularly legislation relating to criminal law, maritime law, and law enforcement institutions in Indonesian waters. The socio-legal approach was applied to capture empirical realities and legal practices in the field, particularly in the context of interactions between law enforcement officials, lawbreakers, and coastal communities as the parties directly affected.

The data used in this study comprised both primary and secondary data. Primary data were obtained through in-depth interviews with several key informants, including law enforcement officials (Indonesian Navy, Indonesian Coast Guard, and Marine Police), and Attorney General's Office), academics in the fields of maritime and criminal law, and

representatives from fishing communities in areas prone to maritime law violations such as the Malacca Strait, the North Natuna Sea, and the waters of South Sulawesi. These data were supplemented by limited observations of maritime criminal case-handling practices and the collection of relevant legal documents.

In addition, secondary data were collected through literature studies of laws and regulations, including Law No. 17 of 2008 concerning Shipping, Law No. 32 of 2014 concerning Maritime Affairs, the Criminal Code, the Criminal Procedure Code, and various other implementing regulations. International instruments, such as the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which has been ratified by Indonesia, were also analyzed. Court rulings, official reports from government agencies, and academic publications formed additional secondary sources for the analysis.

Data analysis was conducted qualitatively through data reduction, thematic categorization, and in-depth interpretation. Content analysis techniques were employed to evaluate the substance of legal norms and other legal documents, while thematic coding was applied to interview results and field data to identify patterns, gaps, and best practices in maritime law enforcement.

To maintain the validity and reliability of the findings, the study utilized both source and method triangulation, alongside data confirmation from criminal law and maritime law experts, to ensure the accuracy of interpretation. This methodological approach was designed to produce an analysis that is academically rigorous and practically relevant for developing a transformative model of criminal law enforcement in Indonesia's maritime region.

Results and Discussion

Institutional Fragmentation and Disparities in Law Enforcement

The core findings of this study clearly identify institutional fragmentation as the root cause of the ineffectiveness of maritime criminal law enforcement in Indonesia (Dirhamsyah, 2005; Laksmana, 2022; LAKSMANA, 2022). Based on an in-depth analysis of interviews with operational officials from the Indonesian Coast Guard (Bakamla), the Ministry of Marine Affairs and Fisheries (KKP), and the Marine Police (Polairud), it was revealed that there are no integrated command mechanisms or effective interoperability protocols in place to address criminal activities at sea (Priyanto et al., 2022; Sitorus & Said, 2023).

Furthermore, each institution operates on the basis of isolated sectoral mandates (the Fisheries Law, the Police Law, and the TNI Law), which often conflict with one another in practice (Dirhamsyah et al., 2022; Ikrami & Bernard, 2018; Siregar et al., 2018). As a result, overlapping jurisdictions not only cause inefficiency but also create legal vacuums that are exploited by criminals. A paradigmatic example occurred in 2023 in the Natuna Sea, when the Indonesian Navy arrested a foreign illegal fishing vessel (Irawan & Carnegie, 2025; Yu & Liu, 2025). Despite strong evidence, the vessel was ultimately released due to the lack of follow-up action by the prosecutor's office, which was caused by incomplete documents from the fisheries investigators of the Ministry of Marine Affairs and Fisheries (KKP)—a logistical failure resulting from the absence of an integrated information system.

This structural fragmentation has given rise to systemic disparities in law enforcement, eroding the principle of equality before the law. Empirically, a consistent pattern can be observed: large-scale maritime crimes involving foreign corporations with substantial legal resources often stall at the investigation or prosecution stage due to procedural complexities between agencies. Conversely, violations by traditional fishermen, such as fishing in restricted zones, are processed swiftly and repressively, even when they occur in traditional fishing grounds that these communities sociologically consider legitimate. This fundamental disparity not only reflects procedural inconsistencies but also perpetuates structural injustice,

whereby law enforcement functions as an instrument of symbolic control over vulnerable groups, while large capital escapes legal accountability.

More critically, this condition does not merely reflect operational stagnation but marks a crisis of legitimacy in maritime criminal law in the eyes of coastal communities. From the perspective of Nonet and Selznick's (1978) theory of responsive law, this fragmented system remains stuck in the "law as power" phase—overly focused on formal compliance and bureaucratic control, while failing to respond to the need for substantive justice.

The implication is that the law loses its social embeddedness: fishermen interpret the failure to apprehend foreign vessels as evidence of the state's subordination to geopolitical and economic interests, while the crackdown on them is perceived as a form of the criminalization of poverty. Thus, disparities in law enforcement are not only the product of institutional dysfunction but also fuel apathy and erode public trust in the rule of law.

In short, institutional fragmentation creates a vicious cycle: overlapping authorities weaken enforcement capacity, the resulting disparities undermine the legitimacy of the system, and the crisis of legitimacy, in turn, deepens institutional dysfunction. These findings underscore the urgency of institutional reconfiguration— one that not only unifies operational command but also fosters maritime jurisprudence centred on social justice.

The Failure of Repressive Approaches in Resolving Root Problems

Conventional repressive approaches—which rely on arrest, detention, and punishment as the primary mechanisms for law enforcement—have fundamentally failed to address the root causes of maritime crime in regions such as South Sulawesi (Chen & Tarling, 2017; Dunlap, 2023; Febrica, 2014; Fita et al., 2022; Haqimin et al., 2019). More importantly, these approaches ignore the socio-economic complexities that drive criminal behavior. Empirical data from Takalar, for example, reveals a recurring pattern: fishermen arrested for entering marine conservation zones generally return to similar offences after their release (DeVantier et al., 2004; Missbach, 2016). These key findings (based on in-depth interviews with fishermen community representatives) reveal two causal factors: (1) the absence of viable alternative livelihoods outside traditional fishing, and (2) unclear fishing zone boundaries due to inadequate regulation socialization.

The structural implications of this repressive approach are multidimensional and counterproductive. First, criminalizing marginalized fishermen—who are actually victims of failed economic policies and regional governance—only reinforces the cycle of structural poverty and dependence on illegal activities. Second, a retributive approach that punishes unilaterally erodes the transformative potential of guidance and rehabilitation programmes. More critically, it widens the trust gap between state authorities and local communities, thereby undermining the essential foundation of cooperation required for sustainable maritime governance. Paradoxically, efforts to "enforce the law" actually weaken the legal legitimacy of the law itself in the eyes of coastal communities.

From a theoretical perspective, the failure of this repressive paradigm finds its explanation in Braithwaite's (1989) and Zehr's (2002) theory of restorative justice (Acorn, 2017; Maglione, 2016, 2019). Philosophically different from the retributive approach, restorative justice emphasizes the restoration of social relationships, participatory accountability, and the reintegration of offenders (Bazemore, 1998; Braithwaite, 2000; King, 2008). The maritime community context—with its strong kinship ties, dependence on shared resources, and overlapping customary and national norms—makes this approach intrinsically more appropriate (Pauwelussen, 2016; Ramenzoni, 2021). As argued by Braithwaite, reintegrative shaming mechanisms within the community have proven more effective in reducing recidivism than mass incarceration (Braithwaite, 2020; Mongold & Edwards, 2014).

Therefore, transforming policies from a repressive approach to a restorative model is not merely an alternative—it is a strategic necessity. Synergy between economic empowerment (through livelihood diversification), participatory regulatory education, and community-state dialogue platforms can break the cycle of crime systematically. Without this paradigm shift, legal interventions will remain superficial symptom management that fails to address the structural pathologies underlying maritime conflicts.

Discussion

The findings presented in the previous section reveal both structural and procedural weaknesses in Indonesia's maritime criminal law enforcement framework. These weaknesses manifest in fragmented legal provisions, overlapping institutional mandates, and a predominantly repressive orientation that insufficiently addresses the socio-economic realities of coastal communities. Drawing on these findings, this section critically discusses the implications of current practices and advances a conceptual model for a transformative approach to maritime criminal law enforcement.

Based on findings from field studies and normative reviews of national and international legal instruments, this study identifies an urgent need to formulate a new approach to criminal law enforcement in Indonesia's maritime areas. The proposed transformative approach is not merely an alternative to conventional repressive measures but also a paradigmatic step toward a more just, participatory, and context-sensitive criminal justice system. It is grounded in the view that justice extends beyond punishment to include the restoration of social relations, the promotion of collective responsibility, and the protection of ecological sustainability.

The transformative approach emphasizes substantive justice that accounts for the social, economic, and cultural factors underlying maritime crimes. In the Indonesian context, many maritime violations are committed by marginalized actors, such as traditional fishermen, who act not out of malicious intent (*mens rea*) but out of economic necessity or lack of legal awareness. Accordingly, the approach provides mechanisms for recovery and conflict resolution that are not purely legalistic but incorporate mediation, community participation, and the recognition of local communities' rights.

A central element of this model is Community Maritime Penal Mediation, a participatory forum for resolving conflicts between the state, offenders, and coastal communities. This mediation process enables more humane outcomes, particularly for minor offenses such as unintentional entry into restricted zones. Beyond serving as a tool for legal education, criminal mediation also fosters trust between law enforcement officials and maritime communities, which have historically been vulnerable to discriminatory treatment.

To complement penal mediation, it is essential to design a digital-based, integrated inter-agency coordination system. The absence of such a system has led to slow, inefficient handling of maritime cases and frequent jurisdictional conflicts. A proposed solution is the establishment of a National Maritime Justice Command Center, integrating data, reporting, and follow-up on cases handled by institutions such as the Indonesian Navy, the Indonesian Coast Guard, the Ministry of Maritime Affairs and Fisheries, the Indonesian National Police's Maritime Police, and the Attorney General's Office. Leveraging big data analytics and artificial intelligence, this system could deliver early warnings, risk assessments, and evidence-based decisions in real time, thereby accelerating law enforcement while maintaining accountability and transparency.

The transformative approach also requires the revitalization of both substantive and procedural maritime criminal law. Currently, relevant legal provisions are scattered across various legal sectors—such as the Shipping Law, the Fisheries Law, and the Criminal Code—

without adequate harmonization. This fragmentation can be addressed through the revision and codification of maritime legal norms within the National Criminal Code, alongside the application of the non-criminal principle for administrative violations or minor offenses better resolved through administrative rather than criminal mechanisms. Such reforms would render the maritime criminal law system more adaptive, proportional, and consistent with the principle of *ultima ratio*.

Ultimately, the transformative approach to maritime criminal law enforcement reconstructs the perspective of law enforcement officials while integrating legal, technological, and social dimensions. It aims to foster substantive justice that reflects Indonesia's identity as a maritime nation, affirming the state's role in safeguarding marine resources and protecting coastal communities sustainably.

The conceptual model rests on three main foundations: relational justice, institutional collaboration, and recognition of maritime communities' rights. In practical terms, this model can be implemented through the establishment of Maritime Restorative Justice Panels in areas prone to legal conflicts, ensuring that dispute resolution mechanisms are tailored to local social, ecological, and cultural contexts. It may also be integrated into training programs for law enforcement officials and incorporated into curriculum reforms at police and naval academies.

Scientific Novelty and Research Contribution

This study presents a conceptual innovation in the field of maritime criminal law by proposing a transformative approach as an alternative paradigm to the repressive model that has long dominated law enforcement practices in Indonesian waters. Until now, discussions on criminal law reform have concentrated on the general criminal justice system, whereas criminal law enforcement at sea has tended to be neglected or regarded merely as part of the administrative sector. This article therefore broadens the theoretical and practical horizons of criminal law by incorporating the maritime dimension as a strategic space requiring special attention.

The first novelty lies in the integration of the concepts of transformative justice and maritime criminal law enforcement. In criminal law literature, transformative justice is generally applied in the context of human rights violations, restorative justice, or community-based horizontal conflicts. This study shifts the lens to the maritime domain, arguing that violations of law at sea relate not only to formal legal provisions but also to social structures, economic inequality, and the marginalization of coastal communities. Accordingly, the application of transformative justice in the maritime context opens new avenues for developing legal theory that is more responsive to socio-ecological realities.

Furthermore, another scientific contribution lies in the formulation of a maritime law enforcement institutional design grounded in collaborative and digital principles. The proposed National Maritime Justice Command Center responds to weak coordination between law enforcement agencies at sea. Adopting an institutional ecosystem approach, this study proposes a case management model that integrates information technology, big data, and public participation to create a transparent, efficient, and accountable system. In this context, the article also contributes to the fields of legal informatics and e-governance in the criminal law enforcement sector.

Methodological innovation is evident in a field approach that combines normative studies with multi-level interviews involving both state actors and local communities. This strategy enables analysis that is not only textual in nature with respect to legal norms but also reflective of the social experiences that shape perceptions of justice at the grassroots level. As

such, this research can be positioned as a contribution to more interdisciplinary and grounded legal research methodologies.

In terms of practical contribution, the findings have strong relevance for the formulation of national criminal law policy, particularly in the context of implementing the new National Criminal Code and establishing an integrated maritime legal system. The recommendations advanced here can serve as a basis for revising sectoral regulations, developing inter-agency maritime standard operating procedures (SOPs), and updating curricula for law enforcement training programs focused on substantive justice. In other words, this research addresses not only theoretical dimensions but also provides an applicable foundation that can be implemented by policymakers and legal practitioners.

Finally, within the international academic sphere, this article enriches the global discourse on transforming law enforcement in under-explored areas, such as the maritime domains of developing countries. By offering a contextual and socially just approach, this study can serve as a reference point for transnational criminal and maritime law scholarship confronting similar challenges.

Conclusion

Based on a series of analyses, criminal law enforcement in Indonesia's maritime areas still faces significant structural and conceptual challenges. Institutional fragmentation, overlapping authorities, and the dominance of a repressive approach have created disparities in access to justice, particularly for coastal communities and traditional fishermen. Law enforcement practices have largely been oriented toward formal punishment without addressing the underlying social, economic, and ecological issues surrounding legal violations at sea.

Furthermore, legalistic and sectoral approaches have proven incapable of responding to the complexity of maritime crime, which is cross-jurisdictional and multidimensional. In such circumstances, a new approach is needed that can address the need for substantive justice, not merely procedural justice. The transformative approach proposed in this study responds to this need, emphasizing the importance of inter-agency collaboration, community participation, and the restoration of social and ecological relations as integral parts of the criminal justice process.

The proposed conceptual model—maritime criminal law enforcement based on transformation—offers a more adaptive and responsive approach to the local context. Through community-based criminal mediation, digital institutional integration, and the revitalization of maritime criminal law, this model has the potential to create a legal system that is not only effective but also legitimate in the eyes of the public. As such, this research contributes to the theoretical discourse in criminal law studies and provides practical policy directions for the reform of the national legal system in the maritime sector.

In conclusion, this study is expected to contribute significantly to the development of a more just, effective, and sustainable maritime criminal justice system. Justice at sea is not merely a matter of law and jurisdiction but also a matter of commitment to people, ecosystems, and the future of nations that live from and for the sea—a commitment that will determine whether maritime governance serves only the present or safeguards the shared legacy of the oceans for generations to come.

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