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Models of restorative justice in Central and East Asia

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Abstract. The purpose of the study was to identify and investigate gaps in the restorative justice system in Kazakhstan. The methodology of the study was based on a comparative legal analysis of the legislative framework, practices of mediation, probation, and juvenile justice of three countries (Kazakhstan, Japan, and South Korea) using the historical and legal method for investigating traditional institutions of Kazakhstan and content analysis of international and national documents. The findings showed that Kazakhstan's restorative justice system has significant gaps in the use of pre-trial mediation, specialised programmes for minors, and the integration of public institutions. It was found that as of July 2025, 27,762 people were registered with the probation service in Kazakhstan, which indicates the active use of this institution, but requires strengthening through the involvement of social workers and public initiatives, such as "advisers for social reintegration" in Japan. Policies implemented in Japan and family conferences for minors practised in South Korea offer effective mechanisms for expanding the use of restorative practices. It was established that the institutions of aksakals and biys, which have a historical role in reconciliation, can be integrated into contemporary models, strengthening the legitimacy and cultural acceptability of restorative justice. The conclusions emphasised that Kazakhstan needs to amend its legislation to clearly define the limits of application of reconciliation, and to develop state programmes for training qualified mediators, which will help to reduce recidivism and humanise criminal justice. The practical significance of the results obtained is to provide specific tools for reforming Kazakhstan's criminal justice system aimed at reducing recidivism, humanising punishments, and improving the effectiveness of social reintegration. These recommendations can be used by the Ministry of Justice, the Supreme Court, the Prosecutor General's Office, and local authorities

Keywords: mediation; probation; serious crimes; recidivism; penitentiary system; aksakals and biys

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Introduction

The criminal justice system around the world faces significant challenges, among which the problems of recidivism and chronic overcrowding in penitentiary institutions are becoming increasingly problematic. Criminal justice systems, in particular, those that have inherited the features of the post-Soviet period, have faced the ineffectiveness of traditional punitive approaches in addressing such complex issues as recidivism and overcrowding in penitentiary institutions. This situation has led to the need to rethink and humanise justice, which has led to the active introduction of more effective models, in particular restorative justice. In this context, restorative justice, with its focus on reconciliation between the victim and the offender, compensation for the damage caused and comprehensive re-socialisation of the perpetrator, becomes relevant. It offers an alternative paradigm that seeks not only punishment, but also the restoration of social peace and justice.

The effectiveness of restorative justice programmes is confirmed by numerous scientific studies. For example, a meta-analysis conducted by S. Syahwami & H. Hamirul (2024) found a statistically significant reduction in recidivism, is particularly noticeable among young people who followed the principles of restorative justice. This demonstrates the potential of restorative justice in reducing the number of repeat offences and its special prospects in working with juvenile delinquents. In addition, research by M.M. Gunawan *et al.* (2024) showed that criminal mediation as a form of restorative justice is successfully applied in various countries, such as Indonesia, the United States, Germany, Poland, and Switzerland, adapting to national legal and socio-cultural conditions.

The Republic of Kazakhstan, having inherited the specifics of criminal justice of the post-Soviet period, is actively implementing reforms of its criminal justice system and the penitentiary system. This transformation is a response to the growing need to humanise and improve the effectiveness of justice. Research by E.I. Isibayeva (2024) illustrated the complexity of the challenges faced by people released from prison, pointing out the biased attitude of society, significant difficulties in finding employment, finding housing, and starting a family. Z.T. Abdukarimova *et al.* (2024) in their analysis of the prevention of extremism and terrorism in the penitentiary system of Kazakhstan, although noted a general decrease in the level of relevant crimes due to a combination of state and public measures, they identified a persistent problem of public distrust of state actions and an urgent need for increased transparency. Research by A. Askarbekkyzy *et al.* (2025) further points to the profound problem of victimisation of prisoners in penal institutions caused by social stigmatisation, the influence of the criminal subculture, inadequate protection of rights, and discrimination on ethnic and religious grounds. The researchers emphasised that the most vulnerable groups are young prisoners, members of minorities, persons with disabilities, and those convicted of sexual crimes. In these internal challenges of Kazakhstan, the study and adaptation of international experience in the field of restorative justice is becoming even more relevant. M. Kossay *et al.* (2025) in their comparative study of the effectiveness of the juvenile diversion system in Indonesia, Malaysia, and the Philippines, showed that Indonesia and Malaysia achieved levels of effectiveness through strong legal regulation, a focus on recidivism prevention, and active social reintegration. These examples show that effective restorative justice models can significantly improve the functioning of criminal justice.

Kazakhstan, with its unique socio-cultural resources based on historically established conflict resolution institutions (in particular, biy courts and councils of elders), has the prerequisites for integrating restorative justice. M.Zh. Kalshabayeva *et al.* (2024) detailed the historical tradition of conflict resolution through the institutions of "biler soty" and the council of elders, whose activities were based on the principles of justice, humanity, and a deep desire for reconciliation. They stressed that the key idea of "Дау мұраты – бітім" ("The purpose of the dispute – reconciliation") has a direct hereditary connection with the contemporary practice of mediation in Kazakhstan. These traditional institutions can serve as a solid foundation for restorative practices. There is also a certain crisis of traditional mediation in the international arena, as shown by A.A. Raimbekova (2024) on the example of the war in Ukraine, which reveals the vulnerability of international law and the low effectiveness of classical mediation models in the context of geopolitical changes.

Thus, considering both global and national challenges, in particular, the growing need to humanise criminal justice, reduce recidivism and optimise penitentiary systems, there are significant gaps in the scientific array: there is no comprehensive systematic comparative analysis of the adaptation of advanced models of restorative justice to the unique socio-cultural and legal context of Kazakhstan. The purpose of this study was to analyse the functioning of the restorative justice system in Kazakhstan. The objectives of the study were to identify adapted elements of East Asian models, integrate traditional Kazakh conflict resolution institutions, and identify the necessary legislative and institutional changes for their implementation.

Materials and Methods

The study was based on mixed-methods research design, which combines comparative legal analysis and qualitative content analysis. The analysis covered the time frame from 2007 to 2025, focusing on current legislation and statistics from 2024-2025. To ensure reliability, the materials (data) were selected according to the criteria of relevance (direct relation to restorative justice, mediation, probation) and reliability (official government, judicial, and international sources). Data collection was carried out by monitoring open legal bases, government portals, and academic repositories.

The comparative legal method and content analysis were applied to the main array of analysis units, which

included the national legislation of Kazakhstan: Constitution of the Republic of Kazakhstan (1995), Law of the Republic of Kazakhstan No. 401-IV (2011), Code of the Republic of Kazakhstan No. 518-IV (2011), Penal Code of the Republic of Kazakhstan No. 226-V (2014), Criminal Procedure Code of the Republic of Kazakhstan No. 231-V (2014), Law of the Republic of Kazakhstan No. 38-IV (2016), Law of the Republic of Kazakhstan No. 72-VIII (2024) and amendments to legislative acts concerning the education, information and culture system (Law of the Republic of Kazakhstan No. 153-VIII, 2025). Including sources describing the experience of Japan and South Korea, official Japanese documents included: JFBA – Japan Federation of Bar Associations (n.d.a; n.d.b; 2024), Mediation Committee (n.d.), Looking at crime… (n.d.), Ministry of Justice of Japan (n.d.), Act of Japan No. 88 (2007), Report on the verification... (2020). Korean sources include Rules for Handling Juvenile Affairs No. 376, (2007) and the Act of the Republic of Korea No. 17505 (2020). The content analysis method has also been used to identify key concepts and principles of restorative justice in international instruments, in particular, the reports of the United Nations Office on Drugs and Crime (2020; 2022a; 2022b; 2024). These sources have been used to understand global trends in recidivism reduction, restorative justice programmes, and penitentiary system reforms. Additionally, the papers Associated Press (2024) and D. Adilbekov (2024) from Human Rights Watch and Voice of America were used to understand the social context of Kazakhstan and current legal events. To investigate the socio-cultural background, the historical and legal method was used to study the genesis of traditional institutions (biys and aksakals) by analysing relevant scientific publication (Kenzhebekova, 2024). Ultimately, statistical analysis was applied to Kazakhstan's quantitative data collected from official reports, in particular probation data (Information about persons..., 2025) and statistics of the Statistics on mediation in Kazakhstan (n.d.) and the Supreme Court of the Republic of Kazakhstan (2025). This analysis included the calculation of coefficients (per 100 thousand population) using the equation: (number of people on probation / total population of the region) * 100,000 to identify regional imbalances that allowed for a quantitative assessment of the current state of mediation and probation in the country.

Results

Analysis of contemporary models of restorative justice in the legal system of Kazakhstan

The introduction and development of restorative justice models in the legal system of the Republic of Kazakhstan reflects global trends in the humanisation of criminal justice and orientation towards conflict resolution through reconciliation and reintegration. This approach is a departure from the purely punitive paradigm that historically prevailed in the post-Soviet space, and corresponds to the fundamental principles laid down in the Constitution of the Republic of Kazakhstan (1995). In particular, this refers to the protection of human and civil rights and freedoms (Article 1) and ensuring fairness in justice (Article 13). Although the term "restorative justice" may not be explicitly consolidated as a separate concept in all regulatory acts, its essential elements and principles are actively being integrated through the development of mediation and probation institutions and the expansion of opportunities for reconciliation between parties in criminal proceedings. This indicates a gradual but consistent transformation of approaches to criminal justice aimed at improving its effectiveness not only in punishing offenders, but also in restoring social peace, justice, and the well-being of victims. Legislation of Kazakhstan, in particular, the Penal Code of the Republic of Kazakhstan No. 226-V (2014) (for example, articles 65, 66, 68, 69 providing for exemption from criminal liability and conditional conviction under certain conditions) and the Criminal Procedure Code of the Republic of Kazakhstan No. 231-V (2014) (articles 35, 36, 37, 38, 529, rules governing reconciliation of the parties, refusal of criminal prosecution for reconciliation and conclusion of procedural agreements), provides for a number of mechanisms that are closely intertwined with the ideas of restorative justice. This is, in particular, the possibility of exemption from criminal liability in connection with reconciliation with the victim. This mechanism applies to persons who have committed crimes of small and medium gravity, subject to full compensation for the damage caused and the mandatory consent of the victim. It demonstrates the priority of compensating for the victim's harm and restoring social harmony over unconditional punitive punishment of the offender, subject to active dialogue, and mutual agreement between both parties to the conflict.

The institute of mediation, officially established by the Law of the Republic of Kazakhstan No. 401-IV (2011), is one of the central elements of the restorative paradigm. This law provides an opportunity for the parties to the conflict, with the assistance of a neutral and impartial mediator, to independently reach a mutually acceptable solution, including compensation for the damage caused and restoration of broken relations. Mediation is particularly relevant for cases involving minor and moderate offences, and for family and domestic conflicts, labour disputes, and civil cases, where maintaining social ties and establishing dialogue between the parties is a priority. Since the adoption of this law, further initiatives to improve it have been observed in Kazakhstan, in particular, issues of expanding the list of cases where mediation is mandatory and raising the status of mediators were discussed (Law of the Republic of Kazakhstan No. 153-VIII, 2025). These legislative changes reflect the constant search for ways to improve the effectiveness of mediation procedures. In practice, the introduction of mediation in Kazakhstan faces a number of systemic challenges that require comprehensive solutions. According to a sociological survey conducted by the Association of Mediators of the Republic of Kazakhstan, one of the problems is the lack of awareness of the population about the essence of mediation, its advantages and principles

of functioning. The survey results show that almost half of all respondents (45.3%) who have had experience interacting with the judicial system do not know anything about mediation as a way to resolve disputes. Only 15.9% of respondents have already used the services of a mediator and are ready to choose this form of conflict resolution in the future. People who have a general understanding of conciliation procedures are often unaware of key aspects, such as the legal force of a mediation agreement or that it is a quick way to resolve a dispute (Statistics on mediation in Kazakhstan, n.d.). This low awareness, compounded by poor coverage of the issue in legal publications and the media, is a barrier to wider application of restorative practices.

There is also an objective need for further development of the professional institute of mediators. Although there are 371 professional and 4,465 public mediators registered in Kazakhstan, the problem lies in professional development, specialised training and certification of specialists, and in creating effective mechanisms for monitoring their activities that would meet international standards of quality and ethics (Statistics on mediation in Kazakhstan, n.d.). Although there are no comprehensive and up-to-date metrics for mediation coverage, the available data allow identifying certain trends and gaps. As of 2018, according to the Ministry of Internal Affairs of the Republic of Kazakhstan, the number of criminal cases terminated by mediation has increased to 9,607 (compared to only two cases in 2011), which indicates a significant expansion of practice after the adoption of the Law of the Republic of Kazakhstan No. 401-IV (2011). However, this figure needs to be compared with the total number of small and medium-sized cases to estimate the actual share of coverage. For comparison, in civil proceedings in the same year 2018, only 4% of 871 thousand cases were terminated due to mediation. As of July 2025, there was no single main structure that would implement a single policy in the field of mediation, maintain a register, issue permits, set uniform standards and tariffs, and certify training centres, which negatively affects the quality of training of mediators. In addition, there is a problem of increasing confidence in mediators and awareness of their role as independent, impartial facilitators, which are not part of the state punitive system, but are designed to promote dialogue and reconciliation.

Nevertheless, the latest data of Supreme Court of the Republic of Kazakhstan (2025) for the first half of 2025 indicate a significant positive trend in the application of conciliation procedures. As noted by Supreme Court President Aslambek Mergaliev, the growth in conciliation procedures amounted to 46.9% compared to 41.6% for the same period last year. Of the more than 113,000 media claims and cases (107,000), almost half were resolved through alternative means, which indicates the high potential of this tool to unload the judicial system and increase the satisfaction of parties to conflict in civil proceedings. These figures demonstrate not only the expansion of the scope of mediation to various categories of disputes, including even some administrative offences and investment disputes, but also emphasise its universality and restorative impact on public relations. It was also noted that the increase in the return of claims by 3% is associated with reconciliation and withdrawal of the claim, which in most cases is the actual exhaustion of the dispute (Supreme Court of the Republic of Kazakhstan, 2025). These positive trends in reconciliation reflect a strategic focus on out-of-court conflict resolution, which strengthens the principles of restorative justice. The analysis revealed three key gaps in the mediation institute. First, there is a gap in awareness, the institution is unknown to the target audience. Second, the institutional gap the lack of a unified state structure for certification and quality control reduces the trust and qualifications of mediators. Third, the data gap in the criminal sphere, despite the success in civil proceedings, there are no up-to-date metrics for covering criminal cases (data for 2018 are outdated).

Another important component that has restorative elements is the probation system. The Law of the Republic of Kazakhstan No. 38-IV (2016) defines probation as a comprehensive system of social and legal measures. These measures are implemented in relation to persons convicted without deprivation of liberty, or those who have been released from criminal liability with a probationary period, in order to re-socialise them, prevent the commission of new crimes, and ensure the safety of society. Although probation is primarily educational and controlling in nature, its focus on providing social, psychological, legal, and other assistance to convicts, and on active work with their immediate environment and society, contains significant restorative potential. It is aimed at correcting offenders not through isolation, but through active work with them directly in society, which contributes to their successful reintegration into society, minimising stigma and, as a result, helps to significantly reduce recidivism. Data on the number of persons registered with the probation service indicate the active use of this institution in the regions of Kazakhstan (Information about persons..., 2025). In particular, in the largest cities and regions of the country, there is a significant number of such individuals. This is reported in more detail in Table 1, which represents the distribution of persons registered with the probation service in all regions and cities of national significance, including their percentage share of the total number.

Table 1. Distribution of persons registered with the probation service in the regions of Kazakhstan (as of July 11, 2025)

Region	Number of persons registered with the probation service	Total population in the region	Number of people on probation per 100 thousand population
Akmola region	1,283	788,155.0	162.8
Aktobe region	1,363	954,014.0	142.9
Abai region	684	598,000.0	114.4

Continued Table 1

Region	Number of persons registered with the probation service	Total population in the region	Number of people on probation per 100 thousand population
Almaty region	3,515	1,583,478.0	222
Almaty	2,653	2,332,397.0	113.8
Astana	2,633	1,601,490.0	164.4
Atyrau region	1,039	713,933.0	145.5
East Kazakhstan region	1,023	720,615.0	142
Jambyl region	1,471	1,217,729.0	120.8
West Kazakhstan region	1,121	695,774.0	161.1
Karaganda region	1,823	1,132,162.0	161
Kostanay region	1,050	822,711.0	128
Kyzylorda region	999	846,068.0	118.1
Mangystau region	952	815,058.0	116.8
Pavlodar region	1,321	747,064.0	177
North Kazakhstan region	817	516,650.0	158.1
Shymkent city and Turkestan region	3,615	2,147,757.0	168.3
Total in Kazakhstan	27,762	20,426,568	136

Source: created by the author based on Statistics on mediation in Kazakhstan (n.d.), Information about persons... (2025)

Analysis of Table 1 data reveals significant regional differences in the relative use of probation. The rate of people on probation per 100 thousand population varies almost twice: from the lowest rates in Almaty city (113.8) and Abay region (114.4) to the highest in Almaty region (222). Regions with the highest absolute number of cases, such as the Turkestan region with the city of Shymkent (3,615 people), do not have the highest coefficient (168.3). For example, Almaty city, with the third largest absolute number of registered individuals (2,653), showed one of the lowest relative indicators, which is significantly lower than the national average (136). The city of Astana has a coefficient (164.4), which is significantly higher than the average. Such significant differences between regions indicate the lack of uniform standards in judicial practice.

In addition to official legislative mechanisms that integrate elements of restorative justice, Kazakhstan has historically also had informal conflict resolution practices based on the centuries-old traditions of the Kazakh people. These traditions are a socio-cultural resource that can significantly enhance the effectiveness of contemporary recovery models. The Institute of biys (traditional judges) and aksakals (respected elders) has played a key role in resolving disputes through reconciliation for centuries, considering not only customary law (adat), but also deep moral and ethical norms and social cohesion of the community (Kenzhebekova, 2024). Their activities were based on the principles of informal dialogue, compromise, admission of guilt, compensation for damage, and restoration of broken social ties. The goal was not so much to punish as to restore broken harmony in the community and prevent further conflicts. Despite the fact that these institutions no longer have direct legal force in the contemporary legal system of the Republic of Kazakhstan, their fundamental principles – open dialogue between the parties, voluntary compensation for damage caused, the desire for mutual reconciliation, and the restoration of peace in relations – can be effectively incorporated into models of restorative justice, especially at the local and regional levels. Involving reputable members of the community, such as aksakals, in mediation processes or probation programmes can significantly strengthen their legitimacy, increase public confidence in these procedures, and ensure greater acceptability of solutions for the parties to the conflict. This will make effective use of traditional social capital to improve the overall effectiveness of restorative practices, promoting the harmonisation of official law with customary norms and cultural traditions, and providing a deeper understanding and support for ideas of restorative justice at the grassroots level. Thus, the main socio-cultural gap was identified. Although these traditional institutions have high authority and trust, they are not formally integrated into legal mediation or probation procedures. Traditional social capital is not used to improve the effectiveness of restorative justice at the grassroots level.

Thus, the development of restorative justice in Kazakhstan requires further strengthening and solving existing problems. In particular, there are legislative and practical restrictions on the use of mediation in cases of serious and especially serious crimes. The high-profile court hearing in the case of the murder of Saltanat Nukenova, which was widely covered by Voice of America (Associated Press, 2024), highlighted the problems of domestic violence and the sensitivity of conflicts that cannot always be effectively resolved through mediation, especially when it comes to serious consequences and violations of fundamental rights. This case prompted President Kassym-Jomart Tokayev to sign a bill that toughens penalties for violence against spouses, known as the "Saltanat Law". Officially named Law of the Republic of Kazakhstan No. 72-VIII (2024), introduces significant changes to the Penal Code of the Republic of Kazakhstan No. 226-V (2014) and the Code of the Republic of Kazakhstan No. 518-IV (2011). In particular, it provides for the criminalisation of

intentional infliction of minor harm to health (Article 108-1) and beatings (Article 109-1), which previously could be considered as administrative offences. Responsibility for driving to suicide, inducing or facilitating suicide has also been significantly strengthened, especially if such actions are committed against a minor (Article 105). The law also introduces the concept of "crimes related to violence against minors" (paragraph 18-1) of Article 3 of the Penal Code of the Republic of Kazakhstan No. 226-V (2014) and restricts the use of reconciliation of the parties in such cases (part 4 of Article 68). The main one is the introduction of "special requirements for the behaviour of a person who has committed a criminal offence" (Article 98-3 of the Penal Code of the Republic of Kazakhstan No. 226-V, 2014), which allows the court to establish prohibitions on prosecution, contact with the victim and other restrictive measures. In addition, a support infrastructure is being created – the Contact Centre "111" and Family Support Centres (articles 5-1, 67-1 of the Code of the Republic of Kazakhstan No. 518-IV, 2011), which will provide social, legal, psychological assistance and temporary residence to victims of domestic violence. These changes indicate a shift in the focus of legislation from the possibility of reconciliation in difficult cases to the inevitability of responsibility and strengthening the state protection system. To further improve the situation, it is necessary to review the Law of the Republic of Kazakhstan No. 401-IV (2011), expanding its provisions on mandatory training and certification of mediators, and establish uniform standards for the quality of services that comply with the recommendations of the United Nations Office on Drugs and Crime (2020) regarding professionalisation. This will increase confidence in the mediation Institute and its effectiveness. In addition, the Criminal Procedure Code of the Republic of Kazakhstan No. 231-V (2014) should be improved to more clearly define the criteria and limits for applying reconciliation of parties in cases of varying severity, minimising the risks of reoffending crimes, as discussed in the context of reducing recidivism at the international level (Commission on Crime Prevention and Criminal Justice, 2022; United Nations Office on Drugs and Crime, 2024). Despite these difficulties, Kazakhstan shows a clear trend towards integrating restorative approaches into its legal system, supported and monitored by UNODC (United Nations Office on Drugs and Crime, 2022a) within the framework of programmes for the region (United Nations Office on Drugs and Crime, 2022b). Expanding the scope of mediation, further developing the institution of probation and introducing specialised rehabilitation programmes for minors based on the principles of reconciliation and re-socialisation are promising ways to deepen the reform of criminal justice.

Adaptation of the experience of restorative justice in Japan and South Korea in Kazakhstan

Japan's experience in the field of restorative justice is integrated into public consciousness and legal practice, based the deep cultural concepts of "chyova" (調和 – harmony) and "omiyari" (おもいやり – understanding, compassion). These concepts are at the heart of the Japanese approach to conflict resolution, which prefers reaching agreement, reconciliation, and restoring social ties over the strict application of formal law (Looking at crime…, n.d.). Instead of focusing on punishment, the Japanese system seeks to restore relations broken by crime. One of the key tools is the widespread use of mediation and reconciliation, often even at the pre-trial stage. Even in criminal cases, especially minor and moderate ones, there is a significant emphasis on "apologies and compensation". The victim of a crime has the opportunity to meet with the offender, express their feelings, and receive compensation for damages. This process often involves a neutral intermediary or even a police officer who facilitates the dialogue. If the offender sincerely repents, compensates for the damage and achieves reconciliation with the victim, this can be considered by the prosecutor's office as grounds for refusing criminal prosecution or by the court when passing a more lenient sentence. United Nations Office on Drugs and Crime (2020) highlights the universality of such practices for restoring justice. The Japanese system provides for several key documents and practices, the essence of which is manifested, in particular, in the law on speeding up legal proceedings (Japan Federation of Bar Associations, n.d.a). This law, adopted in 2003, aims to ensure that first-instance judgements are delivered in civil cases, usually within two years. Although its main focus is on civil proceedings, the philosophy of this law and its impact on the judicial system have broader implications that indirectly affect both the criminal sphere and the promotion of out-of-court settlement, including elements of restorative justice. The purpose of the law on speeding up legal proceedings is not just speed, but "fair, proper, and complete proceedings" that are carried out promptly. This shows the understanding that speed should not be achieved at the expense of quality or fairness.

The Japan Federation of Bar Associations (n.d.b) actively monitors compliance with this law by establishing a "Committee on the Law for the Acceleration of Judicial Proceedings" and sending its representatives to the "Meeting on the Review of the Acceleration of Judicial Proceedings" at the Supreme Court of Japan. The Supreme Court, in turn, publishes two-year "Reports on the acceleration of legal proceedings" (Report on the verification..., 2020), the first of which was issued in 2005, and the last – in 2020. The Japan Federation of Bar Associations (2024) regularly issues "Opinions" in response to these reports, emphasising the importance not only of speed, but also of the relevance and completeness of judicial proceedings to guarantee citizens' rights, and the need to strengthen the judicial system (human and material resources). This emphasis on "proper and complete" proceedings, along with speed, creates an enabling environment for the development of alternative dispute resolution methods, including mediation and reconciliation. When the system strives for efficiency but does not sacrifice quality, it looks for ways to relieve the courts without restricting access to justice. Out-of-court

mechanisms, such as mediation, ensure this speed and efficiency, while allowing the parties to reach a mutually acceptable solution, which is often more restorative than a court-imposed solution. Thus, while the Japan Federation of Bar Associations (n.d.a) formally deals with civil cases, its principles contribute to a general shift in Japan's legal culture towards greater use of out-of-court methods involving conciliation commissions and other mechanisms (Mediation Committee, n.d.), which are an integral part of the philosophy of restorative justice. There is also a "Non-prosecution policy" – a well-established practice in Japan that gives prosecutors broad discretion to refuse criminal prosecution, considering reconciliation with the victim and reparation. This policy is part of a broader strategy in which the prosecutor's office plays a role in preventing recidivism and resocialisation.

According to the document "Prosecutors' efforts to prevent recidivism" (Ministry of Justice of Japan, n.d.), Japanese prosecutors are involved in the process from investigation to execution of the sentence, considering the prospects for correcting the person. In light cases, if there are conditions for improving behaviour (for example, providing housing or work), a deferred charge may be applied. Even with a suspended sentence, prosecutors may require protective supervision if the risk of recidivism is high.

This strategy works closely with the correctional and probation system regulated by the Act of Japan No. 88 (2007), which focuses on the reintegration and support of offenders. Prosecutors provide information to penitentiary institutions and probation services for effective supervision. In cases where released persons need social support, the prosecutor's office cooperates with probation authorities, local authorities and support centres to provide housing and social services. To strengthen these initiatives, specialised departments are being created, social workers are being engaged, and cooperation between departments is being strengthened. United Nations Office on Drugs and Crime (2022a) highlighted the importance of penitentiary and probation reform for many countries. A specific example of cooperation: if a prosecutor releases a suspect without accommodation or an elderly person on deferred charges, he or she promptly informs the probation authorities. Probation services, considering the circumstances, assess the need for social support (housing, assistance) and coordinate actions with other institutions. The prosecutor's office employs "social reintegration advisers" – social workers who assess the needs of released persons for social support and coordinate the receipt of services. This contributes to successful reintegration and prevention of recidivism.

A key element of the Japanese system is informality and community orientation, where local communities, relatives, or authority figures often play a role in promoting reconciliation. This may be useful for Kazakhstan, where institutions of aksakals and elders have a similar function (Kenzhebekova, 2024). The adaptation of the Japanese model for Kazakhstan will require changes to the Criminal Procedure Code of the Republic of Kazakhstan No. 231-V (2014) and the Law of the Republic of Kazakhstan No. 401-IV (2011) to expand pre-trial mediation. It is also necessary to develop guidelines for law enforcement agencies and courts to consider reconciliation and reparation as mitigating circumstances. The creation of regional mediation and probation support centres with the involvement of aksakals will integrate traditional values. The development of training programmes for mediators and law enforcement officers, considering the cultural characteristics of Kazakhstan, in particular, the importance of preserving the face and the role of the family, is the main component, considering the need for professionalisation, which is mentioned by United Nations Office on Drugs and Crime (2020).

South Korea also has a well-developed restorative justice system, especially in the field of juvenile justice. Their approach often focuses on "family conference models" and "group meetings", which are a direct embodiment of recovery principles. In these models, the perpetrator, victim, their families, and sometimes members of the community or police come together to discuss the crime, its consequences, and ways to repair the harm. The main goal is not punishment, but understanding, empathy, responsibility, and rebuilding relationships. Specific South Korean documents and practices that support these models include the Act of the Republic of Korea No. 17505 (2020), which is the basis for applying restorative justice to minors. This law provides for the possibility of dismissing the case from the court and referring it to the so-called "juvenile reconciliation commissions" or "rehabilitation conferences". The South Korean Prosecutor's Office is actively implementing restorative justice programmes, which may include direct or indirect meetings between the victim and the offender, where the parties discuss the harm and ways to compensate for it. This is complemented by guidelines and the law on working with juvenile offenders (Rules for Handling Juvenile Affairs No. 376, 2007), which encourage the use of informal procedures and mediation, with a focus on re-socialisation and relapse prevention. United Nations Office on Drugs and Crime (2020) emphasised the importance of developing targeted programmes for young people. Key features of the South Korean model that can be adapted for Kazakhstan include an emphasis on juvenile justice. Instead of being isolated, young people are given the opportunity to realise their responsibility to the victim and society, repair the damage, and reintegrate into society. This is directly related to Kazakhstan's initiatives to improve work with juvenile delinquents (Adilbekov, 2024) and the desire to provide them with a second chance.

Models of family conferences and group meetings, where the facilitator helps all participants speak out, hear each other and reach consensus on a recovery plan, will be effective for Kazakhstan, with its family and clan ties. This will involve not only direct participants in the conflict, but also their relatives, which is the main thing for supporting and monitoring the implementation of agreements. Individualised recovery plans, which include not only material

reparations, but also apologies, community service, participation in training programmes, psychological assistance, and other measures aimed at rehabilitating the offender and restoring the victim, are better than standard punishments. The effectiveness of such meetings will depend on the qualifications of the facilitators, so Kazakhstan can develop specialised training programmes for mediators, social workers, and psychologists who will work in these models, focusing on the skills of active listening, empathy, conflictology, and cultural sensitivity, which is in line with the United Nations Office on Drugs and Crime (2020) recommendations for professionalisation. For a full understanding of the potential for adaptation of the East Asian experience in Kazakhstan, Table 2 provides a comparative analysis of the main practices of restorative justice in Japan and South Korea, including specific recommendations for their implementation in Kazakhstan's legal and socio-cultural context.

Table 2. Comparative analysis and recommendations for Kazakhstan on adaptation of restorative justice models in Japan and South Korea

Comparison aspect	Japan (main practices)	South Korea (main practices)	Recommendations for Kazakhstan (context-sensitive)
Cultural foundations	"chyova "(harmony), "omiyari" (understanding), focus on reconciliation and restoring social ties.	Strong family ties, collectivism, and a focus on reconciliation and community reintegration, especially for young people.	Actively use the institutions of aksakals and biys to legitimise and root restorative practices that resonate with the traditional values of "кешірім" (forgiveness) and "татулacy" (reconciliation).
Mechanisms at the pre-trial stage	Broad application of "apologies and compensation", a non-harassment policy based on reconciliation and reparation.	Victim-offender mediation programmes, juvenile reconciliation commissions, and early-stage cases.	Expand pre-trial mediation for minor and moderate offences, develop clear guidelines for prosecutors on taking reconciliation and compensation into account as grounds for terminating proceedings.
Focus on juvenile justice	There is a present but less pronounced emphasis on structured "family conferences" compared to Korea.	Central role in the "Law on juvenile justice". Models of "family conferences" and "group meetings" for minors.	Develop specialised restorative juvenile justice programmes, including family conference models, with a focus on responsibility, reconciliation, and community involvement in reintegration.
Probation and resocialisation	"Law on probation and protection", cooperation of the prosecutor's office with probation authorities and social services, "advisers on social reintegration".	Similar probation programmes with a focus on individualised re-socialisation plans and community support.	Strengthen the institution of probation by integrating social workers (modelled on "social reintegration advisers"), and ensure cooperation with local communities and educational institutions to support released persons.
Professionalisation and training	Established practices, although without a single centralised structure for mediators. The prosecutor's office has social security specialists.	Advanced training and certification systems for facilitators for rehabilitation conferences.	Creation of a single centralised structure for training and certification of mediators and facilitators of restorative justice, setting quality standards, as recommended by UNODC.
Legislative changes (proposals)	Adaptation of the principles of the "Law on speeding up legal proceedings" for unloading courts through out-of-court settlement.	Implementation of mechanisms for dismissing cases from court based on restorative conferences, as provided for in the Juvenile Act.	Amendment of the Code of Criminal Procedure and the Law "On mediation", clearly defining the limits of the application of reconciliation and mediation in cases of varying severity, and strengthening the legislative framework for probation with a restorative potential.

Source: created by the author based on sources Looking at crime... (n.d.), Ministry of Justice of Japan (n.d.), Japan Federation of Bar Associations (n.d.a), Act of Japan No. 88 (2007), Rules for Handling Juvenile Affairs No. 376 (2007), Law of the Republic of Kazakhstan No. 401-IV (2011), Criminal Procedure Code of the Republic of Kazakhstan No. 231-V (2014), Law of the Republic of Kazakhstan No. 38-IV (2016), Act of the Republic of Korea No. 17505 (2020), United Nations Office on Drugs and Crime (2020; 2022b), Zh.K. Kenzhebekova (2024)

Adaptation of the experience of Japan and South Korea in Kazakhstan should be based on joint work between innovative approaches and national traditions. Institutions of biys and aksakals that have historically played the role of conciliators and moral authorities (Kenzhebekova, 2024) can be integrated into contemporary restorative justice programmes. For example, they can act as honorary facilitators in group meetings or provide mentoring support to juvenile delinquents as part of probation programmes. This will not only strengthen the legitimacy of such programmes in the eyes of local communities, but also ensure cultural acceptance, which is fundamental to their success. One of the key areas of adaptation is the development and implementation of specialised programmes of restorative justice for minors. These programmes should focus on early intervention, the application of restorative practices at the earliest possible stages of conflict; on responsibility, helping minors to understand the consequences of their actions; on reconciliation with the victim, creating safe spaces for dialogue; and on active community engagement, involving schools, parent committees, and youth organisations. In addition, it is important to expand awareness-raising not only on mediation, but also on broader concepts of restorative justice, explaining their benefits to society as a whole. This can be

implemented through educational programmes in schools, universities, and through targeted media campaigns that consider the cultural specifics of Kazakhstan. Cooperation with UNODC in the framework of the Programme for Central Asia 2022-2025 (United Nations Office on Drugs and Crime, 2022b) can provide the necessary methodological support and resources for the implementation of these initiatives. Thus, Kazakhstan has a unique opportunity to combine its historical experience of informal conflict resolution with the best international practices of restorative justice, especially those successfully tested in Japan and South Korea. This will create an effective and culturally appropriate system that will contribute not only to reducing crime and recidivism, but also to building a more just, harmonious and cohesive society where conflicts are resolved through dialogue, responsibility, and recovery.

Further development and improvement of the restorative justice system in Kazakhstan requires not only internal legislative changes and strengthening of existing institutions, but also a strategic view of international experience. East Asian countries, particularly Japan and South Korea, set an example as their restorative justice systems successfully combine modern legal approaches with deep-rooted cultural traditions of conflict resolution. This experience is particularly relevant for Kazakhstan, given the existence of its own informal traditions of reconciliation, such as the institutions of biys and aksakals, which have already been discussed as an important socio-cultural resource. Adapting models from Japan and South Korea can provide Kazakhstan with unique tools for improving the effectiveness of restorative justice, especially in the context of reducing recidivism, which is a priority for UNODC, as noted in the Commission on Crime Prevention and Criminal Justice (2022) and United Nations Office on Drugs and Crime (2024). Thus, the further development of the restorative justice system in Kazakhstan requires specific legislative changes based on a strategic analysis of international experience. To improve the effectiveness of the system and reduce recidivism, it is also necessary to expand prosecutor's discretion according to the Japanese model, making changes to Article 68 of the Penal Code of the Republic of Kazakhstan No. 226-V (2014) (Dismissal... in connection with reconciliation) to allow its application at the pre-trial stage by the prosecutor (and not just by the court), subject to full redress. Also integrate "family conferences" based on the experience of South Korea into the Law of the Republic of Kazakhstan No. 401-IV (2011), creating a separate, mandatory protocol for cases involving minors. Formalise community participation by integrating traditional institutions (aksakals) into the Law of the Republic of Kazakhstan No. 38-IV (2016) as official public advisers, similar to the Japanese "social reintegration advisers".

Discussion

The results obtained, which relate to the potential of adapting the models of restorative justice of Japan and South Korea in Kazakhstan, highlight a number of key aspects that are of significant theoretical and practical importance. In particular, the implementation of recommendations based on the cultural, pre-trial, juvenile, probation and legislative aspects of East Asian models can significantly transform Kazakhstan's criminal justice system. These findings are consistent with a broad international discourse on the need to decolonise criminology and search for alternative, more contextually sensitive approaches to justice, which was highlighted by P. Yu & J. Liu (2024). Their study analysed the dominance of Western approaches and demonstrates how the contribution of Asian criminology, in particular the theoretical developments of P. Yu & J. Liu, enriches the discipline and restores the balance of knowledge. The recommendations of this study on Kazakhstan are based on an in-depth analysis of the Asian experience, are a contribution to this process of "decolonisation" of criminological thought, offering not just copying, but adaptation based on local characteristics. An analysis of the cultural foundations of restorative justice in Japan and South Korea, with their emphasis on harmony, understanding, and collectivism, has shown that these principles have deep parallels with the traditional values of Kazakh society. The proposal of this study to actively use the institutions of aksakals and biys to legitimise and root restorative practices correlates with the study by A.I. Hamzani *et al.* (2025), who described the traditions of restorative justice in Indonesian Muslim society. Their findings showed that traditions based on the principles of collective discussion and agreement are deeply rooted and can become the basis for the future implementation of restorative justice, even in criminal cases against life. This confirms that in Kazakhstan, as in Indonesia, cultural characteristics can serve as a solid foundation for the introduction of restorative approaches, ensuring a more equitable and conciliatory resolution of conflicts.

As for pre-trial mechanisms, the analysis in this study of Japanese reconciliation and reparation policies, and South Korean victim-offender mediation programmes, highlights the potential for expanding pre-trial mediation for small and medium-level offences in Kazakhstan. This is consistent with the research by O.T. Cao & T. Van Vu (2024), who analysed models of restorative justice as a tool for active participation of victims in criminal proceedings and reducing recidivism. They found that approaches such as mediation between the victim and the offender effectively combine punishment with reconciliation. This conclusion is one of the most important for Kazakhstan, where, as the experience of Vietnam shows, which faces similar challenges in shaping its judicial system, such models can be adapted to create more flexible and humane mechanisms for responding to crimes. The development of clear guidelines for the prosecutor's office to consider reconciliation as grounds for termination of proceedings is a direct application of these international practices.

The focus on juvenile justice, which is central to South Korea with its models of "family conferences" and "group meetings" for minors, is relevant to Kazakhstan. The recommendations of this study for the development of

specialised restorative juvenile justice programmes are consistent with the Campbell systematic review protocol developed by H. Gaffney *et al.* (2024). Their study was aimed at evaluating the effectiveness of restorative justice programmes in reducing crime and recidivism among children and young people, emphasising the importance of considering the characteristics of participants and the conditions for implementing interventions. This demonstrates the global trend of recognising restorative justice as an effective tool in working with young people.

The analysis of this study on probation and resocialisation highlights the need to strengthen the institution of probation in Kazakhstan through the integration of social workers, such as "social reintegration advisers" in Japan, and cooperation with local communities. These findings are confirmed by I. Amarini *et al.* (2024), who analysed the development of the concept of social reintegration through the use of restorative justice in criminal proceedings in Indonesia. They confirmed that the success of social reintegration is possible only if the community, the state and law enforcement agencies work closely together. This means that the effectiveness of probation is not limited only to control, but also includes the active involvement of a wide range of social actors. Application of restorative justice in the penitentiary system, as demonstrated by the systematic review by L. Perrella *et al.* (2024) that covered the use of mediation and rehabilitation conferences in prisons, has a positive impact on developing conflict management skills, improving interpersonal relationships, and increasing the responsibility of offenders. This underlines that restorative justice is not exclusively a pre-trial tool, but can be successfully integrated into all stages of the criminal process, including serving a sentence.

From the standpoint of legislative changes, this study highlighted the need to modify the Code of Criminal Procedure and the Law of the Republic of Kazakhstan No. 401-IV (2011) to clearly define the boundaries of the application of reconciliation and mediation in cases of varying severity. This suggestion correlates with the conclusions of C.F. Yudhatama & E.Q. Pangestika (2024), who analysed the ineffectiveness of deprivation of liberty in solving crimes against property in Indonesia and suggests applying compensation to the victim as the main punishment. Their study showed that this approach may be more effective in compensating victims than traditional incarceration. Similarly, research by X. Zhang & J. Zhang (2024) on the application of restorative justice in environmental crime cases in China demonstrates that completely replacing conventional justice with restorative justice is unrealistic, but combining them can provide positive results. This means that Kazakhstan's legal system must find an optimal balance between punitive and restorative elements, which will increase its effectiveness and fairness.

In addition, it is important to consider the growing role of digital technologies in justice. The study by P. Romero-Seseña (2025) on the use of the online environment in rehabilitation mediation during the pandemic in Europe identified both positive opportunities (accessibility, security) and limitations (reduced quality of interaction). This indicates that Kazakhstan should develop digital tools for restorative justice, while ensuring the preservation of the quality of interaction and safety of participants. Additionally, L. van Schilgaarde (2024) analysed how tribes in the United States are implementing models of restorative justice based on indigenous traditions to restore jurisdiction and improve well-being, illustrating the potential for a return to traditional institutions in justice. This highlights that the use of aksakal and biy institutions in Kazakhstan is not just a revival of the past, but a strategic step towards creating more equitable and legitimate justice systems that consider the unique cultural heritage. The study by G. Li *et al.* (2025) on the role of the digital economy in ensuring energy equity, although relevant to a different industry, demonstrated that technological development can contribute to resource reallocation and cost reduction, which is one of the main factors for supporting probation and re-socialisation programmes. Thus, the results obtained have established that Kazakhstan has a unique opportunity not only to borrow the best practices of restorative justice, but also to organically integrate it with its own deep-rooted cultural traditions. This will create a hybrid model that is both modern, efficient, and culturally sensitive.

Conclusions

The conducted research revealed significant gaps in the restorative justice system of Kazakhstan and substantiated the relevance of adapting advanced models of Japan and South Korea. The purpose of the study – investigating and identifying gaps, and developing practical recommendations – was fully achieved through a comprehensive comparative analysis of the legislative framework, mediation, probation, and juvenile justice practices in the countries under study, and based on the historical and cultural context of Kazakhstan. Key results showed that the probation system shows almost twofold regional imbalances (from 113.8 to 222.0 per 100 thousand population) and a fundamental lack of data on recidivism. The institute of mediation notes low public awareness, the lack of a single certification body, and outdated data on criminal cases (as of 2018). As a result of the first task, it was found that the most relevant and adapted elements of East Asian models for Kazakhstan are: deep rooting of restorative practices in cultural values (emphasis on harmony and reconciliation), which has parallels with Kazakh traditions; a developed system of pre-trial mediation and non-prosecution policy in Japan; specialised programmes of restorative justice for minors in South Korea (family conferences); integration of social workers and public initiatives into the probation system. The second task, which concerned the substantiation of ways to integrate Kazakhstan's traditional conflict resolution institutions, was also successfully completed. It was established that the institutions of aksakals and biys, which have historically played a key role in resolving disputes based on the principles of justice and reconciliation,

can be effectively involved in models of restorative justice. Their authority and deep knowledge of the local context will ensure legitimacy and promote widespread adoption of community-based rehabilitation practices, strengthening the social reintegration of offenders and support for victims. Regarding the third task – identifying the necessary legislative and institutional changes – the study offers specific recommendations. It is necessary to amend the Code of Criminal Procedure and the Law "On mediation" to clearly define the limits of application of reconciliation and mediation in cases of varying severity, and to expand the powers of mediators. In addition, it is important to create specialised probation units to work with minors and ensure their integration with public organisations and educational institutions. It is recommended to develop state training programmes for qualified mediators and social workers who can effectively implement the principles of restorative justice.

The limitations of the study lie in its theoretical nature. The study was also limited to analysing the experience of only two East Asian countries, which may not reflect the full range of restorative justice options. Areas for further research include: conducting pilot projects on the implementation of adapted models of restorative justice in certain regions of Kazakhstan; empirical assessment of their effectiveness through quantitative and qualitative indicators (recidivism rate, victim satisfaction, dynamics of social reintegration); developing detailed training programmes for mediation and probation specialists; studying public opinion on restorative practices and cultural barriers to their implementation.

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Conflict of Interest
None.

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