



The Position and Implementation of Restorative Justice Following the Enactment of the 2025 Criminal Procedure Code

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Abstract

Background: Restorative justice has moved from sectoral institutional policies toward statutory recognition in Indonesia's 2025 Criminal Procedure Code (*KUHAP*).

Objective: This study analyzes the normative legal position of restorative justice following its statutory recognition and maps its relationship with sectoral regulations governing the police, prosecution, and judiciary.

Methods: This normative legal research employs statutory and conceptual approaches, examining primary legal materials, secondary legal scholarship, and relevant tertiary materials through legal interpretation and comparative normative mapping.

Results: The *KUHAP* provides a statutory framework for restorative justice across procedural stages and strengthens its normative legal basis. However, the continuing operation of sectoral instruments requires harmonization concerning institutional authority, eligibility criteria, victim consent, procedural stages, termination mechanisms, and legal consequences.

Conclusion: The statutory recognition of restorative justice establishes a stronger normative foundation, but it does not, by itself, demonstrate uniform legal certainty or consistency of outcomes in practice. Effective implementation depends on harmonized technical regulations and consistent institutional interpretation.

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INTRODUCTION

The development of modern criminal justice systems has demonstrated a paradigm shift from a retributive justice approach to a restorative justice approach (Soa & Ismawati, 2023). This shift emerged in response to various shortcomings of conventional penal systems, which have traditionally focused on punishing offenders without providing balanced attention to the interests of victims, the restoration of social relationships, or the effectiveness of crime prevention (Al, 2025). In practice, an excessive emphasis on punishment does not always produce a deterrent effect and has instead contributed to prison overcrowding and the emergence of various social problems within correctional institutions (Soa hukum, et al., 2025).

In the context of criminal law enforcement in Indonesia, restorative justice has evolved as part of criminal policy aimed at creating a balance among the interests of offenders, victims, and society (Seko & Soa, 2025). Restorative justice no longer regards crime solely as an offense against the state but rather as a social conflict that should be resolved through dialogue, reconciliation, and the restoration of the original condition. This concept places victims and offenders as the

primary stakeholders in the resolution of criminal cases through mechanisms that are more humane, participatory, and oriented toward restoring social relationships rather than merely imposing retribution (Darmawan, 2025).

Prior to the incorporation of restorative justice into Law Number 20 of 2025 concerning the Criminal Procedure Code (KUHP), the implementation of restorative justice in Indonesia developed primarily through sectoral policies adopted by individual law enforcement institutions. The Indonesian National Police regulated restorative justice through National Police Regulation Number 8 of 2021, the Attorney General's Office through Prosecutorial Regulation Number 15 of 2020, while the Supreme Court established guidelines for the implementation of restorative justice within the general court system. This condition indicates that restorative justice was previously understood more as an administrative policy and an exercise of institutional discretion than as an integral part of the national criminal procedural law framework.

The recognition of restorative justice in the 2025 Criminal Procedure Code marks a significant milestone in the development of Indonesian criminal law. Restorative justice is no longer positioned merely as an internal policy of law enforcement institutions but has acquired normative legitimacy as an official mechanism within the national criminal justice system (Gunawan et al., 2024). Through its regulation under Article 1 point 21 and the restorative justice mechanism provided in Articles 79–88 of the Criminal Procedure Code, restorative justice is established as an approach to criminal case resolution that may be applied at the stages of preliminary inquiry, investigation, prosecution, and court proceedings. This regulation reflects a shift in national criminal law policy toward recognizing restoration as an essential component of criminal law enforcement. For clarity, this study treats Law Number 20 of 2025 as the primary statutory framework and examines its relationship with National Police Regulation Number 8 of 2021, Prosecutorial Regulation Number 15 of 2020, and the applicable Supreme Court regulation and guidelines as sectoral implementing instruments.

Nevertheless, the recognition of restorative justice in the Criminal Procedure Code also raises several new legal issues, particularly concerning the position and relationship between the Code and the sectoral regulations that previously governed restorative justice mechanisms within the respective law enforcement institutions (Fahmi et al., 2025). Questions remain regarding whether National Police Regulation Number 8 of 2021, Prosecutorial Regulation Number 15 of 2020, and the applicable Supreme Court regulation and guidelines continue to apply following the enactment of the 2025 Criminal Procedure Code, how restorative justice mechanisms among institutions should be harmonized, and how restorative justice should be implemented throughout the various stages of the criminal justice system. These issues are significant because differences in mechanisms and implementation standards may create legal uncertainty in criminal law enforcement practices (Abdullah et al., 2026). The potential normative tensions concern, at minimum, differences that may arise in institutional authority, eligible offenses, consent and reconciliation requirements, procedural timing, termination instruments, and legal consequences. This study does not assert that a conflict has occurred in practice; rather, it maps the provisions that require harmonization following the enactment of the KUHP.

Prior scholarship has addressed restorative justice from distinct but incomplete perspectives. Andiko et al. (2024) examine restorative justice in a customary-court setting, while Dona et al. (2025) address criminal case resolution through a socio-legal lens; neither work centers on the post-enactment hierarchy between the 2025 KUHP and sectoral instruments. Andriyani (2024) focuses on the Attorney General's Office but does not provide a cross-institutional mapping of police, prosecution, and judicial mechanisms after statutory integration. The substantive gap is therefore the absence of a systematic normative analysis of hierarchy, continuing validity, authority, procedure, and harmonization across these instruments. This study responds by mapping restorative justice as a statutory mechanism and identifying the inter-institutional harmonization issues that follow.

Based on the foregoing discussion, this study aims to analyze the legal position of restorative justice following its recognition in Law Number 20 of 2025 concerning the Criminal Procedure Code and to examine its implementation within Indonesia's criminal justice system. Furthermore, this study seeks to understand the relationship between the regulation of

restorative justice in the Criminal Procedure Code and sectoral regulations at the levels of the Police, the Prosecutor's Office, and the Supreme Court in order to promote harmonized implementation of restorative justice in national criminal law enforcement ([Amarini et al., 2024](#)). Its novelty lies in the integrated normative mapping of the transition from sectoral policy to statutory mechanism and the consequential harmonization required across institutions. The study contributes doctrinally to criminal procedure scholarship and, in practical terms, identifies issues for the Police, Prosecutor's Office, judiciary, and regulators when revising technical guidelines.

The legal issue examined is whether and how pre-existing sectoral restorative-justice regulations remain valid and must be harmonized with the authority, requirements, procedural stages, and legal consequences established in the 2025 Criminal Procedure Code.

METHOD

This study employed normative legal research using statutory and conceptual approaches. Primary legal materials comprised Law Number 20 of 2025 concerning the Criminal Procedure Code, National Police Regulation Number 8 of 2021, Prosecutorial Regulation Number 15 of 2020, and relevant Supreme Court guidelines. Secondary materials comprised peer-reviewed legal articles, books, and authoritative commentaries selected for their relevance to restorative justice, criminal procedure, and regulatory harmonization, while tertiary materials were used only to clarify legal terminology. The materials were collected through library and documentary research, legal-document inventory, and systematic tracing of provisions concerning institutional authority, eligible offenses, requirements, victim participation, procedural stages, termination mechanisms, and legal consequences. The analysis applied grammatical, systematic, and teleological legal interpretation, followed by comparative normative mapping of the statutory and sectoral instruments. The study consequently evaluated the normative framework for implementation and did not claim to measure the empirical frequency, effectiveness, consistency, or outcomes of restorative justice in practice.

RESULTS AND DISCUSSION

Results

The Position of Restorative Justice Following Its Recognition in Law Number 20 of 2025 on the Criminal Procedure Code

Within the context of Indonesian criminal law, restorative justice has evolved as a component of criminal policy aimed at combating crime. Fundamentally, restorative justice is an approach to criminal case resolution that focuses on restoring the original condition through the involvement of offenders, victims, families, and the broader community in resolving conflicts arising from criminal acts. Through this approach, the objective of criminal case resolution extends beyond merely imposing punishment on offenders to include restoring victims' losses, repairing social relationships, and promoting social harmony. Consequently, restorative justice does not view crime solely as an offense against the state but rather as a social conflict that should be collectively resolved through dialogue, mediation, and fair agreements among all parties involved ([Soa et al., 2025](#)).

Prior to the recognition of restorative justice under Law Number 20 of 2025 concerning the Criminal Procedure Code (KUHP), its implementation in Indonesia was largely sectoral in nature and dispersed across various internal policies of law enforcement institutions. The Indonesian National Police regulated restorative justice through National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice. Similarly, the Attorney General's Office adopted Prosecutorial Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice, while the Supreme Court implemented restorative justice through Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. These regulations indicate that restorative justice was previously positioned as a matter of institutional discretion and administrative policy rather than as an integral component of the national criminal procedural law system. As a result, its implementation often depended upon internal institutional

policies and the interpretation of law enforcement officials at each stage of the criminal justice process. Recent scholarship further characterizes this transition as a shift in national criminal law policy from a predominantly retributive orientation toward restorative mechanisms, while cautioning that the normative transition must be read together with the New Criminal Code and its implementing framework (Aini Septi Farida, 2025; Oktaviana et al., 2026; Pedju et al., 2025; Riyadi, 2024; Sirot & Soesatyo, 2025; Zubedi & Prasetyo, 2025).

This situation underwent a fundamental transformation following the normative recognition of restorative justice in Law Number 20 of 2025 concerning the Criminal Procedure Code. Article 1 point 21 of the Criminal Procedure Code explicitly defines restorative justice as an approach to handling criminal cases that involves victims, victims' families, suspects, suspects' families, defendants, defendants' families, and other relevant parties with the objective of restoring the original condition. In addition to providing a normative definition, the Criminal Procedure Code regulates the implementation of restorative justice through Articles 79–88, covering the stages of inquiry, investigation, prosecution, and examination at trial. These provisions demonstrate that restorative justice is no longer merely a sectoral policy of law enforcement agencies but has become an official component of Indonesia's national criminal procedural law system.

The recognition of restorative justice within the Criminal Procedure Code establishes a stronger statutory and normative basis than a purely internal institutional policy. This statutory status does not, by itself, establish uniform legal certainty in practice, because certainty also depends on harmonized requirements, procedures, interpretations, and institutional application. Accordingly, the legal consequence of statutory recognition is best understood as an obligation to align sectoral instruments with the KUHAP framework.

In addition to providing normative legitimacy, the incorporation of restorative justice into the Criminal Procedure Code also reflects a paradigm shift in Indonesia's national criminal law policy (Maswandi et al., 2023). Traditionally, Indonesia's criminal justice system has been predominantly characterized by a retributive approach that emphasizes the punishment of offenders as the primary objective of criminal law enforcement. This approach is evidenced by the dominant use of imprisonment as the principal mechanism for resolving criminal cases. However, developments in modern legal thought have increasingly recognized victim recovery, the resolution of social conflicts, and the balancing of interests as essential objectives of criminal law enforcement. Within this context, restorative justice represents a shift from an offender-oriented justice model toward a victim- and community-oriented justice model, namely, a criminal justice system that considers not only the interests of offenders but also those of victims and society in a more proportionate manner (Habi et al., 2024).

Radbruch's concepts of legal certainty, justice, and utility provide a normative lens for assessing the orientation of the new framework. The KUHAP's formal recognition is directed toward legal certainty, and its restorative design is intended to facilitate participation, recovery, and proportionate resolution. These are normative objectives of the legal framework; this study does not empirically establish that the criminal justice system has become more humane, equitable, or effective after enactment.

Although restorative justice has obtained normative recognition within the Criminal Procedure Code, the existence of National Police Regulations, Prosecutorial Regulations, and Supreme Court guidelines remains relevant to its implementation in Indonesia. This is because the Criminal Procedure Code essentially provides only a general framework concerning the definition, requirements, and scope of restorative justice, while its practical implementation continues to require operational regulations within each law enforcement institution. In this regard, National Police Regulations serve as guidelines for the implementation of restorative justice during the inquiry and investigation stages, Prosecutorial Regulations govern the mechanism for the termination of prosecution based on restorative justice, and Supreme Court Regulation Number 1 of 2024 provides guidelines for adjudicating criminal cases based on restorative justice. Therefore, the recognition of restorative justice within the Criminal Procedure Code does not invalidate these sectoral regulations; rather, it positions them as implementing regulations that must be aligned with the principles and mechanisms of restorative justice

established under the Criminal Procedure Code. The comparative mapping should be read across six dimensions: institutional authority, procedural stage, eligible offenses, substantive requirements including victim consent, termination or resolution mechanism, and legal consequence. Differences on any of these dimensions must be reconciled with the KUHAP rather than treated as evidence of actual institutional disparity.

The relationship between the Criminal Procedure Code and sectoral regulations governing restorative justice highlights the importance of normative harmonization within Indonesia's criminal justice system. Harmonization is necessary to prevent discrepancies in standards and implementation mechanisms among law enforcement institutions that may result in legal uncertainty. Furthermore, harmonization is essential to ensure that restorative justice is applied consistently throughout every stage of criminal proceedings, from inquiry and investigation to prosecution and judicial examination. Consequently, the recognition of restorative justice within the Criminal Procedure Code should not be interpreted as the abolition of existing sectoral regulations, but rather as an effort to integrate restorative justice into a unified, more structured, and coordinated national criminal procedural law framework. Normatively, harmonization requires that sectoral instruments neither expand nor contradict the KUHAP's statutory scope and that operational rules specify how an agreed restorative resolution is documented, reviewed, and given legal effect at each stage.

The 2025 KUHAP changes the normative position of restorative justice from a predominantly sectoral administrative mechanism to a statutory component of criminal procedure. Whether this change produces a more humane, participatory, or recovery-oriented system is an empirical question outside the scope of this normative study.

Discussion

The Implementation of Restorative Justice in Indonesia's Criminal Justice System Following the Enactment of the 2025 Criminal Procedure Code

Under the 2025 Criminal Procedure Code, restorative justice is explicitly regulated in Article 1 paragraph 21 as an approach to handling criminal cases involving victims, victims' families, offenders, offenders' families, and other relevant parties, with the objective of restoring the original condition. In addition to providing a normative definition, Articles 79 to 88 of the Criminal Procedure Code further regulate the implementation of restorative justice and allow its application from the stages of *penyelidikan* and *penyidikan* to *penuntutan* and judicial proceedings. These provisions demonstrate that restorative justice is not merely an alternative mechanism applicable at a particular stage of the criminal process, but rather a comprehensive mechanism that may operate across the stages of the criminal justice process. However, these provisions establish only the normative framework for potential application across stages; they do not demonstrate that restorative justice has been applied continuously in actual cases.

In its implementation, the Criminal Procedure Code establishes specific requirements for cases eligible for resolution through restorative justice. Pursuant to Article 80 paragraph (1), restorative justice may be applied to criminal offenses punishable only by a Category III fine or by imprisonment of up to five years, offenses committed for the first time, and offenses that do not constitute recidivism, subject to the exceptions specified by law, including certain offenses committed through negligence. These provisions indicate that not all criminal offenses may be resolved through restorative justice. The state continues to limit its application to particular offenses by taking into account the seriousness of the conduct, its social impact, and the protection of public interests. Accordingly, restorative justice is not intended to eliminate the function of criminal law, but rather to serve as a proportionate mechanism for resolving cases that are more appropriately addressed through restoration than punishment. The statutory limits on eligible offenses also require careful interpretation in relation to theft, minor offenses, and child-protection contexts under the New Criminal Code (Anggita & Siregar, 2026; Hutasoit et al., 2026; Saputri, 2024; Senjaya & Koswara, 2025).

At the *penyelidikan* and *penyidikan* stages, the KUHAP allocates normative authority to the Police as an entry point to the criminal justice system. The statutory framework permits a restorative mechanism where the legal requirements are satisfied and requires the responsible

authority to process any agreement through the applicable legal procedure. This is a doctrinal account of authority and mechanism, not evidence that investigators consistently facilitate mediation or terminate cases in practice. The inquiry- and investigation-stage mechanism has consequently become a central site for examining the relationship between statutory authority, police procedure, and safeguards against inconsistent case handling (Aisya et al., 2026; Cherdika et al., 2025; Putra et al., 2025; Syawalludin et al., 2025; Wicaksono, 2025).

National Police Regulation Number 8 of 2021 remains relevant as a sectoral instrument for the *penyelidikan* and *penyidikan* stages, subject to harmonization with the KUHAP. The manuscript does not rely on the AQJ matter as evidence of implementation because the factual terms of the settlement, compensation, and legal status require primary documentary sources outside the present legal-material inventory.

At the prosecution stage, the implementation of restorative justice falls within the authority of the Prosecutor's Office. Through Prosecutorial Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice, prosecutors are authorized to discontinue prosecution when specific requirements are met, and reconciliation has been achieved between the offender and the victim. Following the recognition of restorative justice in the Criminal Procedure Code, this authority now enjoys a stronger statutory foundation, as termination of prosecution based on restorative justice is no longer merely an internal prosecutorial policy, but an official mechanism recognized within the national criminal procedural framework. In practice, the Prosecutor's Office has actively applied restorative justice to various minor criminal cases that do not generate significant social consequences. In recent years, the Office of the Attorney General has routinely publicized restorative justice settlements as part of broader efforts to promote more humane law enforcement and substantive justice. This paragraph describes the normative prosecutorial mechanism and should not be read as a general finding concerning the volume or consistency of actual settlements. At the prosecution and broader criminal-proceedings stages, recent work identifies the need for clear legal-policy guidance on out-of-court resolution, victimless crimes, institutional procedures, and emerging digital mediation mechanisms (Harrieti et al., 2026; Imanuddin et al., 2025; Ismail et al., 2026; Serman, 2026; Sihombing et al., 2026).

At the judicial stage, the KUHAP provides a normative basis for restorative mechanisms within judicial proceedings, subject to statutory requirements and judicial authority. A suspended or lenient sentence is not automatically restorative justice. The Nenek Minah decision may illustrate public debate over proportionality, but it cannot be classified as restorative justice without traceable evidence of victim participation, a restoration agreement, reconciliation, restitution, or another restorative process. This study therefore does not treat that case as proof of restorative implementation. Judicial-stage literature likewise emphasizes that restorative justice must be assessed through the applicable legal mechanism and traceable decision-making process, rather than inferred solely from a lenient outcome (Muslikah, 2026; Santoso & Sinaga, 2026).

The recognition of restorative justice in the Criminal Procedure Code also has significant implications for harmonizing the relationship between the Code and pre-existing sectoral regulations. Following the enactment of the 2025 Criminal Procedure Code, National Police regulations, Prosecutorial regulations, and Supreme Court guidelines remain relevant as technical implementing instruments within their respective institutional jurisdictions, subject to the applicable transitional and hierarchical rules. Nevertheless, sectoral regulations must be aligned with the principles, requirements, and procedures governing restorative justice established by the Criminal Procedure Code. In this regard, the Criminal Procedure Code functions as the *lex generalis* and overarching statutory framework, while sectoral regulations serve as implementing instruments governing the operational procedures of restorative justice at each stage of criminal proceedings. Such a relationship is essential to promote legal harmonization and prevent inconsistencies in the application of restorative justice among law enforcement institutions. The KUHAP functions as the statutory reference point, while sectoral instruments operate only insofar as their technical rules are consistent with that framework. This relationship requires explicit revision or confirmation of inconsistent provisions rather than an assumption of

automatic procedural uniformity.

Normatively, restorative justice is designed to prioritize victim recovery, proportional conflict resolution, and the avoidance of unnecessary penal consequences. These are potential legal-policy advantages; their actual effects on victims, prison overcrowding, or social relationships require empirical evidence not examined in this study.

Nevertheless, the future implementation of restorative justice also faces several challenges (Kisbiyanto, et al., 2025). One major challenge is the potential disparity in its application among law enforcement institutions in the absence of clear harmonization mechanisms and implementation standards. Furthermore, there is a risk of misuse if restorative justice is applied disproportionately to cases that should properly proceed through formal criminal adjudication. Therefore, restorative justice must be implemented with caution and with due regard for victims' interests, public interests, and the principles of justice and legal certainty (Amiati et al., 2024). The principal normative risk is uneven interpretation if authority, eligibility criteria, consent, documentation, and termination procedures are not harmonized. A joint technical guideline or coordinated revision of sectoral instruments would provide a clearer implementation pathway. These concerns reinforce the urgency of doctrinal reinterpretation, regulatory reform, and harmonized implementation guidelines across criminal-justice institutions (Andriyani et al., 2026; Romero-Seseña, 2025).

The 2025 KUHAP provides a stronger statutory basis for restorative justice. Its practical legal certainty and any broader reform outcomes remain contingent on harmonized regulations, clear technical procedures, consistent interpretation, and responsible implementation by the relevant institutions.

CONCLUSION

The recognition of restorative justice under Law Number 20 of 2025 concerning the Criminal Procedure Code transforms its normative position from predominantly sectoral institutional policy into a statutory component of Indonesia's criminal procedural framework. The KUHAP establishes the legal basis for restorative mechanisms across the preliminary inquiry, investigation, prosecution, and judicial stages, while National Police, Prosecutorial, and Supreme Court instruments remain relevant as sectoral implementing rules. This study does not establish the effectiveness or uniformity of implementation in practice. The central implication is the need for harmonization of authority, eligible offenses, requirements, victim consent, procedural timing, documentation, termination mechanisms, and legal consequences across institutions. Regulators and law enforcement bodies should review and align technical instruments with the KUHAP, while future empirical research should examine how these rules are applied in concrete cases and whether they promote victim recovery, procedural fairness, and legal certainty.

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AUTHOR CONTRIBUTION STATEMENT

All authors contributed substantially to the conceptualization of the study, identification and analysis of legal materials, development of the normative argument, drafting of the manuscript, and critical revision of its intellectual content. All authors reviewed and approved the final version of the manuscript and accept responsibility for its accuracy and integrity.

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