

Implications of The Implementation of Law Number 1 of 2023 Concerning The Criminal Code (New KUHP) on Restorative Justice Practices in Indonesia

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Abstrak: *The enactment of Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code) marks a new chapter in the Indonesian penal system, opening up space for a restorative justice approach as an alternative to retributive punishment. This paradigm shift reflects the state's efforts to create a legal system that is more humane, just, and responsive to the needs of both victims and perpetrators. This study uses a normative juridical approach by examining the consistency of norms in the New Criminal Code and their synchronization with sectoral regulations such as National Police Regulation No. 8 of 2021 and Attorney General's Circular Letter No. 15 of 2020. The aim is to assess the extent to which the implementation of restorative justice can strengthen the principles of justice, expediency, and legal certainty in criminal justice practice. The results show that although the New Criminal Code has provided a progressive normative foundation, its effective implementation still faces various challenges, particularly in institutional aspects, the capacity of law enforcement officers, and the risk of disparity in implementation in the field. Therefore, implementation reforms are needed in the form of establishing national SOPs, integrated training, and a continuous monitoring and evaluation system so that the implementation of restorative justice truly functions as an instrument of substantive justice in Indonesian criminal law.*

Keywords: *New Criminal Code; Restorative Justice; Criminal Law Reform; Law Enforcement; Social Justice*

INTRODUCTION

The reform of national criminal law through Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code) represents a major paradigm shift in how the state views crime and punishment. The old Criminal Code, rooted in the colonial *Wetboek van Strafrecht* (The Code of Criminal Procedure), has long been criticized for being oriented toward retributive justice and not reflecting the values of social justice that exist in Indonesian society.¹ Through the New Criminal Code, criminal law is no longer positioned solely as a

tool to punish perpetrators, but as an instrument of social reconstruction that emphasizes a balance between legal certainty, justice, and expediency.² This new direction demonstrates the state's commitment to aligning the criminal justice system with human rights principles and the needs of a dynamic society.

This paradigm shift substantially demonstrates a shift in orientation from a state-centered punishment approach to a more humanistic and recovery-oriented model, as reflected in the recognition of restorative justice values. Punishment is no longer viewed as an

¹ Atika, Sri, Syamsuddin Syamsuddin, and Musmuliadin Musmuliadin. "Dikriminalisasi Pengelandangan Dalam KUHP Baru: Studi Perbandingan Dengan KUHP Lama Dan Implikasinya Terhadap Pendekatan Sosial Hukum Pidana." *Wathan: Jurnal Ilmu Sosial dan Humaniora* 2.3 (2025): 382-396. <https://doi.org/10.71153/wathan.v2i3.340>

² Rosmini, Sitti. "URGENSEI REFORMULASI KITAB UNDANG-UNDANG HUKUM PIDANA (KUHP) DALAM KONTEKS NILAI-NILAI PANCASILA." *LEGALITAS: Jurnal Ilmiah Ilmu Hukum* 10.1 (2025): 25-32. <https://doi.org/10.31293/lg.v10i1.8802>

end in itself, but rather as a means to reform perpetrators and restore social relationships damaged by crime. This transformation also brings conceptual and implementation challenges, as the criminal justice system, long established with a retributive pattern, must adapt to new norms that demand collaboration between law enforcement officials, victims, perpetrators, and the community. Thus, the implementation of the New Criminal Code is not merely a normative reform, but also a test of the readiness of the Indonesian criminal law system to translate restorative justice values into substantive justice practices.

The implementation of restorative justice in Indonesia has undergone significant development over the past decade. Prior to the enactment of the New Criminal Code, restorative justice practices were regulated through various sectoral policies, such as National Police Chief Regulation No. 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice and Attorney General Circular No. 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice. These two regulations marked the beginning of a paradigm shift in criminal law enforcement in Indonesia, shifting from solely emphasizing punishment to more humane and restorative-oriented solutions. However, empirically, the effectiveness of their implementation remains limited. Data from the Attorney General's Office (2023) shows that of the approximately 100,000 general criminal cases handled during that year, only 2.6% were resolved through restorative justice mechanisms.³ This low figure demonstrates that despite institutional will, the implementation of restorative justice still faces structural and cultural barriers, primarily due to the lack of a

The enactment of Law Number 1 of 2023 concerning the Criminal Code marks a significant milestone in providing normative legitimacy for the implementation of restorative justice.⁴ The New Criminal Code explicitly regulates this principle in several provisions, including Article 5, which permits law enforcement to prioritize restorative justice-based resolutions for cases with a criminal penalty of less than five years, and Article 99, which emphasizes case resolution through deliberation and agreement between the victim, the perpetrator, and the community. Furthermore, Articles 51 and 54 emphasize that the purpose of criminal punishment is not merely to punish, but to resolve conflict, restore social balance, and foster remorse in the perpetrator. Thus, the New Criminal Code not only strengthens the normative position of restorative justice but also integrates it into the national criminal law system as part of a modern criminal justice philosophy that emphasizes humanity and expediency.

However, this normative strengthening raises important questions regarding the consistency and effectiveness of its application in criminal justice practice. The biggest challenge lies in transforming the paradigm of law enforcement officials and making procedural adjustments to the implementation of restorative justice so that it is not merely a legal symbol that is not substantially implemented. Research from the Institute for the Study of Legal Reform (2024) shows that more than 60% of law enforcement officials still view restorative justice as a form of administrative discretion, not a legally binding mechanism.⁵ This disparity in understanding

³ Wurara, Erly Andika, Faisal Malik, and Nam Rumkel. "Efektivitas Hukum Penghentian Penuntutan Tindak Pidana Penyalahgunaan Narkotika Oleh Jaksa Penuntut Umum Melalui Penerapan Restorative Justice (Studi Di Kejaksaan Negeri Minahasa Selatan)." *Ranah Research: Journal of Multidisciplinary Research and Development* 7.6 (2025): 4476-4482. <https://doi.org/10.38035/rrj.v7i6.1857>

⁴ Munandar, M. Aris, et al. "Menilik Sanksi Pidana Tambahan Pemenuhan Kewajiban Adat Setempat dalam KUHP Nasional." *Proceedings Series on Social Sciences & Humanities* 27 (2025): 194-202. <https://conferenceproceedings.ump.ac.id/pssh/article/view/1842>

⁵ Meliala, Nugraha Manuella, and Muhammad Arif Sahlepi. "Penerapan Restorative Justice oleh Pengadilan Negeri Medan untuk

has the potential to create inconsistencies between regions and between agencies. Therefore, the effectiveness of the restorative justice principles in the New Criminal Code depends heavily on the development of implementing regulations, technical guidelines, and ongoing training for law enforcement officials. Without these, the New Criminal Code's goal of providing restorative, rather than punitive, justice is feared to remain merely conceptual.⁶

This situation raises fundamental questions about how the provisions in the New Criminal Code will be implemented effectively without creating legal uncertainty and disparities in enforcement. This is where the main legal issue of this research lies: the application and effectiveness of norms that are expected to reform Indonesian criminal law. The crucial question that arises is whether the principle of restorative justice can truly be applied systematically throughout all stages of the criminal process, from investigation to sentencing, or whether it simply becomes a normative symbol in the text of the law. The urgency of this research becomes even more apparent as we face the transition period leading to the enactment of the New Criminal Code in 2026, which will test the country's consistency in building a just, beneficial, and human rights-respecting penal system. Therefore, an analysis of the implications of the implementation of the New Criminal Code on restorative justice practices is crucial to assess the extent to which the national criminal law structure is ready to face a new paradigm that places restoration and humanity at the core of criminal law enforcement.

RESEARCH METHODS

Mewujudkan Kepastian Hukum dalam Penyelesaian Tindak Pidana." *Jurnal Ilmu Hukum, Humaniora dan Politik (JIHHP)* 4.3 (2024).

⁶ Muksin, Muchlas Rastra Samara. "Tujuan Pemidanaan dalam Pembaharuan Hukum Pidana Indonesia." *Sapientia Et Virtus* 8.1 (2023): 225-247. <https://doi.org/10.37477/sev.v8i1.465>

⁷ Benuf, Kornelius, and Muhamad Azhar. "Metodologi penelitian hukum sebagai instrumen mengurai permasalahan hukum

This research uses a normative juridical method, namely by examining the laws and regulations, legal principles, and doctrines related to the application of restorative justice in the New Criminal Code. This approach was chosen because the issues studied are conceptual and normative, emphasizing the analysis of the suitability of legal norms with the objectives of reforming the criminal justice system. According to Soerjono Soekanto, normative legal research positions law as a written norm⁷, while Peter Mahmud Marzuki emphasizes that this research aims to find legal principles and systematics that can explain the application of norms in practice.⁸ The analysis was conducted qualitatively and normatively by interpreting relevant articles such as Articles 5, 51, 54, and 99 of the New Criminal Code, and comparing them with sectoral regulations such as Regulation of the Chief of Police No. 8 of 2021 and Circular of the Attorney General No. 15 of 2020. This approach is expected to be able to assess the extent to which the New Criminal Code truly accommodates the principle of restorative justice systematically and consistently, while also contributing to the formation of a just and recovery-oriented criminal system.

RESULTS AND DISCUSSION

Integration of Restorative Justice Principles into the National Criminal Law Structure

The transformation of the sentencing paradigm in the New Criminal Code did not emerge suddenly, but rather resulted from a long process of reflection on the colonial legal legacy that had shaped the Indonesian criminal justice system for centuries. The Law of the Netherlands-Indies (WvS), which formed the basis of the old Criminal Code, was based on the retributive principle of punishment, viewing it as retribution for wrongdoing, with the

kontemporer." *Gema Keadilan* 7.1 (2020): 20-33. <https://doi.org/10.14710/gk.2020.7504>

⁸ Hidayat, Agung. "Critical Review Buku "Penelitian Hukum" Peter Mahmud Marzuki Penelitian Hukum Ad Quementang Norma." *YUSTISIA MERDEKA: Jurnal Ilmiah Hukum* 7.2 (2021): 117-125.

measure of justice centered on the suffering of the perpetrator.⁹ Its primary goal was to provide a deterrent effect and uphold the authority of the state. In this paradigm, victims and society were positioned as passive parties, while the state held the sole moral authority to determine punishment. This system drew criticism for its perceived failure to deliver substantive justice; it merely punished but failed to heal the social wounds caused by criminal acts.

In contrast, the New Criminal Code presents a correction to the old paradigm by emphasizing a new direction for corrective, rehabilitative, and restorative punishment.¹⁰ This change is not only technical and legal, but also philosophical, shifting the meaning of justice from retribution to restoration. Punishment is now seen as an instrument for resolving social conflict, restoring relationships between perpetrators, victims, and the community, and fostering moral responsibility in perpetrators.¹¹ The focus on restoration is crucial because the long experience of implementing a retributive system shows that punishment alone is ineffective in reducing crime rates, often leading to overcrowding in correctional institutions and failing to provide a sense of justice for victims. With a restorative approach, perpetrators are given space to take responsibility and make concrete amends for their mistakes, while victims are given the opportunity for recognition, compensation, and emotional recovery.

This principle is also in line with the values of Pancasila, which places humanity and social justice as the primary foundations of every legal action.¹² In the context of national legal development, the focus on rehabilitation reflects the awareness that justice is not solely measured by the severity of punishment, but by the law's ability to restore social balance and strengthen community solidarity. Therefore, criminal law reform through the New Criminal Code reflects a paradigm shift from a law that "punishes because of guilt" to a law that "restores because of awareness," marking a shift from a repressive colonial penal system to a national penal system that is humanistic, participatory, and socially just.

The introduction of the 2023 Criminal Code marks a new phase in the construction of Indonesian criminal law, where the principle of restorative justice is no longer positioned as an alternative approach, but rather acquires normative status within positive law.¹³ Relevant provisions can be found in Article 94 in conjunction with Articles 81–83, which regulate additional penalties in the form of compensation payments, and Article 76 paragraph (3) letter a, which opens up space for supervision with specific conditions for recovery. These two provisions emphasize that punishment is not only interpreted as a form of retribution for the perpetrator's mistakes (retributive justice), but also as a mechanism for restoring social relations and ameliorating the consequences arising from criminal acts. With

⁹ Hasbi, Mhd, *HUKUM PIDANA INDONESIA: Teori, Kritik, Dan Rekonstruksi*. Feniks Muda Sejahtera, 2025.

¹⁰ Sariyono, Eko Budi. "Polri untuk Masyarakat: Dalam Paradigma Pemidanaan Modern Berdasarkan KUHP Nasional guna Mewujudkan Perlindungan Hukum Masyarakat." *Proceedings of Police Academy* 1.1 (2025): 132-149. <https://journal.akpol.ac.id/index.php/Proceedings/article/view/1946>

¹¹ Srigandawati, Srigandawati. "Restorative Justice Berbasis Nilai Budaya Lokal: Relevansi Musyawarah dan Kekeluargaan dalam Penyelesaian Perkara Pidana di Indonesia." *Journal of Lex Theory*

(JLT) 6.1 (2025): 224-233. <https://pasca-umi.ac.id/index.php/jlt/article/view/2148>

¹² Arafat, Muhammad. "Paradigma Pemidanaan Baru dalam KUHP 2023: Alternatif Sanksi dan Transformasi Sistem Peradilan Pidana Indonesia." *Jurnal Ilmu Hukum* 2.1 (2025): 33-46. <https://doi.org/10.58540/jih.v2i1.1047>

¹³ Situmeang, Sahat Maruli Tua, and Krusitha Meilan. "EVOLUSI KEJAHATAN DAN PEMIDANAAN: TANTANGAN DALAM PENEGAKAN HUKUM DAN PENOLOGI MODERN: The Evolution of Crime and Punishment: Challenges in Law Enforcement and Modern Penology." *Res Nullius Law Journal* 7.2 (2025): 87-97. <https://doi.org/10.34010/rnlj.v7i2.15913>

the inclusion of the principle of recovery in the Criminal Code, Indonesian criminal law has undergone a fundamental paradigmatic shift from a punitive orientation towards a balance between victim protection, perpetrator responsibility, and social order. This simultaneously consolidates various previously separate sectoral initiatives into a single, integrated system with legal certainty.

Article 51 of the 2023 Criminal Code provides a philosophical dimension to the direction of criminal law reform by emphasizing that the purpose of punishment is to resolve conflict, restore a sense of security, and foster remorse in perpetrators. This formulation conceptually shifts the essence of punishment from a means of retribution to an instrument of reconciliation and the restoration of social justice. The focus on restoration is crucial because the retributive punishment system has proven ineffective in reducing crime rates or improving perpetrators' morality. The restorative approach emphasizes a balance between legal certainty and humanity, in line with Pancasila values and local wisdom such as deliberation and peace.¹⁴ Its implementation is also beginning to be seen through the establishment of Restorative Justice Houses in various regions, which function as forums for amicable dispute resolution before cases proceed to formal judicial proceedings.¹⁵ Therefore, restorative justice in the New Criminal Code is not merely a normative innovation, but also represents a reorientation of values in national criminal law that are more just, humane, and functional to the needs of society.

Although the 2023 Criminal Code has provided normative legitimacy to the principle of restorative justice, a more substantial

challenge lies in synchronizing these new regulations with various previously enacted sectoral regulations, such as National Police Chief Regulation No. 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice and Attorney General Circular No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. Both regulations essentially act as *lex specialis*, opening up space for the application of restorative justice in the investigation and prosecution process. However, the provisions in the New Criminal Code have a broader scope because they provide a general legal basis that binds all components of the criminal justice system. A comparison between the three reveals differences in normative orientation: while sectoral regulations emphasize flexibility and discretionary policies of officials, the New Criminal Code seeks to normalize the principle of restorative justice as an integral part of the objectives of punishment. This tension between the flexibility of sectoral policies and the rigidity of statutory norms demands institutional adjustments and consistent legal interpretation.

Synchronization between legal instruments is key to ensuring the effectiveness of restorative justice implementation in practice. Without harmonization, disparities in implementation will emerge across regions and agencies, leading to new legal uncertainties. The New Criminal Code (KUHP) needs to serve as the primary legal umbrella (*lex generalis*), which will then be elaborated in more detail through implementing regulations and technical guidelines by law enforcement agencies, to prevent overlapping authority between the police, prosecutors, and the judiciary.¹⁶ Conceptually, the integration of the

¹⁴ Aryadi, Duwi. "Implementasi keadilan restoratif dalam sistem peradilan pidana sebagai perwujudan nilai-nilai yang berawasan pancasila." *Al-Daulah: Jurnal Hukum Pidana dan Ketatanegaraan* 9.2 (2020): 138-154.

¹⁵ Rafli, Muhammad, Hadi Mahmud, and Muhammad Aziz Zaelani. "Model Penyelesaian Konflik di Luar Pengadilan Melalui Omah Kampong Perdamaian Dalam Skema Restorative

Justice Oleh Kejaksaan Negeri Surakarta." *JURNAL BEVINDING* 1.10 (2024): 23-32. <https://www.journal.uniba.ac.id/index.php/JB/article/view/1088>

¹⁶ Hutapea, Tagor, Zulkarnein Koto, and Syafruddin Syafruddin. "KEBIJAKAN POLRI DALAM UPAYA MENGEFEKTIFKAN PENERAPAN KONSEP HUKUM PIDANA BARU DALAM UU RI NOMOR 1 TAHUN 2023

New Criminal Code with the National Police Chief Regulation and the Attorney General's Circular Letter must be built on the basis of policy coherence, namely, alignment of national criminal law policy that prioritizes restoration, not retribution. Therefore, the success of restorative justice implementation depends not only on the strength of the norms in the KUHP, but also on institutional commitment to consistently integrate these principles throughout all stages of law enforcement.

The relevance of implementing restorative justice in the New Criminal Code cannot be separated from three fundamental principles of Indonesian criminal law: justice, expediency, and legal certainty. The principle of justice demands that the criminal process not stop at punishing the perpetrator, but rather be oriented towards reparation for the victim's losses and social reconciliation.¹⁷ In this context, restorative justice addresses the weaknesses of the retributive approach, which often ignores the moral and social dimensions of crime. Meanwhile, the principle of expediency is reflected in efforts to resolve cases efficiently without prolonging the victim's suffering or burdening the justice system. Article 51 of the New Criminal Code explicitly states that the purpose of criminal punishment is "to resolve conflict, restore a sense of security, and foster remorse," meaning that criminal law is now geared towards providing social benefits, rather than merely repressive sanctions.¹⁸ However, in practice, the application of this principle must be balanced with the principle of legal certainty to

avoid creating the impression of discrimination or inconsistent enforcement in the field.

Furthermore, the principle of restorative justice is closely linked to the protection of human rights (HAM), particularly the right of victims to justice and the right of perpetrators to obtain opportunities for social reintegration. The New Criminal Code reflects a humanistic paradigm by positioning perpetrators not merely as objects of punishment, but as legal subjects with the potential to be reformed and returned to society. This approach aligns with the Basic Principles on the Use of Restorative Justice Programs in Criminal Matters (UN, 2002), which emphasize the importance of respecting human dignity and restoring social relations in the criminal justice process.¹⁹ Thus, the application of restorative justice in the New Criminal Code not only strengthens the corrective function of criminal law but also serves as a concrete manifestation of the state's commitment to fulfilling human rights and reforming the criminal justice system based on substantive justice.

Challenges of Implementation and Prospects for the Effectiveness of Restorative Justice in the New Criminal Code

The main challenge in implementing restorative justice under the New Criminal Code regime lies in structural and institutional aspects that are not yet fully prepared to accept the shift in the sentencing paradigm. Although the New Criminal Code has normatively legitimized the restorative justice approach, differences in interpretation and legal orientation among law enforcement officials, from the police and prosecutors to the courts, often lead to inconsistencies in its

TENTANG KUHP." *Jurnal Ilmu Kepolisian* 18.1 (2024).

¹⁷ Partha, Putu Gde Nuraharja Adi, Bayu Dwi Anggono, and Fanny Tanuwijaya. "PENERAPAN ASAS EQUALITY BEFORE THE LAW BERDASARKAN KEADILAN RESTORATIF TERHADAP PUTUSAN HAKIM DALAM MENGADILI." *Jurnal Jendela Hukum* 11.2 (2024): 250-279. <https://doi.org/10.24929/jjh.v11i2.4200>

¹⁸ Marpaung, Berlian. "PENERAPAN TINDAK TERHADAP KORPORASI

DIHUBUNGAN DENGAN KUHP BARU." *Jurnal Nalar Keadilan* 4.1 (2024): 141-164.

<https://jurnal.universitaskota.ac.id/index.php/jurnal-fh-unija/article/view/91>

¹⁹ Arabia, Saudi. "Basic principles on the use of restorative justice programmes in criminal matters: revised draft resolution/Austria, Belgium, Bulgaria, Canada, Czech Republic, Mexico, Netherlands, Peru, Saudi Arabia, South Africa and Zimbabwe." (2002).

implementation.²⁰ For example, police officers tend to assess cases from a formal-procedural perspective, while prosecutors focus more on the importance of evidence and successful prosecution. On the other hand, courts still focus on legal precedents that emphasize retribution, not restoration. These differing perspectives often cause the restorative justice process to stop at the investigation or prosecution stage, without continuing through to the sentencing stage. This demonstrates that changes in legal norms do not automatically lead to a shift in institutional mindset, which is the key to the success of consistent restorative justice implementation.

Furthermore, the lack of technical guidelines and coordination mechanisms between law enforcement agencies exacerbates the lack of synchronization in implementation on the ground. To date, there are no implementing regulations that comprehensively regulate the procedures for implementing restorative justice following the enactment of the New Criminal Code, including standards for assessing peace agreements, delimiting authority between agencies, and guaranteeing protection for victims and perpetrators.²¹ This situation has the potential to create disparities between regions and open up room for subjectivity in interpreting restorative justice principles. Institutionally, the lack of an integrated coordination system also creates overlapping authority between investigators, prosecutors, and judges, ultimately hampering the effective implementation of the New Criminal Code. Thus, without integrated structural and institutional improvements,

restorative justice risks becoming merely normative rhetoric without any substantive impact on reforming the criminal justice system in Indonesia.

Limited resources and capacity of law enforcement officers directly influence the effectiveness of restorative justice implementation in the New Criminal Code.²² Although the principle of restorative justice has gained normative legitimacy, many law enforcement officers still have limited understanding and have not received comprehensive training on its concept and technical implementation. The old paradigm, which focuses on evidence and punishment, remains firmly embedded, resulting in a restoration-based approach often perceived as a weakness or compromise of the law. According to data from the Attorney General's Office (2023), the rate of case resolution through restorative justice has only reached around 2–3% of the total number of minor criminal cases, indicating that empirically, the implementation of this concept is far from optimal.²³ This low figure confirms that without increasing human resource capacity through integrated training and cross-agency outreach, the implementation of restorative justice will remain merely a formal doctrine without substantive implementation in practice.

Furthermore, resource limitations also affect supporting facilities and institutional infrastructure. Many regions lack adequate facilities, such as Restorative Justice Centers, to facilitate the mediation and recovery process.²⁴ In fact, in some regions, mediation still relies on individual initiatives from officials without

²⁰ Sugiharto, M. Erry. "Critical Analysis Of The Implementation Of Restorative Justice In The Criminal Justice System In Indonesia." *Jurnal Hukum Sehasen* 11.2 (2025): 499-508.

²¹ Simatupang, Efika, and Irwan Triadi. "Implementation of Restorative Justice in the Crime of Child Fighting with the Victim Resulting in Death: Penerapan Restorative Justice Tindak Pidana Perkelahian Anak Dengan Korban Meninggal Dunia." *JIC: Jurnal Hukum dan Konstitusi* 1.4 (2025): 184-197. <https://doi.org/10.64272/c02g6214>

²² Erdin, Erwin, Afi Shofiana, and Indra Jaya Indar. "The effectiveness of restorative justice in resolving juvenile criminal offenses in

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²³ Ginting, Risnawati Br, et al. "Penghentian Penuntutan Melalui Penerapan Restorative Justice di Tingkat Kejaksaan." *locus Journal of Academic literature Review* (2023): 789-806. <https://doi.org/10.56128/ljoalr.v2i10.233>

²⁴ Fikarudin, Wildan, and Ermania Widjajanti. "Efektivitas Penerapan Restorative justice dalam Penyelesaian Tindak Pidana Ringan Pasca Peraturan Kejaksaan No. 15 Tahun 2020." *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3.2 (2025): 298-310.

clear structural support.²⁵ This situation creates a gap in implementation between regions with abundant resources and those with limited budgets. In the context of national criminal law, this disparity can threaten the principle of equality before the law. Therefore, reform must not stop at establishing norms but must also be accompanied by strengthening institutional capacity and human resources as a foundation for the sustainable implementation of restorative justice in the Indonesian criminal justice system.

The risk of uncertainty and disparity in law enforcement poses a serious challenge to ensuring the consistent implementation of restorative justice. Without a uniform implementation framework, there is potential for abuse of authority by officials in determining whether a case is worthy of restorative resolution. Inconsistencies between regions are also beginning to emerge, with some regions, such as West Java and East Java, being more progressive in implementing this concept, while others remain very limited. This situation creates legal uncertainty that can erode public trust in the criminal justice system. This lack of system integration confirms that restorative justice is not yet a well-established legal practice nationally, but rather remains in an experimental stage dependent on the local interpretations and policies of each law enforcement agency.

The application of restorative justice must be careful not to sacrifice the rights of victims or grant impunity to perpetrators. The principle of balance between victim protection and perpetrator responsibility is a fundamental aspect that must be maintained to ensure justice does not lose its meaning. Without strict evaluation and oversight mechanisms, restorative justice has the potential to be used as a shortcut to avoid the formal judicial process.

This contradicts the principles of legal certainty and due process of law. Therefore, judicial oversight and public transparency mechanisms are necessary in every application of restorative resolution, so that the recovery paradigm promoted by the New Criminal Code remains grounded in substantive justice, not merely procedural compromise.²⁶

Given these various obstacles, the Prospects for Effectiveness and Recommendations for Implementation Reform are crucial aspects to ensure the sustainability of restorative justice principles in the Indonesian criminal justice system. The first step that must be taken is the establishment of implementing regulations and national standard operating procedures (SOPs) that outline the stages, criteria, and limitations of restorative justice implementation. These regulations will be a crucial instrument for preventing irregularities and strengthening coordination between law enforcement agencies. Furthermore, integrated cross-agency training is needed that emphasizes not only technical aspects but also instills a philosophical understanding that the purpose of punishment under the New Criminal Code is restoration, not retribution. This will ensure that all law enforcement officials have a unified perception and standards in upholding the principles of restorative justice.

Going forward, restorative justice holds significant promise for building a humane and socially just penal system if supported by targeted implementation policies. Conceptually, the New Criminal Code (KUHP) has opened up room for reform by prioritizing restoration as the primary objective of criminal law. However, its successful implementation will depend on the state's commitment to establishing mechanisms for ongoing oversight, evaluation, and public participation. Thus,

²⁵ Malawat, Ridwan Anshary, and Hadi Tuasikal. "MEDIASI SEBAGAI ALTERNATIF PENYELESAIAN SENGKETA DI INDONESIA." *Rechtideal: Jurnal Ilmu Hukum* 1.1 (2025): 81-90. <http://jurnal.umkuningan.ac.id/index.php/Rechtideal/article/view/4925>

²⁶ Nurjamal, Ecep, Opik Hidayat, and Asep Ahmad Arsyul Munir. "Politik hukum dan Siyasa Syar'iyah: Tafsir Al-Qur'an sebagai landasan reformasi KUHP menuju keadilan hukum di Indonesia." *VIVENDUM: Vision of Islamic Values Dynamics Journal* 1.1 (2025): 33-50. <https://journals.nusanara.com/index.php/vivendum/article/view/8>

restorative justice serves not only as a case resolution instrument but also as a foundation for transforming Indonesian criminal law toward a more inclusive, effective, and humanitarian system, as envisioned by the 2023 Criminal Code reforms.

CONCLUSION

The enactment of Law Number 1 of 2023 concerning the Criminal Code has significant implications for restorative justice practices in Indonesia. Normatively, the new Criminal Code represents a paradigm shift from a retributive penal system to a model more oriented toward corrective justice and social restoration. However, in practice, the effectiveness of implementing restorative justice principles still faces structural and cultural challenges within the criminal justice system, such as resistance from law enforcement officials, limited technical regulations, and a lack of uniform understanding. Therefore, the implementation of the new Criminal Code must be accompanied by institutional reform, increased capacity of officers, and the development of comprehensive implementation guidelines so that the humanitarian values and legal benefits that underlie restorative justice can be truly realized in law enforcement practices in Indonesia.

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