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Reconstruction of Restorative Justice Regulations Within the Indonesian Penal System Post-Law No. 1 of 2023

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Abstract

This study analyzes the integration of Restorative Justice principles within Indonesia's new Criminal Code (KUHP). The enactment of Indonesia's new Criminal Code (KUHP) represents a significant advancement in accommodating Restorative Justice principles. This approach prioritizes social harmony, offender rehabilitation, and victim rights as alternative resolutions. This normative legal study utilizes primary, secondary, and tertiary legal materials. The study finds that the new KUHP integrates Restorative Justice through provisions such as Article 51, which redefines the purpose of sentencing to emphasize offender education and rehabilitation aligned with ethical values, and Article 52, which reinforces the importance of human dignity. Furthermore, Article 132 supports extra-judicial resolutions by nullifying prosecutorial authority when such resolutions are achieved. Thus, the incorporation of Restorative Justice in the new KUHP lays a crucial foundation for a more equitable, inclusive, and humane criminal justice system.

Keywords

Indonesian Penal System, KUHP (Indonesian Criminal Code) , Post-Law No. 1 of 2023, Reconstruction , Restorative Justice



INTRODUCTION

The essence of law is to provide protection and a sense of justice for society, as mandated by the 1945 Constitution of Indonesia. In the context of criminal law, crimes harm not only the victim but also their family, society, and the state. Restorative Justice emerges as a more holistic alternative, involving offenders, victims, and the community in seeking

solutions that are just, swift, and cost-efficient while minimizing negative stigma.

With the enactment of the 2023 Criminal Code (UU KUHP), Restorative Justice is now explicitly regulated. Article 54 stipulates that sentencing must consider the victim's forgiveness, while Article 132 provides that prosecution may be waived if an out-of-court settlement is reached. This concept addresses the limitations of litigation, which is often lengthy, costly, and focused primarily on punishment without restoring the victim or preventing ongoing impacts.

However, the implementation of Restorative Justice faces challenges, such as dependence on litigation pathways, case backlogs in courts, and weaknesses in correctional institutions. These issues conflict with the legal objective of balancing the protection of human rights, societal interests, and state interests. As stated in the Preamble of the 1945 Constitution, the law aims to protect the entire Indonesian nation, promote general welfare, educate the nation, and uphold global order based on social justice (The 1945 Constitution of the Republic of Indonesia).

Restorative Justice is a non-litigation mechanism aimed at restoring conditions to those prior to the occurrence of a crime while ensuring justice for all parties involved. This process is carried out through mediation, bringing together the relevant parties. By adopting this approach, Restorative Justice offers a faster, more cost-effective solution that avoids negative stigma compared to litigation mechanisms. It prioritizes the integration of offenders, victims, and the community to restore relationships and resolve cases holistically.

The United Nations (UN) working group defines restorative justice as a process that involves all parties in a dispute working together to solve problems and address the consequences of crimes for the future (United Nations, 2006). According to Bagir Manan, the principle of restorative justice lies in fostering joint participation between the offender, the victim, and the community in resolving a criminal act. The offender, victim, and community are positioned as stakeholders working together to find a solution that is fair to all parties (Manan, 2006).

The primary goal of restorative justice is to address and restore the harm caused by criminal acts. In the criminal justice system, punishment is not the sole ultimate objective. Various approaches, including restorative justice, can be employed to promote order and justice, particularly in minor cases. Crime prevention policies should foster a conducive and participatory integration of all components within the legal system to combat crime effectively. In this context, the criminal justice system functions as a working mechanism with a systemic approach, involving the interaction of legislation, administrative practices, and social behavior.

Restorative Justice is now widely implemented as an alternative for resolving criminal cases, replacing the retributive justice paradigm, which emphasizes punitive sanctions. This concept was first introduced by Albert Eglash in 1977, who categorized criminal justice into three models: retributive justice, distributive justice, and restorative justice (Satria, 2018). In retributive

justice, crime is viewed as a violation against the state, with criminal sanctions imposed as a form of accountability for the offender. However, this approach often neglects the victim's recovery. Conversely, restorative justice focuses on victim restitution through mediation, including restitution, compensation, or legal assistance (Jahar & Hazmi, 2021).

Restorative Justice is applied in specific cases such as minor offenses, juvenile cases, and domestic violence. This approach aligns with the principles of a simple, swift, and low-cost judiciary and incorporates alternative dispute resolution (ADR), previously associated only with private law. In Indonesia, this approach parallels customary law, which emphasizes deliberation and is considered more capable of restoring victims' rights while delivering justice and benefits to all parties.

Restorative Justice emphasizes victim recovery and balances the societal condemnation of the crime based on its degree of blameworthiness (Hiariej, 2019). It also implements the principle of swift justice, focusing on effectiveness, efficiency, and affordability. This approach critiques conventional criminal law enforcement, which tends to prioritize punishment as the primary focus, often overlooking the interests of both the offender and the victim. The conventional system emphasizes "law as a text and process," often at the expense of holistic resolution (Wati, et al., 2021).

With the enactment of Law No. 1 of 2023 on the Criminal Code (KUHP), Indonesia emphasizes the incorporation of national identity and values in its criminal law system (Putri, 2021). The study of Restorative Justice is relevant in this context because it emphasizes the balance of law within the dimensions of divinity, justice, and humanity. Several previous studies highlight the urgency of implementing Restorative Justice in Indonesia's criminal justice system. Eko Syaputra (2021) emphasizes the importance of applying this concept in the Draft Criminal Code (RKUHP), while Ida Made Oka Wijaya (2022) analyzes its application from the perspective of progressive law. Muhammad Fatahillah Akbar (2022) asserts that Restorative Justice is a fundamental concept in the RKUHP that reflects the ideals of Indonesian law (Akbar, 2022).

This study aims to examine the regulation and implementation of Restorative Justice within Indonesia's criminal justice system following the enactment of Law No. 1 of 2023. It is expected to contribute to the development of a more just and beneficial criminal law policy.

METHOD

This study is a normative legal research that views law as written norms in legislation (law in books). The data used is secondary data, which consists of primary, secondary, and tertiary legal materials. The approach used includes a statutory approach and conceptual approach. The statutory approach is carried out by examining legal rules related to the research issue, while the conceptual approach focuses on legal concepts, doctrines, and principles to strengthen the argumentation in resolving legal issues. This approach helps to provide a deeper understanding of the relevant legal concepts and principles that

underpin the topic of Restorative Justice within Indonesia's criminal justice system (Nasution, 2012). As an applied legal research, This research produces a legal opinion that describes the regulation and implementation of Restorative Justice within the sentencing system in Indonesia following the enactment of Law No. 1 of 2023, with a focus on balanced justice.

RESULT AND DISCUSSION

The Concept of Restorative Justice and Sentencing in Indonesia

Restorative Justice is an approach that shifts the focus from retributive punishment to healing and restoration. It emphasizes support for the victim and accountability for the offender, while involving their families and the community. With the enactment of the 2023 Indonesian Criminal Code (UU KUHP), this concept has been integrated into several provisions. For instance, Article 54 of the new KUHP mandates that sentencing should consider the forgiveness of the victim or their family, while Article 132 allows for the dismissal of prosecution if the case is resolved outside of the judicial process.

This shift is in line with Indonesia's legal vision, aiming to improve the criminal justice system, which traditionally emphasized punitive measures rather than victim restoration. Restorative Justice offers the perspective that criminal issues should not be resolved solely through imprisonment. Instead, it advocates for a resolution that balances the interests of the community, the victim, and the offender. Previously, the old KUHP did not explicitly address this concept, but in the new KUHP, it is reflected in Articles 51, 52, 53, 54, and 132.

The main objective of Restorative Justice is victim empowerment. Offenders are encouraged to compensate for the harm caused to victims, whether materially, emotionally, or socially. Success in Restorative Justice is not measured by the severity of punishment, but by the extent to which the victim's losses are restored. This principle also emphasizes the active role of the victim in the resolution process, contrasting with conventional criminal justice, which often renders victims passive (Zehr, 1990).

Through this approach, victims are given the opportunity to participate actively, thereby encouraging offenders and their families to take responsibility for their actions (Nasution, 2012). According to Braithwaite, this mechanism generates constructive shame and motivates the offender to make proportional amends for their wrongdoing. The fundamental principles of restorative justice include efforts to restore the victim, full participation of all parties involved, and the role of the government in maintaining public order, while the community fosters peace (Satria, 2018).

In the sentencing system, restorative justice has several objectives, including placing the decision in the hands of the parties involved, focusing the law on restoration, reducing the potential for future hostility, and providing a satisfying resolution for both the victim and the offender (Zulfa, 2011). This process allows the victim and offender to resolve the issue directly, making the

offender's reintegration into society more effective. Additionally, this process also includes compensation to the victim through an agreement between the involved parties.

The implementation of this approach requires a structural model with a restorative paradigm as an alternative in the criminal justice system. Van Ness outlines several restorative approach models, such as the Unified System, Dual Track System, Safeguard System, and Hybrid System, which can be applied according to the needs of the criminal justice system in Indonesia (Van Ness, 2000).

Reconstruction or Regulation of Restorative Justice within the Criminal Justice System in Indonesia Post Law No. 1 of 2023

The history of the development of criminal law worldwide shows an increasing focus on the interests of victims in the enforcement of criminal law. This development runs parallel to the emergence of a new approach to the objectives of punishment, shifting from deterrence and retribution to rehabilitation. In the midst of this development, the concept of Restorative Justice also emerged, a term first introduced by Albert Eglash, who in his writings identified three types of criminal justice systems: retributive, distributive, and restorative (Condliffe, 2013). The development of Restorative Justice in the criminal justice system shows a positive progression. There are several similarities in the practices and ideas of restorative programs, from national levels in various countries to international contexts, such as prioritizing the interests of victims, facilitating communication between the offender and the victim, restoring conditions for both the victim and society, and involving community groups instead of treating punishment as a private matter.

The history of criminal law reveals an evolution in the understanding of criminal acts, from the concept of being "private" or individual to a broader "public" or social scope. With this evolution, a crime is then viewed as a violation of criminal law regulated by the state, where the defendant is prosecuted by the public prosecutor and sentenced by the judge. The focus shifts to punishing the offender, with the judicial process centered on the offender and the state. Over time, this framework has led to the neglect of the victim and their rights. It was only around the 1970s that the importance of the victim's role gained recognition. The public began to realize the significance of the victim's involvement, and the victim's movement was widely acknowledged alongside the birth of the Restorative Justice concept (Hendersson, 1985).

In the implementation of Restorative Justice, the offender has the opportunity to participate in the restoration process, the community plays a role in preserving peace, and the court is responsible for maintaining public order. The legal basis for Restorative Justice in minor criminal cases is outlined in several regulations, as follows:

1. Article 310 of the Indonesian Criminal Code (KUHP)
2. Article 205 of the Indonesian Criminal Procedure Code (KUHP)

3. Supreme Court Regulation No. 2 of 2012 on Adjusting the Definition of Minor Criminal Offenses and Fines in the Criminal Code
4. Memorandum of Understanding between the Chief Justice of the Supreme Court, the Minister of Law and Human Rights, the Attorney General, and the Head of the Indonesian National Police No. 131/KMA/SKB/X/2012, No. M.HH-07.HM.03.02 of 2012, No. KEP-06/E/EJP/10/2012, No. B/39/X/2012 dated October 17, 2012, on the Implementation of the Adjustment of Minor Criminal Offenses and Fines, Expedited Trial Procedures, and the Application of Restorative Justice
5. Letter of the Director-General of the General Judiciary No. 301 of 2015 on the Resolution of Minor Criminal Offenses
6. Indonesian National Police Regulation No. 8 of 2021 on Handling Criminal Cases Based on Restorative Justice
7. Attorney General Regulation No. 15 of 2020 on Discontinuance of Prosecution Based on Restorative Justice
8. Criminal cases that can be resolved through Restorative Justice are minor criminal offenses as stipulated in Articles 364, 373, 379, 384, 407, and 483 of the Indonesian Criminal Code (KUHP). In this case, the penalty imposed is imprisonment for a maximum of 3 months or a fine of Rp 2.5 million

Restorative Justice is not only applied to minor criminal offenses but can also be used to address a range of other criminal acts (Flora, 2022). Cases that can be resolved through this approach include juvenile offenses, crimes involving women in conflict with the law, narcotics offenses, cybercrimes, and traffic offenses. This approach offers a more humane alternative for resolution, aiming to restore the conditions of victims, perpetrators, and society.

The implementation of Restorative Justice is regulated by the Attorney General Regulation No. 15 of 2020 on Discontinuance of Prosecution Based on Restorative Justice and the Indonesian National Police Regulation No. 8 of 2021 on Handling Criminal Cases Based on Restorative Justice. According to information from Kompolnas (Indonesian National Police Commission), the implementation of Restorative Justice must meet general and specific requirements. The general requirements apply to criminal investigation, inquiry, or prosecution functions, while specific requirements only apply to particular criminal offenses during investigation or prosecution.

Several material requirements for the implementation of Restorative Justice include: not causing public unrest or rejection, not impacting social conflicts, not potentially dividing the nation, and not being associated with radicalism and separatism. Additionally, this approach is not applied to repeat offenders whose cases have been adjudicated by a court, nor to serious offenses such as terrorism, corruption, crimes against national security, or crimes resulting in the loss of life.

In the context of Indonesia, values such as tolerance, communal solidarity, and the avoidance of disputes reflect the key aspects of Restorative Justice.

The majority of Indonesian society, living in communities with close social ties, prioritizes the restoration of relationships over formal punishment. Non-formal dispute resolution practices have existed long before the formation of modern judicial systems, demonstrating how societal values support peaceful conflict resolution.

Various local practices align with the concept of Restorative Justice, such as the Traditional Peace Court in Aceh, Bale Mediation in NTB, the Mela Sareka customary ritual in NTT, and the Indigenous Courts in Papua, including the Enggros Tobati, Sough, and Kayu Batu customary communities (Hanum, 2021). Moreover, the Badamai tradition of the Banjar people also covers the resolution of civil and criminal disputes. In South Sulawesi, similar practices show that Restorative Justice is deeply rooted in local wisdom, reinforcing its relevance in the context of Indonesian law and culture.

Reconstruction or Regulation of the Direction of Change in Restorative Justice Mechanisms after Law No. 1 of 2023

In the view of several scholars and based on The Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters adopted by the United Nations, Restorative Justice is oriented towards both the process and the outcome. The implementation of Restorative Justice programs is not limited to being outside the criminal justice system, such as in the case of diversion mechanisms, but can also be applied at every stage of the criminal justice system (Galaway & Hudson, 1990).

The conceptual framework of Restorative Justice includes various mechanisms within the criminal justice system that need to be strengthened in Indonesia through the new Criminal Code (KUHP). Several of these mechanisms have great potential to institutionalize the principles of restorative justice, including:

1. Restoration of Victims' Rights

The restoration of victims' rights as a direct program of Restorative Justice aims to ensure that responses to crime restore the rights of victims. Indicators of victims' rights restoration include:

- a. Transparency of information from the judiciary to the victim.
- b. Consideration of the victim's opinions, views, and needs by the judiciary.
- c. Provision of assistance to victims in need.
- d. Use of informal mechanisms, such as mediation and arbitration, to facilitate reconciliation.

Selain itu, mekanisme teknis seperti restitusi, kompensasi, dan bantuan korban harus dioptimalkan untuk memastikan hak korban terpenuhi.

2. Penal Mediation

Penal mediation is a form of Restorative Justice that involves dialogue between the victim, offender, and society to reconcile, restore the victim, and repair real harm. Penal mediation can be applied at all stages of the

judicial process, including post-sentencing. In this process, third-party mediators can help ensure that the principles of Restorative Justice are upheld and that the power dynamics between the victim and the offender do not hinder the restoration process.

3. *Diversion*

Diversion is an alternative dispute resolution mechanism outside of court that involves dialogue between the victim, offender, and society. Diversion provides benefits such as avoiding imprisonment, reducing stigma for offenders, and offering a participatory and effective judicial process. In addition to juvenile cases, diversion can also be applied to adult offenders committing minor offenses for the first time.

4. *Supervised Sentences*

As a supporting program for Restorative Justice, supervised sentences allow judges to include the condition of victim restoration by the offender in their verdicts. This approach is non-custodial and supports the reintegration of the offender into society, reduces recidivism, and prevents overcrowding in prisons. Some aspects that need attention in supervised sentences include:

- a. The scope of offenses for which supervised sentences can be applied.
- b. The implementation of supervised sentence verdicts.
- c. Supervision and guidance in the execution of supervised sentences.

5. *Case Dismissal Based on Prosecution Policy (Seponering)*

Seponering can encourage the reintegration of offenders into society and reduce overcrowding in prisons. However, the goal of Restorative Justice is not merely to stop cases but to promote the principles of restorative justice. Seponering should be carried out through a transparent prosecution policy that is accessible to the public.

6. *Judicial Pardon*

Judicial pardon provides space for the judge to consider the victim's perspective regarding justice in the case they have experienced. The judge has the authority to assess and determine a fair ruling for all parties involved, as applied in the Netherlands.

Restorative Justice has been accommodated in the new Criminal Code (KUHP) that was enacted on July 2, 2023, and will take effect on January 2, 2026. This new Criminal Code introduces alternative criminal sanctions, such as community service and supervisory penalties. In order to achieve legal objectives, the new Criminal Code is directed towards:

1. Crime prevention and control.
2. Rehabilitation of offenders.
3. Prevention of arbitrary actions outside the law.
4. Conflict resolution within society.

This new Criminal Code brings substantial changes to the protection of society, shifting the national criminal law paradigm towards a more restorative and participatory approach.

Implementation of Restorative Justice After the Enactment of the New Penal Code (Law No. 1 of 2023)

The ratification of the Draft Penal Code (RKUHP) into the Penal Code Law (UU KUHP) represents a significant milestone in the reform of Indonesia's criminal law. It formally marks the enactment of a domestically crafted Penal Code, reflecting the aspirations of Indonesia's legal philosophy. This ratification is a formal effort to break away from the "dominance" of Indonesia's positive law, which has historically been rooted in colonial-era legislation, particularly Dutch legal products. It is well-known that the previous Penal Code was a continuation of the *Wetboek van Strafrecht (WvS)*, a legal product from the Dutch colonial period (Rahardjo, 2003).

In Indonesia, the understanding and perspectives shaped by the characteristics of Continental European law, as embodied in the Criminal Code (KUHP), are often deemed irrelevant to the society. As emphasized by Van Vollenhoven, long before the advent of positive law in the Dutch East Indies (the name for Indonesia during the Dutch colonial era), the society already adhered to unwritten laws, commonly referred to as customary law (*hukum adat*). This underscores the notion that, in addition to written laws, Indonesian society also abides by unwritten laws that are inherently local and applicable to specific regions and communities.

Secondly, the substance of the KUHP is grounded in the legal realities of Western European society. If applied directly to Indonesian society, which is deeply rooted in Eastern culture, such laws would lack relevance and compatibility. A notable example is the criminal offense of *overspel* in the *Wetboek van Strafrecht (WvS)*, translated into Indonesian as *zina* (adultery). However, the concept of *overspel* in the *WvS* differs significantly from the understanding of *zina* in Indonesian society. In the *WvS*, *overspel* refers exclusively to sexual relations between a man and a woman, resembling a marital relationship, where one of the parties is legally married.

In both the KUHP and the Criminal Procedure Code (KUHAP), all criminal cases must be resolved through an integrated criminal justice system involving law enforcement officers. This means that the resolution of disputes through community-based mechanisms, which are genuinely recognized and have organically developed within society, is not facilitated by Indonesia's positive criminal law framework (KUHP and KUHAP).

Following the enactment of Law No. 1 of 2023 (the new Criminal Code) on January 2, 2023, there has been growing optimism about a criminal law system that embodies the Pancasila legal philosophy. The provisions of the new KUHP have been adjusted to align with Indonesia's legal culture, including the incorporation of the concept of Restorative Justice. The Restorative Justice

framework in the new KUHP seeks not only to build a legal system reflective of Indonesian values but also to address shortcomings in the existing criminal justice system, which predominantly focuses on punishing offenders rather than restoring victims. A punitive approach oversimplifies the complexities of criminal cases, as resolving such cases involves reconciling the legal interests of society, victims, and offenders.

Restorative Justice, in fact, existed prior to the enactment of the new KUHP and had already been incorporated into various internal regulations of law enforcement institutions, such as (Widodo & Disantara, 2021):

1. *Chief of Police Circular Letter No. Pol: B/3022/XII/2009/SDOPS dated December 14, 2009*, regarding the Handling of Cases through Alternative Dispute Resolution (ADR).
2. Supreme Court Regulation (Perma) No. 2 of 2012, on Adjusting the Threshold for Minor Crimes and Fines in the Criminal Code (KUHP), and Perma No. 4 of 2014, on Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System.
3. Chief of Police Regulation No. 6 of 2019, on Criminal Investigation Procedures, and Prosecutor General Regulation No. 15 of 2020, on Termination of Prosecution Based on Restorative Justice, as well as Law No. 11 of 2012, on the Juvenile Criminal Justice System.

The various provisions of Restorative Justice in Indonesia face a key weakness: the potential for disharmony between the regulations issued by different law enforcement institutions. This disharmony may lead to sectoral egos, with each institution formulating distinct Restorative Justice provisions, resulting in discrepancies among law enforcement agencies. Such inconsistencies pose a significant risk of creating legal uncertainty within society.

In the context of the new Criminal Code (UU KUHP), Restorative Justice provisions are embedded across several articles, particularly those addressing the repair and restoration of harm to crime victims, rehabilitation and compensation for offenders, restitution for environmental damage caused by crimes, and the active involvement of the community (Efendi, et al., 2019). Additionally, the primary categories of punishment under the new KUHP have undergone significant changes, including the introduction of imprisonment, detention, supervision, fines, and community service as core sanctions (Farid & Zainal, 2007).

The implications of Restorative Justice following the enactment of the Draft Criminal Code (RKUHP) into the new Criminal Code (UU KUHP) reflect a universal value-based legal perspective. Restorative Justice principles have been systematically accommodated in various articles of the new KUHP. One notable provision is Article 51, which addresses the objectives of punishment. From the perspective of justice and humanity, this aligns with the goal of rehabilitating inmates and resonates with theological principles, such as the concept of *taubatan nasuha* (sincere repentance). This theological underpinning,

rooted in the belief in God's forgiving nature, serves as a foundation for the notion that even individuals with poor moral conduct can change and pursue a better path in life (Thahir, 2015).

Furthermore, Article 52 of the Criminal Code (UU KUHP) stipulates that punishment must not degrade human dignity. This reflects the principle that preserving human dignity is a divine mandate, and those who disregard the dignity of others are acting beyond acceptable bounds. Therefore, it can be concluded that the substance of Restorative Justice embedded in the new Criminal Code aligns with the principles of justice and the protection of human dignity.

Restorative Justice is a conceptual framework that addresses the development of the criminal justice system by emphasizing the inclusion of marginalized communities and victims. This approach contrasts with the conventional mechanisms of the current criminal justice system, which often fail to adequately involve these stakeholders.

The conception of Restorative Justice within the criminal law enforcement system has already been implemented by the three primary pillars of law enforcement, namely:

1. *The Police,*
2. *The Prosecutor's Office, and*
3. *The Supreme Court.*

Article 1, Number 3 of the Indonesian National Police Regulation Number 8 of 2021 on Criminal Action Plans Based on Restorative Justice (hereinafter referred to as the Police Regulation on Restorative Justice) states:

Restorative justice is the resolution of a criminal act by involving the offender, the victim, the offender's family, the victim's family, community leaders, religious leaders, traditional leaders, or stakeholders to collectively seek a fair resolution through reconciliation, with an emphasis on restoring the situation to its original state.

Next, Article 1, Numbers (1, 2, 3, and 4) of the Attorney General Regulation of the Republic of Indonesia Number 15 of 2020 on Termination of Prosecution Based on Restorative Justice (hereinafter referred to as the Attorney General Regulation on Restorative Justice) states:

- a. Restorative Justice is the resolution of a criminal case by involving the offender, the victim, the offender's/victim's family, and other relevant parties to collectively seek a fair resolution, emphasizing the restoration of the situation to its original state, rather than retaliation.
2. Victim is an individual who suffers physical, mental, and/or economic harm as a result of a criminal act.
3. Public Prosecutor is a prosecutor who is authorized by law to prosecute and enforce court decisions.
4. Suspect is an individual who, based on initial evidence, is reasonably suspected of being the perpetrator of a criminal act.

Despite this reality, this approach remains debated theoretically. However, in practice, it has developed and significantly influenced legal policies and practices in various countries, including the criminal law policy in Indonesia. This influence began with internal policies within law enforcement agencies, such as the Police, the Prosecutor's Office, and the Judiciary (Nuraeni & Sihombing, 2019).

CONCLUSION

Law No. 1 of 2023 on the Indonesian Penal Code (KUHP) introduces restorative justice as a new approach in Indonesia's sentencing system. This concept aims to resolve criminal cases by involving the offender, the victim, their families, and other relevant parties to achieve a fair solution focused on restoration, rather than retribution. Its principles include respect for gender equality, non-discrimination, active participation, and voluntary implementation without coercion. In cases involving children, this approach prioritizes the best interests of the child. The new KUHP accommodates restorative justice within the types of crimes outlined, reflecting the values of Indonesian culture, customary law, and diversity. Articles 51 and 52 emphasize the objectives of just sentencing, rehabilitating offenders, and maintaining human dignity. Article 132 even allows for the termination of prosecution if a resolution is achieved outside of the judicial process. In addition to the KUHP, restorative justice is supported by other regulations, such as the Attorney General Regulation No. 15 of 2020, the Police Regulation No. 6 of 2019, the Chief of Police Circular 2018, and the Supreme Court's Directorate General for General Courts Decision of 2020. This approach emphasizes the restoration of victims' rights and the balanced protection of victims, offenders, and other involved parties, while still adhering to formal and material legal provisions.

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