

Reformulating Restorative Justice Authority under Law Number 20 of 2025 on the Indonesian Criminal Procedure Code

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Abstrak

Penelitian ini mengkaji pembagian kewenangan keadilan restoratif dalam Undang-Undang Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana serta merumuskan penguatan pengawasan dalam sistem peradilan pidana terpadu. Metode penelitian hukum normatif menggunakan pendekatan perundang-undangan, konseptual, dan perbandingan terbatas terhadap hasil penelitian internasional. Analisis dilakukan atas Pasal 79–88, aturan kelembagaan terdahulu, dan literatur terverifikasi mengenai pemulihan korban dan hasil program restoratif. Kajian menemukan bahwa undang-undang telah menentukan tahapan, kelayakan perkara, pelaksanaan kesepakatan, penghentian, dan permintaan penetapan pengadilan. Persoalan yang tersisa terutama menyangkut mutu pemeriksaan kesukarelaan, standar pembuktian kerugian, koordinasi antarinstansi, dan kedalaman kontrol yudisial. Penelitian ini mengusulkan asesmen kelayakan tertulis, pendampingan bagi pihak rentan, rekam perkara bersama, pemeriksaan hakim yang substantif, serta pemantauan kesepakatan sebelum penutupan perkara. Usulan tersebut merupakan penguatan pelaksanaan dan pilihan perubahan norma, bukan deskripsi kewenangan yang saat ini telah berlaku. Dengan demikian, kepastian prosedur dapat ditingkatkan tanpa mengorbankan kebutuhan korban dan hak tersangka.

Kata Kunci: keadilan restoratif; kewenangan; pemulihan korban; pengawasan yudisial.

Abstract

This article examines the allocation of restorative justice authority under Law Number 20 of 2025 on the Indonesian Criminal Procedure Code (KUHP 2025) and formulates safeguards for coherent, voluntary, and reviewable implementation. Using normative legal research, it analyzes Articles 79–88 of KUHP 2025, related police, prosecution, and Supreme Court regulations, the Sexual Violence Crime Law, and selected systematic reviews only as functional references for process risks and evaluation indicators. The study finds that KUHP 2025 creates a statutory restorative-justice pathway across inquiry, investigation, prosecution, and trial, but coordination, consent verification, judicial scrutiny, data governance, and equality safeguards require more operational detail. It proposes an authority map, a minimum assessment form, a judicial-scrutiny standard, and monitoring indicators separated into outputs, outcomes, and safeguards. It also distinguishes short-term implementation through standard operating procedures and implementing regulations, medium-term harmonization of sectoral rules, and longer-term legislative refinement. The proposed model treats restorative justice as a rights-sensitive procedure rather than an informal shortcut to case disposal.

Keywords: *restorative justice; institutional authority; victim recovery; judicial oversight.*

INTRODUCTION

Restorative justice changes the question asked by criminal procedure. In addition to determining criminal responsibility and punishment, the system must identify the harm, the victim's needs, the offender's accountability, and the conditions under which a voluntary agreement can legitimately affect the continuation of a case. Restorative justice therefore cannot be reduced to a signed settlement letter. Participation must be informed and voluntary, and the process must remain compatible with legality, equality before the law, victim protection, and the public interest.¹

Before KUHAP 2025, Indonesian restorative-justice practice was fragmented across institutional regulations. Police rules governed restorative handling at the investigation level.² Prosecution rules separately governed termination of prosecution.³ Supreme Court guidance addressed restorative adjudication.⁴ This fragmentation produced different entry points, eligibility tests, documentation, and oversight. Scholarship correctly identified the need for a statutory foundation, but the existence of a statute does not by itself solve operational divergence.⁵ A systematic review of Indonesian restorative-justice scholarship likewise identifies recurring implementation and institutional-coordination issues.⁶ Practice in traffic-accident cases also illustrates how restorative mechanisms developed unevenly before the statutory framework.⁷

Law Number 20 of 2025, which entered into force with the new Criminal Procedure Code in 2026, places restorative justice in Articles 79–88 and recognizes its use at the stages of inquiry, investigation, prosecution, and trial.⁸ The new architecture is important because it converts restorative justice from sectoral policy into criminal-procedure law. Yet it also creates a coordination problem: each institution must understand when it may initiate the process, what documents must be produced, what constitutes full performance, when termination becomes legally effective, and when judicial determination or review is required.

¹ Sukardi Sukardi and Hadi Rahmat Purnama, "Restorative Justice Principles in Law Enforcement and Democracy in Indonesia," *Journal of Indonesian Legal Studies* 7, no. 1 (2022): 155–190, <https://doi.org/10.15294/jils.v7i1.53057>.

² Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021 tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif.

³ Peraturan Kejaksaan Republik Indonesia Nomor 15 Tahun 2020 tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif.

⁴ Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2024 tentang Pedoman Mengadili Perkara Pidana Berdasarkan Keadilan Restoratif.

⁵ Muhammad Fatahillah Akbar, "Pembaharuan Keadilan Restoratif dalam Sistem Peradilan Pidana Indonesia," *Masalah-Masalah Hukum* 51, no. 2 (2022): 199–208, <https://doi.org/10.14710/mmh.51.2.2022.199-208>.

⁶ Achmad Irwan Hamzani, Loso Loso, and Bhanu Prakash Nunna, "Restorative Justice in Indonesian Criminal Law: A Systematic Review," *International Journal of Law, Crime and Justice* 72 (2023).

⁷ Mohammad Arqon and Danil Mustafa, "Penerapan Restoratif Justice dalam Kecelakaan Lalu Lintas," *Adagium: Jurnal Ilmiah Hukum* 2, no. 2 (2024): 90–107, <https://doi.org/10.70308/adagium.v2i2.38>.

⁸ Undang-Undang Republik Indonesia Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, arts. 79–88.

International evidence can help identify risks but should not be used as proof that the Indonesian model will produce the same outcomes. Systematic reviews report possible benefits in selected programmes, including reduced reoffending in some contexts, but results depend on offence type, programme design, consent quality, facilitator competence, and follow-up.⁹ Victim-focused evidence also reports potentially beneficial psychological and satisfaction outcomes, while emphasizing programme design and safety.¹⁰ Updated evidence from juvenile-justice programmes likewise shows that effectiveness varies across interventions and study designs.¹¹ Randomized restorative-justice trials further demonstrate that outcomes are programme-specific rather than automatic consequences of a restorative label.¹² Restorative-justice conferencing reviews similarly connect outcomes to the quality of face-to-face process and implementation.¹³ Evidence from the Dutch Halt programme also cautions that effects on recidivism and broader outcomes must be evaluated within the institutional design actually studied.¹⁴ The present study therefore uses comparative and systematic-review literature only to design safeguards and indicators, not to claim empirical effectiveness of KUHAP 2025.

The article asks three questions: how Articles 79–88 allocate authority among investigators, inquiry officers, prosecutors, and courts; what procedural safeguards are necessary for valid consent, performance, termination, and judicial control; and how sectoral rules and monitoring systems should be harmonized without weakening statutory exclusions or victim rights.

RESEARCH METHOD

This is normative legal research using statutory and conceptual approaches. The methodological design follows the distinction between normative legal analysis and empirical inquiry.¹⁵ The statutory and conceptual approaches are applied to primary legal materials and doctrinal sources in accordance with established legal-research methodology.¹⁶ The principal unit of analysis is Articles 79–88 of Law Number 20 of

⁹ Lawrence W. Sherman et al., “Are Restorative Justice Conferences Effective in Reducing Repeat Offending? Findings from a Campbell Systematic Review,” *Journal of Quantitative Criminology* 31 (2015): 1–24, <https://doi.org/10.1007/s10940-014-9222-9>.

¹⁰ Ana M. Nascimento, Joana Andrade, and Andreia de Castro Rodrigues, “The Psychological Impact of Restorative Justice Practices on Victims of Crimes—a Systematic Review,” *Trauma, Violence, & Abuse* 24, no. 3 (2023): 1929–1947, <https://doi.org/10.1177/15248380221082085>.

¹¹ C. Kimbrell et al., “Restorative Justice Programs and Practices in Juvenile Justice: An Updated Systematic Review and Meta-Analysis for Effectiveness,” *Criminology & Public Policy* 22, no. 1 (2023): 161–195, <https://doi.org/10.1111/1745-9133.12613>.

¹² Lawrence W. Sherman et al., “Twelve Experiments in Restorative Justice: The Jerry Lee Program of Randomized Trials of Restorative Justice Conferences,” *Journal of Experimental Criminology* 11 (2015): 501–540, <https://doi.org/10.1007/s11292-015-9247-6>.

¹³ Heather Strang, Lawrence W. Sherman, Evan Mayo-Wilson, Daniel Woods, and Barak Ariel, “Restorative Justice Conferencing (RJC) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction,” *Campbell Systematic Reviews* 9, no. 1 (2013): 1–59, <https://doi.org/10.4073/csr.2013.12>.

¹⁴ Melvin Vooren et al., “The Effects of a Restorative Justice Programme (Halt) on Educational Outcomes and Recidivism of Young People,” *Journal of Experimental Criminology* 19 (2023): 691–711, <https://doi.org/10.1007/s11292-022-09502-4>.

¹⁵ Mukti Fajar and Yulianto, *Dualisme Penelitian Hukum Normatif dan Empiris* (Yogyakarta: Pustaka Pelajar, 2017).

¹⁶ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2019).

2025. Other primary materials include the 2023 Criminal Code¹⁷, the 2022 Sexual Violence Crime Law, Police Regulation Number 8 of 2021, Prosecution Regulation Number 15 of 2020, Supreme Court Regulation Number 1 of 2024, and the Personal Data Protection Law. The analysis applies textual, systematic, and purposive interpretation to identify authority, eligibility, exclusions, procedural sequence, and oversight.

The method proceeds in four steps. First, each article is coded according to actor, trigger, eligibility, exclusion, required document, consequence, and oversight. Second, the statutory rules are compared with pre-KUHAP sectoral regulations to identify continuity and conflict. Third, the article constructs minimum safeguards for consent, judicial scrutiny, and monitoring. Fourth, selected international systematic reviews are used only as functional reference points for process risks and outcome indicators. No post-KUHAP empirical data are claimed; the resulting model is *ex ante* and prescriptive.

RESULTS AND DISCUSSION

From Fragmented Sectoral Rules to a Statutory Restorative-Justice Architecture

KUHAP 2025 creates a sequential architecture. Article 79 recognizes restorative justice and regulates agreement and performance; Article 80 sets eligibility; Article 81 protects voluntariness and prohibits pressure, coercion, intimidation, deceit, threats, violence, torture, or degrading treatment; Article 82 identifies exclusions; Articles 83–87 distribute implementation across procedural stages; and Article 88 delegates further implementation to a Government Regulation.¹⁸ The statutory design should be treated as the baseline against which older institutional rules are read. Sectoral regulations remain useful only insofar as they are compatible with the statute and fill procedural detail without narrowing rights or expanding authority beyond the law.

Table 1. Institutional Framework for Restorative Justice Before and under KUHAP 2025

Dimension	Pre-KUHAP 2025 position	KUHAP 2025 baseline
Legal basis	Sectoral regulations and institutional policies	Statutory framework in Arts. 79–88
Stages	Different entry points by institution	Inquiry, investigation, prosecution, and trial
Consent	Institution-specific documentation	Statutory voluntariness and anti-coercion safeguard
Exclusions	Potentially divergent criteria	Statutory exclusions in Art. 82
Oversight	Varied internal/judicial mechanisms	Stage-specific termination plus court-related control

¹⁷ Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana.

¹⁸ Undang-Undang Republik Indonesia Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, arts. 79–88.

The baseline differs from the pre-2025 position in three respects. First, authority no longer rests solely on institutional self-regulation. Second, the statute expressly connects agreement performance with termination and court-related procedural consequences. Third, the law provides uniform exclusions and voluntariness safeguards that should constrain every institution. This does not eliminate institutional roles; it makes them parts of a single statutory chain.

Consent, Eligibility, and Exclusions

Consent is legally meaningful only if the parties understand the process, consequences, available alternatives, and their right to refuse. Article 81 is therefore not a ceremonial provision.¹⁹ A minimum assessment should record the identity and capacity of the parties; the explanation of rights; absence of threats or dependency-based pressure; access to counsel or support where needed; the victim's safety concerns; the substance and timeline of proposed reparation; and a separate confirmation that refusal will not produce unlawful retaliation. A signed document without these elements should not be presumed voluntary.

Defective consent should have procedural consequences. If coercion, deception, intimidation, or incapacity materially affects agreement, the restorative result should not provide a lawful basis for termination. The case should return to the appropriate procedural track, while evidence of coercion should be recorded and, where relevant, separately investigated. This follows from the statutory prohibition itself and protects the integrity of any later judicial determination.

Eligibility also requires equal treatment. A model that in practice favours offenders who can quickly pay compensation risks converting financial capacity into procedural advantage. Eligibility must therefore focus on statutory criteria and the nature of accountability, not on wealth. Non-monetary restoration, structured payment, service, apology, rehabilitation, or other lawful forms may be considered when appropriate, while the victim must never be pressured to accept a lower-value settlement. Equality safeguards should be auditable through reasons recorded in each decision.

Exclusions must be applied as hard boundaries rather than negotiation points. Article 82 excludes specified serious categories, and restorative justice cannot be used to circumvent statutory exclusions.²⁰ The Sexual Violence Crime Law's victim-centred safeguards remain relevant when a case falls within its scope, and sectoral restorative rules must not be interpreted to dilute them.²¹ Scholarship on sexual-violence cases reinforces the need for particular caution regarding unequal power, dependency, and re-traumatization.²²

¹⁹ Undang-Undang Republik Indonesia Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, arts. 79–88.

²⁰ Undang-Undang Republik Indonesia Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, arts. 79–88.

²¹ Undang-Undang Republik Indonesia Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual.

²² Ribut Hari Wibowo, Ahmad Busro, and Ani Purwanti, "Reassessing Restorative Justice: Addressing Sexual Violence Cases in Indonesia," *Indonesia Law Review* 13, no. 3 (2023), article 8.

Performance, Termination, and Judicial Scrutiny

Table 2. Stages, Competent Authorities, and Control Points in Restorative Justice

Stage	Primary actor	Core document/action	Control point
Inquiry / investigation	Inquiry officer / investigator	Eligibility, consent, agreement, proof of performance	Termination must follow statutory sequence; court determination where required
Prosecution	Public prosecutor	Review of eligibility; agreement; termination decision	Request for court determination within statutory framework
Trial	Court	Assess restorative possibility and legality	Reasoned judicial decision; cannot override exclusions
All stages	Relevant institution	Record reasons, safeguards, performance	Auditability and cross-institution consistency

A recurring ambiguity concerns the legal sequence from agreement to performance and termination. The safer construction is that an agreement does not itself erase the criminal process. KUHAP 2025 requires performance to be documented, and the legally relevant termination step follows the statutory procedure at the particular stage.²³ This distinction protects victims from an offender obtaining procedural benefit after only promising reparation. It also protects the accused from indefinite uncertainty once obligations have been fully performed and statutory conditions are met.

Judicial scrutiny should be concrete rather than formal. At minimum, the file submitted for court determination should contain the eligibility assessment; the voluntariness form; the agreement; proof of performance; information on victim support; the institution's reasoned termination decision; and a statement addressing statutory exclusions. The court should refuse or return an application when material documents are absent, consent appears defective, the case is statutorily excluded, the agreement is unlawful or grossly disproportionate, or performance is unproven. Reasons should be stated sufficiently to enable review and consistent treatment.²⁴

The relationship between Supreme Court Regulation Number 1 of 2024 and KUHAP 2025 must therefore be hierarchical. PERMA can continue to guide judges on

²³ Undang-Undang Republik Indonesia Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, arts. 79–88.

²⁴ Choky Risda Ramadhan, Abni Nur Aini, and Dheliana Khairunisa, "Status Quo Bias dalam Reformasi Hukum Acara Pidana di Indonesia: Kegagalan Penguatan Pengawasan Pengadilan (Judicial Scrutiny) yang Lebih Optimal," *The Indonesian Journal of Socio-Legal Studies* 6, no. 1 (2026), article 5, <https://doi.org/10.54828/ijsls.2026v6n1.5>.

restorative adjudication, but it cannot contradict the later statute.²⁵ If a procedural detail in PERMA is compatible with KUHP, it can operate as judicial guidance; if the statute sets a different eligibility rule, exclusion, consequence, or timeline, the statute prevails. Harmonization should be undertaken expressly rather than leaving individual judges to reconcile conflict ad hoc.

Monitoring, Data Governance, and Implementation Reform

A national monitoring system should distinguish outputs, outcomes, and safeguards. Outputs include the number of offers, agreements, completed agreements, and termination decisions. Outcomes include timeliness, victim-reported satisfaction collected voluntarily, repeat offending where legally and methodologically measurable, and completion of reparation. Safeguards include withdrawal rates, complaints of coercion, use of counsel or support persons, inequality indicators, reasons for rejection, and judicial refusals. This separation prevents an agency from treating a high number of terminated cases as proof of quality.

Monitoring itself creates privacy risk. Restorative files may contain sensitive victim data, health information, family relations, and detailed offence narratives. A data-governance protocol should therefore identify the controller, lawful purpose, access roles, retention period, audit trail, interoperability rules, and conditions for anonymized research use.²⁶ Data exchange among police, prosecutors, courts, and victim-support services should follow necessity and data-minimization principles rather than automatic unrestricted sharing.

Implementation should proceed at three levels. In the short term, institutions need a common assessment form, document checklist, reasoned-decision template, training standard, and Government Regulation under Article 88. In the medium term, Police Regulation Number 8 of 2021, Prosecution Regulation Number 15 of 2020, and Supreme Court Regulation Number 1 of 2024 should be harmonized with KUHP 2025. In the longer term, legislative amendment should be considered only where practice reveals a statutory gap that cannot lawfully be resolved by implementing rules. Pilot implementation, if used, should be described as policy testing with pre-defined metrics rather than evidence that the model already works.

Table 3. Indicators for Evaluating Restorative Justice Implementation

Indicator group	Examples	What it does not prove
Output	Offers, agreements, completions, terminations	Quality, voluntariness, or reduced reoffending by itself
Outcome	Timeliness, completed reparation, victim-reported experience, measured recidivism	Causation without an appropriate empirical design

²⁵ Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2024 tentang Pedoman Mengadili Perkara Pidana Berdasarkan Keadilan Restoratif.

²⁶ Undang-Undang Republik Indonesia Nomor 27 Tahun 2022 tentang Pelindungan Data Pribadi.

Indicator group	Examples	What it does not prove
Safeguard	Coercion complaints, withdrawals, counsel/support, refusal reasons, equality indicators	That every accepted agreement is substantively fair

CONCLUSION

KUHAP 2025 provides Indonesia with a statutory restorative-justice framework across inquiry, investigation, prosecution, and trial. The reform's central challenge is no longer the absence of legal authority but the quality and coherence of implementation. Articles 79–88 must be operationalized through valid consent, strict application of exclusions, proof of performance, reasoned termination, and meaningful judicial scrutiny. Sectoral regulations should be read under the statute, not alongside it as competing sources of authority.

The proposed reform is therefore three-tiered: standardized procedures and implementing rules in the short term; harmonization of police, prosecution, and judicial regulations in the medium term; and targeted legislative refinement only after documented implementation gaps emerge. Monitoring must distinguish outputs, outcomes, and safeguards and comply with personal-data protection. Because this article is normative and written before a mature body of post-KUHAP practice exists, its proposals are prescriptive and should be empirically tested rather than presented as proven effects.

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