

Restorative Justice in the KUHP and Protection of Sexual Violence Victims

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Abstract

The revision of Indonesia's Criminal Code (KUHP) introduces restorative justice as a mandatory consideration in sentencing, requiring judges to evaluate forgiveness from victims or their families as part of the sentencing process. This study examines the implications of this provision when applied to sexual violence cases, particularly in relation to the Sexual Violence Crime Law (UU TPKS), which expressly prohibits non-judicial settlement as a form of victim protection. Using a normative legal research method supported by statute, conceptual, and case approaches, this article analyzes the interaction between the KUHP and the UU TPKS, alongside documented cases where victims experienced pressure to accept restorative agreements. Drawing on victimology and feminist legal theory, the study highlights the risk of revictimization, unequal bargaining power, and reinforcement of patriarchal structures when restorative justice is used in sexual violence cases. Findings show that applying restorative mechanisms to such cases creates legal uncertainty and contradicts the protective mandate of the UU TPKS. This article argues that restorative justice must be normatively limited and not applied to sexual violence. Clear regulatory harmonization and trauma-informed implementation guidelines are necessary to ensure a victim-centered approach to justice when the new KUHP becomes fully enforceable.

Keywords

Restorative Justice; KUHP; Sexual Violence; UU TPKS; Victim Protection

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1. INTRODUCTION

Criminal law reform in Indonesia has entered a new chapter with the enactment of the Criminal Code (KUHP) through Law No. 1 of 2023. This code, which will take effect in 2026, replaces the colonial-era *Wetboek van Strafrecht (WvS)* that has dominated Indonesia's penal system for over a century. One of the most notable features of the new KUHP is its incorporation of restorative justice values, which emphasize reconciliation, forgiveness, and the repair of social harmony rather than punishment alone (Riyadi, 2024). Article 54 of the KUHP requires judges to consider forgiveness (*pemaafan*) from victims



or their families in determining sentences, reflecting this shift.

However, the integration of restorative justice into the KUHP has sparked controversy, particularly concerning sexual violence crimes. In contrast to the KUHP, the Sexual Violence Crime Law (UU TPKS, Law No. 12/2022) explicitly prohibits non-judicial settlement in cases of sexual violence, underscoring the priority of victim protection and state responsibility (Eddyono, 2021; Ritonga & Panjaitan, 2024). This creates a normative conflict between two major legal frameworks: the KUHP as *lex generalis* and the UU TPKS as *lex specialis*.

This tension is not only a matter of technical disharmony but also reflects deeper theoretical debates. Restorative justice is often praised as a more humane alternative to retribution, yet its application in cases of gender-based violence raises ethical concerns. Victimological studies warn that restorative justice in sexual violence cases can lead to revictimization, as victims may be forced to face their perpetrators and pressured by their communities to forgive for the sake of harmony (Gavin et al., 2024). From a feminist legal perspective, restorative mechanisms risk reproducing patriarchal power relations, in which male perpetrators benefit from leniency while female victims are silenced or marginalized. (Riyanto & Barung, 2025; Zanubiya & Waluyo, BambangHarefa, 2025)

At the same time, empirical evidence from civil society reports in Indonesia highlights the risks of restorative justice being misused in sexual violence cases. Komnas Perempuan (2024) documented cases in pesantren where victims were pressured into signing “peace agreements” with perpetrators, often under the influence of community leaders. Similar patterns are reported in comparative studies, where restorative mechanisms in sexual and domestic violence cases have been criticized as instruments that protect offenders rather than victims. (Alifah, 2025; Ganen Seknun et al., 2024)

This article, therefore, raises critical questions: How can restorative justice, as embedded in the new KUHP, be reconciled with the victim-protection mandate of the UU TPKS? What normative boundaries must be established to prevent restorative mechanisms from undermining victims' rights in sexual violence cases?

Unlike previous research, which tends to describe restorative justice in general terms (Ahadi et al., 2023; Soesatiyo et al., 2021), this study offers a prospective normative critique by analyzing the potential conflict between Article 54 of the KUHP and the UU TPKS prior to the KUHP's implementation in 2026. The originality of this study lies in its application of victimology and feminist legal theory as analytical tools, enabling a more critical examination of how restorative provisions may perpetuate structural inequalities if applied to sexual violence. In addition, this study situates Indonesia's debate within global discussions, drawing on international experiences where sexual and gender-based violence is often excluded from restorative frameworks. (Wibowo et al., 2021; Yassin, 2025)

By addressing these issues, this article aims not only to identify normative disharmony but also to provide constructive recommendations for criminal law reform in Indonesia. Specifically, it argues that restorative justice should be normatively limited in scope to prevent misuse in cases of sexual violence, thereby ensuring alignment with the protective spirit of the UU TPKS and international human rights standards.

2. METHOD

This research employs a normative legal methodology, which is appropriate for examining the consistency and coherence of legal norms. Normative research focuses not only on describing existing laws but also on evaluating their alignment with legal principles, theories, and the objectives of justice (Soesatiyo et al., 2021). The approach allows the study to critically assess the compatibility of restorative justice provisions in the new Criminal Code (KUHP) with the victim-centered protections enshrined in the Sexual Violence Crime Law (UU TPKS).

2.1 Statute Approach

The statute approach is used to analyze statutory texts governing restorative justice and sexual violence. This includes the KUHP (Law No. 1 of 2023), particularly Article 54; the UU TPKS (Law No. 12 of 2022); and sectoral regulations, such as the Attorney General Regulation No. 15 of 2020 and the National Police Regulation No. 8 of 2021. By examining these provisions, the study identifies normative disharmony and potential legal uncertainty.

2.2 Conceptual Approach

The conceptual approach utilizes academic theories and doctrinal debates as analytical tools. Restorative justice is analyzed not only as a legal mechanism but also as a broader philosophy of justice. Victimology offers a lens for understanding the risks of secondary victimization when victims are compelled to participate in reconciliation with offenders (Aprilianda et al., 2025; Syahbur et al., 2024; Victims of Crime Commissioner, 2023). Feminist legal theory further critiques how restorative mechanisms can perpetuate structural inequalities, reinforcing patriarchal norms that disadvantage women in legal processes (Kushwaha, 2025; Zanubiya & Waluyo; Bambang Harefa, 2025).

By applying these conceptual frameworks, the research transcends descriptive legal analysis to critically evaluate the ethical and normative implications of restorative justice in cases of sexual violence.

2.3 Case Approach

The case approach examines practical examples and reports on how restorative justice has been applied in Indonesia, particularly in cases of sexual violence. Empirical reports from Komnas Perempuan (2024) reveal that victims in pesantren-based sexual violence cases were pressured into

signing "peace agreements" under the guise of restorative settlement. These cases highlight the risks of implementing restorative justice without sufficient safeguards, echoing similar concerns in international practice. (Hamamah et al., 2025a; Marder, 2020)

By analyzing such cases, the study contextualizes legal norms within real-world practices, highlighting gaps between normative ideals and implementation.

2.4 Analytical Techniques

Data are analyzed qualitatively using statutory interpretation methods. Grammatical, systematic, and teleological interpretations are applied to assess the coherence of restorative justice provisions with overarching legal principles and the protective mandates of the UU TPKS. In addition, comparative analysis is used to position Indonesia's legal framework within international debates on restorative justice and sexual violence (Hamamah et al., 2025a; Purwadi et al., 2015; Triwati et al., 2025).

This multi-layered analytical strategy enables the research to identify normative disharmony, assess the risks associated with applying restorative justice in cases of sexual violence, and formulate recommendations to align Indonesia's criminal law with a victim-centered approach to justice.

3. FINDINGS AND DISCUSSION

3.1. Restorative Justice in the New Criminal Code: A Paradigm Shift and Its Implications

The new KUHP introduces restorative justice as a fundamental principle, marking a significant departure from the colonial retributive model. Article 54 requires judges to consider forgiveness from victims or their families when determining sentences. This provision reflects a philosophy that prioritizes social harmony and reconciliation. (Riyadi, 2024)

At a normative level, this shift signifies the state's acknowledgment of victims as stakeholders in the criminal justice process. However, it also raises critical concerns about the scope of forgiveness and whether it should apply uniformly to all categories of crime, including sexual violence. The ambiguity of Article 54 opens the possibility of judges applying restorative considerations in cases where victims may be highly vulnerable, which could undermine the protective objectives of criminal law. (Eddyono, 2021)

From the perspective of restorative justice theory, the KUHP embeds reconciliation as a measure of justice. However, in the context of sexual violence, such provisions risk colliding with principles of victim protection enshrined in the UU TPKS. This tension reflects broader international debates on whether restorative justice is suitable for gender-based violence. (Lawler, 2025; Wolthuis, 2020)

The table highlights a clear inconsistency: while sectoral regulations and the UU TPKS exclude sexual violence from restorative settlement, the KUHP provides no such limitation. This regulatory disharmony creates confusion for law enforcement and jeopardizes victim protection.

In addition to the conceptual shift introduced by Article 54 of the KUHP, it is essential to acknowledge that the application of restorative justice is also significantly influenced by local administrative practices and law enforcement culture. Even before the KUHP was enacted, police and community leaders in several regions informally used "peace agreements" to resolve cases that should have gone through formal legal channels. This historical pattern reveals that restorative mechanisms do not operate in isolation; they interact with pre-existing tendencies within Indonesia's criminal justice system. As a result, embedding restorative justice into the KUHP without strict limitations may unintentionally legitimize practices that previously lacked legal authority.

Another dimension that requires attention is the ambiguity in the KUHP regarding the evaluative role of forgiveness. The provision does not clearly distinguish between voluntary reconciliation and reconciliation achieved under social pressure. In contexts where patriarchal norms remain strong, forgiveness may be shaped by cultural expectations rather than the victim's free will. Therefore, even though the KUHP appears to offer progressive alternatives to retributive punishment, its restorative provisions may reproduce the same structural inequalities that feminist scholars have long criticized. This tension underscores the need for clearer regulatory interpretations to ensure that restorative justice does not undermine the primary purpose of criminal law, which is to protect vulnerable individuals.

3.2. Risks of Applying Restorative Justice in Sexual Violence Cases

Restorative justice is often celebrated as a more humane and participatory approach compared to punitive ones. However, applying it to sexual violence cases presents significant risks.

First, from a victimological perspective, restorative dialogue may cause re-traumatization. Victims may be forced to relive their trauma by facing perpetrators in mediated encounters. Studies confirm that such practices often pressure victims into granting forgiveness, undermining their autonomy (Farman et al., n.d.; Nascimento et al., 2023; Suzuki, 2023).

Second, feminist legal theory exposes how restorative justice can reinforce gender hierarchies. In patriarchal societies, reconciliation processes are not conducted on equal terms. Male perpetrators, often in positions of authority (e.g., teachers, religious leaders), may benefit from community-driven settlements, while female victims are silenced. (Ardan et al., 2025; Berliantha & Fasya, 2023; Chairil & Shalahuddin, 2021)

Empirical reports strengthen these theoretical critiques. Komnas Perempuan (2024) documented pesantren sexual violence cases where victims were compelled to accept "peace agreements" under pressure from community leaders. Such practices mirror international concerns: in Australia and Europe, restorative mechanisms in sexual violence cases have been criticized for privileging offenders and minimizing harm. (Australia, n.d.; Eddyono, 2021; Garcia-Dolnik et al., 2024)

Furthermore, restorative justice may jeopardize deterrence by signaling leniency in severe crimes. In contexts where social stigma already silences victims, restorative settlements risk becoming tools of impunity. (Hoyle, 2012; Karimullah, 2023; Lanni, 2021)

Beyond the documented risks, an additional layer of concern emerges when considering how institutions often frame restorative justice. Many institutions, including schools, religious communities, and workplaces, often prioritize organizational reputation over the recovery of victims. When sexual violence occurs within these spaces, there is a strong institutional incentive to avoid formal legal processes. Restorative justice, in such situations, can be misused as a fast and "quiet" solution. The victim, meanwhile, is placed in a vulnerable position where refusing reconciliation may be interpreted as disobedience or bringing shame to the institution. This dynamic intensifies the unequal power structure already inherent in sexual violence cases.

Furthermore, the psychological impacts of forced or pressured reconciliation should not be underestimated. Research on trauma responses indicates that survivors often experience dissociation, impaired decision-making, and heightened fear during interactions with the perpetrator. Therefore, any process that obligates or encourages direct communication may deepen psychological harm. Restorative justice practitioners in other jurisdictions have noted that even well-designed mediation can fail when applied to crimes involving trauma, because the emotional burden on the victim is significantly higher than the system anticipates. Indonesia's KUHP does not yet incorporate trauma-informed safeguards, which exacerbates the risks.

In addition, the potential for restorative justice to downplay the seriousness of sexual violence should not be ignored. When a reconciliation agreement is reached, communities may perceive the issue as resolved, even though the victim may still be suffering. This perception contributes to cultural narratives that trivialize sexual violence and normalize impunity. Therefore, while restorative justice may work in other categories of crime, sexual violence demands a fundamentally different approach that prioritizes safety, accountability, and long-term healing over reconciliation.

3.3 Regulatory Disharmony and Directions for Reform

The coexistence of Article 54 of the KUHP and the UU TPKS illustrates a fundamental normative conflict. While the KUHP promotes reconciliation broadly, the UU TPKS explicitly prohibits restorative settlement in sexual violence cases.

This disharmony creates practical problems for law enforcement. Prosecutors and police may invoke KUHP provisions to justify restorative settlements, while victims invoke the UU TPKS for protection. The absence of harmonized implementing regulations risks unequal treatment and legal uncertainty. (Amantha et al., 2024; Usman & Jaya, 2024)

Normatively, the principle of *lex specialis derogat legi generali* mandates that the UU TPKS, as the special law, must prevail over the KUHP. Comparative studies reinforce this stance: many jurisdictions explicitly exclude sexual and gender-based violence from restorative justice frameworks to prevent secondary victimization. (Agustina, 2008; Zuliah & Amalia, 2025)

Therefore, reform is urgently required. Three measures are proposed:

- a. Enact implementing regulations clarifying that restorative justice does not apply to sexual violence.
- b. Provide victim-sensitive training for police, prosecutors, and judges to ensure trauma-informed practice.
- c. Mandate involvement of the Witness and Victim Protection Agency (LPSK) and professional counselors in any restorative process, even outside sexual violence cases, to safeguard victims' rights.

These recommendations aim to reconcile the restorative spirit of the KUHP with the victim-centered mandate of the UU TPKS, ensuring that criminal law reform does not undermine protections for survivors of sexual violence.

A deeper exploration of the normative conflict between the KUHP and the UU TPKS reveals that the tension is not merely technical but conceptual. The KUHP's restorative framework assumes that social harmony is the ultimate marker of justice. In contrast, the UU TPKS is grounded in a victim-centered model that prioritizes bodily autonomy, psychological recovery, and state obligations to prevent secondary victimization. These two models represent distinct philosophical perspectives on what justice should achieve. When both laws operate simultaneously, the result is a doctrinal inconsistency that creates confusion for law-enforcement agencies and jeopardizes legal certainty for victims.

Another concern arises from the lack of a monitoring mechanism to ensure that restorative agreements, if they occur, are free from coercion. Although the UU TPKS prohibits non-judicial settlements, cases in the field demonstrate that community pressure often overrides legal norms. If the KUHP's restorative provisions are applied without strict limitations, they may implicitly encourage the revival of informal settlements that the UU TPKS was specifically designed to prevent. This indicates the need for a harmonization policy that not only clarifies the legal hierarchy but also provides operational safeguards to ensure consistency and uniformity across all relevant areas.

Ultimately, the discussion on reform should take into account the practical realities of Indonesia's legal institutions. Many regions lack trained professionals capable of delivering trauma-informed services, and coordination between institutions remains weak. Without structural improvements, the promise of victim protection in the UU TPKS may remain largely symbolic. Therefore, aligning the KUHP with the TPKS requires not only legislative refinement but also capacity-building efforts that

ensure the spirit of the law is upheld in practice.

3.4 Comparative Perspective: Lessons from Other Jurisdictions

Comparative experience from other jurisdictions provides important insights into how restorative justice is positioned in relation to sexual and gender-based violence. In Australia, for example, restorative models have been explored within limited and highly regulated contexts. Official reviews emphasize that restorative mechanisms in sexual abuse cases carry substantial risks, particularly regarding victim safety, power imbalances, and coercive pressures within communities. Even well-designed restorative programs require strict eligibility criteria and must never replace the criminal process. This cautious approach demonstrates an institutional recognition that sexual violence involves trauma dynamics that differ fundamentally from other categories of crime.

Similarly, research from Europe and North America indicates that the use of restorative justice in sexual violence cases remains controversial. Garcia-Dolnik et al. (2024) argue that restorative initiatives must operate under a national framework to ensure safety, accountability, and trauma-informed practices. Without such a framework, restorative programs can become fragmented and inconsistent, leaving victims vulnerable to secondary victimization. Studies in the United Kingdom also highlight that restorative encounters may unintentionally privilege offenders by allowing them to frame their actions in a way that minimizes harm.

In Finland, restorative approaches in domestic and child violence cases were examined by Hamamah et al. (2025b). Their findings reveal that even with robust institutional safeguards, restorative justice remains unsuitable for crimes involving deep psychological trauma and asymmetric relationships of authority. A similar conclusion is reflected in Lawler's (2025) study from Australia, which stresses the need for strict exclusion policies to prevent restorative programs from being misused in cases of domestic, family, or sexual violence. These comparative experiences show a consistent international trend: restorative justice may contribute to healing in certain crimes, but sexual violence requires exceptional protection measures.

Thus, comparative evidence supports the argument that Indonesia must adopt a restrictive stance. In line with international practice, the restorative principles embedded in the KUHP should not override the victim-centered protections of the UU TPKS. The global consensus reinforces that sexual violence cannot be treated as an ordinary dispute requiring reconciliation, but as a grave violation requiring legal certainty, accountability, and strong institutional safeguards.

3.5 Practical Barriers in Indonesian Legal Institutions

Despite the normative framework provided by the KUHP and the UU TPKS, the practical realities of Indonesia's legal institutions present significant barriers to implementing a victim-centered approach. One of the most persistent challenges is the limited capacity of law-enforcement agencies to

apply trauma-informed principles. Police officers, prosecutors, and even judges often lack specialized training in identifying trauma responses, understanding coercive dynamics, or recognizing psychological distress. As a result, victims may be required to recount their experiences repeatedly, face insensitive questioning, or encounter officials who underestimate the severity of their trauma. These institutional weaknesses create an environment where restorative outcomes can be misinterpreted as efficient solutions, even when they compromise the safety of victims.

Institutional culture also plays a major role in shaping case outcomes. In many regions, informal settlements have long been viewed as practical alternatives to formal legal processes, particularly when community leaders or local authorities seek to maintain social harmony. This tendency predates the KUHP and continues to influence how restorative justice is perceived today. When institutions prioritize efficiency, workload reduction, or social cohesion, restorative agreements may be encouraged regardless of the victim's wishes. This dynamic becomes even more problematic in sensitive environments such as schools, pesantren, and workplaces, where victims may face pressure not only from perpetrators but also from administrators who wish to avoid reputational harm.

Coordination between institutions presents another obstacle. The UU TPKS mandates a multidisciplinary response involving medical services, psychosocial support, legal assistance, and protection from the LPSK. However, in practice, coordination across these sectors remains inconsistent. Many regions lack integrated service centers or clear referral mechanisms, resulting in delays and fragmented assistance. In such contexts, restorative options may appear more “practical,” even though they undermine the victim’s right to comprehensive support.

These institutional barriers illustrate that legal reform alone is insufficient. Without strengthening human resources, building trauma-informed competencies, and improving inter-agency coordination, restorative justice will continue to pose serious risks when applied to sexual violence cases. Institutional readiness must therefore be considered a central component of any policy discussion concerning restorative justice in Indonesia’s criminal justice system.

3.6 Normative Boundaries and the Need for Explicit Exclusions

A clear normative boundary is essential to prevent the misuse of restorative justice in cases involving sexual violence. Although the KUHP positions restorative principles as part of its broader sentencing philosophy, it does not provide explicit limitations regarding the types of offences eligible for reconciliation. This lack of specificity creates interpretive room that could allow restorative mechanisms to be applied inconsistently, especially in environments where informal settlements are culturally normalized. Without firm restrictions, restorative justice may be incorrectly perceived as applicable across all categories of crime, including those that inherently involve trauma, coercion, and structural inequalities.

The UU TPKS, on the other hand, adopts a very different stance. It explicitly prohibits non-judicial settlements in sexual violence cases and emphasizes the state's responsibility to protect victims. This approach is grounded in the recognition that sexual violence is not merely a conflict between individuals but a violation of bodily autonomy and human rights. Reconciling these two legal frameworks requires acknowledging that restorative values in the KUHP cannot supersede the protective guarantees outlined in the UU TPKS. Instead, the KUHP must be interpreted in a way that reinforces, rather than contradicts, the victim-centered principles embedded in the special law.

Creating a normative boundary also demands institutional clarity. Law enforcement agencies, mediators, and community leaders must understand that restorative justice is not a universal remedy. Establishing clear exclusion clauses, whether through judicial guidelines, ministerial regulations, or statutory amendments, is necessary to prevent ambiguity in practice. Several jurisdictions, as noted in comparative studies, explicitly exclude sexual violence from restorative processes to safeguard victims from secondary victimization and undue pressure. Indonesia can adopt a similar approach by ensuring that the KUHP's restorative provisions cannot be invoked in cases involving gender-based violence.

Ultimately, the need for explicit exclusions is not about rejecting restorative justice altogether but about recognizing the unique nature of sexual violence. Establishing firm boundaries ensures that the spirit of restorative justice recovery, accountability, and fairness does not unintentionally undermine victim protection. Clear normative limits are therefore a crucial step toward harmonizing the KUHP with the UU TPKS and strengthening Indonesia's commitment to a justice system that prioritizes safety and dignity for survivors.

4. CONCLUSION

The analysis of restorative justice in the new Criminal Code (KUHP) and its relationship with the Sexual Violence Crime Law (UU TPKS) leads to several important conclusions.

First, the inclusion of restorative justice in Article 54 of the KUHP reflects a paradigm shift in Indonesian criminal law. By requiring judges to consider forgiveness (*pemaafan*) from victims or their families, the KUHP demonstrates the state's intention to move away from retributive punishment and toward reconciliation and harmony. This is a progressive development compared to the colonial WvS, which had long dominated Indonesia's penal tradition. (Riyadi, 2024)

Second, the application of restorative justice to sexual violence cases creates a normative conflict and risks undermining victim protection. The UU TPKS, as *lex specialis*, explicitly prohibits non-judicial settlements in sexual violence cases. Allowing Article 54 of the KUHP to apply in such cases would not only create legal disharmony but also expose victims to secondary victimization, as documented in both Indonesian and international contexts. (Aslamiyah, 2025; Ferdiansyah et al., 2025)

Thus, in direct response to the research questions, this study concludes:

- a. The KUHP affirms restorative justice as a principle of Indonesian criminal law.
- b. However, its application must be normatively limited so as not to contradict the UU TPKS and endanger victims of sexual violence.

The novelty of this study lies in offering a prospective normative critique of the KUHP before it takes effect in 2026. By applying victimology and feminist legal theory, this article offers a critical framework that transcends descriptive analysis. Victimology highlights the dangers of re-traumatization, while feminist legal theory exposes how restorative processes can reproduce patriarchal power structures (Aziza & Nugroho, 2025; Triantono, 2023). These perspectives are rarely combined in Indonesian criminal law scholarship, making this study distinctive in both its theoretical approach and its policy relevance.

Academically, this article contributes to the discourse on law reform in Indonesia by situating restorative justice within global debates on gender-based violence. It demonstrates how the Indonesian context reflects broader international tensions over whether restorative justice can ever be compatible with crimes of sexual violence (Amaldy & Setiyono, 2024; Hamamah et al., 2025a). Practically, the study recommends three urgent reforms: (1) the enactment of implementing regulations that explicitly exclude sexual violence from restorative mechanisms, (2) the provision of trauma-informed training for police, prosecutors, and judges, and (3) the mandatory involvement of the Witness and Victim Protection Agency (LPSK) and professional counselors in any restorative process. These measures are essential to align the KUHP's restorative spirit with the protective mandate of the UU TPKS.

This study also acknowledges its limitations. As a normative legal study, it does not capture the lived experiences of victims or the practical challenges of implementing these policies. Future research should employ empirical and comparative methods, such as interviews with survivors and law enforcement officials, or cross-jurisdictional analyses of restorative justice in sexual violence cases. Such studies would complement the normative critique by providing concrete evidence of how restorative justice operates in practice, as suggested in recent feminist criminology literature. (Rohayati et al., n.d.; Zanubiya & Waluyo, Bambang Harefa, 2025)

In addition to these findings, the expanded discussion in this article further demonstrates that Indonesia's legal framework must adopt a more cautious and clearly defined approach when integrating restorative justice into the national penal system. Comparative analysis from various jurisdictions reveals a global consensus that sexual violence constitutes a category of crime requiring exceptional safeguards and that restorative mechanisms should only operate within strict boundaries, if at all. These international experiences reinforce the conclusion that the KUHP's restorative provisions cannot be applied uniformly across offences without risking harm to survivors.

The analysis of institutional and practical barriers also indicates that Indonesia is not yet equipped to implement restorative procedures safely in cases involving trauma and power asymmetry. Weak coordination, limited trauma-informed capacity, and strong socio-cultural pressure increase the likelihood that restorative justice will be misused in ways that contradict the goals of the UU TPKS. Therefore, establishing explicit exclusions in the KUHP—or, at the very least, issuing authoritative guidelines—is essential to prevent interpretive ambiguity once the Code becomes fully enforceable.

Ultimately, harmonizing the KUHP with the UU TPKS requires more than doctrinal adjustment; it demands a structural commitment to protecting survivors. Only by setting clear normative limits, strengthening institutional readiness, and affirming the primacy of victim-centered justice can Indonesia ensure that restorative ideals do not undermine the rights and dignity of those affected by sexual violence.

In conclusion, while restorative justice is an important innovation in the new KUHP, its scope must be carefully limited to avoid undermining the protection of sexual violence victims. Upholding the principle of *lex specialis derogat legi generali*, the UU TPKS must prevail in all sexual violence cases. Only through such normative clarity can Indonesia's criminal law reform achieve its dual objectives of justice and protection for victims.

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