



## Reformulation Of Punishment Objectives In The National Criminal Code: A Restorative Justice Perspective

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### ABSTRACT

This article examines the reformulation of sentencing objectives under the Indonesian National Criminal Code as regulated in Law Number 1 of 2023 by positioning restorative justice as its central analytical framework. The enactment of the new Criminal Code represents a response to long-standing critiques of the conventional punitive paradigm, which has largely been dominated by retributive and retaliatory approaches. Such a model is considered insufficient in addressing the needs of victims, restoring disrupted social relations, and promoting the rehabilitation of offenders. Consequently, the integration of restorative justice values into the objectives of sentencing constitutes a strategic effort to establish a more humane and equitable criminal justice system. This study employs a normative juridical method with statutory and conceptual approaches. The analysis focuses on provisions governing sentencing objectives within the National Criminal Code and evaluates their alignment with the principles of restorative justice as developed in contemporary criminal law discourse. Data were collected through library research, encompassing legislation, legal doctrines, and national scholarly journal articles addressing criminal law reform and restorative justice. The findings indicate that the National Criminal Code has incorporated a significant shift in sentencing objectives, moving beyond punishment-oriented models toward victim recovery, offender rehabilitation, and the preservation of social balance and harmony. Nevertheless, the practical implementation of restorative justice based sentencing objectives continues to face substantial challenges, particularly with regard to the readiness of law enforcement authorities, prevailing legal culture, and the need for more detailed and operational implementing regulations. Therefore, the reformulation of sentencing objectives within the National Criminal Code requires strengthened implementation policies to ensure that restorative justice principles are effectively realized in criminal justice practice.

## INTRODUCTION

Criminal law serves as a fundamental instrument within a nation's legal system, functioning to maintain social order, safeguard public interests, and uphold justice. Within the framework of a rule-of-law state, sentencing is not solely understood as a mechanism for punishing offenders, but also as a means of balancing the interests of individuals, victims, and society as a whole. Historically, criminal sentencing in Indonesia has been dominated by a retributive approach, emphasizing retaliation for unlawful acts, with the primary focus on inflicting suffering on offenders through imprisonment (Sahyana, 2020).

This retributive orientation has been criticized for its inability to adequately address the complex challenges of modern criminal justice systems. Incarceration, as the predominant form of punishment, often fails to rehabilitate offenders, provides limited avenues for victim recovery, and contributes to the problem of overcrowded correctional facilities. These conditions highlight that punishment-centered approaches tend to overlook the social and humanitarian dimensions of criminal acts (Mulyadi, 2023).

With the evolution of modern criminal law thought, crime is increasingly recognized not merely as a violation against the state, but as a social conflict that causes tangible harm to victims and communities. Consequently, criminal justice should extend beyond the imposition of penalties on offenders, encompassing the restoration of victims' losses and the repair of social relationships disrupted by crime (Nuroini, 2024). This perspective has given rise to the concept of restorative justice as an alternative approach to sentencing.

Restorative justice positions the victim, offender, and community as central actors in resolving criminal cases. The approach emphasizes dialogue, participation, and shared responsibility to restore conditions to their pre-offense state. Unlike conventional adversarial and state-centric criminal justice systems, restorative justice focuses on inclusive conflict resolution and substantive fairness (Wulandari & Maulana, 2025). In Indonesia, this concept has begun to gain serious attention, particularly in shaping a more humane and restorative-oriented law enforcement policy.

The emergence of restorative justice discourse in Indonesia is closely linked to the need for comprehensive criminal law reform. The Dutch colonial-era Criminal Code, which has long governed the country, is increasingly viewed as misaligned with Indonesian social values, cultural norms, and philosophical underpinnings. The legacy code is criticized for being repressive, individualistic, and providing limited space for alternative approaches to criminal case resolution (Irawati, 2019). Therefore, updating the Criminal Code has become a priority in national legal development.

The enactment of Law Number 1 of 2023 on the Indonesian National Criminal Code represents a pivotal milestone in the history of criminal law reform. The new Criminal Code not only replaces the colonial-era code but also introduces significant shifts in sentencing paradigms. Sentencing objectives under the National Criminal Code are no longer solely punitive; they also aim to protect society, rehabilitate offenders, restore victims, and maintain social balance (Arafat, 2025).

The reformulation of sentencing objectives demonstrates an effort to embed restorative justice principles within positive criminal law. This is reflected in provisions emphasizing crime prevention, offender reintegration, conflict resolution, and the restoration of social balance and public sense of justice (Sakti, 2024). Accordingly, sentencing is no longer narrowly conceived as a repressive tool but is understood as a means of social reconstruction.

This reformulation aligns with Indonesia's broader law enforcement policies, which increasingly prioritize restorative justice, particularly in handling minor offenses, juvenile cases, and specific types of crimes. The implementation of restorative justice by law enforcement institutions, such as the police and prosecution offices, indicates a shift from punitive measures toward more equitable and proportionate resolutions (Pramita, 2025). Nevertheless, challenges remain, encompassing regulatory, institutional, and cultural dimensions.

Despite the normative adoption of restorative justice within sentencing objectives, debates persist regarding the feasibility of fully implementing these principles in practice. Some argue that formal recognition of restorative justice does not necessarily translate into substantive changes in sentencing, particularly in the absence of clear technical regulations and operational guidelines. Furthermore, entrenched punitive legal cultures pose additional barriers to adoption.

Conversely, the reformulated sentencing objectives present substantial opportunities for developing a criminal justice system that is more responsive to victims' and communities' needs. By prioritizing restoration, the National Criminal Code has the potential to reduce reliance on imprisonment and promote alternative sanctions, such as community service, supervised probation, and restorative settlement mechanisms. This approach seeks to balance legal certainty, utility, and justice.

Philosophically, the reformulation reflects an effort to align criminal law with the values of Pancasila and the principles of just and civilized humanity. Restorative-oriented sentencing resonates with principles of deliberation, mutual cooperation, and social justice, which characterize Indonesian society (Widjaja, 2024). Hence, the updated Criminal Code is not only juridical but also ideological and sociological in nature.

Critically examining whether the National Criminal Code genuinely embodies restorative justice principles or merely symbolizes them is essential. Academic inquiry is required to assess the consistency between sentencing objectives and other criminal provisions, as well as the practical feasibility of implementation. Without thorough examination, the reformulation risks remaining a normative discourse with limited impact on the criminal justice system.

Based on these considerations, this study is relevant for a comprehensive analysis of the reformulation of sentencing objectives under the National Criminal Code from a restorative justice perspective. The research aims not only to understand normative changes but also to analyze the philosophical, juridical, and practical implications of applying restorative justice in sentencing. Consequently, the study is expected to contribute both theoretically and practically to the development of a more just and humane criminal law system in Indonesia. This introduction lays the groundwork for subsequent discussions on the evolving sentencing paradigm, the role of restorative justice in the National Criminal Code, implementation challenges, and prospects for strengthening restorative justice within Indonesia's criminal justice system.

## RESEARCH METHODOLOGY

This study employs a normative juridical research method, which emphasizes the examination of positive legal norms in force, as well as legal principles developed in doctrines and scholarly literature. This method is chosen because the research focuses on analyzing the reformulation of sentencing objectives under the Indonesian National Criminal Code (Law No. 1 of 2023) from the perspective of restorative justice, understood as a normative and philosophical concept within criminal law (Rizkia & Fardiansyah, 2023).

The research utilizes both the statutory approach and the conceptual approach. The statutory approach involves a thorough examination of provisions within the National Criminal Code that regulate sentencing objectives, along with their connection to penal policy and restorative justice principles. This approach is essential for understanding the legislative intent and the paradigm shift in sentencing introduced by the lawmakers. The conceptual approach, on the other hand, is used to analyze the theoretical underpinnings of restorative justice, the purposes of sentencing, and their relevance to the Indonesian criminal law system, drawing upon expert opinions and developments in modern criminal law thought.

The study relies on three categories of legal materials: primary, secondary, and tertiary sources. Primary sources consist of relevant legislation, particularly Law No. 1 of 2023 concerning the Indonesian National Criminal Code. Secondary sources include national scholarly journals, textbooks on criminal law, research reports, and scientific articles discussing criminal law reform and restorative justice. Tertiary sources comprise legal dictionaries, encyclopedias, and other reference materials that assist in clarifying legal terms and concepts.

Data collection was conducted through library research, involving the inventory, classification, and critical review of legal materials relevant to the research focus. All sources were systematically analyzed to explore the relationship between sentencing objectives in the National Criminal Code and restorative justice principles. This process considered normative consistency, legal reasoning, and potential implications for practical application in criminal proceedings.

The legal materials were analyzed using a qualitative normative approach, interpreting laws and doctrines through legal reasoning. The analysis included grammatical, systematic, and teleological interpretation of the sentencing provisions in the National Criminal Code, compared with restorative justice concepts. The results were presented in a descriptive-analytical format, providing a comprehensive overview of the reformulation of sentencing objectives and the challenges of implementing restorative justice in Indonesia's criminal justice system.

By employing this methodology, the study aims to offer a thorough and well-reasoned understanding of the position of restorative justice within the sentencing objectives of the National Criminal Code, as well as its contribution to developing a more just and humane criminal law system in Indonesia.

## DISCUSSION

### Shift in Sentencing Paradigm under the National Criminal Code

The enactment of the Indonesian National Criminal Code through Law No. 1 of 2023 represents a fundamental shift in the country's sentencing paradigm. Historically, the criminal justice system under the previous Criminal Code was largely dominated by a retributive approach, which viewed punishment primarily as a form of retaliation against offenders. This perspective positioned the state as the primary victim of crime, while actual victims often remained passive and received minimal attention within the judicial process. Consequently, sentencing objectives were predominantly focused on inflicting suffering on the offender through imprisonment, with insufficient consideration for victim recovery or social reconstruction.

The National Criminal Code introduces a broader and more balanced paradigm, formulating sentencing objectives that consider the interests of offenders, victims, and society alike. Provisions on sentencing objectives, as articulated in Articles 51 and 52, indicate that punishment is no longer solely intended as retribution. Instead, it also serves as a mechanism to educate and rehabilitate offenders so that they can reintegrate responsibly into society. Moreover, sentencing now encompasses restoring victims' losses and repairing social relationships disrupted by criminal acts (Arafat, 2025).

This formulation reflects a transition from a purely punishment-oriented framework toward a more rehabilitative and restorative approach. Sentencing is increasingly perceived not as the end point of law enforcement, but as part of a broader effort to resolve the social conflicts generated by crime. Success is measured not only by the severity of the sentence imposed, but also by the extent to which it prevents recidivism, restores victims' well-being, and re-establishes social harmony.

The new paradigm aligns with contemporary restorative justice principles in criminal law. Restorative justice views crime as an act that damages social relationships and causes tangible harm to victims and the community, requiring resolution that emphasizes repairing these harms. This approach underscores the active participation of offenders, victims, and community members in resolving criminal cases through dialogue, acknowledgment of wrongdoing, and the offender's accountability for the consequences of their actions (Salsabila & Wahyudi, 2022).

Within this framework, imprisonment is no longer the default punitive measure but rather a last resort, applied only when restorative efforts fail. Consequently, the National Criminal Code provides space for alternative forms of sanctions, including community service, probation, and restorative settlement mechanisms. Such measures are intended to reduce reliance on incarceration while promoting more constructive outcomes for both offenders and victims.

The shift in sentencing paradigm reflects an effort to align criminal law with humanitarian values and social justice embedded in Indonesian society. By integrating recovery and reconciliation into the objectives of punishment, the National Criminal Code aims to establish a criminal justice system that is not solely repressive but also solution-oriented and socially sustainable. However, the success of this paradigm shift depends heavily on consistent implementation by law enforcement agencies and societal acceptance of sentencing as a means of restoration rather than mere retribution.

### **Restorative Justice as a Moral Objective of Sentencing**

Restorative justice represents an approach in criminal law that views crime not merely as a violation of state law but as a social conflict causing harm and suffering to victims, offenders, and the community. Within this framework, the resolution of criminal cases is directed toward participatory and inclusive dialogue among all parties involved, with the primary goal of achieving mutual restoration and re-establishing social balance disrupted by criminal acts (Awaluddin, 2024). This approach emphasizes that justice is not solely reflected in the court's final decision but is also embedded in the process, which upholds human values and moral responsibility.

As a moral objective of sentencing, restorative justice asserts that punishment should substantively address the needs of victims. Victims are no longer merely witnesses in judicial proceedings but are recognized as central actors entitled to acknowledgment of both material and non-material harms they have suffered. This recognition includes providing victims with space to express their experiences, suffering, and expectations regarding case resolution. Consequently, sentencing is not solely oriented toward the state's interest in law enforcement but also toward restoring victims' dignity and sense of justice.

Restorative justice also provides offenders with the opportunity to assume meaningful responsibility for their actions. Accountability in this perspective extends beyond serving a sentence; it involves acknowledging wrongdoing, offering apologies, and taking concrete steps to repair harm to victims and the community. This process carries a strong moral dimension, as it encourages offenders to understand the social consequences of their behavior and fosters ethical awareness as part of their rehabilitation.

By adopting restorative justice, the role of punishment is broadened beyond traditional retributive and general deterrence goals. Sentencing is no longer merely a tool for instilling fear or discouraging crime but becomes an instrument to rebuild social relationships damaged by criminal acts. Social reconciliation emerges as a central objective, particularly in communities that value togetherness and social harmony. Success is measured by the achievement of lasting peace and the reduction of potential conflicts in the future.

Restorative justice as a moral objective aligns with humanitarian and social justice values foundational to the Indonesian legal system. This approach reflects an effort to integrate ethical and moral principles into positive criminal law, rendering sentencing not only legalistic but also socially meaningful. By prioritizing restoration, accountability, and reconciliation as moral goals, the criminal justice system is expected to deliver substantive justice that is tangibly experienced by all parties affected by criminal conduct.

### **3. Implementation of Restorative Justice Principles in Sentencing Objectives under the National Criminal Code**

The integration of restorative justice principles into sentencing objectives is a logical outcome of the paradigm shift introduced by the National Criminal Code. Once restorative justice is established as a moral aim of sentencing, the subsequent challenge lies in translating these principles into concrete practices within the positive criminal law system. The National Criminal Code provides a clear normative foundation by recognizing victim restoration, offender rehabilitation, and social balance as essential components of sentencing objectives, thereby opening the door for the practical application of restorative mechanisms in criminal proceedings (Wulandari, 2023).

In terms of implementation, restorative justice is not equated with the elimination of punishment, but rather serves as a guiding framework for determining the type, form, and purpose of proportional sanctions. Judges, when imposing sentences, are expected to consider not only the offender's culpability and potential penalties but also the impact of the crime on victims and society, as well as opportunities for restoration. This approach ensures that sentencing is more contextual and responsive to the specific circumstances of each case (Muksin, 2023).

The National Criminal Code also facilitates the development of alternative sanctions aligned with restorative justice principles, such as community service, supervised probation, and conditional sentences. These alternatives allow offenders to remain accountable for their actions without necessarily resorting to imprisonment, while simultaneously generating tangible social benefits. From a restorative perspective, such measures are considered more effective in promoting offender reintegration and preventing excessive stigmatization (Setiawan & Afita, 2025).

Moreover, the application of restorative justice in sentencing is reflected in law enforcement policies that increasingly emphasize dialogue-based and peace-oriented dispute resolution, particularly for certain types of offenses. Restorative practices implemented by law enforcement indicate that criminal conflicts do not always need to culminate in formal punishment; rather, they can be resolved through equitable agreements mutually accepted by victims and offenders. This policy approach aligns closely with the National Criminal Code's sentencing objectives, which stress restoration and social reconciliation.

Nonetheless, the implementation of restorative justice principles in sentencing faces several challenges. A major obstacle is the lack of uniform and comprehensive technical guidelines for applying restorative justice across all stages of the criminal justice system. Variations in understanding and interpretation among law enforcement personnel can create legal uncertainty and inconsistent application of restorative principles (Akbar, 2021).

In addition, entrenched punitive legal culture remains a significant barrier to optimal implementation. A portion of society continues to view imprisonment as the sole form of justice, leading to misunderstandings of restorative approaches as leniency or impunity for offenders. Consequently, the effective application of restorative-based sentencing requires a paradigm shift not only within law enforcement agencies but also at the societal level, fostering broader acceptance of punishment as a tool for restoration rather than mere retribution.

#### 4. Challenges and Prospects of Reformulating Sentencing Objectives Based on Restorative Justice

The reformulation of sentencing objectives in the National Criminal Code, which incorporates restorative justice principles, represents a progressive step in Indonesia's criminal law reform. Although normatively it provides a more humane and recovery-oriented direction, the practical implementation of restorative-based sentencing faces a range of structural, cultural, and institutional challenges. Identifying and addressing these challenges is crucial to ensure that the reformulation moves beyond normative statements and achieves effective application in criminal justice practice.

A primary challenge lies in the regulatory and institutional domain. While the National Criminal Code articulates sentencing objectives aligned with restorative justice, detailed technical regulations are still necessary to ensure consistent implementation. The absence of standardized operational guidelines can result in divergent interpretations among law enforcement personnel at various stages investigation, prosecution, and trial potentially creating legal uncertainty and undermining public trust in the criminal justice system.

Cultural factors also significantly influence the success of restorative sentencing reform. The prevailing legal culture remains heavily shaped by a retributive paradigm, in which imprisonment is viewed as the primary symbol of justice. This perception persists not only among the general public but also within law enforcement agencies. As a result, restorative approaches are sometimes misinterpreted as leniency toward offenders, rather than as mechanisms aimed at substantive justice and social repair (Akbar, 2021).

Another critical challenge involves the capacity and competence of law enforcement personnel in applying restorative justice principles. Effective implementation requires specialized skills, such as facilitating dialogue, conducting mediation, and understanding the psychological dynamics of both victims and offenders. Without adequate capacity building, restorative practices risk being reduced to procedural formalities, failing to achieve their intended objectives of restoration and social reconciliation.

On the other hand, the reformulation of sentencing objectives based on restorative justice presents significant prospects for the Indonesian criminal justice system. This approach has the potential to reduce dependence on imprisonment and help address overcrowding in correctional facilities. By promoting alternative sanctions that are more constructive, the sentencing system can generate positive outcomes for offenders, victims, and society at large (Nasution et al., 2024).

Another important prospect is the enhanced protection and recovery for victims. By positioning victims as central actors in the sentencing process, restorative justice ensures that their rights are more meaningfully fulfilled, through recognition of harm, restitution, and reconciliation. This aligns with the objectives of the National Criminal Code, which emphasize balancing legal certainty, societal benefit, and substantive justice.

## CONCLUSION

The reformulation of sentencing objectives in the National Criminal Code under Law Number 1 of 2023 reflects a significant paradigm shift within Indonesia's criminal justice system. Sentencing is no longer understood merely as a tool for retribution against offenders; instead, it aims for a more comprehensive set of objectives, including offender rehabilitation, victim restoration, and the preservation of social balance and harmony. This shift represents a move toward a more humane criminal law framework oriented toward substantive justice.

From a restorative justice perspective, the sentencing objectives of the National Criminal Code embody moral values that recognize victims, offenders, and the broader community as central participants in resolving criminal conflicts. Sentencing is positioned as a means of social reconciliation, promoting genuine accountability on the part of the offender while providing space for victim recovery. Consequently, the function of punishment is expanded beyond mere deterrence and retribution to serve as an instrument for

repairing social relationships damaged by criminal acts.

Despite the normative integration of restorative justice principles into sentencing objectives, practical implementation remains challenging, due to regulatory, institutional, and cultural factors. The lack of comprehensive technical guidelines, limited capacity among law enforcement personnel, and resistance to paradigm shifts in sentencing are among the primary obstacles to effective application of restorative justice.

Therefore, the successful realization of restorative-based sentencing objectives requires strengthened implementation policies, enhanced capacity building for law enforcement, and systematic efforts to cultivate a legal culture that supports restorative approaches. By undertaking these measures, the sentencing objectives of the National Criminal Code can be effectively operationalized, laying the foundation for a criminal justice system that is just, humane, and socially sustainable.

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