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From Sectoral Restorative Justice to Statutory Integration: A Maslahah-Based Safeguard Framework for Victims and Offenders in Indonesia

[1]Achyar Zein, [2]Afwan Al Habib, [2]Clara Amanda Putri
[1,2,3]Universitas Islam Negeri Sumatera Utara,
E-mail: [1]achyarzein@uinsu.ac.id, [2]habibrealme229@gmail.com, [3]claraamandaputri26@gmail.com

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Abstract

The incorporation of restorative justice into Indonesia's 2025 Criminal Procedure Code transforms it from a predominantly sectoral policy into a formal mechanism of criminal procedure. Stronger legality, however, does not automatically ensure welfare for victims and offenders. This study examines the post-2025 legal architecture of restorative justice and develops a maslahah-based set of safeguards against coerced reconciliation, marginalisation of victims, and case termination that is detached from genuine restoration. It applies normative legal research through statutory, conceptual, and functional comparative approaches, combining Indonesian law with recent scholarship on victim participation, offender accountability, risk, reparation, and reintegration. The findings show that the new Code regulates case eligibility, voluntariness, forms of restoration, performance of agreements, termination of proceedings, and judicial control, while operational protection and cross-institutional harmonisation remain unfinished. The article proposes a Restorative Maslahah Safeguard Framework consisting of four cumulative gates: legality and case eligibility, voluntariness and victim protection, accountable restoration by the offender, and legal validation with reintegration. Its novelty lies in translating maslahah from an abstract normative aspiration into a procedural test that balances victim restoration, offender responsibility, public interest, and legal certainty. The framework rejects the assumption that every settlement is restorative and treats protection as a condition of legitimate reconciliation.

I. INTRODUCTION

Restorative justice has become one of the most influential challenges to a criminal justice model organised mainly around prosecution, conviction, and punishment. Its central proposition is not that wrongdoing should be ignored, but that the response to crime should address the harm experienced by victims, require meaningful responsibility from offenders, and consider the social relationships affected by the offence. Contemporary research has moved beyond the early contrast between restoration and retribution. The more difficult questions now concern the quality of participation, the meaning of offender accountability, the safety of victims, the risk of institutional co-option, and the conditions under which a restorative process can be considered legitimate rather than merely informal or lenient (Daly, 2016; Olson & Sarver, 2022; Wood & Suzuki, 2024). This shift is important for Indonesia because restorative justice is no longer located only at the margins of criminal procedure.

Indonesia entered a new phase when Law No. 20 of 2025 on the Criminal Procedure Code became effective on 2 January 2026. Chapter IV formally regulates restorative justice across the stages of inquiry, investigation, prosecution, and trial. The Code identifies forms of restoration, requires an agreement, regulates its performance, defines general eligibility, prohibits coercion, excludes specified categories of offences, and introduces judicial control over termination at the investigation and prosecution stages. The reform changes the legal position of restorative justice. Before the new Code, the practice developed through institution-specific instruments, including Prosecutor Regulation No. 15 of 2020, Police Regulation No. 8 of 2021, and Supreme Court Regulation No. 1 of 2024. Those instruments were important innovations, but differences in criteria, authority, and procedure generated a fragmented architecture. Recent Indonesian scholarship therefore describes the 2025 Code as a move from sectoral discretion toward a stronger statutory basis, while also warning that discretion, implementing standards,

and institutional harmonisation remain contested (Pulungan & Situmorang, 2026; Hafid & Utomo, 2026; Putri & Laia, 2026).

The legal change also exposes a conceptual weakness in arguments that defend restorative justice simply because it can create a 'win-win' outcome or mutual welfare. A settlement may terminate a case while leaving the victim intimidated, undercompensated, uninformed, or pressured by family and community expectations. An apology may be formally expressed without genuine responsibility. Compensation may become a price for impunity rather than a form of repair. Conversely, an offender may accept obligations that are disproportionate or impossible to perform because the desire to avoid prosecution overwhelms meaningful consent. International evidence reinforces this caution. Victim benefits are real but not automatic; they depend on preparation, voluntariness, perceived fairness, safety, and the quality of dialogue (Nascimento, Andrade, & Rodrigues, 2023; Allan et al., 2022; van Mastrigt et al., 2025). The legitimacy of restorative justice therefore depends on safeguards, not on the existence of agreement alone.

This problem is especially relevant when restorative justice is assessed through the Islamic legal concept of maslahah. Previous scholarship has identified a normative affinity between restoration and the Islamic objective of securing benefit and preventing harm. Yet maslahah cannot function as a rhetorical label attached to any peaceful outcome. Islamic legal scholarship on restorative justice demonstrates that legal, moral, and spiritual considerations operate together, and that the protection of human claims requires attention to compensation, forgiveness, responsibility, and the distinction between private and public interests (Sodiqin, 2021). Contemporary Indonesian studies likewise connect restorative practices with sulh, islah, forgiveness, social restoration, and maqasid al-shariah, but they also stress that accountability and institutional oversight remain indispensable (Andiko, Nurdin, & Efrinaldi, 2024; Suparno, Rusli, & Hidarya, 2024). Maslahah should therefore operate as a discipline for evaluating restoration, not as a justification for uncritical compromise.

The literature reveals two bodies of work that have not yet been adequately integrated. The first examines restorative justice as a theory and practice of victim participation, offender accountability, procedural fairness, risk, and reintegration. This literature shows that restorative processes require more than agreement and that institutional design affects whether restoration actually occurs (Banwell-Moore, 2024; Shapland, Buchan, Kirkwood, & Zinsstag, 2024a; Wood & Suzuki, 2024). The second examines the rapidly changing Indonesian legal basis for restorative justice, particularly the transition from sectoral regulations to the 2025 Criminal Procedure Code and the need for implementing rules (Pulungan & Situmorang, 2026; Hafid & Utomo, 2026). Islamic-law studies add a third perspective by demonstrating the relevance of maslahah and maqasid but generally do not translate them into a concrete procedural test applicable across the integrated criminal justice process (Permana, Marpaung, & Harahap, 2025; Sodiqin, 2021).

The research gap lies at the intersection of these debates. What is still missing is a framework that explains how the value of maslahah should constrain and guide the statutory restorative mechanism after the 2025 reform. This is not merely a question of whether restorative justice is compatible with Islamic law, nor only a question of whether the new Code provides sufficient authority. The key question is how restoration can be operationalised so that victim protection, offender accountability, public interest, and legal certainty remain cumulative requirements throughout the process. The issue has become more urgent because Indonesia also enacted Law No. 3 of 2026 on the Protection of Witnesses and Victims, strengthening the legal environment for rights, restitution, compensation, and institutional protection of victims. A restorative process that ignores this new victim-protection architecture would be normatively incomplete.

This article addresses two research questions. First, how has the 2025 Criminal Procedure Code transformed the legal architecture of restorative justice from sectoral regulation into an integrated criminal-procedure mechanism? Second, how can maslahah be translated into operational safeguards that protect both victims and offenders without sacrificing public interest and legal certainty? The article's novelty is the Restorative Maslahah Safeguard Framework (RMSF), a four-gate model requiring: legality and case eligibility; voluntariness and victim protection; accountable restoration by the offender; and legal validation with reintegration. The contribution is both doctrinal and institutional. Doctrinally, the framework converts maslahah into a cumulative legal-procedural test. Institutionally, it provides a common language for

police, prosecutors, courts, victim-protection institutions, and facilitators as Indonesia moves from fragmented restorative policies toward a statutory system.

II. RESEARCH METHODS

This research uses normative legal research to examine the structure, coherence, and normative adequacy of restorative justice within Indonesia's current criminal justice system. The method is appropriate because the study does not attempt to measure settlement rates, recidivism, victim satisfaction, or the empirical performance of a particular police office, prosecutor's office, or court. Its purpose is to identify the applicable legal architecture after the 2025 reform, assess whether the architecture contains sufficient safeguards for victims and offenders, and construct a normative model based on maslahah and contemporary restorative justice scholarship. Statements concerning international empirical studies are used as evidence about possible design risks and benefits, not as proof that Indonesian institutions already produce the same outcomes.

Three approaches are combined. First, the statutory approach analyses Law No. 20 of 2025 on the Criminal Procedure Code, Law No. 1 of 2023 on the Criminal Code, Law No. 3 of 2026 on the Protection of Witnesses and Victims, and Law No. 11 of 2012 on the Juvenile Criminal Justice System. It also examines Prosecutor Regulation No. 15 of 2020, Police Regulation No. 8 of 2021, and Supreme Court Regulation No. 1 of 2024 as the principal sectoral instruments that shaped restorative practice before and during the transition to the new Code. Particular attention is paid to Articles 79-88 of the 2025 Criminal Procedure Code because they regulate restoration, agreements, eligibility, voluntariness, exclusions, stage-specific implementation, judicial determination, and further implementing regulation.

Second, the conceptual approach examines restorative justice, victim autonomy, procedural fairness, offender accountability, reparation, reintegration, maslahah, maqasid al-shariah, sulh, and public interest. The conceptual materials are not used to create a parallel moral system outside positive law. They function as evaluative tools for asking whether a formally valid restorative process also contains substantive safeguards. Islamic legal scholarship is used specifically to clarify why benefit must be assessed together with prevention of harm, protection of rights, and institutional responsibility. The analysis gives particular weight to recent Indonesian scholarship connecting restorative justice with Islamic legal reasoning and to literature that problematises victim participation, coercion, and offender accountability.

Third, a functional comparative approach is used to identify safeguards developed in recent international restorative justice research. The comparison is functional rather than transplant-oriented. This study does not propose importing foreign offence categories or institutional structures into Indonesia. Instead, it examines functions that any legitimate restorative process must perform, such as screening, informed participation, risk assessment, preparation, recognition of harm, accountability, proportional repair, documentation, and follow-up. Research from Victims & Offenders, Criminology & Criminal Justice, The International Journal of Restorative Justice, Contemporary Justice Review, Trauma, Violence, & Abuse, and related peer-reviewed journals is used for these functions (Nascimento et al., 2023; Wood & Suzuki, 2024; Banwell-Moore, 2024; Shapland et al., 2024b).

Secondary materials were prioritised from peer-reviewed journals published between 2021 and 2026, with a limited number of earlier foundational works retained when they define concepts that remain central. Indonesian studies were selected for relevance to the criminal justice framework, Islamic law, victim protection, or the post-2025 reform. International studies were selected where they provide empirical or conceptual evidence concerning victim participation, voluntariness, risk, accountability, and institutionalisation. The selection strategy prevents novelty from being constructed merely by comparing current law with outdated commentary and allows the analysis to engage with the most recent change in Indonesian criminal procedure.

The analysis proceeds in four stages. First, the legal materials are mapped according to eligibility, initiation, voluntariness, restoration, termination, victim rights, and judicial control. Second, systematic interpretation is used to examine the relationship between the new Code and sectoral instruments. Third, each legal function is evaluated against the four parameters derived from the literature: legality, protection, accountable restoration, and legal validation/public interest. Fourth, gaps identified through this process are synthesised into the Restorative Maslahah Safeguard Framework. The

proposed framework is therefore a normative construction. It is not described as existing law and does not claim empirical effectiveness before implementation and evaluation.

Argumentative validity is maintained through triangulation among primary legal sources, recent Indonesian legal scholarship, and international peer-reviewed research. Where the law establishes a mandatory limit, such as statutory exclusions, the model treats that limit as controlling rather than attempting to override it through maslahah. Where the law leaves operational discretion, the comparative literature is used to formulate safeguards. This hierarchy is important because a maslahah-based model should strengthen legality and rights, not become a free-standing justification for discretionary settlement. The method therefore separates positive-law description, critical evaluation, and prescriptive design throughout the article.

III. RESULTS

A. Statutory Integration Replaces a Predominantly Sectoral Architecture

The first result is that Indonesian restorative justice has undergone a structural change in legal status. Under the pre-2026 framework, police, prosecutors, and courts relied principally on institution-specific instruments. These instruments created important entry points, but their different institutional purposes meant that restorative justice could be understood differently at each stage. The 2025 Criminal Procedure Code provides a common statutory foundation. Article 79 recognises restoration through forgiveness, return of property, medical or psychological costs, compensation for losses, repair of damage, and other forms of monetary restoration. It requires the restoration to be expressed in an agreement, generally performed within seven days, and links performance of the agreement to termination and judicial determination. The same article confirms that restorative justice can operate at inquiry, investigation, prosecution, and trial stages.

This statutory design changes the legal question. The main issue is no longer whether individual agencies possess any legal basis to use restorative justice. The issue becomes how sectoral instruments should be interpreted and harmonised under the Code. Hafid and Utomo (2026) correctly identify the reform as an effort to strengthen legality, victim rights, harmonisation, and judicial control. Pulungan and Situmorang (2026) show, however, that stronger statutory recognition does not eliminate discretion. Decisions concerning suitability, the content of agreements, and the assessment of restoration still require legal judgment. The new architecture therefore reduces one form of fragmentation while creating a need for shared operational standards.

A second feature is the stronger connection between restorative agreement and judicial control. At the investigation and prosecution stages, the Code does not treat peace as a purely private basis for silently closing a case. Stage-specific provisions require written settlement documents and link termination to a court determination. This structure is important for legal certainty because it creates an institutional record and a potential check on arbitrary case termination. It also changes the meaning of restorative justice from informal discretion into a legally supervised pathway. Yet the quality of judicial control will depend on what the reviewing authority is expected to verify. If review is limited to the existence of signatures, it will not protect voluntariness, proportionality, victim rights, or performance of meaningful restoration.

B. Eligibility and Exclusions Create a Public-Law Boundary to Private Agreement

The second result is that the 2025 Code rejects the idea that every criminal case can be resolved through agreement. Article 80 defines general eligibility by reference to offence severity and offending history, while Article 82 expressly excludes categories such as national-security offences, terrorism, corruption, sexual violence, offences against life, offences carrying specified serious penalties, certain highly dangerous offences, and most narcotics offences other than users or abusers. These boundaries are normatively significant. They demonstrate that restorative justice is not equivalent to privatisation of prosecution. The victim and offender cannot, by agreement alone, remove the public interest that the legislature has chosen to protect through mandatory criminal process.

This statutory boundary also clarifies how maslahah should operate. A claim that reconciliation would benefit the immediate parties cannot displace a legislative judgment that particular offences involve broader public harm. This point is especially important because some earlier Indonesian debates considered restorative responses in corruption or other serious crimes. The current Code has made a policy choice that must be respected in ordinary application.

Maslahah therefore functions within legality. Its role is strongest where the law permits restorative justice and discretion remains concerning whether and how the mechanism should proceed. This approach prevents the concept from becoming a route around statutory exclusions.

Comparative evidence supports the need to distinguish legal eligibility from practical suitability. D'Souza and Shapland (2023) demonstrate that offence categories do not perfectly predict victim interest in restoration, while Shapland et al. (2024b) show that restorative practitioners often assess suitability through risk, responsibility, communication, and participant safety. Indonesian law may categorically exclude certain offences for public-policy reasons, but a legally eligible offence may still be unsuitable for a direct restorative process if coercion, threats, denial of responsibility, severe power imbalance, or inability to participate safely is present. This distinction is not yet fully operationalised in the statutory text and should be addressed in implementing standards.

C. Victim Protection Has Become a Central Legal Requirement, Not an Optional Ethical Addition

The third result concerns victims. Article 81 of the 2025 Criminal Procedure Code expressly prohibits pressure, coercion, intimidation, deception, threats of violence, violence, torture, and degrading treatment in restorative justice. This is a major normative safeguard because it recognises that agreement is legitimate only if participation is free. The provision should be read together with Law No. 3 of 2026 on the Protection of Witnesses and Victims, which strengthens the contemporary framework for protection, restitution, compensation, and institutional assistance. The combined effect is to place victim rights inside, rather than outside, the restorative process.

Nevertheless, a prohibition on coercion requires procedural translation. Social pressure can be subtle. A victim may face pressure from relatives, local leaders, employers, or the offender's supporters even when no formal threat is made. The victim may lack information about the consequences of settlement, available restitution, or the possibility of continuing prosecution. Research shows that meaningful victim participation depends on information, voice, preparation, and trust (Mohammad & Azman, 2021; Nascimento et al., 2023). Allan et al. (2022) further demonstrate why apparently restorative acts such as apology are experienced differently when voluntariness is doubtful. The legal result is that a restorative process should document not only consent but also the conditions under which consent was formed.

The forms of restoration in Article 79 also create an opportunity to move beyond symbolic reconciliation. Return of property, medical and psychological expenses, compensation, and repair of damage make victim loss a concrete part of the agreement. Yet these forms should not be reduced to a transactional payment. Sliva et al. (2024) show that some victims value dialogue because it can affect fear, anger, trauma appraisals, and satisfaction with justice. Van Mastrigt et al. (2025) similarly report generally positive participant assessments across different restorative formats, while also finding variation by participant and process. Restoration should therefore be tailored to lawful victim needs and should permit victims to decline direct contact while still accessing restitution or other appropriate forms of repair.

D. Offender Benefit Is Legitimate Only When Connected to Active Accountability

The fourth result is that restorative justice can produce legitimate benefits for offenders, including avoidance of unnecessary incarceration, reduced stigma, reintegration, and opportunities to repair harm. These benefits are consistent with a criminal justice system that treats punishment as one instrument rather than the only possible response. However, the legal benefit of case termination should be conditioned on accountable restoration. Wood and Suzuki (2024) show why accountability must involve an account of harm, acceptance of responsibility, and obligations to repair. Jonas-van Dijk et al. (2024) similarly connect restorative participation to learning, humanisation, and responsibility-taking when preparation and mediator competence are present. A settlement that merely purchases case closure without acknowledgment or meaningful repair is therefore weakly restorative.

This distinction is compatible with Islamic legal reasoning. Sodiqin (2021) identifies responsibility, compensation, forgiveness, repentance, and the relationship between human and divine claims as components of an Islamic restorative system. Permana et al. (2025) emphasise reconciliation and rehabilitation in juvenile justice while recognising the need for stronger regulation and professional implementation. The relevant principle is not

leniency toward the offender but transformation of responsibility. Offender dignity is preserved by allowing active repair and reintegration, while victim dignity is preserved by requiring that the offender confront the consequences of wrongdoing.

The requirement that an agreement be performed within the statutory period also reinforces this accountability logic. The legal effect should follow restoration, not merely a promise of restoration. The Code provides consequences when an agreement is not completed, allowing the case to continue and preserving documentation of what was or was not performed. This sequencing is normatively sound because it limits the risk that a victim relinquishes procedural leverage before receiving the agreed repair. Implementing standards should develop this logic further by distinguishing obligations capable of immediate performance from longer-term obligations and by specifying how partial performance, inability to pay, or non-monetary restoration should be assessed without discriminating against economically disadvantaged offenders.

E. The Remaining Gap Is Operational Harmonisation and a Common Safeguard Standard

The final result is that statutory integration remains incomplete at the operational level. Article 88 requires further regulation by Government Regulation. Recent Indonesian scholarship published after the Code entered into force identifies the absence of complete implementing standards as a continuing concern (Hafid & Utomo, 2026; Putri & Laia, 2026). At the same time, earlier police, prosecutorial, and judicial instruments continue to shape institutional practice. This transition creates a risk that the same case will be assessed according to different notions of restoration depending on the stage or institution handling it.

Four operational gaps are especially important. First, there is no fully unified screening protocol distinguishing legal eligibility from practical suitability and victim safety. Second, the minimum information that must be given to victims and offenders before consent is not yet standardised across institutions. Third, the substantive quality of restorative agreements, including accountability, proportionality, victim rights, and realistic performance, requires common benchmarks. Fourth, judicial validation needs a review standard that goes beyond document completeness. The principle of legality, which requires that the conditions of state action be knowable in advance, supports harmonisation: statutory integration will be meaningful only if parties can predict the safeguards that apply regardless of the institutional stage.

The results therefore reject two extreme positions. The first assumes that the new statutory basis has already solved the restorative justice problem. The second assumes that formalisation necessarily destroys restoration. The legal mapping shows a more nuanced position. The new Code provides stronger legitimacy, clearer boundaries, victim-oriented forms of repair, and judicial control. Its remaining challenge is to translate those legal elements into a consistent practice that remains voluntary, accountable, safe, and reviewable. That need provides the basis for the framework developed in the discussion.

IV. DISCUSSION

A. The Restorative Maslahah Safeguard Framework

The Restorative Maslahah Safeguard Framework (RMSF) is proposed as a cumulative four-gate model. A case should pass all four gates before restorative termination is treated as legitimate. The framework is deliberately cumulative because restorative justice can fail in different ways. A case may be legally eligible but unsafe for a victim. Participation may be voluntary but the offender may refuse meaningful responsibility. A well-designed agreement may still lack legal validation or conflict with public-law obligations. Maslahah is realised only when the process protects benefit and prevents harm across all of these dimensions. The framework therefore does not ask whether restorative justice is generally 'good.' It asks whether a particular restorative process satisfies the conditions required for lawful and balanced restoration.

This approach also responds to concerns about institutional co-option. Olson and Sarver (2022) show that restorative terminology can be adopted without restorative substance, while Banwell-Moore (2024) demonstrates that isolated reform cannot overcome systemic barriers. The RMSF gives institutions a shared set of questions that can be applied at inquiry, investigation, prosecution, and trial. It is not designed as a rigid checklist that replaces professional judgment. Rather, it identifies matters that professional judgment must address

and document. In this respect, it can support both discretion and accountability.

B. Gate One: Legality and Case Eligibility

The first gate asks whether the restorative mechanism is legally available and institutionally authorised. It requires verification of offence classification, statutory penalty, offending history, Article 82 exclusions, the current procedural stage, and the authority of the official facilitating or approving the process. This gate protects legal certainty and public interest. A restorative agreement cannot transform an excluded offence into an eligible one. Nor can institutional enthusiasm for settlement replace the principle of legality. The gate also requires identification of rights that cannot be waived by private agreement and of other proceedings or victim-protection obligations that may continue regardless of settlement.

The first gate should also separate eligibility from suitability. If a case is legally ineligible, the analysis ends. If it is legally eligible, the process moves to an individual suitability assessment. This distinction accommodates the insight from comparative research that risk and participant needs are not fully captured by offence labels (Shapland et al., 2024a; Shapland et al., 2024b). It also fits the current Indonesian structure, which uses statutory categories to protect public interests. The contribution of maslahah at this gate is disciplined restraint: benefit cannot be pursued through a mechanism the law prohibits.

C. Gate Two: Voluntariness and Victim Protection

The second gate asks whether participation is genuinely voluntary and whether the victim can engage without unacceptable risk. At a minimum, each party should receive clear information about the restorative process, its alternatives, the legal consequences of agreement and non-agreement, confidentiality, available victim services, possible restitution, and the right to decline direct dialogue. Screening should occur individually, away from the other party and influential third parties. The facilitator should assess intimidation, dependency, power imbalance, mental or communication barriers, and whether a victim requires an advocate, legal adviser, interpreter, psychological support, or LPSK-related protection. Consent should be revisable until the agreement is finalised.

This gate gives practical meaning to Article 81's prohibition of pressure and coercion. It also reflects evidence that victims value voice, understanding, and safety rather than settlement alone (Mohammad & Azman, 2021; Nascimento et al., 2023). The gate rejects the assumption that forgiveness is always the most virtuous outcome. In Islamic legal reasoning, forgiveness may have significant moral value, but moral value is undermined when it is compelled. Maslahah requires prevention of new harm. A victim who freely chooses not to meet an offender should not lose access to restitution, protection, or other legal rights. Restorative justice should expand agency rather than create a new social duty to forgive.

Special care is required where community involvement is proposed. Community participation can support reintegration and social repair, but it can also reproduce local power hierarchies. Andiko et al. (2024) show how customary deliberation can be consistent with maqasid when compensation, consent, harmony, and proportionality are maintained. The transferable lesson is that community norms must be filtered through rights and voluntariness. Community participation is valuable when it supports the parties, not when it substitutes collective pressure for individual consent.

D. Gate Three: Accountable Restoration by the Offender

The third gate requires more than a promise to make peace. It asks whether the offender has engaged in accountable restoration. Drawing on Wood and Suzuki (2024), this involves three connected elements: explaining the conduct and its consequences, accepting responsibility for the wrong and harm, and undertaking obligations capable of repairing that harm. The obligations may include return of property, compensation, treatment costs, repair of damage, apology, community-based commitments, or other lawful forms identified by the parties. What matters is the relationship between the actual harm and the restorative obligation.

This gate protects both victims and offenders. For victims, it reduces the risk that settlement becomes symbolic case closure with no real repair. For offenders, it prevents restorative justice from turning into an unlimited bargaining process in which economically powerful victims or communities impose excessive demands. Proportionality should consider the nature of harm, the offender's actual capacity, and the distinction between restitution and punishment. Economic inability should not automatically make an offender ineligible for restoration if meaningful

non-monetary forms of repair are available. Conversely, wealth should not allow an offender to buy impunity through compensation while denying responsibility.

The maslahah rationale is especially clear here. Protection of property and dignity supports compensation and repair; protection of social relations supports reconciliation; protection of moral agency supports repentance and responsibility; and prevention of future harm supports rehabilitation and reintegration. Mpofu, Mkhize, and Akpan (2024) identify empathy, remorse, dignity, and social connection as relevant to offender rehabilitation, while Jonas-van Dijk et al. (2024) show how constructive interaction and learning processes can support psychological outcomes associated with responsibility. These findings do not prove that every restorative process changes behaviour, but they justify designing the process to create conditions for meaningful accountability rather than merely avoiding punishment.

E. Gate Four: Legal Validation, Performance, and Reintegration

The fourth gate connects the restorative agreement back to the legal system. It requires verification that the written agreement accurately reflects the parties' understanding, that required restoration has been performed or lawfully structured, that victim rights have not been waived through coercion or misinformation, and that statutory procedures for termination and judicial determination are satisfied. Judicial control should verify the substance of consent and performance in a proportionate manner. The purpose is not to re-try the case, but to ensure that restorative termination is legally justified and that the agreement does not conceal abuse of authority.

This gate also adds a follow-up dimension. A restorative process can fail after agreement if compensation is not paid, protective conditions collapse, or reintegration is ignored. The statutory seven-day performance rule is clear for immediate obligations, but more complex agreements may require carefully structured implementation. Where longer-term measures are legally permissible, the implementing framework should specify monitoring and consequences. Victims should know who is responsible for follow-up, while offenders should know when their obligations are complete. Legal certainty is produced not by maximal documentation but by clarity of responsibility.

Reintegration is included because restorative justice should not end with a transaction between victim and offender. The state and community have an interest in reducing exclusion and supporting lawful future conduct. At the same time, reintegration cannot require the victim to maintain contact with the offender. The interests of victim recovery and offender reintegration may intersect without becoming identical. This distinction helps correct the overly simple language of mutual welfare. A legitimate process may create different but compatible forms of benefit: repair and voice for the victim, responsibility and reintegration for the offender, reduced conflict for the community, and accountable case resolution for the justice system.

F. Summary of the Four Gates

Table 1. The Restorative Maslahah Safeguard Framework

Gate	Core Question	Minimum Safeguards	Maslahah Rationale
Gate One: Legality and eligibility	Is restorative justice legally available and is the official authorised?	Verification of offence, penalty, history, Article 82 exclusions, stage, and authority; separation of eligibility from suitability	Benefit cannot be pursued through prohibited means; protection of public interest
Gate Two: Voluntariness and victim protection	Is participation free, informed, and safe?	Individual screening; information on alternatives and consequences; risk assessment; support and advocacy; revisable consent; option of indirect process	Prevention of new harm; protection of dignity and autonomy
Gate Three: Accountable restoration	Has the offender acknowledged harm and undertaken proportionate repair?	Account of conduct; acceptance of responsibility; repair plan linked to harm and capacity; non-monetary options	Protection of property and dignity; repentance and rehabilitation
Gate Four: Validation, performance, reintegration	Is the agreement lawful, performed, and reviewable?	Substantive judicial review of consent and performance; documentation; follow-up responsibilities; reintegration support	Legal certainty; durable restoration; prevention of future harm

Table 1 summarises the framework. The gates are cumulative: failure at any gate means that restorative termination should not proceed,

although the case may continue through ordinary prosecution or through other victim-protection mechanisms. The table also shows how each gate links a legal requirement to a specific dimension of maslahah, which allows officials to explain their decisions in terms that are legally grounded and normatively coherent.

G. Maslahah as a Constraint on Restorative Discretion

The framework's principal theoretical contribution is to treat maslahah as a constraint on discretion rather than as a broad permission to settle. A benefit is not legally or ethically sufficient if it is produced by serious harm to another protected interest. This is consistent with the maqasid orientation toward preserving life, intellect, family or lineage, property, religion, and human dignity, as developed in contemporary legal reasoning. Sodiqin (2021) shows that Islamic restorative justice must balance protection, access, rights, and obligations. Permana et al. (2025) connect restorative justice with maqasid in juvenile criminal law. Auda (2008) and Kamali (2008) illustrate the broader methodological point that maqasid analysis can be operationalised through institutional design and legal certainty rather than through open-ended appeals to benefit. The RMSF applies that methodological insight to criminal procedure.

This conception also protects the public character of criminal law. The victim is central but not the sole bearer of legal interest in every offence. Article 82's exclusions embody a legislative assessment that some harms exceed the sphere of private settlement. The framework respects those exclusions and, within eligible cases, asks whether the restorative result undermines equality, creates discriminatory access, or permits powerful offenders to obtain benefits unavailable to others. Ismail et al. (2024) underline the need to connect restorative justice with human-rights protection. The same requirement is embedded here: maslahah must be compatible with equality before the law and with the strengthened victim-protection framework of 2026.

H. Power Imbalance and Vulnerable Victims

The framework must be applied with particular care where victims are in positions of structural vulnerability. Although Article 82 excludes sexual violence from restorative termination, many eligible offences, such as minor assaults, threats, property damage, and fraud, may occur within relationships of dependency, including between employers and domestic workers, landlords and tenants, creditors and debtors, or members of the same extended family. In such relationships, the formal absence of coercion may coexist with strong informal pressure. A victim may agree to settle because continued employment, housing, or family harmony depends on it.

Comparative research on risk in restorative justice emphasises that facilitators must look beyond offence categories to the dynamics between participants (Shapland et al., 2024a). Gate Two of the framework therefore requires attention to dependency and power imbalance as well as to overt threats. Where such imbalance is identified, the process should be adapted, for example by using indirect communication, involving an independent advocate, or deferring the process until protective measures are in place, or it should not proceed. The strengthened victim-protection framework under Law No. 3 of 2026 provides institutional resources for such measures. From the perspective of maslahah, a settlement that leaves a dependent victim more exposed to the offender's power cannot be regarded as producing benefit, regardless of the compensation agreed.

Economic inequality between offenders raises a related concern. If restorative termination depends on the payment of compensation, wealthier offenders may obtain case termination more easily than poorer offenders who have committed similar acts. This would conflict with the principle of equality before the law and would undermine public confidence in restorative justice. Gate Three addresses this risk by requiring that repair be proportionate to the offender's capacity and by recognising non-monetary forms of restoration, while Gate Four requires judicial attention to whether access to restorative outcomes is being distributed fairly.

I. Technology-Facilitated Offences

The growth of technology-facilitated offences, such as online fraud, defamation, harassment, and unauthorised access, presents new questions for restorative practice. Victims of cyber offences may never have met the offender, may be numerous, and may experience harm that is diffuse but persistent, such as reputational damage or anxiety about further victimisation. Robalo and Abdul Rahim (2023) examine the potential of victim-offender panels for cyber victimisation and suggest that restorative approaches can address the need for acknowledgment and understanding

that conventional prosecution often leaves unmet, provided that processes are adapted to the specific dynamics of online harm.

For Indonesia, where a significant share of criminal complaints now concern online conduct, the framework offers a structure for such adaptations. Gate One requires attention to whether the specific offence is eligible and whether multiple victims are involved, since a settlement with one victim cannot extinguish the claims of others. Gate Two requires consideration of whether direct contact is appropriate or whether indirect forms of dialogue are preferable. Gate Three requires that repair address the actual harm, which in online cases may include removal of content, public correction, or cooperation in remedying security breaches, in addition to compensation. Gate Four requires documentation that allows subsequent victims or authorities to know what was agreed. These adaptations illustrate that the framework is not tied to a particular type of offence but provides a method for evaluating restoration across contexts.

J. Between Institutionalisation and Transformation

A final theoretical issue concerns the tension between institutionalisation and the transformative aspirations of restorative justice. Rossner and Taylor (2024) argue that the most transformative potential of restorative justice has often been realised at the margins of criminal justice systems, in community-based and innovative programmes, and that mainstream institutionalisation risks diluting this potential. Their analysis suggests that the mainstream can learn from the margins by preserving the relational, participatory, and needs-oriented features of restorative practice.

The Indonesian reform places restorative justice at the centre of criminal procedure, which brings the benefits of legality and consistency but also the risks that Rossner and Taylor identify. The framework proposed here seeks to manage this tension. It uses legal gates to ensure legality and protection, but its substantive requirements, namely voluntariness, accountability, proportionate repair, and reintegration, are drawn from the relational core of restorative justice. In this sense, maslahah functions as a bridge: it provides a legal-normative language that can discipline institutional practice while preserving attention to the actual welfare of the people involved. Whether this balance is achieved in practice will depend on training, institutional culture, and continuing evaluation, as Banwell-Moore (2024) and Butler et al. (2024) emphasise.

K. Institutional Harmonisation and an Agenda for Implementation

The RMSF can support the implementing regulation required by Article 88. A national standard should define minimum screening, information, documentation, agreement, performance, and review requirements that apply across police, prosecution, and courts. Sector-specific procedures may remain where institutional functions differ, but they should operate within common safeguards. This would respond to the harmonisation concerns identified by Pulungan and Situmorang (2026), Hafid and Utomo (2026), and Putri and Laia (2026). It would also reduce the risk that restorative justice changes meaning when a case moves from one institution to another.

A practical implementation protocol could require a short eligibility record at Gate One, separate informed-consent and risk forms at Gate Two, an accountability-and-repair plan at Gate Three, and a validation/performance record at Gate Four. Sensitive victim information should be protected and not unnecessarily reproduced in the case file. Where victim protection or restitution requires coordination with LPSK, that pathway should be explicitly available. Facilitators and law-enforcement officers need training not only in negotiation but in trauma-informed communication, power imbalance, victim rights, restorative accountability, and the legal effect of agreements. Institutional performance indicators should likewise move beyond the number of cases terminated and include completion of restoration, participant understanding, absence of coercion, compliance, and repeat complaints.

The framework should be empirically tested before being treated as a national best practice. Pilot evaluation could examine whether participants understand their choices, whether victims feel safe and heard, whether offenders perceive the process as requiring responsibility rather than purchasing leniency, whether agreements are completed, and whether judicial review detects procedural problems. Research such as van Mastrigt et al. (2025), Nascimento et al. (2023), and Sliva et al. (2024) demonstrates the value of measuring participant-centred outcomes rather than relying solely on case closure. Indonesian research should similarly examine variation by offence type, region, socioeconomic

status, gender, legal representation, and institutional stage.

The limits of the proposed model must be clear. This is a normative framework derived from law and scholarship. It does not establish that the RMSF will increase settlement, reduce recidivism, or improve victim well-being in Indonesia. Those are empirical questions. Its value lies in specifying what should be protected before such outcomes are evaluated. By identifying legality, voluntariness, accountability, and validation as cumulative gates, the framework offers a testable institutional design for the current transition. It transforms the original idea of 'common good for offender and victim' into a more defensible proposition: restorative justice can serve maslahah only when benefit is produced through lawful, voluntary, accountable, and rights-protective restoration.

V. CONCLUSION AND RECOMMENDATIONS

This study concludes that Indonesia's restorative justice architecture has entered a fundamentally different phase following the entry into force of Law No. 20 of 2025 on the Criminal Procedure Code. Restorative justice is no longer supported mainly by separate institutional regulations. It now has a statutory framework that recognises restoration, specifies forms of repair, defines general eligibility, prohibits coercion, establishes exclusions, regulates implementation across procedural stages, and connects case termination with judicial control. This change improves legality and creates the possibility of a more coherent criminal justice policy. It does not, however, guarantee that every restorative agreement will be fair, safe, or genuinely restorative.

The central finding is that the legitimacy of restorative justice depends on cumulative safeguards. Legal eligibility must be distinguished from practical suitability. Victim consent must be informed, continuing, and protected from overt and subtle coercion. Offender benefit must be linked to active accountability and proportionate repair. Agreement and performance must be subject to legal validation, while public interests and statutory exclusions remain controlling. Law No. 3 of 2026 on the Protection of Witnesses and Victims strengthens this conclusion by placing victim rights, restitution, compensation, and protection within the contemporary legal environment in which restorative justice operates.

The article's principal contribution is the Restorative Maslahah Safeguard Framework. Gate One verifies legality and case eligibility. Gate Two protects voluntariness, information, and victim safety. Gate Three requires accountable restoration rather than symbolic settlement or purchased impunity. Gate Four connects the agreement to legal validation, performance, and reintegration. The framework translates maslahah from a general aspiration of mutual welfare into an operational legal test. It also clarifies that benefit for victim and offender need not be identical. Victim restoration, offender responsibility, community stability, and legal certainty are compatible only when no protected interest is sacrificed through coercion or illegality.

Indonesia should use the implementing regulation mandated by Article 88 to harmonise the restorative standards of police, prosecutors, and courts. The regulation should establish minimum requirements for screening, informed consent, risk assessment, victim information, restorative agreements, documentation, performance verification, judicial review, and coordination with victim-protection institutions. Existing sectoral regulations should be reviewed for compatibility with the new Code and retained only to the extent that their more detailed procedures remain consistent with the statutory framework. Training should focus on victim rights, trauma-informed communication, power imbalance, offender accountability, proportionality, and the distinction between legal eligibility and restorative suitability.

The study is limited by its normative design. It does not measure implementation after the 2025 reform or the experiences of victims, offenders, investigators, prosecutors, judges, lawyers, facilitators, or LPSK personnel. Future research should therefore test the four-gate framework through pilot implementation and comparative empirical studies. Evaluation should measure informed participation, perceived safety and fairness, quality and completion of repair, judicial consistency, repeat offending, victim well-being, and equality of access. Such evidence will be necessary to determine whether statutory integration becomes substantive restoration in practice. The future of restorative justice in Indonesia should be judged not by how many cases are closed through peace agreements, but by whether the process restores harm while preserving dignity, responsibility, public interest, and the rule of law.

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