
Reconstruction of the Functional Relationship Between Criminal Procedure Law and Material Criminal Law from the Perspective of the National Criminal Code and the Latest Criminal Procedure Code

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ABSTRACT

The reform of Indonesia's criminal law system through the enactment of Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code represents a significant transformation in the development of the national criminal justice system. However, changes to substantive criminal law have not been fully synchronized with procedural mechanisms, creating potential challenges in determining criminal liability, administering evidence, and applying restorative justice principles. This research aimed to analyze the functional relationship between substantive criminal law and criminal procedure law and to formulate a reconstruction framework that supports an integrated criminal justice system. This study employed a normative legal research method using statutory, conceptual, and legal-system approaches. The legal sources consisted of primary legal materials, including relevant legislation, and secondary legal materials derived from scholarly publications, legal literature, and expert opinions. The legal materials were analyzed qualitatively using grammatical, systematic, and teleological methods of interpretation. The results indicate that, although the new Criminal Code introduces progressive concepts, such as expanded corporate criminal liability, recognition of living law, and restorative justice-oriented sentencing objectives, the Criminal Procedure Code does not yet provide adequate procedural mechanisms to fully support these developments. The findings emphasize the need for harmonization through the adoption of implementing regulations, the strengthening of evidentiary procedures, the enhancement of judicial oversight, and the integration of restorative justice mechanisms. This research concludes that reconstructing the functional relationship between substantive criminal law and criminal procedure law is essential to establishing a consistent, proportionate, and human rights-based criminal justice system in Indonesia.

Keywords: Criminal Law Reconstruction; Functional Relationship; Criminal Code 2023; Criminal Procedure Code 2025

INTRODUCTION

The enactment of Law Number 1 of 2023 concerning the Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP) represents an important milestone in Indonesian criminal law policy because the new Criminal Code entirely replaces the *Wetboek van Strafrecht* (WvS), the colonial criminal code that had been in force for more than a century. The new Criminal Code strengthens the foundation of national criminal law thought, which is more deeply rooted in the values of Pancasila and the 1945 Constitution of the Republic of Indonesia (Prameswari, 2026), and emphasizes broader sentencing objectives through Articles 51 to 54 of the Criminal Code, including crime prevention, offender rehabilitation, conflict resolution, restoration of social balance, and the maintenance of public security. These provisions indicate a shift from a classical retributive orientation toward a more corrective and restorative approach. (Boullé, 2013) This transformation is not merely normative but also affects the structure of substantive criminal law principles, such as the

provisions on corporate criminal liability under Articles 45 to 50 of the Criminal Code, which expand the scope of criminal liability beyond individuals, and the legality principle under Article 1 paragraph (1) of the Criminal Code, which remains applicable but is reformulated through the recognition of living law in society under Article 2 of the Criminal Code (Erwanti, 2024).

The new Criminal Code also introduces a diversified range of criminal sanctions and sentencing approaches, including supervision and community service orders, all of which require responsive and coherent procedural mechanisms (Malau, 2023). On the other hand, the enactment of Law Number 20 of 2025 concerning the Criminal Procedure Code (Kitab Undang-Undang Hukum Acara Pidana or KUHAP), which replaced Law Number 8 of 1981 and entered into force on January 2, 2026, concurrently with the new Criminal Code, demonstrates the legislators' awareness of the need to synchronize substantive criminal law and criminal procedure law (Iriawan, 2026). The new Criminal Procedure Code was designed to uphold the principle of due process, strengthen the rights of suspects and defendants, and align criminal law enforcement practices with contemporary legal standards. For example, it expands the definition of a witness under Article 1 paragraph (47) of the Criminal Procedure Code, establishes restorative justice mechanisms at various stages of criminal proceedings, and updates provisions concerning detention and coercive measures to strengthen legal protection and human rights safeguards (Ningsih, 2025).

Although the enactment of the new Criminal Procedure Code and Criminal Code is presented as a comprehensive reform of the national criminal justice system aimed at improving the quality of law enforcement, several structural issues require further theoretical examination. The inconsistency between corporate criminal liability provisions and procedural norms governing non-conventional legal subjects in the Criminal Code, for instance, may create a gap between substantive demands for criminal accountability and the evidentiary mechanisms available under the Criminal Procedure Code. This imbalance becomes increasingly apparent when examined alongside the legality principle in the Criminal Code, which requires clarity regarding criminal offenses and sanctions (Hasibuan, 2024). Meanwhile, the evidentiary provisions in the Criminal Procedure Code, which rely on sufficient evidence and formal procedural requirements, may not yet be fully designed to address the complexity of proving corporate crimes and other contemporary criminal cases (Fransisca, 2025). This condition raises academic questions regarding the harmonization between the substantive objectives of the Criminal Code and its procedural framework to ensure that the objectives of criminal punishment are not undermined during judicial proceedings.

Furthermore, the inconsistency between restorative sentencing objectives and historically adversarial judicial procedures that emphasize formal proof may create significant challenges in implementation. Although the Criminal Code incorporates restoration and conflict resolution as elements of sentencing objectives, reliance on conventional evidentiary models in court proceedings may limit the realization of these objectives, particularly within a restorative justice framework that requires procedural flexibility and active participation from victims, offenders, and communities (Padang, 2024). Moreover, the development of human rights protection norms under the Criminal Code and Criminal Procedure Code is closely connected to Article 28D of the 1945 Constitution of the

Republic of Indonesia, which guarantees every person's right to fair legal proceedings and equal treatment before the law (Siringoringo, 2022a).

A relevant theoretical framework for understanding the functional relationship between substantive criminal law and criminal procedure law must move beyond the traditional perspective that regards these two legal regimes as separate and autonomous entities. Modern approaches, such as the integrated criminal justice system approach, position criminal procedure law not merely as a technical mechanism but as an instrument for realizing, regulating, and controlling the effectiveness of substantive criminal law (Kristian, 2017). From this perspective, partial reforms that focus solely on amendments to one legal regime without a consistent reconstruction of the other may generate systemic imbalances that undermine legal certainty, substantive justice, and the broader objectives of criminal law policy. Therefore, the need to reconstruct the functional relationship between the Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP) and the Criminal Procedure Code (Kitab Undang-Undang Hukum Acara Pidana or KUHAP) is not merely a normative concern but also a theoretical and systemic necessity for establishing an effective, fair, and proportionate criminal justice system.

The urgency of research on the functional relationship between these two legal regimes is further reinforced by the limited number of comprehensive studies that systematically examine the integration of Criminal Code norms and Criminal Procedure Code mechanisms within the context of their implementation in Indonesia after January 2, 2026. This research is expected to contribute significantly to the development of systemic criminal law theory while providing normative recommendations for legislators and judicial practitioners to align substantive criminal law policy with consistent, fair, and just criminal law enforcement procedures.

METHOD

This research employed a normative juridical method to examine the legal relationship between substantive criminal law and criminal procedure law in Indonesia. The legal materials were selected purposively, consisting of primary legal materials, including Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code, as well as secondary legal materials comprising scientific journals, legal literature, expert opinions, and relevant academic publications. The materials were selected based on their relevance, authority, and contribution to addressing the reconstruction of the functional relationship between substantive and procedural criminal law.

Data were collected through library research involving the review of statutory regulations, legal documents, scholarly articles, books, and other relevant references. The research process included identifying legal issues, collecting and categorizing legal materials, analyzing the synchronization between substantive and procedural criminal law provisions, and formulating legal reconstruction recommendations based on normative and theoretical considerations. The validity of the analysis was ensured through the use of authoritative legal sources and consistent legal interpretation.

The collected legal materials were analyzed qualitatively using statutory and conceptual approaches. Statutory interpretation, including grammatical, systematic, and teleological

interpretation, was applied to examine the consistency and harmonization between the Criminal Code and the Criminal Procedure Code. In addition, conceptual analysis was conducted using relevant legal principles and theories, including the legality principle, due process of law, criminal liability, restorative justice, and the integrated criminal justice system. The findings were presented descriptively and analytically to provide a comprehensive understanding of the functional relationship between substantive criminal law and criminal procedure law and to formulate recommendations for strengthening Indonesia's criminal justice system.

RESULTS AND DISCUSSION

Normative Construction of the Relationship between Material Criminal Law in Law Number 1 of 2023 and Criminal Procedure Law in Law Number 20 of 2025

As the cornerstone of the national criminal law system, the normative construction on the connection between material criminal law in Law Number 1 of 2023 concerning criminal procedure and criminal procedural law in Law Number 20 of 2025 about the Criminal Procedure Code the Criminal Code must begin with the legality principle. The Criminal Code's Article 1, paragraph (1) highlights that an act cannot be penalized unless it violates pre-existing rules and regulations, which is the embodiment of the principles of *lex scripta*, *lex certa*, and *lex stricta*. (Musdalifah, 2025) However, Article 2 of the Criminal Code opens up space for recognition of living laws in society as long as they are in accordance with the values of Pancasila and general legal principles recognized by nations, thus broadening the normative horizon of material criminal law. (Ramadhani, 2024) This expansion requires procedural guarantees in the Criminal Procedure Code (KUHAP) to ensure that the application of the existing law does not disregard legal certainty and the rights of suspects. Therefore, the evidentiary mechanisms and examinations in court must remain subject to objective, transparent, and adversarially verifiable evidentiary standards.

The Criminal Code's Articles 51 to 54 outline the goals of criminal punishment, which show a paradigm shift from retributive to corrective, preventive, and restorative. The Criminal Code's Article 51 makes it clear that the goals of punishment are to deter crime, rehabilitate offenders, settle disputes, restore equilibrium, and promote a sense of security in society (Latifah, 2025). This formulation demands that criminal procedure law not solely focus on proving guilt and imposing penalties, but also provide procedural space for mechanisms for recovery and conflict resolution. Therefore, the provisions of the Criminal Procedure Code (KUHAP) governing the suspect's right to legal assistance from the investigation stage, the right not to be tortured, and the right to present a defense must be read as instruments ensuring that the humanistic objectives of criminal punishment are not diminished by repressive procedural practices (Daharis, 2024).

Regarding criminal liability, Articles 45 to 50 of the Criminal Code stipulate that corporations can be subjects of criminal activities, including figuring out who is responsible and what kinds of punishments are appropriate. This broadening of topics related to criminal law has direct implications for criminal procedure law, particularly regarding investigations, prosecutions, and the presentation of evidence against non-individual entities (Profianto, 2025). The Criminal Procedure Code must provide mechanisms for summons, examinations, document seizures, and the presentation of evidence relevant to the characteristics of

corporations as collective legal subjects. Without adequate procedural adjustments, the material norms regarding corporate liability will potentially be difficult to implement effectively, resulting in an imbalance between the expansion of prohibitive norms and the capacity of the criminal procedure system to enforce them.

The evidence framework outlined in the Criminal Procedure Code (KUHAP) is also crucial to the application of material rules in the criminal justice system. The rule that a judge cannot sentence someone without at least two reliable pieces of evidence and the judge's conviction is at the heart of due process of law in the Indonesian evidentiary system. (Hadi, 2025) Provisions regarding evidence, the examination of witnesses, experts, letters, instructions, and defendants' statements must accommodate the complexity of modern crimes as formulated in the new Criminal Code. (Mohamad, 2025) Thus, horizontal synchronization between the expansion of forms of accountability in the Criminal Code and the regulation of evidence in the KUHAP is a normative necessity to ensure that the principle of legality is not diminished by procedural weaknesses.

In addition to the evidentiary system, provisions regarding coercive measures in the KUHAP, such as arrest, detention, search, and seizure, must be analyzed in relation to the principle of proportionality and the purpose of punishment in the KUHAP. (Rahmania, 2025) The principle of human rights protection found The right to recognition is guaranteed in Article 28D, paragraph (1) of the Republic of Indonesia's 1945 Constitution, guarantee, protection, and fair legal certainty, may be violated by coercive measures implemented without effective judicial control (Siringoringo, 2022b). Therefore, procedural norms in the Criminal Procedure Code must be understood as a balancing mechanism against the state's repressive authority in implementing material criminal norms.

The normative construction of the relationship between the Criminal Code and the Criminal Procedure Code demonstrates that criminal procedural law is not merely a technical formal law, but rather a constitutional instrument for realizing and simultaneously limiting the application of substantive criminal law. Horizontal synchronization between the principle of legality (Articles 1 and 2 of the Criminal Code), the objectives of punishment (Articles 51–54 of the Criminal Code), corporate criminal liability (Articles 45–50 of the Criminal Code), and the mechanisms for providing evidence and protecting the rights of suspects in the Criminal Procedure Code are prerequisites for the creation of a consistent, proportional, and just criminal justice system. Without constructing a coherent relationship between substantive and formal norms, national criminal law reform risks creating a systemic imbalance that actually obscures the constitutional objectives of law enforcement itself.

Problems of Synchronization and Systemic Imbalance in the Implementation of the Criminal Code and Criminal Procedure Code

The expansion of criminalization and the topic of criminal liability in the Criminal Code, which is not always accompanied by sufficient procedural reconstruction in the Criminal Procedure Code, is the main indication of the problematic synchronization between Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code. The Criminal Code, through Articles 45 to 50, explicitly regulates corporate criminal liability, including the possibility of imposing criminal penalties on managers, those who give orders, and the corporation itself as a legal entity. However, in the realm of procedural law, the mechanisms for summons, examination,

detention, and confiscation as stipulated in the provisions of the Criminal Procedure Code are still fundamentally oriented toward natural human subjects. This inconsistency has the potential to create a gap between material norms that expand the subject of criminal law and formal norms that have not fully adapted to the characteristics of corporations as collective entities, particularly in the aspects of proving guilt and attribution of actions.

The issue of proving corporate criminal acts is a crucial point of this disharmony. The evidentiary system in the Criminal Procedure Code (KUHAP) requires the availability of valid evidence and the judge's confidence to impose a sentence, with the types of evidence being limited by provisions regarding witnesses, experts, letters, clues, and the defendant's testimony. In the corporate context, proving *mens rea*, or guilt, cannot always be directly personified, thus requiring doctrinal constructs such as identification theory or vicarious liability. However, if the KUHAP does not provide clear procedural guidelines regarding proving corporate guilt, the provisions of Articles 45 to 50 of the Criminal Code have the potential to encounter implementation obstacles. It indicates a conceptual gap between the normative recognition of corporations as criminal subjects and the readiness of the procedural system to accommodate the complexity of the evidence.

The next disharmony arises from the relationship between The Criminal Code's Article 1 paragraph (1), which highlights the legality principle, and Article 2, which recognizes prevailing law in society as the basis for sentencing, as long as it aligns with Pancasila values and general legal principles. This recognition of the living law conceptually expands the sources of material criminal law beyond written regulations. However, in the context of procedural law, evidence must still adhere to formal standards and evidence determined by law. Normative tensions arise when prevailing norms in society are not formally documented, complicating the evidentiary process in court, which demands certainty and objective verification. Without clear procedural guidelines on how to prove the possibility of violations of the right to a fair trial and the norm of legal certainty, as guaranteed by Article 28D, paragraph (1) of the Republic of Indonesia's 1945 Constitution, becomes inevitable due to the presence and validity of living law.

Tensions are also evident between the objectives of punishment formulated in Articles 51 to 54 of the Criminal Code and the structurally adversarial model of criminal justice. The Criminal Code emphasizes restoring balance, resolving conflicts, and developing perpetrators, which conceptually aligns with the restorative justice approach. However, trial procedures under the Criminal Procedure Code (KUHAP) remain focused on formal proof of guilt through witness examinations, prosecutorial demands, and the defendant's defense within an argumentative framework. Without operational integration of restorative mechanisms into every stage of the judicial process, the humanistic goals of sentencing under the Criminal Code (KUHAP) have the potential to be reduced to mere normative rhetoric that is not fully realized in practice.

Furthermore, the expansion of law enforcement authorities' authority during the investigation and prosecution stages can also create systemic imbalances if not balanced by effective control mechanisms. The Criminal Procedure Code regulates various forms of coercive measures, such as arrest, detention, search, and seizure, which inherently restrict individual human rights. If the expansion of criminalization under the Criminal Code is not accompanied by proportionate restrictions on the use of coercive measures, there is a risk of

overcriminalization, resulting in increased state interference in citizens' freedoms. In this context, guaranteeing the rights of suspects to legal assistance, not to be forced to provide testimony, and to file objections to coercive measures must be positioned as essential elements to maintain a balance between effective law enforcement and the protection of constitutional rights.

The problematic synchronization between the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP) demonstrates the potential for systemic imbalance stemming from progressive material reforms that have not yet been fully accompanied by comprehensive procedural adaptations. The recognition of living law in society and the broadening of the topics and types of criminal liability, and the shift in the purpose of punishment toward restorative justice constitute significant normative innovations in the Criminal Code. However, without consistent harmonization in the design of evidence, the regulation of coercive measures, and the protection of suspects' rights in the KUHAP, the integration of the two laws could experience conceptual friction and structural weaknesses. Identifying this gap provides an important foundation for formulating a more coherent reconstruction of functional relationships within the national criminal justice system.

Reconstructing the Functional Relationship between Substantive Criminal Law and Criminal Procedural Law from the Perspective of an Integrated Criminal Justice System

The framework of an integrated criminal justice system must be used to reconstruct the functional relationship between criminal procedural legislation in legislation Law Number 1 of 2023 about the Criminal Code and Law Number 20 of 2025 addressing the Criminal Procedure Code and substantive criminal law, which positions all subsystems—investigation, prosecution, trial examination, and decision implementation—as a single, normatively and functionally integrated whole. Conceptually, procedural law should no longer be positioned as merely a technical mechanism for obtaining evidence, but rather as an instrument for realizing the objectives of criminal punishment as formulated in Articles 51 to 54 of the Criminal Code. Concrete action that needs to be taken is legislative harmonization through limited revisions or the development of implementing regulations of the Criminal Procedure Code that explicitly state that every stage of the criminal process must consider the objectives of punishment, including aspects of recovery and social reintegration, not just formal proof of guilt.

Repositioning procedural law as an instrument for the implementation of substantive criminal law also requires adjustments in the investigation and prosecution stages. In the context of corporate criminal liability, as stipulated in Articles 45 to 50 of the Criminal Code, concrete action is needed in the form of developing national technical guidelines for investigators and public prosecutors regarding standards of proof of corporate wrongdoing, mechanisms for attributing responsibility to management, and procedures for summoning and examining legal entities. These guidelines must be outlined in joint regulations or nationally binding implementing regulations to avoid disparities in practice. Furthermore, special training for law enforcement officers is needed on forensic audit techniques, corporate document analysis, and electronic data-based evidence so that substantive norms concerning corporations can be implemented effectively.

Strengthening evidentiary mechanisms must also be directed at adapting to evolving types of criminal acts and expanding legal sources, as recognized in Article 2 of the Criminal Code concerning living law within society. Concrete action is needed to formulate standard operating procedures for proving the existence and validity of living law through expert testimony, customary documents, or recognition by customary law communities, which can be objectively verified in court. The Supreme Court needs to develop judicial guidelines or a circular that provides parameters for how judges assess the applicability of living law to ensure it remains in line with the principle of legality as stipulated in Article 1, paragraph (1) of the Criminal Code and the principle of legal certainty. Without such standardization, recognition of living law risks creating inconsistent decisions and legal uncertainty.

Reconstruction must also include realigning the balance between Human rights protection and efficient law enforcement. The Criminal Procedure Code, as formal law, must strengthen control mechanisms over the use of coercive measures such as arrest, detention, searches, and seizures by expanding judicial oversight and clarifying the time limits and objective reasons for their use. Concrete actions that can be taken include strengthening the pretrial institution or the mechanism for preliminary examining judges, who have broader authority to test the legality of investigators' actions from the initial stage. This step is a concrete form of guaranteeing constitutional rights as stipulated under Article 28D, paragraph (1) of the Republic of Indonesia's 1945 Constitution, to ensure that the Criminal Code's increased criminalization does not result in an overabundance of state power.

To integrate the goals of restorative punishment with judicial procedures, it is necessary to strengthen restorative justice mechanisms at every stage of the criminal process. Concrete actions that must be taken include the inclusion of operational provisions requiring investigators and prosecutors to assess the feasibility of restorative resolution before a case is referred to court, particularly for certain crimes that meet the requirements as stipulated by law. Courts also need to be given explicit authority to facilitate penal mediation during the case examination stage. Thus, the goals of punishment in Article 51 of the Criminal Code, which emphasize conflict resolution and the restoration of balance, can be realized procedurally, not merely normatively.

The reconstruction of the functional relationship between the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP) must be institutionalized through a periodic evaluation mechanism for the implementation of both laws. Concrete action required is the formation of a national evaluation team involving legislators, the Supreme Court, the Prosecutor's Office, the Police, academics, and civil society to assess the consistency of the application of material and formal norms at specific intervals. The results of this evaluation must serve as the basis for improving regulations and technical guidelines to ensure the integration of the criminal justice system. With these prescriptive measures, the reconstruction of the functional relationship between material criminal law and criminal procedure law will not stop at the theoretical level but will become a concrete and sustainable structural reform agenda within the national criminal law system.

CONCLUSION

The study's conclusion demonstrates that Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code have introduced a major paradigm shift in Indonesia's criminal law system; however, this reform has not yet been fully integrated systemically within the framework of the functional relationship between substantive and procedural criminal law. The Criminal Code, through Articles 1 and 2, expands the construction of the legality principle by recognizing living law in society, and through Articles 45 to 50, expands the scope of criminal liability to include corporations. Furthermore, Articles 51 to 54 formulate the objectives of criminal punishment, which are oriented toward crime prevention, offender development, conflict resolution, restoration, and social reintegration. On the other hand, the Criminal Procedure Code, as a procedural instrument, has not fully adapted its evidentiary framework, mechanisms for attributing corporate criminal liability, and the implementation of restorative justice to this new paradigm. This condition creates potential disharmony, particularly regarding evidentiary procedures and the application of coercive measures. Therefore, it can be concluded that reconstructing the functional relationship between substantive criminal law and criminal procedure law is an urgent necessity to ensure the consistency and effectiveness of an integrated criminal justice system.

Based on these findings, it is recommended that further harmonization be pursued through the development of implementing regulations and technical guidelines that explicitly integrate the objectives of criminal punishment under the Criminal Code into the procedural practices of the Criminal Procedure Code, including guidelines for proving corporate crimes and applying evidentiary standards in cases involving living law in society. Furthermore, judicial oversight mechanisms concerning coercive measures should be strengthened, and the practical implementation of restorative justice throughout criminal proceedings should be optimized in accordance with Article 51 of the Criminal Code. The Supreme Court, the Prosecutor's Office, and the Police should establish a unified understanding of the new national criminal law paradigm through internal regulations and integrated training programs. Legislators should also establish mechanisms for periodic evaluation of the integration between the Criminal Code and the Criminal Procedure Code to prevent future systemic imbalances. Through these measures, harmonization between substantive and procedural norms will not remain merely conceptual but will be realized in criminal justice practices that are fair, proportionate, and oriented toward the protection of human rights.

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