Sentencing Under Indonesia's National Criminal Code: An Integrative Approach

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Abstract

Indonesia's National Criminal Code (Law No. 1 of 2023) provides a plural set of sentencing purposes, but it does not expressly identify a single governing theory or rank those purposes. This creates a doctrinal question about how culpability-based accountability is to be reconciled with prevention, social reintegration, conflict resolution, restoration of balance, and human dignity. This article examines whether the Code displaces retribution or establishes an integrative sentencing framework, and identifies the legal limits of that framework. It adopts normative legal research through statutory and conceptual approaches, interpreting Law No. 1 of 2023 as amended by Law No. 1 of 2026 and read with Law No. 20 of 2025 and relevant restorative-justice regulations. The analysis finds that Articles 51–54 establish plural statutory purposes, a human-dignity limit, and structured judicial guidance, while Articles 54(2), 75–77, and 85 provide differentiated mechanisms for individualised and non-custodial sentencing. The article's contribution is a provision-based test distinguishing culpability, correction of harm, restorative participation, rehabilitation, and reintegration, showing why corrective justice can explain only one dimension of the Code and cannot replace its broader integrative structure.
Keywords: Criminal Code; Judicial Pardon; Restorative Justice; Sentencing.

A. INTRODUCTION

The principal issue in the National Criminal Code is not whether punishment should cease to be retributive, but how the purposes in Article 51 are to be reconciled with the human-dignity limit in Article 52 and the judicial duties in Articles 53 and 54. The doctrinal uncertainty arises because the Code combines accountability, prevention, social reintegration, conflict resolution, restoration of balance, and remorse without expressly ranking them or declaring one theory to govern all sentencing decisions. Earlier scholarship has examined the purposes of

sentencing and the development of restorative justice, including the plural objectives of Indonesian penal reform and the need for restorative mechanisms (Muksin, 2023; Akbar, 2022; Nashir et al., 2024). However, those discussions do not, by themselves, resolve how the relevant provisions operate together after the Code took effect and after the subsequent 2026 adjustment of criminal penalties. The unresolved issue is therefore one of statutory construction: whether the provisions establish a replacement paradigm or a plural framework in which retribution remains a basis of accountability (Muladi & Arief, 1992; Srirejeki, 2026).

The retributive paradigm primarily regards punishment as a consequence of an offender's wrongdoing. From this perspective, a relationship exists between the criminal offence, culpability, and the punishment imposed as a form of accountability. Retribution remains important because punishment must be connected to the act and the offender's culpability and must not be imposed arbitrarily. In the National Criminal Code, culpability is expressly relevant to the sentencing assessment under Article 54(1)(a), although retribution is not listed as a separate purpose in Article 51. The issue is therefore not the disappearance of retribution, but how culpability-based accountability is balanced with the other statutory purposes (Muksin, 2023; Srirejeki, 2026; Mualana et al., 2026).

Law No. 1 of 2023 concerning the Criminal Code was promulgated on 2 January 2023 and, under Article 624, entered into force on 2 January 2026 (State Gazette of the Republic of Indonesia 2023, No. 1, Supplement No. 6842). Its current text must be read together with Law No. 1 of 2026 concerning Criminal Adjustment, promulgated and effective on 2 January 2026 (State Gazette 2026,

No. 1, Supplement No. 7153), which amends, among other provisions, Article 76 on supervision sentences. The procedural framework is Law No. 20 of 2025 concerning the Criminal Procedure Code, promulgated on 17 December 2025 and effective on 2 January 2026 (State Gazette 2025, No. 188, Supplement No. 7149). These enactments are therefore considered in their current legal context rather than treating the original text of the 2023 Code as unchanged (Republic of Indonesia, 2023, 2025, 2026).

Article 51 sets out four purposes of sentencing: (a) preventing criminal acts through the enforcement of legal norms for the protection of society; (b) socialising the convicted person through guidance and mentoring so that the person becomes a good and useful member of society; (c) resolving conflicts caused by criminal acts, restoring balance, and creating a sense of security and peace in society; and (d) fostering remorse and relieving guilt. These are the four statutory clauses, rather than five independent purposes. Article 51 does not expressly establish a hierarchy among them. Its structure is better read as a plural statutory mandate whose purposes operate within the sentencing system, while their relative weight is determined in the circumstances of each case under Articles 53 and 54 (Republic of Indonesia, 2023, Article 51(a)–(d); Muksin, 2023; Srirejeki, 2026).

The absence of an express hierarchy in Article 51 means that a judge should not mechanically treat one purpose as automatically overriding all others. The purposes are cumulative as statutory objectives but may require case-specific balancing when they point in different directions. Article 54 supplies the individualised factors for that balancing, while Article 53 supplies the adjudicative

duty to uphold law and justice and, where legal certainty conflicts with justice, to prioritise justice. Thus, plural purposes do not create unfettered discretion; they require structured reasoning, proportionality, and reasons that connect the chosen sanction to the legally relevant facts (Republic of Indonesia, 2023, Articles 53–54).

Article 51(b) gives the sentencing system a socialisation and reintegration orientation by requiring guidance and mentoring so that convicted persons may return to society as good and useful members. Article 51(d) separately refers to fostering remorse and relieving guilt. These clauses support a rehabilitative dimension, but they do not erase accountability or establish that every sanction will in practice achieve reintegration. The legal obligation is to consider and pursue the statutory purpose through an appropriate sentencing response; whether reintegration is achieved is an empirical question (Amarini et al., 2024; Rohmat et al., 2025).

Article 52 provides that sentencing is not intended to degrade human dignity. Its normative function is principally limiting and interpretive: it constrains the judge when selecting and explaining a sanction and constrains the authorities responsible for executing it. The provision does not create a separate sentencing formula or automatically require a non-custodial sanction. Rather, it prohibits punishment that treats the convicted person merely as an object of suffering and requires the chosen sanction and its implementation to remain compatible with human dignity (Republic of Indonesia, 2023, Article 52; Ismara & Margaretha, 2024).

The principle has implications at three levels. At the selection stage, it weighs against a sanction whose severity is unnecessary to meet the statutory purposes. In the judgment, it requires the court to explain why the chosen sanction is compatible with the offender's dignity. At the execution stage, it constrains treatment and conditions that would humiliate or degrade the person. Article 52 is therefore an interpretive limit and a human-dignity safeguard, rather than a standalone formula that dictates a particular sentence in every case.

Articles 53 and 54 perform distinct but complementary functions. Article 53(1) requires judges to uphold law and justice, while Article 53(2) directs them to prioritise justice where legal certainty and justice conflict in adjudication. Article 54(1)(a)–(k), by contrast, lists the matters to be considered when determining a sentence, including culpability, motive and purpose, the offender's state of mind and conduct, the manner and circumstances of the offence, personal history and socio-economic circumstances, the effect of punishment on the offender's future, the impact on the victim or the victim's family, victim forgiveness, and values of law and justice living in society. A reasoned judgment should therefore explain both the legal principle applied and the relevance of the statutory sentencing factors (Republic of Indonesia, 2023, Articles 53(1)–(2), 54(1)(a)–(k); Fitria & Ariansyah, 2026).

The combined operation of the two articles is important. Article 53(2) addresses the judicial duty where certainty and justice conflict in adjudication; Article 54(1) then requires the judge to disclose how the listed sentencing factors affected the choice and severity of the sanction. A decision that merely lists those factors without explaining their relevance would not demonstrate individualised

reasoning. Conversely, an equitable outcome unsupported by the statutory factors risks becoming arbitrary. The provisions therefore demand both principled adjudication and transparent sentencing reasons.

These provisions reflect individualised sentencing. Punishment is not determined solely by the abstract classification of an offence, but also by the concrete circumstances of the offender, victim, and offence. Individualisation does not mean unrestricted discretion: the judge must identify the relevant factors, explain their weight, and show that the sentence remains proportionate to culpability and consistent with the four purposes of Article 51 (Akbar, 2022; Muksin, 2023).

Corrective justice is used in this article only as a limited analytical lens. In Weinrib's account, corrective justice concerns the correlative relationship between the person who wrongfully causes an injustice and the person who suffers it; the normative positions of the doer and the sufferer are connected, and correction responds to the imbalance created by the wrong. This account is developed principally within private law and should not be transferred wholesale to criminal law (Weinrib, 2012, pp. 9–37, 56–83). For this article, only three analytical elements are used: an identifiable wrongful act, responsibility linked to that act, and a corrective response that is rationally connected to the harm or imbalance. The lens is useful because it tests whether a sentencing measure links accountability to correction, but it does not determine the public purposes, procedures, or institutional authority of criminal punishment.

Corrective justice must therefore be distinguished from related sentencing concepts through operational indicators. Retribution is indicated by culpability-

based and proportionate accountability; prevention by a legally reasoned orientation towards reducing future offending and protecting society; rehabilitation by guidance or intervention directed at changing the offender's behaviour; restorative justice by the participation of affected persons, voluntary acknowledgment of harm, and an agreed or otherwise legally recognised process of repair; and reintegration by measures or outcomes that support the offender's return to social life. Corrective justice is relevant only where the legal response links responsibility for a wrongful act to a corrective response to the resulting imbalance. These indicators may overlap in a particular measure, but they are not interchangeable (Weinrib, 2012, pp. 9–37, 56–83; Zehr, 2015, Appendix I; Akbar, 2022; Capera, 2021; Sukardi & Purnama, 2022).

Restorative justice in Indonesia is regulated through instruments operating at different stages of the criminal process. Police Regulation of the Republic of Indonesia No. 8 of 2021 governs restorative-justice handling within police investigation and inquiry functions (Articles 2–6). Prosecutor Regulation of the Republic of Indonesia No. 15 of 2020 regulates termination of prosecution where its requirements are met (Articles 3–10). Supreme Court Regulation No. 1 of 2024 provides guidelines for judges adjudicating criminal cases based on restorative justice, including its principles, eligibility, exclusions, and possible sentencing consequences (Articles 2–6 and 18–19). Law No. 20 of 2025 concerning the Criminal Procedure Code now supplies the statutory framework: Article 79(8) recognises the relevant procedural stages, Articles 80–82 regulate eligibility and safeguards, and Articles 83–87 specify the mechanism at the investigation, prosecution, and trial stages. These instruments differ in authority, threshold,

safeguards, and legal effect; they must be interpreted in the current statutory context (Republic of Indonesia, 2020, Articles 3–10; 2021, Articles 2–6; 2024, Articles 2–6, 18–19; 2025, Articles 79–87).

The difference among these instruments can be specified by reference to their legal functions. At the police stage, Article 2 of Police Regulation No. 8 of 2021 places the mechanism within the police's criminal-investigation function, while Articles 3–6 set material and formal requirements; the immediate effect concerns police handling of the case and is not itself a prosecutorial discontinuance. At the prosecution stage, Prosecutor Regulation No. 15 of 2020 authorises the prosecutor to offer and facilitate a voluntary peace process. Article 5 sets eligibility criteria, including first-offender status, the applicable penalty threshold, and a limited loss value, while Articles 7–10 govern the offer, facilitation, and peace agreement; where the requirements and approval process are satisfied, prosecution may be discontinued. At the judicial stage, Supreme Court Regulation No. 1 of 2024 permits the restorative approach for specified categories of cases, including minor offences or limited victim loss, complaint offences, offences with a maximum penalty of five years in one charge, certain child cases, and traffic offences. Article 6(2) excludes cases where the victim or defendant refuses, a power imbalance exists, or the defendant repeats a similar offence within the prescribed period. The court may examine the victim's loss and agreement; under Articles 18–19, a peace agreement or willingness to repair harm may mitigate punishment or support a conditional/supervision sentence, while Article 14 provides a specific effect for complaint offences where withdrawal is legally available. The Criminal Procedure Code supplies the broader statutory scheme: Article 79 defines forms of

restoration and requires fulfilment of the agreement; Article 80 sets eligibility; Article 81 requires voluntariness and prohibits coercion; Article 82 lists exclusions; Articles 83–84 provide for termination of investigation and court confirmation; Articles 85–86 regulate termination of prosecution and court confirmation; and Article 87 provides for restorative justice at trial through the judgment and its execution. The different decision-makers and legal consequences demonstrate an allocation of authority across stages, not an interchangeable single procedure (Republic of Indonesia, 2020, Articles 3–10; 2021, Articles 2–6; 2024, Articles 6, 12–14, 18–19; 2025, Articles 79–87).

Studies on social reintegration also show that a restorative approach does not end with case resolution; it is also concerned with returning offenders to society. Reintegration matters because Article 51(b) expressly directs sentencing towards socialisation through guidance and mentoring. Nevertheless, reintegration is an outcome-oriented objective, whereas rehabilitation concerns the process of changing the offender's behaviour; neither should be equated with victim restoration or corrective justice (Amarini et al., 2024; Zehr, 2015, Appendix I).

The National Criminal Code also recognises judicial discretion to refrain from imposing punishment or an action in limited circumstances. Article 54(2) permits the judge, with due regard to justice and humanity, to consider the lightness of the act, the offender's personal circumstances, and the circumstances at the time of the offence and thereafter as a basis for not imposing a punishment or an action. The Criminal Procedure Code reinforces the legal character of this mechanism: Article 1(19) defines a Putusan Pemaafan Hakim as a judgment delivered in open court declaring the defendant proven guilty but imposing no

punishment or action because of the lightness of the act and the defendant's personal and contextual circumstances, with due regard to justice and humanity. The provision is therefore distinct from acquittal, because guilt is established. It is also distinct from executive clemency (grasi), which is exercised by the President under a separate constitutional and statutory framework, and from remission, which reduces a sentence already imposed (Republic of Indonesia, 2023, Article 54(2); Republic of Indonesia, 2025, Article 1(19); Alwy, 2021; Fitria & Ariansyah, 2026).

The distinction between Article 54(2) and Article 70 should also be maintained. Article 54(2) concerns the possibility of not imposing a punishment or an action on the basis of the lightness of the act and the offender's personal and contextual circumstances. Article 70(1), by contrast, directs that imprisonment should, as far as possible, not be imposed where the specified circumstances exist, subject to the exclusions in Article 70(2). Article 70 is therefore a direction concerning the choice of sanction, whereas Article 54(2) concerns the exceptional decision not to impose punishment or an action. Neither provision is an acquittal or a presidential grant of clemency; both operate within the judicial sentencing decision and require reasons tied to their statutory conditions (Republic of Indonesia, 2023, Articles 54(2), 70(1)–(2)).

The discretion under Article 54(2) must be exercised through reasons connected to the statutory criteria and the facts established in the case. A reasoned decision should identify why the conduct is considered light, which personal or contextual circumstances are relevant, and why refraining from punishment or an action is compatible with justice and humanity. The judge should also explain why

the case falls within Article 54(2), rather than relying only on general appeals to compassion or restorative justice. This requirement reduces the risk that similar cases will be treated differently without an adequate legal explanation (Fitria & Ariansyah, 2026; Sanna, 2025).

The National Criminal Code also provides for supervision sentences as a non-custodial principal punishment under Article 65(1)(c). Article 75 places the sanction within the principal-punishment framework and treats it as an alternative to imprisonment. Article 76, as amended by Article VII point 8 of Law No. 1 of 2026, now provides that supervision may be imposed for an offence carrying a maximum imprisonment term of no more than three years and on a person who commits an offence for the first time. The judgment must impose the general condition that the offender commit no further offence and may add special conditions, including compensation for all or part of the loss or an obligation to do or refrain from doing something without infringing specified freedoms. Article 77 addresses the consequences of breach. A supervision sentence is therefore not automatically restorative; its corrective or reparative significance depends on the lawful conditions attached to it and their connection to the harm (Republic of Indonesia, 2023, Articles 65(1)(c), 75–77; Republic of Indonesia, 2026, Article VII point 8; Rohmat et al., 2025; Sutanti et al., 2026).

The research addresses two normative questions. First, how do Articles 51–54 of Law No. 1 of 2023, read with the amendments effective in 2026, structure sentencing purposes and judicial guidance while retaining culpability, proportionality, and human dignity? Second, what are the legal functions and limits of individualised sentencing, judicial pardon, supervision sentences,

community service, and victim-related considerations when read together with the restorative-justice procedures in Police Regulation No. 8 of 2021, Prosecutor Regulation No. 15 of 2020, Supreme Court Regulation No. 1 of 2024, and Articles 79–82 of Law No. 20 of 2025? The second question is confined to the normative design, statutory criteria, safeguards, and legal effects of these mechanisms; it does not assess individual court decisions or their empirical implementation. The questions do not assume that the Code has adopted corrective justice as its governing paradigm; the answer is derived from the interpretation of the relevant norms.

B. RESEARCH METHOD

This study is doctrinal normative legal research. It examines law as a body of binding norms and legal concepts through statutory interpretation and systematic legal analysis. This design is appropriate because the principal object is the normative structure of sentencing under Law No. 1 of 2023, including its 2026 amendments and procedural relationship with Law No. 20 of 2025. The analysis answers the first research question by construing the purposes and judicial guidelines in Articles 51–54, and answers the second by comparing the statutory functions, thresholds, safeguards, and legal consequences of the relevant sentencing and restorative-justice mechanisms. The study does not measure the empirical effectiveness of sanctions, institutional readiness, victim satisfaction, or actual judicial practice, and it does not claim to establish causal outcomes (Marzuki, 2020).

The study uses a statutory approach and a conceptual approach. The statutory approach interprets Articles 51–54, 70, 75–77, and 85 of Law No. 1 of 2023, with

particular attention to the amendment of Article 76 by Law No. 1 of 2026, and reads those provisions systematically with Article 1(19) and Articles 79–87 of Law No. 20 of 2025, Police Regulation No. 8 of 2021, Prosecutor Regulation No. 15 of 2020, and Supreme Court Regulation No. 1 of 2024. The conceptual approach supplies the analytical criteria for distinguishing retribution, prevention, rehabilitation, corrective justice, restorative justice, proportionality, and social reintegration. The study does not use a case-law approach because it does not analyse a defined set of judgments; accordingly, its discussion of judicial pardon addresses the legal scope and reasoning requirements of Article 54(2), not the consistency of its application by courts. A comparative approach is not claimed because the article does not undertake a systematic comparison of foreign jurisdictions.

Primary legal materials consist of the promulgated statutory and regulatory texts: Law No. 1 of 2023; Law No. 1 of 2026; Law No. 20 of 2025; Police Regulation No. 8 of 2021; Prosecutor Regulation No. 15 of 2020; and Supreme Court Regulation No. 1 of 2024. These materials were selected because they directly regulate sentencing purposes, sentencing mechanisms, or restorative justice at the relevant procedural stages. Where an amendment exists, the amended text is treated as controlling for the current legal position; statutory provisions take priority over inconsistent subordinate regulations. Secondary legal materials consist of peer-reviewed journal articles and scholarly books on sentencing theory, restorative justice, corrective justice, judicial pardon, supervision sentences, community service, and reintegration. Sources were included where their publication details could be verified and their analysis directly supported one of

the research questions; commentary without identifiable authorship or verifiable publication details was excluded.

Legal materials were collected through library research and documentary retrieval from official legal-information portals, Google Scholar, Crossref, and journal or publisher websites, with verification of enactment details and publication metadata against available official records and DOI or publisher entries. The secondary-literature search used Indonesian and English terms including "tujuan pemidanaan", "integrative sentencing", "corrective justice", "restorative justice", "rechterlijk pardon", "pidana pengawasan", "community service", and "social reintegration"; the literature considered was published principally between 2020 and 2026, with earlier foundational works retained where theoretically necessary. The analysis proceeded by identifying the operative elements of each provision; interpreting its wording grammatically; reading it systematically with neighbouring provisions and related procedural instruments; distinguishing sentencing purposes, sentencing factors, sanction types, and procedural mechanisms; and testing doctrinal claims against the conceptual criteria. Where secondary authors offered different characterisations, the enacted text was treated as the primary reference and the competing scholarly views were synthesised without presenting either as binding law. The final propositions therefore arise from doctrinal interpretation, while the literature review provides context and conceptual support. No claim is made that the study empirically evaluates implementation (Marzuki, 2020).

C. RESULT AND DISCUSSION

1. The Integrative Structure of Sentencing and the Continuing Role of Retribution

From a retributive perspective, sentencing is based on the idea that a person who commits a criminal offence should receive a consequence proportionate to their culpability. This orientation treats culpability as a primary basis for the legitimacy of punishment. The statutory question is how that basis operates alongside other purposes, not whether the state may punish without reference to culpability. In the National Criminal Code, the relevance of culpability is visible in Article 54(1)(a), while Article 51 sets out additional purposes that guide the choice and justification of the sanction. This combination permits an integrative reading without converting the statutory purposes into an unstructured list (Muladi & Arief, 1992; Muksin, 2023).

The National Criminal Code reflects this integrative approach. Article 51 does not identify retribution as a separate statutory purpose; instead, its four clauses address prevention and public protection, the socialisation of the convicted person through guidance, the resolution of conflict and restoration of balance, and the fostering of remorse. The statutory text therefore moves beyond a purely retributive account of what sentencing is intended to achieve, but it does not state that culpability or accountability is irrelevant. The interpretive consequence is that judges must select a proportionate response that is connected both to the offender's culpability and to the purpose or purposes relevant to the case (Republic of Indonesia, 2023, Article 51(a)–(d)).

This shift does not mean that the retributive function has been entirely removed. Sentencing remains a legal consequence of a criminal offence and must be grounded in responsibility and culpability. Article 54(1)(a) requires the degree of fault or culpability to be considered, while Article 52 prevents the state from pursuing punishment in a manner that degrades human dignity. Retributive accountability is therefore retained as a limiting and legitimating element, while prevention, socialisation, conflict resolution, restoration of balance, and remorse broaden the purposes for which a lawful sentence is selected (Muksin, 2023; Srirejeki, 2026; Mualana et al., 2026).

The change in orientation is also apparent in Article 52, which provides that sentencing is not intended to degrade human dignity. This provision establishes an ethical and legal limit on the use of punishment. The state may still sanction offenders, but the choice and execution of sanctions must respect human beings as subjects of law. Sentencing should therefore not become a purely repressive exercise or impose suffering unrelated to a legitimate statutory purpose (Republic of Indonesia, 2023, Article 52).

This orientation can be connected to the development of restorative justice, but the concepts should not be collapsed. Under a restorative paradigm, crime is viewed not only as a violation of state-created norms but also as an event that causes harm to victims, offenders, and society. Addressing the consequences of crime may therefore require acknowledgment of harm, participation by affected persons, and an appropriate process of repair. These elements distinguish restorative justice

from a sentencing purpose that merely mentions restoring balance (Zehr, 2015, Appendix I; Akbar, 2022).

In Indonesia, restorative justice developed through sector-specific regulations that allocated authority to the police, prosecution service, and courts. Law No. 20 of 2025 now provides a statutory framework across inquiry, investigation, prosecution, and trial (Articles 79(8), 83–87), while the earlier institutional regulations continue to provide stage-specific procedures to the extent that they are consistent with the statute. For example, the Criminal Procedure Code now specifies how investigations and prosecutions may be discontinued following fulfilment of a restorative agreement and judicial confirmation, and provides for application at trial through the judgment where the earlier-stage mechanism is unavailable. The normative issue is therefore how to harmonise authority, eligibility, voluntariness, victim safeguards, and legal consequences, rather than treating every instrument as if it created the same form of settlement (Republic of Indonesia, 2020, Articles 3–10; 2021, Articles 2–6; 2024, Articles 2–6, 18–19; 2025, Articles 79–87; Nashir et al., 2024).

The National Criminal Code provides a sentencing foundation for this orientation through Article 51(c), which identifies conflict resolution, restoration of balance, and public peace and security as statutory purposes. This language requires judges to consider the social consequences of crime and not only the relationship between the state and the offender. It does not, however, transform the criminal process into a private dispute or make the victim the sole decision-maker. The state retains authority to prosecute and

impose punishment, while victim-related interests are considered within the statutory framework (Republic of Indonesia, 2023, Article 51(c); Akbar, 2022).

Corrective justice is used to explain only the accountability-and-correction dimension of this orientation. Weinrib's relational account identifies a connection between the person responsible for a wrong and the person who suffers the corresponding injustice; its central concern is the normative relationship between the two positions and the correction of the imbalance produced by the wrong (Weinrib, 2012, pp. 9–37, 56–83). The transferable insight is therefore limited to the connection between wrongdoing, responsibility, and a response directed at correction. The theory does not supply a complete model of criminal punishment, because criminal prosecution is public, the state acts under public authority, the relevant interests may be collective, and victims do not occupy the position of the sole claimant in a bilateral private-law relationship.

The limits of transfer can be tested against four features of criminal law. First, public prosecution means that the criminal process is not controlled solely by the injured person. Second, collective interests mean that the legal response may pursue public protection and prevention beyond repairing one victim's loss. Third, the victim's position is important but does not make the victim the sole author of the sentence or automatically determine whether prosecution continues. Fourth, state authority imposes requirements of legality, proportionality, and procedural fairness that cannot be reduced to bilateral correction. Corrective justice is thus

analytically useful as a limited test of whether responsibility is connected to correction, but it cannot subsume restorative justice, retribution, prevention, or the public purposes of sentencing (Weinrib, 2012, pp. 56–83; Zehr, 2015, Appendix I).

The sentencing guidelines in Article 54 reinforce this contextual approach. Article 54(1)(a)–(k) directs judges to consider culpability; motive and purpose; the offender's state of mind; planning; the manner of committing the offence; conduct after the offence; the offender's life history, social circumstances, and economic condition; the effect of punishment on the offender's future; the impact on the victim or the victim's family; forgiveness by the victim and/or the victim's family; and the values of law and justice living in society. These factors require sentencing to take account of the concrete context of each case, but they do not displace the need to justify the sentence by reference to law and culpability (Republic of Indonesia, 2023, Article 54(1)(a)–(k)).

Individualised sentencing is an important instrument for preventing mechanical punishment. Two offences described by the same statutory provision may differ in context, culpability, motive, consequences, and the offender's circumstances. Individual consideration is therefore necessary to ensure that punishment remains proportionate and can achieve the statutory purposes relevant to the particular case. The judge should explain which factors materially influenced the sentence and why those factors justify the selected sanction (Muksin, 2023).

The conclusion that the Code establishes an integrative framework follows from four interpretive steps. First, Article 51 states four distinct statutory purposes and does not rank them or designate corrective justice as an exclusive theory. Second, culpability remains relevant under Article 54(1)(a), preserving the basis for proportionate accountability. Third, Article 52 constrains every purpose by the requirement to respect human dignity, while Articles 53 and 54 require reasoned, individualised adjudication. Fourth, the separate purposes perform different functions: prevention protects society; socialisation supports guidance and reintegration; conflict resolution and restoration address the wider consequences of crime; and remorse concerns the offender's moral response. Their interaction is plural and integrative, not reducible to a single corrective-justice model (Muladi & Arief, 1992; Muksin, 2023; Srirejeki, 2026).

2. Statutory Mechanisms and Limits within the Integrative Sentencing Framework

2.1 Plural Purposes of Sentencing

The first indication of a plural sentencing framework appears in Article 51 of the National Criminal Code. The provision identifies four clauses: prevention through legal norms and public protection; socialisation through guidance and mentoring; conflict resolution, restoration of balance, and public peace and security; and the fostering of remorse and relief of guilt. These are related but analytically distinct purposes. The provision does not expressly designate corrective justice

as the legal basis of each objective; rather, it requires a sentencing response to be justified by reference to the purpose or purposes relevant to the case (Republic of Indonesia, 2023, Article 51(a)–(d); Muksin, 2023).

These purposes establish a connection between sentencing and restoration, particularly through Article 51(c). When a criminal offence creates conflict, sentencing is expected not only to declare the offender guilty but also to consider how the conflict and resulting imbalance may be addressed. This objective is consistent with restorative justice where the process includes participation and repair, but the statutory phrase "restoration of balance" does not, by itself, require a restorative settlement or compensation in every case (Zehr, 2015, Appendix I; Akbar, 2022).

2.2 Individualisation of Sentencing

Individualisation is a statutory mechanism for proportionate sentencing, rather than proof that the entire system has adopted corrective justice. Article 54(1) requires the judge to consider the offender's culpability and circumstances as well as the impact of the offence on the victim and family. The legal significance lies in the obligation to explain how those factors affect the sentence (Republic of Indonesia, 2023, Article 54(1); Akbar, 2022).

Individualisation provides a basis for more proportionate sentencing. Offenders with different levels of culpability or different social circumstances may receive different responses, provided that

those differences are legally grounded and supported by accountable reasoning. The judge should avoid relying on stereotypes or unsupported assumptions about the offender or victim and should explain the weight given to the factors that materially affect the sentence (Muksin, 2023).

2.3 Supervision Sentences as an Alternative to Imprisonment

A supervision sentence is a principal punishment under Article 65(1)(c) and is regulated by Articles 75–77 of the National Criminal Code. Article 76 must be read in its amended form following Law No. 1 of 2026: supervision may be imposed for an offence carrying a maximum imprisonment term of no more than three years and on a person who commits an offence for the first time. The judgment must impose the general condition that the offender commit no further offence and may impose special conditions requiring compensation for all or part of the loss or requiring the offender to do or refrain from doing something, subject to the statutory protection of specified freedoms. Article 77 addresses the consequences of breach. Compensation is therefore a possible special condition, not an automatic element of every supervision sentence; the sentence is restorative only to the extent that its actual conditions lawfully connect accountability with reparation (Republic of Indonesia, 2023, Articles 65(1)(c), 75–77; Republic of Indonesia, 2026, Article VII point 8; Rohmat et al., 2025; Sutanti et al., 2026).

Community service under Article 85 is likewise not automatically restorative merely because it is performed in the community. It may be imposed where the statutory threshold is met, including an offence punishable by imprisonment of less than five years and a sentence of imprisonment of no more than six months or a fine up to category II. The judge must consider the matters specified in Article 85, including the offender's consent and ability to perform the work, together with relevant personal and practical circumstances. Its legal character is a principal punishment; any community benefit depends on the suitability, safety, and supervision of the work actually ordered (Republic of Indonesia, 2023, Article 85; Wicaksana & Januarsyah, 2025).

This orientation is related to the goal of social reintegration. When offenders can continue to fulfil social functions under lawful supervision, sentencing may encourage behavioural change while maintaining social relationships needed for their return to society. Supervision sentences therefore demonstrate that sentencing is not necessarily synonymous with imprisonment, although the success of reintegration cannot be presumed from the statutory availability of a non-custodial sanction (Amarini et al., 2024; Sutanti et al., 2026).

2.4 Community Service Sentences

Community service is a principal punishment under Article 65(1)(e) and is regulated by Article 85 of the National Criminal Code. It is available only where the statutory offence and sentence thresholds

are met and the judge has considered the conditions prescribed by law. Community service carries a penal consequence and an element of offender accountability without necessarily depriving the offender of liberty. Its social benefit, however, is a policy rationale and a possible outcome, not a legal effect that follows automatically from Article 85. The benefit depends on a suitable assignment, the offender's capacity and consent, safety, and supervision. It should not be presumed to repair victim-specific harm (Republic of Indonesia, 2023, Articles 65(1)(e), 85; Wicaksana & Januarsyah, 2025).

From a corrective-justice perspective, community service may connect offender accountability with a response to a wider social harm, but this is a limited analytical possibility rather than an inherent statutory function. Article 85 establishes a form of punishment and prescribes conditions for its imposition; it does not state that every community-service order restores a particular victim's loss or re-establishes a bilateral legal balance. Whether a particular order produces a corrective or restorative outcome depends on the design and performance of the work, its relationship to the harm, and the interests affected. The legal basis of the sanction remains Article 85, while the corrective or social rationale is interpretive and contingent (Wicaksana & Januarsyah, 2025; Srirejeki, 2026).

2.5 Judicial Pardon (Rechterlijk Pardon)

Article 54(2) permits the judge, with due regard to justice and humanity, to consider the lightness of the act, the offender's personal

circumstances, and the circumstances at the time of the offence and thereafter as a basis for not imposing a punishment or an action. The court's conclusion on criminal responsibility is not displaced; the provision concerns the sentencing consequence after the court has assessed the case. It is therefore distinct from acquittal. It is also distinct from executive clemency (grasi), which is exercised by the President under Article 14(1) of the Constitution and the applicable statute, and from remission, which reduces a sentence already imposed (Republic of Indonesia, 2023, Article 54(2); Fitria & Ariansyah, 2026).

Judicial pardon may be described as corrective only in the limited sense that it can prevent a disproportionate sanction where the statutory criteria justify non-imposition. Its proper use requires a reasoned explanation of the lightness of the act, the relevant personal and contextual circumstances, and why a punishment or action would be unnecessary or inconsistent with justice and humanity. Fitria and Ariansyah (2026) emphasise the need for parameters that make the exercise of discretion more consistent. Because this study does not analyse court judgments, it identifies the statutory reasoning requirements but does not claim to establish how uniformly judges apply them (Fitria & Ariansyah, 2026; Sanna, 2025).

2.6 Victim Protection and Restoration

Attention to victims is expressly reflected in Article 54(1)(i), which requires consideration of the impact of the offence on the victim or the victim's family; Article 54(1)(j) also includes forgiveness by the

victim and/or the victim's family. These provisions recognise the victim's experience as a relevant sentencing factor, but do not make the victim the sole decision-maker or automatically create a restitution award (Republic of Indonesia, 2023, Article 54(1)(i)–(j); Nashir et al., 2024).

The impact factor in Article 54(1)(i) is a sentencing consideration, not a self-executing restitution order. It directs the judge to take the victim's experience and the impact on the victim's family into account when determining the sentence. It does not, by itself, quantify compensation, create a recovery procedure, or replace the victim's separate statutory remedies. This must be distinguished from Article 79(1) of Law No. 20 of 2025, which expressly identifies forms of restoration within a restorative-justice agreement, including forgiveness, return of property, medical or psychological costs, compensation for other losses, repair of damage, and payment of compensation. The agreement must be fulfilled in accordance with Article 79 before the case is discontinued and judicial confirmation is sought (Republic of Indonesia, 2025, Article 79(1)–(5)).

Under a restorative approach, victims are not merely witnesses in evidentiary proceedings; they are people who have directly experienced the consequences of crime. Their participation and recognition of harm are distinct from the broader sentencing purpose of restoring balance and from a specific legal remedy such as compensation. Article 81 of Law No. 20 of 2025 permits a request or an offer by the relevant

authority but prohibits pressure, coercion, intimidation, deception, violence, and degrading treatment. The victim's voluntary participation and interests are therefore protected, while the ultimate criminal-law response remains governed by public law and the statutory procedure (Republic of Indonesia, 2025, Articles 79, 81; Zehr, 2015, Appendix I; Nashir et al., 2024).

2.7 Rehabilitation and Social Reintegration

Rehabilitation and social reintegration are important but distinct elements of the sentencing framework. Rehabilitation concerns guidance and intervention directed at the offender's behaviour and capacity; reintegration concerns the offender's return to social life and the conditions that make that return possible. Article 51(b) places socialisation through guidance and mentoring within the statutory purposes of sentencing, while Article 54(1)(h) requires consideration of the effect of punishment on the offender's future (Republic of Indonesia, 2023, Articles 51(b), 54(1)(h); Amarini et al., 2024).

Social reintegration is also connected to crime prevention. If offenders receive appropriate guidance and can resume social functioning, sentencing may contribute to reducing the risk of reoffending while protecting social relationships. Rehabilitation is therefore a process-oriented purpose and reintegration an outcome-oriented objective. Neither is identical to the repair of victim-specific harm or to corrective justice, although a particular sanction may serve more than one of these purposes (Amarini et al., 2024; Srirejeki, 2026).

2.8 Normative Implementation and Institutional Safeguards

A statutory framework does not, by itself, resolve every coordination issue among criminal justice institutions. The relevant rules allocate authority to different actors and stages: police handling under Police Regulation No. 8 of 2021, prosecutorial discontinuance under Prosecutor Regulation No. 15 of 2020, judicial guidance under Supreme Court Regulation No. 1 of 2024, and the broader statutory mechanism in Articles 79–87 of Law No. 20 of 2025. Their thresholds and legal consequences are not identical. The normative implication is that institutions must apply consistent safeguards on voluntariness, victim participation, eligibility, and fulfilment of agreements, while respecting the distinct legal effects assigned to each stage. In particular, termination at the investigative or prosecutorial stage requires the steps and court confirmation specified by Articles 83–86, whereas restorative justice at trial is implemented through a judicial decision under Article 87 (Republic of Indonesia, 2020, Articles 3–10; 2021, Articles 2–6; 2024, Articles 2–6, 18–19; 2025, Articles 79–87; Akbar, 2022; Nashir et al., 2024).

The later Criminal Procedure Code is a statute and must prevail over any inconsistent subordinate regulation. At the same time, the earlier police, prosecutorial, and judicial regulations are not treated here as automatically extinguished: they continue to provide stage-specific guidance to the extent that their provisions are consistent with Law No. 20 of 2025 and the current statutory framework. This construction

follows the hierarchy of legal norms and recognises that the Criminal Procedure Code now expressly regulates restorative justice across the process, including the legal effects at the investigation, prosecution, and trial stages. It avoids assuming either that the sectoral regulations override the Code or that they have all been expressly repealed. The need for harmonisation is therefore a normative conclusion from the distribution of powers, thresholds, and procedural consequences, not an empirical claim that every institution currently applies the rules inconsistently.

Another issue is the balance between discretion and legal certainty. Article 54(2) allows judges to consider the demands of justice in individual cases, but this discretion must be supported by transparent reasons and criteria capable of promoting consistency. Recent research on rechterlijk pardon highlights the need for parameters that limit discretion while safeguarding substantive justice. In doctrinal terms, this requires the judgment to identify the statutory facts relied upon and explain why the result remains compatible with justice and humanity (Fitria & Ariansyah, 2026; Sanna, 2025).

The design of community service also requires institutional arrangements that give effect to the conditions in Article 85, including suitable work, assessment of the offender's ability and consent, safety, and supervision. Wicaksana and Januarsyah (2025) examine the policy design of community-service punishment in the National Criminal Code and its relationship with sentencing purposes. Their normative

analysis supports the need for an adequate legal and institutional framework, but it does not establish empirical findings about current staffing levels, public acceptance, or actual implementation outcomes. Those matters require separate empirical investigation and are not treated as findings of this article (Wicaksana & Januarsyah, 2025).

The sentencing framework under the National Criminal Code can therefore be described through legally distinct but interacting components: culpability-based accountability, proportionality, prevention, socialisation and reintegration, conflict resolution, restoration of balance, victim-related considerations, and humane treatment. The classification depends on the legal function of each provision: a sentencing factor is not itself a remedy; a non-custodial sanction is not automatically restorative; and a purpose of restoring balance does not convert the entire system into corrective justice. Their interaction supports an integrative sentencing model (Republic of Indonesia, 2023; Srirejeki, 2026; Elmarianti & Aulia, 2025).

This integrative description does not mean that retribution has been abolished. The offender's culpability remains a foundation for accountability, while the other statutory purposes inform the nature and proportionality of the response. Corrective justice is only a limited analytical lens for examining the connection between wrongdoing, responsibility, and correction. Restorative justice, rehabilitation, prevention, and reintegration retain their distinct meanings and legal

functions; none can be treated as a synonym for the others (Muladi & Arief, 1992; Weinrib, 2012, pp. 56–83; Zehr, 2015, Appendix I).

D. CONCLUSION

The first research question is answered by the combined construction of Articles 51–54. The Code establishes a plural sentencing mandate without ranking its four purposes; culpability remains relevant to the sentencing assessment; human dignity limits the choice and execution of punishment; and judicial reasoning must connect the circumstances of the case to a proportionate sanction. The principal doctrinal proposition is that the National Criminal Code establishes an integrative sentencing framework in which retribution remains a basis of accountability but is neither the sole purpose nor displaced by corrective justice. The procedural definition of Putusan Pemaafan Hakim in Article 1(19) of Law No. 20 of 2025 confirms that this is a judicial determination of guilt accompanied by non-imposition of punishment or action, not an acquittal. For judges, the practical implication is to identify the purposes relevant to the case, explain the weight assigned to the statutory factors, and justify why the selected sanction is proportionate and compatible with human dignity (Republic of Indonesia, 2023, Articles 51–54; Republic of Indonesia, 2025, Article 1(19); Muksin, 2023).

The second research question is answered by the differentiated legal functions of the mechanisms examined. Article 54(2) permits non-imposition of punishment or an action only where its statutory conditions are met and reasons are given; Articles 75–77 regulate supervision, with Article 76 now read as amended by Law No. 1 of 2026; Article 85 regulates community service as a

principal punishment; and Article 54(1)(i)–(j) requires victim impact and forgiveness to be considered without themselves creating restitution. Restorative-justice procedures under Articles 79–82 of Law No. 20 of 2025 have a separate procedural and remedial structure. These mechanisms may support corrective or restorative outcomes in an appropriate case, but their legal character and effect must be assessed individually (Republic of Indonesia, 2023, Articles 54, 75–77, 85; Republic of Indonesia, 2025, Articles 79–82; Fitria & Ariansyah, 2026; Rohmat et al., 2025; Wicaksana & Januarsyah, 2025).

Accordingly, the National Criminal Code should be interpreted as an integrated but differentiated system: culpability legitimates and limits accountability; prevention and socialisation address future conduct; conflict resolution and restoration of balance recognise the wider consequences of crime; and human dignity constrains every sentencing choice. Corrective justice explains only the relationship between wrongdoing, responsibility, and correction, while restorative justice depends on participation, safeguards, and legally recognised restoration. The interpretive task is therefore not to select one theory as the exclusive label for the Code, but to justify each sentencing mechanism according to its own statutory function.

The normative recommendations are directed to the relevant institutions. The Supreme Court should develop reason-giving guidance for the application of Article 54(2) and the victim-related factors in Article 54(1), while ensuring that judicial directions remain consistent with the amended Code. The Government and the House of Representatives should ensure that implementing rules for supervision and community service give practical effect to Articles 75–77 and

85, including the amended requirements under Article 76. The police, prosecution service, and judiciary should harmonise stage-specific procedures with Articles 79–82 of Law No. 20 of 2025, particularly on eligibility, voluntariness, victim safeguards, fulfilment of agreements, and legal consequences. Claims about institutional readiness or public acceptance require empirical research and are not asserted as findings of this article.

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