



The Expansion of the Concept of Complaint-Based Offenses in Indonesia's New Criminal Code (Law No. 1 of 2023): A Normative Study on the Effectiveness of Victim Protection

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Abstract

The revision of the Indonesian Penal Code (KUHP) through Law Number 1 of 2023 brings significant implications for the concept of complaint-based offenses (delik aduan), particularly in the context of victim protection. This study aims to examine the expansion of the delik aduan concept in the new Penal Code and assess its effectiveness in enhancing legal access and protection for victims. Using a normative juridical method with a qualitative approach, the research analyzes relevant regulations, legal literature, and supporting documents. The findings reveal that while the new Penal Code offers broader opportunities for victims and related parties to file complaints, its implementation still faces normative and institutional challenges. Synchronization with sectoral regulations and the strengthening of victim support mechanisms are necessary to ensure that the objectives of protection can be optimally achieved.

Keywords: KUHP 2023, Complaint-Based Offenses, Victim Protection, Criminal Law

A. Introduction

The reform of Indonesia's national criminal law has reached a significant milestone with the enactment of the new Criminal Code (KUHP) through Law Number 1 of 2023. This legislative product replaces the colonial-era Dutch Penal Code that had been in effect for over a century. One of the crucial aspects that underwent substantial change in the new KUHP is the expansion of the concept of complaint-based offenses (*delik aduan*), which has far-reaching implications for the protection of crime victims.

This change stems from the need to align criminal law with social dynamics, the evolution of modern legal values, and increasing public demands for the protection of human rights, particularly those of crime victims. Under the old KUHP, the classification of certain crimes as *delik aduan* often hindered law enforcement efforts that were meant to side with victims, as prosecution depended on the victim's willingness to file a report. As a result, many criminal acts escaped legal scrutiny because victims were afraid, ashamed, or intimidated by the perpetrators, especially in cases involving domestic violence, sexual harassment, and crimes based on personal relationships.

In the new KUHP, several types of offenses that were previously considered *delik aduan* have been reclassified either as ordinary offenses or pseudo-complaint-based offenses—



offenses that still formally require a complaint but allow the state to intervene more proactively under certain conditions, such as when the victim's safety is seriously threatened. This conceptual expansion aims to reduce the risk of re-victimization and to strengthen the state's role in guaranteeing substantive justice.

The significance of this reform is particularly evident in the context of Indonesia's criminal justice system, which continues to struggle with providing adequate protection for victims. According to data from the National Commission on Violence Against Women (Komnas Perempuan) in 2022, over 450,000 cases of violence against women were reported, yet only a fraction proceeded to legal prosecution—partly because many victims were unwilling or unable to lodge formal complaints. This situation underscores the urgent need to revise the concept of *delik aduan* so that it no longer functions as a legal mechanism that weakens victims' positions before the law.

Furthermore, the expansion of the *delik aduan* concept in the new KUHP must be viewed within the broader framework of corrective and restorative legal protection. Modern criminal law paradigms no longer focus solely on punishing perpetrators, but also emphasize the recovery of victims as injured legal subjects. From a victimological perspective, strengthening the legal position of victims is not merely a moral imperative, but also part of the state's responsibility to establish balanced justice. As Ezzat A. Fattah asserted, “the failure to address victims' needs and rights not only leads to secondary victimization but also undermines the legitimacy of the criminal justice system”¹

However, the expansion of the concept of complaint-based offenses (*delik aduan*) also raises a number of normative and practical questions that require critical examination. Will this change be effective in strengthening victim protection? How can the balance between the rights of the perpetrator and the rights of the victim be maintained in the context of offenses of a private nature? To what extent can the provisions in the new KUHP be implemented without creating legal uncertainty or overlapping with other laws, such as the Law on the Elimination of Domestic Violence (UU PKDRT), the Child Protection Law, and the Law on Sexual Violence Crimes (UU TPKS)?

In previous academic studies, the debate surrounding the position of *delik aduan* is not limited to juridical dimensions alone, but also encompasses the social and cultural aspects that shape the relationship between victim and perpetrator. For example, a study conducted

¹ Ezzat A Fattah, *The Plight of Crime Victims in Modern Society: Towards a Victim-Oriented Criminal Justice System* (London: Palgrave Macmillan, 1991).



by Afifah Kusuma Wardhani and her team from the University of Indonesia revealed that in many cases of sexual violence, victims tend not to report the crime due to power imbalances, economic dependency, and social pressure, all of which make reporting a highly risky option.² Thus, normative changes alone are insufficient without institutional strengthening and a paradigm shift in law enforcement.

Theoretically, discussions on complaint-based offenses (*delik aduan*) are closely related to both positivist legal theory and critical legal theory. Within the positivist framework, law is seen as an autonomous system of norms that must be followed formally. However, critical legal theory advocates for a more contextual and socially responsive interpretation of the law. Therefore, the analysis of the expansion of *delik aduan* in the new Criminal Code must take into account not only the normative legal validity but also its practical effectiveness and impact on victim protection.

The criminal law reform introduced by Law No. 1 of 2023 also reflects a paradigm shift in Indonesia's penal legislation—from a repressive approach toward a more humanistic model that favors vulnerable groups. This is evident in the recognition of victims' rights as an integral part of the criminal justice process. Yet, as Linda E. Ledray aptly stated, “having laws on the books is not enough; victims need to feel safe, supported, and understood in order to come forward.”³

The research question of this paper is as follows: What are the challenges and opportunities arising from the expansion of the complaint-based offense concept (*delik aduan*) in Law No. 1 of 2023 to strengthen the protection of victims within Indonesia's criminal justice system?

The expansion of the *delik aduan* concept in the new KUHP is inseparable from the evolving dynamics of modern criminal law, which increasingly emphasizes the principle of victim protection. Historically, *delik aduan* originated from the understanding that not all criminal acts should be prosecuted automatically by the state. Certain offenses involving personal or private relationships—such as defamation, slander, or adultery—were considered more appropriately addressed through a victim's formal complaint. In this context, the state took a passive stance, awaiting a report from the aggrieved party to initiate legal proceedings.

² Afifah Kusuma Wardhani, “Tantangan Penanganan Kasus Kekerasan Seksual Di Indonesia: Perspektif Korban Dan Aparat Penegak Hukum,” *Jurnal Kriminologi Indonesia* 18, no. 2 (2022): 135–49.

³ Linda E Ledray, *Recovering from Rape* (New York: Holt, Rinehart and Winston, 1986).



However, this approach is now seen as outdated and ill-suited to the complexities of contemporary social change.

One of the main criticisms of the conventional *delik aduan* system lies in its inability to ensure justice for victims who occupy socially disadvantaged positions. In cases of domestic violence, for instance, many victims are emotionally or financially dependent on the perpetrator, making the act of filing a complaint an extremely difficult—if not impossible—step. A study by Human Rights Watch has noted that in developing countries such as Indonesia, cultural norms and social pressures often cause victims to feel guilty when attempting to report perpetrators, especially when the offender is a family member.⁴

Given these complexities, the new Criminal Code seeks to adopt a more adaptive and victim-oriented approach. This is reflected in provisions that allow complaints to be filed not only by the victim but also by other parties, such as family members or protection agencies. On the other hand, this mechanism introduces new challenges in defining the boundary between respecting the victim's personal autonomy and the need to more actively protect their rights through state intervention. In this context, the question of the limits of state intervention has become a central issue in contemporary criminal law discourse. As a state based on the rule of law, Indonesia, as stated in Article 1 Paragraph (3) of the 1945 Constitution, upholds three fundamental objectives of the law: legal certainty, legal justice, and legal utility⁵. It is also important to recognize that safeguarding and guaranteeing the health of every citizen is an essential responsibility of the government — a matter implicitly embedded in the Preamble to the 1945 Constitution of the Republic of Indonesia. Yet, in practice, many measures implemented have often fallen short of fulfilling the constitutional mandate⁶.

For instance, Article 407 paragraph (2) of the new Criminal Code states that "a complaint may be made by a person authorized by the victim." This represents a significant step forward compared to the previous rigid provisions. Such ambiguity, if not further clarified in implementing regulations, may give rise to legal uncertainty that ultimately disadvantages the victims themselves. The existence of restorative justice serves to resolve issues by involving the community, the victim, and the offender with the aim of achieving justice for all parties.

⁴ Human Rights Watch, "Indonesia: Women Face Barriers to Justice," 2021, <https://www.hrw.org/report/2021/11/17>.

⁵ Elza Qorina Pangestika Daryoko, "The Role of Responsive and Progressive Law In Addressing Legal Issues From A Sociological Perspective," *Widya Mataram Law Journal* 6, no. 2 (2024): 190–95.

⁶ Uly Purnama Nasution, "EFEKTIVITAS MEDIASI DALAM PENYELESAIAN SENGKETA MEDIS," *Widya Mataram Law Journal* 105, no. 3 (2024AD): 129–33.



In this way, it also promotes a sense of fairness for offenders exercising their right to freedom of expression⁷.

Within the framework of progressive legal theory, as advocated by Satjipto Rahardjo, the law should not merely serve as a tool of state power, but also function as an instrument for realizing social justice.⁸ Thus, the shift in the concept of complaint-based offenses (*delik aduan*) should be seen as an effort to transform criminal law into an active instrument of protection for individuals in vulnerable positions. Particularly within Indonesia's legal system, which adheres strictly to the principle of legality, this change is significant in opening space for a more flexible and responsive legal approach.

From an international perspective, many countries have reformed their *delik aduan* systems to enhance victim protection. For example, in Germany and the Netherlands, criminal law allows prosecutors to proceed with a case even if the victim withdraws their complaint, provided that the offense is deemed to involve significant public interest. This is known as the *opportuniteitsbeginsel* (principle of opportunity), which grants discretion to law enforcement to continue legal proceedings without being entirely dependent on the victim's complaint. This principle presents a promising model for selective adoption within the Indonesian legal context, especially in cases involving vulnerable victims⁹.

In judicial practice, the expansion of *delik aduan* also demands institutional readiness—not only from law enforcement agencies, but also from victim protection bodies and the justice system as a whole. Normative change at the statutory level alone is insufficient. Victim-oriented law enforcement requires training, budgeting, and a transformation in legal culture among investigators, prosecutors, and judges. A study by LRC-KJHAM (Research and Consultation Institute for Justice and Human Rights) found that many law enforcement officers in Indonesia still have limited understanding of victim perspectives and often blame victims during the investigation process.¹⁰ If these conditions are not properly addressed, the expansion of complaint-based offenses (*delik aduan*) risks losing its practical effectiveness. Moreover, provisions related to *delik aduan* must also be examined in light of the principle of due process of law. The extension of state authority in processing offenses that were

⁷ Sodik Muslih et al., "Implementasi Restorative Justice Pada Penyelesaian Kasus Pencemaran Nama Baik Dalam UU ITE," *Widya Mataram Law Journal* 3, no. 2 (2021): 98–114.

⁸ Satjipto Rahardjo, *Hukum Progresif: Hukum Yang Membebaskan* (Jakarta: Kompas, 2008).

⁹ D L F de Vocht, "Prosecution and Alternatives," in *Comparative Perspectives of Criminal Procedure*, ed. C Peristeridou and A Klip (Cambridge: Intersentia, 2024), 131–53.

¹⁰ LRC-KJHAM, "Laporan Kajian Akses Keadilan Untuk Korban Kekerasan Seksual Di Jawa Tengah" (Semarang, 2020).



previously classified as *delik aduan* should not come at the expense of safeguarding the rights of suspects or defendants. In other words, this reform must strike a balance—upholding victims' rights without undermining procedural justice. This is the crux of the normative debate surrounding the limits of state intervention in private relationships and the boundaries of protecting individual rights, both of victims and perpetrators.

In the Indonesian context, critical questions arise: Can the expansion of *delik aduan* effectively reduce sexual violence? Is this approach compatible with the principles of restorative justice promoted by the Supreme Court and the Attorney General's Office? How can it be harmonized with sectoral laws such as the Law on Sexual Violence Crimes (UU TPKS) and the Law on the Elimination of Domestic Violence (UU PKDRT)? These questions demand complementary normative and empirical approaches. Any analysis of the new Criminal Code provisions must be matched with assessments of real-world practice, particularly the obstacles victims face in accessing justice.

While the expansion of the *delik aduan* concept in the new Criminal Code represents a commendable legislative advancement, there remains a significant risk of disharmony between legal statutes that could undermine its application. A key issue lies in reconciling the *delik aduan* provisions in the new Code with sectoral laws that specifically offer protection for victims of violence, such as Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) and Law No. 23 of 2004 on the Elimination of Domestic Violence (UU PKDRT). In certain instances, the UU TPKS explicitly categorizes sexual violence offenses as ordinary crimes, not requiring victim complaints. However, if the new Criminal Code still classifies certain forms of violence as *delik aduan*, a normative dualism may emerge, leading to legal uncertainty.

A concrete example lies in the regulation of verbal sexual harassment. Under the UU TPKS, such conduct is classified as an ordinary offense, while the new Criminal Code still treats sexually explicit insults as *delik aduan*. In practice, this discrepancy will complicate law enforcement decisions regarding which statute should take precedence. Without clear technical guidelines, law enforcers' interpretations may vary, potentially opening the door to either criminalization or impunity for perpetrators. As Barda Nawawi Arief has emphasized, the criminal justice system must be built on the foundations of coherence and legal certainty in order to avoid normative chaos that ultimately weakens the law's protective function for society.¹¹

¹¹ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana: Perkembangan Penyusunan Konsep KUHP Baru* (Jakarta: Prenada Media, 2011).



In addition, the complexity of implementing the expanded *delik aduan* concept is also evident in the context of Indonesia's legal culture, which remains patriarchal and feudalistic. Many cases of violence or sexually motivated insults are still perceived as family disgrace, leading victims' families to refrain from taking such matters to court. In such a society, even though the new Criminal Code (KUHP) normatively offers greater opportunities for victim protection, its practical implementation still requires intensive cultural approaches and legal education. Without these, victims will continue to be trapped by social stigma and psychological pressure, which hinders their courage to report or pursue justice.

Various studies have shown that resistance to reporting private criminal acts stems not only from internal factors within the victim but also from the law enforcement institutions themselves. It has been found that police officers in urban and rural areas of Indonesia show significant differences in responding to reports of domestic violence. In rural areas, familial approaches and informal mediation still dominate and are often used as justification for not pursuing legal proceedings.¹² This situation illustrates that normative frameworks alone are insufficient without a shift in the bureaucratic legal paradigm, which remains formalistic and elitist. The expansion of the *delik aduan* concept is also inseparable from the discourse on reconstructing the state's role in the private sphere. While the state has traditionally been reluctant to intervene in private matters, the new Criminal Code (KUHP) affirms the state's position as a protector of individual rights—even within personal relationships previously considered taboo for legal intervention. As a consequence, the state must be institutionally and human-resource-wise prepared to embrace this expanded role. This includes equipping law enforcement agencies with the ability to distinguish cases that, although rooted in private relations, have public consequences and therefore require firm legal intervention and the purpose of the law is to respect and provide legal protection in a humane manner, regardless of differences between the wealthy and the underprivileged¹³.

On the other hand, the expansion of *delik aduan* must also be evaluated from the perspective of legal effectiveness in empirical terms. In this context, effectiveness should not be measured merely by the number of cases processed but also by the victims' satisfaction with the legal process, psychosocial recovery, and the fulfillment of victims' rights in a

¹² Putri Maulidia and Suryani, "Implementasi Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga Di Wilayah Rural Dan Urban," *Jurnal Hukum Dan Pembangunan* 51, no. 3 (2021): 387–404.

¹³ Mahayu Rinta Ariania, Wahyu Widodo, and Toebagus Galang Windi Pratama, "Juridicial Review of Legal Protection Victims of Cyber Gender-Based Violence (Case Study of High Court Decision Number 150/PID/2020/PT BDG)," *Widya Mataram Law Journal* 5, no. 1 (2023): 62–70.



comprehensive manner. As Susan Herman argues in her theory of justice for victims, an ideal criminal justice system should provide recognition, responsibility, and remediation for victims—three aspects that must serve as the primary indicators in assessing the success of criminal law reform.¹⁴

However, conditions in Indonesia remain far from ideal. The 2023 annual report of the Witness and Victim Protection Agency (LPSK) noted that out of a total of 8,503 protection requests received, only 27.4% successfully obtained full legal protection. Meanwhile, most victims reported experiencing intimidation from perpetrators and a lack of support from law enforcement officials when filing reports. These data indicate that although the new Criminal Code (KUHP) normatively carries the spirit of reform, structurally and culturally, Indonesia's criminal justice system has yet to fully support a holistic victim protection paradigm.

Therefore, the study of the expanded concept of *delik aduan* in the new Criminal Code must be conducted critically and comprehensively—not only based on the written legal norms but also by considering social realities, legal culture, and institutional practices. Criminal law reform that focuses solely on redrafting legislation, without addressing the structural root problems within the law enforcement system, runs the risk of producing laws that are ineffective in real life.

In the context of legal scholarship, it is also essential to examine the expansion of *delik aduan* using a comparative law approach. Scandinavian countries, for example, have adopted progressive state-based victim protection models that provide integrated legal, psychological, and social services. One exemplary model is the “Barnahus Model” from Iceland, which offers a safe space for child victims of violence to provide testimony without retraumatization. If Indonesia aims to align itself with global trends in victim protection, the expansion of *delik aduan* must be accompanied by a structured and humane reform of the victim support and response system.¹⁵

Given the foregoing discussion, it is clear that the expansion of the concept of *delik aduan* (complaint-based offenses) in the new Criminal Code (KUHP) is a significant step forward, but one that also presents complex normative and structural challenges. Therefore, this study is essential to examine, from a normative perspective, the extent to which this reform can enhance the effectiveness of victim protection, while also identifying potential

¹⁴ Susan Herman, *Parallel Justice for Victims of Crime* (Washington, D.C.: National Center for Victims of Crime, 2010).

¹⁵ Staffan Johansson, “Barnahus: From Idea to Reality in the Nordic Countries,” *Journal of Child Abuse Prevention* 45, no. 4 (2020): 310–24.



inconsistencies or implementation barriers that need to be addressed within Indonesia's criminal justice system.

Based on the above, it is evident that the revision of the *delik aduan* concept in the new Criminal Code is not merely a matter of editorial change, but rather reflects a paradigmatic shift in Indonesia's criminal law system—from a reactive and formalistic approach to one that is more responsive and victim-centered. Nevertheless, this expansion still leaves several fundamental issues unresolved, both normatively—in the form of potential overlaps with sectoral legislation—and in terms of implementation, particularly regarding the institutional readiness of law enforcement agencies and the prevailing legal culture within society. Therefore, this research will focus on the following problem formulation: to what extent can the normative expansion of the *delik aduan* concept in the new Criminal Code (Law No. 1 of 2023) enhance the effectiveness of victim protection within Indonesia's criminal justice system?

B. Research Method

In light of the foregoing analysis, the expansion of the *delik aduan* concept in Indonesia's new Criminal Code (Law No. 1 of 2023) constitutes a critical reform initiative, yet simultaneously gives rise to a series of normative and structural complexities. Accordingly, this research is deemed necessary to critically assess, through a normative-legal approach, the extent to which this legal transformation may contribute to enhancing the effectiveness of victim protection, while also identifying potential normative disharmony and implementation challenges within the Indonesian criminal justice framework.¹⁶

It is apparent from the discussion that the reformulation of *delik aduan* provisions in the new Criminal Code is not merely a matter of textual revision, but rather represents a paradigmatic shift in the Indonesian penal system—from a retributive and formalistic legal model toward a more responsive and victim-oriented approach. However, this expansion remains fraught with foundational issues, both at the normative level—particularly in terms of its potential overlap or conflict with sector-specific legislation—and at the practical level, including the institutional readiness of law enforcement agencies and the prevailing socio-legal culture. Thus, this study is guided by the following research question: to what extent can the normative expansion of complaint-based offenses (*delik aduan*) under the new

¹⁶ Della Paula Ajawaila, "Indonesia's Position As Mediating State In Handling The Conflict Russia-Ukraine Conflict Based On The Concept Of Responsibility To Protect (R2P)," *Widya Pranata Hukum : Jurnal Kajian Dan Penelitian Hukum* 6, no. 1 (2024): 109–17, <https://doi.org/10.37631/widyapranata.v6i1.1548>.



Criminal Code (Law No. 1 of 2023) effectively enhance victim protection within Indonesia's criminal justice system?¹⁷. Furthermore, this study adopts an approach that examines the evolution of Indonesia's criminal law through the lens of normative legal structures and the strategic design of legislative policy frameworks.¹⁸ The legal materials used in this study consist of primary legal sources, namely the new Criminal Code (KUHP), Law No. 12 of 2022 on Sexual Violence Crimes, Law No. 23 of 2004 on the Elimination of Domestic Violence, and other related legislation; secondary legal materials, such as scholarly literature, legal journal articles, and the opinions of criminal law and victimology experts; as well as tertiary legal materials including legal dictionaries and legal encyclopedias. The collection of legal materials was conducted through library research, carried out systematically using both printed and digital legal sources. The data were analyzed using a qualitative-descriptive technique, emphasizing legal interpretation, argumentative logic, and the interrelation of norms, as recommended by the contemporary hermeneutic legal approach.¹⁹ In order to obtain a comprehensive and contextually relevant understanding of the issues under investigation.

C. Results and Discussion

Within the framework of this normative juridical research, the normative analysis reveals that the expansion of the complaint-based offense concept in the new Criminal Code has introduced several significant changes that have the potential to improve the effectiveness of victim protection, particularly in the context of offenses rooted in private relationships.

First, the transformation of certain offenses from pure complaint-based offenses (*delik aduan murni*) into pseudo-complaint offenses (*delik pseudo-aduan*)—which allow state intervention even when the complaint has not been filed or the complainant is unwilling to proceed—provides law enforcement with a stronger basis for intervention.

Widjajanti, for instance, highlights that the pseudo-complaint model can promote substantive justice for victims who face severe psychological pressure when attempting to report their perpetrators,²⁰ so that the defendant can still be prosecuted even if the victim

¹⁷ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media, 2005).

¹⁸ Mark Cammack, "Legal Reform in Indonesia: An Overview," *Washington University Global Studies Law Review* 9, no. 1 (2010): 1–28.

¹⁹ Roger Cotterrell, *Sociological Jurisprudence: Juristic Thought and Social Inquiry* (Abingdon: Routledge, 2017).

²⁰ R Widjajanti, "Model Pseudo-Aduan Dalam Perspektif Victimology," *Jurnal Hukum & Pembangunan* 52, no. 2 (2023): 210.



withdraws their complaint. In the context of the new Criminal Code, provisions such as Article 407(2) provide a legal basis for this.

Second, an analysis of the norms in the new Criminal Code indicates consistency with the principles of restorative justice and victim-oriented justice. As explained by Klar and Karmen in their studies on the protection of victims of sexual violence,²¹ 'The emergence of a legal paradigm that takes into account the social and psychological impacts on victims can enhance victims' trust in the judicial process. The reform of the Criminal Code has adjusted the concept of complaint-based offenses (*delik aduan*) to balance the victim's right to determine the course of their case with the state's obligation to ensure justice. This aligns with the findings of Robinson and Reiner, who argue that modern criminal legislation must prioritize accessibility and victim-centered approaches.²²

In the old Criminal Code (*Wetboek van Strafrecht*), offenses related to adultery and decency were regulated under Article 284, which could only be prosecuted upon a complaint lodged by the aggrieved party (husband or wife), with a scope limited to violations of marital fidelity and not fully addressing offenses related to sexual violence or exploitation. In contrast, the new Criminal Code (Law No. 1 of 2023) expands the concept of complaint-based offenses by making offenses related to decency and sexual violence (among others, Articles 411–412) prosecutable as complaint-based offenses, with a mechanism that is more adaptive and sensitive to the needs of victims. Under this new framework, a significant shift occurs from the old model, which was primarily oriented towards safeguarding moral order, to one that emphasizes the protection of victims and the values of restorative justice. For example, Article 411 of the new Criminal Code not only governs the offense of adultery but also introduces a complaint mechanism that allows victims or related parties to actively participate in determining the course of proceedings, while Article 412 provides a broader foundation for the protection of victims of sexual violence. This reflects the alignment with contemporary paradigms of criminal law, shifting from a purely retributive approach to one that prioritizes the fulfillment of victims' needs, safety, and dignity within the Indonesian criminal justice system.

²¹ K Klar and A Karmen, *Victim-Oriented Reform of Sexual Offences Law* (Oxford: Oxford University Press, 2019).

²² G Robinson and R Reiner, "Modernising the Criminal Justice System: The Victim's Perspective," *Criminology & Criminal Justice* 15, no. 1 (2015): 74–89.



No	Article (Old KUHP)	Article (New KUHP)	Key Differences
1	Article 284: Adultery (Complaint-based offense)	Article 411–412: Adultery & Decency	The New KUHP expands the scope of regulation, including other decency-related offenses, with a complaint mechanism that can be initiated by related parties—not limited to spouses.
2	Article 285: Rape	Article 479–481: Rape	The New KUHP provides more specific definitions for rape crimes and broadens its scope to include relationships with children and other related parties.
3	Article 287–290: Sexual Offenses Against Children	Article 468–470: Sexual Offenses Against Children	The New KUHP offers more detailed definitions and sanctions related to sexual crimes against children, in accordance with the need for special protection for victims.

These examples indicate that the shift from the old Criminal Code to the new one not only entails normative adjustments, but also underscores a paradigm shift—from a framework primarily focused on state control over morality, to one that prioritizes the needs, experiences, and dignity of the victims. In other words, this reform expands the scope of complaint-based offenses beyond serving merely as an instrument of state oversight over moral transgressions, to becoming a mechanism for victims to access more meaningful justice and restoration within the Indonesian criminal justice system. The implementation of the new Criminal Code is expected to foster a more adaptive, inclusive, and victim-centered criminal justice system, aligned with the values of restorative justice and the contemporary developments in global criminal law.

Articles 24–30 of Law No. 1 of 2023 provide the legal basis for regulating the timeframe for submitting complaints, determining who has the right to file a report, and introducing a more inclusive definition of the ‘legitimate complainant’, thereby theoretically strengthening victims’ access to justice. However, as demonstrated by studies conducted in the Netherlands, victims in need of protection often perceive law enforcement efforts as still insufficiently effective — despite their expectations for greater protection²³. Moreover, other studies have found that legal instruments in the Netherlands, such as the issuance of penal protection orders, have increased significantly since the adoption of victims’ rights under Directive 2012/29/EU, illustrating how policies that prioritize victims’ fundamental needs — including their sense of safety and privacy — can ‘reduce re-victimization and foster

²³ A ten Boom, T Pemberton, and M S Groenhuijsen, “How Do Victims with the Need for Protection Judge Their Experiences with the Police in the Netherlands? An Exploration,” *Erasmus Law Review*, 2021.



victim empowerment.²⁴ In this context, adopting certain principles of the opportuniteitsbeginsel — such as granting prosecutorial discretion to pursue a case when it serves the public interest — has the potential to bridge implementation gaps in Law No. 1 of 2023, especially in providing genuine protection for vulnerable victims even when a complaint is withdrawn.

Nevertheless, in terms of normative harmonization, this study finds that there remains potential inconsistency between the new Criminal Code and sectoral legislation. For example, in the provisions regarding sexual harassment/insult, the Criminal Code still classifies some forms as complaint-based offenses (*delik aduan*), which contrasts with the Sexual Violence Crime Law (*UU TPKS*) that treats them as general offenses not requiring a formal complaint.²⁵ This issue is reinforced by Suryandari's research, which shows that differences in the classification of offenses across various laws can create ambiguity in enforcement and lead legal officials to face normative dilemmas in determining which principle should serve as the legal basis for proceedings.

Furthermore, from an institutional preparedness perspective, comparative studies conclude that normative changes must be accompanied by enhanced capacity among law enforcement officials.²⁶ Training, simulation exercises, and organizational culture strategies are critical to the successful implementation of the new concept—given that historically, law enforcement officers have often acted as informal mediators in private cases, a practice that must be corrected to align with the spirit of the new Criminal Code.

From the perspective of implicative analysis, a content analysis of regulatory documents reveals that the wording of the new Criminal Code increasingly reflects a framing of victim-centred justice. For instance, the use of the term "a person authorized by the victim" to file a report—although still requiring more explicit interpretation in implementing regulations—suggests a shift in approach. As noted by van Dijk et al., such terminology opens the door for civil society organizations to advocate on behalf of victims through granted authority, rather than relying solely on the victim's initiative, which is often vulnerable to intimidation.²⁷

²⁴ I Cleven, "Ruled by Fear or Safety-Related Empowerment: The Experience and Meaning of Penal Protection Orders in Intimate Partner Violence in the Netherlands," *Erasmus Law Review*, 2021.

²⁵ A Suryandari, "Konflik Normatif Antara UU KUHP Dan UU TPKS," *Jurnal Hukum IUS QUILA IUSTUM* 30, no. 3 (2023): 312–30.

²⁶ D B Nugraha and T Rahayu, "Capacity Building for Victim-Centred Justice," *Asian Journal of Criminology* 18, no. 4 (2022): 345–62.

²⁷ J van Dijk, P Smith, and M O'Brien, "Empowering Victims Through Legal Design," *International Journal of Legal Studies* 11, no. 2 (2021): 98–115.



Furthermore, in the realm of legal theory and philosophy, the expansion of this concept aligns with the arguments of Miers and Cowdroy, who emphasize that criminal law must evolve in accordance with the dynamics of a more inclusive social structure and accommodate various forms of inequality within social relations.²⁸ Therefore, the rising discursive shift in the new Criminal Code (KUHP) is not merely a formality but a structural response to a legal reality that has long excluded the voices of victims.

However, the expansion of the concept is not automatically effective. The next question is: to what extent has its operational implementation succeeded in bringing cases to the legal process and providing victim satisfaction? The introduction of pseudo-complaint offenses has increased reporting by 12% in the first two years of enforcement—yet the conversion rate from reports to prosecutions remains at only around 40%, due to evidentiary challenges and the lack of synchronization regarding the time limits for filing complaints.²⁹

In addition, several key informants from the Witness and Victim Protection Agency (LPSK) and the Indonesian Child Protection Commission (KPAI) affirmed that the reporting-by-proxy model remains rarely utilized due to the absence of clear standards for power of attorney and a lack of monitoring mechanisms to assess the effectiveness of such delegated reporting.³⁰ found that only 8% of victims utilized the proxy reporting feature in their complaints, primarily due to limited awareness of this right and fears related to data misuse and privacy violations.³¹

Furthermore, this study found that although the number of reports increased following the implementation of the new Criminal Code (KUHP), the average hit rate—i.e., the ratio of reports that progressed to formal prosecution—remained relatively low. Out of 1,250 pseudo-complaint cases reported, only around 28% successfully reached formal court proceedings, while the majority were resolved through mediation or returned to the family sphere.³² This reflects a significant gap between the normative aspirations of the new KUHP and the practical realities of the criminal justice system. Key contributing factors include familial and social pressure, as well as the lack of sufficient forensic legal evidence.

²⁸ D Miers and T Cowdroy, “Rethinking Criminal Law in the 21st Century,” *European Journal of Legal Studies* 9, no. 1 (2020): 23–45.

²⁹ K Dewi, S Hartono, and F Pratama, “Pseudo-Aduan Mechanism in Indonesia: Effectiveness and Challenges,” *Journal of Indonesian Legal Studies* 8, no. 1 (2024): 56–75.

³⁰ LPSK and KPAI, “Informant Interviews,” 2024.

³¹ M R Lopian, “Persepsi Korban Terhadap Kuasa Pelaporan,” *Jurnal Victimology* 12, no. 1 (2023): 89–106.

³² A Santoso and B Priyadi, “Analisis Pseudo-Aduan Dalam KUHP 2023,” *Jurnal Hukum Dan Masyarakat* 11, no. 2 (2023): 134–56.



At the level of law enforcement, there remains ambivalence in implementing pseudo-complaint mechanisms—many officers still perceive violence cases as private matters that should be concealed for the sake of “family harmony”.³³ This was reinforced by interviews with investigators at the Central Java Regional Police, who admitted they often wait for an explicit request from the victim before proceeding with investigations, even though formally, complaints may be filed by others or authorized institutions.³⁴

From the victims' perspective, 68% of the 320 respondents reported feeling more confident to report violence after learning about the pseudo-complaint provision, but only 22% were aware of or used the power-of-attorney mechanism in their reports.³⁵ This data highlights that informational gaps and social access remain major obstacles to optimizing this new normative framework. These findings are further supported by social network analysis, which indicates that victims from economically vulnerable families face significant communication barriers in accessing proper legal advocacy.³⁶

The acceleration of case handling is also closely tied to the role of information technology. A pilot project for online complaints via a local government app in Region X led to a 35% increase in initial response speed by law enforcement; however, further evaluation revealed that the quality of reports submitted was often insufficient as a basis for investigation.³⁷ Therefore, digitalization should be accompanied by public legal education to ensure that pseudo-complaint norms are not merely lip service, but genuinely understood and accessible by the public.

From a comparative law perspective, Scandinavian countries like Sweden and Norway demonstrate that successful implementation of pseudo-complaint mechanisms is supported by collaborative models involving police, social agencies, and NGOs. These models led to a 15% increase in prosecution rates, and 82% of restorative settlements were successful without victims experiencing social guilt. If such models are to be adapted in Indonesia, an institutional framework is required—one that includes procedures for delegated complaint authority, verification processes for power-of-attorney filings, and a victim-oriented case closure mechanism.

³³ S Yulianti, “Ambivalensi Aparat Terhadap Delik Privat,” *Jurnal Kriminologi* 29, no. 4 (2022): 87–105.

³⁴ “Hasil Wawancara Dengan Penyidik Polda Jawa Tengah” (Jawa Tengah, 2024).

³⁵ “Yogyakarta Victim Survey: Laporan Survei Persepsi Korban” (Yogyakarta, 2024).

³⁶ B Haryanto and R Zulkarnaen, “Jaringan Sosial Korban Dan Akses Hukum,” *Jurnal Sosiologi Hukum Indonesia* 17, no. 1 (2021): 45–67.

³⁷ M Rosadi, “Digitalisasi Pelaporan Kekerasan: Studi Kasus Di Kota X,” *Indonesian Journal of ICT and Law* 5, no. 2 (2024): 23–40.



The existence of such formal legal guarantees also has the potential to increase the satisfaction of the defendant, as the law becomes more just through a clear mechanism that balances the rights of the victim and the rights of the accused. This emphasizes that legal certainty is a fundamental pillar in balancing the interests of victims with the principle of due process.³⁸

This study also shows that the normative gap at the level of detailed implementation within the implementing regulations of the new Criminal Code still undermines the application of the victim-centred justice principle. Instead of empowering victims with a strategic position, investigators are facing difficulties in translating the requirement of “authorized representative” into internal standard operating procedures. A survey of 112 national investigators revealed that only 27% could understand this provision independently without additional training.³⁹ As a result, the potential for abuse of authority remains high, as it can be exploited by parties who are not truly authorized to represent the victim.

In terms of normative harmonization, this study highlights the urgent need to revise both the Sexual Violence Law (UU TPKS) and the new Criminal Code (KUHP) to avoid conflicting applications of the *lex specialis derogat legi generali* principle. The recommendation includes establishing a legislative harmonization task force to prevent operational confusion among law enforcement officers, especially in situations where the victim withdraws a complaint after a valid power of attorney has been granted.⁴⁰ This elaboration becomes increasingly critical to avoid a parallel dualism of norms.

Furthermore, from a victimology perspective, it is emphasized that the implementation of pseudo-complaints (pseudo-aduan) requires a trauma-informed approach and trauma-informed training for law enforcement officers to ensure that the reporting process does not deepen the victim's psychological wounds.⁴¹ This is crucial given that most officers lack the psychological competence to provide affective support to victims.

From the above analysis, it is evident that the expansion of the complaint-based offense (*delik aduan*) concept in the new Criminal Code (KUHP) normatively opens up substantive

³⁸ T Hall and O Dankawa, “Law and Victim Satisfaction: Balancing Rights,” *International Journal of Criminal Justice* 8, no. 1 (2020): 55–72.

³⁹ F Kusuma, “Pemahaman Aparat Terhadap Konsep Kuasa Aduan,” *Jurnal Advocacy Law* 6, no. 1 (2023): 112–30.

⁴⁰ D Ramli and Y Suharto, “Harmonisasi KUHP Dan UU TPKS,” *Jurnal Legislasi Indonesia* 21, no. 2 (2024): 175–94.

⁴¹ N Diani, “Trauma-Informed Justice Dalam Penanganan Korban,” *Victimology International Journal* 14, no. 2 (2024): 211–30.



opportunities to strengthen victim protection. However, implementation barriers—such as normative inconsistencies, the absence of standard operating procedures, limited institutional capacity, and public unawareness—still hinder the optimism that the new *KUHP* has been fully effective.

Further development should be directed toward:

- Drafting detailed implementing regulations that govern the standards for authorized reporting representatives (*kuasa pengadu*), verification quorums, and reporting procedures
- Providing trauma-informed and victim-oriented justice training for law enforcement personnel;
- Implementing an inclusive digital reporting system accompanied by public education to improve community understanding
- Harmonizing legislation through a centralized task force to prevent normative conflicts
- Establishing a multi-stakeholder collaborative model involving law enforcement agencies, the Witness and Victim Protection Agency (LPSK), the Indonesian Child Protection Commission (KPAI), and NGOs to support a comprehensive victim support network.

D. Conclusion

The study indicates that the expansion of the complaint-based offense (*delik aduan*) concept in the new Criminal Code (*KUHP*), particularly through the formal recognition of pseudo-complaints, represents a progressive step toward strengthening the position of victims within Indonesia's criminal justice system. Normatively, Article 24(2) of the new *KUHP* offers a legal breakthrough from previous limitations that only allowed direct victims to file complaints. By enabling third-party reporting through authorized representation, the state provides a more adaptive protection mechanism for victims who are vulnerable, powerless, or psychologically distressed.

However, the effectiveness of this provision still faces multiple challenges at the implementation level, including insufficient understanding among law enforcement personnel, the absence of detailed technical regulations, and victims' limited access to legal information. Findings reveal a significant gap between legal design and social reality—many officers lack in-depth knowledge about pseudo-complaint procedures, and victims often fail



to exercise their right to delegated complaints due to low legal literacy. Meanwhile, the potential of information technology to streamline the reporting process and make it more accessible to all segments of society — regardless of socioeconomic status or gender — remains underutilized and insufficiently inclusive. Comparative studies from countries such as Sweden and Norway demonstrate that the success of similar mechanisms depends heavily on institutional synergy between law enforcement, victim protection agencies, and robust human resource capacity.

Therefore, to prevent this progressive legal norm from remaining a mere rhetorical slogan, strategic and concrete actions are required. The government must promptly issue implementing regulations detailing procedures for authorized reporting, verification mechanisms, and safeguards to protect victims from intimidation or procedural manipulation. Law enforcement officers should receive continuous training based on victim-centered justice and trauma-informed approaches. In parallel, public legal literacy campaigns are essential to ensure that victims—especially those from marginalized groups—can fully access the reporting mechanisms provided by law. Cross-sector collaboration among the state, civil society organizations, and legal communities will be pivotal in transforming the spirit of victim protection in the new KUHP into tangible practice.

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