

# Critical Review Of The Implementation Of Restorative Justice For Victims Of Sexual Violence Crimes: A Legal Positivism Perspective Of Hart

Nur Alifah

Faculty of Philosophy, Universitas Gadjah Mada, Yogyakarta, Indonesia

\*Corresponding Author:

Email: [nuralifah@mail.ugm.ac.id](mailto:nuralifah@mail.ugm.ac.id)

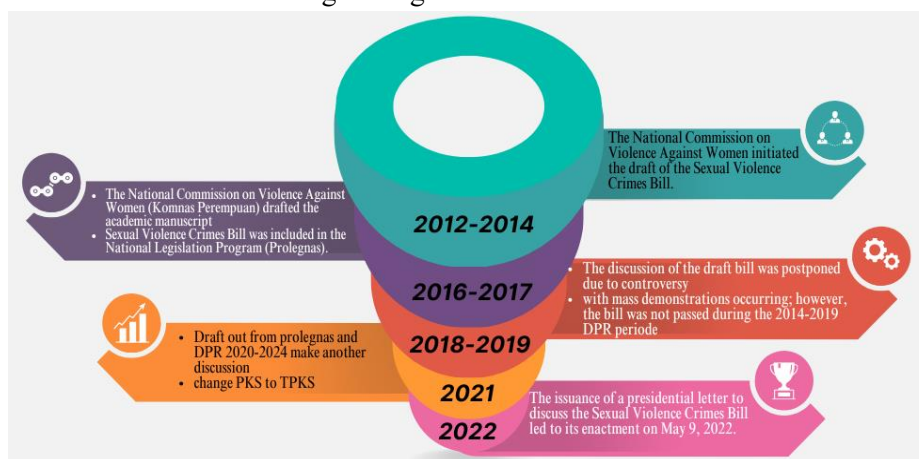
## Abstract.

*Sexual violence is a global issue that has increasingly garnered attention, with various evolving definitions, including the explanation by the World Health Organization (WHO) which states that sexual violence involves actions to obtain unwanted sexual behaviour, carried out through coercion or without the consent of the victim. In Indonesia, sexual violence was previously regulated in the Indonesian Criminal Code (KUHP), but with the development of time, Law No. 12 of 2022 concerning Sexual Violence Crimes (UU TPKS) was introduced to provide more protection for victims and more robust law enforcement. Furthermore, the application of restorative justice principles in handling Sexual Violence Crimes has begun to be considered, although this principle was initially focused on minor criminal acts. Restorative justice aims to restore relationships between the victim, offender, and society, but its application in sexual violence cases presents various challenges, including the potential to reduce the accountability of offenders and the risk of re-victimisation of the victims. This research employs a normative legal approach with analysis of the applicable regulations and the concept of H.L.A. Hart's legal positivism, which emphasises the importance of systematic law enforcement while still allowing space for flexibility, particularly in the application of restorative principles. Based on the analysis, the application of restorative justice in sexual violence cases in Indonesia needs to be carried out with great caution to ensure the protection of victims' rights and the accountability of offenders, without neglecting the importance of firm and effective law enforcement.*

**Keywords:** Crime; Hart; Law; Restorative Justice; and Sexual Violence.

## I. INTRODUCTION

Sexual violence is a global issue that continues to be discussed, with various evolving definitions. According to the World Health Organization (WHO), sexual violence includes actions to obtain unwanted sexual behaviour or expressions, carried out through force or without the victim's consent, regardless of the relationship between the perpetrator and the victim (1). The WHO also states that sexual violence can affect both the psychological and physical aspects of the victim. Furthermore, under the Rome Statute of the International Criminal Court (ICC), sexual violence is considered a crime against humanity(1). Previously, sexual violence was regulated in the Criminal Code (KUHP) under Chapter XIV on immoral crimes. However, with the development of criminal law, the regulations in the KUHP were deemed insufficient to address sexual violence, as many victims were reluctant to report due to complex legal processes and a lack of protection. The enactment of Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) marked an important milestone in improving the handling of sexual violence in Indonesia and providing protection for victims(2). Here's the timeline for drafting the regulation:



Sources : Processed by author (2025)

The main objective of the Sexual Violence Crimes Law (UU TPKS) is to prevent sexual violence, protect and rehabilitate victims, enforce the law, and prevent repeated sexual violence. In addition, the UU TPKS also regulates the rights of victims, including protection and recovery, and provides accessibility for victims with disabilities. (3). Furthermore, criminal acts in Indonesia have begun to embrace restorative justice, as proposed by \*The Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (Annex II)\*, which encourages countries to implement restorative justice within their legal systems. The introduction of the concept of restorative justice shifts the focus of law enforcement from a retributive approach. Globally, the application of restorative justice marks a significant change in law enforcement, focusing on restoring balance after a crime. Its successful implementation in countries such as Japan and South Korea has led to a significant reduction in crime rates(1).

Indonesia, as a country whose legal framework is still based on positive law, addresses criminal acts in accordance with the provisions of existing laws or written regulations, in line with the concept of legal positivism, which emphasizes the alignment of rules with criminal enforcement(4). Hart's legal positivism provides a deep understanding of the application of justice in law enforcement. Hart states that law is a written rule that also encompasses how these rules are accepted within a social context. Restorative justice, initially used for minor offenses, is now increasingly applied to more serious violations, including sexual violence crimes (TPKS). This raises a serious question about whether the fundamental principles of restorative justice, which emphasize restoration and reconciliation, can be effective and fair when applied to cases that heavily involve victims, such as in sexual violence.

The issue arises when restorative justice, primarily applied to minor offenses, is also implemented in other criminal cases, including sexual violence crimes (TPKS). The failure to align law enforcement practices with existing regulations raises concerns that restorative justice may not have a deterrent effect on perpetrators, thereby increasing the likelihood of them committing similar crimes again(5). In addition, this also hinders public perception, as many find it difficult to accept the resolution of sexual violence cases through a method that seems too lenient, especially when the victim is a child. Therefore, although restorative justice emphasizes rehabilitation and the rights of the perpetrator, its application in sexual violence cases needs to be carefully considered to avoid injustice to the victim and not harm the public interest (5).

Restorative justice is not a new discourse; several previous studies have examined the issues related to the implementation of restorative justice. Ritonga, et al. have also contributed to this discussion in their research.(5) This explains the flaws in the application of restorative justice as an alternative in handling sexual violence crimes (TPKS), as it may trigger repeated acts of violence due to the lack of a deterrent effect on the perpetrator. Safitri, et.al (1) This provides an overview of how restorative justice needs to be re-evaluated regarding its implementation when applied to serious cases, such as sexual violence against women and children. This research is important to conduct, given the potential errors in applying the principles of restorative justice, which could affect not only justice for the victim but also public perception of the legal system. H.L.A. Hart's development of legal positivism will be applied as an analytical tool in this study. Considering Indonesia as a country implementing a positive legal system, which prioritises the alignment between written rules and law enforcement practices, this legal context is highly relevant and needs to be examined through the optimisation of this perspective. Hart's legal positivism places law in an important position as a series of rules accepted and followed in society. Here, the implementation of restorative justice must be in sync with the applicable legal provisions, especially in cases like sexual violence crimes (TPKS), which involve the rights of victims and social justice. Using this theory, this study aims to examine whether the application of restorative justice within Indonesia's positive legal system can be justified, and how existing legal principles can be applied fairly without disregarding the deterrent effect on perpetrators and ensuring maximum protection for victims.

## II. METHODS

The method used in this research is normative juridical legal research with a legislative and analytical approach. Secondary data, as the primary legal material, is collected using documentation and note-taking techniques, and then analyzed using qualitative techniques.(6) The scientific logic in normative

legal research is built upon the discipline and methodology of normative legal science, which focuses on law as its object. This research also utilizes literature studies or documents. The analytical approach aims to understand the meanings contained within the terms used in legislation conceptually, as well as to examine their application in practice and legal decisions.(7) Furthermore, the research will conduct a philosophical study on the application of legal principles, particularly the principles of legal positivism, including efforts to understand the meaning of law, its application in specific situations, and the consequences of legal violations.(8)

### **III. RESULT AND DISCUSSION**

#### **A. Polemics on the Implementation of Restorative Justice for Sexual Violence Crimes (TPKS)**

Starting from the classical discussion of Plato, the law should provide general guidelines for broad situations and large groups of society. In the Epicurean tradition, what is officially regulated by legal norms does not have an independent existence. Epicurus argued that justice is not an inherently standalone concept, but rather the result of an agreement among members of society to respect each other by not causing harm or being harmed. Justice and law are seen as the result of mutual arrangements and shared agreements.(9) This illustrates that the Epicurean jurisprudence tradition views law as a man-made product that is temporary and can change according to human activities and customs. Modern criminal law not only emphasizes legal certainty but also focuses on protecting society from crime. The philosophical foundation of law has shifted from a retributive approach (10), Which is based on retaliation and imposing a punishment equal to the crime committed, towards understanding criminal law as an educational, rehabilitative, and restorative tool. Restorative justice has become an increasingly popular concept in Indonesia, viewing criminal acts as violations of human relationships, with resolutions through mediation and deliberation.(1) Restorative justice has been part of criminology discussions for several decades and can be applied at various stages: (a) pre-trial as a diversion from criminal charges, (b) at the sentencing stage, and (c) post-sentence as an alternative to imprisonment. In the UK, restorative justice is available at all stages of the criminal justice process, including as a diversion by the police, in community or suspended sentences, or alongside imprisonment. However, despite becoming a key topic in discussions, progress towards full integration of restorative justice has been slow, and existing services remain inconsistent due to a lack of coordination and data sharing.(11)

The term of restorative justice (RJ) is used internationally across various fields such as policing, prisons, probation, juvenile justice, and problem-solving courts. Restorative practices are based on six principles: restoration, voluntariness, neutrality, safety, accessibility, and respect, aimed at building healthy relationships and resolving conflicts. (11)Some gender advocates argue that restorative justice could be a more responsive option for addressing the needs of sexual violence victims and their families, but there is significant controversy surrounding its application to such crimes. The main concern is that restorative justice could shift perpetrators into private spaces, allowing them to evade accountability. (12) In addition, there is a risk that restorative justice may not address the underlying power imbalances in sexual violence and family dynamics, which could lead to revictimization and fail to change entrenched behavioral patterns.(12) In the criminal regulations related to Sexual Violence Crimes (TPKS) in Indonesia, the draft of Law No. 12 of 2022 on Sexual Violence Crimes (TPKS) was introduced in 2022. It is hoped that this law will provide clearer protection for victims of sexual violence with a more appropriate resolution mechanism.(2) The Sexual Violence Crimes (TPKS) Law emphasizes the regulation of sexual violence based on principles of respect for human dignity, non-discrimination, justice, as well as the protection and recovery of victims.(13)The TPKS Law provides victims' rights in a comprehensive manner, ranging from procedural rights to legal protection.

Several progressive provisions in criminal procedure law, such as guarantees of free medical examinations, victim assistance, as well as restitution and compensation, are also regulated in this law. Additionally, the law establishes an integrated criminal justice system known as the Integrated Criminal Justice System for Handling Cases of Violence Against Women (SPPT-PKKTP), which ensures that victims are the primary subjects throughout the judicial process. SPPT-PKKTP prioritizes the principles of human

rights protection, gender equality, and non-discrimination, focusing on recovery and providing better access to justice for victims of sexual violence.(13) The controversy surrounding the TPKS Law also intersects with the implementation of restorative justice in the judicial system. Restorative justice cannot be applied to all cases, particularly in sexual violence cases. Data shows a significant rise in reports of sexual violence, and often, society undermines these cases, with resolutions involving compensation or marriage between the perpetrator and the victim. While restorative justice aims to restore the original conditions, this may not be enough to provide a sense of justice for the victim, given the trauma they have experienced.(1) Restorative justice in the TPKS Law initially became one of the alternative spaces for victims to speak out and share the violence they have endured. Another reason is to demand accountability from the perpetrator, seek empowerment, and have their voice heard. Symbolically, restorative justice provides an opportunity and space for victims to speak, ask questions, and demand accountability in line with the six principles it upholds. However, the judicial process that will follow may also overlook, diminish, or worsen the trauma experienced by the victim.(11)

### **B. Legal Positivism Herbert Lionel Adolphus Hart**

Legal positivism initially emerged as a school of thought focused on analytical jurisprudence. This thought seeks to understand the true significance of law (14). Law is understood as a positive norm in the form of regulations and legislation, in line with legal positivism that focuses on jurisprudential analysis within certain limits. Law is seen as a set of rules established by the competent state authorities, separating law from feelings, morality, and ethics, and identifying justice solely based on legality and compliance with the law.(15) Legal positivism is strongly characterized by its separation from moral law, which is seen as an essential element in the establishment of rules. The concept that what is good and just is law is rooted in the classical Roman conception of moral principles as *lex naturae* or natural law.(16) Hart, as a positivist, offers a more normative and complex understanding of law, emphasizing the fundamental flaws in reductive definitions of law, such as those proposed by Austin. Hart argues that Austin reduced normative elements of law, such as values, obligations, and ethics, to something simpler and more measurable, like public desires and the consequences of non-compliance.(17) Austin chose to reduce the complexity of law to observable empirical facts, such as the expectation of obedience to commands and the suffering caused by non-compliance. According to Hart, this reductive understanding overlooks the normative aspects of law, which differ from individual moral obligations.(18) Law is not just made up of commands; it also has a systematic aspect that involves the recognition and acceptance of norms by society.

Hart refers to the core aspects of law as primary rules, which govern individual behavior within society. Primary rules are mandatory and require individuals to fulfill certain obligations, such as "do not steal" or "pay taxes." These primary rules guide everyday behavior, but for the legal system to function effectively, secondary rules are also necessary.(19) Secondary rules are used to modify, supervise, and enforce primary rules. With the presence of secondary rules, the law can become a more complex and dynamic system, allowing for more efficient regulation, modification, and interpretation of rules. Without secondary rules, the law would lack a clear process for changing or interpreting existing rules. Secondary rules provide the authority to amend primary rules, such as delegating power to the legislature to enact laws and establish specific procedures within those laws. Thus, secondary rules are "rules about primary rules."(20) Hart categorizes secondary rules into three types: (1) Rule of Recognition, (2) Rule of Change, and (3) Rule of Adjudication. The Rule of Recognition functions to determine whether a primary rule is valid or not. In a developing legal system, this rule often refers to authoritative texts or standards to identify primary rules. As society becomes more complex, the criteria for identifying primary rules become more intricate and may include authoritative texts, statutes, customs, individual declarations, or court decisions, with some criteria having a hierarchical order.(21) In addition to his views on law as rules, Hart modified legal positivism by arguing that legislators should consider morality when creating valid laws.

He argued that law must contain a *Minimum Content of Natural Law*, which ensures the survival of humanity, considered a fundamental need for all people.(20). According to Hart, the primary goal of humans is survival, and law must reflect minimal moral values to ensure this. He also emphasized that morality and law should coexist, given the inevitable interaction among humans. Hart identified five minimal components



necessary for a legal system to align with this goal:: (1) *Human Vulnerability*, (2) *Approximate Equality*, (3) *Limited Altruism*, (4) *Limited Resources*, dan (5) *Limited Understanding and Strength of Will* (20).

### **C. Analysis of the Relevance of Hart's Legal Positivism in the Context of Restorative Justice in Rape Cases**

Restorative justice is a contemporary justice mechanism used to respond to crimes, disputes, and community conflicts with the concept of 'peace' as the primary goal in sentencing.(22) Some groups associate restorative justice with the social justice movement, although this idea is more common in the US than in other wealthy democracies. There are claims that restorative justice can reduce incarceration rates, although evidence suggests the opposite.(22) Restorative justice is an extension of the concept of reintegrative shaming, which focuses on the interests of the victim, the perpetrator, and society. John Braithwaite (1996) described this movement as a reform of criminal law in the 1990s.(23) In restorative justice, the victim, the perpetrator, and the community are directly involved in responding to the crime. They are at the centre of the criminal justice process, while the state and professionals act as facilitators. This process focuses on the accountability of the perpetrator, compensation for the victim, and the active participation of all parties to achieve restoration(23), Restoration and reconciliation. Issues and debates surrounding the use of restorative justice arise when it clashes with cases of sexual violence, where there is a need for a firm response to the crimes committed by the perpetrator, as well as full justice for the victim. The use of restorative justice in sexual violence cases raises concerns related to gender-based power dynamics, safety, and accountability.

If not properly managed, restorative justice can exacerbate power imbalances and lead to the revictimisation of the victim. At times, victims may feel pressured or coerced into participating in this restorative process, which risks worsening their suffering, particularly in cases of domestic sexual violence.(11) Additionally, there are challenges related to unrealistic expectations regarding the outcomes of restorative justice. All parties must recognise that, although they enter the process with certain hopes, the results may not align with those expectations. Poorly managed expectations can lead to disappointment or even result in the process being exploited by the perpetrator.(11) In analysing the application of restorative justice in sexual violence cases, it is important to consider the perspective of legal positivism, particularly Hart's theory, which tends to question the suitability of restorative justice in sexual offence cases. Hart, in his legal positivism, emphasises the need for clear rules and a structured legal system to ensure the effective enforcement of the law.(15) In the context of sexual violence, this approach highlights that restorative justice can exacerbate existing power imbalances and risk causing re-victimization of the victim if not managed carefully. Indonesia, as a legal state that still adheres to positive law as derived from Dutch law, fundamentally possesses a positivist consideration in the application of rules. This is quite necessary in the application of rules concerning sexual violence or crimes to provide punishment that deters the perpetrators. Hart's positivism, which recognizes the clarity of law, has quite strong doubts when used to highlight the application of restorative justice for TPKS (Tindak Pidana Kekerasan Seksual or Sexual Violence Crimes) cases, which are outlined as follows:

#### **1. Law as Dynamic System**

Hart explains that law is not merely related to rules that prioritize retribution or harsh retaliation but also allows for changes and interpretations of the law. In Hart's secondary rules(20), specifically the rule of change which governs the rules of alteration, it is relevant to the use of restorative justice because the presence of restorative justice becomes a new option to enforce criminal law through a middle ground of peace. The rule of change needs to be accompanied by the rule of adjudication which functions to highlight and examine more deeply the suitability of the application of restorative justice with the existing 6 principles. In TPKS (Tindak Pidana Kekerasan Seksual or Sexual Violence Crimes) cases, the position of the victim is important to be accommodated with the 6 principles in restorative justice, namely restoration, voluntariness, neutrality, safety, accessibility, and respect.

#### **2. Separation of Morality and Law**

Law is a system of rules created and enforced by a legitimate authority, and its validity does not depend on conformity with moral norms, but rather on the existence of clear and accepted legal rules within

a legal system.(19) The separation between law and morality, as proposed by Hart, rests on the idea that law does not need to be harmonious with morality to be valid. In this context, restorative justice, which emphasizes healing and restoring relationships between victims and perpetrators, can be seen as a more flexible approach that considers individual moral values and social recovery needs, but still operates within the limitations of existing positive law. According to Hart's view, the application of restorative justice in cases of sexual violence (TPKS) must consider the existing legal limitations. There may be conflicts between efforts to restore relationships and impose punishment on perpetrators based on positive law. While Hart's distinction between law and morality allows for restorative processes based on morality and empathy, these mechanisms must still comply with legitimate legal rules. However, restorative justice often involves deeper moral and social values that are not fully regulated by positive law, which can challenge the separation between law and morality while offering a more humanistic approach to law enforcement within a legitimate legal framework.

### **3. Degradation of legal firmness in the enforcement of rules**

The application of restorative justice in cases of Sexual Violence Crimes (TPKS) raises debates regarding how a legal system that prioritizes legality and firmness in punishing perpetrators of violence can synchronize and accommodate restorative principles without disregarding moral aspects. The implementation of restorative justice in cases of sexual violence (TPKS) can reduce legal firmness because its focus is on healing the relationship between perpetrators and victims, which may lessen severe punishments such as detention.(24) According to Hart, as long as the restorative process complies with the law, for example, legitimate mediation, then there is no loss of legal firmness. Hart asserts that legal violence is not always necessary, provided that legal procedures are followed. However, problems can arise if restorative justice does not follow proper procedures or involves problematic moral elements that compromise the application of the law. Additionally, more flexible restorative justice can create legal uncertainty, but as long as it remains within a legitimate legal framework, it remains consistent with the ideas of legal positivism.

### **4. Pertimbangan konsep *minimal content of natural law***

The application of restorative justice in cases of Sexual Violence Crimes (TPKS) must consider every aspect of the limitations (*minimal content of natural law*) (25) proposed by Hart, to ensure that the justice provided still meets legitimate legal standards and provides optimal recovery for victims and perpetrators

#### *a. Human Vulnerability*

Hart argues that humans are naturally vulnerable to violence, injustice, and violations of their human rights, which makes the existence of law essential to protect them. In the context of restorative justice in cases of Sexual Violence Crimes (TPKS), the vulnerability of victims must be carefully considered. This approach gives victims the opportunity for psychological healing, but it must ensure that this process does not trivialize or ignore the suffering they have experienced.

#### *b. Approximate Equality*

Hart emphasizes the importance of equality before the law. In restorative justice, this principle allows victims and perpetrators to interact as equals. However, it is important to recognize that victims are often in a more vulnerable position, and their protection rights must be safeguarded. They should not be forced to forgive the perpetrators before they are ready to make such a decision.

#### *c. Limited Altruism*

Hart indicates that although humans have the potential to act altruistically, this is limited in the context of law. In the case of restorative justice in Sexual Violence Crimes (TPKS), this means that perpetrators do not always have the good intention to fully acknowledge their wrongdoing or provide restitution. Therefore, the restorative justice system must ensure that the perpetrator's wrongdoing is properly acknowledged and that victims receive appropriate justice.

#### *d. Limited Resources*

Hart emphasizes the limited resources available to the legal system, both in terms of time, money, and personnel. These limitations must be taken into account in restorative justice, which means that this process should ideally be applied only to specific cases, rather than replacing formal judicial procedures that require more resources.

e. *Limited Understanding and Strength of Will*

Hart observes that humans have a limited understanding of the law and the willpower to always act in accordance with the law. In the application of restorative justice in cases of Sexual Violence Crimes (TPKS), both perpetrators and victims may not fully understand the impact of their actions or may find it difficult to change their behavior or forgive. Therefore, restorative justice must consider the need for additional support, such as therapy or counseling, to enhance the recovery process and make it more meaningful.

#### IV. CONCLUSION

The discussion on the application of restorative justice in cases of Sexual Violence Crimes (TPKS) has raised challenges in balancing the principles of restorative justice with the existing criminal justice system. While restorative justice aims to provide space for the restoration of relationships between the victim, the perpetrator, and society through the active participation of all involved parties, its application in sexual violence cases presents several challenges. The primary concern is the risk of shifting the perpetrator to a private space, which could reduce their accountability, as well as the potential for revictimisation of the victim due to existing power dynamics. Furthermore, there is concern that restorative justice may not be able to enforce the necessary strictness for legal intervention and victim protection in sexual violence cases. According to the legal positivism theory of Herbert Lionel Adolphus Hart, the legal response must be viewed within the framework of existing limitations, such as vulnerability to violence, limited resources, and human inability to have complete knowledge of the law.

Hart emphasised that the law should operate within legitimate and systematic boundaries, but there is still room for the application of restorative principles. In the case of TPKS, the application of restorative justice must be done with caution to ensure that the perpetrator's accountability is maintained, the victim's rights are protected, and the suffering experienced by the victim is not trivialised. The prevailing positive legal system in Indonesia, which prioritises legal certainty and strictness, requires adjustments to accommodate restorative elements in sexual violence cases, without undermining the importance of robust law enforcement and maximum protection for the victim. Therefore, restorative justice in the context of TPKS must be introduced while respecting the fundamental principles of Hart's legal positivism, ensuring that equality, restoration, and adequate protection for the victim are guaranteed, without neglecting the importance of the perpetrator's accountability.

#### REFERENCES

- [1] Safitri SS, Didi Ardiansah M, Prasetyo A. Quo Vadis Keadilan Restoratif pada Perkara Tindak Pidana Kekerasan Seksual Pasca Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual (Studi Terhadap Pasal 23 UU TPKS). *J Huk dan HAM Wara Sains*. 2023;2(01):29–44.
- [2] UU RI. Undang-Undang Republik Indonesia Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual. Vol. 1, Kementerian Sekretariat Negara Republik Indonesia. 2022.
- [3] Alfanada E, Hidayat S, Saipudin L. Urgensi Undang-Undang Tindak Pidana Kekerasan Seksual (Tpks) Dalam Penanganan Kekerasan Seksual. *J Penelit Huk [Internet]*. 2023;1(62):14–30. Available from: <https://jurnal.bisakonsul.com/index.php/juridische>
- [4] Amelinda Iskandar S. UU TPKS: Upaya Negara Hukum Yang Membahagiakan Rakyatnya? *J Demokr dan Ketahanan Nas* |. 2023;2(1):282–91.
- [5] Ritonga IMS. Kritik Restorative Justice dalam Kasus Pelecehan Seksual di Pesantren: Analisis Undang-Undang No. 12 Tahun 2022. *Leg J Perundang Undangan dan Huk Pidana Islam*. 2024;9(1):100–16.
- [6] Mamuji S dan. Penelitian Hukum Normatif Suatu Tinjauan Singkat. 17th ed. Jakarta: Rajawali Press; 2015. 128 p.
- [7] Ibrahim J. Teori dan Metodologi Penelitian Hukum Normatif. Malang: Bayumedia Publishing; 2012. 310 p.

- [8] Cory D. Pengantar Filsafat Hukum. 1st ed. Bandung: CV Haura Utama; 2023. 139 p.
- [9] Sebastian T. Anti-Positivisme Ronald Dworkin : Menalar Hukum sebagai Moralitas. *UNDANG J Huk.* 2023;6(1):269–308.
- [10] H.L.A Hart. Punishment and Responsibility Essay in The Philosophy of Law Second Edition. second. New York: Oxford University Press; 2008. 329 p.
- [11] Gavin P, Kite C, Porter C, McCartan K, Cawley P. Restorative justice in cases of sexual violence: current and future directions in the UK. *Contemp Justice Rev Issues Crim Soc Restor Justice* [Internet]. 2023;26(4):393–410. Available from: <https://doi.org/10.1080/10282580.2024.2330375>
- [12] Gang D, Kirkman M, Loff B. “Obviously It’s for the Victim to Decide”: Restorative Justice for Sexual and Family Violence From the Perspective of Second-Wave Anti-Rape Activists. *Violence Against Women.* 2024;30(12–13):3187–210.
- [13] Jaya Hairi Prianter et.al. Implementasi Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual. *Pus Anal Keparlemenan Badan Keahlian Sekr Jenderal DPR RI.* 2023;4(1):163–79.
- [14] Rusydi M. Hukum Dan Moral: Mengulik Ulang Perdebatan Positivisme Hukum Dan Teori Hukum Kodrat H.L.a Hart & Lon F. Fuller. *AL WASATH J Ilmu Huk.* 2021;2(1):1–8.
- [15] Prasetyo dan Absori. Study Of Legal Positivism. *Supremasi Huk J Kaji Ilmu Huk.* 2020;8(2):21.
- [16] Atiq EH. Legal Positivism and the Moral Origins of Legal Systems. *Can J Law Jurisprud.* 2023;36(1):37–64.
- [17] Dheeksanya. An Analysis of Capital Punishment from a Positivist and Naturalist Legal Perspective. *Jus Corpus Law J.* 2022;2(3):504–10.
- [18] Sobayi WM. Influence of Positivism on Social Science: A Literature Review. *Res Humanit Soc Sci.* 2021;11(23):9–15.
- [19] Sistyawan DJ, Saraswati R, Lita TALW, Jayawibawa M, Aris MS. the Development of Positivism’S Legal Theory: From Bentham To Hart. *Petita J Kaji Ilmu Huk dan Syariah.* 2024;9(2):777–801.
- [20] H.L.A Hart. The Concept of Law. Second. New York: Oxford University Press; 1994. 325 p.
- [21] Mcfarlane DA. A Comparative Analysis of Legal Positivism and Natural Law Legal Theories. *Sch Int J Law, Crime Justice.* 2019;7956(1951):5–9.
- [22] Lorthanavanich D, Komazawa O. Chapter 1 Introduction Chapter 1. *Fluid Mech.* 2022;1(1970):1–30.
- [23] Koto Z. Penerapan Keadilan Restoratif Dalam Penanganan Tindak Pidana Guna Mewujudkan Penegakan Hukum Yang Berkeadilan. *J Ilmu Kepol.* 2023;17(1):34–50.
- [24] Mutiara SL. Dynamics And Effectiveness Of Domestic Violence Law In Indonesia (Law No. 23 Of 2004 On The Elimination Of Domestic Violence). *J Law, Polit Humanit.* 2024;4(3):53–66.
- [25] Onwudinjo A. Hart Minimal Content of Morality: An Expository Analysis. *AMAMIHE J Appl Philos.* 2024;22(2):1–9.