

Criminal Liability of Defendants with Paranoid Schizophrenia Mental Disorder in the New Criminal Code

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ABSTRACT: This study examines criminal liability for defendants suffering from mental disorders, specifically Paranoid Schizophrenia, within the framework of the new Indonesian Criminal Code (KUHP), while also comparing it to provisions under the former Criminal Code. Paranoid Schizophrenia, as a severe mental disorder, often raises debates in criminal law, particularly concerning the capacity of individuals to bear legal responsibility. The purpose of this research is to analyze the comparative concept of criminal liability for defendants with Paranoid Schizophrenia under both the old and the new Criminal Code, as well as to explore the implications of these differences for safeguarding the rights of defendants with such conditions within the criminal justice system. This research employs a normative juridical approach using comparative legal analysis. Primary data were collected through literature review, while secondary data were obtained from interviews to support and reinforce the normative legal analysis. The findings indicate that the new Criminal Code adopts a more progressive and humanistic approach in addressing defendants with Paranoid Schizophrenia by explicitly recognizing mental disorders as grounds for exemption from criminal liability and by emphasizing the necessity of rehabilitative measures. These differences have a direct impact on the legal status of defendants, the sentencing process, and the protection of human rights within the criminal justice system.

KEYWORDS: Criminal Liability; Paranoid Schizophrenia; Comparative Criminal Law; Old Penal Code; New Penal Code.

I. INTRODUCTION

Criminal law is an integral part of the national legal system that plays a strategic role in protecting the legal interests of society and upholding justice (Jauhari et al., 2025). Through the establishment of prohibitive and obligatory norms, criminal law determines which actions are forbidden and attaches sanctions to their violations. (Putri & Waluyo, 2024) The enforcement of criminal law is not only aimed at retribution for offenders but also at preventing future violations and restoring social order and balance (Mossa, 2022). In practice, criminal law constantly seeks harmony between individual interests, public interests, and state interests (Wijaya, 2021). From a legal perspective, criminal responsibility is a fundamental concept forming the basis for imposing punishment on an individual who commits a criminal act. (Suno & Fransiska, 2022) Criminal responsibility can only be attributed when the element of fault is fulfilled, which classically includes an unlawful act, the capacity for responsibility, and a guilty mental state. Without the capacity for responsibility, a person cannot be deemed guilty and therefore cannot justly be punished. (Andrianti et al., 2025) This principle is reflected in the maxim *geen straf zonder schuld* (no punishment without fault), which has been embedded in Indonesia's criminal law system since the enactment of the Indonesian Penal Code (KUHP) inherited from the colonial era. (Alfarisi et al., 2021)

The capacity for responsibility is closely related to an individual's mental condition. If, at the time of the act, the perpetrator was suffering from a mental disorder to such an extent that they were unable to understand the unlawfulness of their conduct or unable to control it, then legally they are considered incapable of being held responsible. (Mehmood & Khan, 2022) In such cases, the legal mechanism provides an exception to criminal liability and substitutes punishment with certain protective measures that safeguard both the offender and public safety. (Knudsen, 2024) Mental disorders in medical terminology, encompass a variety of conditions affecting brain function, emotion, and behavior (Bennet, 2024). One of the severe mental disorders often discussed in criminal law is paranoid schizophrenia, characterized by persistent delusions, hallucinations, and significantly impaired thinking patterns. Paranoid schizophrenia may affect a person's ability to think logically, comprehend reality, and regulate their behavior according to prevailing norms. (Gröning et al., 2022)

From a juridical perspective, the issue arises when a person suffering from paranoid schizophrenia commits an act that fulfills the elements of a criminal offense. In such cases, law enforcement authorities must determine whether the offender can be held criminally responsible. (Løvgren et al., 2023) This determination requires in-depth medical and psychological assessment

Criminal Liability of Defendants with Paranoid Schizophrenia Mental Disorder in the New Criminal Code

accompanied by precise legal analysis. If proven that the offender lacks capacity for responsibility, the legal process is redirected toward rehabilitative measures rather than imprisonment. Provisions concerning incapacity for responsibility have long been recognized under the Old Penal Code (Law No. 1 of 1946), specifically Article 44, which clearly states that a person whose mental development is impaired or whose mind is disturbed by illness, rendering them incapable of being held responsible for their actions, cannot be subjected to punishment (Hasan et al., 2024). However, the Old Penal Code (Law No. 1 of 1946) had limitations in its rehabilitative approach, focusing more on security measures, such as confinement in mental hospitals, without adequate frameworks for social recovery.(Fatmawati et al., 2023)

The reform of criminal law embodied in the New Penal Code (Law No. 1 of 2023) introduces significant advancements to these provisions.(Chille, 2023) The New Penal Code not only maintains the principle of exemption from criminal liability for individuals with mental disorders but also broadens the handling approach by emphasizing medical rehabilitation and social reintegration (Vitrianingsih et al., 2025). This shift reflects Indonesia's transition from a purely repressive criminal justice paradigm to one that is more humanistic and rights-based. The difference between the Old and New Penal Codes is not merely textual but substantive.(Malatesti et al., 2020) The New Penal Code recognizes individuals with mental disorders as legal subjects entitled to appropriate treatment and introduces more varied legal instruments, including post-rehabilitation supervision (Novaković, 2025). This allows judges to issue more proportional and humane rulings, achieving legal objectives without disregarding humanitarian principles. Regarding paranoid schizophrenia, these policy changes carry broad implications. The New Penal Code (Law No. 1 of 2023) allows defendants proven to have mental disorders to receive more tailored treatment, addressing their medical needs while ensuring public safety (Brookbanks, 2025). This approach is expected to reduce stigma against individuals with mental disorders and facilitate their reintegration into society after rehabilitation.

A comparative analysis between the Old and New Penal Codes concerning criminal responsibility for defendants with paranoid schizophrenia is therefore relevant, given the philosophical and practical differences between the two. Such an analysis can reveal the extent to which the New Penal Code responds to the challenges of criminal law enforcement involving mentally ill offenders while ensuring the protection of their rights.(Gröning et al., 2025) Attention to this issue is also influenced by developments in international law, particularly since Indonesia ratified the Convention on the Rights of Persons with Disabilities (CRPD). This convention obliges state parties to ensure equal access to justice for persons with disabilities, including those with mental disorders (Hüseyin et al., 2023). Accordingly, the reform of the Penal Code should be viewed within the framework of fulfilling Indonesia's international obligations. This research is significant because, in judicial practice, inconsistencies remain in the application of Article 44 of the Old Penal Code and its equivalent provisions in the New Penal Code. Divergent interpretations among law enforcement officials may lead to legal uncertainty and potential violations of defendants' rights (Maphisa, 2025). Hence, comprehensive academic research can contribute to developing a consistent understanding grounded in proper legal principles. From a methodological standpoint, the discussion of criminal responsibility for defendants with paranoid schizophrenia requires an interdisciplinary approach, integrating law, forensic psychology, and psychiatry (Rizqi et al., 2025). This approach is essential to provide a holistic understanding of the relationship between the offender's mental condition, their capacity for responsibility, and the governing legal policies. With the enactment of the New Penal Code, it is expected that more adaptive and responsive legal mechanisms will emerge to address the needs of defendants with mental disorders without neglecting public protection. This study aims to serve as a reference for policymakers, law enforcement officials, and academics in formulating strategies for criminal law enforcement that are both just and humanistic.

II. RESEARCH METHOD

The author employs a normative juridical approach in researching and analyzing the issues discussed in this study.(Sulistiyawati, 2023) The normative juridical approach, often referred to as the normative legal approach, is a method that relies primarily on legal materials by examining legal theories, concepts, principles, and statutory regulations relevant to the subject of the research (Faisal et al., 2022). This approach focuses on studying the application of legal norms or rules within positive law and adopts a positivist-logical conception, which views law as identical to written norms established and enacted by authorized institutions or officials. Furthermore, this conception perceives law as an autonomous, closed normative system that exists independently from the social realities of society.(Fikri et al., 2023) Normative legal research aims to provide legal arguments as a basis for determining whether a legal event is right or wrong and how such an event should be addressed according to the law. Therefore, normative legal research begins with identifying a legal event and subsequently seeks references to legal norms such as statutory provisions, legal principles, and legal doctrines taught by scholars to construct a legal framework and determine legal relationships (Zaluchu, 2020).

According to Soerjono Soekanto, the normative juridical approach is a type of legal research conducted through literature study or the use of secondary data as the primary material for analysis by examining relevant regulations and literature related to the research problem.(Abdussamad, 2021) This research is categorized as library research, which involves collecting books, studying legal literature, statutory provisions, and other documents related to the topic of study. The presentation of data in this study is conducted using a descriptive-qualitative method: descriptive meaning the data are presented in a comprehensive manner,

Criminal Liability of Defendants with Paranoid Schizophrenia Mental Disorder in the New Criminal Code

and qualitative meaning the data are described in words rather than numerical form.(Waruwu, 2024) Primary data are obtained through literature studies, while secondary data are derived from interview results that serve as supporting evidence to strengthen the normative juridical analysis (Tarigan et al., 2025).

III.RESULT AND DISCUSSION

1. *Comparison of the Concept of Criminal Responsibility of Defendants with Paranoid Schizophrenia Mental Disorders from the Perspective of the Old and New Criminal Codes*

Paranoid schizophrenia is a chronic and severe mental disorder characterized by delusions and hallucinations that impair an individual's ability to think, behave, and perceive reality normally (Puspitasari & Rofikah, 2025). According to the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), schizophrenia manifests through symptoms such as delusions, hallucinations, disorganized thinking, and disturbed behavior, with the paranoid subtype marked by strong persecutory or grandiose delusions and auditory hallucinations.(Sale et al., 2025) As explained by dr. Taufik Hidayanto, Sp.KJ, a psychiatrist at Banyumas Regional General Hospital, paranoid schizophrenia causes patients to experience intense fear, suspicion, and loss of control, sometimes leading to irrational or aggressive acts under the influence of hallucinations. In the context of criminal law, this condition directly affects an individual's mental capacity to understand and take responsibility for their actions.(Ida & Suryawati, 2023) Therefore, offenders suffering from paranoid schizophrenia who act during active psychotic episodes cannot be held fully criminally liable, as their mental state prevents them from comprehending the legal and moral nature of their conduct.(Tarigan et al., 2025)

In Indonesian criminal law, the capacity for criminal responsibility (toerekeningsvatbaarheid) is fundamental to determining whether an offender can be punished.(Patahuddin et al., 2022) The Old Criminal Code (Law No. 1 of 1946) addressed this through Article 44, which states that individuals suffering from mental illness who cannot account for their actions shall not be punished.(Pandey et al., 2021) However, this provision was limited and lacked clear mechanisms for medical treatment or rehabilitation, often resulting in inconsistencies in judicial practice.(Nurstiyanto et al., 2025) Law No. 1 of 2023 concerning the New Criminal Code (KUHP) introduces a major reform by incorporating a more humanistic and restorative approach through Articles 38 and 39 (Ohoiwutun et al., 2022). These articles provide a clearer legal framework for exempting or reducing punishment for offenders with mental or intellectual disabilities and allow judges to impose medical or social measures, such as rehabilitation, instead of imprisonment.(Ningnurani et al., 2022) This reflects a shift in criminal law from a retributive to a rehabilitative paradigm, ensuring that offenders with paranoid schizophrenia receive appropriate medical care rather than punitive sanctions (Ginting et al., 2024).

The New Criminal Code also aligns Indonesian law with international human rights standards, including the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), both of which emphasize humane treatment for individuals with mental disorders (Suryani et al., 2024). Implementing Articles 38 and 39 requires collaboration between judicial, medical, and social institutions to ensure objective psychiatric assessments and adequate rehabilitation facilities. However, challenges remain—particularly the limited capacity of law enforcement officers to understand the relationship between mental health and criminal responsibility, as well as the scarcity of mental health resources. Therefore, the effective application of the New Criminal Code depends on intersectoral coordination, professional competence, and systemic support to guarantee that the legal process upholds justice, human dignity, and the rights of defendants with paranoid schizophrenia (Muharram & Kahija, 2025).

Table 1. Comparison of Criminal Liability Regulations for Defendants with Mental Disorders between the Old Criminal Code (WvS) and the New Criminal Code (Law No. 1 of 2023)

Aspect	Old Criminal Code (WvS)	New Criminal Code (Law No. 1 of 2023)
Legal Basis	The Old Criminal Code does not explicitly mention specific mental disorders such as paranoid schizophrenia. However, Article 44(1) stipulates that a person who commits a criminal act while “mentally defective in development or disturbed due to illness” cannot be held criminally responsible. This provision is general and open to interpretation, making its application highly dependent on psychiatric expert opinions and judicial assessment.	The New Criminal Code provides a more systematic regulation through Articles 38 and 39, affirming that a person suffering from a severe mental disorder who is unable to understand the wrongfulness of their actions is exempt from criminal liability. It also mandates psychiatric examinations and special supervision, introducing the concept of “measures” (<i>maatregel</i>) as an alternative to punishment.
Criteria for Criminal Incapacity	Under the Old Criminal Code, the criteria are based on whether the offender can understand or control their actions. There	The New Criminal Code clarifies that an inability to comprehend the nature and consequences of one's actions or to control

Criminal Liability of Defendants with Paranoid Schizophrenia Mental Disorder in the New Criminal Code

Aspect	Old Criminal Code (WvS)	New Criminal Code (Law No. 1 of 2023)
	is no specific definition or indicator for disorders such as paranoid schizophrenia, making it heavily reliant on expert interpretation and courtroom evidence.	one's will due to a severe mental disorder (including paranoid schizophrenia) constitutes grounds for exemption from punishment. This approach aligns with modern forensic psychiatry principles and introduces more objective medical considerations.
Legal Consequences for the Offender	If the defendant is found incapable of criminal responsibility, the judge may issue a dismissal of all charges (<i>onslag van rechtvervolging</i>). However, there is no formal mechanism for mandatory treatment placement, resulting in possible reintegration into society without rehabilitation or transfer to civil/family care.	In the New Criminal Code, if the offender is deemed not criminally responsible, "measures" may be imposed—such as mental hospital treatment, rehabilitation, or social supervision—as provided in Articles 103, 105, 108, and 110. This aims to prevent reoffending, ensure public safety, and promote recovery.
Medical Considerations	The Old Criminal Code does not require psychiatric examination. However, in practice, investigators or judges may request a <i>visum et repertum psikiatrikum</i> to assess the defendant's mental condition. Such examinations are supplementary and not explicitly mandatory.	The New Criminal Code explicitly requires forensic psychiatric evaluation in cases involving severe mental disorders. The results serve as primary evidence in determining criminal responsibility.
Restorative Justice and Human Rights Protection	The Old Criminal Code does not explicitly adopt restorative justice principles or specific protections for individuals with mental disabilities. Its approach remains retributive—focused on punishment, with a binary view of guilt or innocence.	The New Criminal Code emphasizes human rights and non-discrimination toward persons with mental disabilities, in line with the UN Convention on the Rights of Persons with Disabilities (CRPD). It adopts restorative and rehabilitative approaches as alternatives to conventional punishment, including supervision and periodic evaluation.
Sanction Flexibility	Judges under the Old Criminal Code had limited options: to punish or to release from charges. No alternative measures existed for mentally ill offenders, creating gaps in community protection.	The New Criminal Code offers more flexible sanction options, such as protective measures, social guidance, rehabilitation, and restricted freedom under strict supervision. This provides a middle ground between public interest and the protection of offenders who lack criminal responsibility.

Source: Compiled by the Author, 2025

In the national criminal law system, the protection of defendants embodies the principle of due process of law guaranteed by the Constitution and international human rights instruments ratified by Indonesia. A comparison between the Old Criminal Code (Wetboek van Strafrecht or WvS)—a colonial legacy emphasizing legal certainty and the New Criminal Code (Law No. 1 of 2023) a national legal reform grounded in Pancasila, human rights, and restorative justice reveals a paradigmatic shift in the state's approach toward defendants' rights. The Old Criminal Code, with its rigid and formalistic orientation, lacked progressive legal principles such as ultimum remedium, restorative justice, and non-self-incrimination, resulting in minimal protection for defendants during legal proceedings. (Sekarini & Utami, 2025) Fundamental rights such as the right to remain silent, access to legal counsel, and humane treatment were only indirectly protected through other laws, leaving their enforcement subject to interpretation by law enforcement officers and frequently violating the principles of a fair trial. In contrast, the New Criminal Code introduces a more humane and balanced framework that acknowledges defendants as legal subjects entitled to defense, rehabilitation, and reintegration. Through principles such as legality, proportionality, and respect for human dignity, it redefines punishment not merely as retribution but as rehabilitation, resocialization, and restoration aimed at rebuilding the moral and social relationships between the offender, the victim, and society.

Despite these progressive reforms, the New Criminal Code faces both normative and practical challenges. Several provisions such as those criminalizing insults against state institutions or regulating private moral conduct pose risks of excessive

Criminal Liability of Defendants with Paranoid Schizophrenia Mental Disorder in the New Criminal Code

criminalization and ambiguity, potentially undermining civil liberties and legal certainty (Ningsih et al., 2023). From a normative standpoint, vague formulations in certain articles may lead to inconsistent judicial interpretations, contradicting the *lex certa* principle and weakening the protection of defendants' rights. The true advancement of the New Criminal Code depends on the integrity of its implementation through a transparent, accountable, and rights-based criminal justice system supported by ethical law enforcement, legal education reform, and adequate procedural safeguards. Thus, while the New Criminal Code marks a significant normative step toward a more humane legal order, its success in protecting defendants will ultimately be measured by its realization in practice—transforming law from a tool of repression into an instrument of justice and human dignity.

2. *Implications of the Differences in Criminal Liability Regulations in the Old and New Criminal Codes on the Protection of the Rights of Defendants Suffering from Paranoid Schizophrenia in the Criminal Justice System*

Criminal liability in Indonesia's legal system has undergone substantial conceptual reform with the enactment of the New Criminal Code (Law No. 1 of 2023), replacing the outdated and rigid provisions of the Old Criminal Code (Law No. 1 of 1946). The Old Code's Article 44 provided only a narrow basis for exempting individuals with mental disorders from punishment, focusing solely on cases of total unconsciousness or complete loss of reason. This limited framework often led to the criminalization of defendants suffering from paranoid schizophrenia, as judicial practice relied heavily on psychiatric examinations without considering partial awareness, functional capacity, or rehabilitative alternatives. In contrast, the New Criminal Code introduces a more holistic approach through Articles 38 and 39, which exempt individuals from punishment when mental disorders or intellectual disabilities render them incapable of understanding or controlling their actions. (Fatmawati et al., 2023) This framework integrates medical, psychological, and legal assessments to ensure a more equitable determination of criminal responsibility, shifting the paradigm from retributive to restorative justice.

The New Criminal Code also innovates by incorporating rehabilitative and protective measures (*maatregelen*) as alternatives to imprisonment for offenders with mental disorders. Those proven incapable of criminal responsibility such as defendants with paranoid schizophrenia—may be referred to psychiatric treatment or rehabilitation centers instead of being incarcerated. This marks a shift toward a humanistic and rights-based approach that emphasizes treatment, recovery, and reintegration over punishment. (Alfarisi et al., 2021) The new provisions also strengthen procedural fairness by ensuring early psychiatric assessments, greater access to legal assistance, and the active participation of mental health professionals in all stages of criminal proceedings. These measures align Indonesia's criminal justice system with international standards, including the Convention on the Rights of Persons with Disabilities (CRPD), which underscores the state's obligation to provide equal and humane treatment to individuals with mental disabilities. (Wafa, 2023)

However, the effective implementation of these reforms presents significant challenges (Tomakati, 2023). Law enforcement officers, prosecutors, judges, and correctional staff must possess the technical competence to interpret psychiatric evidence accurately and assess the relationship between mental health and criminal liability. Inadequate understanding or procedural delays can result in miscarriages of justice either through wrongful punishment or misuse of mental disorder claims. Therefore, intersectoral collaboration among legal, medical, and psychological institutions is crucial, supported by standardized forensic psychiatric assessments and specialized rehabilitation facilities. (Nurstiyanto et al., 2025) Balancing justice, legal certainty, and human rights remains the central challenge; justice demands that those incapable of understanding their actions not be punished, while legal certainty requires consistent procedures, and human rights mandate humane, rehabilitative treatment. Thus, while the New Criminal Code signifies a major step toward a fairer and more humane criminal justice system, its success depends on strong institutional coordination, professional capacity building, and sustained commitment to substantive justice.

CONCLUSIONS

The New Criminal Code (Law No. 1 of 2023) marks significant progress in regulating criminal liability for defendants with paranoid schizophrenia, shifting Indonesian criminal law from a retributive to a restorative and humanistic approach. Unlike the Old Criminal Code, which limited exemptions to Article 44 without considering rehabilitation, the new provisions in Articles 38 and 39 explicitly recognize mental disorders as grounds for exemption and introduce rehabilitative and social measures as alternatives to punishment. This reform enhances human rights protection and reinforces the state's commitment to non-discrimination and humane treatment of individuals with mental disabilities. However, its effectiveness relies on strong coordination among legal, medical, and social institutions, adequate rehabilitation infrastructure, and improved law enforcement understanding of the nexus between mental health and criminal responsibility.

To ensure the effective implementation of the New Criminal Code for defendants with paranoid schizophrenia, the government should strengthen coordination between legal, medical, and social institutions through clear procedures and standardized forensic psychiatric assessments. Establishing specialized rehabilitation centers within the justice system is essential to provide proper treatment and reintegration programs. Continuous training for judges, prosecutors, police, and correctional staff is also needed to improve understanding of the link between mental health and criminal responsibility. Furthermore, academic and professional

Criminal Liability of Defendants with Paranoid Schizophrenia Mental Disorder in the New Criminal Code

institutions should promote research and develop best practices to ensure a more consistent, humane, and evidence-based application of criminal law for individuals with mental disorders.

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Criminal Liability of Defendants with Paranoid Schizophrenia Mental Disorder in the New Criminal Code

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