

Correctional Legal Politics in the Indonesian Sentencing System

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Introduction

Criminal law is positioned within society with the primary objective of regulating social life in order to provide security and protection for individuals and groups within the framework of state life. This objective is intended to ensure that society may live peacefully and free from fear of threats arising from acts committed by individuals or certain groups that may cause harm to a person's life, dignity, and property.

Within the process of criminal law reform, discussions concerning sentencing constitute an essential aspect of its formulation. This is inseparable from efforts to transform the paradigm regarding crime and punishment. The Academic Draft of the Indonesian National Criminal Code (KUHP Nasional) states that punishment essentially serves as an instrument for achieving specific objectives. Therefore, the objectives of punishment must first be clearly formulated, namely to provide protection for society as well as protection and rehabilitation for individuals who commit criminal offenses.

The demand for criminal law reform, particularly in the sentencing system, has become increasingly necessary in achieving the desired objectives of the criminal justice system. Such reform is expected to replace the currently applicable sentencing system, thereby overcoming various problems arising from the colonial-era penal system, which has proven less effective in reducing crime rates. Through a more comprehensive sentencing system that is aligned with developments in criminology and effective penal policies implemented in other countries, it is hoped that the weaknesses of the previous system may be eliminated.

Based on the foregoing explanation, the author raises the following legal issue in this proposed research entitled: "Correctional Legal Politics in the Indonesian Sentencing System."

This research is also expected to provide practical contributions and benefits in the following aspects:

1. Theoretical Benefits

This study is expected to contribute to the development of legal scholarship, particularly in the field of sentencing systems within the correctional system.

2. Practical Benefits

This research is expected to provide practical contributions and recommendations for the Government, particularly law enforcement agencies, in formulating a more effective and comprehensive sentencing system.

Based on a review of previous studies and dissertations related to similar topics and issues, both within several university libraries in Indonesia and other academic sources, it was found that several studies have close relevance to this research.

The related studies include:

1. Marwan Eryansyah

“The Nature of the Correctional System as a Recovery Effort for Correctional Inmates (From a Human Rights Perspective)”

(Doctoral Dissertation, Doctoral Program in Law, Hasanuddin University, Makassar, 2021).

This study focused on rehabilitation and guidance patterns implemented through rehabilitation and social reintegration programs provided to correctional inmates, as well as discussing the position of the correctional system within law enforcement processes involving the significant role of Community Counselors (Pembimbing Kemasyarakatan/PK) at Correctional Centers (Bapas). In contrast, the present research focuses on the objectives intended to be achieved by correctional philosophy through the implementation of a more modern criminal justice system.

2. Amaliah Aminah Pratiwi Tahir

“The Development System for Correctional Inmates in Realizing Community-Based Rehabilitation”

(Doctoral Dissertation, Doctoral Program in Law, Hasanuddin University, Makassar, 2017).

This research aimed to identify and analyze the formulation of inmate rehabilitation systems in countries implementing community-based rehabilitation, including several adoptable programs in Indonesia such as reward sanctions and comprehensive rehabilitation systems. In contrast, the present research seeks not only to analyze the sentencing system itself, but also to examine the appropriate sentencing system needed to support inmate rehabilitation programs.

3. Petrus Irwan Panjaitan

“Efforts to Reform Dr. Sahardjo’s Thought on Corrections as the Objective of Imprisonment for the Formation of the Future Criminal Code”

(Doctoral Dissertation, Doctoral Program in Law, University of Indonesia, Jakarta, 2004).

This study was primarily historical-philosophical in nature, examining Dr. Sahardjo’s ideas concerning the correctional system as a reformulation of the classical repressive penal concept. The focus was directed toward the contribution of Sahardjo’s thought to the future development of the Indonesian Criminal Code without explicitly discussing the dimension of suffering caused by imprisonment or its relevance to contemporary sentencing policies. In contrast, the present research focuses not only on the theoretical aspects of correctional objectives but also emphasizes the urgency of reformulating criminal legal politics toward a more humane approach based on respect for human dignity. This study seeks to present an analytical framework connecting legal norms, criminal policy, and correctional practices in Indonesia with concepts of protection against suffering in prisons.

4. Arsita Nadya Dwi

“The Relevance of Life Imprisonment from the Perspective of Sentencing and Correctional Objectives”

(Doctoral Dissertation, Doctoral Program in Law, Satya Wacana Christian University, 2013).

This research concentrated on a single extreme punishment, namely life imprisonment, and applied only a normative juridical approach. In contrast, the present study comprehensively examines the legal politics of sentencing, with primary attention directed toward correctional objectives aimed at preventing unnecessary suffering of correctional inmates. This research employs a multi-method approach, including field studies and international comparative analysis, which has rarely been applied in previous studies. From a regulatory perspective, this study is also relevant to the dynamics of the new Indonesian Criminal Code and restorative sentencing policies, thereby positioning it within the realm of contemporary criminal policy. Therefore, the scientific contribution of this research is considered more progressive, applicable, and directly impactful toward the formulation of more humane and effective sentencing policies.

Research Methodology

A. Type of Research

This study constitutes normative legal research, also commonly referred to as doctrinal research, namely research that regards law as a normative system embodied both in statutory regulations and in legal doctrines, principles, and theories. This research focuses on analyzing the legal politics of sentencing as reflected in legislation, legal policies, and the objectives of the correctional system applicable in Indonesia.

Normative legal research is employed to examine comprehensively the legal norms governing sentencing, including its objectives and implementation, with emphasis on identifying ideal legal principles and constructing legal formulations consistent with the values of justice and human rights. In this context, punishment is not merely perceived as a means of retaliation, but rather as part of a legal policy that must align with the objectives of the correctional system, namely the rehabilitation and social reintegration of correctional inmates.

B. Research Approaches

There are several approaches commonly applied in legal research, including the case approach, statute approach, historical approach, comparative approach, conceptual approach, as well as interviews with relevant parties.

1. Statutory Approach

This approach is conducted through the examination of statutory regulations serving as the legal basis for the prevailing sentencing system and the correctional system in Indonesia. The researcher will analyze major regulations, including:

- a. Law Number 1 of 2023 concerning the Indonesian Criminal Code (National Criminal Code);
- b. Law Number 8 of 1981 concerning the Criminal Code (as a comparative reference);
- c. Law Number 22 of 2022 concerning Corrections;
- d. Law Number 12 of 1995 concerning Corrections (as a comparative reference);
- e. Law Number 39 of 1999 concerning Human Rights;

f. Other implementing regulations, including Government Regulations, Ministerial Regulations, and related provisions.

2. Conceptual Approach

This approach is utilized to examine and understand the fundamental concepts forming the theoretical framework of this research, including the concepts of legal politics, sentencing, and corrections.

The researcher will refer to theories of punishment, including absolute theory, relative theory, and combined theory, as well as theories concerning the objectives of corrections and doctrines developed by criminal law and human rights scholars.

1. Historical Approach

This approach is employed to trace the historical development of sentencing policies and the correctional system in Indonesia, beginning from the colonial period, which emphasized imprisonment as a form of retaliation, through the New Order era characterized by social control policies, and into the reform era and contemporary period, which increasingly emphasize rehabilitative approaches.

Through this approach, the study seeks to demonstrate how the orientation of sentencing policies has evolved alongside socio-political developments and growing awareness of human rights.

2. Comparative Legal Approach

To enrich the analytical perspective, this research also adopts a comparative approach by examining sentencing and correctional systems in several countries, such as Norway, the Netherlands, and Japan. These countries are recognized for their progressive approaches in implementing sentencing policies that minimize imprisonment and prioritize social reintegration.

This comparative approach is intended to identify alternative sentencing policy models that may serve as references or inspirations for formulating a more humane and efficient criminal law policy in Indonesia.

3. (Optional) Socio-Legal Approach

If the researcher also conducts observations of practices in the field, such as prison conditions, judicial sentencing practices, or interviews with correctional officers and inmates, a socio-legal approach may be employed as a complementary method.

This approach assists in illustrating the extent to which sentencing practices reflect correctional values as implemented in real-life conditions.

C. Types and Sources of Legal Materials

The legal materials used in this research consist of:

1. Primary Legal Materials
 2. Secondary Legal Materials
 3. Tertiary Legal Materials
- D. Technique for Collecting Legal Materials

In this normative legal research, data collection is conducted through library research, focusing on gathering legal materials relevant to the research topic.

Library research constitutes the principal method in normative legal studies because it aims to examine and analyze positive legal norms, legal theories, legal principles, and scholarly opinions relevant to the subject matter.

E. Technique for Analyzing Legal Materials

The analysis in this research employs qualitative normative analysis, namely the analysis of primary, secondary, and tertiary legal materials collected through library research, with the objective of producing systematic, logical, and comprehensive legal descriptions and arguments.

This study does not utilize statistical or quantitative data analysis; rather, it focuses on the normative, theoretical, and conceptual aspects of sentencing policy and the implementation of correctional objectives within the Indonesian criminal justice system.

Conclusion And Recommendations

1. The essential objective of the correctional system within the Indonesian sentencing framework is fundamentally to realize justice oriented toward humanity and social restoration, rather than merely retribution. This research finds that the Indonesian correctional system has undergone a fundamental transformation from a retributive paradigm toward a rehabilitative and restorative paradigm. Imprisonment is no longer viewed solely as a means of inflicting suffering, but rather as a process of rehabilitation intended to enable offenders to reintegrate into society as productive and responsible individuals.

2. Legal politics plays a strategic role as both a policy direction and moral guideline in the reform of the sentencing system. Through legal politics, the State determines the fundamental values that serve as the basis for formulating criminal legislation, including efforts to align the sentencing system with the needs of modern society.

This research demonstrates that the orientation of Indonesian criminal legal politics has shifted from a repressive model toward a more humanistic and progressive approach. This transformation is clearly reflected in legal policies such as the development of restorative justice concepts, limitations on imprisonment, as well as the formulation of the new Criminal Code and revisions to the Correctional Law. Legal politics, therefore, not only regulates the forms and types of punishment but also incorporates values of humanity, balance, and substantive justice into every legislative process.

3. The formulation of an ideal sentencing system for Indonesia in the future should be based upon three principal dimensions: the philosophical dimension, the normative dimension, and the structural-cultural dimension.

a. Philosophical Dimension

Philosophically, the sentencing system must be grounded in the values of Pancasila and the objectives of national law, namely the realization of justice, humanity, and social welfare.

b. Normative Dimension

Normatively, criminal law should be directed toward formulations that prioritize rehabilitation, protection of prisoners' rights, and the application of more humane alternative sanctions.

c. Structural and Cultural Dimension

Structurally and culturally, correctional institutions and law enforcement authorities must internalize correctional values into law enforcement practices so that the implementation of punishment genuinely reflects a rehabilitative function rather than punitive suffering.

This ideal concept is consistent with the integrative theory of punishment, which combines the objectives of social protection, proportional retribution, and offender rehabilitation. Furthermore, from the perspective of progressive legal theory, criminal law must not be viewed as a rigid and static system, but rather as a living and evolving instrument designed to serve humanity. Consequently, criminal law reform must courageously place human beings at the center of the legal system, rather than positioning statutory provisions as the sole focus of justice.

A. Recommendations

1. It is necessary to strengthen conceptual understanding among legislators and law enforcement authorities that the essence of the correctional system is not merely the execution of imprisonment, but rather a process of rehabilitation and restoration of the dignity of criminal offenders.

2. There is a need for a consistent legal-political direction that supports the reform of a humane and progressive sentencing system. The Government and the House of Representatives (DPR) should formulate national criminal law policies that are aligned with the values of Pancasila and the principles of social justice. Legal politics in the field of sentencing should not merely react to criminal acts but must proactively develop a system that balances legal certainty, justice, and social utility. In this context, progressive legal theory may serve as a philosophical foundation for criminal law reform, whereby law is not regarded as static, but rather capable of adapting to social changes and societal needs. Furthermore, the involvement of academics and legal practitioners in the legislative process is essential to ensure that the formulation of new criminal laws genuinely reflects the social and moral aspirations of the nation.

3. The ideal concept of the future sentencing system should emphasize an integrative approach between the objectives of punishment, humanitarian values, and the effectiveness of rehabilitation. The Government should strengthen the implementation of restorative justice and expand alternative sentencing mechanisms such as community service, non-custodial rehabilitation programs, and community-based rehabilitation initiatives. In addition, correctional institutions should be optimized not as places of punishment, but as centers for moral and social education for prisoners.

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