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Analysis of The Implications of The Indonesian Criminal System with The Problematics of The Conditions of Corrections (Research Study in Class IIb Prison, Pati)

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Abstract. *In a prisoner during his/her imprisonment, the attitudes and values adopted by a prisoner in the context of the prisoner's society will seriously hinder the prisoner's resocialization efforts. This is also the obligation of policy makers or related employees in handling this prison overcapacity case because it is feared that it will hinder the prisoner development process and hinder the suppression of crime rates in the future. The aim of this research is to determine and analyze (1) the dynamics of the Indonesian criminal justice system from a legal construction perspective, (2) the implications of the problems of the Indonesian criminal justice system with the current conditions of correctional institutions, (3) the concept of an ideal criminal justice system in overcoming the problems of correctional institutions. The approach method used in this study is sociological juridical. The specifications of this study are descriptive analytical. The data sources used are primary data and secondary data. Primary data is data obtained directly from the field or from the first source and has not been processed by other parties. While secondary data is obtained from library research consisting of primary legal materials, secondary legal materials and tertiary legal materials. Based on the results of the research and discussion, it can be concluded: (1) The criminal punishment system in the Criminal Code, where the Indonesian Criminal System is basically regulated in Book I of the Criminal Code in Chapter 2 from Article 10 to Article 43. The criminal system in the Criminal Code is divided into 2 types of sanctions, namely first, the main punishment consisting of the death penalty, imprisonment, confinement, fines and imprisonment; second, additional punishment. (2) Criminal law policy in Indonesia shows over-criminalization and over-use of imprisonment. This can be seen from the formulation of criminal law in the Criminal Code and the development of criminal law formulations outside the Criminal Code. Article 10 of the Criminal Code stipulates the types of main punishments, namely the death penalty; imprisonment; confinement, confinement and fines. (3) When looking at the renewal of correctional policies to improve the worsening situation and conditions of Indonesian Correctional Institutions with the enactment of Law Number 22 of 2022 concerning Corrections, which has the right direction, ideas and philosophy for the conditions that have occurred, there are aspects that are upheld in the restorative justice paradigm.*

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1. Introduction

Law has many definitions because there is no definite concept of law itself. Experts define law according to their respective views, looking at the perspective from which they see the legal aspects being considered. Satjipto Raharjo stated that law is a norm that invites society to achieve certain ideals and conditions, but without ignoring the real world and therefore it is classified as a cultural norm.[1]

Hans Kelsen said that the meaning of law itself is a set of rules as a system that contains various rules about human behavior, so that what is meant by law itself is not piled up in a single rule, but is a package of rules that have a unity so that it can be understood as a system.[2] Martin Roestamy states that law is a set of rules and provisions that regulate the order of life in society and the state that originate from society and the state with the aim of achieving justice, order, peace and prosperity.[3]

Law is basically regulatory, coercive and protective. However, the presence of law itself is a series that is implemented by and for the sake of society so that society can live in peace without any threat to themselves. This falls within the scope of legal protection. Where legal protection is an effort to protect a person's interests by allocating a Human Right to him to act in the interests of his interests. This is regulated according to Article 16 and Article 26 of the ICCPR which reads: "Guaranteeing everyone has the right to obtain legal protection and must be protected from all forms of discrimination". Where this also refers to equality before the law.[4]

*Equality before the law*or Equal Justice Beneath the Law means "all humans are equal before the law" or the principle where everyone is subject to the law in the same trial. Simply put, it means that all humans are equal and equal before the law. Equality before the law is one of the most important principles in modern law. It has become one of the pillars of the Rule of Law doctrine movement which has also spread to developing countries.[5]This system is a manifestation of the rule of law (rechtsstaat) so that it requires the presence of equal treatment for everyone before the law (equality of being equal to the law).[6]

Justice is one of the goals of every legal system, and is even its most important goal. So that a good, safe and peaceful human life can be implemented, there is a set of values that are important pillars, namely: (1) Justice (2) Truth (3) Law (4) Morals. However, of the four

[1]Satjipto Rahardjo, Legal Science, ed. Awaludin Marwan, 8th ed., Bandung: PT. Citra Aditya Bakti, 2020. p. 27
[2]Jimly Asshidiqie and Ali Safa'at, Hans Kelsen's Theory of Law, Jakarta: Secretary General and Registrar of the Constitutional Court of the Republic of Indonesia, 2006, p. 12
[3]Debbi Puspito, Martin Roestamy, and Edy Santoso, Legal Protection Model for Creditors of Information Technology-Based Money Lending Services During the Covid19 Pandemic, Jurnal Living Law, 14 (1), 2022, pp. 11–23
[4]R. Rahaditya, et al. Analysis of the Pros and Cons of Restorative Justice in the Implementation of the Justice System in Indonesia. Journal of Citizenship, 7 (2), 2023, p. 2157
[5]JM Walukow, The Realization of the Principle of Equality Before the Law for Prisoners in Correctional Institutions in Indonesia. Lex et Societatis, 1 (1). 2013, p. 164
[6]Lilik Mulyadi, Criminal Procedure Law, Citra Aditya Bakti, Jakarta, 2007, p. 20

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values, according to the great Greek philosopher, Plato, justice is the highest virtue, "Justice is the supreme virtue which harmonizes all other virtues".[7]

This meaning, when added to the statement of Lord Denning, a British Supreme Court judge, also once stated that justice is not something you can see. Justice is eternal and not temporal. How can someone know what justice is, when justice is not the result of reasoning but a product of conscience. The law that is established is the result of the benchmark of das sollen and das sein considerations. The origin of this protective law is also a product of considerations of the human mind and conscience.

The law regulates a person's behavior and behavioral patterns, related to rights and obligations which contain sanctions. These sanctions are legal sanctions which include criminal/criminalization. The criminal law policy (penal policy) itself is a rule that guides the enforcement of criminal law in a country. This policy includes the principles of punishment, the purpose of criminal punishment, and the approach to law enforcement.

Basically, efforts to combat crime have been and continue to be carried out by the government and the community, and various programs and activities have been carried out while continuously seeking the most appropriate and effective way to overcome this problem.[8] Efforts or policies to prevent and combat crime are included in the field of criminal policy, which is inseparable from broader policies, namely social policies consisting of policies or efforts for social welfare and for community protection. Crime prevention policies are carried out using 'penal' means (criminal law), so criminal law policies, especially at the judicial policy stage, must pay attention to and lead to achieving the goals of social policy, in the form of "social welfare" and "social defense".[9]

In further legal studies, legal studies related to the implementation of imprisonment continue to be carried out. With the development of thinking on the concept of punishment, the implementation of imprisonment must continue to be reviewed so that in its imposition and implementation it can be in accordance with the principles of human rights. Studies related to alternative criminal law other than imprisonment in reducing negative impacts, especially those that lead to destructive consequences of imprisonment continue to be carried out. Legal experts continue to question the existence and function of prisons considering the ineffectiveness of the results of imprisonment and the phenomena caused by imprisonment which does not provide a deterrent effect, but instead has a negative impact on convicts.

Imprisonment has been known since the 15th century until now. Imprisonment is a form of punishment to replace corporal punishment carried out in pre-classical times which was considered inhumane. The replacement was then accompanied by changes and improvements in the condition of buildings to detain lawbreakers which were later known as prison buildings. Indonesia is one of the countries that still maintains imprisonment. Of all the provisions of the Indonesian Criminal Code, which contain the formulation of criminal offenses, namely 587 imprisonments are listed in 575 formulations of crimes (approximately

[7]Munir Fuady, Critical Legal School: The Paradigm of Legal Powerlessness, Citra Aditya Bakti, Bandung, 2003, p. 52

[8]Wahyu Widodo, Criminology and Criminal Law, Semarang: Universitas PGRI Semarang Press, 2015. p.120

[9]Barda Nawawi Arief, Problems of Law Enforcement and Criminal Law Policy in Combating Crime, Jakarta: Kencana Prenada Media Group, 2007. p. 77

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97.96%), both formulated singly and formulated alternatively with other types of punishments.[10]

The intersection occurs if there are citizens who commit criminal violations or crimes so that it is possible that the citizen is sentenced to criminal penalties in the form of principal penalties or additional penalties as stated in Article 10 of the Criminal Code (Criminal Code), one type of principal penalty is imprisonment. Imprisonment is a form of punishment in the form of loss of freedom, imprisonment varies from temporary imprisonment of at least 1 day to life imprisonment.

The criminal act of deprivation of liberty (imprisonment and confinement) has become very popular in determining and imposing criminal penalties in relation to the purpose of punishment, especially the achievement of a deterrent effect for the perpetrator and the achievement of general prevention. In fact, the development of new concepts in criminal law, which stands out is the development of alternative sanctions, from the crime of loss of liberty to a fine, especially for crimes that are threatened with imprisonment of less than one year. The emergence of alternative prison sentences is a manifestation of criticisms of the negative effects of prison sentences, both criticism from the perspective of "strafmodus", criticism from the perspective of "strafmaat" and from the perspective of "strafsoort".[11]

In implementing the criminal system, it is implied in a correctional system that requires a state institution in the form of LAPAS (Correctional Institution) which functions as a place to carry out the development of Prisoners and Correctional Students. Prisoners themselves are ordinary people who because of their mistakes in violating the law are sentenced by the judge to a criminal sentence.[12]In addition, in the correctional system, a prisoner is still recognized as a member of society so that in his/her development he/she may not be isolated from community life.

Prison as a punishment should be able to provide a deterrent effect on perpetrators of criminal acts, but in reality it is not so. Many of the prisoners who have been in prison actually become recidivists,[13] regular in and out of prison. Furthermore, in fact, Indonesia is ranked seventh with the largest number of prisoners based on data collected by the World Prison Brief, the number of prisoners in Indonesia is ranked 8th in the world in 2024. Meanwhile, the prison occupancy rate is ranked 29th in the world. The largest number of prisoners in the world in 2024 is in the United States. According to data from The World Prison Brief, the number of prisoners in the US as of September 2024, reached 1,808,100 people. Meanwhile, Indonesia is ranked 8th with the largest number of prisoners, with 273,390 prisoners. In terms of occupancy, or the level of occupancy of prisoners in prison, the Republic of Congo is the most populous. The number is even over capacity, with 616.9%.

[10]Rugun Romaida Hutabarat, Problems of Correctional Institutions in the Integrated Justice System, Muara Journal of Social Sciences, Humanities and Arts, 1 (1), April 2017, p. 42
[11]Ibid
[12]Prijatno Dwidjaja, The Implementation System of Prison Sentences in Indonesia, Refika Aditarma, Bandung, 2006, p. 87.
[13]Sugeng Pujileksono, Sociology of Prison, 1st ed. Malang: Intrans Publishing, 2017. p. 3.

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Meanwhile, Indonesia, prison occupancy is 191.4%. This number places Indonesia in the 29th highest position in the world.[14]

2. Research Methods

To conduct a study in this research, the author uses a sociological legal method (social legal research) to study and discuss the problems raised. Juridical is an approach that uses legal principles and principles derived from written regulations, sociological is an approach that aims to clarify the actual conditions that exist and appear in society regarding the problems studied or to give importance to the observation steps.[15]

3. Results and Discussion

3.1. Dynamics of the Indonesian Criminal System in Legal Construction

Law is a guideline that regulates human life patterns that have an important role in achieving the goal of peace of life for society. Therefore, the law recognizes the adage ibi societes ibi ius. This adage arises because law exists because of society and relationships between individuals in society. Relationships between individuals in society are something essential according to human nature that cannot live alone because humans are polis creatures, social creatures (zoon politicon).[16]

All these relationships are regulated by law, they are all legal relationships (rechtsbetrekkingen).[17]Therefore, in regulating legal relations in society, a legal codification is carried out which has a noble purpose, namely to create legal certainty and maintain the value of justice from the substance of the law. Even though it has been codified, the law cannot be static because the law must continue to adapt to society, especially those related to public law because it directly touches the lives of many people and applies generally.

One of the laws that is closest and known to the general public is Criminal Law. Criminal law is used to refer to the entire provisions containing prohibitions by its creators that have been linked to punishments and sanctions that cause suffering or pain of a special nature.

The problem of criminal and punishment itself is an object of study in the field of criminal law called penitentiary law (penitentiary recht). Because the problem of criminal law that is discussed or discussed in penitentiary law concerns the problem of criminal and punishment, then penitentiary law itself in a narrow sense can be interpreted as all positive regulations regarding the criminal system (strafstelsel). While in a broad sense, penitentiary law can be interpreted as a part of criminal law that determines and provides rules on sanctions (sanction system) in criminal law, which includes both strafstelsel and maatregelstelsel (action system) and policies. So in an effort to maintain and organize order, and protect it from rapes (violations) against various legal interests, the state is given the

[14]https://www.prisonstudies.org/country/indonesia, Accessed May 20, 2025
[15]Rony Hanitijo Soemitro, Legal Research Methodology and Jurimetrics, Ghalia Indonesia, Jakarta, 1990, p. 34
[16]Darji Darmodiharjo & Shidarta, Main Principles of Legal Philosophy, What and How is Indonesian Legal Philosophy, PTGramedia Pustaka Utama, Jakarta, 1995, p. 73.
[17]LJ van Apeldoorn, Introduction to Legal Science, PT Pradnya Paramita, Jakarta, 2000, p. 6.

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right and power to impose criminal penalties as well as the right and power to impose actions and policies.[18]

According to Adami Chazawi, criminal law is a part of public law that contains general rules of criminal law that contain prohibitions on active and passive acts, certain conditions that must be met by the offender and actions that must be taken by the state through its tools/equipment, namely the police, judges, and prosecutors against offenders or defendants in order to protect the rights of the state from actions in the state's efforts to enforce criminal law.[19]

In general, criminal law has a function to regulate life in order to create and maintain public order, because humans in fulfilling their different needs, interests and lives sometimes experience conflict so that it certainly causes losses or disrupts the interests of others. In general, Strafrechtscholen or the objectives of criminal law are known to have two schools, the first is the classical school which emphasizes legal certainty, to protect individuals from the power of the ruler (state). According to this school, criminal penalties are also imposed without regard to the personal circumstances of the perpetrator, the reasons that drive the crime/criminal etymology and the benefits of the penalty for the perpetrator and for the general public.

Based on the explanation above, the criminal justice system is identical to the criminal law enforcement system which consists of a substantive/material criminal law subsystem, a formal criminal law subsystem, and a criminal enforcement law subsystem. The three subsystems are a unified criminal justice system because it is impossible for criminal law to be operationalized/enforced concretely with only one of these subsystems. The definition of such a criminal justice system can be called a functional criminal justice system or a criminal justice system in a broad sense.

2) Normative-Substantive Angle

Only seen from the substantive criminal law norms, the criminal punishment system can be interpreted as:

a. The entire system of material criminal law rules/norms for sentencing.

b. The entire system of material criminal law rules/norms for the granting/imposition and implementation of criminal law.

Based on the dimensions according to the context above, it can be concluded that all laws and regulations regarding Material/Substantive Criminal Law, Formal Criminal Law and Criminal Implementation Law can be seen as a single unit of the criminal justice system. Concretely, the criminal justice system consists of a substantive criminal law subsystem, a formal criminal law subsystem, and a criminal implementation/execution law subsystem.

Andi Hamzah defines the criminal and penal system as the composition (of punishment) and method of punishment. M. Sholehuddin stated that the issue of sanctions is central to criminal law because it often describes the socio-cultural values of a nation. This means that

[18]Muladi and Barda Nawawi Arief, Op.Cit, 1998, p. 1
[19]Adami Chazawi, Criminal Law Lessons Part I, Raja Grafindo Persada, Jakarta, 2022, p. 2

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punishment contains values in a society regarding what is good and what is not good, what is moral and what is immoral, and what is permitted and what is prohibited.[20]

The system is a network of several elements that become one function. The criminal justice system holds a strategic position in efforts to overcome criminal acts that occur. The criminal justice system is a legal regulation related to criminal sanctions and punishment. If the definition of the criminal justice system is interpreted broadly as a process of giving or imposing a sentence by a judge, then it can be said that the criminal justice system includes all provisions of the law that regulate how criminal law is enforced or operationalized concretely so that someone is given a criminal (legal) sanction.

This means that all laws and regulations regarding substantive criminal law, formal criminal law and criminal enforcement law can be seen as a single system of punishment. Thus, it can be said that punishment cannot be separated from the types of punishment regulated in a country's positive law. Punishment carried out by an orderly society against perpetrators of crimes can be in the form of eliminating or paralyzing the perpetrators of criminal acts, so that the perpetrators no longer interfere in the future.

If the definition of the criminal justice system is interpreted broadly as a process of giving or imposing a sentence by a judge, then it can be said that the criminal justice system includes all provisions of the laws that regulate how criminal law is enforced or operationalized concretely so that someone is given a criminal sanction (law). This means that all laws and regulations regarding substantive criminal law, formal criminal law and criminal enforcement law can be seen as a single unit of the criminal justice system.

Thus it can be said that criminalization cannot be separated from the types of criminal acts regulated in a country's positive law.[21]Punishment carried out by an orderly society against criminals can be in the form of eliminating or disabling the perpetrators of criminal acts, so that the perpetrators no longer interfere in the future. The method of elimination can be done in various ways, namely the death penalty, exile, sending overseas and even imprisonment. Gradually there is a tendency for the method of punishment to shift over time.

The criminal system that is formulated in the law is essentially a system of authority to impose criminal penalties. From this statement, it is implicitly implied that the criminal system contains policies that regulate and limit the rights and authorities of state officials/apparatus in imposing/imposing criminal penalties. In addition, the criminal system also regulates the rights/authorities of citizens in general.[22]

The criminal system is part of the law enforcement mechanism (criminal), so that criminalization which is usually also interpreted as "the imposition of punishment" is nothing other than a "policy process" that is deliberately planned. This means that the imposition of punishment in order to be truly realized is planned through several stages, namely:

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[20]Ekaputra, Mohammad and Abdul Khair, Op.Cit, 2010, p. 13

[21]Hadibah Zachra Wadjo, Child Criminalization from the Perspective of Restorative Justice, Sasi Journal: Scientific Journal of the Faculty of Law, Pattimura University, Ambon, 22 (2), July-December 2016, p. 81

[22]Barda Nawawi Arief, Several Aspects of Criminal Law Enforcement and Development Policy, Citra Aditya Bakti, Bandung, 1998, p. 114

a. The stage of determining criminal penalties by law makers;

b. The stage of imposing punishment by the authorized body; and

c. The stage of implementing criminal penalties by the authorized implementing agency.[23]

The integration of the three stages above makes a system and stage of determining criminal penalties play an important role in achieving goals in the field of criminal punishment and this stage must be a mature planning stage and one that provides direction for the following stages, namely the stage of applying criminal penalties and the stage of carrying out criminal penalties.

Since the issuance of Law Number 1 of 1946 concerning Criminal Law Regulations in conjunction with Law Number 73 of 1958 concerning Declaring the Applicability of Law Number 1 of 1946 concerning Criminal Law Regulations for the Entire Territory of the Republic of Indonesia, the development of criminal law still refers to the general provisions of criminal law as regulated in Book I of the Criminal Code.[24]The development of the principles of criminal law and punishment in legislation and the enforcement of criminal law can still be controlled based on the principles of criminal law and punishment in Book I of the Criminal Code.

In its development, especially after 1958, criminal law products were born in legislation outside the Criminal Code which contain the principles of criminal law both in the field of material criminal law and formal criminal law which deviate from the general principles of material criminal law in Book I of the Criminal Code and criminal procedure law (HIR).[25]

The deviation cannot be stopped when the President's power becomes stronger/dominant in issuing legal products in the field of criminal law through Presidential Decrees or Presidential Regulations. The process of making Presidential Decrees and Presidential Regulations is simpler, which is different from the process of forming laws, because it must involve the People's Representative Council (DPR) as regulated in Article 5 paragraph (1) of the 1945 Constitution.[26]

After the shift of power from the Old Order to the New Order, legal products (including criminal law) in the form of Presidential Decrees and Presidential Regulations, were subject to legislative review in accordance with the Decree of the Provisional People's Consultative Assembly No. XIX/MPRS/1966 and the Decree of the Provisional People's Consultative Assembly No. XXXIX/MPRS/1968, in an effort to purify the implementation of the 1945 Constitution.[27]Presidential Decrees and Presidential Regulations whose content and objectives do not conform to the people's conscience have been declared null and void and Presidential Decrees and Presidential Regulations that fulfill the demands of the people's

[23]Barda Nawawi Arief, Criminal Theories and Policies: Criminalization Problems in Relation to the Development of Special Offenses in Modern Society, Alumni, Bandung, 1992, p. 91

[24]https://marinews.mahkamahagung.go.id/hukum/sejarah-perkembangan-dan-masa-depan-kuhp-di-indonesia, Accessed on May 7, 2025

[25]Daffa Abiyoga, et al. Study of Mapping of Economic Crime Law in Indonesia, Court Review: Journal of Legal Research, 1 (1) May 2021, p. 2

[26]Veri Junaidi and Violla Reininda, Relations between the President and the DPR in the Formation of Laws in a Multi-Party Presidential Government System, Lentera Journal, 3 (1), 2020, p. 219

[27]Dian Agung Wicaksono, Implications of the Re-Existence of the MPR Decree in the Hierarchy of Legislation for the Guarantee of Fair Legal Certainty in Indonesia, Constitutional Journal, 10 (1), March 2013, p. 146

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conscience remain valid through Law Number 5 of 1969 concerning the Declaration of Various Presidential Decrees and Presidential Regulations as Laws.

Policy for implementing legislative review[28]This is seen from a formal pragmatic perspective, it can overcome the problem of the legal status of the Presidential Decree or Presidential Regulation, namely that which is considered not in accordance with the people's conscience is revoked, that which is in accordance with the people's conscience is declared valid and then its status is increased as a law, and that the material is needed but formally does not comply, it is recommended that it be used as material for the formation of legislation in accordance with its material and level. In conducting the legislative review, it turned out that it did not touch on the legal substance in depth because it was limited by time, so the recommendation that some materials be used as material for the formation of legislation is evidence that the legislative review process is not yet complete.

The 2023 Criminal Code reflects a shift from retributive to more utilitarian punishment, emphasizing benefits over retribution. This provides a new perspective and paradigm in punishment, offering proportional justice for perpetrators and victims of crime. Criminal law functions as an effort to prevent criminal acts from occurring and as a step to resolve them when criminal acts occur.[29]

The new Criminal Code lists variations of the main penalties in Article 65, which include imprisonment, detention, supervision, fines, and social work, with this order determining the level of criminal objection. The detention, supervision, and social work penalties are mostly alternatives to imprisonment. In addition, the Criminal Code also regulates additional penalties as explained in Article 66, which include revocation of certain rights, confiscation of goods or bills, announcement of judge's verdicts, payment of compensation, revocation of permits, and fulfillment of local customary obligations.[30]

For certain crimes stipulated in the law, such as narcotics, terrorism, corruption, and human rights violations, the new Criminal Code provides the death penalty as a possible alternative, but this must go through a process of rejecting a request for clemency. The execution of the death penalty is carried out without publicity, but through a method regulated by law. The new Criminal Code introduces a new concept of the death penalty which is always threatened alternatively, namely imprisonment is imposed for life or for a certain period, imprisonment for a certain period is imposed for a maximum of 15 (fifteen) consecutive years or a minimum of 1 (one) day, unless a special minimum is specified. In the case of a choice between the death penalty and life imprisonment or there is an aggravation of the sentence for a crime that is sentenced to 15 (fifteen) years, imprisonment for a certain period can be imposed for a period of 20 (twenty) consecutive years. Imprisonment for a certain period may not be imposed for more than 20 (twenty) years.[31]

The National Criminal Code also determines the criminal actions that apply to perpetrators with certain conditions, such as mental or intellectual disabilities, where the criminal action can be replaced with rehabilitation, surrender, institutional care, or other actions according

[28]Moh. Mahfud MD, Building Legal Politics, Upholding the Constitution, Jakarta: LP3ES, 2006, p. 16
[29]Andi Hamzah, Principles of Criminal Law (Revised Edition). Jakarta: PT. Rineka Cipta, 2020
[30]Muhammad Idris Nasution, et al. Reform of the Criminal Justice System in Indonesia: Literature Review of the New Criminal Code, Judge: Jurnal Hukum, 05 (01), 2024, p. 20
[31]Ibid

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to the judge's decision.[32]In relation to criminal law and human rights, the Criminal Code directs that criminal punishment is not intended to degrade human dignity.[33]

In the context of the renewal of Indonesian criminal law with the New Criminal Code, corporations have been recognized as subjects of criminal law after considering progress in the fields of finance, economics, and trade, as well as the development of organized crime both domestically and internationally. Therefore, the subject of criminal law should no longer be limited to individuals (natural persons), but also include corporations. This is emphasized in Article 145 of the new Criminal Code that "every person" in the formulation of the offense of the law includes individuals, including corporations. Thus, the Indonesian legal system which previously did not recognize corporations as subjects of criminal law because of the adage "Universitas delinquere non potest", now adopts legal developments from Common Law countries, including the doctrine of Vicarious Liability in corporate criminal liability.[34]

The Criminal Code that will be in effect in the next three years regulates criminal acts based on the law that lives in society or living law. The principle of legality as regulated in Article 1 paragraph (1) of the Criminal Code is still recognized. In addition, the existence of living law is recognized as a basis for criminalizing as regulated in Article 2 of the Criminal Code. Although recognizing the existence of living law, he emphasized that customary law does not automatically change into criminal law. There are several criteria that must be met, including customary law only applies where the law lives. Provisions regulated in customary law may not be regulated in the Criminal Code to avoid duplication. In addition, customary law must be in accordance with the values contained in Pancasila, the 1945 constitution, human rights, and general legal principles recognized by the nation. Applicable customary law must first be determined in a Regional Regulation (Perda) based on the results of empirical research. The determination that it must have been stipulated in this Regional Regulation annuls various customary sanctions in various regions in Indonesia that are applied traditionally only, such as various customary sanctions against adulterers in the form of forced marriage, especially since these sanctions have been annulled by laws and regulations, such as the Law on Sexual Violence. Furthermore, the threat of sanctions for customary crimes is limited in terms of the amount of the sanction, equivalent to a category II fine in the Criminal Code or Rp10 million.[35]

3.2. Implications of the Problems of the Indonesian Criminal System with the Current Condition of Correctional Institutions

Criminalization in Indonesia is a way to impose punishment or sanctions on perpetrators who have committed a crime. According to Andi Hamzah, the definition of criminalization is

[32]Ibid
[33]Muhammad Ramadhan & Dwi Oktafia Ariyanti, The Purpose of Criminalization in Policies on the Reform of Indonesian Criminal Law, Jurnal Rechten: Research on Law and Human Rights, 5 (1) 2023, p. 5
[34]Syaefa Wahyuni, The Meaning of Corporations as Legal Subjects in the Reform of the Indonesian Criminal Code. Innovative: Journal Of Social Science Research, 4(3), 2024, p. 3059.
[35]Muhammad Idris Nasution, Muhammad Amar Adly & Nurcahaya. The Role of the Namora Natoras Mandailing Traditional Institutions in Forced Marriage in Affairs Cases. Jurnal Konstitusi: Study of Islamic Law and Legal Studies, 7(1), 2022, pp. 43-54

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punishment derived from the basic word law, so it can be interpreted as establishing the law or deciding on the punishment.[36]

So, criminalization or punishment is a process in which the judge determines/imposes a sentence given by the judge. The purpose of criminalization, in addition to being a form of retribution for the perpetrator's mistake, is also to deter criminals and as an example for society so that they do not commit crimes. Initially, the Indonesian state used a prison criminal system, then since 1964 the prison criminal system was updated to a correctional system and the term prison institution was replaced with a correctional institution. The prison criminal system is considered less humane in its punishment process, where a prisoner is considered an outcast and treated inhumanely such as being shackled, having his hands tied and his feet handcuffed, this actually causes physical suffering. Then there was a shift in the paradigm of punishment towards rehabilitative to treat criminals and place them back into society through a combination of coaching, education, and training. This system is then known as the correctional punishment system.[37]

The Correctional System is an idea from Suhardjo about law as protection, which was initiated on July 5, 1963 in a speech for the award of an Honorary Doctorate in law at the University of Indonesia, an excerpt from the speech explains, "under the banyan tree, protection has been determined by us to be a counselor for officers in fostering prisoners, so our criminal objectives are formulated: in addition to causing suffering in prisoners so that they repent, to educate them so that they become useful members of Indonesian society. In short, the purpose of imprisonment is correctional".[38]From Suharjo's speech, it is implied that there is a system of guidance for lawbreakers and as a form of justice that aims to not only be oriented towards protecting the interests of society but also to think about protecting the interests of convicts as useful citizens in society.

Correctional services are activities to provide guidance to Correctional Inmates based on systems, institutions and guidance methods which are the final part of the criminal punishment system in the criminal justice system.[39]The correctional system is implemented based on the principles of humanity, Pancasila, protection and tut wuri handayani.[40]In the Correctional System, the main purpose is not just for imprisonment, but for development. Development is carried out in order to prepare a Correctional Inmate to Return to the community in a reasonable and responsible manner. Regarding the concept of corrections, it can be seen from Law No. 12 of 1995 concerning Corrections, namely: The purpose of corrections is in Article 2 explaining, "the correctional system is organized in order to form Correctional Inmates to become whole human beings, realize their mistakes, improve themselves, and not repeat criminal acts so that they can be accepted back by the

[36]Tolib Setiady, Principles of Indonesian Invention Law, Alfabeta, 2010, p. 21
[37]Satria Nenda Eka Saputra & Muridah Isnawati, Overcrowding of Correctional Institutions (LAPAS) in the Criminal Justice System in Indonesia, Pagaruyuang Law Journal, 6 (1) July 2022, p. 57
[38]Suehardjo, Speech on July 5, 1963 at the award of an Honorary Doctorate in Law at the University of Indonesia, republished by the Center for Education and Development of the Ministry of Justice in 1994, p. 21
[39]Article 1 Number 1 of Law Number 12 of 1995 concerning Corrections
[40]Bambang Purnomo, Implementation of Prison Sentences with the Correctional System, First Edition, Liberty, Yogyakarta, 1985, p. 125

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community, can actively play a role in development, and can live normally as good and responsible citizens".[41]

Correctional Institutions or Lapas are places for convicts (criminals) to receive prison sentences in the criminal justice system in Indonesia based on a judge's decision that has permanent legal force. In terminology, the term "prison" has a dual meaning, namely as a place for criminals to receive and serve their sentences; and as one type of criminal sanction that has been regulated in Article 10 of the Criminal Code or KUHP.[42]The term prison is often used by judges in their decisions as one type of criminal sanction given to convicts. However, the place where the prison sentence is carried out no longer uses the term "prison", but is called a Penitentiary in accordance with the term in the Correctional Law, namely Law No. 12 of 1995 concerning Corrections.

In terms of guidance, it is hoped that they will be able to improve themselves and not repeat actions that are against the law, as proposed by Suhardjo above, correctional institutions are not only a place to merely punish people, but also a place to guide and educate convicts, so that after they have completed their sentence, they have the ability to adjust to life outside of correctional institutions as good citizens who obey the applicable legal rules.

The shift from the prison system to the correctional system brought about changes in the form of treatment of prisoners. Likewise, the term prison then changed to Correctional Institution which is then referred to as LAPAS. The change in terminology is not only to eliminate the frightening impression and the existence of torture in the prison system, but more on how to provide humane treatment to the prisoners.[43]

Based on Sahardjo's view of law as protection, where the statement about law as protection provides many changes and one of them is to the method of fostering prisoners. This opens the way for treating prisoners by means of correction as the purpose of imprisonment. The implementation of imprisonment by emphasizing the fostering aspect contains a process to carry out rehabilitation and social reintegration of prisoners.[44]

The orientation of correctional institutions should be in line with the change in the concept of the purpose of correctional institutions from the concept of retribution (retribution) towards the concept of rehabilitation (improvement). Such a concept is reflected in the emergence of the idea of changing the prison institution (historically referred to as a prison house) to a Correctional Institution (Lapas).[45]

But in reality, the criminal act of deprivation of liberty brings criminal education. Prisons are often used as a place of learning for criminals to make criminals more professional. With the emergence of more professional criminals, this ultimately causes an increase in the burden

[41]Article 2 of Law No. 12 of 1995 concerning Corrections
[42]I Wayan Putu Sucana Aryana, The Effectiveness of Prison Sentences in Reforming Prisoners, DIH: Journal of Legal Studies, 11 (21), 2015, p. 39.
[43]D. Samosir. The Function of Prison Sentences in the Criminal System in Indonesia, Bandung: Bina Cipta. 1992. p. 81
[44]Ferdy Saputra, The Role of Correctional Institutions in the Criminal Law Enforcement Process in Connection with the Purpose of Punishment, Reusam Journal of Legal Science, VIII (1), May 2020, p. 8
[45]Rully Novian, et al, Strategy for Handling Overcrowding in Indonesia: Causes, Impacts and Solutions, Institute for Criminal Justice Reform (ICJR), Jakarta, 2018, p. 1

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on society because it can pose a greater threat. The sanctions given to the perpetrators also have a negative effect in the form of dehumanization, namely isolation from society while the convict loses his freedom.

Since the implementation of the correctional system in Indonesia, problems have begun to emerge in the Correctional Institution due to the large number of prisoners entering the prison. Currently, the problem that is a specter in the correctional system is Overcapacity in prisons (Overcrowded Prisons). The condition of overcrowding is a situation where there is excess capacity in prisons/detention centers or when the number of prisoners is greater than the number of available rooms. While Overcrowding itself is a crisis situation due to the density of prison residents.

Based on the results of interviews with legal apparatus in the Correctional Institution environment, namely Suprihadi, overall, it was recorded in 2024 based on data from the Directorate General of Corrections, there were 271,385 people languishing in prisons and state detention centers (rutan) throughout Indonesia, of which currently the number of prisons and detention centers (rutan) is 531 that are operational. With a capacity of 140,424, this is calculated to have an overcrowded figure of 97 percent.[46]The distribution of capacity density is almost across all Regional Office Prisons in Indonesia, of the 33 Regional Offices of Correctional Institutions, 30 regional offices have exceeded capacity.[47]

Overcapacity conditions cause various problems, such as decreasing levels of supervision and security which have an impact on the emergence of new crimes in prisons such as abuse, drug trafficking, riots, and other crimes. Overcapacity also has an impact on conditions that make it difficult for inmates to rest and do activities, resulting in disruption of inmates' rights and causing psychological stress that results in new suffering for inmates.[48]

The data in the research object in this study is in the research area in Lapas IIB Pati, where the Lapas has a capacity of 197 prisoners, but the current recorded occupants are 325 prisoners. With the percentage of overcapacity compared to the capacity of the Lapas, it reaches almost 90% excess capacity of prisoners.[49]

3.3. The Concept of an Ideal Criminal System in Overcoming Correctional Institution Problems

Overcapacity in Indonesian prisons occurs in almost all regional offices. This is the effect of the many impositions of imprisonment applied in the Criminal Code in Indonesia. As if the punishment imposed must be imprisonment. The idea of rehabilitation in the form of corrections will be difficult to realize with the emergence of overcapacity in a number of correctional institutions. The number of prisoners in correctional institutions is not balanced with the number of correctional institution buildings. So that gradually the prison will become Over Capacity which results in the implementation of imprisonment becoming less effective.

[46]Results of Interview with Suprihadi, as Head of Class IIB Pati Penitentiary, Held on May 5, 2025
[47]Results of Interview with Suprihadi, as Head of Class IIB Pati Penitentiary, Held on May 5, 2025
[48]Results of Interview with Suprihadi, as Head of Class IIB Pati Penitentiary, Held on May 5, 2025
[49]Results of Interview with Suprihadi, as Head of Class IIB Pati Penitentiary, Held on May 5, 2025

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In a study aimed at exploring the effects of prison on inmates on families, health and well-being conducted by Dr. Michael Roguski and Fleur Chauvel found the negative effects of imprisonment on families, children and family finances.[50]This is one of the considerations that must be made when imposing a sentence or how the sentence is carried out, whether with supervision or other alternatives that take into account such considerations, that those who are harmed are not only the convict himself but also his family, children and finances.

The principle that fewer inmates means less money to spend becomes important. At the ecological level, overcrowding is associated with economic costs and benefits, efficient or inefficient service delivery and custodial requirements related to monitoring and controlling the inmate population. That is, overcrowding can affect an institution's ability to control behavior and maintain health. At the individual level, overcrowding can have very different effects on stress, and consequently on behavior and health. In short, overcrowding has different effects on institutions and individuals, and the effects of overcrowding on institutions can modify the effects on individuals.

The principle of social reintegration of prisoners to help prevent reoffending should be at the heart of prison management strategies and policies. The principles included in many international instruments are based on this understanding. Where authorities place greater emphasis on imprisonment and prevention as the goal of the sentence rather than rehabilitation of the individual, there is a potential for a reduction in the services and facilities needed to support effective social reintegration. In practice, the majority of the prison system budget is spent on providing security, safety and order, with a small amount invested in seminars, vocational training, educational, sport and recreational facilities in prisons. It is a mistaken belief that security can be achieved by restrictive measures and the application of discipline. This should be done by improving the prison environment, providing constructive training and employment for prisoners, treatment for drug dependency and/or mental health disorders, education, recreation and a prison regime that enhances the potential for prisoners to live law-abiding lives on release. These deficiencies are exacerbated when prisons are overcrowded.

Before Law Number 22 of 2022 concerning Corrections was passed, the condition of prisons in Indonesia was still far from ideal. Most prisons are overcrowded, infrastructure and health facilities in prisons are still limited and inadequate, while the number of prisoners in them exceeds the available capacity, and the implementation of prison rehabilitation and empowerment has not been maximized. With the enactment of Law Number 22 of 2022 concerning Corrections, it is hoped that the condition of prisons in Indonesia will experience significant improvements, especially in terms of reducing the level of prison overcapacity, implementing prison rehabilitation and empowerment, and protecting human rights. However, improving the condition of prisons in Indonesia does not only depend on the implementation of Law Number 22 of 2022 concerning Corrections, but also requires government action, especially APH (police, prosecutors, and judges) in carrying out law enforcement functions.

[50]Michael Roguski and Fleur Chauvel, The Effects of Imprisonment on Inmates' and their Families' Health and Wellbeing, Wellington, 2009, pp vii-

When looking at the reform of correctional policies to improve the situation and conditions of Indonesian Correctional Institutions which have worsened with the enactment of Law Number 22 of 2022 concerning Corrections, which has the right direction, ideas and philosophy for the conditions that occur, where there are aspects that are upheld in the restorative justice paradigm. However, according to Suprihadi, the aspect of restorative justice in the correctional corridor must also be balanced with the implementation of the restorative justice paradigm in other criminal justice subsystems, where these subsystems are what produce a prisoner who is accommodated by the Correctional Institution as the final place of the judicial process. These subsystems include the Police (investigation, inquiry), the Prosecutor's Office (prosecution), and the Judge (criminal verdict). There is a need for uniformity in the restorative justice paradigm in the Indonesian criminal system between criminal justice subsystems to minimize the burden on Correctional Institutions for the problems that occur.[51]And the level of consistency of the manifestation of the Police, Prosecutor's Office and Judges in the restorative justice paradigm which is legitimized in each internal regulation issued by the three subsystems has a great influence on the reconditioning of Correctional Institutions.

In terms of terminology, restorative justice consists of two words in English, namely, "restorative" which means to restore, heal, or strengthen and "justice" which means justice.[52]The definition of restorative justice in the context of language is justice related to recovery or improvement. Restorative justice according to many people's perspectives is interpreted as an approach, theory, idea, process, philosophy, or intervention.[53]Tony Marshall describes restorative justice as a process of dealing with crime in which the parties concerned collectively seek solutions to its implications for the future.[54]

OC Kaligis in his professorial inauguration speech formulated three important principles of restorative justice that underlie the use of this approach and are relevant to the renewal and development of the Indonesian criminal justice system, namely, first, "Crime is a violation of a realitionship among victims, offenders and community", namely that crime is a violation between victims, offenders, and society. Second, "Restoration involves the victim, the offender and the community members", namely that the restoration process involves victims, offenders, and society. And third, the consensus approach to justice "A consensus approach to justice", that consensus is achieved with a justice approach.[55]

Restorative justice philosophically has a foundation contained in the fourth and fifth principles of Pancasila, which have the essence of meaning regarding the values of deliberation and justice. Pancasila as an ideology and way of life of the Indonesian

[51]Results of Interview with Suprihadi, as Head of Class IIB Pati Penitentiary, Held on May 5, 2025
[52]M Echols John and Shadily Hassan, An English Indonesian Dictionary, Jakarta, Gramedia, Jakarta: Gramedia Pustaka Utama, 2005
[53]Strong Praise Prayitno, Restorative Justice for the Courts in Indonesia (Philosophical Juridical Perspective in Law Enforcement In Concreto), Journal of Legal Dynamics, 12 (3), 2012, p. 407
[54]Tony F Marshall, Restorative Justice: An Overview, London: Home Office Research Development and Statistics Directorate, 1999, p 5.
[55]Muhammad Rif'an Baihaky & Muridah Isnawati, Restorative Justice: Meaning, Problems, and Proper Implementation, UNES Journal of Swara Justisia, 8 (2), July 2024, p. 280

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nation[56]which is used as a guide for all activities in life in every field. Pancasila is placed as a prismatic postulate or becomes a balancer for the legal system of noble values that grow and are rooted in the Indonesian nation.[57]

In essence, the philosophy of restorative justice is to realize justice based on deliberation so that peace and justice are created for all parties. The concept of fair justice in restorative justice is certainly on the side of truth, not biased or biased, and not arbitrary. This form of justice is a moral and ethical parameter of the restorative justice paradigm. So this justice is known as the just peace principle.

The implications of this concept for the theory of utilitarianism, whose founder Jeremy Bentham pointed out many of his works to the great criticisms of the entire conception of natural law. Bentham was dissatisfied with the vagueness and inconsistency of theories of natural law, where Utilitarianism presents one of the periodic movements from the abstract to the concrete, from the idealistic to the materialistic, from the a priori to the experiential. "This movement is an expression/demand with the characteristics of the nineteenth century".[58]According to this school of thought, the purpose of law is to provide as much benefit and happiness as possible to the citizens of society, based on a social philosophy that states that every citizen desires happiness, and law is one of the tools."[59]

Utilitarianism is a school of thought that places utility as the main objective of law. The measure of utility of law is the greatest happiness for people. "The assessment of good and bad, fair or unfair law depends on whether the law is able to provide happiness to humans or not.

Utilitarianism places utility as the main objective of law, utility here is interpreted as happiness, which does not question whether a law is fair or not, but rather depends on the discussion of whether the law can provide happiness to humans or not.[60]Adherents of Utilitarianism have the principle that humans will take actions to obtain the greatest happiness and reduce suffering.

4. Conclusion

1. The criminal punishment system in the Criminal Code, which is the Indonesian Criminal System, is basically regulated in Book I of the Criminal Code in Chapter 2 from Article 10 to Article 43. The criminal system in the Criminal Code is divided into 2 (two) types of sanctions, namely first, the main punishment consisting of the death penalty, imprisonment, confinement, fines and imprisonment; second, additional punishment. The main punishment and additional punishment are regulated in Article 10 of the Criminal Code. The criminal punishment system outside the Criminal Code, for the criminal punishment system that exists outside the Criminal Code, also adopts an alternative punishment system and a cumulative punishment system. Criminal law experts generally classify criminal law into two

[56]Anang Dony Irawan, The Impact of the Pandemic in Creating Socio-Economic Inequality Between State Officials and the Community, Citizenship Virtues Journal, 2 (1), 2022, p. 251
[57]Achmad Hariri, Deconstruction of Pancasila Ideology as a Form of Legal System in Indonesia, Adjudication: Journal of Legal Studies, 3 (1), 2019, pp. 1–14,
[58]Friedman. Op.Cit, 1990, p.111
[59]Darji Darmodihardjo in Hyronimus Rhiti. Op.Cit, 2011, p.159
[60]Muh. Erwin. Op.Cit, 2011, p. 179

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large groups, general punishment and special punishment. Some legal scholars divide the distinction by regulating an offense in the Criminal Code, then it is called general punishment. Furthermore, if the offense is regulated in a law other than the Criminal Code, outside the Criminal Code, it is called special punishment. After a long wait, the new Criminal Code was finally ratified with Law Number 1 of 2023. This is an important historical milestone for Indonesia, after a long time using the Criminal Code inherited from the Dutch colonial era which is no longer relevant to the spirit of independence and the development of the times. 2. Criminal law policy in Indonesia shows over-criminalization and over-use of imprisonment. This can be seen from the formulation of criminal law in the Criminal Code and the development of criminal law formulations outside the Criminal Code. Article 10 of the Criminal Code stipulates the types of main punishments, namely the death penalty; imprisonment; confinement, imprisonment and fines. Of the several types of punishments, the regulation of criminal threats in Book II of the Criminal Code can be described as follows: 1) The death penalty is used in 11 articles; 2) Imprisonment is used in 485 articles; 3) Imprisonment is applied in 37 articles; 4) and fines are used in 123 articles. In criminal law regulations outside the Criminal Code, it is recorded that imprisonment is used in the formulation of 146 articles, while the death penalty which will also be processed in prison to await the death execution is 3 articles. Viewed from the length of life imprisonment 21 articles, 10 years imprisonment 42 articles, 12 years imprisonment 10 articles. At least until now more than 150 laws use imprisonment as a threat to violators. 3. When looking at the reform of correctional policies to improve the situation and conditions of Indonesian Correctional Institutions which have worsened with the enactment of Law Number 22 of 2022 concerning Corrections, which has the right direction, ideas and philosophy for the conditions that occur, where there are aspects that are upheld in the restorative justice paradigm. However, the aspect of restorative justice in the correctional corridor must also be balanced with the implementation of the restorative justice paradigm in other criminal justice subsystems, where these subsystems are what produce a prisoner who is accommodated by the Correctional Institution as the final place of the judicial process. These subsystems include the Police (investigation, inquiry), the Prosecutor's Office (prosecution), and the Judge (criminal verdict).

5. References

Journals:

Abd. Muhith, Problematika Pembelajaran Tematik Terpadu di MIN III Bondowoso, Indonesian Journal of Islamic Teaching, 1 (1), 2018

Achmad Hariri, Dekonstruksi Ideologi Pancasila Sebagai Bentuk Sistem Hukum di Indonesia, Ajudikasi: Jurnal Ilmu Hukum, 3 (1), 2019

Ali Dahwir, Pengembanan Filsafat Pancasila dalam Sistem Pemidanaan di Indonesia. Jurnal Unpal, 17(1). Januari 2019

Asiyah Jamilah & Hari Sutra Disemadi, Pidana Kerja Sosial: Kebijakan Penanggulangan Overcrowding Penjara. Jurnal IUS: Kajian Hukum dan Keadilan, 8(1). April 2020

Deni Nuryadi, Progresive Legal Theory and Implementation in Indonesia, Jurnal Ilmiah Hukum De'Jure: Kajian Ilmiah Hukum, Teori Hukum Progresif dan Penerapannya di Indonesia, 1 (2), September 2016

Dian Agung Wicaksono, Implikasi Re-Eksistensi Tap Mpr dalam Hierarki Peraturan PerundangUndangan terhadap Jaminan Atas Kepastian Hukum yang Adil di Indonesia, Jurnal Konstitusi, 10 (1), Maret 2013

Failin, Sistem Pidana dan Pemidanaan di dalam Pembaharuan Hukum Pidana Indonesia, Jurnal Cendekia Hukum, 3 (1), September 2017

Hadibah Zachra Wadjo, Pemidanaan Anak dalam Perspektif Keadilan Restoratif, Jurnal Sasi: Jurnal Ilmiah Fakultas Hukum Universitas Pattimura Ambon, 22 (2), Juli-Desember 2016

https://marinews.mahkamahagung.go.id/hukum/sejarah-perkembangan-dan-masa-depan-kuhp-di-indonesia

I Wayan Putu Sucana Aryana, Efektivitas Pidana Penjara Dalam Membina Narapidana, DIH: Jurnal Ilmu Hukum, 11 (21), 2015

J. M. Walukow, Perwujudan Prinsip equality before the law bagi narapidana di Dalam Lembaga Pemasyarakatan di Indonesia. Lex et Societatis, 1 (1). 2013

Juliet Chevalier Watts, Has Human Rights Law Become Lex Specialis for the European Court of Human Rights in Right to Life Cases Arising from Internal Armed Conflicts?, The International Journal of Human Rights, 14 (4), July 2010

Muhammad Ramadhan & Dwi Oktafia Ariyanti, Tujuan Pemidanaan dalam Kebijakan pada Pembaharuan Hukum Pidana Indonesia, Jurnal Rechten: Riset Hukum dan Hak Asasi Manusia, 5 (1) 2023

Muhammad Rif'an Baihaky & Muridah Isnawati, Restorative Justice: Pemaknaan, Problematika, dan Penerapan yang Seyogianya, UNES Journal of Swara Justisia, 8 (2), Juli 2024

Noveria Devy Irmawanti & Barda Nawawi Arief , Urgensi Tujuan dan Pedoman Pemidanaan dalam Rangka Pembaharuan Sistem Pemidanaan Hukum Pidana. Jurnal Pembangunan Hukum Indonesia, 3(2). 2021

R. Rahaditya, dkk. Analisis Pro dan Kontra Restorative Justice Dalam Penyelenggaraan Sistem Keadilan di Indonesia. Jurnal Kewarganegaraan, 7 (2), 2023

Rugun Romaida Hutabarat, Problematika Lembaga Pemasyarakatan dalam Sistem Peradilan Terpadu, Jurnal Muara Ilmu Sosial, Humaniora, dan Seni, 1 (1), April 2017

Syaefa Wahyuni, Makna Korporasi sebagai Subjek Hukum dalam Pembaharuan KUHP Indonesia. Innovative: Journal Of Social Science Research, 4(3), 2024

Taopik Ramdan, dkk. Implikasi Budaya dalam Pendidikan Terhadap Pembentukan Karakter Positif bagi Siswa MA Al-Ishlah Sagalaherang, Jurnal Pendidikan Sultan Agung, 3 (2), Juni 2023

Usman, dkk. Fenomena Over Kapasitas Lembaga Pemasyarakatan Studi Kebijakan Hukum Pidana Terhadap Penyebab dan Upaya Penanggulangannya, Prosiding Seminar Hukum dan Publikasi Nasional (Serumpun) I 2019

Veri Junaidi dan Violla Reininda, Relasi Presiden dan DPR dalam Pembentukan Undang-Undang pada Sistem Pemerintahan Presidensial Multipartai, Jurnal Lentera, 3 (1), 2020

Yustiana, dkk. Implikasi Hukum Atas Pelaksanaan Undang-Undang Nomor 22 Tahun 2022 Tentang Pemasyarakatan Terhadap Pemenuhan Hak Warga Binaan Khususnya Pembinaan dan Asimilasi Pada Narapidana Dengan Kasus Narkotika dan Over Capacity di Rumah Tahanan Negara Kelas II b Sengkang, Legal: Journal of Law, 2 (1) Mei 2023

Books:

Adami Chazawi, Pelajaran Hukum Pidana Bagian I, Raja Grafindo Persada, Jakarta, 2022

Ahmad Muliadi, Makalah Politik Hukum, Jakarta: SAP S-2 Universitas Jayabaya, 2012

Andi Hamzah, Asas-Asas Hukum Pidana (Edisi Revisi). Jakarta: PT. Rineka Cipta, 2020

Barda Nawawi Arief, Teori-teori dan Kebijakan Pidana: Masalah Pemidanaan Sehubungan dengan Perkembangan Delik-delik Khusus dalam Masyarakat Modern, Alumni, Bandung, 1992

D.C. Fokkema (Ed), Introduction to Dutch Law for Foreign Lawyers, Kluwer Deventer, The Nederlands 1978

D. Samosir. Fungsi Pidana Penjara dalam Sistem Pemidanaan di Indonesia, Bandung : Bina Cipta. 1992

Ekaputra, Mohammad dan Abdul Khair, Sistem Pidana di Dalam KUHP Dan, Pengaturannya menurut Konsep KUHP Baru, USU Press, Medan, 2010

Friedman. Teori dan Filsafat Hukum ; Idealisme Filosofis dan Problema Keadilan, diterjemahkan dari buku aslinya Legal Theory oleh Muhamad Arifin, Disunting oleh Achmad Nasir Budiman dan Suleman Saqib, Jakarta : Rajawali, 1990

Herbert L. Packer, The Limits of the Criminals Sanctions, Stanford University Press, California, 1968

Jimly Asshidiqie and Ali Safa'at, Teori Hans Kelsen Tentang Hukum, Jakarta: Sekjen dan Kepaniteraan MK RI, 2006

Jimly Asshidiqie, Agenda Pembangunan Hukum Nasional Di Abad Glohalisasi, Sinar Grafika, Jakarta, 2000

Kuat Puji Prayitno, Restorative Justice Untuk Peradilan di Indonesia (Perspektif Yuridis Filosofis dalam Penegakan Hukum In Concreto), Jurnal Dinamika Hukum, 12 (3), 2012

Lefri Mikhael, dkk. Hukum Pidana di Luar Kodifikasi, Cetakan Pertama, Padang, PT Global Eksekutif Teknologi, 2023

Lilik Rasyidi dan Ira Thania Rasyidi. Dasar-Dasar Filsafat dan Teori Hukum, Bandung : PT. Citra Aditya Bhakti, 2004

Lilik Mulyadi, Hukum Acara Pidana, Citra Aditya Bakti, Jakarta, 2007

L.J. van Apeldoorn, Pengantar Ilmu Hukum, P.T. Pradnya Paramita, Jakarta, 2000

Muladi dan Barda Nawawi Arief. Teori-Teori dan Kebijakan Pidana. Alumni. Bandung. 1998

Munir Fuady, Aliran Hukum Kritis Paradigma Ketidakberdayaan Hukum, Citra Aditya Bakti, Bandung, 2003

Prijatno Dwidjaja, Sistem Pelaksanaan Pidana Penjara di Indonesia, Refika Aditarma, Bandung, 2006

Rony Hanitijo Soemitro, Metodologi Penelitian Hukum dan Jurimetri, Ghalia Indonesia, Jakarta, 1990

Rully Novian, et al, Strategi Menangani Overcrowding di Indonesia: Penyebab,Dampak dan Penyelesaiannya, Institute for Criminal Justice Reform (ICJR), Jakarta, 2018

Sudarto. Hukum Pidana I. Yayasan Sudarto Fak. Hukum Undip. Semarang. 1990

Sugeng Pujileksono, Sosiologi Penjara, 1st ed. Malang: Intrans Publishing, 2017

Ted Honderich, Punishment: The Supposed Justications, resived edition, Penguin Books, Harmondsworth, 1976

Tri Andrisman, Hukum Pidana. Unila Press. Bandar Lampung. 2007

Wahyu Widodo, Kriminologi Dan Hukum Pidana, Semarang: Universitas PGRI Semarang Press, 2015

Regulation:

The 1945 Constitution of the Republic of Indonesia.

Criminal Procedure Code.

Law Number 12 of 1995 concerning Corrections

Law Number 22 of 2022 Concerning Corrections

Ministerial Decree Number: M.01.PR.07.03 of 1985 Concerning the Organization and Work Procedures of Correctional Institutions