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REFORMING INDONESIAN CRIMINAL LAW: INTEGRATING SUPERVISION, PUNISHMENT, AND REHABILITATION FOR RESTORATIVE JUSTICE

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Abstrak

Reformasi hukum pidana Indonesia melalui Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana (KUHP) menandai pergeseran penting menuju modernisasi pemidanaan melalui pengenalan pidana pengawasan. Penelitian ini mengkaji alasan hukum dan kesesuaian praktis dari pidana pengawasan, dengan menekankan pada perannya dalam transisi dari model peradilan yang bersifat retributif ke model peradilan yang bersifat restoratif, korektif, dan rehabilitatif. Penelitian ini menggunakan metodologi hukum normatif dengan pendekatan komparatif yang menganalisis sumber-sumber hukum primer dari KUHP yang baru, bersama dengan bahan sekunder dari literatur dan jurnal hukum yang otoritatif untuk menyoroti potensi transformatif dari reformasi ini. Wawasan komparatif dari Layanan Masa Percobaan Belanda mengungkapkan bahwa hukuman pengawasan dapat secara efektif mengurangi kepadatan lembaga pemasyarakatan, mendorong reintegrasi narapidana, dan menurunkan biaya operasional. Temuan ini menggarisbawahi pentingnya hukuman pengawasan tidak hanya sebagai alat pencegah perilaku kriminal tetapi juga sebagai mekanisme untuk restorasi sosial dan perlindungan masyarakat. Berdasarkan hasil penelitian ini, studi ini merekomendasikan langkah-langkah yang dapat ditindaklanjuti oleh para pembuat kebijakan: pembentukan jaringan dukungan sosial dan psikologis yang kuat, program pelatihan khusus untuk petugas pengawasan, dan pembentukan pusat rehabilitasi berbasis masyarakat. Perbaikan infrastruktur yang ditargetkan ini sangat penting untuk mewujudkan manfaat dari sistem peradilan pidana modern yang humanis di Indonesia.

Kata kunci: *Pengawasan Pidana, Keadilan Restoratif, Rehabilitasi, Hukum Pidana Indonesia*

Abstract

The reformation of Indonesian criminal law under Law Number 1 Year 2023 on the Criminal Code (KUHP) marks a pivotal shift toward modernizing punishment through the introduction of supervision punishment. This

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study examines the legal rationale and practical suitability of supervision punishment, emphasizing its role in transitioning from a retributive to a restorative, corrective, and rehabilitative justice model. The research employs a normative legal methodology with a comparative approach analyzing primary legal sources from the new Criminal Code alongside secondary materials from authoritative legal literature and journals to highlight the transformative potential of this reform. Comparative insights from the Dutch Probation Service reveal that supervision punishment can effectively reduce correctional institution overcrowding, foster offender reintegration, and lower operational costs. These findings underscore the significance of supervision punishment as not only a deterrent to criminal behavior but also as a mechanism for social restoration and community protection. In light of these outcomes, the study recommends actionable steps for policymakers: the establishment of robust social and psychological support networks, specialized training programs for supervision personnel, and the creation of community-based rehabilitation centers. These targeted infrastructure improvements are essential to fully realize the benefits of a humanistic, modern criminal justice system in Indonesia.

Keywords: Criminal Supervision, Restorative Justice, Rehabilitation, Indonesian Criminal Law

INTRODUCTION

Indonesian criminal law, which has been based on the Dutch colonial Code (KUHP), has undergone various reforms to adapt to the social, economic and cultural dynamics of modern society. The KUHP, which was originally designed to fulfill the legal needs of the colonial era, is now considered no longer relevant to the increasingly complex and diverse conditions of Indonesian society. One of the important aspects in this reform is the introduction of supervision punishment as an alternative to imprisonment. Supervision punishment is expected to create a balance in law enforcement that is more humane, fair, and in accordance with legal principles recognized in the modern legal system (Ma'arif, 2025). Supervision punishment is one of the alternative forms of punishment regulated in Article 75-77 of the New Criminal Code. As a type of main punishment, this punishment is oriented for criminal offenders who are considered still able to be corrected without having to go through imprisonment. For example, supervision punishment is more suitable for first-time offenders who are not recidivists.

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In practice, this punishment is also more suitable for criminal offenses that carry a maximum sentence of five years, so it does not cover cases of a serious nature. However, although it is one of the main punishments, supervision punishment is not explicitly formulated as a type of punishment that must be applied to certain categories of criminal offenses. The urgency of criminal law reform in Indonesia is not only related to the effort to replace the colonial legal legacy, but also to adjust the criminal law system with the development of values and needs of society. The results show that criminal law reform must pay attention to the relationship between criminal law and the socio-political, socio-philosophical, and socio-cultural values of Indonesian society. In this context, criminal law does not only function to provide deterrent effect, but also as an instrument to rehabilitate criminal offenders and create social harmony (Sari et al., 2023, p. 349).

The introduction of criminal supervision also reflects a paradigm shift in Indonesian criminal law. If previously criminal law tended to prioritize a retributive or retaliatory approach, then currently there are efforts to expand the focus towards a restorative approach that is oriented towards restoring social relations and rehabilitating offenders. In this case, supervision punishment provides an opportunity for criminal offenders to improve their behavior without having to undergo a punishment that deprives freedom, such as imprisonment (Imtihani & Nasser, 2024). This is in line with the practice of modern criminal law in various countries that prioritize restorative justice as the main approach in law enforcement. Furthermore, the application of supervision punishment as an alternative punishment provides a solution to the problem that has been a major concern in the Indonesian punishment system, namely overcapacity in correctional institutions (Alakash et al., 2024; Amin & Muhdi, 2021). Prisons that are overcrowded with prisoners not only reduce the effectiveness of rehabilitation, but also have the potential to create an environment that supports further law violations. Therefore, supervision punishment is seen as a strategic step to reduce the burden of correctional institutions while increasing the efficiency of the punishment system. (Erwin, 2018; Sayuti, 2021)

The introduction of supervision punishment in the National Criminal Code aims to better fulfill the principle of balance through various significant changes. Supervision punishment as the main punishment can be an effective alternative to imprisonment, especially for minor offenders. The concept of supervision punishment is expected to be able to change the attitude and behavior of convicts as well as provide protection and security



for the community (Lepa, 2014, p. 71). The implementation of supervision punishment in Indonesia faces challenges in terms of procedures and procedures for implementation. The concept of supervision punishment in the Draft Criminal Code is still explained in general, so that the procedure for supervision of convicts is needed as criminal procedural law in the implementation of supervision punishment (Hajairin et al., 2022, p. 168). In addition, criminal law reform can also be seen from the perspective of the criminal law enforcement system or sanctions. There is a paradigm shift in justice that is no longer only oriented towards retaliation, but also towards restorative justice. This aims to balance the two aspects of community protection, namely victims and perpetrators (Afifah, 2024, p. 3009).

THEORETICAL BASIS

Theoretical foundation is a fundamental component in normative and quantitative legal research. In this research, relevant theories are used to explain the philosophical, normative, and implementative basis of the regulation of supervision punishment as one of the main punishments in Article 65 of Law Number 1 Year 2023 on Criminal Code. This theory provides guidance to understand the paradigm shift of punishment that is oriented towards restorative, rehabilitative, and corrective justice.

Utilitarianism Theory

The utilitarianism theory in criminal law emphasizes that the main purpose of punishment is to achieve the greatest benefit to society. Jeremy Bentham emphasized that criminal sanctions should be designed to prevent criminal acts and rehabilitate offenders in order to improve the overall welfare of society (Bentham, 1988, p. 2). In the context of supervision punishment, this approach is relevant because the punishment is designed to prevent repeat offenses through guidance and social reintegration.

Restorative Theory

This theory emphasizes the restoration of relationships between offenders, victims, and society. Howard Zehr, states that restorative justice aims to repair the impact of criminal acts, create a sense of justice, and provide solutions that involve all parties. In criminal supervision, this aspect is reflected through a supervision mechanism that does not only focus on the offender, but also pays attention to victim recovery and social harmony (Zehr, 1990, p. 5).

Specific and General Deterrence Theory

This theory is divided into two aspects: deterrence specific which aims to prevent the perpetrator from repeating a criminal offense, and deterrence general to create a deterrent effect for the community (Rivanie et al., 2022, p. 178). In Article 75-77 of the Criminal Code, supervision



punishment is applied with conditions designed to prevent recidivism through strict supervision and structured coaching. This theoretical foundation provides a strong conceptual framework in understanding supervision punishment and its relevance to the purpose of punishment in Indonesia. With this theoretical foundation, research on supervision punishment not only provides a deep philosophical perspective, but also offers a practical approach that is relevant to face modern challenges in the criminal law system. The regulation of supervision punishment in Law Number 1 Year 2023 on Criminal Code is a significant step forward in building a more responsive, adaptive, and equitable Indonesian criminal law system.

RESEARCH METHODS

This research uses a normative legal research method, which focuses on analyzing written legal rules and legal doctrines relevant to the issue under study. This method is often referred to as desk research because the main source of data comes from legal materials available in the literature (Yanova et al., 2023, p. 399). This method allows researchers to explore legal norms, legal principles, and relevant doctrines to provide solid and in-depth legal arguments (Sonata, 2014, p. 17). Data sources in normative legal research consist of three main categories. First, primary legal materials, namely applicable laws and regulations, such as the Criminal Code (KUHP) and other relevant laws. Second, secondary legal materials, which include legal literature, journal articles, and opinions of experts who provide in-depth analysis of the legal issues under study. Third, tertiary legal materials, which include legal encyclopedias, legal dictionaries, and other sources that provide additional information to understand certain legal concepts.

The data collection technique in this research was conducted through a literature study. Data was collected by tracing and analyzing legal documents, such as laws and regulations, legal textbooks, and articles in legal journals. This approach allows researchers to understand and interpret the applicable legal norms and how they are applied in a particular context (Sonata, 2014, p. 16). Data analysis was conducted using three main approaches. First, legal interpretation, which aims to interpret the text of laws and regulations to understand the intent and purpose of the legislator. Second, legal systematization, which involves classifying and organizing legal norms to see their interrelationship and consistency. Third, critical evaluation, which serves to assess the effectiveness and relevance of legal



norms in achieving the objectives of punishment, especially in relation to the regulation of supervision punishment (Marzuki, 2008, p. 1).

This research aims to analyze the ratio legis of supervision punishment as one of the main punishment types stipulated in Article 65 of the Criminal Code. In addition, this study also aims to assess the suitability of supervision punishment arrangement with the expected objectives of punishment, namely achieving justice, benefit, and legal certainty. With this approach, the research is expected to contribute in understanding and developing the concept of supervision punishment in Indonesian criminal law system.

RESULTS AND DISCUSSION

Ratio Legis of Supervision Penalty Arrangement as a Type of Principal Penalty in Article 65 of Criminal Code

The regulation of supervision punishment as one of the main types of punishment in Article 65 of the Criminal Code is part of the renewal of the criminal law system in Indonesia which aims to adjust to the needs of modern society. Ratio legis or legal basis of this arrangement reflects a paradigm shift from retributive approach towards a more restorative and rehabilitative approach. Supervision punishment is expected to be able to overcome various problems that have been inherent in the traditional punishment system, such as overcapacity of correctional institutions, social stigma towards offenders, as well as lack of attention to rehabilitation and social reintegration. In addition, supervision punishment provides an alternative for minor offenders or first-time offenders to serve their sentence outside of correctional institutions. This allows offenders to improve themselves while still contributing to society, without having to experience the negative impact of imprisonment. With this approach, Article 65 of the Criminal Code becomes a foundation that integrates the principles of justice, expediency, and efficiency in the Indonesian criminal law system, while reflecting adaptation to the development of universal values in punishment.

Arrangement of Criminal Supervision in Law Number 1 Year 2023 on National Criminal Code

The enactment of Law Number 1 Year 2023 on the National Criminal Code (KUHP) marks a significant change in the Indonesian punishment system. One of the important innovations is the introduction of supervision punishment as the main punishment, as stipulated in Article 65 of the KUHP. Supervision punishment is a form of development outside of correctional institutions, similar to the concept of conditional punishment



or probation which was previously regulated in Article 14a and Article 14c of the old Criminal Code. Under the new Criminal Code, supervision punishment can be imposed to defendants who commit criminal offense with maximum imprisonment of five years, especially for first time offenders (not recidivist). Although placed as the main punishment, supervision punishment is not specifically included in the formulation of certain criminal offenses. This arrangement reflects a paradigm shift from a retributive approach to a more holistic approach, which considers the interests of victims, perpetrators, and society as a whole (Sudirdja, 2024). In addition, supervision punishment is expected to overcome the problem of overcapacity in correctional institutions and provide opportunities for convicts to improve themselves in the community. However, the implementation of supervision punishment requires a clear legal framework, including implementation procedures and effective monitoring mechanisms, so that the objectives of punishment can be achieved optimally (Firdaus & Koswara, 2024, p. 5).

Although supervision punishment has been regulated in the new Criminal Code, its application in judicial practice still requires socialization and in-depth understanding by law enforcement officials. Several studies have shown that judges tend to impose imprisonment even though there are alternatives such as supervision punishment which is more in line with the principle of restorative justice (Sabrina & Musyarri, 2023, p. 74). Therefore, efforts are needed to increase the understanding and awareness of law enforcers regarding the benefits and procedures for the application of supervision punishment, so that it can be an effective alternative in Indonesia's punishment system. The implementation of supervision punishment in Indonesia faces several challenges, including the lack of adequate infrastructure and human resources to supervise convicts outside correctional institutions. Thus, the regulation of supervision punishment in Article 65 of the Criminal Code reflects the efforts to reform the Indonesian criminal law towards a more just, humanist, and effective punishment system, in accordance with the development of values in modern society.

Ratio legis of supervision punishment as main punishment

Supervision punishment, as stipulated in Article 65 of Law Number 1 Year 2023 on the Criminal Code (KUHP), is a form of reform in the Indonesian criminal law system. This regulation aims to provide an alternative punishment that is more humanist and effective, in line with the principle of restorative justice which emphasizes the rehabilitation of the perpetrator and the restoration of social relations in the community. The ratio legis of setting supervision punishment as the main punishment is



based on efforts to overcome a number of fundamental problems in the punishment system. First, supervision punishment offers a more flexible alternative compared to imprisonment, especially for minor offenders or first-time offenders. This allows offenders to continue serving their sentence without having to experience social isolation which is often an obstacle in the reintegration process (Rahmawati, 2024, p. 186).

Second, supervised punishment aims to minimize the destructive effects of imprisonment, such as stigmatization of the offender and the risk of recidivism. The harsh prison environment often exacerbates inmates' behavior and hinders effective rehabilitation. By serving a supervised sentence, offenders can remain engaged in productive social and economic activities, which ultimately helps them to improve themselves and contribute to society (Yanova et al., 2023, p. 401). Third, criminal supervision also provides a solution to the problem of overcapacity of correctional institutions in Indonesia. Data shows that most correctional institutions in Indonesia experience overcapacity, which has an impact on the low quality of rehabilitation and high operational costs. Supervision punishment, as a form of coaching outside the institution, is expected to reduce the burden in a more efficient and economical way.

Furthermore, Articles 75-77 of the Criminal Code provide a clear legal framework regarding the implementation of supervision punishment, including the conditions that must be met by the convict. The general requirements include commitment not to reoffend and show good behavior, while the special requirements focus more on the recovery of victims through restitution or rehabilitative measures. Thus, supervision punishment not only protects the interests of the community, but also pays attention to the interests of victims and perpetrators in a balanced manner. The arrangement of supervision punishment in Article 65 of the Criminal Code reflects the paradigm shift of punishment in Indonesia which increasingly emphasizes on holistic justice, by considering aspects of community protection, rehabilitation of perpetrators, and restoration of social relations. This makes supervision punishment as one of the important instruments in creating a criminal law system that is more adaptive to the development of modern values and community needs (Zuhdi et al., 2025, p. 48).

Article 65 of the Indonesian Criminal Code (KUHP), as stipulated in Law Number 1 Year 2023, provides a new legal basis for the regulation of supervision punishment as one of the main types of punishment. This article not only includes technical provisions related to the concatenation of several acts that are punishable by similar punishment, but also reflects a



new paradigm in punishment in Indonesia. This paradigm aims to deliver justice that is more humanist and effective, adjusting to the needs of modern society and the principles of international law (Nugraha, 2024). Supervision punishment as the main punishment provides a more flexible alternative compared to imprisonment. As a form of improvement from conditional punishment previously regulated in Article 14a to Article 14f of the old Criminal Code, supervision punishment aims to reduce the destructive impact of imprisonment (Muthiah et al., 2024, p. 1001). Such impacts, such as social stigmatization and reintegration difficulties, are often the main obstacles for criminal offenders to improve themselves. By undergoing supervision punishment, offenders can remain in the community while undergoing a responsible rehabilitation process (Rahmawati, 2024, p. 188).

In the context of criminal law reform, criminal supervision also reflects a fundamental shift from a retributive approach towards a restorative and rehabilitative approach. This approach does not only focus on punishing offenders, but also on restoring social relations and balance in society. Thus, supervision punishment provides space for offenders to improve their behavior while contributing positively to society (Rusli et al., 2024, p. 1066). This is in line with the objectives of punishment stipulated in Article 51 to Article 54 of the Criminal Code, namely to protect the community, rehabilitate the perpetrator, and restore social harmony disrupted by criminal acts. The regulation of supervision punishment in Article 65 of the Criminal Code reflects the legislator's efforts to strengthen the punishment system that is more adaptive to social changes and the legal needs of the community (Ayu et al., 2024, p. 1135). This approach is in line with international trends in modern criminal law, which increasingly emphasizes the importance of restorative justice, rehabilitation, and protection of human rights in every stage of law enforcement.

Analysis of the regulation of supervision punishment in Law Number 1 Year 2023 on the Criminal Code with the purpose of punishment

Supervision punishment is an innovation in criminal law reform which is regulated in Law Number 1 Year 2023 on Criminal Code (KUHP). The regulation departs from the philosophical basis that the punishment system must reflect a balance between the interests of society and the individual rights of the perpetrator. The Criminology Seminar III in 1976 underlined that criminal law must be a means of protecting society (social defence), by emphasizing the rehabilitation of offenders without overriding the interests of society at large (Djauhari, 2017, p. 168). This regulation also responds to the need to overcome the weaknesses of the traditional criminal system, which often focuses too much on imprisonment. This system tends



to have negative impacts, such as overcapacity of correctional institutions, stigmatization of prisoners, and difficulties in social reintegration after the detention period. Thus, the regulation of supervision punishment is a progressive step in formulating a more humanist and effective criminal law system (Prasetyo, 2010, p. 54). The purpose of punishment in the New Criminal Code, supervision punishment in accordance with the provisions of Article 51 of the Criminal Code, namely to:

- 1) Prevent the occurrence of criminal offenses through the enforcement of legal norms.
- 2) Socialize offenders by providing guidance and counseling.
- 3) Resolving conflicts resulting from criminal offenses and restoring social balance.
- 4) Fostering remorse and erasing guilt in offenders (Irmawanti & Arief, 2021, p. 219).

Supervision punishment also seeks to avoid the destructive impact of imprisonment, by providing an alternative punishment that is more oriented towards rehabilitation and social reintegration. Criminal supervision requires direct supervision of offenders by authorized parties, such as prosecutors or correctional officers. This mechanism requires good coordination between various agencies, including judicial institutions, correctional institutions, and civil society organizations. In addition, this supervision must be carried out with due regard to the general and specific requirements set out in the Criminal Code, such as the commitment of the perpetrator not to reoffend and to make restitution to the victim. However, the implementation of supervision punishment faces several challenges, such as the lack of supporting infrastructure, limited human resources, and public stigma towards criminal offenders. Therefore, strategic steps are needed to ensure the effectiveness of the implementation of supervision punishment. These strategies include training for law enforcement officials, preparation of clear implementation guidelines, and socialization to the public regarding the benefits and objectives of supervision punishment.

With proper arrangement, supervision punishment has a good prospect in realizing a fairer and more efficient criminal law system. This punishment not only helps reduce the overcapacity of correctional institutions, but also encourages criminal offenders to return to being productive members of society. In addition, this approach is in line with international trends that emphasize the importance of restorative justice and rehabilitation in sentencing. The regulation of supervision punishment in Law Number 1 Year 2023 on Criminal Code reflects the legislator's effort to adapt the Indonesian criminal law system to the needs of modern society



and humanist principles of punishment. With effective supervision and support from all stakeholders, supervision punishment is expected to be an important instrument in achieving a more holistic and just punishment. Criminal supervision, which is now regulated in Law Number 1 Year 2023 on the Indonesian Criminal Code (KUHP), is a progressive step in national criminal law reform. This step is in line with similar practices in the Netherlands, which has previously implemented the concept of criminal supervision as an alternative to punishment.

History and Implementation in the Netherlands

In the Netherlands, the concept of criminal supervision is known as *voorwaardelijke veroordeling* or conditional punishment. First introduced in 1889, this system aims to give convicted offenders the opportunity to be rehabilitated without having to serve a prison sentence. An independent organization called *Reclassering Nederland*, funded by the Dutch Ministry of Justice and Security, is responsible for the implementation and supervision of conditional punishment. Its main tasks include the implementation and supervision of community service sentences, providing advice to prosecutors and judges, and overseeing prisoners on parole (Tiorein, 2024, p. 52).

Comparison with Indonesia

Indonesia, as a former Dutch colony, adopted many aspects of the Dutch legal system, including in terms of sentencing. However, with the promulgation of the new Criminal Code in 2023, Indonesia seeks to adapt its punishment system to local needs and values. Supervision punishment in the Indonesian Criminal Code is designed as an alternative to imprisonment, especially for minor offenders or first-time offenders. It aims to reduce the negative impacts of imprisonment, such as stigmatization and difficulties in social reintegration for convicted offenders. Although the concept of supervision punishment has been regulated in the Indonesian Criminal Code, its implementation requires careful preparation. Learning from the Dutch experience, Indonesia needs to ensure that there is a competent institution to oversee the implementation of supervision punishment. In addition, clear guidelines on the implementation procedure and criminal procedure are needed so that supervision punishment can run effectively and does not become a new burden in criminal law enforcement in Indonesia (Wicaksono, 2022, p. 183).

The regulation of supervision punishment in the Indonesian Criminal Code reflects the legislator's effort to adjust the criminal law with the development of community needs and modern punishment principles that are more humanist and effective. By learning from the Dutch



experience, it is expected that the implementation of supervision punishment in Indonesia can run well, provide a more suitable alternative punishment, and achieve the expected punishment objectives.

CONCLUSION

The renewal of supervision punishment in Article 65 of Law Number 1 Year 2023 on Criminal Code (KUHP) represents the transformation from retributive paradigm towards restorative, corrective, and rehabilitative justice, with an emphasis on crime prevention, offender development, conflict resolution, and restoration of social balance. As the main punishment, supervision punishment offers a humanist alternative to imprisonment, reduces social stigma, and minimizes the risk of recidivism. This system is also designed to strengthen community protection and provide opportunities for offenders to improve themselves through coaching, education, and training. Similar implementation in the Netherlands through the Probation Service has been proven to reduce the occupancy rate of correctional institutions, encourage social reintegration, and save operational costs. The regulation of supervision punishment in Indonesia, as described in Article 75-77 of the Criminal Code, reflects the modernization of national criminal law that is more responsive to the needs of society, making it an adaptive, effective, and just punishment instrument. With this approach, it is expected that the purpose of punishment that prioritizes justice and humanity can be achieved thoroughly.

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