

Criminal court decisions on the deterrent effect in Indonesia

Dr. Siswanto¹, Dr. Bambang Slamet Riyadi²

¹ Faculty of Law, Pancasila University, Tegal, Central Java, Indonesia

² Lecture, Langlangbuana University Bandung, West Java, Indonesia

Abstract

This scientific article is based on the results of research on the implementation of the decisions of criminal judges in Indonesia. In fact, they are those who commit criminal acts of imprisonment in correctional institutions. Researchers are very interested in examining this phenomenon. The problem is how are perpetrators of criminal acts given social sanctions based on the principle of justice of the Fifth Principle of Pancasila? This research is normative juridical research, which put in norms, rules and regulation, verdict of court, agreement as well as doctrine as its prime study and prioritizing secondary data as the main data. However, the research has also committed field research to obtain primary data as endorser of secondary data. The results of the study show that the implementation of criminal punishment against the decisions of criminal judges in Indonesia does not yet have social punishment based on the justice of the fifth principle of Pancasila. The researcher hopes that there will be criminal laws based on Pancasila justice.

Keywords: Implementation of criminal court decisions, prison sentences, deterrent effect

Introduction

The implementation of the results of the judge's decision regarding criminal acts of imprisonment in Indonesia, as regulated in the Criminal Code, has the meaning of rebuilding criminal law implementation which is closely related to the problem of law reform and law development, especially regarding the renewal or development of the criminal law system (penal reform) (Barda Nawawi Arief. 2015, p-1) ^[2, 3], Indonesia as a Pancasila state is a nation state that is based on social justice, which means that the state as the incarnation of humans as creatures of God Almighty, the natural characteristics of individuals and social beings aim to realize justice in living together (Social Justice).

This social justice is based on and inspired by the essence of human justice as a civilized being (the second principle). Humans are inherently just and civilized, meaning they must be just toward themselves, just toward God, just toward others and society, and just toward their natural environment. The Criminal Code ratified by the House of Representatives regulates criminal penalties in Article 64, which states that criminal penalties consist of: (a). principal penalties; (b). additional penalties; and (c). special penalties for certain criminal acts as determined in the Law. The Criminal Code states that the death penalty is defined as a special punishment. The Criminal Code currently in force does not regulate the provision of a conditional death penalty, which is threatened in the following ways: (a) The death penalty as the most severe principal punishment, (b) The death penalty is always threatened as an aggravating punishment for qualifying crimes, (c) The death penalty is always alternatively imposed as a life sentence and a maximum prison sentence of 20 years. As a special type of punishment, the death penalty is not included in the main list of punishments and is determined in a separate article to show that this type of punishment is truly special in nature as a last resort to protect society.

The death penalty is the most severe punishment and must always be threatened as an alternative with life

imprisonment or a maximum prison sentence of 20 (twenty) years. The death penalty can also be imposed conditionally, by providing a probationary period of 10 years, so that during this probationary period the convict is expected to improve himself so that the death penalty does not need to be carried out, and can be replaced with a sentence of deprivation of liberty. The requirements for this are: (a) the defendant's remorse and hope for improvement; or (b) the defendant's role in the crime. Previously, in addition to these two requirements, there were also other factors, namely, the public's reaction to the convict was not too strong and there were mitigating circumstances.

The New Criminal Code is based on various ideas of balance, primarily the protection of society and the protection of individuals in order to bridge the abolitionist group (who want to abolish the death penalty) and the retentionist group (who still maintain the death penalty). so that Indonesia can later be categorized as an abolitionist group in practice because it still maintains the death penalty for ordinary crimes, but has not implemented it for the last 10 years and has a policy of not carrying out executions.

Sudarto said that Indonesia did not yet have a comprehensive and systematic criminal law (Strafvollzugsgesetz), because even though the draft basic correctional law had been discussed at that time, according to him, the regulation was limited to the implementation of prison sentences, and did not touch on various other criminal sanctions, so that if the implementation of the National Criminal Code is not followed by the criminal implementation law, there will certainly be chaos in its implementation and the purpose of creating the National Criminal Code will not be realized, and will even have a bad impact. The development of the twintrack-system (double click-system), namely punishment and action is one of the characteristics of the neo-classical school, which when linked to the nature of the purpose of punishment and the meaning of punishment, is very important to justify the application of types of punishment and action (strafsoort) in a criminal code. This is in line with the views of H.L.

Packer who states that: "Punishment is a necessary but lamentable form of social control. It is lamentable because it inflicts suffering in the name of goals whose achievement is a matter of chance. (Herbert L Packer. 1968. p.162) [8].

Punishment, criminal and action, reminds us that the evaluation of the purpose of punishment will result in a generalization, that what we adhere to is the Utilitarian theory because punishment is prospective and future-oriented. In addition, the aim of criminalization emphasizes prevention with the ultimate goal of social welfare and provides a more humane meaning (BPHN, 2015, p. 42). Although the Modern school of thought is very strong in the renewal of Indonesian criminal law, the "double track system" cannot completely eliminate the influence of the Neo-Classical school which emphasizes the act and the perpetrator so it is worth paying attention to the potential problems that may arise, so we remain obedient to the basic principles (BPHN, 2015, p.225). In thinking based on the double track system, every statutory regulation that contains criminal sanctions contains alternative choices of criminal sanctions and action sanctions that are applied by judges in imposing appropriate and proportional sanctions for each criminal act. The determination of criminal sanctions or actions must be balanced with the criminal act and the protected legal interests and must take into account the characteristics of the perpetrator, both individual and corporate, in order to achieve the objectives of punishment (Sholehuddin, 2003, p. 194).

Criminal law encompasses three aspects in the application of sanctions: preventive, repressive, and rehabilitative. The preventive aspect is intended to deter individuals from committing and repeating crimes, and to deter others who have not yet committed crimes. The two rehabilitative aspects are efforts to provide guidance so that the same crime is not repeated by the criminal while he is still alive, or to provide guidance to people who have not committed crimes so that they do not commit crimes. The rehabilitative aspect is an effort to provide guidance so that the same crime is not repeated by the criminal while he is still alive, or to provide guidance to people who have not committed crimes so that they do not commit crimes. These three aspects apply integrally in every law, namely that every preventive effort is always accompanied by repressive efforts if a crime occurs, and is continued with rehabilitative efforts if the perpetrator of the crime is still alive.

The question is, how can the application of the decisions of the panel of judges of the criminal court in correctional institutions be replaced with social sanctions that provide a deterrent effect based on the sense of justice of the fifth principle of Pancasila?

Literature Review

In the "Black Law Dictionary" it is stated that "punishment" is Any fine, penalty, or confinement imposed upon a person by the authority of the law and the judgment and sentences of a court, for some crime or offense committed by him, for his omission of a duty enjoined by law. A deprivation of property rebounds to the benefit of an individual, such as a forfeiture of interest. (Henry Campbell Black, St. Paul. 1990. P.1234) [6]. The definition presents the standard case of punishment as exhibiting five characteristics; 1). It must involve pain or other consequences normally considered unpleasant. 2). It must be for an offence against legal rules. 3). It must be imposed on an actual or supposed offender for

his offence.4). It must be intentionally administered by human beings other than offender. 5). It must be imposed and administered by an authority constituted by a legal system against which the offence is committed. (Herbert L. Packer, 1968. p.21) [8].

Punishment is that social response which: a). occurs where there is violation of a legal rule; b). is imposed and carried out by authorised persons on behalf of the legal order to which the violated rule belong; c). involves suffering or at least other consequences normally considered unpleasant; d) expresses disapproval of the violator (Alf Ross in Muladi, 1998. p.3) [1]. According to the concept of punishment, it is based on two conditions or objectives, namely: punishment is aimed at inflicting suffering upon the person concerned (punishment is aimed at inflicting suffering upon whom it is imposed); and punishment is an expression of the action for which it is imposed). (Alf Ross in Muladi, 1998. p.4) [1]. H.L. Packer stated that "punishment" is based on the aim, namely giving retribution for wrong or non-criminal acts committed by the perpetrator. Packer states in full, "Punishment, has one or both aims: the prevention of undesired conduct retribution for perceived wrongdoing. But wherever it involves, or in whatever proportion it may combine the two, the focus is on the offending conduct. (Herbert L. Packer. 1968. p. 26) [8].

L.H.C. Hulsman's view on criminal punishment is viewed from the perspective of the nature of punishment itself, which is essentially a call for order. According to him, punishment essentially has two main goals: influencing behavior and resolving conflict. The resolution of this conflict can consist of efforts to repair the losses experienced or repair damaged good relationships or restore trust between fellow human beings. (Hulman's in Muladi, 1998. p.9). In subsequent developments, according to Utrecht, theories of punishment are grouped into three large groups, namely absolute theory or retribution theory, relative theory or goal theory, and combination theory. (E. Utrecht. 1958, p. 157) [11].

The purpose of punishment is to "prevent" and "reduce." "Prevent" here means preventing the perpetrator from repeating the act and preventing society from being harmed again by the perpetrator's actions. By "reduce," it is meant that punishment will reduce the number/frequency of crime. N. Walker calls the followers of this school "reducers." He states that according to "reducers," punishment reduces the frequency of crime in the following ways: a. To deter the perpetrator of the crime. b. To deter (prevent) other people who want to imitate the crime. c. Reforming the perpetrator of the crime. d. Teach the public to be more seriously sensitive to these crimes. (Antony Duff & David Garland., 1994. p.212) [7].

The preventive objective is intended to ensure that through punishment, the criminal act is prevented from happening again, or in other words, there are steps to prevent a criminal act from occurring. This preventive objective is from the perpetrator's perspective, meaning preventing them from repeating the act, and from the perspective of society as the injured party, so that losses to society can be prevented.

Criminalization does not only start from the idea of revenge for perpetrators of crimes or prevention in order to protect society, but has expanded to include an integrated criminal system that unites various law enforcement agencies in implementing the system in accordance with what is aspired to. The responsibility of the criminal system must begin

with prevention from the time a crime is committed, the creation of a crime by the perpetrator of the crime, and other stages up to the reintegration of the perpetrator of the crime as a complete human being in society and the strength of law enforcement within it.

Research Methods

This research is legal research. According to Morris L. Cohen in Peter Mahmud Marzuki, "Legal research is the process of finding the law that governs activities in human society." According to Morris L. Cohen, legal research focuses more on law in societal practice. (Peter Mahmud Marzuki, 2014. p 57)^[9]. Legal research according to Morris L. Cohen is more towards law in social practice. Legal research is a scientific activity based on certain methods, systems, and ideas, through analysis. A thorough examination of the legal facts is carried out, and then efforts are made to find solutions to the problems that arise in the relevant phenomena. (Soerjono Soekanto, 2014. p 43).

The definition of law is not only from a practical perspective in society, but also from a theoretical perspective. Furthermore, this research method describes the type/typology of research, research approach, type of research data, data collection techniques, interviews with sources, data analysis techniques and research stages carried out in order to answer the problems that have been formulated. This research is a normative legal research, the method of data collection in normative legal research is carried out through library research on legal materials, including primary legal materials, secondary legal materials, tertiary legal materials, and/or non-legal materials. Searching for these legal materials can be done by reading, viewing, listening, and now, many searches are conducted via the internet.

Discussion

Criminal law in Indonesia is more or less still repressive in nature, where someone who commits a crime is always given a criminal sanction without considering other alternatives to resolve the problem that occurs. Apart from that, in our current Criminal Code, almost all articles in it contain criminal sanctions of imprisonment, and the majority of cases resolved in court are subject to criminal sanctions of imprisonment, this is one of the factors causing our correctional institutions to experience overcapacity and until now the government has not been able to find a solution to overcome this. At this time, criminal law reform is an effort that is expected to be able to overcome the problems that are currently occurring, one of which is Over Capacity.

Reforms at the regulatory level were carried out by the Indonesian government in 1963, where the government conceptualized the Draft Criminal Code, until now, the government has not succeeded in codifying the Indonesian Criminal Law product which is based on the values contained in Pancasila and the 1945 Constitution of the Republic of Indonesia. One of the draft Criminal Codes is a new concept regarding instalment imprisonment, in which case a comparative study will be conducted with countries that already have such regulations, one of which is Albania. Albania is one of the countries that has regulations governing instalment prison sentences, which are clearly outlined in the Albanian Criminal Code. Article 58 of the Albanian Criminal Code states: "For sentences up to one

year of imprisonment, the court may, due to the obligations of convict in relation to work, education, qualification or professional training, essential family responsibilities or the need for medical treatment or rehabilitation, decide the execution of the sentence in open prison. The convict serving the sentence in open prison is obliged to return to prison, after carrying out responsibilities outside of prison, within the deadline set out by the court. When the convict does not fulfill the obligations according to this article, Article 62 of this Code shall apply.

If the convict, during the term of probation, commits another criminal offence, the court may change the imposed obligations, replace the sentence rendered with another one or revoke fully or partly the suspension decision. If the convict, during the probation term, violates the conditions or obligations that were set, the probation services shall report immediately to the prosecutor. Due to minor violations of conditions and obligation decided by the court, which were committed for the first time, the prosecutor has the right to give a warning, which is registered in the personal file of the convict. For severe and repeated violations, the prosecutor shall request the court to change the imposed obligation, add up other obligations, replace them with other sanctions or revoke the decision for the suspension of the sentence and get the remainder of the sentence to be served in jail.

In serious and repeated violations, the public prosecutor can ask the court to replace the obligation, add another obligation, replace it with another sanction or revoke the instalment prison sentence decision so that the convict must serve the rest of his sentence in full in the prison. Prisons in Indonesia which are expected to be able to carry out social reintegration are currently facing a very critical problem where there is an overcapacity in the prisons. Indonesia is trying to implement instalment prison sentences as the main sentence, which has been regulated in the 2015 Criminal Code Draft in Book I, which is expected to reduce the overcapacity that occurs in prisons.

The current criminal sanctions in our Criminal Code are regulated in Article 10, imprisonment is one of the criminal sanctions that is often given to perpetrators of criminal acts, which is expected to provide a deterrent effect on perpetrators of criminal acts. The fact is that our prison sentences are no longer feared. Therefore, prisons, which are institutions intended to promote social reintegration, will find it very difficult to function optimally due to overcapacity.

Prisons are a place to provide treatment to criminals so they can return to society, but in reality, prisons are a place that gives birth to criminals. because many criminals who have been released from prisons continue to commit crimes again, because prisons cannot work optimally to carry out social reintegration due to the overcapacity factor. Over Capacity is a factor causing dehumanization that occurs in prisons, where prisons cannot fully provide the rights that every prisoner should receive, such as good air circulation, good beds, and so on, so that cases arise such as many prisoners trying to escape from prisons.

That they are criminals is a stigma that must be removed, because it will have a negative impact on the person. It is feared that the person labeled feels cornered, feels useless in society, so that the person is reluctant to commit another crime. This stigma arises because a prisoner has never socialized with the community. Currently, the Indonesian government has not been able to provide a solution to the

problems that occur in this prison, but at this time, criminal law reform is one of the solutions that is expected to overcome the problems that occur in this prison.

In an effort to reform criminal law, the aim is to provide social protection and prevent crimes that occur. In the 2015 Draft Criminal Code, the aim of criminal punishment is formulated explicitly in Article 55 Paragraph (1) of the Draft Criminal Code, namely: a). Preventing criminal acts by enforcing legal norms for the protection of society; b). Socializing convicts by providing guidance so that they become good and useful people; c). Resolving conflicts caused by criminal acts, restoring balance, and bringing a sense of peace to society; and d) Freeing the convict from guilt.

The drafts Criminal Code drafted by the legislators aims to prevent criminal acts from occurring, no longer viewing prison as a form of retribution, but is expected to provide a deterrent effect to perpetrators of criminal acts, and also provide education to other members of society so that they do not commit acts prohibited by law. In addition, our current Draft Criminal Code does not only consider victims and society, but also considers the individualization of criminals as one of the considerations, because the purpose of prisons is also to return prisoners to society so that they can re-socialize and become complete human beings.

The legislators to provide social protection and crime prevention are by providing an alternative to imprisonment, namely instalment imprisonment, which previously did not exist in the Indonesian Criminal Code. Other countries have already used this rule, such as Albania. The concept created by the creators of this law, which is specifically given to perpetrators of criminal acts with a sentence of less than 5 years, in accordance with the emergency circumstances of the convict such as medical needs, family, work, and education, can serve the prison sentence in instalments of 2 days in 1 week, 10 days in 1 month.

The concept of sentencing perpetrators of minor crimes with a threat of less than 5 years, in addition to the instalment prison sentence, is a humane sanction, because it provides an opportunity for convicts to socialize with the community, so that it can reduce the stigma that exists at this time, and it is hoped that it can restore a sense of trust between convicts and the community. Therefore, the penalty of installment imprisonment must be given with full consideration, taking into account the emergency circumstances faced by the defendant. The emergency circumstances for the convict are as follows:

- a. Family, is one of the important points in giving an installment prison sentence to the defendant, in this case the giving of an installment prison sentence is expected to provide unity in the defendant's family, as the defendant is the backbone of the family, If the defendant is not given a prison sentence in installments, the judge will not only give a sanction to the defendant, but will also give a sanction to his family who are innocent. because the backbone of the family, who plays an important role in maintaining the family, has been removed, the consequences of which are not only felt by the defendant but also by his family, and can unknowingly destroy a family.
- b. Health/medical, is a factor that the judge considers in giving an instalment prison sentence to the defendant, because if the defendant has a history of illness that

requires medical treatment, then this instalment prison sentence provides a form of prevention so that the illness suffered by the convict can be treated, in addition to that, medical needs are a right that must be obtained by everyone to provide treatment for everyone.

- c. Work/profession is also an important thing for the judge to consider, because it will be difficult for the convict to work and earn money to continue his life if he is not given an installment prison sentence, besides that, if we look at a former convict, it will be very difficult to get a job because of his criminal history.
- d. Education, is one of the important things for every person whose goal is to advance a nation, and here the concept of instalment prison sanctions provides a way for convicts to continue their education, this instalment prison sentence is a sanction that provides an opportunity to educate the nation, and the purpose of this punishment is to provide education to convicts so that their education is not left behind by other members of society.

The discussion above is a legal political concept for the formation of criminal law regulations after the decision of the criminal panel of judges against the perpetrator of the crime, which is expected to be useful, from the advantages that have been described above, such as reducing Over Capacity. This instalment prison sentence also has a weakness, namely the lack of supervision provided by the government for convicts who are serving instalment prison sentences, if we compare it with the country of Albania, the country of Albania in Article 62 of the Albanian Criminal Code explains about violations of the convict's obligations which states that if the convict, during the instalment prison sentence, commits another criminal offense This instalment prison sentence also has a weakness, namely the lack of supervision provided by the government for convicts who are serving instalment prison sentences, if we compare it with the country of Albania, the country of Albania in Article 62 of the Albanian Criminal Code explains about violations of the convict's obligations which states that if the convict, during the instalment prison sentence, commits another criminal offense, then the court can change the previously determined obligation, and replace it with a decision in accordance with the new crime, or to revoke all or part of the installment prison sentence imposed at that time.

If the convict during the instalment prison sentence violates the previously established obligations, the supervisor must immediately report it to the public prosecutor. In the case of a minor violation of the obligations set by the court, which is committed for the first time, the public prosecutor has the right to issue a warning, which will be recorded in the convict's personal record. In the case of serious and repeated violations, the public prosecutor can ask the court to replace the obligation, add another obligation, replace it with another sanction or revoke the instalment prison sentence so that the convict must serve the rest of his sentence in full in the prison.

A convict who is serving a prison sentence in instalments, and the convict commits another crime while outside of prison, means that the law makers have failed in their efforts to prevent crime and provide social protection for the

community. And don't let the instalment prison sentence that is expected to solve all existing problems, instead create a new problem that is worse than before.

Indonesia regulates that imprisonment is specifically regulated in the National Criminal Code in Chapter III, part two, paragraph 1, starting from Article 68 to Article 77. The imprisonment can be described as follows:

Article 68

- a. Imprisonment is imposed 'for life or for a certain period.
- b. A prison sentence for a certain period of time is imposed for a maximum of 15 (fifteen) consecutive years or a minimum of 1 (one) day, unless a special minimum is determined.
- c. In the event that there is a choice between the death penalty and life imprisonment or there is an increase in the sentence for a crime that is punishable by 15 (fifteen) years imprisonment, a prison sentence for a certain period may be imposed for a period of 20 (twenty) consecutive years.
- d. A prison sentence for a certain period may not be imposed for more than 20 (twenty) years.

Article 69

1. If a convict serving a life sentence has served a prison sentence of at least 15 (fifteen) years, the life sentence may be changed to a prison sentence of 20 (twenty) years by Presidential Decree after receiving consideration from the Supreme Court.
2. Provisions regarding the procedures for changing a life sentence to a 20 (twenty) year prison sentence as referred to in paragraph (1) are regulated by Government Regulation.

Article 70

1. While still taking into account the provisions as referred to in Articles 51 to 54, a prison sentence shall as far as possible not be imposed if the following circumstances are found:
 - a. the defendant is a child;
 - b. the defendant is over 75 (seventy-five) years old;
 - c. the defendant is committing a crime for the first time;
 - d. the victim's losses and suffering were not too great;
 - e. the defendant has paid compensation to the victim;
 - f. the defendant was unaware that the crime he committed would result in significant losses;
 - g. the crime occurred due to strong incitement from another person\
 - h. the victim of the crime encouraged or instigated the crime
 - i. the crime resulted from a situation that is unlikely to be repeated;
 - j. the defendant's personality and behavior demonstrate that he or she will not commit another crime;
 - k. imprisonment will cause significant suffering for the defendant or his or her family;
 - l. rehabilitation outside of correctional facilities is expected to be beneficial for the defendant;
 - m. the defendant's personality and behavior demonstrate that he or she will not commit another crime;
 - n. imprisonment would cause significant suffering for the defendant or his or her family;

- o. rehabilitation outside of correctional facilities is expected to be beneficial for the defendant;
- p. imposing a lighter sentence will not lessen the seriousness of the crime committed by the defendant;
- q. the crime occurred within a family; and/or
- r. the crime occurred due to negligence.

2. The provisions referred to in paragraph (1) do not apply to:

- a. Crimes punishable by imprisonment of 5 (five) years or more;
- b. Crimes punishable by a special minimum sentence;
- c. Certain crimes that are extremely dangerous or detrimental to society; or
- d. Crimes that harm the state's finances or economy.

Article 71

1. If a person commits a crime that is only punishable by imprisonment of less than 5 (five) years, while the judge is of the opinion that it is not necessary to impose a prison sentence after considering the purpose of the punishment and the guidelines for punishment as referred to in Articles 51 to 54, the person may be sentenced to a fine.
2. The criminal fine as referred to in paragraph (1) may only be imposed if:
 - a. without a victim;
 - b. the victim does not object; or
 - c. not a repeat of the crime.
3. The criminal fine that can be imposed based on the provisions as referred to in paragraph (1) is a maximum fine of category V and a minimum fine of category III.
4. The provisions as referred to in paragraph (2) letter c do not apply to people who have been sentenced to prison for a crime committed before the age of 18 (eighteen) years.

Article 72

1. Prisoners who have served at least 2/3 (two thirds) of the prison sentence imposed, provided that the 2/3 (two thirds) is not less than 9 (nine) months, may be granted conditional release.
2. Prisoners who serve several consecutive prison sentences are considered to have served a total of 1 (one) sentence.
3. In granting conditional release as referred to in paragraph (1), the probationary period and conditions that must be met during the probationary period are determined.
4. The probationary period as referred to in paragraph (3) is equal to the remaining time of the prison sentence that has not been served plus 1 (one) year.
5. Prisoners as referred to in paragraph (1) who are detained as suspects or defendants in other cases shall not have their detention time counted as a probationary period.

Article 73

1. The conditions that must be met during the trial period as referred to in Article 72 paragraph (3) consist of:
 - a. general conditions, such as the inmate not committing a crime; and

- b. specific conditions, such as the inmate must commit or refrain from committing certain acts, without prejudice to freedom of religion, belief, and political participation, unless otherwise determined by the judge.
2. The special conditions as referred to in paragraph (1) letter b may be changed, removed, or new conditions may be created solely for the purpose of guiding prisoners.
3. Prisoners who violate the conditions as referred to in paragraph (1) may have their conditional release revoked.
4. Conditional release as referred to in paragraph (3) cannot be revoked after 3 (three) months have elapsed since the end of the probationary period, unless within 3 (three) months since the end of the probationary period, the convict is prosecuted for committing a crime committed during the probationary period.
5. In the event that a prisoner as referred to in paragraph (4) is sentenced to a prison term of a certain period or a fine of at least category III, the conditional release of the person concerned shall be revoked.
7. A maximum prison sentence of 3 years, 44 times;
8. A maximum prison sentence of 3 years and 6 months, 12 times;
9. A maximum prison sentence of 4 years, 42 times;
10. A maximum prison sentence of 4 years and 6 months, 6 times;
11. A maximum of 5 years' imprisonment, 55 times;
12. A maximum of 6 years' imprisonment, 25 times;
13. A maximum of 6 years' imprisonment, 4 times;
14. A maximum of 7 years' imprisonment, 58 times;
15. A maximum of 7 years' imprisonment, 3 times;
16. A maximum of 8 years' imprisonment, 10 times;
17. A maximum of 9 years' imprisonment, 32 times;
18. A maximum of 10 years' imprisonment, 32 times;
19. A maximum of 12 years' imprisonment, 47 times;
20. A maximum of 15 years' imprisonment, 45 times; and
21. A maximum of 20 years' imprisonment, 22 times.

Imprisonment sentences in the Indonesian National Criminal Code are related to the guidelines for sentencing imprisonment as mentioned above. In detail, the threat of imprisonment in the National Criminal Code is stated in the articles in Book Two on Criminal Acts from Chapter 1 to Chapter 35 starting from Article 188 to Article 612. The mention of imprisonment is written up to 588 times.

Researchers, the results of the detailed discussion of the 588 mentions of prison sentences in the Indonesian National Criminal Code are as follows:

1. Imprisonment was mentioned as the principal penalty 204 times;
2. Imprisonment with the alternative of a fine was mentioned 298 times;
3. Imprisonment was mentioned cumulatively as the shortest and then the maximum prison sentence, three times;
4. The shortest and maximum prison sentences, and the smallest and largest fines are mentioned 19 times;
5. The principal sentence of imprisonment plus 1/3 is mentioned 32 times;
6. The principal sentence of imprisonment plus 1/5 is mentioned 4 times;
7. The death penalty, life imprisonment, or a maximum prison sentence of 20 years is mentioned 3 times;
8. Mention of life imprisonment or 20 years imprisonment once; and
9. Mention of the shortest and longest prison sentences, life imprisonment, or the death penalty once;

The Indonesian National Criminal Code according to the maximum prison sentence includes:

1. A maximum of 6 months' imprisonment, 24 times;
2. A maximum of 9 months' imprisonment, 13 times;
3. A maximum of 1 year' imprisonment, 56 times;
4. A maximum of 1 year and 6 months' imprisonment, 19 times;
5. A maximum of 2 years' imprisonment, 32 times;
6. A maximum prison sentence of 2 years and 6 months, 7 times;

Researchers, the results of the discussion on criminal punishment for perpetrators in Indonesia as regulated in the Indonesian National Criminal Code, still apply to imprisonment in prisons. There are two possibilities: first, prisoners who are rehabilitated in prisons will have a deterrent effect and will not commit crimes again. And second, prisoners may become proud of their imprisonment and become even more serious criminals.

The philosophical foundation of the Unitary State of the Republic of Indonesia is Pancasila, with its principles formulating the abstract principles or essence of Indonesian human life, which are based on three complete relationships of human nature: the relationship between humans and God, the relationship between humans, including themselves, and the relationship between humans and objects (including inorganic, vegetative, and animal objects).

The First Principle of Belief in the One and Only God provides a framework of values for who (Indonesian) humans are, namely humans who believe in the power of the One and Only God. Through the First Principle, Indonesians have a basis for formulating values about what is right and what is wrong according to human reason's understanding of God. The Second Principle is referred to as a normative framework because it contains the fundamental normative imperative to live or act justly and civilly. Manners demonstrate a spiritual attitude as a noble creature of God, while justice demonstrates behavior that reflects a civilized human being. The Third Principle, outlines the boundaries of individual interests. Every Indonesian must be able to control themselves so that they do not only pursue personal interests if the interests of the state and nation demand it, The Fourth Principle outlines the unbreakable boundaries in national life. A wise and prudent attitude is to obey every decision made by the people. Every Indonesian must exercise self-control, obey the law, maintain discipline, and respect and obey every constitutionally and democratically made decision by the people. The Fifth Principle, provides direction for the growth of awareness of each individual as a social being - who upholds justice together with others as fellow citizens.

The philosophical concept of punishment from a Pancasila perspective must reflect the integrity of all the principles of Pancasila mentioned above. Describing the basic principles of Pancasila, one principle at a time, will only result in abstract and contradictory concepts that fail to address the

true substance of Pancasila. The principles of Pancasila are actually interconnected, leading to a balanced structure.

Conclusion

Criminalization from the perspective of justice in the principles of Pancasila, therefore, must be oriented towards the following principles: Punishment for a person must be aimed at raising the convict's awareness of faith—through which he or she can repent and become a faithful and devout person. In other words, punishment must serve to develop the convict's mentality and transform him or her into a religious person; Punishment must not violate the most basic human rights and must not degrade their dignity for any reason. The implication is that even though the convict is in a correctional institution, the elements and characteristics of his humanity must not be set aside in order to free him from his evil thoughts, nature, habits and behavior. The implementation of criminal court decisions regarding prisons raises awareness of the obligations of each individual as a social being who upholds justice together with others as fellow citizens. Liberation punishment views the convict as a social being who still has rights and obligations. The obligation aspect is that the convict is still obliged to undergo a period of suffering that does not reduce or degrade his dignity as a human being. Conversely, the convict also has the right to continue to be treated like a human being, despite his mistakes. Ultimately, it can be hoped that the "liberation" of thoughts, traits or habits in committing crimes can become a just and civilized human being.

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