

RENEWAL OF CRIMINAL LAW IN THE CRIMINAL LAW CODE REGARDING THE PROVIDING OF SANCTIONS IN THE FRAMEWORK REALIZING JUSTICE BASED ON PANCASILA

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ABSTRACT: *The substance of the New Criminal Code illustrates that the policy of formulating fines aims to increase the effectiveness of law enforcement because judging from the current situation the application of imprisonment and confinement is considered not good so it is hoped that the formulation of fines can be implemented. The research method used in this research is a normative research method using a statutory approach and a conceptual approach. Based on the results of research related to the Criminal Fine System New Criminal Law Code That Has A View on Justice Based on Pancasila, it can be concluded that the New Criminal Code places fines as the fourth heaviest basic punishment after imprisonment, closure, and supervision. The New Criminal Code also formulates a cumulative criminal sanctions system so that fines can function as criminal aggravation as well as confiscate the proceeds of crime. The existence of a cumulative system is needed to encourage the effectiveness of the criminal function as a collector of imperative criminal sanctions. The implications of the Criminal Fines System in the new Criminal Code which is based on justice based on Pancasila has a significant impact on various aspects of criminal justice and law enforcement including Restorative Justice, Rehabilitation and Recovery, Strengthening Public Trust, and Proportionality.*

Keywords: Security, Criminal System Fine, Justice, Pancasila

INTRODUCTION

As times progress and demands for justice become increasingly complex, a country's legal system continues to adapt to ensure that the criminal policies implemented are not only effective in enforcing the rules but also reflect fundamental values of justice. In this context, the introduction of the Criminal Fines System in the new Criminal Code marks a significant step forward in the transformation of the criminal justice system. The fine criminal system regulated in the new Criminal Code is not just a change in legal policy, but also an effort to strengthen the foundations of justice which are rooted in the values of Pancasila, as the philosophical foundation of the Indonesian state. Pancasila, with its principles which include social justice, just and civilized humanity, and just democracy, is a strong basis for guiding the formation and implementation of a legal system that is more inclusive and responsive to the needs of society.

In a more in-depth investigation, it is important to understand how the Fine Criminal System is not only an instrument of law enforcement but also a concrete manifestation of commitment to realizing equal justice for all citizens. By focusing on the principles of Pancasila, this system is expected to provide more proportional, rehabilitative, and sustainable solutions in dealing with legal violations. This article aims to describe various aspects related to the Criminal Fines System in the new Criminal Code which is based on justice based on Pancasila. Through in-depth analysis, we will explore the practical implications, challenges faced, and opportunities available in integrating Pancasila values into the criminal justice system. Thus, it is hoped that this article can make a meaningful contribution to strengthening the understanding and implementation of a more inclusive and just legal system in Indonesia.

The study of criminal fines highlights the different perspectives of criminal law experts, such as Becker and

Posner, who consider them effective in avoiding prison operational costs. However, imprisonment is still dominant, especially for minor crimes, and this policy is considered ineffective. Although fines can be considered a strategic alternative in criminal politics, their implementation is still rare, influenced by factors such as law enforcement tendencies and the financial condition of society. In the context of the criminal code, criminal fines underwent an adjustment in value in 2012, but questions arise about the authority of the Supreme Court to change the value of criminal fines without involving laws or government regulations. Changes to the Criminal Code also establish categories of criminal fines in eight groups, clarifying value limits and making it easier to adjust to economic fluctuations. In addition, the study looks at the role of law as a social engineering tool that develops under changing times, culture, society, and politics.

Criminal law, as a legal instrument, aims to create social order and ensure a safe and comfortable life for citizens. The policies of the Indonesian National Law Party reflect efforts to reform the tax system with a focus on prevention, support, and benefits for society, in line with the principles of Pancasila. Criminal sanctions, including fines, are regulated in the National Criminal Code by dividing penalties into three types and determining the main penalties in detail. The legal principles of Pancasila are the basis for fair criminal sentences, taking into account aspects of the crime, the character of the defendant, and the history of the crime. This research is normative research conducted by reviewing library materials or secondary data as the main activity. The method used is a doctrinal method, proposing deductive logic to build positive law that relates to the criminal fine system and the new criminal law code that has a view on justice based on Pancasila.

METHODOLOGY

The research method used in this research is a normative research method using a statutory approach and a case study approach related to the Criminal Fine System New Criminal Law Code That Has A View on Justice Based on Pancasila

RESULT AND DISCUSSION

1. The Nature of the Criminal Fines Provisions in the Criminal Code

Studies on fines highlight different perspectives from criminal law experts. Becker and Posner see the benefits of implementing criminal fines and avoiding prison costs and overcapacity. However, the prison sentence policy is considered too harsh, especially for minor crimes, is not in line with correctional objectives, and causes problems of overcrowding in prisons. Imposing fines as an alternative to prison is still less popular, due to law enforcement tendencies, lack of positive legal encouragement, and the financial condition of society. Sutherland and Cressey highlight the ease of implementation and correction of criminal fines, as well as the financial and reputational benefits. In criminal politics, fines are considered strategic, especially in the era of globalization and digitalization. Criminal fines in the Criminal Code experienced an adjustment in value in 2012, but questions arose regarding the authority of the Supreme Court to change the value without involving legislation. Click or tap here to enter text.

In principle, fines are unique, such as not causing stigmatization, allowing the perpetrator to remain with his family, not causing job loss, and can be executed easily without causing harm to the state. The New Criminal Code, which will come into effect in 2026, brings hope for changes regarding the implementation of criminal fines, and a review of old criminal laws. Click or tap here to enter text. Even though fines are unique, the practice of imposing penalties still tends towards imprisonment. Further evaluation and policy changes may be needed to ensure that fines function per the objectives of criminal and correctional law, especially regarding the protection of victims and the implementation of restorative justice. From the aspect of criminal law policy, the phenomenon of using deprivation of liberty (imprisonment) seems inefficient and of course very contrary to the trend currently sweeping the international world, namely to avoid imprisonment as far as possible by implementing selective and limitation policies, as a result of increasingly strong criticism and sharp scrutiny of the use of prison sentences. In line with this, the development of the Modern School of Criminal Law which focuses (orientates) on the creator (perpetrator of a criminal act) requires individualization of the crime, meaning that punishment takes into account the characteristics and circumstances of the perpetrator. As a consequence, it demands the development of more types of non-custodial criminal sanctions in the criminal system contained in the Criminal Code.

Thus, it is normal for fines to become the center of attention, both as a substitute for short prison sentences and also as independent sanctions, because apart from being a type of non-custodial criminal sanction, it is also considered does not cause stigmatization and prisonization and economically the

State receives input in the form of money or at least saves social costs compared to other types of prison sentences. Even the research of several legal experts including Roger Hood, Hall Williams, R.M. Jackson, and Soedarto generally stated that there are signs that fines are more successful or more effective than imprisonment or imprisonment.

The decades-long struggle of Indonesian criminal law experts should be properly appreciated by studying the juridical arguments by considering the reasons why it is important to reform Indonesian criminal law, including philosophical reasons, the old Criminal Code is not under the philosophy of the Indonesian nation, political reasons, as an independent country, Indonesia must have a Criminal Code. Nationally, many provisions are out of date, there is a shift from the principle of material legality. These criminal law experts take the essence of criminal law reform based on the values contained in the Pancasila principles. Without the foundation of Pancasila, law enforcement and the constitution will face obstacles that will hamper the goals of establishing and administering the state to create a just and prosperous society. Criminal law reform is essentially an effort to review and reshape (reorient and reform) the law under the general socio-political, socio-philosophical, and cultural values of Indonesian society.

Improving the fine criminal policy means correcting the weaknesses of the current fine criminal policy so that the fine criminal policy in the future will be better and more effective. This is in line with what was stated by Sudarto, namely that criminal law policy is an effort to create good regulations according to the circumstances and situations at any given time. Likewise, according to Mulder, one of *Strafrechtspolitiek's* policy lines is to determine to what extent the applicable criminal provisions need to be changed or updated. In principle, changes to the implementation of criminal fines and changes to the threat of criminal fines in the Criminal Code and laws outside the Criminal Code will not have much meaning if they are not accompanied by changes to the entire system of implementing criminal fines.

In the current global era, which is marked by progress in the fields of transportation and modern communications, this has an impact on the development of the quality of criminal acts. As well as recognizing corporations as subjects of criminal law in crimes committed by corporations (corporate crimes), the existence of criminal sanctions and fines is necessary. Therefore, it is natural that in the context of criminal politics, criminal sanctions, and fines increasingly occupy a strategic position as one of the backbones (means) for eradicating criminal acts. This can be seen significantly in the widespread use of fines as a type of criminal sanction involved in overcoming the problems of new offenses as a result of rapid economic development and sophisticated technology which is regulated in several "special criminal laws" or legislation. crimes outside the Criminal Code.

The next discussion is the policy for formulating criminal fines in the National Criminal Code. In Law Number 1 of 2023 concerning the Criminal Code, it is stated in Article 65 that fines are the fourth most severe principal punishment after imprisonment, cover-up penalties, and supervision penalties. After the fine itself, there is the social work penalty as the final main penalty. In contrast to the Old Criminal Code which does

not define criminal fines, the National Criminal Code through Article 78 defines criminal fines as "an amount of money that must be paid by the convict based on a court decision". According to Syaiful Bakhri, the attitude of criminal law experts to maximize criminal fines is at least reflected in three main paradigms, namely the acceptance of corporations as subjects of criminal acts, criminal fines in administrative law, the model of threatening fines (using categorization) and the model of executing criminal fines.

The National Criminal Code also regulates corporations as the subject of criminal acts in Articles 45 to Article 50. Considering that the main punishment that can be imposed on a corporation is only a fine, the maximum threat of a fine imposed on a corporation is heavier than the threat of a fine against an individual. Therefore, the maximum threat of criminal fines for corporations that commit criminal acts is chosen in the next higher category. The threat of criminal fines as regulated in Article 79 of the National Criminal Code is divided into 8 categories as follows:

- a) category I amounting to Rp. 1,000,000.00 (one million rupiah)
- b) category II amounting to Rp. 10,000,000.00 (ten million rupiah)
- c) category III amounting to Rp. 50,000,000.00 (fifty million rupiah)
- d) category IV amounting to Rp. 200,000,000.00 (two hundred million rupiah)
- e) category V amounting to Rp. 500,000,000.00 (five hundred million rupiah)
- f) category VI amounting to Rp. 2,000,000,000.00 (two billion two hundred million rupiah)
- g) category VII amounting to Rp. 5,000,000,000.00 (five billion rupiah)
- h) category VIII amounting to Rp. 50,000,000,000.00 (fifty billion rupiah)

The purpose of using the category model for criminal fines in the National Criminal Code Concept is to facilitate the formation of legislation and adjust the amount of the threat of criminal fines when changes in currency values occur. This model provides a clear pattern of maximum fines for various criminal offenses, allows easy changes, and can be regulated by Government Regulation if adjustments are necessary. The concept of the National Criminal Code takes the main paradigm to maximize the use of fines as an effort to tackle crime. The approach of justice, balance, harmony, and conformity in determining administrative sanctions and criminal fines per Law Number 12 of 2011 is the basis for the National Criminal Code.

2. Determination of Criminal Fines in the Criminal Code

The imposition of criminal fines is a pivotal aspect of legal systems worldwide, serving as a means of punishment, deterrence, and revenue generation. In the context of the Criminal Code, the determination of fines plays a critical role in sentencing offenders and maintaining societal order. However, the process of determining fines must navigate a delicate balance between ensuring justice for victims and offenders while also upholding principles of proportionality and fairness. This essay examines the factors involved in the

determination of criminal fines in the Criminal Code, exploring the challenges and considerations inherent in this process. Factors Influencing Determination of Fines:

- a) Nature and Severity of the Offense: The gravity of the offense is a primary factor in determining the appropriate fine. More serious offenses, such as violent crimes or financial fraud, may warrant higher fines to reflect the harm caused to victims and society. Conversely, minor infractions may merit lower fines to maintain proportionality in sentencing.
- b) Financial Capacity of the Offender: The ability of the offender to pay the fine is a crucial consideration. Imposing fines beyond an individual's financial means can lead to disproportionate and unjust outcomes, perpetuating cycles of poverty and inequality. Courts may assess the offender's income, assets, and financial obligations to determine a fair and feasible fine amount.
- c) Deterrence and Rehabilitation: Fines are not only punitive but also serve as a deterrent to future misconduct and a means of promoting offender rehabilitation. The imposition of fines should aim to deter both the offender and others in society from engaging in similar behavior while also facilitating the offender's reintegration into the community.
- d) Restitution and Compensation: In cases where the offense has resulted in financial harm to victims, fines may be imposed to provide restitution or compensation. The fine amount may be determined based on the extent of the victim's losses, to restore them to their pre-offense condition and address the harm caused.

Challenges and Considerations:

- a) Ensuring Proportionality: One of the primary challenges in determining fines is ensuring that they are proportionate to the offense committed and the offender's culpability. This requires careful consideration of various factors, including the severity of the offense, the offender's financial capacity, and the societal impact of the crime.
- b) Addressing Inequities: The imposition of fines must be conducted in a manner that does not exacerbate existing inequalities or disproportionately impact marginalized communities. Courts must be mindful of systemic biases and socioeconomic disparities that may influence fine determinations, striving to administer justice equitably and fairly.
- c) Enforcement and Collection: Even after fines are imposed, their effectiveness depends on the enforcement and collection mechanisms in place. Courts must consider the practicality of collecting fines from offenders, particularly those with limited financial resources, and may need to explore alternative enforcement measures to ensure compliance.

The determination of criminal fines in the Criminal Code is a complex and multifaceted process that requires careful consideration of various factors, including the nature of the offense, the financial capacity of the offender, and the goals of deterrence and rehabilitation. By balancing these considerations, courts can impose fines that are both just and proportional, ensuring accountability for offenders while upholding principles of fairness and equity in the administration of justice. Moving forward, legal systems need to continue refining their approaches to fine determination to

promote greater consistency, transparency, and effectiveness in sentencing.

Criminal fines in the context of the concept of the National Criminal Code, highlighting the basic ideas of the criminal system, and reviewing the application of criminal sanctions and actions in Law Number 3 of 1997 concerning Juvenile Courts and Law Number 35 of 2009 concerning Narcotics. The basic idea of regulating criminal sanctions and actions in law is influenced by legal political views which reflect the legislator's understanding of criminal matters. The author highlights the lack of understanding of sanctions for actions, shows the difference between imprisonment and imprisonment for violations, and observes the lack of guidelines or criteria for imposing prison sentences.

Apart from that, discussions regarding legislators' understanding of criminal sanctions are still tied to classical views in criminal law, ignoring the relevance of sanctions for corporate crimes. The lack of popularity of action sanctions in criminal legislation is due to a lack of understanding of the nature and purpose of action sanctions in the criminal system. Therefore, comparisons of criminal law regulations from other countries are not enough, and a deeper understanding of the philosophical, political and economic principles underlying these regulations is needed. Frans Maramis argued that criminology plays a role in the individualization of crime to align sanctions with the personality of the perpetrator. However, a half-hearted understanding of the double-track system causes ambiguity in legislation, especially regarding sanctions for actions.

The division of criminal offenses into crimes and misdemeanors in the Old Criminal Code was based on the distinction between mala in se and mala prohibita, with significant implications in the positive law system. Utrecht shows that the difference between crimes and violations is quantitative, with the criminal threat of crimes being more severe than violations. Barda Nawawi Arief stated that determining the qualification of an offense as a crime or violation has significant legal consequences, including in the Old Criminal Code which positioned fines as the final sanction. In the National Criminal Code, the placement of criminal fines into eight categories aims to provide clarity regarding maximum fines and facilitate adjustments to economic changes. Even though it gives judges freedom, this policy still limits payment methods and coercive measures in enforcing criminal fines. Meanwhile, special attention to conventional crimes is important, considering the prevalence of these crimes which contribute to a significant number of prisoners. The importance of reforming criminal law can be seen in the National Criminal Code which comprehensively restructures criminal provisions and provides categories of fines to increase flexibility in determining punishment by judges.

CONCLUSION

After analyzing, and reviewing the description of the research discussion, the following conclusions can be drawn:

1. The National Criminal Code places fines as one of the main crimes, with a significant portion and a more complex formulation of criminal threats. Although there is a cumulative system, the focus is still on the perpetrator

rather than the victim, and fines are remitted to the state. The fine categories in the National Criminal Code allow for adjustment of the criminal value to currency fluctuations. However, this policy does not fully support restorative justice, pays less attention to the fate of victims, and focuses more on state profits. Even though the National Criminal Code does not explicitly regulate "guidelines for implementing criminal penalties formulated using the Cumulation System," judges can decide on fines only in cumulative cases with imprisonment.

2. The National Criminal Code emphasizes the importance of Pancasila values, especially the First Principle, in criminal law reform. The close relationship between religion and state, with Islamic Criminal Law and Maqashid Asy-Syariah supporting the principles of restorative justice. The implementation of restorative justice in criminal sanctions, especially compensation sanctions, is under the concept of justice based on Pancasila, to realize social justice for the Indonesian people. The importance of paying attention to restorative justice and victim protection in criminal law policies so that they are per the values of Pancasila and the desired principles of justice.

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