

# Update of Criminal Objectives in Law Number 1 of 2023 Concerning The Book of Criminal Law

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**Abstract.** With the passing of Law Number 1 of 2023 concerning the Criminal Code, there have been many reforms in criminal law in Indonesia. This legal research raises the formulation of the problem regarding how to reform the purpose of sentencing and how to renew criminal sanctions in Law Number 1 of 2023 concerning the Criminal Code. This research uses normative research, using secondary data, namely data obtained directly from library materials through documentation studies with primary legal materials. Renewal of the purpose of sentencing, which was only a theory that was not regulated by legal norms, has now turned into a legal norm. The renewal of criminal sanctions can also be seen from the main punishment and additional punishment, as well as the regulation of criminal acts of kindness towards everyone, corporations, and children.

**Keywords:** Renewal; Purpose of Punishment; Criminal Sanctions; Criminal Code

## 1. Introduction

The presence of regulation in the midst of society has the point of ensuring and making security and request in each cooperation with society, the feeling of safety felt by the local area is a feeling that everything is good from a wide range of dangers, dread, and furthermore any remaining activities that hurt the privileges and interests of each and every person. However, as a differentiator from civil law, the scope of criminal law, in this case, is to protect the rights and security of the body and soul of the community. Mezger defines relating to criminal law are legal rules that limit a certain act so that it fulfills certain conditions which result in a consequence in the form of a crime. [1]

As per Barda Nawawi Arief, the advancement of the common guidelines of the Crook Code (KUHP) started with the authorization of Regulation Number 1 of 1946 concerning Criminal Regulation Guidelines. Until now, it can be said that there have been no fundamental changes because the criminal law and punishments contained in the Criminal Code are still the same as WvS inherited from the Netherlands, which looks at its general principles. [2]

At first, the Crook Code (WvS) was viewed as the parent and as a type of codification and unification. In any case, in its turn of events, the Crook Code is viewed as fragmented or unfit to oblige different issues and aspects of the advancement of new types of wrongdoing, which are in accordance with the improvement of reasoning and the necessities of society. [2]

Reform of criminal law, especially the Criminal Code in Indonesia has become a necessity because as an independent country whose political views are based on Pancasila, it is very different from the criminal law applied in European countries which are individualistic-

capitalist in nature. The Crook Code which is a tradition of the Dutch Provincial has a disparity with standard regulation. [3]

With the enactment of Law Number 1 of 2023 concerning the new Criminal Code, it will officially take effect in early 2026 to replace the current Criminal Code. The purpose of sentencing is not a norm in the Criminal Code which is only taught separately in sentencing theory but is accommodated as a legal norm in the new Criminal Code. Thus, the creators are keen on leading legitimate examination with the plan of the issue of how to reestablish criminal purposes and how to recharge criminal authorizations in Regulation Number 1 of 2023 concerning the Lawbreaker Code.

## **2. Method**

Lawful examination is a logical movement, which utilizes specific strategies, systematics, and thinking, meaning to concentrate on one or a few certain legitimate peculiarities, via dissecting them. In addition, an in-depth examination of these legal facts must be carried out, and efforts are made to resolve the problems arising from these legal phenomena. [4]

This research uses normative research, using secondary data, namely data obtained directly through library materials through documentation studies, which comprise of essential legitimate materials, to be specific restricting lawful materials connected with the exploration subject, auxiliary legitimate materials, and tertiary lawful materials. [5]

## **3. Results and Discussion**

### **3.1. Renewal of Criminal Purposes in Law Number 1 of 2023 Concerning the Criminal Code**

Convict or punishment by W.A. Bonger is wearing agony. To rebuff is equivalent to reprimanding conventionality that emerges from that wrongdoing, which is likewise languishing. Discipline is basically a demonstration committed by society (for this situation the state) deliberately. The discipline doesn't come from one or a few group however should be a gathering, or, a collectivity that acts deliberately and as indicated by reason. So the new head component of discipline is the resistance intentionally appeared by the collectivity. [6]

Punishment theories are intended to find a basis for giving or imposing a sentence on the perpetrator of a crime and the goals to be achieved by imposing the sentence. The division of sentencing theory is:

- a. Outright Hypothesis/Hypothesis of Counter/Retributive/Vergelding Theorieen. As per Andi Hamzah, the outright hypothesis or the hypothesis of counter, discipline isn't planned to be reasonable, like further developing hoodlums. The actual wrongdoing contains components for forcing a sentence. Criminal exists because a crime is committed and there is no need to think about the benefits of imposing a sentence. [7]
- b. Relative Hypothesis/Reason Hypothesis/Utilitarian/Doelththeorieen. Wrongdoing isn't just for doing counter or giving enduring to individuals who have perpetrated criminal demonstrations yet wrongdoing additionally has specific objectives that are more valuable. Thus, this overall hypothesis is many times additionally called the

objective hypothesis (utilitarian hypothesis). So the reason for legitimizing discipline as per this hypothesis lies in its motivation, discipline is forced not quia peccatum est (since individuals carry out violations) however ne peccatum (so individuals don't carry out wrongdoings). [8]

- c. Combined Theory / Verenigings Theorieen. The first to propose this theory was Pellegrino Rossi (1787-1848). Despite the fact that he actually considers counter as the guideline of discipline and that the seriousness of discipline shouldn't surpass just retaliation, he by the by accepts that discipline makes different impacts, including fixing something harmed in the public eye and general anticipation. [8]

There are three main ideas about the goals to be achieved by a sentence according to Tolib Setiady (2010), which include three things as follows: [9]

- a. Improve the personality of the criminal himself.
- b. To deter people from committing crimes.
- c. Incapacitate certain criminals to commit crimes that could not be remedied by other means.

As per Muladi, the reason for discipline is to fix individual and social harm brought about by criminal demonstrations. This comprises of a bunch of condemning targets that should be met with a note, which goals are casuistic in nature. The planned condemning goals are (1) anticipation (general and exceptional); (2) local area security; (3) keeping up with local area fortitude; (4) pay/offset. [10]

According to Sudarto, the purposes of punishment, in general, are: [11]

- a. Affecting the behavior of the maker so that he does not commit crimes again, which is usually called special prevention.
- b. Influence the behavior of members of the public in general so that they do not commit criminal acts as committed by the convicted person.
- c. Bringing peace or conflict resolution.
- d. Retaliation or compensation for the maker's mistakes.

Reestablishment of criminal regulation requires examination and thinking on focal issues that are exceptionally crucial and extremely key. Remembered for the strategy of deciding crook sanctions, is the arrangement of deciding lawbreaker sanctions in regulation. Authoritative arrangement is the most essential stage as far as the whole approach process, to operationalize criminal regulation. It is at this stage that the strategy lines for the lawbreaker and condemning framework are planned, which are simultaneously the reason for legitimacy for the accompanying stages, specifically the phase of use of discipline by the courts and the phase of execution of discipline by the crook carrying out device. [12]

There are four main aspects of the legal system included in legal reform in the legal system, namely the philosophical aspect, in particular the presence of values that underlie the general set of laws, parts of legitimate standards and standardizing, to be specific the presence of standards or regulations/legal guidelines, and humanistic perspectives, to be specific lawful local area as an ally of the general set of laws. It is organized in a progression of the unit that shapes a meaningful regulation. [13]

As indicated by Sudarto, a complete change of criminal regulation should incorporate change of material (meaningful) criminal regulation, formal criminal regulation (criminal method regulation), and criminal execution (strafvollstreckungsgezetz). These three criminal regulations should be reestablished together and on the off chance that the others are not, then, at that point, challenges will emerge in their execution and the reason for the change won't be completely accomplished. The fundamental goal of the restoration is wrongdoing avoidance. [3]

In the restoration of criminal regulation, the reason for the wrongdoing isn't just to give enduring to the culprits of criminal demonstrations. Wrongdoing is basically a device to accomplish objectives and how to form these objectives in the idea or material of regulation which its makers need to uphold by including a wrongdoing. The motivation behind discipline is public insurance and assurance or direction for the culprits. [14]

According to Muladi, in the effort to reform criminal law in Indonesia, what must be considered in depth and seriously is that future criminal law should always be responsive to developments in science and technology to increase its function in society. [15]

In the general explanation of Law Number 1 of 2023 concerning the Criminal Code, the drafting of this law is intended to replace WvS (the current Criminal Code). Replacement is one of the efforts in the framework of the development of national law. Renewal and change fulfill the four fundamental missions of change, namely decolonization, democratization, consolidation, and harmonization.

The recharging of material criminal regulation in Regulation Number 1 of 2023 concerning the Lawbreaker Code no longer recognizes criminal demonstrations as wrongdoings and infringement. For both, the term criminal act is used. In addition to the criminal acts regulated in this law, it is also recognized that criminal acts are based on a law that lives in society or was previously known as customary crimes to better fulfill the sense of justice that lives in society.

Renewal of the purpose of sentencing which was not previously regulated in legal norms, but has changed to become a legal norm as stated in Article 51 of Law Number 1 of 2023 concerning the Criminal Code, punishment aims to:

- a. Forestalling criminal demonstrations by maintaining lawful standards for the security and insurance of society.
- b. Socializing convicts by giving instructing and tutoring so they become adequate and helpful individuals.
- c. Resolving clashes brought about by criminal demonstrations, reestablishing harmony, and bringing a conviction that all is good and harmony in the public eye.
- d. Growing a sense of remorse and freeing guilt in convicts.

In Article 52 of Regulation Number 1 of 2023 concerning the Lawbreaker Code, it is accentuated that discipline isn't planned to corrupt human respect. Moreover, Article 53 should be utilized as a rule by decided in mediating a crook case, the appointed authority is obliged to maintain regulation and equity. On the off chance that there is a contention between lawful sureness and equity, the adjudicator should focus on equity.

In sentencing, it must be considered by the provisions of Article 54 of Law Number 1 of 2023 concerning the Criminal Code. Sentence guidelines help judges in considering the measure or severity of the sentence to be imposed. Things that must be considered include:

- a. Forms of guilt of the perpetrators of criminal acts;
- b. Motives and objectives of committing a crime;
- c. The inner attitude of the perpetrators of criminal acts;
- d. The criminal act was committed planned or unplanned;
- e. How to commit a crime;
- f. The disposition and activities of the culprit in the wake of carrying out a wrongdoing;
- g. Life history, social conditions, and economic conditions of the perpetrators of criminal acts;
- h. The influence of the crime on the future of the perpetrators of criminal acts;
- i. The influence of the crime on the victim or the victim's family;
- j. Forgiveness from the victim and/or the victim's family; and/or

k. The value of law and justice that lives in society.

The reason for discipline created in Regulation Number 1 of 2023 concerning the Criminal Code is by all accounts a blend of the objective hypothesis itself, namely general prevention (general prevention), especially the general psychological prevention (psychologische dwang) and special prevention (speciale preventie. ) which aims to prevent criminals from repeating their actions. The perpetrators of criminal acts in the future will refrain from doing that again because the perpetrators feel that punishment is suffering so punishment has the function of educating and improving.

### **3.2. Renewal of Criminal Sanctions in Law Number 1 of 2023 Concerning the Criminal Code**

Criminal according to van Hamel, as quoted by Lamintang is a suffering that is special in nature, which has been forced by the skillful power to force a sentence for the benefit of the state as the individual responsible for the overall regulation request for a violator, in particular exclusively in light of the fact that that individual has disregarded a guideline. laws that must be enforced by the state. [16]

The crime is a formal reaction from the state through a judge's decision, against any person or corporation who violates norms that are threatened with criminal sanctions in statutory regulations, where the consequences for the perpetrators involve deprivation of liberty, assets, or other consequences specified in the law. -invitation. [16]

Criminal is one of the many sanctions that aim to enforce the enactment of norms. Violation of the norms that apply in society creates feelings of displeasure which are expressed in the imposition of these sanctions. As per our Criminal Code, criminal regulation is partitioned into primary discipline and extra discipline. Head discipline comprises of capital punishment, detention, and fines. While the extra discipline is the repudiation of specific freedoms, seizure of specific things, and declaration of the appointed authority's choice. Orders of punishment are determined according to the severity of the sentence, and the heaviest one is named first. In criminal law, determining what actions need to be punished with criminal penalties and the types of punishment and the method of application, the punishment or sanction is very important. Now, what is known as criminal law emerges, namely criminal law not only functions to give grief to the perpetrators of crimes but also regulates society so that people can live more peacefully and peacefully. The application of criminal law does not always end with the imposition of a criminal but is also known by the principle of opportunity called a pardon, in addition to the types of sanctions known as actions, which in economic criminal law are very broad, there are temporary disciplinary measures imposed by prosecutors and there are administrative actions imposed by the judge, there is also a system of criminal suspension and conditional punishment. [12]

Criminal law determines sanctions for every violation of the law committed. The sanction is the intentional addition of suffering. This deliberate addition to suffering is the most important differentiator between criminal law and other laws. [17]

The sorts of criminal approvals in criminal regulation in Indonesia comprise of head discipline and extra discipline has been figured out in Article 10 of the old Criminal Code (KUHP/WvS), which peruses:

Criminal consists of:

- (1) Principal Crime:
  - a. Death Penalty
  - b. Imprisonment
  - c. Criminal Cage: V

- d. Criminal Fines
- e. Closing Crime
- (2) Additional Penalties
  - a. Revocation of Certain Rights
  - b. Confiscation of Certain Goods
  - c. Announcement of Judge's Decision

The ongoing public criminal regulation should be improved and revised by transforming the Indonesian criminal regulation, specifically supplanting the Crook Code/WvS with Regulation Number 1 of 2023 concerning the Lawbreaker Code. As a component of social strategy, correctional regulation change is basically essential for endeavors to conquer social issues to accomplish public objectives. Guidelines for implementing the criminal formulation system, guidelines for imposing prison sentences, guidelines for implementing specific minimum sentences, guidelines for modifying sentencing, guidelines for corporate sentencing, guidelines for sentencing children.

According to Article 64 of Law Number 1 of 2023 concerning the Criminal Code, crime consists of:

- a. Main crime;
- b. Additional punishment; And
- c. Criminal nature is specific to certain criminal acts specified in the law.

Which includes the principal crimes can be seen in Article 65 Paragraph (1) of Law Number 1 of 2023 concerning the Criminal Code, consisting of:

- a. Prison sentence;
- b. Cover sentence;
- c. Supervision punishment;
- d. Fines; And
- e. Social work crime.

Meanwhile, what is included in the additional punishment is contained in Article 66 Paragraph (1) of Law Number 1 of 2023 concerning the Criminal Code, consisting of:

- a. Revocation of certain rights;
- b. Confiscation of certain goods and/or bills;
- c. Announcement of the judge's decision;
- d. Compensation payment;
- e. Revocation of certain permits; And
- f. Fulfillment of local customary obligations.

In Article 67 of Regulation Number 1 of 2023 Concerning the Lawbreaker Code, it is made sense of that the discipline that is explicit in nature as alluded to in Article 64 letter c is capital punishment which is constantly undermined with another option. The explanation expressed that death penalty is the final hotel to safeguard society. Capital punishment is the most serious discipline and must constantly be rebuffed on the other hand with life detainment or a greatest detainment of twenty years.

Correctional change in Regulation Number 1 of 2023 Concerning the Crook Code, is as criminal goes about as specified in Article 103. Activities that can be forced along with the fundamental discipline are (Article 103 section (1)):

- a. Counseling;
- b. Rehabilitation;
- c. Work training;
- d. Treatment in Institutions; and/or
- e. Correction due to crime.

Meanwhile, in terms of actions against everyone as referred to in Article 38 and Article 39 against persons with disabilities as stipulated in Article 103 Paragraph (2), in the form of;

- a. Rehabilitation;
- b. surrender to someone;
- c. Treatment in institutions;
- d. Submission to the government; and/or
- e. Treatment in a mental hospital.

In the explanation of Law Number 1 of 2023 concerning the Criminal Code, it is explained that in this law there are also provisions for diversion and types of actions and crimes for children. This arrangement is intended for the best interests of the child because it relates to the existence of regulation regarding the juvenile criminal justice system can be seen in Articles 112 to 117, which consist of diversion, action, and punishment for children.

Criminal reform against corporations in Law Number 1 of 2023 Concerning the Criminal Code, it is explained that the subject of criminal law cannot be limited only to humans in nature, but also includes corporations. Crimes and actions against corporates are regulated in the provisions of Article 118 to Article 131.

#### **4. Conclusion**

Renewal of the purpose of sentencing, which was only a theory that was not regulated in legal norms, has turned into a legal norm as stated in Article 51 of Law Number 1 of 2023 concerning the Criminal Code. The renewal of the purpose of punishment seems to be a combination of the theory of the goal itself, namely general prevention, especially the general prevention psychologically, and specific prevention which aims to the perpetrators not repeat their actions.

Renewal of criminal sanctions in Law Number 1 of 2023 concerning the Criminal Code, namely the abolition of imprisonment for the crime and the supervision and social work punishment, while capital punishment becomes a special discipline. Renewal of criminal sanctions can also be seen in additional punishments, and the regulation of new criminal sanctions for action, including criminal provisions for corporations and children.

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