

Update on the Functionalization of Sentencing Guidelines in the Criminal Law System in Indonesia

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ABSTRACT

The central purpose of this reform is to increase fairness, effectiveness, and efficiency in criminal law enforcement in Indonesia. With structured and clear sentencing guidelines, it is hoped that the sentencing process can be carried out consistently and transparently, providing fair decisions for all parties involved. This article highlights several important aspects that need to be considered in renewing the functionalization of criminal law in Indonesia. First, justice in the sentencing process must be maintained by ensuring equal treatment for all individuals before the law. Second, technological innovation is crucial for increasing efficiency and accuracy in the legal process. Third, crime prevention and rehabilitation are also important focuses for creating a safer and more civilized society. In addition, the significance of international cooperation is increasing the capacity of law enforcement officials, as well as transparency and accountability are also emphasized in this article. Challenges such as harmonization of regulations, limited resources, resistance from certain parties, and so on, must be overcome with strong commitment and cooperation from various related parties. It is hoped that with a deep understanding of these challenges, updating the functionalization of criminal law and sentencing guidelines in Indonesia can have a positive impact on efforts to achieve better legal justice. Cross-sector collaboration, innovation, and strong commitment from the government, legal authorities, and society as a whole are the main keys to realizing a fairer and more effective criminal legal system in the future.

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Introduction

The Republic of Indonesia is a state of law (*rechtsstaat*), namely a state where all attitudes, behavior, and actions, whether carried out by the rulers or by its citizens, must be based on law (Junaedi & Dimiyati, 2020). Basically, the rule of law seeks primarily to provide legal protection for the people. Philipus M. Hadjon stated that legal protection

for the people against government actions is based on two principles, namely the principle of human rights and the principle of the rule of law (Nuraini, 2020).

Recognition and protection of human rights have a primary place and can be said to be the goal of the rule of law. As a consequence of the rule of law, it is mandatory to provide guarantees for state institutions as a means of state government to be able to execute government and law. Conceptually, legal protection for the people for government actions includes preventive legal protection and repressive legal protection. In preventive legal protection, the people are allowed to submit objections (*inspraak*) or opinions before a government decision takes definitive form (M. Effendy, 2011).

Every effort undertaken should first determine the objectives of the effort as stated by Karl O. Christiansen regarding the concept of rationality in the field of criminal politics, among others, stating the following: The fundamental prerequisite of defining a means, method, or measure as rational is that the aim or goal to be achieved is well defined (Nawawi, 2018).

The quoted statement above requires that objectives play a strategic role in determining the method or action to be taken. In connection with criminal matters, the objective of the sentence imposed today must receive attention in legislative policy in the efforts to reform criminal law which are currently being carried out, so that punishment is effective and able to become a means of achieving a greater goal, namely social welfare/community welfare (Yuherawan & Juita, 2020).

"Sentencing" or giving/imposing a sentence by a judge is the term "punishment" in criminal cases whose meaning is narrowed, which in this case can have the same meaning as "sentence" or "*veroordeling*" for example in the sense of "sentenced conditionally" or "*voorwaardelijk veroordeeld*" which has the same meaning as "conditionally sentenced" or "conditionally sentenced" (Sudarto & Masyarakat, 1983).

To form a special criminal law, certain criteria must be met as follows: that an act must be regulated separately in a special criminal law because:

1. The inclusion of it in the codification system (KUHP) would pose a threat to the system's integrity.
2. In case of emergency or other extenuating circumstances;
3. In certain situations, where altering or adding to the existing codification system proves challenging, deviations may be necessary.

From the criteria mentioned above, it is linked to Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 known that there are special things in this law that are different from the Criminal Code, for example, the issue of attempts, assistance and conspiracy to commit criminal acts, the punishment is the similar to the punishment imposed on the perpetrator of the crime (Amdani, 2017).

With the rollout of reform, the enthusiasm to eradicate criminal acts has become even more intense because it has been proven that the efforts to eradicate criminal acts that have been carried out have been unable to eradicate this disease (Puspasari & Pujiyono, 2017). This can be understood because efforts to overcome criminal acts (criminal policy) in general can be achieved by using penal means and non-penal means in an integrated manner. After all, penal means alone have limited ability to deal with crime due to certain reasons, which are identified as follows:

- a. the causes of such complex crimes are beyond the reach of criminal law;
- b. criminal law is only a small part (sub-system) of the means of social control which cannot possibly overcome the problem of crime as a very complex humanitarian and

- social problem (as a socio-psychological, socio-political, socio-economic, socio-cultural problem, and so on);
- c. the use of criminal law in dealing with crime is only a "cure a symptom", therefore criminal law is only a "symptomatic treatment";
 - d. criminal law sanctions are only a remedy, which contain contradictory/paradoxical characteristics and contain negative elements and side effects;
 - e. the punishment system is fragmentary and individual/personal, not structural/functional;
 - f. limited types of criminal sanctions and a system of formulating criminal sanctions that are rigidly imperative;
 - g. The working/functioning of criminal law requires more varied supporting facilities and demands high costs.

Criminal law reform in Indonesia is closely related to the sentencing guidelines used in the criminal justice process. Criminal law reform aims to perfect and adapt criminal provisions to current developments, the values of justice, and more effective and efficient legal demands. Sentencing guidelines, which are usually contained in laws and other regulations, provide direction to judges in determining the criminal sanctions imposed on perpetrators of criminal acts. This guideline covers various aspects such as legal considerations, factors that influence criminal decisions, as well as the goals of rehabilitation of criminals. With the reform of criminal law, sentencing guidelines also need to be adjusted so that they remain relevant and effective in upholding justice and tackling criminal acts. Reforming criminal law can involve changes in the types of criminal sanctions, increasing human rights protection, implementing alternative dispute resolution, and crime prevention efforts. Apart from that, good sentencing guidelines can also be an instrument to ensure that the punishment imposed is proportional to the severity of the crime committed, as well as providing rehabilitation opportunities for criminals to return to society as better citizens. Thus, the relationship between criminal law reform and sentencing guidelines in Indonesia is critical to maintaining justice, effectiveness, and usefulness of the criminal justice system in upholding the supremacy of law and protecting society from criminal acts.

The relationship between criminal law reform and sentencing guidelines in Indonesia is crucial because the two are interrelated in maintaining justice, effectiveness, and usefulness of the criminal justice system. Criminal law reform generally aims to update and improve legal provisions relating to criminal acts, while sentencing guidelines guide the process of imposing sentences on perpetrators of criminal acts. With the reform of criminal law, including the regulation of criminal sanctions, the criminal justice process can become more in line with the demands of justice. The updated sentencing guidelines can also provide clear direction for law enforcement officials in determining proportional and fair punishments on the severity of the crime committed. In addition, reforming criminal law and effective sentencing guidelines can increase the efficiency of the criminal justice system. With clear guidelines, the judicial process can run more smoothly, quickly, and transparently. It will have an impact on enforcing the rule of law more effectively and consistently.

Furthermore, reform of criminal law and sentencing guidelines can also provide better protection for society from criminal acts. With sharper legal provisions and structured sentencing guidelines, it is hoped that law enforcement can become more effective in preventing and prosecuting criminals, as well as providing legal certainty for the community. Thus, the close relationship between criminal law reform and sentencing

guidelines in Indonesia is an important foundation for strengthening the criminal justice system, maintaining justice, increasing the effectiveness of law enforcement, and protecting society from the threat of criminal acts.

From a series of legal grounds, it is known that criminal prosecutions against suspects of certain crimes in Indonesia still lack a deterrent effect. Bearing in mind that there must be a firm legal formulation that contains a deterrent effect, on this occasion the author wishes to conduct research with the title: "Renewal of the Functionalization of Sentencing Guidelines in the Criminal Law System in Indonesia".

Research Methods

The method used in writing this applied paper is a descriptive-analytical method, namely by using data that clearly describes problems directly in the field, then the analysis is carried out, and the conclusions are drawn to solve a problem (Sugiyono, 2019). The data collection method is through observation and literature study to obtain solutions to problems in preparing this paper.

In line with the research objectives to be achieved, the domain of this research is included in the realm of qualitative research, thus a qualitative approach method will be used. Petrus Soerjowinoto et al., state that the qualitative method is a technique that highlights the researcher's process of comprehending the problem formulation. The goal is to establish a comprehensive and intricate legal phenomenon (Petrus Soerjowinoto, 2006) (Soemitro, 2013).

Empirical juridical approach, namely an approach that does not contradict written positive law (legislation) as secondary data, but from real behavior as primary data obtained from field research locations. The research describes the situation of the object under study, namely focusing on updating the functionalization of the Sentencing Guidelines in the Criminal Law System in Indonesia in practice (Ali, 2022).

Results and Discussions

Update on the Functionalization of Sentencing Guidelines in the Criminal Law System in Indonesia

Criminal Law Policy in Combating Crime in Indonesia currently covers various aspects aimed at reducing crime rates, increasing justice, and upholding the supremacy of law in society. This policy is designed to create a safe environment, maintain social order, and protect the rights of citizens from the threat of criminal acts.

One important aspect of current criminal law policy is the prevention of criminal acts. The Indonesian government has adopted a holistic and integrated prevention approach, including efforts such as increasing public awareness of the law, increasing security supervision, and strengthening cooperation between law enforcement agencies, local governments, and the community in preventing criminal acts. Apart from that, criminal law policy also includes strict law enforcement against perpetrators of criminal acts. Effective law enforcement requires cooperation between the police, prosecutors, and judges in handling criminal cases. Increasing the capacity and quality of law enforcement officers, increasing the transparency of the legal process, and providing strict sanctions against criminals are part of an effective law enforcement strategy. Apart from that, current criminal law policies also include rehabilitation and resocialization for criminals. The rehabilitation approach focuses on efforts to improve the behavior of criminals through educational programs, skills training, counseling, and spiritual guidance. The aim

of rehabilitation and resocialization is so that criminals can return to society as better and more productive citizens.

Furthermore, in the current context of criminal law policy in Indonesia, there are also efforts to strengthen international cooperation in dealing with transnational criminal acts. Indonesia has been active in various international forums to increase cooperation between countries in prosecuting transnational criminal acts such as drug trafficking, human trafficking, and terrorism. This cooperation includes the exchange of information, coordination of enforcement, and harmonization of legal regulations between countries. Apart from that, current criminal law policies also accommodate developments in information and communication technology in dealing with criminal acts. The use of technology in the fields of forensic policing, criminal data analysis, and cybercrime prevention has become an important focus in modern criminal law policy. This is important to adapt to increasingly complex and sophisticated crime challenges.

Overall, criminal law policy in dealing with criminal acts in Indonesia currently prioritizes an approach that is comprehensive, inclusive, and based on the principles of justice. Efforts to prevent, law enforcement, rehabilitation, international cooperation, and the use of technology are the main pillars of criminal law policy which aims to create a safe, fair, and just society. By implementing effective criminal law policies, it is hoped that crime rates can be reduced, victims of criminal acts receive justice, and the rule of law is well maintained in Indonesia.

Renewing the formulation of criminal law with sentencing guidelines in Indonesia has an important essence in the country's criminal justice system. These essences include:

1. Justice.

Reforming criminal law formulations and sentencing guidelines aims to improve fairness in the criminal justice process. With a clear legal formulation and appropriate sentencing guidelines, it is hoped that the legal decisions handed down will be more proportional and fair for all parties involved.

2. Effectiveness.

Renewing criminal law formulations and sentencing guidelines also aims to increase the effectiveness of the criminal justice system in handling criminal cases. With the latest legal formulation and structured sentencing guidelines, it is hoped that the legal process can run more efficiently and effectively.

3. Protection of Human Rights.

Renewing the formulation of criminal law and sentencing guidelines is also important to ensure the protection of human rights during the criminal justice process. With legal formulations that accommodate human rights principles and sentencing guidelines that respect human dignity, it is hoped that every individual will receive fair and humane treatment.

Reforming the formulation of criminal law is necessary to adapt to developments in society, values, and more modern legal demands. Antiquated and outdated laws need to be updated so that they remain relevant and can provide optimal protection for the community. By reforming the formulation of criminal law, it is hoped that the quality of criminal law will also improve. Drafting laws that are clearer, more comprehensive, and in line with society's needs will strengthen the criminal justice system and maintain public confidence in legal justice.

Reforming the formulation of criminal law is also needed to increase the effectiveness of the law in handling criminal cases. With a more structured legal formulation and clearer sentencing guidelines, it is hoped that law enforcement can run

more efficiently and on target. Renewing the formulation of criminal law is part of legal reform efforts aimed at improving and strengthening the criminal justice system in Indonesia. With comprehensive legal reform, it is expected that a legal system that is fairer, more transparent, and just for all citizens can be created (Neloe, 2012).

Upcoming Update on the Functionalization of Sentencing Guidelines in the Criminal Law System in Indonesia.

Talking about the right to sue, our attention is directed to the *subjectief strafrecht* (just *peniendi*), where *recht* does not mean "law", but rather "right", namely the right of the state, represented by its instruments, to punish someone who violates the criminal law (Prodjodikoro, 2008).

Renewing the functionalization of sentencing guidelines in the criminal law system in Indonesia is an important step in improving justice, effectiveness, and efficiency of law enforcement. In facing future challenges, several perspectives need to be considered in the development of updated functionalization of sentencing guidelines in Indonesia (Atmasasmita, 1996).

1. Justice and Protection of Human Rights.

It is important to renew the functionalization of sentencing guidelines to prioritize the principles of justice and protection of human rights. Fair and humane sentencing guidelines will ensure that every individual receives balanced treatment according to human rights principles. In future developments, it is necessary to continue to strengthen that every criminal action must be based on strong evidence and a transparent legal process.

2. Technological Innovation in Law Enforcement.

Developments in information and communication technology can also be utilized in the functionalization of sentencing guidelines. The use of technology such as criminal data analysis, electronic monitoring, and legal information systems can increase the effectiveness of law enforcement and punishment. By utilizing technological innovation, it is hoped that the criminalization process can run more efficiently and accurately.

3. Emphasis on Prevention and Rehabilitation.

Apart from the law enforcement aspect, updating the functionalization of sentencing guidelines also needs to emphasize efforts to prevent criminal acts and rehabilitate criminals. A holistic approach that includes prevention, law enforcement, and rehabilitation will have a positive impact on minimizing crime rates and providing opportunities for criminals to improve themselves.

4. Strengthening International Cooperation.

In facing the challenges of transnational criminal acts, strengthening international cooperation in the functionalization of sentencing guidelines is also important. Indonesia needs to continue to strengthen cooperation with other countries in exchanging information, joint action, and harmonization of legal regulations to increase the effectiveness of cross-border law enforcement.

5. Increasing the Capacity of Law Enforcement Officials.

Renewing the functionalization of sentencing guidelines also requires increasing the capacity and quality of law enforcement officers. Training, education, and professional development of law enforcement officers are key in ensuring that law enforcement runs well and by applicable legal principles.

6. Transparency and Accountability.

In future developments, transparency, and accountability in the functionalization of sentencing procedures must also be strengthened. A transparent and accountable sentencing process will increase public confidence in the criminal justice system and ensure that every legal decision is based on the principles of justice and applicable law.

Renewing the functionalization of sentencing guidelines in the criminal law system in Indonesia is an important step in increasing the effectiveness, justice, and protection of human rights. By paying attention to the above perspective, it is hoped that updating the functionalization of sentencing guidelines can have a positive impact on law enforcement and achieving the goals of legal justice in the future.

The challenges in renewing the functionalization of criminal law related to sentencing guidelines in Indonesia in the future include:

1. Regulatory Harmony.

One of the main challenges in renewing the functionalization of criminal law and sentencing guidelines is maintaining harmony between existing regulations. In the context of criminal law, there are often overlaps or differences between various laws which can confuse and complicate the criminalization process.

2. Limited Resources.

Limited resources, both in finance and human resources, are a serious challenge in renewing the functionalization of criminal law and sentencing guidelines in Indonesia. Efforts to change the law require large investments in training, infrastructure, and technology, which may be difficult to realize given these limitations.

3. Resistance from Certain Parties.

Another challenge is resistance from parties who may feel threatened by reforms to criminal law and sentencing guidelines. Certain interest groups can complicate the renewal process for various reasons, such as political, economic, or security interests.

4. Conformity with Local Values.

In the Indonesian context which has a variety of local cultures and values, the challenge in renewing the functionalization of criminal law is to maintain conformity with these values. Differences in culture and views on justice can become obstacles in formulating sentencing guidelines that can be accepted by the wider community.

5. Involvement of the Community and Related Parties.

The importance of involving the community and related parties in the process of updating the functionalization of criminal law and sentencing guidelines is often a challenge. Insufficient involvement from the community and other stakeholders can result in legal decisions that do not meet their needs and expectations.

6. Increasing the Capacity of Legal Officials.

The challenge of increasing the capacity of legal officials to implement reforms to the functionalization of criminal law and sentencing guidelines cannot be ignored. Continuous training and education are needed so that legal officials can understand and implement legal changes well.

7. Technology and Data Security.

In the era of digitalization, challenges related to technology and data security are also a major concern in renewing the functionalization of criminal law. Personal data protection, information security, and the appropriate use of technology are important things to consider in legal reform.

8. Strengthening the Criminal Justice System.

Challenges in strengthening the criminal justice system, including the investigation, trial, and sentence execution processes, also need to be addressed in renewing the functionalization of criminal law and sentencing guidelines. Efforts are needed to ensure that all stages of the criminal justice system run well and by applicable legal principles.

Through an in-depth understanding of these challenges, it is hoped that the reform of the functionalization of criminal law and sentencing guidelines in Indonesia can be carried out well and produce a legal system that is fairer, more effective, and in line with the needs of society.

Conclusion

"Renewal of the Functionalization of Sentencing Guidelines in the Criminal Law System in Indonesia" discusses the efforts that need to be made to increase effectiveness and justice in the criminal law system in Indonesia through updating the sentencing guidelines. This update is expected to bring positive changes in law enforcement, as well as provide better protection for society. The matter of updating the functionalization of sentencing guidelines lies in efforts to maintain fairness, effectiveness, and efficiency in criminal law enforcement. With clear and structured guidelines, it is hoped that the sentencing process can be performed consistently and transparently, resulting in fair and just decisions for all involved parties.

To face the future, updating the functionalization of criminal law and sentencing guidelines in Indonesia needs to pay attention to several key aspects. First, the importance of ensuring fairness in the criminalization process, including equal treatment for all individuals before the law. Second, technological innovation cannot be ignored to increase efficiency and accuracy in the legal process. Third, prevention and rehabilitation must also be the main focus to reduce crime levels in society. Apart from that, international cooperation, increasing the capacity of law enforcement officials, as well as transparency and accountability are also important factors in renewing the functionalization of criminal law and sentencing guidelines. The challenges that will be faced, such as harmonization of regulations, limited resources, resistance from certain parties, and so on, need to be overcome with strong commitment and cooperation from various related parties. With a deep understanding of these challenges, it is expected that the update of the criminal law functionalization and sentencing guidelines in Indonesia will have a positive impact on efforts to achieve better legal justice. Cross-sector collaboration, innovation, and strong commitment from the government, legal authorities, and society as a whole are the primary keys to realizing a fairer and more effective criminal legal system in the future.

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