



THE EXISTENCE OF COMMUNITY SERVICE PUNISHMENT IN A PROGRESSIVE LEGAL PERSPECTIVE

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ABSTRACT

The most current Indonesian Criminal Code (KUHP) contains the concept of Community Service Punishment, which is considered an effort to reform the criminal law system. Community Service Punishment, as a form of punishment in this country, requires an appropriate mechanism to achieve sentencing goals, namely the rehabilitation of convicts through participation in social activities that benefit society. This study aims to analyze the existence of Community Service Punishment to strengthen law enforcers' understanding of it as one of the main recognized forms of punishment. By using a progressive legal perspective, this research recognizes that the law should consider the development of society and emphasizes the importance of legal reform, if necessary. This study uses a normative juridical approach and conducts qualitative analysis. Based on the results of research conducted through literature studies, it was found that the criminal justice process results in overcapacity in Correctional Facilities, which ultimately hinders the achievement of sentencing goals. Therefore, the importance of imposing Community Service Punishment is very relevant. However, to carry out Community Service Punishment effectively, an organized and systematic procedure is required. This will ensure that the implementation of Community Service Punishment aligns with the expectations and goals to be achieved. We suggest that the relevant parties take advantage of the ratification of the Criminal Code as an opportunity to renew criminal law in Indonesia by increasing the competence and coordination of the criminal justice subsystem in terms of Community Service Punishment.

Keywords: community service punishment; criminal law; progressive law

1. INTRODUCTION

On 6 December 2022, the House of Representatives of the Republic of Indonesia and the Government succeeded in finalizing and approving the Draft Bill on the Criminal Code (RUU KUHP) so that it becomes a Law. Even though there is a polemic, it needs to be acknowledged that these are steps dedicated to reforming criminal law in Indonesia. Given that so far Indonesia is still using the Criminal Code (KUHP) which originated from the colonial period.¹ Even though the Criminal Code brings the spirit of renewal in criminal law, many critics say that there are still problematic articles that have the potential to threaten democracy, privacy rights, and open loopholes for the criminalization of society.²

This shows that the renewal of criminal law in Indonesia does not stop at the ratification of the Criminal Code. One of the renewal strategies that can be implemented is the use of Community Service Punishment in the correctional system. All forms of obstacles to the correctional system contribute to the difficulty of achieving sentencing objectives, worsen the quality of sentencing, endanger the welfare and safety of the community, and cause public distrust of the criminal justice system. Community Service Punishment can be a solution to obstacles in the correctional system by reducing the overcapacity burden of Correctional Facilities, increasing rehabilitation opportunities for convicts, and providing benefits to society through community

1 "Paripurna DPR RI Sahkan RUU KUHP Menjadi Undang-Undang - web.kemenkumham.go.id," accessed February 7, 2023, <https://www.kemenkumham.go.id/berita-utama/paripurna-dpr-sahkan-ruu-kuhp-menjadi-undang-undang>.

2 "Panel Ahli: KUHP Baru Terlalu Privat, Anti Demokrasi, Dan Membuat Masyarakat Rentan Dipenjara," accessed February 7, 2023, <https://theconversation.com/panel-ahli-kuhp-baru-terlalu-privat-anti-demokrasi-dan-membuat-masyarakat-rentan-dipenjara-196049>.

service programs provided by convicts.³ By strengthening the aspects of restorative justice in the Indonesian criminal law system, Community Service Punishment can be an effective strategy for reforming criminal law. Through Community Service Punishment, convicts can correct their mistakes and make a positive contribution to society, so that they can recover losses caused by violations of the law. However, it should be noted that the involvement of the criminal justice subsystem is very important in the success of sentencing reform through community service punishment. Without adequate involvement of the criminal justice subsystem, the implementation of Community Service Punishment may not succeed in achieving its goal of strengthening aspects of rehabilitation, reintegration, and restorative justice in the Indonesian criminal law system.⁴

Community Service Punishment is used as a punishment option that replaces imprisonment by involving social activities that aim to change the behavior of criminals. In several countries, including Indonesia, Community Service Punishment is regulated in legislation as an alternative to imprisonment. The purpose of implementing Community Service Punishment is to rehabilitate, reintegrate and resocialize the criminals into society. However, the implementation and effectiveness of Community Service Punishment is still a topic of debate among academics, legal practitioners, and policy makers. The progressive legal approach emphasizes the importance of evolution in law to achieve social justice and protect human rights. In the context of Community Service Punishment, this approach highlights the need to change the paradigm of imprisonment into a more humane rehabilitative approach. Community Service Punishment is an attractive alternative to reduce overcapacity in Correctional Facilities and overcome the negative effects of long-term detention on criminals. This research can provide a deeper understanding of the potentials and weaknesses of Community Service Punishment as an alternative form of punishment. Of course, this can help overcome complex problems arising from criminal law reform. In dealing with issues in the criminal justice system, especially the correctional subsystem, revitalization of correctional administration and reform of the Correctional Law have been undertaken to achieve the objectives of sentencing.⁵

As a consequence of the recognition that Community Service Punishment is a form of criminal sanction in Indonesia, the implementation of Community Service Punishment requires a mechanism to ensure that the objectives of sentencing are achieved. In addition, the implementation of Community Service Punishment requires an organized and systematic method, flow, or procedure that can ensure that this form of criminal sanction runs as expected. At present, sentencing is still focused on imprisonment so various problems arise which have an impact on Correctional Facilities as the last subsystem of criminal justice. Sentencing is the final and important stage of the criminal justice process, playing an important role in protecting society against criminal acts. The end of the sentencing process is that there is a deterrent effect for criminals. However, it is still common to find the same criminals and then commit another crime (recidivist), of course, this will burden the Correctional Facilities because it is at the end of the Criminal Justice Subsystem. Based on an online database, as of September 2022, residents of Correctional Facilities and State Detention Centers have overcapacity problems, which is 109%. Excess capacity in Correctional Facilities makes it difficult to assess the effectiveness of sentencing processes and objectives. Thus, the urgency of applying community service punishment compared to imprisonment relates to the effectiveness and purpose of sentencing.

Research on reforming the Criminal Code in Indonesia has discussed a lot about the importance of protecting human rights and providing stricter sanctions for criminals according to the values and norms of the Indonesian nation. In addition, the reform of the Criminal Code also discusses the protection of victims of crime, including the protection of women and children who are often victims of violence and sexual harassment. Randy Pradityo conducted research which concluded that the colonial Criminal Code was no longer able to deal with various problems and the development of new forms of crime that occurred along with the dynamics

3 Asiyah Jamilah and Hari Sutra Disemadi, "Pidana Kerja Sosial: Kebijakan Penanggulangan Overcrowding Penjara Community Service Order: Prison Overcrowding," *Jurnal IUS Kajian Hukum Dan Keadilan* 19, no. 1 (2020), <http://dx.doi.org/10.29303/ius.v8i1.726>.

4 Asmadi Syam, "Measuring The Concept Of Restoration In Criminal Justice System," *Jurnal Ilmiah Kebijakan Hukum* 16, no. 2 (2022): 363–76, <http://dx.doi.org/10.30641/kebijakan.2022.V16.373-376>.

5 Iqrak Sulhin, "Corrections (Pemasyarakatan) After Law Number 22 Of 2022: New Principles And Policy Identification Regarding The Functions Of Probation And Parole Offices," *Jurnal Ilmiah Kebijakan Hukum* 16, no. 3 (2022): 457–78, <http://dx.doi.org/10.30641/kebijakan.2022.V16.457-478> Abstract.

of society. Therefore, efforts are needed to reform Indonesian criminal law in accordance with the basic values and socio-philosophical, socio-political, and socio-cultural values that live in Indonesian society.⁶

In Law Number 1 of 2023 concerning the Criminal Code (KUHP), there is recognition of new forms of criminal sanction which include supervision punishment and community service punishment as alternative forms of criminal sanction other than imprisonment.⁷ The ratification of the Criminal Code is a momentum for reform in the criminal law system in Indonesia. This moment can be used to reform existing institutions, laws, and mechanisms, including expanding the provisions on types of crimes. Indonesia is still experiencing various sentencing problems due to the weakness of the criminal justice system, including massive prison sentences that do not provide a deterrent effect⁸, even though there have been various correctional system reforms. In the Correctional System Law Number 2 of 2022 concerning Correctional is a form of renewal of Law Number 12 of 1995 concerning Correctional which is significant in efforts to increase the protection and fulfillment of human rights for Correctional Inmates (Warga Binaan Pemasyarakatan 'WBP'), as well as increase the effectiveness of management and development against them. With this law, it is hoped that there will be positive changes in the Indonesian correctional system that can help correctional inmates get a better chance to return to society.

Previous research has shown that in order to achieve the objectives of sentencing, correctional reconceptualization that combines reintegration with restorative justice and collaboration has been implemented;⁹ then if it is related to restorative justice, community service punishment is its form and can provide a deterrent effect;¹⁰ It is hoped that the existence of community service punishment can help repair both individual and social damage caused by criminal acts committed by convicts. Through the implementation of community service punishment, it is hoped that the purpose of sentencing can be achieved.¹¹ Regarding community service punishment, Jamin Ginting, in a scientific article entitled "Community Service Criminal Sanctions as an Alternative Form of Sentencing in the Indonesian Legal System", in the context of Indonesian criminal law which still prioritizes the theory of retaliation, the application of community service punishment can be considered as a new breakthrough. The concept of community service punishment is more related to the idea of restorative justice than the theory of retaliation. In the Criminal Code, the approach to criminals as legal subjects places more emphasis on the concept of restorative justice. Community service punishment is considered a form of rehabilitation that is deemed more beneficial than merely imposing consequences for criminal acts.¹² Asiyah and Hari explained that Community service punishment can provide benefits to the Indonesian criminal law system by being an alternative to short-term prison sentences. Thus, it is hoped that the negative impact of massive imprisonment in Indonesia can be avoided or at least minimized. Community service punishment can be the right solution to tackle overcrowding in Correctional Facilities and detention centers.¹³ Although the previous research presented a discussion of community service punishment, this research will use a progressive legal perspective and analyze the renewal of the Criminal Code as a momentum for criminal law renewal, plus this research was carried out over a period of 3 years as a preparatory period for the entry into force of the "new Criminal Code". Therefore, in this article, we updated and perfected the discussion of Community service punishment in Indonesia.

6 Randy Pradityo, "Menuju Pembaharuan Hukum Pidana Indonesia: Suatu Tinjauan Singkat (Towards Criminal Law Reform of Indonesia: An Overview)," *Legislasi Indonesia* 14, no. 02 (2017): 133–44, <https://e-jurnal.peraturan.go.id/index.php/jli/article/view/92/pdf>.

7 Pasal 65, Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana.

8 Emaliawati Emaliawati, Bonarsius Saragih, and Aji Mulyana, "Effectiveness of Social Work Sanction as a Substitute for Imprisonment in The Perspective of Sentencing Purposes," *Jurnal Penelitian Hukum De Jure* 22, no. 3 (2022): 325, <https://doi.org/10.30641/dejure.2022.v22.325-336>.

9 Sulhin, "Corrections (Pemasyarakatan) After Law Number 22 Of 2022: New Principles And Policy Identification Regarding The Functions Of Probation And Parole Offices."

10 Jamin Ginting, "Sanksi Kerja Sosial Sebagai Alternatif Bentuk Pemidanaan Dalam Sistem Hukum Di Indonesia," *Law Review* 19, no. 3 (2020): 246, <https://doi.org/10.19166/lr.v19i3.2098>.

11 Emaliawati, Saragih, and Mulyana, "Effectiveness of Social Work Sanction as a Substitute for Imprisonment in The Perspective of Sentencing Purposes."

12 Ginting, "Sanksi Kerja Sosial Sebagai Alternatif Bentuk Pemidanaan Dalam Sistem Hukum Di Indonesia."

13 Jamilah and Disemadi, "Pidana Kerja Sosial: Kebijakan Penanggulangan Overcrowding Penjara Community Service Order: Prison Overcrowding."

This article focused on the moment of renewal of criminal law in Indonesia, where in the end Indonesia has its own Criminal Code. The time lag before the Criminal Code is enacted, at the same time, is the first test of criminal law reform and an opportunity for the government and the criminal justice subsystem to carry out its mandate to prepare all criminal law frameworks and governance. This study was conducted to provide a structured description of the legal framework, institutions, and national policies related to the governance of preparation for the implementation of community service punishment in Indonesia.

The formulation of the problem in this study is as follows:

1. How urgent is the implementation of community service as a punishment in Indonesia?
2. How is community service punishment regulated?
3. What are the most important aspects of the implementation of community service punishment?

It is hoped that this article can contribute thoughts on criminal law related to the reform of criminal law in Indonesia, especially the development of sentencing patterns which previously focused on imprisoning convicts and then becoming correctional inmates coaching, then after being ratified, the Criminal Code recognizes the form of community service punishment. As is well known, community service punishment has a passion to prepare convicts so they can positively reintegrate into society, and that they can return to being free and responsible members of society.

2. METHOD

This research is included in the category of normative juridical research because it is carried out through a review of literature or secondary data on legal principles, which is also called library law research. The necessity to classify this research as normative juridical, especially in studying, analyzing, and responding to issues raised in accordance with the norms and legal principles of various laws and regulations governing the Implementation of Community Service Punishment in Indonesia.

This study used the Laws and Regulations approach to identify activities that begin with problem formulation and end with conclusions. To answer the research questions, a literature review was carried out on the state/condition of readiness of the correctional inmates who had finished carrying out their sentence, which explained that the various obstacles to Correctional Facilities such as overcapacity and limited budgets made it difficult to achieve sentencing objectives. The review summarizes the core aspects (content analysis) of each regulation and analyzes whether the regulation provides incentives for the implementation of Community service punishment. The use of these research methods may tend to be limited to analyzing the content of existing regulations. Even though a literature review was conducted on the state/condition of readiness for the implementation of the community service punishment, this approach did not provide an opportunity to collect more detailed primary data or direct interaction with research subjects. However, the normative juridical research method is very relevant because this method is used to study and analyze the issues raised in accordance with the norms and legal principles that apply in the implementation of community service punishment in Indonesia. Thus, the research results can be used as a basis for identifying existing obstacles in the implementation of Community Service Punishment and providing recommendations or solutions in accordance with applicable legal principles.

3. RESULTS AND DISCUSSION

3.1 The Urgency of Implementing Community Service Punishment in Indonesia

The purpose of sentencing is to ensure public order and security, as well as to provide protection for individual and community rights. The scope of sentencing objectives that are commonly known include: providing sanctions for violations of the law committed by individuals or groups who have violated the law; provide protection for the public from criminal activities committed by criminals; provide rehabilitation for criminals, to help them return to society and prevent them from committing crimes again;¹⁴ and provide

14 Insan Firdaus, "Harmonisasi Undang-Undang Narkotika Dengan Undang-Undang Masyarakatan Terkait Rehabilitasi Narkotika Bagi Warga Binaan Masyarakatan," *Jurnal Penelitian Hukum De Jure* 21, no. 1 (2021): 141–60, <http://dx.doi.org/10.30641/dejure.2021.V21.141-160>.

education, training, and development of skills for criminals, so as to improve their quality of life. All forms of sentencing protect human dignity and human rights, so sentencing must be carried out in a manner that is in accordance with law and humanity.

Sometimes it seems that the objective of sentencing cannot be achieved due to various factors. An ineffective sentencing system can cause criminals not to receive a verdict according to the level of their crime so that they cannot guarantee public order and security. Limited resources in prisons that are inadequate in terms of facilities and infrastructure such as buildings, detention rooms, and coaching equipment can lead to conditions that make it impossible to provide proper rehabilitation for correctional inmates. A lack of community support can prevent criminals from being accepted back into society after serving their sentences.¹⁵

In Indonesia, the implementation of Community Service Punishment is very important given the urgency of reform in the criminal law system that has been described previously. In order to achieve the interests of society at large, it is necessary to reform criminal law by accommodating these needs. To achieve this goal, better coordination between criminal justice subsystems and consistent policies in the application of criminal penalties is essential. This will provide a sense of security and comfort for the community living life in Indonesia. Therefore, the implementation of the Community Service Punishment is a real manifestation of the sociological, philosophical, and juridical framework of the Indonesian people themselves.¹⁶

Even reforming criminal law must be based on Pancasila, the foundation of all legal systems and the way of life of the Indonesian people. Various sources such as customary law and Islamic law are used in the process of criminal law reform.¹⁷ Such sources are used to assess and contribute new thoughts to the Indonesian legal system going forward, assuming criminal law reform is implemented.¹⁸ As long as it can be accounted for scientifically as legal material in the reforming of Indonesian criminal law because it is relevant from a juridical, sociological, and philosophical perspective.¹⁹ In the context of reforming Indonesian criminal law, various efforts are needed to ensure its proper relevance. Indonesian criminal law reform must pay attention to the “interests and needs of the community” as an important condition for the reforming of national criminal law.²⁰ It is hoped that with the aim of increasing the efficiency of law enforcement, fighting crime, protecting the community, and dealing with social and humanitarian problems, the national goal of providing social protection and social welfare will be achieved.²¹

The Criminal Justice System in Indonesia places Correctional Facilities in the final position, so that they are responsible for providing guidance and protection for correctional inmates, but often face various problems such as over capacity, lack of facilities, and security issues which often have a negative impact on prisoners and society at large. With these problems, it is still found someone who returns to committing crimes after having previously been jailed or punished. Recidivists can be considered a problem in the correctional system because they can increase crime rates in society and increase the burden on prisons. From the perspective of criminal law, recidivists are considered as individuals who cannot be changed or corrected through the

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- 15 Muhammad Arif Agus and Ari Susanto, “The Optimization of the Role of Correctional Centers in the Indonesian Criminal Justice System,” *Jurnal Penelitian Hukum De Jure* 21, no. 3 (2021): 369, <https://doi.org/10.30641/dejure.2021.v21.369-384>.but the role of Correctional Centers in the adult criminal justice system has not been optimized as in the juvenile criminal justice system, and it tends to be discriminatory. (2)
 - 16 Ali Rezky and Oheo Kaimuddin Haris, “Broadening of the Concept of Obscenity in the Draft of Indonesian Penal Code,” *Hasanuddin Law Review* 4, no. 2 (2018): 233–41, <https://doi.org/10.20956/halrev.v4i2.1402>.
 - 17 Islamul Haq, “Prison in Review of Islamic Criminal Law: Between Human and Deterrent Effects,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 4, no. 1 (2020): 132–50, <https://doi.org/10.22373/sjhc.v4i1.6683>.
 - 18 Rezky and Haris, “Broadening of the Concept of Obscenity in the Draft of Indonesian Penal Code.”
 - 19 M Jeffri Arlinandes Chandra, Febrian Febrian, and Bayu Dwi Anggono, “The Urgency of Reharmonization in Construction of The Stage Formation of Law,” *Jurnal Penelitian Hukum De Jure* 22, no. 3 (2022): 311, <https://doi.org/10.30641/dejure.2022.v22.311-324>.
 - 20 Kuku Kurniawan et al., “Compensation as Sanctions for the Perpetrators of Corruption in the Dimensions of Indonesian Criminal Law Renewal,” *Brawijaya Law Journal* 6, no. 2 (2019): 205–23, <https://doi.org/10.21776/ub.blj.2019.006.02.06>.
 - 21 Pradityo, “Menuju Pembaharuan Hukum Pidana Indonesia: Suatu Tinjauan Singkat (Towards Criminal Law Reform of Indonesia: An Overview.”

existing punishment and coaching process, this can cause problems in the criminal justice system.²² On the other hand, the concept of sentencing in the form of coaching correctional inmates is considered more effective in dealing with recidivism problems. Coaching correctional inmates that prioritizes a rehabilitative approach can help overcome the underlying problems that drive someone to commit crimes, such as social and economic problems.

Referring to the effectiveness of criminal sanction in the form of imprisonment, shows that not all punishments can give a deterrent effect on the criminals, and cannot directly reduce the crime rate.²³ So in the Criminal Code, there is a new criminal form that is applied in Indonesia. Community service punishment is a form of sentencing that also focuses on the rehabilitation and reintegration of convicts into society. By prioritizing coaching and training, inmates are given the opportunity to improve themselves and develop the skills needed to be able to live independently and productively in society. This is expected to reduce the possibility of inmates returning to commit acts that are detrimental to society after being released from correctional facilities. Thus, it is hoped that the introduction of the concept of community service punishment will reduce the number of people who re-offend after previously being imprisoned in Indonesia. Community service punishment is applicable to crimes committed by defendants involved in criminal activities that carry a prison sentence of less than 5 (five) years. In such cases, the judge has the authority to impose a maximum prison term of 6 (six) months or a fine in the highest category II.²⁴ With the reforming of criminal law in Indonesia which is manifested by the ratification of the Criminal Code, it is also hoped that the pattern of imprisonment with the paradigm of retaliation will begin to be abandoned.²⁵

The level of need for the implementation of community service punishment in Indonesia is quite high for several reasons. The amount of crime in Indonesia causes Correctional Facilities to fill up quickly and is less effective in dealing with criminals. The correctional system in Indonesia often does not provide effective solutions for the rehabilitation of correctional inmates and reduces the likelihood that they will return to committing crimes after being released. Community service punishment provides an opportunity for detainees to improve themselves and gain skills that can be used to find work after release. The implementation of community service punishment can help reduce the high rate of unemployment in Indonesia because convicts who have received skills will find it easier to get work after being released. In addition, community service punishment can also assist in reducing the level of crime that occurs in the community by providing programs that can improve the quality of life of citizens and reduce social pressures that might lead to crime.

There is a potential loss to the implementation of criminal law in Indonesia if community service punishment is not carried out. The lack of implementation of community service punishment can cause criminality to remain high because correctional inmates do not get a deterrent effect and do not receive proper rehabilitation, so the possibility of returning to committing crimes after release is greater. Correctional inmates who have carried out their sentence, but do not have expertise that can be applied in finding work is an example of a loss if Community Service Punishment is not carried out. In addition, the lack of implementation of community service punishment can lead to higher maintenance costs for correctional inmates and Correctional Facilities because convicts must be kept in prison for longer and do not have the opportunity to improve themselves and gain skills that can be used to find work after release. Rehabilitation of correctional inmates, reducing the crime rate, improving the quality of life for WBP after carrying out their sentence, as well as improving the conditions of prisons and detainees will be a positive impact on the implementation of community service punishment in Indonesia.

3.2 Overview of Community Service Punishment Arrangements in Indonesia

The pattern of sentencing in Indonesia can be classified as repressive and rehabilitative. However, in practice, sentencing with rehabilitative purposes is still not able to be implemented optimally because

22 Ratnawati, "Children's Recidivist Who Conducted Criminal Act: Legal Psychology Perspective," *Hasanuddin Law Review* 6, no. 2 (2020): 142–48, <https://doi.org/10.20956/halrev.v6i1.1676>.

23 Emaliawati, Saragih, and Mulyana, "Effectiveness of Social Work Sanction as a Substitute for Imprisonment in The Perspective of Sentencing Purposes."

24 Emaliawati, Saragih, and Mulyana.

25 Kurniawan et al., "Compensation as Sanctions for the Perpetrators of Corruption in the Dimensions of Indonesian Criminal Law Renewal."

infrastructure, human resources, and budget are still constraints. Correctional Facilities in Indonesia are often inadequate in terms of the facilities and means required for effective sentencing implementation.²⁶ Lack of human resources and adequate financial support to support the implementation of sentencing is also an obstacle to its implementation. Even though a sentencing process, both repressive and rehabilitative, is very important, effective sentencing does not only focus on giving prison sentences but also on the rehabilitation of criminals.²⁷

After the proclamation of Indonesian independence in 1945, the concept of imprisonment began to change. The Indonesian government began to regard prison as a means of rehabilitation and re-education for prisoners. Furthermore, the Indonesian government continues to make improvements in the prison system by increasing the quality of services and facilities provided to prisoners. In Indonesia, the correctional system continues to develop based on needs and to overcome various problems, such as Law Number 12 of 1995 concerning Correctional which opened the way for the concept of sentencing in the form of coaching that focuses on rehabilitation and social reintegration for correctional inmates. In this concept, Correctional Facilities are no longer just a place to serve punishment, but also a place to receive education, training, and guidance so that we can return to being productive members of society. Then the enactment of Law Number 22 of 2022 concerning Correctional Facilities, further emphasizes correctional principles such as reintegration and collaboration.²⁸

With the concept of coaching correctional inmates, it is hoped that it can improve the quality of life of inmates, as well as reduce the likelihood of committing crimes again after being released. In addition, with the coaching of correctional inmates, it is hoped that it can improve the quality of life of inmates after being released and prevent the socialization of violence and crime. This concept is effective because it provides an opportunity for correctional inmates to change their behavior and attitudes so that they can return to being productive members of society. In addition, by providing education, training, and guidance, it is hoped that the inmates' skills and knowledge will be increased so that it will be easier for them to find work after they are released. However, in practice, there are various obstacles to Correctional Facilities, which in fact are in the last position of the criminal justice subsystem, one of which is over capacity constraints. The Criminal Code acknowledges community service punishment as a type of criminal sanction that can serve as a solution to address the issue of overcrowding in correctional facilities.²⁹

In Community Service Punishment, convicts are given the opportunity to carry out social tasks that are useful as rehabilitation and self-defense efforts. This type of punishment is considered more effective than prison because it provides an opportunity for convicts to improve themselves and improve their social skills so that they can again contribute as useful members of society. So that it seems as if the convicts are paying for their mistakes more positively and productively than just sitting in prison. Community service punishment is considered more efficient than imprisonment because the costs required to carry out community service punishment are lower than the costs required to keep someone in prison.³⁰ Social conflicts caused by imprisonment will be reduced because the criminals can return to being useful members of society and make positive contributions. Although not all convicts can receive Community Service Punishment, with the ratification of the Criminal Code it is hoped that there will be a classification of the sentence imposed.³¹

26 Agus and Susanto, "The Optimization of the Role of Correctional Centers in the Indonesian Criminal Justice System."but the role of Correctional Centers in the adult criminal justice system has not been optimized as in the juvenile criminal justice system, and it tends to be discriminatory. (2

27 Vilar Bytyqi and Fitore Morina, "The Overview of Innovations in the Legal Framework and Organization of Correctional Service," *Hasanuddin Law Review* 5, no. 1 (2019): 19–27, <https://doi.org/10.20956/halrev.v5i1.1734>.

28 Sulhin, "Corrections (Pemasyarakatan) After Law Number 22 Of 2022: New Principles And Policy Identification Regarding The Functions Of Probation And Parole Offices."

29 Jamilah and Disemadi, "Pidana Kerja Sosial: Kebijakan Penanggulangan Overcrowding Penjara Community Service Order: Prison Overcrowding."

30 Ahmad Fajri, "Pidana Kerja Sosial Dalam Membatasi Kelebihan Penghuni Di Lembaga Pemasyarakatan," *Jurnal Lex Renaissance* 4, no. 1 (2019): 46–64, <https://doi.org/10.20885/jlr.vol4.iss1.art3>.

31 Teafani Kaunang Slat, "Sanksi Pidana Kerja Sosial Terhadap Tindak Pidana Ringan Sebagai Upaya Pembaharuan Hukum Pidana Nasional," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 4, no. 2 (2020): 352, <https://doi.org/10.17977/um019v4i2p352-360>.

The application of community service punishment requires a system of legal rules and regulations that regulate and control an action or activity that we can call a legal framework. This includes applicable laws and regulations, as well as their implementation and enforcement mechanisms. The legal framework facilitates fair and consistent action and helps maintain social stability.³² Community service punishment and the “new” Criminal Code are two things that are hotly discussed in criminal law reform in Indonesia. In the Criminal Code, community service punishment is explained as a form of punishment that can be applied as a sanction for criminals who commit certain crimes or violations. The Criminal Code as the national criminal law framework on the implementation of community service punishment serves as a basis for the criminal justice subsystem in determining criminal acts and providing punishment for acts that violate the law.

Deficiencies in regulations and laws become an obstacle in the regulation of community service punishment, the lack of comprehensive regulations regarding community service punishment. Implementing regulations for laws is a must that can be applied firmly and consistently. So far, all forms of punishment applied are inadequate to motivate criminals to stop committing a crime, therefore community service punishment can be used as an alternative.

There are still many gaps and challenges in a criminal sentencing process, especially in carrying out complex community service punishment. One of the main problems is the insufficient number of law enforcement officers to handle these cases. In addition, the limitations of technology and tools also become obstacles in carrying out tasks. Not only that, the inadequate quality of training and capacity building for law enforcement officials is also a serious problem. Remuneration systems and career development that are less motivating, as well as inadequate infrastructure and facilities, are also challenges that must be faced. Lastly, the lack of support and resources from the government and society has also exacerbated the situation. Efforts are needed to increase the capacity and support of law enforcers so that they can carry out their duties more effectively and efficiently in dealing with problems related to complex community service punishment.

The implementation of community service punishment can be hampered by limitations in the monitoring and evaluation system. Some of the reasons include a lack of accurate data and information, a shortage of resources such as manpower, time, and funds, as well as inefficiencies and irregularities in the monitoring and evaluation system. In addition, the lack of support and involvement of stakeholders such as the government and society can also hinder the implementation of community service punishment. Technological and infrastructure limitations can hinder effective monitoring and evaluation. Therefore, efforts should be made to improve the monitoring and evaluation system so that it can provide accurate and timely information, as well as allocate sufficient resources to ensure the effectiveness of community service punishment. Support and involvement of all aspects of the criminal justice sub-system are also important to create an environment that supports and strengthens monitoring and evaluation systems. Finally, technology and infrastructure also need to be improved in order to facilitate more effective and efficient monitoring and evaluation.

3.3 The Most Important Aspects of Community Service Punishment Implementation in Indonesia

Community service punishment is a form of criminal sanction that is given to criminals, especially criminals of misdemeanor, in Indonesia. Community service punishment aims to change the behavior of criminals through their participation in social activities that are beneficial to society. Several important aspects need to be considered in the implementation of community service punishment in Indonesia, including:

1. **Goals and Principles of Community Service Punishment:** aims to guide criminals to improve themselves, develop skills, and return to contribute to society. The principles that must form the basis of community service punishment include coaching, rehabilitation, reintegration, and protection.
2. **Development and Rehabilitation:** The most important aspect of community service punishment is the development and rehabilitation of criminals. This involves providing education, training, and an

32 Suharyo Suharyo, “The Prospect of the Existence of National Criminal Code in a Democratic State in Indonesia during the Covid-19 Pandemic,” *Jurnal Penelitian Hukum De Jure* 21, no. 3 (2021): 285, <https://doi.org/10.30641/dejure.2021.v21.285-298>.

understanding of good social values. Criminals must be given the opportunity to change their behavior and develop useful skills in order to be reintegrated into society.

3. **Beneficial Social Activities:** Community service punishment must provide social activities that are beneficial to the criminals. These activities should be designed to help criminals to understand the negative impact of their actions and provide opportunities to help others and improve their environment.
4. **Assistance and Counseling:** It is important for criminals who are undergoing community service punishment to receive appropriate assistance and counseling. Companions and counselors will help them overcome personal problems, guide them in changing their behavior, and provide moral support during the rehabilitation process.
5. **Monitoring and Evaluation:** The Implementation of Community Service Punishment must involve an effective monitoring and evaluation system. This is important to ensure that the Community Service Punishment goes according to plan and provides the expected benefits. Monitoring is also needed to ensure that criminals do not repeat their criminal acts and remain committed to positive behavior change.
6. **Collaboration between Related Institutions:** The implementation of Community Service Punishment requires close collaboration between various related institutions, such as Correctional Facilities, police, prosecutors, and social institutions. Good coordination between these institutions is necessary to ensure smooth social work criminal processes, effective monitoring, and appropriate decision-making related to criminals undergoing community service punishment.

The use of community service punishment as a new form of criminal sanction can be based on an approach that assumes that the law must develop and adapt to social change.³³ Parties from the criminal justice subsystem must understand and make breakthroughs that law should not be static³⁴, but must be dynamic and constantly adapting to changes in society, so that law must function to achieve justice and promote social progress³⁵ The applicable laws are progressive by prioritizing individual rights, freedoms, and protection against discrimination. With a progressive legal approach that emphasizes that law must continue to develop and adapt in a non-rigid way.³⁶ In terms of the application of community service punishment, this theory emphasizes that law must be used as a tool to achieve social justice and protect individual rights. The application of community service punishment must be carried out in a fair and non-discriminatory manner, taking into account the social and cultural context of the violations committed. In this case, progressive legal theory suggests that the application of community service punishment should provide an opportunity for criminals to improve themselves, not just punish and shackle them. Thus, progressive legal theory becomes the basis for the application of fair and non-discriminatory social labor punishment, as well as providing opportunities for criminals to improve themselves and return to society as better citizens.

The progressive legal theory and the concept of Community Service Punishment are closely related. The concept of Community Service Punishment is a form of application of progressive legal theory in the implementation of sentencing. Community service punishment is an alternative punishment proposed by progressive legal theory to overcome the problem of violence in the correctional system. This concept emphasizes the rehabilitation and reintegration of criminals into society by providing social work opportunities that are beneficial to society and the criminals of crimes themselves. Progressive legal theory also emphasizes

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- 33 Satria Rangga Putra, Fakultas Hukum, and Badan Penelitian, "Reviewing Constitutional Court Decision Number 91 / Puu- Asas Lex Specialis Formal Systematis Dan Of Hukum Pidana Pajak Regarding Review Job Creation Act : A Progressive Law Perspective (Principle of Lex Specialist Systematic and Tax Criminal Law)" 2, no. 2 (2020): 229–42.
 - 34 M. Zulfa Aulia, "Hukum Progresif Dari Satjipto Rahardjo," *Undang: Jurnal Hukum* 1, no. 1 (2018): 159–85, <https://M.ZulfaAulia.org/10.22437/ujh.1.1.159-185>.
 - 35 Eko Noer Kristiyanto, "Urgensi Omnibus Law Dalam Percepatan Reformasi Regulasi Dalam Perspektif Hukum Progresif," *Jurnal Penelitian Hukum De Jure* 20, no. 2 (2020): 233, <https://doi.org/10.30641/dejure.2020.v20.233-244>.
 - 36 Annisa Salsabila, "Expansion Of The Discretion Concept Reviewed From Legal Anti-Positivism," *Jurnal Ilmiah Kebijakan Hukum* 16, no. 3 (2022): 479–94.

the protection of the rights of victims and society, so the concept of community service punishment must also pay attention to the rights of victims and society in its implementation. In general, the concept of community service punishment is a form of progressive legal theory that is expected to reduce violence in the criminal justice system and provide opportunities for criminals to improve themselves and return to society as productive citizens.

The Progressive legal theory and the concept of Community Service Punishment are closely related because community service punishment is a form of application of progressive legal theory in the criminal justice system. This approach emphasizes the rehabilitation and reintegration of offenders into society through the provision of rewarding social work opportunities. However, the concept of community service punishment must also pay attention to the rights of victims and society in order to create social justice. In order to reduce violence in the criminal justice system, Community Service Punishment is an alternative punishment that is expected to provide opportunities for criminals to improve themselves and return to being productive members of society.

4. CONCLUSION

The application of community service punishment in Indonesia has an important urgency in overcoming the problem of the ineffectiveness of imprisonment. Through community service punishment, individuals involved in criminal acts have the opportunity to improve their behavior through social work and helping society, while preparing themselves to reintegrate into society. Even though Indonesian legislation has provided a good legal basis for carrying out community service punishment, there are still obstacles to its implementation. Some of the most important aspects that need to be considered in the implementation of community service punishment in Indonesia are an effective and transparent system, coordination and cooperation between related agencies, law enforcement education and capacity, protection of human rights, and ongoing evaluation and monitoring. By improving these aspects, the implementation of community service punishment in Indonesia can be improved, so that it can help strengthen criminal law as a whole in Indonesia. Along with Indonesia's efforts to update the substance and system of criminal justice through the Criminal Code, the implementation of community service punishment can take advantage of this momentum to increase effectiveness and efficiency in imposing sanctions on perpetrators of criminal acts and assisting their rehabilitation process.

Based on these stimulants, several recommendations can be taken. First, it is necessary to make improvements to the community service punishment implementation system in Indonesia. Improvements are needed in terms of increasing the effectiveness and transparency of the process of imposing sanctions, as well as the selection of social work according to the needs and abilities of individuals involved in criminal acts. Furthermore, it is important to improve coordination and cooperation between various related agencies, such as correctional facilities, rehabilitation institutions, and the authorities. The good collaboration will ensure a coordinated workflow and provide maximum results in the implementation of community service punishment. In addition, it is necessary to increase the education and capacity of law enforcers who are involved in the implementation of community service punishment. This includes the provision of adequate training, a good understanding of the concept and purpose of community service punishment, as well as increased skills in assessing, monitoring, and supervising its implementation. The protection of human rights is also an important aspect of the implementation of community service punishment. The process of imposing sanctions must be carried out fairly and proportionately with proper oversight of working conditions and treatment of individuals. In addition, legal certainty in the rehabilitation process also needs to be upheld. Finally, continuous evaluation and monitoring of the implementation of community service punishment in Indonesia are urgently needed. By conducting regular evaluations, weaknesses and challenges can be identified and necessary improvements can be made to increase the effectiveness and efficiency of community service punishment as a whole.

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