



APPLICATION OF CRIMINAL LAW OF PRISON IN CLASS II A PANCUR BATU PRISON BASED ON THE CRIMINAL JUSTICE SYSTEM

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Article Info	Abstract
Article History Received : 2024-09-03 Revised: 2024-09-05 Published: 2024-10-01 Keywords: <i>Application of Law, Imprisonment, Judicial System.</i>	The implementation of prison sentences in Indonesia is a law left over from the Dutch colonial era which is punitive and repressive. This characteristic was none other than influenced by the punishment teachings that were in effect at that time, namely retributive. According to retributive theory, punishment is given because the perpetrator of the crime must accept the punishment for the sake of the mistake. The purpose of this writing is to understand the historical and philosophical development of prison sentences in the criminal justice system, the main objective of implementing prison sentences in the criminal justice system, using normative legal research methods, namely research carried out by collecting and analyzing secondary data. This research is descriptive in nature, namely research by way of presentation which aims to obtain a complete picture (description) of the state of applicable laws and regulations linked to legal theories and the practice of implementing positive law regarding the protection of victims of sextortion crimes in cyberspace.

I. INTRODUCTION

Prison is a very familiar term in the criminal system in Indonesia. Prison has a dual meaning, namely as one type of criminal sanction as regulated in Article 10 of the Criminal Code and as a place for convicts to serve their sentences. Prison sentences have been known since the 16th century. The embryo of prison sentences was first implemented in England. In 1955, Bridewell Castle in London was used by King Edward VI as a shelter for beggars, vagrants and abandoned children. After that, in other places in England, Bridewell-Bridewells were established which became forms of prison houses (houses of correction). The place was initially used to accommodate beggars, vagrants and abandoned children, but over time its function was changed to a place of torture. Prison is seen as a place of deterrence for those who have committed crimes. Prison sentences are aimed at criminals who show bad character and depraved lust.

The implementation of imprisonment in Indonesia is a law inherited from the Dutch Colonial era which is punitive and repressive. This nature is none other than influenced by the teachings of criminal law that were in effect at that time, namely retributive. According to the retributive theory, punishment is given because the perpetrator of the crime must accept the punishment for the mistake. Punishment becomes a fair retribution for the losses caused by his

actions. Thus, according to this theory, punishment is appropriate to be given to the perpetrator of the crime on the basis that the perpetrator of the crime is proven to have committed a crime.

Imprisonment is the most dominant type of sanction taken by judges in Indonesia. Regarding this imprisonment, Roeslan Saleh said that imprisonment is the main punishment among the punishments of loss of freedom and this imprisonment can be imposed for life or temporarily.

The criminal justice system has indeed succeeded in prosecuting and imprisoning someone, but on the other hand it has failed to create a safe community life. Victims of crime should be treated with dignity, then the perpetrator and the victim or their family should be reconciled. The perpetrator must not only be held accountable but must also be reintegrated into society.

The formulation of the threat of imperative imprisonment in Indonesia is a legacy of classical school of thought which stipulates punishment with definite sentences.

The prison sentence is for life or for a certain period of time in accordance with Article 12 paragraph (1) of the Criminal Code and the prison sentence for a certain period of time is at least one day and at most fifteen consecutive years based on Article 12 paragraph (2) of the Criminal Code.

Article 12 paragraph (3) of the Criminal Code states:

A fixed term of imprisonment may be imposed for twenty consecutive years in the case of crimes for which the Judge may choose between the death penalty, life imprisonment and fixed term imprisonment; likewise in cases where the fifteen year limit may be exceeded due to concurrence, repetition (recidivie) or because it is stipulated in Articles 52 and 52a (LN 1958 No. 127).

In Indonesia, life imprisonment can be changed (commutated) into temporary imprisonment. Based on Article 9 of Presidential Decree Number 174 of 1999 concerning Remission, it is stated that:

- 1) Convicts who are sentenced to life imprisonment and have served at least 5 (five) consecutive years and have behaved well, can have their sentence changed to temporary imprisonment, with the remaining sentence to be served being a maximum of 15 (fifteen) years.
- 2) Changing the sentence of life imprisonment to a temporary sentence as referred to in paragraph (1) is stipulated by Presidential Decree.
- 3) An application to change a life sentence to a temporary sentence is submitted through the Minister of Law and Legislation (in the United Indonesia Cabinet, 2004, called the Minister of Law and Human Rights).

In relation to imprisonment, it also states that imprisonment is a form of deprivation of liberty (corporal punishment) that is most important. In the Netherlands, the requirements for its imposition are even included in the new Dutch Constitution by stipulating that it may only be imposed by a Judge (criminal).

Based on the description above, in principle, imprisonment is closely related to the penalty of deprivation of liberty which can give an evil label and can lower the dignity and self-esteem of a person if he is sentenced to imprisonment.

Based on the background above, the author takes several problem formulations, namely: How is the historical and philosophical development of imprisonment in the criminal justice system? What is the main purpose of implementing imprisonment in the criminal justice system? How is the application of criminal law in Class II A

Pancur Batu Prison in improving the skills of prisoners?

II. RESEARCH METHODS

This research is a normative legal research, namely research conducted by collecting and analyzing secondary data. This research is descriptive, namely research by means of presentation that aims to obtain a complete picture (description) of the state of applicable laws and regulations related to legal theories and practices of implementing positive law concerning protection of victims of cybercrime. The research method is used as a systematic way to search for, find, develop, analyze a problem, test objective and optimal truth and carry out the correct method in research. This research uses a normative legal research method. Normative legal research is legal research that examines written law from various aspects, namely aspects of theory, history, philosophy, comparison, structure and composition, scope of material, and consistency. The types of data used are secondary legal materials (legal journals), non-legal materials (Big Indonesian Dictionary (KBBI), and information from the internet with credible sources). The data collection technique in this study is document study or library research, and the data analysis used in this study is qualitative analysis.

III. RESULTS AND DISCUSSION

A. Overview of Imprisonment

Imprisonment is one of the most frequently used types of criminal sanctions as a means to overcome the problem of crime. The use of imprisonment as a means to punish perpetrators of crimes only began in the late 18th century which was based on the understanding of individualism and the humanitarian movement, so this imprisonment increasingly plays an important role and shifts the position of the death penalty and corporal punishment which are considered cruel.

Imprisonment is one type of punishment in the criminal law system in Indonesia, as stated in Article 10 of the Criminal Code which states that punishment consists of: Principal punishment, which includes the death penalty, imprisonment, detention and fines; and additional punishment, which includes: revocation of certain rights, confiscation of certain goods and announcement of the judge's decision. In its implementation,

Imprisonment according to Article 12 paragraph (1) and (2) of the Criminal Code consists of: life imprisonment, and imprisonment for a certain period.

Imprisonment is the type of punishment that is most often threatened to perpetrators of criminal acts in Book II of the Criminal Code. Imprisonment is also threatened for criminal acts regulated in laws outside the Criminal Code, either formulated singly or cumulatively-alternatively with other criminal sanctions (Dwidja Dwidja Priyatno, 2009: 72-77). Many criminal sanctions of imprisonment are threatened in the Criminal Code and outside the Criminal Code compared to other types of principal punishments, because imprisonment is the only principal punishment in the Criminal Code that allows for planned and directed guidance for convicts, while other types of principal punishments do not allow for guidance for convicts. The implementation of imprisonment also underwent changes starting in 1964 with the change in the term imprisonment to correctional. The term prison changed to correctional institution (Suwanto, 2007: 166).

Bambang Poernomo stated that: It is estimated that in the early years of the 18th century, imprisonment began to grow as a new form of punishment that restricted freedom of movement, took away freedom, and eliminated freedom which had to be felt as suffering during the prison sentence for prisoners.

In English people always try to bridge the gap between cells and together by holding the progressive system. If previously the cell sentence was the only form of implementation of the prison sentence, now it is the basis of the progressive system. The sequence becomes Cell - together - conditionally released. In it there is still a class system, which is divided into five classes, and all are bound to the "Marksystem".

According to the research results of Prof. Notosoesanto, SH, the history of the growth of Indonesian imprisonment can be divided into 3 (three) eras, namely:

a. Ancient Times, Hinduism and Islam

In this era there was no criminal penalty for loss of liberty, so there was no prison. There were also people who were detained in a house or room temporarily, but it could not be said to be a prison sentence, because those people were only detained to await examination and the judge's decision or to await the execution

of the death penalty or corporal punishment.

b. Dutch East India Company Era

In the history of criminal matters, the names "Spinhuis" and "Rasphuis" are famous. The first was a detention center for prostitutes who were lazy about working, drinking to be "repaired" and given the job of whittling wood to make paint. This method of detention, with the intention of "improving" its inmates by means of religious education and providing work, later became an example for prisons that carried out the crime of loss of liberty. The situation was very different regarding such prison houses by the Dutch in Batavia during the Company era. Prison houses included 3 (three) types, namely: Bui (1602) located at the city government boundary; Kettingkwatier, is a place for migrant people; and Vrouwentuchthuis is a place to accommodate Dutch women who violate decency (overspel).

c. The Era of Dutch East Indies Government

B. Historical and Philosophical Development of Prison Sentences in the Criminal Justice System

Laws are made to be implemented and obeyed according to their usefulness and function, so that society is safe, peaceful and orderly. So that the existence of law in society is not only interpreted as a means of regulating humans in relationships or interactions to become orderly, but can also be used as a means that can change the mindset and behavior of society which aims to realize the processes of the application of rules as a reality in society.

History is a chronology that records, tells various important events that have occurred in the past, and has a relationship with a nation or institution, and is always accompanied by an explanation of the background of the events that have occurred. The prison system was previously known before Indonesia was colonized. The prison system before Indonesia was very different from the current prison system which is better known as correctional, because there are several specific ruling factors related to policies on the prison system

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nature is none other than influenced by the teachings of criminal law that were in effect at that time, namely retributive. According to the retributive theory, punishment is given because the perpetrator of the crime must accept the punishment for the mistake. Punishment becomes a fair retribution for the losses caused by his actions. Thus, according to this theory, punishment is appropriate to be given to the perpetrator of the crime on the basis that the perpetrator of the crime is proven to have committed a crime. Punishment expresses that the perpetrator of the crime has responsibility for the articles of the law that he has violated.

Imprisonment is the type of sanction most often stipulated in criminal legislation to date. Singly, imprisonment is the most frequently threatened punishment, amounting to 395 crimes (+ 67.29%). This data shows that imprisonment is the most frequently threatened punishment in the Criminal Code, however, no underlying reason was found for the determination of imprisonment as one type of criminal sanction to overcome crime. So far, it has never been explained why crimes must be addressed with the threat of imprisonment, because criminal policy so far considers the use of imprisonment and criminal law sanctions against convicts reasonable. Likewise, in legislation outside the Criminal Code, imprisonment is still the most frequently threatened criminal threat.

During the colonial period, this period was marked by the birth of the embryo of the Criminal Code (KUHP), starting at this time, namely with the birth of the "Wetboek van strafrecht voor Nederlandsch Indie" (Criminal Code for the Dutch East Indies). This provision was stipulated by the Koninklijk Besluit on October 15, 1915 no. 33, and came into effect on January 1, 1918. One of the contents of this legislation was the elimination of the term "labor punishment" to become "loss of freedom punishment".

The First Imprisonment Period 1945-1950 in the period named as the first imprisonment period of the Republic of Indonesia. This period has two important stages, namely the first stage took place from 1945 to 1948. Important events in this first stage period mainly revolved around the takeover of power from the hands of the Japanese military government, while simultaneously laying the first basic principles for the preparation of the State Prison Service of the Republic of Indonesia which was independent and sovereign.

The Second Imprisonment Period 1950-1960 was the Second imprisonment period of the Republic of Indonesia, where at the beginning of this period the imprisonment of the Republic of Indonesia was part of the Prison Coordination of the Republic of the United States of Indonesia.

The 3rd Imprisonment Period 1960-1963 Was a very short period for the imprisonment of the Republic of Indonesia. Where in this period was the third period for the imprisonment of the Republic of Indonesia. In this historic period, it is said that Mr. Soedarman Gandasoebrata served as Head of the Prison Service, while the Minister of Justice during this period was Sahardjo, SH. who had previously served as Secretary General of the Ministry of Justice

C. The Main Purpose of Implementing Prison Sentences in the Criminal Justice System

Prisons are not entirely successful in preventing someone from committing evil acts. The proof is, drug smuggling crimes and riots occurred in the Banceuy Penitentiary (Lapas) (2016) and the Jambi and Riau Penitentiaries (2017). Institutions that aim to socialize their inmates so that they can return to living in society are actually identical to "higher education" for prisoners because they learn new crimes.

In the past, it was believed that prisons could achieve the four goals of punishment, namely (1) retribution; (2) rehabilitation; (3) community protection (incapacitation); and (4) deterrence. However, this myth was debunked and criticized when compared to the burden on the state of bearing imprisonment (Posner, 1985).

First, the goal of retribution is not fully realized because the perpetrator is not "responsible" for paying for social losses. Imprisonment prevents the perpetrator from recovering losses or paying compensation to the victim. Ironically, the victim and the public pay for the costs of imprisonment through taxes.

Second, prisons often fail to rehabilitate criminals and prepare them to return to society. The budget for prison training decreases every year due to the overcrowding of prisoners. Prisoners often become experts in committing new crimes.

Third, the purpose of punishment realized from prison is merely the protection of society (incapacitation). Restraint of someone who is evil and dangerous can protect and create a sense of security in society. However, prison is only useful for crimes of passion such as murder, rape, or

assault. While the benefits of prison on economic crimes have not been proven.

Fourth, the expected deterrent effect of prison is a myth that needs to be tested. In fact, crime in the United States (US) remains high despite being the country that imprisons the most people. The impact of prison in producing a deterrent effect has not been too significant.

D. Implementation of Criminal Law in Class II A Pancur Batu Prison in Improving Prisoner Skills

The Correctional System is the outlet of the criminal system (integrated criminal justice system) in Indonesia which has an important role in providing guidance where in accordance with Law Number 22 of 2022 concerning Corrections, a system of treatment for Prisoners, Children, and Inmates is implemented through the Correctional function which includes Services, Guidance, Community Guidance, Care, Security, and Observation by upholding respect, protection. Guidance for independence for Inmates (WBP) at Class IIA Pancur Batu Prison is an important aspect in the social reintegration process. One of the main challenges faced by WBP when completing their sentence is the ability to adapt back into society with adequate skills to earn a living independently. Therefore, Class IIA Pancur Batu Prison is committed to providing relevant training and skills, so that WBP are not only able to survive economically after being released, but can also become productive individuals and contribute to society.

Through continuous coaching and supported by good cooperation, it is hoped that WBP can be better prepared to face life outside prison with adequate skills and a strong mentality to become entrepreneurs or work professionally.

In addition, independence coaching also plays a role in creating a more productive and conducive prison environment. WBP who are actively involved in coaching activities have the opportunity to develop themselves positively, reduce the risk of negative behavior, and help them achieve a better future. With the support of various parties, including cooperatives, this program is expected to create a coaching system that is more focused, competitive, and has a long-term impact on both WBP and the wider community. Work activities that have duties in this field are Barbershop, Doorsmer, Barista, and Bread Making activities

IV. CONCLUSIONS AND RECOMMENDATIONS

The implementation of imprisonment in Indonesia is a law inherited from the Dutch Colonial era which is punitive and repressive. Imprisonment is the type of sanction that is most often stipulated in criminal legislation so far. Singly, imprisonment is the most threatened punishment, amounting to 395 crimes. This data shows that imprisonment is the most threatened punishment in the Criminal Code, however, no reasons were found underlying the determination of imprisonment as one type of criminal sanction to overcome crime.

So far, it has never been explained why crimes must be dealt with by the threat of imprisonment, because criminal policy so far has considered the use of imprisonment and criminal sanctions against convicts reasonable. Likewise, in legislation outside the Criminal Code, imprisonment is still the most widely threatened criminal threat. In the colonial era, this period was marked by the birth of the embryo of the Criminal Code, starting at this time, namely with the birth of «Wetboek van strafrecht voor Nederlansch Indie».

Institutions that aim to socialize their residents so that they can return to living in society are actually identical to "higher education" for prisoners because they learn new crimes. Prisoners often become experts in committing new crimes. Third, the purpose of punishment realized from prison is simply to protect society. Restraining someone who is evil and dangerous can protect and create a sense of security for society.

Fourth, the expected deterrent effect of prison is a myth that needs to be tested. In fact, crime in the United States remains high despite being the country that incarcerates the most people.

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